

Ordinance No. 11 - 2017

AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016; SECTION B, ELEMENT 3 OF THE COMPREHENSIVE PLAN; SHORELINE MANAGEMENT REGULATIONS; AND SAN JUAN COUNTY CODE CHAPTERS 18.20 AND 18.80

BACKGROUND

- A. San Juan County first adopted a Shoreline Master Program (SMP) in 1976 and completed the last comprehensive SMP update in Ordinance 02-1998.
- B. Revised Code of Washington (RCW) Chapter 90.58 is the Shoreline Management Act (SMA) and set the deadline for completion of a comprehensive update of the County's SMP as December 1, 2012.
- C. Washington Administrative Code (WAC) Chapter 173-26 is the State's guidelines for the development of local jurisdictions SMPs.
- D. After a long public process, San Juan County adopted Ordinance 1-2016 that updated the SMP on April 5, 2016.
- E. On June 28, 2016, the County transmitted the adopted ordinance and the administrative record to Washington State Department of Ecology (WDOE).
- F. On July 7, 2016, WDOE determined that the County's submission was complete.
- G. WDOE took public comments on Ordinance 1-2016 from July 22 until September 2, 2016.
- H. WDOE received comments from fifty-five individuals or organizations.
- I. On September 28, 2016, WDOE sent copies of the public comments to the County.
- J. On December 16, 2016, the County Council transmitted to WDOE its preliminary responses to the issues raised during WDOE's public comment period.
- K. On April 5, 2017, WDOE issued a letter of conditional approval of San Juan County Ordinance 1-2016 outlining specific amendments to the ordinance that WDOE indicated were needed for clarity and consistency with the SMA.
- L. On April 24, May 1, and May 9, 2017, the County Council met to review and discuss WDOE's proposed amendments to Ordinance 1-2016.
- M. On May 9, 2017, the County Council sent a response to WDOE outlining the County's position on the amendments proposed by WDOE which indicated either agreement with WDOE's proposed changes or proposed alternative amendments.
- N. On June 1, 2017, WDOE issued a letter of informal approval of the County's proposed amendments to Ordinance 1-2016.
- O. On July 25, 2017, the County Council was briefed on the proposed amendments to Ordinance 1-2016 as informally approved by WDOE.

1 P. On September 19, 2017, the County Council held a public hearing to take and consider
2 public comments on the proposed amendments to Ordinance 1-2016.

3 Q. The San Juan County Council makes the following findings:

4 I. The amendments to Ordinance 1-2016, recommended by WDOE are consistent with
5 the County's Comprehensive Plan.

6
7 II. The amendments to Ordinance 1-2016, are consistent with the SMA (Chapter 90.58
8 RCW) and implementation regulations Washington Administrative Code Chapter 173-
9 96, and 173-97 WAC.

10
11 III. The proposed amendments clarify development and performance standards that apply
12 to development of shoreline properties.

13
14 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County, State
15 of Washington, as follows:

16
17 **SECTION 1. Amendments to the Comprehensive Plan:**

18 The San Juan County Comprehensive Plan, Section B, Element 3, Shoreline Master Program,
19 and Ordinance 1-2016 is amended as shown on attached Exhibit A.

20 **SECTION 2. SJCC 18.80.110 and Ord. 1-2016 § 4 are each amended to read as follows:**

21 **18.80.110 Shoreline pre-application meetings, permit exemption procedures, and vesting.²²**

22
23 **Pre-application meetings.** Pre-application meetings are required for all shoreline substantial
24 development permits, conditional use permits, and shoreline variances. Pre-application meetings
25 are encouraged for all other project or development permits. Pre-application materials must be
26 submitted to the department a minimum of ten (10) days prior to the scheduled pre-application
27 meeting. Failure to submit the documents will result in postponement of the pre-application
28 meeting. The director may waive this requirement for demonstrated cause.

29
30 **A. Purpose and applicability.**

31 1. This section includes the procedures necessary to ensure that the provisions of the
32 ~~Shoreline Master Program (SMP) (Element 3 of the Comprehensive Plan and Chapter~~
33 ~~18.50 SJCC)~~ are implemented and enforced, and that all persons affected by the SMP are
34 treated in a fair and equitable manner. See Section 66 of Ordinance 1-2016 for the table of
35 uses and permit types by shoreline designation.

36 2. This section applies to all lands and waters within the jurisdiction of the SMP and to
37 all persons and agencies described in Section 9, subsections (B) and (C) of Ordinance 1-
38 2016 Chapter 18.50 SJCC.

39 3. The following project permits are referred to as "shoreline permits" and are subject to
40 SMP procedure:

- a. Shoreline substantial development permits;
- b. Shoreline conditional use permits; and
- 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 notice of application is required for shoreline permit applications as provided in SJCC 18.80.030.

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

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

D. Consolidated permit processing. Proposals that involve two (2) or more types of project permits 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.110. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC 18.80.140(G), Consolidated Appeal Hearings.)

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 approve, approve with conditions, or deny shoreline substantial development permits and shoreline conditional use permits following receipt of the recommendations of the director; and

2. Based on the criteria in subsection (I) of this section hear, and approve, approve with conditions, or deny variances from the provisions of the SMP following receipt of the recommendations of the director.

F. 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.

2. Developments that are exempt from a shoreline substantial development permit are established in ~~SJCC 18.50.020~~ Sections 10 and 11 of this Ordinance. In making this determination, the director will consider the ultimate scope of a proposal and its

consistency with the regulations of the SMP. The director may request additional information from the applicant and may make site inspections.

3. 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. A copy of approved certificates of exemption shall be mailed to the applicant and to the WDOE.

~~5. A certificate of exemption will be prepared for any proposal which is exempt from shoreline substantial development permit requirements under Chapter 18.50 SJCC whenever:~~

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

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

G. Shoreline permits—administrative actions.

1. The director shall review development and project permit applications for consistency with the SMA and SMP, make a consistency determination, and report the results of this review and determination to the hearing examiner. The director may request additional information from the applicant and may make site inspections.

2. The director shall not issue a development or project permit that is subject to shoreline permit requirements until a shoreline permit has been granted. Development or project permits issued are subject to the conditions of approval on the shoreline permit.

3. When approving a shoreline permit, the hearing examiner may attach conditions to ensure consistency with the SMA, SMP and applicable provisions of this code. The examiner shall also prepare findings of fact and conclusions of law.

4. Within eight (8) days of the hearing examiner's final decision, the director will send WDOE copies of the permit application and other pertinent materials used to make the final decision (see Chapters 43.21C or 90.58 RCW), the permit, and any other written evidence related to the hearing examiner's final decision. The date of filing a shoreline substantial development permit decision is the date WDOE receives the County's decision. WDOE shall issue and transmit their decisions on conditional use and variance permits to the department and applicant within thirty (30) days of department's submittal to them. The date of filing shoreline conditional use permits or shoreline variances is the date that WDOE transmits their permit decision to the department and applicant.

5. Construction or substantial progress toward construction of a project for which a shoreline permit is granted must be undertaken within two (2) years after WDOE's date of filing. Substantial progress toward construction includes letting bids, making contracts, purchase of materials, utility installation, and site preparation, but does not include use or development inconsistent with the SMP or the terms of permit approval. However, the two

(2) year period does not include time when development could not proceed due to related administrative appeals or litigation, nor include time necessary to obtain other required permits for the project from state and federal agencies.

6. 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 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 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 precludes the hearing examiner from issuing shoreline permits with a fixed termination date 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 if the applicant demonstrates the proposal is:

a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapter 173-26 WAC and Chapter 173-27 WAC, as amended;

b. Consistent with the policies and regulations of this SMP;

c. Consistent with other applicable sections of this code; and

d. Consistent with the goals and policies of the Comprehensive Plan;

2. The conditions specified by the hearing examiner to make the proposal consistent with the SMP and to mitigate or avoid adverse impacts to shoreline ecological functions will be attached to the permit.

I. Shoreline variances.

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

2. Variances or exemptions granted from the provisions of other local regulations will not be construed to constitute variances from the provisions of this SMP.

3. 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 may be granted when the applicant has proven that one (1) of the following sets of criteria has been met:

a. Variances for development located landward of the ordinary high water mark (OHWM) except within those areas designated as wetlands pursuant to Chapter 173-22 WAC, may be authorized 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 SMP precludes or significantly interferes with reasonable use of the property that is not otherwise prohibited by the SMP.
- ii. That the hardship specifically related to the property, is the result of unique conditions such as irregular lot shape, size, or natural features, is not, for example, from deed restrictions or the applicant's own actions and results from the application of specific provisions of the SMP;
- iii. That the design of the project is compatible with other allowed activities in the current land use designation and will not cause adverse effects to adjacent properties or shoreline ecological functions;
- iv. That the requested variance does not constitute a grant of special privilege that cannot be enjoyed by other property 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 OHWM or within wetlands 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 SMP precludes all reasonable use of the property not otherwise prohibited by it;
- ii. The proposal is consistent with SJCC 18.80.110(I)(3)(a)(i) through (v); and
- iii. Public rights of navigation, access and use of the shorelines will not be adversely affected.

4. The cumulative impact of additional requests for like actions will be reviewed. For example, if variances were granted to other developments or uses where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall result in no net loss of shoreline ecological functions.

5. Requests to vary the use of a shoreline area are processed as a requests for shoreline conditional uses permit rather than a shoreline variance. Variances from the u Uses that regulations are prohibited by the SMP may not be authorized by a variance or a conditional use permit.

6. Filing of variances with and review by the WDOE are described in subsection (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 (¼) 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 1. Shoreline conditional use permits is to allow greater flexibility in application of the
2 use regulations of the SMP consistent with the policies of RCW 90.58.020. Shoreline
3 conditional use permits may also be granted in circumstances where denial of the permit
4 would thwart RCW 90.58.020. By providing for the control of undesirable impacts
5 through the application of special conditions, the scope of uses within each of the shoreline
6 designations can be expanded to include additional uses. Activities classified as shoreline
7 conditional uses will be allowed only when the applicant demonstrates that the proposed
8 use will be compatible with allowed uses within the same area.

9 2. Uses that are specifically prohibited by the SMP may not be authorized through a
10 conditional use permit or variance.

11 3. Conditional use permits granted under other sections of this code are not be construed
12 to constitute approval of a shoreline conditional use.

13 4. Uses that are classified in the SMP as conditional uses may be authorized by the
14 County if the applicant can demonstrate all of the following:

15 a. The proposed use is consistent with the policies of RCW 90.58.020 and the
16 SMP;

17 b. The proposed use will not interfere with the normal public use of public
18 shorelines;

19 c. The proposed use of the site and project design are compatible with other
20 allowed uses within the area;

21 d. The proposed use will result in no net loss of shoreline ecological functions in
22 the shoreline designation in which it is to be located;

23 e. The cumulative impacts of additional requests for like actions in the area, or for
24 other locations where similar circumstances exist, will result in no net loss of
25 shoreline ecological functions (e.g., the total of conditional uses shall remain
26 consistent with RCW 90.58.020 and the SMP); and

27 f. The public interest will suffer no substantial detrimental effect.

28 5. Uses that are not classified as a conditional use in this SMP may be authorized by
29 conditional use permit, provided that the applicant demonstrates consistency with the
30 criteria in WAC 173-27-160(1), and the SMP.

31
32
33 **K. Procedures for revisions to shoreline permits.**

34 1. When an applicant seeks to revise a shoreline permit, an application in a form
35 prescribed by the director together with detailed plans and text describing the proposed
36 changes must be filed with the department director. The director will determine whether the

1 proposed changes are within the scope and intent of the original permit and are consistent
2 with the SMP and the SMA.

3 The director may find ~~P~~proposed revisions are within the scope and intent of the original
4 permit if all the following conditions are met:

5 a. No additional over-water construction is involved, except that pier, dock, or
6 float construction may be increased by five hundred (500) square feet or ten percent
7 (10%) more than the provisions of the original permit, whichever is less;

8 b. The building footprint and height are not increased by more than ~~a maximum of~~
9 ten percent (10%) from the provisions of the original permit;

10 c. The permit revision does not exceed height, lot coverage, setback, or any other
11 requirements of the SMP (unless a variance to specific development standards was
12 approved as part of the original permit);

13 d. Additional or revised landscaping complies with any conditions attached to the
14 original permit and with the applicable regulations;

15 e. The use authorized in the original permit is not changed; and

16 f. No increase in adverse impacts to shoreline ecological functions will be caused
17 by the project revision.

18 2. If the revisions meet the above criteria for administrative approval, a notice of
19 application will be published per SJCC 18.80.030.

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

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

26 b. A permit revision approved by the hearing examiner will become effective
27 immediately unless the original permit involves a conditional use or a variance.
28 Following the hearing examiner's action, the locally approved revision shall will be
29 submitted to the WDOE. In addition, the director shall submit a copy of the
30 examiner's decision to all parties of record to the original permit action.

31 If the revision to the original permit involves a conditional use or a variance, the
32 WDOE may approve, approve with conditions or deny the revision. (See Section
33 (4)(G)(4) of this ordinance.)

34 c. Appeals shall be submitted and processed in accordance with SJCC 18.80.140.

35 **L. Rescission of shoreline permits.** Any shoreline permit may be rescinded by the issuing
36 authority pursuant to RCW 90.58.140(8) upon finding that the permittee has failed to comply
37 with the permit terms and conditions. In the event that the permittee is denied a required sewage

1 disposal, building, or other permit necessary for the project in question, the shoreline permit may
2 be rescinded by the hearing examiner. If a shoreline permit is rescinded by the hearing examiner,
3 the permittee shall be notified by certified mail. Copies of the examiner's final action will be
4 filed with the WDOE.

5 **M. Appeals.** Aggrieved parties have twenty-one (21) days from the date of filing to file
6 appeals to the shoreline hearings board.

7
8 **N. Vesting.**

9
10 1. Complete applications for a development or project permit, to be processed under
11 Titles 15, 16 and 18 SJCC and subject to Chapter 18.50 SJCC that were filed prior to the
12 effective date of this ordinance vest to the laws and regulations in effect when the complete
13 application was filed with the department and all required permit fees were paid except as
14 provided in subsections (46), (57) and (68) of this section.

15
16 2. An application for a development or project permit, to be processed under Titles 15,
17 16 and 18 SJCC and subject to Chapter 18.50 SJCC that is filed after the effective date of
18 this ordinance vests to the laws and regulations in effect when the complete application was
19 filed with the department and all required permit fees were paid except as provided in
20 subsections (46), (57) and (68) of this section.

21
22 3. ~~A If a vested permit application that contemplates one (1) or more future uses or~~
23 ~~structures permits on the property that are subject to that permit approval, then: and the~~
24 ~~application contains If that permit approval contains a detailed description of the uses and~~
25 ~~improvements and a detailed site plan consistent with all laws and regulations in effect at~~
26 ~~the time the original application vested, then subsequent permit applications filed for those~~
27 ~~future use(s) are vested to the laws and regulations in effect at the time original permit~~
28 ~~application vested.~~

29
30 4b. A detailed description means a detailed site plan drawn to scale, specifying the
31 location of all buildings and improvements to be constructed in conjunction with the use(s).
32 The detailed description must address density, building setbacks, critical area buffers, lot
33 coverage, lot width requirements, and bulk (length, height and width), driveways,
34 stormwater features, water and sewer infrastructure and other improvements necessary for
35 the development.

36
37 5e. If the development approval does not contain the information in (3) and (4)(a) and
38 (b) above, applications for future use(s) are subject to all later enacted laws and regulations
39 in effect at the time the complete application for the future use(s) vests.

40 64. The County may impose conditions based on development and project permits
41 pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11
42 WAC and SJCC 18.80.050 to mitigate potentially adverse environmental impacts.
43

1 75. The County may impose new regulations such as requirements of the building, health,
2 and fire codes on vested development permits when necessary to protect the public health
3 and safety.
4

5 86. Applications for comprehensive plan amendments processed under Chapter 18.90
6 SJCC are not subject to the vesting rules in this section.
7

8 **SECTION 3. Ord. 1-2016 § 8 is amended to read as follows:**
9

10 **General.**
11

12 **A. Title.** This Chapter of the San Juan County Unified Development Code (UDC), together
13 with Element 3 of the Comprehensive Plan, the Official Maps and Common Descriptions of
14 Shoreline Designation Boundaries That Do Not Follow Property Lines (Ordinance 1-2016,
15 Exhibit D), and SJCC 16.55.040, 16.55.210(E)(2)(d), Section 2(B) figures 130-7, 130-6 of the
16 Eastsound Subarea plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC
17 18.80.110 is the Shoreline Master Program (SMP) for San Juan County, Washington.
18

19 **B. Short Title.** The short title of this Chapter and Element 3 of the Comprehensive Plan is the
20 "SMP."
21

22 **C. Authority.**
23

24 1. The provisions of this Chapter are adopted pursuant to RCW 90.58.140(1-3) and
25 90.58.200, the SMA, Chapters 173-26 and 173-27 WAC, and Element 3 of the
26 Comprehensive Plan. Except when specifically exempted by statute, all proposed uses and
27 development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW,
28 the SMA, and this SMP.
29

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

34 3. The SMA and the SMP comprise the basic state and local law regulating the use of
35 shorelines in the County. Unless specifically provided otherwise, if the provisions of the
36 SMP conflict with other applicable state or local policies, subarea plans, or other
37 regulations, the most restrictive regulation controls.
38

39
40 **D. Official map.**

41 1. ~~A map, known officially as the "San Juan County Comprehensive Plan Land Use and~~
42 ~~Shoreline Master Program Map," (a.k.a., the "map" or "official map") is~~ The Official Maps

1 are part of the SMP. The map shows all areas of the County under the jurisdiction of the
2 SMP and the official shoreline designations established by Element 3 of the
3 Comprehensive Plan for all affected lands and waters.

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

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

10 4. Where questions arise regarding the precise boundaries of any shoreline designation,
11 the director will make the final determination, subject to the provisions of SJCC 18.80.140.
12 Unofficial copies of the map may be prepared for administrative purposes as needed.

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

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

17 1. Director.

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

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

23 i. Establishing the procedures and preparing the forms deemed essential for
24 the administration of the SMP;

25 ii. Advising applicants for permits and other interested persons of the
26 policies, regulations, and procedures established by the SMP and the
27 SMA;

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

29 iv. Collecting required fees;

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

31 vi. Making field inspections; and

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

34 2. The department and planning commission have authority to review and recommend
35 revisions to the SMP.
36

SECTION 4. Ord. 1-2016 § 9 is amended to read as follows:

General applicability.

A. Relationship to comprehensive plan.

This SMP provides land use regulations to implement the goals and policies of the Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of the County that fall under the jurisdiction of the SMA. These regulations do not apply to development and uses beyond the jurisdictional limits of the SMA unless a proposed development involves both jurisdictional and non-jurisdictional land and the upslope land 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 Section 18 of Ordinance 1-2016 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.

SECTION 5. Ord. 1-2016 § 10 is amended 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 when not considered as part of a larger project or development permit:

1. With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials.

2. Normal maintenance or repair of existing structures or developments including those damaged by fire, accident, or the elements in accordance with WAC 173-27-040(2)(b).

3. Construction of a protective structural shoreline stabilization measure associated with existing single-family residences in accordance with WAC 173-27-040(2)(c).

4. Emergency construction necessary to protect property from damage by the elements, in accordance with WAC 173-27-040(2)(d). Flooding or other seasonal events that can be anticipated and may occur but are not immediately imminent are not an emergency.

5. Construction and practices necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction and maintenance of a barn or similar agricultural structure and the construction and maintenance of irrigation structures such as head gates, pumping facilities, and irrigation channels in accordance with WAC 173-27-040(2)(e) provided that a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling (other than that which results from normal cultivation), are not considered normal or necessary farming or ranching activities.

6. Construction or modification of navigational aids such as channel markers and anchor buoys in accordance with WAC 173-27-040(2)(f).

7. Construction of a single-family residence, including normal residential appurtenances, for the use of the beneficial owner and their family is exempt from shoreline substantial development permit requirements. For the purposes of this SMP, the beneficial owner is an individual who may be a land owner, lessee, contract purchaser, or a member of a family corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. For the construction of more than one single-family residence, a shoreline substantial development permit is required in accordance with WAC 173-27-040(2)(g). Exempt normal residential appurtenances are defined in SJCC 18.20.140 regulated by Section 11 of this ordinance.

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences in accordance with WAC 173-27-040(2)(h). This exception applies if either:

a. In salt waters, the fair market value of the dock does not exceed twenty-five 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

1 completion of the activity the vegetation and land configuration of the site are
2 restored to conditions existing before the activity;

3 d. A private entity seeking development authorization under this section first posts
4 a financial guarantee or provides other evidence of financial responsibility to the
5 County to ensure that the site is restored to pre-existing condition; and

6 e. The activity is not subject to the permit requirements of RCW 90.58.550.

7 13. The process of removing or controlling an aquatic noxious weed, as defined in state
8 law, through the use of herbicides or other treatment methods that are recommended in a
9 final environmental impact statement published by the U.S. Department of Agriculture or
10 the WDOE jointly with other state agencies under Chapter 43.21C RCW in accordance
11 with WAC 173-27-040(2)(n). In order to qualify as exempt, noxious weed control must
12 meet the following County requirements:

13 a. Aquatic weed control must only occur when native plant communities and
14 associated habitats are threatened or where a water-dependent use is restricted by the
15 presence of weeds. Aquatic weed control must occur in compliance with all other
16 applicable laws and standards.

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

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

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

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

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

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

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

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

38 **SECTION 6. Ord. 1-2016 § 11 is amended 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. When not part of an approved development or project permit a 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 project or development 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).

SECTION 7. Ord. 1-2016 § 16 is amended to read as follows:

Clearing, grading, fill, excavation and vegetation management.

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

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

1
2 **C.** The following requirements apply to land clearing, grading, filling, or alteration of
3 ~~wetlands, natural drainage, and topography for residential construction:~~
4

5 1. Land clearing, grading, filling, or alteration of ~~wetlands, natural drainage, and~~
6 ~~topography shall be limited to the area necessary for driveways, buildings, and view and~~
7 ~~solar access corridors. Cleared surfaces not to be covered with gravel or impervious~~
8 ~~surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or~~
9 ~~other plant materials adapted to site conditions which will protect against soil erosion).~~
10 ~~This applies to individual construction and shoreline subdivisions. Existing vegetation~~
11 ~~shall be used to visually buffer structures as viewed from the shoreline, public roads, and~~
12 ~~adjoining properties. All applications for new construction and subdivisions shall identify~~
13 ~~trees that are proposed to be removed. If trees are to be removed beyond those required to~~
14 ~~construct a single-family residence, then a tree removal plan shall also be submitted. The~~
15 ~~plan shall:~~
16

17 a. Identify the proposed building areas, driveways, and view and solar access
18 corridors; and
19

20 b. Demonstrate how existing natural screening will be retained while providing
21 for construction, views, and sunlight.
22

23 ~~2. Removal of trees smaller than three (3) inches in diameter, as measured four (4) feet~~
24 ~~above grade, shall not be restricted unless there is evidence that the shoreline is unstable.~~
25 ~~The removal of smaller trees, brush, and groundcover may be restricted in unstable~~
26 ~~shoreslines.~~
27

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

32 1. Identify the proposed and existing building areas, driveways, and view and solar
33 access corridors;

34 2. Demonstrate how natural screening will be retained while providing for construction,
35 views, and sunlight;

36 3. Demonstrate how the tree protection requirements in critical area buffers and tree
37 protection zones in ~~Chapter 18.35 SJCC~~ Section 18 of Ordinance 1-2016 will be met; and

38 4. Include a report by a certified arborist for hazard tree removal.
39

40 **E.** Fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) is not
41 allowed unless the director finds that no feasible alternative exists. Land clearing, grading,
42 filling, and altering of wetlands, natural drainage features and topography is limited to the
43 minimum area necessary for driveways, buildings, and views, and must conform with critical

1 area requirements and SMP setbacks. It is the property owner's responsibility to obtain required
2 state and federal authorizations for work in wetlands, streams or shoreline waters. Fill and
3 excavation within wetlands or waterward of the OHWM will only be allowed for the following
4 purposes:

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

20 F. When clearing, grading, filling or excavating will cause adverse impacts to ecological
21 functions, a mitigation plan must be prepared and implemented in accordance with Sections 19,
22 20, and 21 of this ordinance.

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

- 24 1. Is conducted outside required buffers and setbacks as part of an approved shoreline
25 use;
- 26 2. Is the minimum needed to implement the approved shoreline use;
- 27 3. Does not significantly change the topography of the landscape in a manner that
28 affects the runoff characteristics; and
- 29 4. Does not increase the risk of slope failure.

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

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

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

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

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

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

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

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

16 **O.** Regulations by designation.

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

20 **SECTION 8. Ord. 1-2016 § 17 is amended to read as follows:**

21 **General environmental protection.**

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

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

32 Where land use or development projects meet or exceed the protections required by the critical
33
34
35

1 area regulations in Section 18 of this ordinance, mitigation is not required. All new uses,
2 developments and ancillary activities that do not comply with Section 18 of this ordinance
3 requires mitigation of adverse impacts consistent with the provisions of Sections 19, 20, and 21
4 of this ordinance.

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

7 ~~**D.** All new shoreline structures must be located and designed to prevent the need for shoreline~~
8 ~~stabilization and flood protection measures for the life of the structure (minimum seventy-five~~
9 ~~years (75) as determined by a qualified professional. On all non-bedrock shorelines all new~~
10 ~~structures are subject to coastal geologic buffers consistent with Section 18 of Ordinance 1-2016.~~

11 In addition to the requirements of SJCC 18.35.070 and 18.35.115, Figure 3.1, the required
12 technical report must:

- 13 1. Evaluate the potential impacts on water circulation, sand and gravel movement, erosion
14 and accretion;
- 15 2. Evaluate the potential impacts of sea level rise over the life of the structure (seventy-five
16 (75) years); and
- 17 3. Demonstrate that the proposed buffer will be sufficient to avoid the need for new
18 protective structural shoreline stabilization and flood protection measures for the life of
19 the structure (seventy-five (75) years.)

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

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

24 **SECTION 9. Ord. 1-2016 § 18 is amended to read as follows:**

25 **Critical areas.**

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

32
33 **B.** Provisions of the critical area regulations that are not consistent with Chapter 90.58 RCW
34 (the Shoreline Management Act) and its supporting WACs do not apply in the shoreline
35 jurisdiction including the:

- 36
37 1. Critical area applicability provisions do not apply in the shoreline jurisdiction.
38 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. 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.

SECTION 10. Ord. 1-2016 § 19 is amended 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 Section 18 of Ordinance 1-2016, 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.

D. Modifications to wetlands or buffers may be exempt from the requirement to avoid impacts when the wetland is below minimum size thresholds listed in SJCC 18.35.095 provided impacts are fully mitigated according to the remaining mitigation sequence in Section 19(B) of Ordinance 1-2016.

SECTION 11. Ord. 1-2016 § 20 is amended 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 as determined by a qualified professional and approved by the decision-maker. 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 five (5) years, provided the schedule can be reduced after three (3) years unless if 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 requirement for 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 is required pursuant to SJCC 18.80.200 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 the 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

1 professional who will complete the plans.

2
3 **SECTION 12. Ord. 1-2016 § 22 is amended to read as follows:**

4
5 **Flood hazard reduction.**

6
7 **A. Applicability.**

8
9 This section regulates the construction of structural flood hazard reduction measures such as:

- 10
11 1. Dikes;
12 2. Levees;
13 3. Revetments;
14 4. Floodwalls; and
15 5. Channel realignments.

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

19 **B. General regulations.**

- 20 1. Where feasible, nonstructural flood hazard reduction measures such as setbacks,
21 wetlands restoration, stormwater management programs and structural relocation, are
22 preferred over structural solutions.
- 23 2. New structural flood control works are only allowed in the shoreline jurisdiction if it
24 is demonstrated by an ~~engineering analysis~~ analyses prepared by qualified professionals
25 that:
- 26 a. They are necessary to protect existing development or to mitigate or resolve
27 existing stormwater problems;
- 28 b. Impacts to critical areas can be successfully mitigated to result in no net loss
29 of shoreline ecological functions;
- 30 c. Appropriate vegetation conservation actions will be undertaken; and
31 d. Nonstructural flood hazard reduction measures are infeasible.
- 32 3. All development or uses in areas of special flood hazard area designated by the
33 County's FIRMs and Flood Hazard Boundary Maps (FHBMs) are subject to the provisions
34 of Chapter 15.12 SJCC and SJCC 18.35.075.
- 35 4. New structural flood hazard reduction measures must be placed landward of
36 associated wetlands and wetland habitat buffers, except for measures that increase
37 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.

SECTION 13. Ord. 1-2016 § 27 is amended to read as follows:

Agriculture.

A. General regulations.

1. In accordance with ~~Chapter 18.35 SJCC~~ Section 18 of Ordinance 1-2016, buffers of permanent vegetation or other suitable soil erosion controls shall be established and maintained between tilled or grazed areas and associated water bodies and wetlands. The type and extent of such vegetation and other controls shall be of a width or character sufficient to capture sediments and other compounds.
2. Confined animal feeding operations, retention or storage ponds for feedlot wastes, and stockpiles of manure solids shall be located to prevent water contamination consistent with guidelines prepared by the U.S. Environmental Protection Agency and the requirements of state and local agencies.
3. Commercial feedlots are prohibited.
4. New agricultural activities in the shoreline jurisdiction shall be located, designed, constructed and managed in a manner that will result in no net loss of shoreline ecological functions.

B. Regulations by designation.

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

3
4 **SECTION 14. Ord. 1-2016 § 28 is amended to read as follows:**

5
6 **Aquaculture.**

7
8 **A. General regulations.**

9
10 Except as restricted in subsection B below, the following regulations apply to all aquaculture.

11
12 1. Shorelines within the County that are located seaward of the line of extreme low tide
13 have been designated "shorelines of statewide significance."

14 2. Structures or facilities that would have a significant adverse impact on shoreline
15 ecological functions are prohibited.

16 3. Private, noncommercial aquaculture activities that do not include development are not
17 subject to this section.

18 4. No aquatic organism shall be introduced into County waters without prior written
19 approval of the WDFW, WDNR, the County's Noxious Weed Control Board, or the
20 appropriate regulatory agency for the specific organism proposed for introduction. Such
21 approvals shall be submitted in writing to the department prior to the introduction of the
22 organism or the granting of the permit decision, whichever comes first. Introduction, for
23 purposes of this section, means the placement of any aquatic organism in any area within
24 the waters of the County regardless of whether it is a native or resident organism within the
25 County and regardless of whether it is being transferred from within or beyond County
26 waters.

27 5. Unless required by the shoreline permit issued by the department, after a permit is
28 issued for a specific organism, the repeated introduction of an approved organism in the
29 same location does not require subsequent approval by the department.

30 6. Aquaculture shall comply with all applicable noise, light, glare, air pollution, and water
31 quality standards including those in Chapter 18.60 SJCC. Aquaculture operations shall
32 minimize adverse impacts to nearby residents. Some impacts from odor, noise and light
33 may be unavoidable and will not be considered sufficient cause to deny a project
34 application.

35 7. Aquaculture structures and equipment, except navigation aids, shall be designed,
36 operated, and maintained to blend into their surroundings through the use of appropriate
37 colors and materials. They shall not adversely impact the aesthetic qualities of the
38 surrounding area.

39 8. The department may require commercial aquaculture applicants to provide a financial
40 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.

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

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

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

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

12. No pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling

agents, feed, chemicals or other such materials shall be used until approval is obtained from 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.

30. Geoduck operations shall be located where sediments, topography, and land and water access can accommodate operations without adversely impacting shoreline ecological functions.

31. Applications shall identify management practices that will be implemented to address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

B. Small scale shellfish aquaculture.

1. Small scale S 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 (D)(1) 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.

SECTION 15. Ord. 1-2016 § 34 is amended to read as follows:

Regulations – ramps (including marine railways).

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

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

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

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

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

SECTION 16. Ord. 1-2016 § 35 is amended 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 authorization 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.

SECTION 17. Ord. 1-2016 § 38 is amended 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 within the service range 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.

SECTION 18. Ord. 1-2016 § 40 is amended 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. Breakwaters, 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. Breakwaters, jetties and groins required in a shoreline restoration project may be allowed in all designations with a shoreline substantial development permit.

SECTION 19. Ord. 1-2016 § 45 is amended 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.

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

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

1. Protect upland structures from erosion over the long term;

2. ~~Size and place materials so~~ Ensure they will remain stable during a two (2)-year flood event and 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 sand and gravel that is suitable as spawning substrate when a proposal is on a shoreline reach with forage fish spawning habitat.

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

SECTION 20. Ord. 1-2016 § 51 is amended 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

d. Provide a benefit with respect to the objectives of the SMA such 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.

SECTION 21. Ord. 1-2016 § 52 is amended 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 unless there is no feasible alternative. ~~Solid and liquid wastes, biosolids, and untreated effluents discharges are prohibited.~~

13. Discharge of solid and liquid wastes, biosolids, and untreated effluent are prohibited. ~~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.

SECTION 22. Ord. 1-2016 § 54 is amended 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 ("12.1 Log Booming and Log Storage 9/1994 or as updated 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.

SECTION 23. Ord. 1-2016 § 56 is amended to read as follows:

Private pedestrian pathways, stairways and ramps - general regulations.

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

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

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

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

3. The maximum vertical height of the structure 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 may not be located on rock faces or bluffs that exceed a sixty (60) degree angle; and

4. The project complies with bank stability requirements of SJCC 18.35.055 through 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 Section 18 of Ordinance 1-2016;

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.

SECTION 24. Ord. 1-2016 § 60 is amended to read as follows:

Residential development.

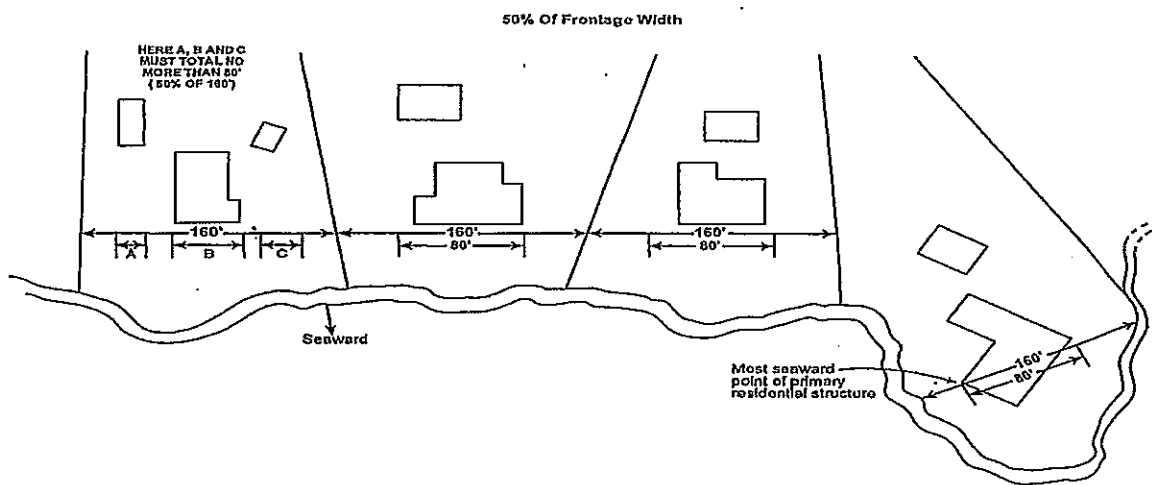
A. Regulations – location and design.

1. Residential development is only allowed landward of the OHWM, except as specifically allowed for live aboard vessels in subsection (F) below.

2. Developments on waterfront lots may not cover more than fifty percent (50%) of the width of the lot as measured by the shortest straight line distance from lot line to lot line through the most seaward point of the primary residential structure. Developments with

multiple structures shall ensure that the combined width of all the structures does not exceed fifty percent (50%) of the width of the single lot. However, on lots less than eighty (80) feet wide at the most seaward point of the proposed residential structure, the structure may cover an area up to forty (40) feet wide as long as a minimum setback of ten (10) feet from side property boundaries is maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all appurtenant structures must be placed landward of the primary residential structure. See Figure X below.

Figure X.



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 Section 18 of Ordinance 1-2016.

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 of not less than thirty-five (35) feet 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 ~~but 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 and either a restroom or an on-site pump-out facility.

~~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.

SECTION 25. Ord. 1-2016 § 61 is amended to read as follows:

Transportation facilities and parking.

A. Regulations - general.

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

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

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

10 4. Commercial watercraft and seaplane operations at public access points require a
11 conditional use permit.

12 **B. Regulations - roads (public and private).**

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

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

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

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

21 a. Outside of shoreline jurisdiction, or

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

24 5. Roadside vegetation shall be controlled.

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

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

29 **C. Regulations - parking.**

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

32 a. Is an essential accessory to an allowed use;

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

34 c. Can be constructed, used and maintained in a manner that will result in no net
35 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.

SECTION 26. Ord. 1-2016 § 65 is amended 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. Will ~~Θ~~ occur at a time of year that will not impact spawning, nesting, or breeding, ~~shoreline habitat,~~ and

b. Will ~~I~~ increase ecological functions that have been identified as degraded at the project site; and

c. Is approved by DNR if it is located on state owned aquatic lands.

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.

SECTION 27. Ord. 1-2016 § 66 is amended 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:

- 1
- 2 SD = Subject to shoreline substantial development permit unless exempt per C B above.
- 3 CUP = Conditional use permit.
- 4 No = Prohibited; the use is not eligible for a variance or conditional use permit.
- 5 NA = Not applicable.
- 6 * = See the specific regulations for the shoreline designation or type of use in Article
- 7 III of this Chapter.
- 8

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 Structures 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

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
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
Breakwaters, Jetties and Groins¹								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	SD CUP	SD CUP	SD CUP	SD CUP	SD CUP	SD NA
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
<u>Breakwaters, Jetties and groins for shoreline restoration projects</u>	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

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
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*
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* CUP	SD	SD*	SD	CUP	CUP	No	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
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
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*

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
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
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 Projects ¹								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
Structural Shoreline Stabilization ⁵								
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								

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
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 foot- note-6 *	See foot- note-6 *	See foot- note-6 *	See foot- note-6 *	See foot- note-6 *	See footnote 6-*	See footnote 6-*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	CUP No	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

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural/Earm Forest	Rural Residential	Urban	Port/Marina and Marine Transportation	Aquatic
Utilities								
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 **Table X Notes:**

2 1. Eastsound subarea plan prohibits:

- 3 a. New boating facilities, joint use and private docks;
- 4 b. Breakwaters, jetties and groins;
- 5 c. Log transfer sites and log storage areas;
- 6 d. Industrial development outside of the marina;
- 7 e. Mineral extraction;
- 8 f. Institutional uses;
- 9 g. Recreational development with commercial facilities for overnight camping; and
- 10 h. Fill in the conservancy shoreline designation.

11

12 2. Shaw Island subarea plan prohibits:

- 13 a. Recreational development with commercial facilities for overnight camping;
- 14 b. Residential vacation rentals by themselves or in combination with any commercial use;
- 15 c. Institutional uses; and
- 16 d. New commercial uses.

17

18 3. Subject to the general provisions of Sections 51 and 54 of this ordinance forest management activities

19 including log handling and storage facilities are allowed in all shoreline designations on Shaw Island.

20

21 4. Shoreline habitat and natural systems enhancement projects are a shoreline conditional use within Eastsound

22 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 28. SJCC 18.20.030 and Ord. 1-2016 § 69 are each amended to read as follows:

“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 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.

“Class III beach” means a beach or shore having no dry backshore.

“Clearing” means the destruction or removal, ~~by hand or with mechanical means,~~ of vegetation, ~~such as roots, material or topsoil materials~~ by hand or mechanical means.

“Cluster development” means the massing of development on one or more parts of a property.

“Co-applicant” means all persons or entities joining with an applicant in an application for a project or development permit, including the owners of the subject property and any tenants proposing to conduct a development or activity subject to a permit.

“Coastal high hazard areas” means the areas within any areas of special flood hazard that are subject to high velocity waters, such as including but not limited to storm surge or tsunamis.

1 “Co-location” means the shared use of a building, tower or telecommunication mount or site by
2 more than one licensed carrier. Additionally, to satisfy the definition of “co-location” on a
3 wireless tower, the mounting of a new proposed antenna must not: (1) increase the approved
4 height of the wireless tower by more than the minimal amount required by Section 6409 of the
5 Middle Class Tax Relief Act (2012) by more than ten percent; or (2) involve the installation of
6 more than four new equipment cabinets or one new equipment shelter to serve the wireless
7 tower; or (3) involve adding an appurtenance to the body of the wireless tower that would
8 protrude from the edge of the wireless tower more than 20 feet; or (4) involve excavation outside
9 the current wireless tower site, defined as the current boundaries of the leased or owned property
10 surrounding the wireless tower and any access or utility easements currently related to the site; or
11 (5) interfere with the camouflage or disguise of the wireless tower.

12 “Commercial communication facilities” means a facility for the broadcast of signals for
13 television, HDTV, and commercial radio stations and refers to the lease area and easements, all
14 towers, antennas, mounts, transmission cables, equipment shelters or cabinets and any other
15 installation to facilitate the broadcast of radio and television. Personal wireless service facilities
16 and joint use wireless facilities are not “commercial communication facilities.”

17 “Commercial composting” means the collection of off-site or public drop-off of yard, landscape,
18 agricultural wastes and other compostable materials to be processed into compost, including
19 sales, pick-up or delivery of finished composted products.

20 “Commercial mobile radio services” or “CMRS” means any of several technologies using radio
21 signals at various frequencies to send and receive voice, data and video.

22 “Commercial recreational facility” means a place designed and equipped for the conduct of
23 sports and leisure-time activities which is operated as a business and open to the public for a fee
24 (see “indoor recreational facilities and outdoor recreational facilities”).

25 “Commercial sign” means any object, device, display or structure that is used for attracting
26 attention to any commercial use, product, service, or activity.

27 “Commercial use” means activity involving the sale of goods or services.

28 “Common area” means any area contained within the boundaries of a proposed land division or
29 within a multifamily residential development and owned by the lot owners as tenants-in-
30 common, joint tenancy, or through an association or nonprofit association, and provided
31 specifically for the common use of the residents.

32 “Community club or facility” means a not-for-profit use that provides social, health, recreational,
33 cultural, or educational facilities to a community.

34 “Community structure” means a structure which is intended for the common use of the residents
35 of a particular subdivision or community.

36 “Composting” means the biological degradation and transformation of organic solid waste under
37 controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid
38 waste under uncontrolled conditions is not composting.

1 “Comprehensive Plan” means the San Juan County Comprehensive Plan and all of its goals,
2 objectives, policies, documents, and maps.

3 “Concurrency” means a condition in which an adequate capacity of capital and transportation
4 facilities and services is available to support development at the time that the impacts of
5 development occur. (See also “adequate capacity,” “available capacity,” and “levels of service.”)

6 “Concurrency facilities” means the public facilities and services for which concurrency is
7 required in accordance with the policies of the Comprehensive Plan. They include transportation
8 facilities (ferry service and parking areas, Types 1 and 2 public docks, intersections in activity
9 centers or urban growth areas, and collector public roads), and “Category A” capital facilities
10 (County solid waste and recycling facilities); community water systems that serve urban growth
11 areas, AMIRDs (village, hamlet, and residential activity centers and island centers), or master
12 planned resort activity centers; and community sewage treatment facilities that serve village and
13 master planned resort activity centers.

14 “Concurrency test” means the comparison of a project’s impact on concurrency facilities to the
15 available capacity, including existing and planned capacity, of the concurrency facilities.

16 “Conditional use” means a use that is identified in Tables 3.1 and 3.2 in SJCC 18.30.030 and
17 18.30.040 by the symbol “C” and which requires a conditional use permit.

18 “Conditional use permit” means a permit issued by San Juan County stating that the land uses
19 and activities meet all criteria set forth in local ordinances, and all conditions of approval in
20 accordance with the procedural requirements of SJCC 18.80.100.

21 “Conditional use, shoreline” means a use, development, or substantial development which is
22 classified as a conditional use in the Shoreline Master Program (SMP; see Element 3 of the Plan
23 and Chapter 18.50 SJCC), or which is not classified within the SMP.

24 “Condominium” means the division of a building or land pursuant to the Horizontal Property
25 Regimes Act, Chapter 64.32 RCW, or to the Condominium Act, Chapter 64.34 RCW.

26 “Conical surface” means the FAA imaginary surface that is the lower boundary of an airspace
27 which extends outward and upward from the periphery of the horizontal surface.

28 “Conservancy designation” means the land use designation of the Comprehensive Plan designed
29 to protect valuable natural resources, wildlife, historical, and scenic areas.

30 “Conservancy shoreline designation” means a shoreline designation that is applied to areas
31 which are largely free of intensive development.

32 “Consolidated formation” means any geologic formation in which the earth materials have
33 become firm and coherent through natural rock-forming processes.

34 “Construction contractor yards and offices” means service establishments primarily engaged in
35 general contracting or subcontracting in the building construction trades. These include
36 administrative offices, workshops and the indoor or outdoor storage of tools, equipment,
37 materials, and vehicles.

1 “Contiguous” means adjoining as defined herein, but will often have the added component of
2 sharing the common boundary for a considerable distance, along the whole or most of one side
3 or border.

4 “Correctional facility” means any facility operated by or under contract to a public agency for
5 the confinement of individuals accused or convicted of criminal or delinquent activity.

6 “Cottage enterprise” means a commercial or manufacturing activity conducted in whole or in
7 part in either the resident’s single-family dwelling unit or in an accessory building, but is of a
8 scale larger than a home occupation.

9 “County” means San Juan County, Washington, its board, commissions, and departments.

10 “Covered moorage” means a pier or float or system of floats covered by a roof.

11 “Critical areas” means geologically hazardous areas, frequently flooded areas, critical aquifer
12 recharge areas, wetlands, and fish and wildlife conservation areas, all as defined in this Chapter
13 and regulated in SJCC 18.30.110 through 18.30.160.

14 “Critical area functions and values” means the beneficial roles served by critical areas and the
15 values people derive from these roles including, water quality protection and enhancement; fish
16 and wildlife habitat; food chain support; flood storage, conveyance, and attenuation; ground
17 water recharge and discharge; erosion control; wave attenuation; protection from hazards; water
18 infiltration; fine sediment control; shade/microclimate; large woody debris; litterfall/organic
19 matter; maintenance of hydrologic function; slope stability; aesthetics; property value; economic
20 development; recreation; carbon sequestration; and within shoreline jurisdiction, shoreline
21 ecological functions and processes.

22 “Critical water resource areas” means selected watersheds and critical aquifers where resources
23 are potentially threatened by salt water intrusion or primary contaminants or limited due to poor
24 recharge.

25 “Cul-de-sac” means a road closed at one end by an area of sufficient size for turning vehicles
26 around.

27 **SECTION 29. SJCC 18.20.120 and Ord. 1-2016 § 72 are each amended to read as follows:**

28 Land Division. See “division of land.”

29 “Landslide hazard areas” means areas potentially subject to risk of mass movement due to a
30 combination of geologic, topographic, and hydrologic factors.

31 “Landward” means to or toward the land.

32 “Level of service (LOS)” means the number of units of capacity per unit of demand (e.g., trips,
33 population, school-age residents) or other appropriate measure of need sufficient to meet the
34 standards for adequate service set forth in the Comprehensive Plan. (See also “adequate
35 capacity,” “available capacity,” and “concurrency.”)

36 “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 currently safety registered ation~~ with federal, state
17 and 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 30. SJCC 18.20.190 and Ord. 1-2016 § 77 are each amended to read as follows:**

4 "Sale" means the transfer for consideration of legal or beneficial ownership.

5 "Salt water intrusion" means the underground flow of salt water into wells and aquifers.

6 "Screening" means a method of visually shielding or obscuring a structure or use from view by
7 fencing, walls, trees, or densely planted vegetation.

8 "Seaward" means to or toward the sea.

9 "Secondary use" is secondary, or subordinate, to the primary use of the property (e.g.,
10 commercial, residential, utilities, etc.)

11 "Security barrier" means a locked, impenetrable wall or fence that completely seals an area from
12 unauthorized entry or trespass.

13 "Sedimentation" means the process by which material is transported and deposited by water or
14 wind.

15 "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake-
16 induced ground shaking, slope failure, settlement, or soil liquefaction.

17 "Septage" means the mixture of solid, semi-solid, and liquid wastes, scum, and sludge that is
18 pumped from within septic tanks, pump chambers, holding tanks, and other septic system
19 components.

20 "Service area" means an area identified by a public water system that includes existing and
21 future service.

22 "Service range" means the area within eight (8) driving miles measured from the property
23 boundary on ferry served islands and existing facilities on each non-ferry served island.

24 "Setback" means the distance a structure is placed behind a specified line or topographic feature.

25 "Sewerage treatment facilities" means the management, storage, collection, transportation,
26 treatment, utilization, and processing of sewage from a municipal or community sewage
27 treatment plant, not including community drain fields.

28 "Shooting range" means a facility specifically designed and used for safe shooting practice with
29 firearms or for archery practice, with individual or group firing positions for specific weaponry.

30 "Shore process corridor" means the land-water zone within which certain geological, biological,
31 and hydraulic actions and interchanges critical to the integrity of the shoreline take place, for
32 example, a feeder bluff-driftway-accretion shoreform system.

33 "Shorelands" means lands extending landward for 200 feet in all directions as measured on a
34 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas
35 landward 200 feet from such floodways; and all wetlands and river deltas associated with the

streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW, the same to be designated as to location by the Department of Ecology.

“Shoreline access point” means a road end or other area that provides physical or visual access to the tidelands and waterfront to the public. Shoreline access points may include one or more of the following:

1. Signposts;
2. Benches and tables;
3. Parking areas;
4. Paths;
5. Public pedestrian trails;
6. Boat ramps without lifts;
7. Gates;
8. Staircases; or
9. Other shoreline access features.

“Shoreline development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

“Shoreline jurisdiction (shorelands or shoreland areas)” means the proper term describing all of the geographic areas covered by the Shoreline Management Act, related rules, and the applicable master program. Those lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA. (RCW 90.58.030).

“Shoreline modifications” means those human actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

“Shoreline permit” means a substantial development, shoreline conditional use, or shoreline variance permit.

“Shoreline substantial development permit exemption” means certain developments that meet the precise terms of listed exemptions and are granted exemption from the requirements of the substantial development permit process of the Shoreline Management Act (SMA). An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the Master Program (Element 3 of the Plan and Chapter 18.50 SJCC). Shoreline conditional use or variance permits may also still be

required even though the activity does not need a substantial development permit (Cf. RCW 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

“Shorelines” means all of the water areas in the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except:

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes (RCW 90.58.030).

“Shorelines of statewide significance” means, in San Juan County, those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide (RCW 90.58.030).

“Sign” means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, 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.

“Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except wastes identified in WAC 173-304-015, such as 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 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.”)

“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.

“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.

1 “Stream” means a watercourse with a defined bed and banks, not including manmade ditches,
2 canals, or other entirely artificial watercourses, except where they exist in a natural watercourse
3 (see WAC 220-110-020). Streams are classified in WAC 222-16-030 and 222-16-031.

4 “Street frontage” means the length along a street which a structure, business, or lot abuts or
5 fronts.

6 “Structure” means a permanent or temporary edifice or building or any piece of work artificially
7 built up or composed of parts joined together in some definite manner, whether installed on,
8 above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).

9 “Subarea plan” means a detailed plan consistent with but more specific than this code or the
10 Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a
11 functional long-range plan for a land use or resource issue of County-wide concern.

12 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions
13 or easements shown on the face of a plat of a subdivision or short subdivision; except as
14 provided by RCW 58.17.040(6) for boundary line adjustments.

15 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,
16 but under special circumstances for subdivision into two or more parcels, as provided by this
17 code and Chapter 58.17 RCW.

18 “Subdivision, short” means subdivision of land into no more than four (4) parcels, as provided
19 by this code and Chapter 58.17 RCW.

20 “Subdivision, vacation of” means the removal of lots, boundaries, roads, dedications,
21 restrictions, or easements of a recorded subdivision or short subdivision.

22 “Substantial alteration” means any alteration, where the total cost of all alterations such as
23 electrical, mechanical, plumbing, and structural changes) for a building or facility within any 12-
24 month period or single development permit application amounts to 50 percent (50%) or more of
25 the value of the building or facility. In determining the current value of the building or facility,
26 the assessor’s fair market value, or a current appraisal acceptable to the County, may be used.

27 “Substantial development” means any development of which the total cost, or fair market value,
28 exceeds the dollar threshold established by the Washington State office of financial management
29 (RCW 90.58.030(3)(e)); except for the exemptions specified in WAC 173-27-040, Chapter 18.50
30 SJCC, or any development which materially interferes with the normal public use of the water or
31 shorelines of the state.

32 “Substantial improvement” means any maintenance, repair, structural modification, addition or
33 other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the
34 market value of the structure either before the maintenance, repair, modification, or addition is
35 started or before the damage occurred, if the structure had been damaged and is being restored.

36 “Substantial storage space” means a development in the service and light industrial and service
37 park land use districts in which the ratio of covered and uncovered storage space to retail space is
38 greater than two.

1 “Sustainable” means actions or activities which preserve and enhance resources for future
2 generations.

3 **SECTION 31. Savings Clause:** This ordinance does not affect any pending suit or
4 proceeding; or any rights acquired; or liability or obligation incurred under the sections amended
5 or repealed; nor shall it affect any proceeding instituted under those sections. All rights and
6 obligations existing prior to adoption of this ordinance shall continue in full force and effect.

7 **SECTION 32. Severability:** If any provision of this ordinance or its application to any
8 person is held invalid, the remainder of this ordinance and the application to other persons or
9 circumstances shall not be affected. Remaining sections of the ordinance shall be interpreted to
10 give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

11 **SECTION 33. Effective Date:** This ordinance shall take effect fourteen days from the
12 date of written approval by WDOE pursuant to RCW 90.58.090.

13
14 **SECTION 34. Publication of Notice of Adoption:** A notice of adoption of this
15 ordinance will be published pursuant to RCW 36.70A.290(7) promptly after its approval by
16 WDOE.

17
18 **SECTION 35. Codification:** Sections 2 through 30 shall be codified after the effective
19 date of this ordinance.
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ADOPTED this 19 day of September, 2017.

ATTEST: Clerk of the Council

Ingrid Gabriel 9.27.2017
Ingrid Gabriel, Clerk Date

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Rick Hughes
Rick Hughes, Chair
District 2

REVIEWED BY COUNTY MANAGER

Michael J. Thomas 9/27/17
Michael J. Thomas Date

Bill Watson
Bill Watson, Vice-Chair
District 1

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

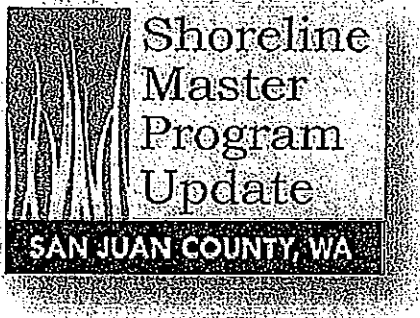
By: gk 9/26/2017
Date

Jamie Stephens
Jamie Stephens, Member
District 3

Exhibit A: San Juan County Comprehensive Plan Section B, Element 3, Shoreline Master
Program

EXHIBIT A

COMPREHENSIVE PLAN SECTION B, ELEMENT 3

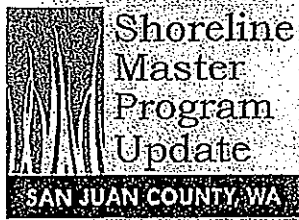


SHORELINE MASTER PROGRAM (Goals and Policies)

~~April 5, 2016~~

September 19, 2017

"Our islands have exceptional natural beauty and healthy diverse ecosystems surrounded by pollution-free marine waters. . . . As careful stewards of these islands, we conserve resources, preserve open space, and take appropriate action to assure healthy land and marine environments. . . . The unique character of our shorelines is protected by encouraging uses which maintain or enhance the quality of the shoreline environment."



ELEMENT 3

SHORELINE MASTER PROGRAM

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3.1 INTRODUCTION

This Shoreline Master Program (SMP) provides goals and policies additional to those of other sections of this Comprehensive Plan. It applies to all shorelines of the state, which include; freshwater lakes 20 acres or larger; Briggs Dream, Sportsman, Trout, Zylstra, Mountain, Martin (Diamond), Cascade, Hummel, Spencer and Horseshoe, Woods reservoir, all marine water areas, and the area 200 feet landward from the Ordinary High Water Mark (OHWM). It is the intent of this SMP to implement the Shoreline Management Act (SMA)(RCW 90.58), by managing the use and development of the shoreline jurisdiction of San Juan County, giving preference to water-dependent and water-related uses and encouraging shoreline development and use to occur in harmony with natural conditions. Uses that result in long-term over short-term benefits are preferred.

This element is composed of five sections: 1) an introduction; 2) overall goals and policies, which are the foundation of the SMP and set the priorities and tone of the whole element; 3) the shoreline designations section, which identifies and characterizes different shoreline designations; 4) policies that apply to specific uses of the shoreline; and, 5) shoreline modification policies, which applies to structural and non-structural modification activities on the shoreline.

Per Revised Code of Washington (RCW) 36.70A.480, the goals and policies of the Shoreline Management Act (SMA) as set forth in RCW 90.58.020 are included as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen combined goals of Growth Management Act and SMA.

3.1.A Relationship of this Element to the Unified Development Code

The shoreline regulations which implement the goals and policies of this element are contained in Chapter 18.50 of the Unified Development Code (UDC). Chapter 18.50 SJCC is essentially Part 2 of the County's SMP with this element of the Comprehensive Plan being Part 1. Except where otherwise stated, the SMP applicability is coterminous with areas shown on the San Juan County Comprehensive Plan Land Use and SMP Map.

3.2 OVERALL GOALS AND POLICIES

This section addresses eleven (11) general subjects: Shoreline Use; Economic Development; Critical Areas; Public Access; Clearing, Grading and Vegetation Management; Prevention and Mitigation of Adverse Impacts; Historic and Archaeological Resources; Shorelines of Statewide Significance; Signs; Flood Hazard Reduction and Administration.

3.2.A Shoreline Use

Goal:

To assure protection of the unique character of San Juan County with its many islands while providing for uses of the shorelines which do not needlessly diminish the quality of the shoreline environment by reserving shoreline areas for water-oriented uses and discouraging non-water-oriented uses other than single-family residential uses, and to assure the optimum opportunity for participation by County residents in the decision making processes that may affect that character.

Policies:

1. Foster uses which protect the potential long-term benefits to the public against compromise for reasons of short-term economic gain or convenience.
2. Allow only uses which would not adversely alter the shoreline, or conflict with or preempt water-dependent uses.

3. Accommodate preferred shoreline uses (water-dependent, water-related, and water-enjoyment uses and single-family residential uses) while protecting and preserving shoreline resources and avoiding hazardous or critical areas without significant economic impact.
4. Encourage studies of shoreline systems in order to provide a continuously updated information base against which the impact of any proposed shoreline use can be measured.
5. Restrict over-water development to those uses which are water-dependent.
6. Recognize the unique suitability of certain areas to accommodate preferred shoreline uses such as marinas, docks, deep water ports, boat ramps, barge landing sites, and log dumps.
7. Ensure all shoreline uses conform to the applicable policies of this SMP and to the goals and policies of other elements in the Comprehensive Plan.
8. Ensure the location, design and operation of all developments are consistent with the purpose of the shoreline designation in which they are allowed.
9. Ensure that the location, density, configuration, setback, and other aspects of all shoreline developments are appropriate to the site and vicinity and respond to the physical limitations of the site.
10. Encourage redevelopment and renewal of obsolete urban shoreline development or structures in order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses.

3.2.B Economic Development

Goals:

1. To acknowledge the critical importance of a balanced and diversified local economy for the long range well-being of the island communities and to allow those economic activities that enhance the physical and social qualities of island life which result in the least possible adverse effects to the shoreline ecological functions and surrounding environment.
2. To promote the long term economic viability of the County by protecting its unique rural character, scenery and ecology.
3. To encourage the development of new marine facilities and to support expansion of existing marine facilities.

Policies:

1. Locate commercial and industrial shoreline uses in and/or near already established commercial and industrial areas and prevent the random scattering of such uses and the premature location of such uses in undeveloped areas.
2. Restrict commercial and industrial development on the shorelines to developments and activities which are compatible with the natural systems of the County and its surrounding water resources.
3. Require that development and use of public lands conforms to the same limitations and standards imposed on development and use of private lands.
4. Require anyone who seeks to establish a commercial or industrial activity within any shoreline area to bear the burden of demonstrating that the activity is water-dependent or water-related and that upland areas are not feasible for the proposed use.
5. Prohibit the installation of underwater cross-Sound oil and natural gas pipelines and on-shore or over-water facilities for the refining of oil and natural gas.

6. Provide for commercial and industrial activities within activity centers that are consistent with the underlying and adjacent land-use designations and with the policies of the Shoreline Management Act.

3.2.C Critical Areas

Critical areas are areas within San Juan County that are important to the healthy function of natural ecosystems, as well as areas that can be hazardous to people and their property. Critical areas include wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, geologically hazardous areas, and frequently flooded areas. In the shoreline, critical areas also include critical saltwater habitats (all kelp beds, eelgrass beds, spawning and holding areas for forage fish such as herring, smelt and sandlance; subsistence, commercial, and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; as well as all areas and habitats where priority species have a primary association).

WAC 173-26-186 (8)(b) directs the County to identify, protect and ensure that there will be no net loss of ecological functions of shoreline critical areas:

Goals:

1. Protect the functions of shoreline critical areas, giving special consideration to anadromous (migratory) fish.
2. Protect shoreline critical area functions while allowing for the use of property to the greatest extent possible.
3. Establish shoreline critical area requirements that are balanced and related to impacts.
4. Establish funding mechanisms to support shoreline critical area protection programs including funding for voluntary measures such as education, technical assistance, and cost share programs.
5. Protect the quality and quantity of groundwater.

Policies:

1. To the extent possible, protect areas with unique and/or fragile geological or biological characteristics, from incompatible physical public access (e.g., wetlands, dunes, unstable bluffs, shoregrass, etc.).
2. Encourage the restoration of shorelines degraded by manmade causes or for the purpose of habitat enhancement. Restoration actions should use, where appropriate, techniques to arrest the processes of erosion and sedimentation.
3. Adopt policies and regulations that are designed to protect functions of all geologically-hazardous, frequently flooded, critical aquifer recharge, wetlands, fish and wildlife habitat conservation and critical saltwater habitat areas.
4. Develop voluntary and incentive-based programs to protect the overall functions of critical areas. Voluntary actions may include education, technical assistance, water conservation, stewardship programs, implementation of best management practices, and restoration activities. One purpose of these programs is to mitigate impacts resulting from authorized exemptions and exceptions.
5. Manage and mitigate the impacts of land use and development onsite when possible.
6. Review Land Bank and other properties for potential mitigation bank development opportunities. The review should be sufficiently detailed to identify projects, estimated costs and shoreline ecological function credit metrics.
7. To the extent possible, adopt flexible protection standards that vary based on site characteristics.
8. Encourage the installation of water catchment systems.

9. Implement applicable provisions of adopted Salmon Recovery and Marine Area Stewardship Plans, giving special consideration to anadromous fish.
10. Include provisions for shoreline variances and nonconforming uses in any regulations.
11. Regulate those uses that could potentially have a negative impact on groundwater quality.

3.2.C.i Critical aquifer recharge areas.

Goal:

Protect the quality and quantity of groundwater.

Policies:

1. Designate and classify those areas which have the characteristics of critical aquifer recharge areas.
2. Within critical aquifer recharge areas, regulate those uses which could potentially have a significant negative impact on groundwater quality and/or quantity. Such uses include, but are not limited to, underground hazardous materials storage tanks, facilities which use or store significant amounts of hazardous materials or wastes, large on-site sewage disposal systems, petroleum pipelines, landfills, and surface mining operations.

3.2.C.ii Fish and wildlife habitat conservation areas.

Goals:

1. To protect the ecological functions of fish and wildlife habitat conservation areas including critical saltwater habitats.
2. Within and adjacent to areas of special flood hazard, protect and restore habitat for salmon listed as endangered, threatened or sensitive.

Policies:

1. Designate and classify fish and wildlife habitat conservation areas in accordance with WAC 173-26-221(2) and WAC 365-190-130 based on type, State or Federal status, association with priority species, or species of local concern.
2. Establish standards including buffers, timing restrictions, and site specific habitat management plans based on the classification of the habitat area and the potential impact of a proposed use on the affected habitat.
3. Use the Washington Department of Natural Resources stream typing system.
4. Update clearing, grading and stormwater management regulations that protect water quality, water quantity, and fish and wildlife habitat from short term and long term impacts of land use and development.

3.2.C.iii Frequently flooded areas.

Goal:

Protect the public health, safety, and general welfare, and minimize public and private losses due to flooding.

Policies:

1. Protect the important hydrologic role of frequently flooded areas by designating those areas subject to frequent flooding or coastal inundation as special flood hazards. At a minimum, designate and protect the 100-year area of special flood hazard as defined and mapped by the Federal Emergency Management Agency.

2. Prevent or mitigate the impacts of development which may result in hazards to persons or property, or harm to hydrologic functions.
3. Minimize expenditures of public money for costly flood control projects and minimize the need for rescue and relief efforts associated with flooding.

3.2.C.iv Geologically hazardous areas.

Goal:

Protect the public health, safety and welfare from threats from incompatible commercial, residential, institutional or industrial development sited in geologically hazardous areas.

Policies:

1. Designate geologically hazardous areas in accordance with WAC 365-190-080(4) using maps and performance standards.
2. Designate and classify areas on which development should be prohibited, restricted, or otherwise controlled because of danger from geological hazards based on the level of hazard or risk.
3. Require that significant geological impacts resulting from development are either mitigated or avoided within geologically hazardous areas.

3.2.C.v Wetlands.

Goal:

Protect wetlands from a net loss in functions and values.

Policies:

1. Designate, classify, and regulate wetlands based on wetland functions and values.
2. Establish standards for wetland protection including use limitations and buffers based on the classification of the wetland and the potential impact of a proposed use on the wetland.
3. Establish a mitigation sequence which includes, in order of priority, avoiding, minimizing or compensating for adverse impacts to regulated wetlands and/or their buffers.
4. Delineate wetlands consistent with SJCC Chapter 18.35 and any other applicable State and Federal standards.
5. Establish methodologies which provide for compatible agricultural use of wetlands and their buffers.

3.2.D Public Access

Goals:

1. To assure safe, convenient and diversified access for the public along public shorelines, and to assure that the intrusions created by public access will not endanger the quality of life or property of island residents, or have adverse effects on fragile ecological functions of the shoreline's natural features.
2. Where appropriate, utilize public access plans developed and adopted through a subarea planning process.

Policies:

1. Provide, protect and enhance opportunities for the public to enjoy the shoreline by acquisition through purchase, donation, or other agreement, or by requiring the provision of physical or visual

access from uplands to the water. Use public access in a manner consistent with the natural shoreline character, private property rights, and public safety.

2. Encourage public agencies to provide public access.
3. Recognize the natural limitations and characteristics of each island and consider resident preferences in determining public access routes and areas on each island.
4. Utilize the public access plan for Eastsound, consistent with the Eastsound Subarea Plan, that was developed by the County in cooperation with waterfront property owners and was adopted as part of this Master Program for the Village Commercial waterfront.
5. Provide overland public access only to those public tidelands which abut publicly owned uplands, or where the public tidelands are separated from the private uplands by some natural barrier. Water access to public tidelands should be protected.
6. Public access to public shorelines should be appropriately marked. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.
7. Design public access to provide for public safety and require buffers between public access areas and adjacent private property to minimize potential negative impacts to private property and individual privacy.
8. Preserve, maintain, and enhance the scenic qualities and public access afforded by shoreline County road ends, public utilities and rights-of-way.
9. Develop guidelines for the preservation and/or enhancement of scenic views and vistas.
10. Promote and develop ADA compliant public access.
11. Promote the use of County road ends to provide public access to the shoreline and to enhance the use of marine facilities.

3.2.E Clearing, Grading and Vegetation Management

Goal:

To advance the policies of the SMA, protect shoreline ecological functions, provide a framework for responsible shoreline development, and regulate clearing and grading activities that impacts shoreline resources.

Policies:

1. Limit clearing and grading to the minimum necessary to accommodate shoreline development and minimize adverse impacts to existing shoreline ecological functions, vegetation, water quality and wildlife habitat by means such as site planning, bank stabilization and erosion, sedimentation and drainage control.
2. Design clearing and grading activities to conserve the density and quality of vegetation, as well as natural diversity in species, and age of trees.

3.2.F Prevention and Mitigation of Adverse Impacts

Goals:

1. Through strict adherence to the regulations, policies, goals and permitting procedures contained in the SMP, the County will assure the preservation of scenic and other non-renewable natural

resources and assure the conservation of renewable natural resources for the benefit of existing and future generations.

2. To achieve no net loss of shoreline ecological functions through incentives, protections, responsible development standards, and mitigation actions.

Policies:

1. Subject projects that cannot meet the critical area protections to a rigorous mitigation sequencing analysis.
2. Require sufficient mitigation to offset expected degradation of shoreline ecological functions.
3. Require shoreline development to be located, constructed and managed in a manner that is consistent with the protection of shoreline ecological functions.
4. Preserve, reclaim, rehabilitate, and where possible, enhance unusual, fragile shoreline ecological functions, scenic aspects, and of non-renewable natural resources.
5. Require that shoreline use and development minimize erosion, siltation, and interference with the natural shoreline geophysical processes. Natural, dynamic processes of shoreline formation and change should not be interfered with except for urgent reasons of public necessity or benefit.
6. Require waste disposal facilities of approved design and sufficient capacity to prevent any adverse environmental impacts on water quality for shoreline uses that generate sewage or other wastes.
7. Preservation of scenic views, open space and vistas should be encouraged.
8. Require compliance with RCW 28B.20.320 regarding the gathering of marine biological materials from the San Juan County marine biological preserve.
9. Consider freshwater along the shoreline a renewable resource of critical importance and control its use to prevent the intrusion or spread of salt water into vital aquifers and stream beds.
10. Encourage and accept appropriate conservation easements on the shoreline.
11. Recognize the importance of solar, wind, hydro and other energy resources and allow for them in new land divisions and non-exempt developments.
12. Minimize vegetation removal as part of all development projects.
13. Require commercial timber harvesting within the shoreline area to conform with the requirements of Chapter 76.09 RCW, Forest Practices.
14. Regulate the use of natural resources to preserve the quality of the shoreline environment.

3.2.G Historic and Archaeological Resources

Goal:

To recognize, protect and respect the artifacts left behind by previous generations of islanders for their intrinsic archaeological, educational, historical or scientific value.

Policies:

1. Consult with the State Office of Archaeology and Historic Preservation and professional archaeologists to identify areas containing potentially valuable archaeological resources and to establish procedures for protecting the site.
2. Protect areas with identified archaeological, historical, educational or scientific value from incompatible encroachment.

3. Protect areas of potentially significant archaeological, historical, educational, or scientific value uncovered during excavation by stopping further work until they can be examined by the appropriate authorities.
4. Acquire historic/archaeological resource sites, where feasible, through purchase or gift, in order to insure their protection and preservation.

3.2.H Shorelines of Statewide Significance

Introduction:

The legislature designates shorelines of statewide significance (RCW 90.58.030 (2)(f)(iii)). The guidelines of the Shoreline Management Act establish a number of policies which are to govern the use of shorelines of statewide significance (WAC 173-26-181). The intent of this section is to incorporate these policies into the SMP to be consistent with state law.

Goal:

To ensure that new uses not generally consistent with the designated shorelines of statewide significance and the hierarchy of preference are not allowed on the shoreline.

Policies:

1. Recognize and protect the statewide interest over the local interest on shorelines of statewide significance.
2. Preserve the natural character of shorelines of statewide significance.
3. Use shorelines of statewide significance in ways which will produce long term benefits as opposed to short term benefits or conveniences in accordance with the following:
 - a. Actions that would commit resources to irreversible uses or would detrimentally alter natural conditions characteristic of such shorelines should be severely limited.
 - b. The short term economic gain or convenience associated with a proposed development should be evaluated in relationship to long term and potentially costly impairments to the shoreline ecological functions.
 - c. The visual impact of every proposed project should be evaluated and adverse impacts should be minimized.
4. Protect the natural resources and systems of shorelines of statewide significance. Areas containing unusual or fragile natural resources or systems should be left undeveloped.
5. Increase public access to publicly owned areas of shorelines of statewide significance.
6. Increase recreational opportunities for the public on shorelines of statewide significance.

3.2.I Signs

Introduction:

Outdoor signs, and advertisements are publicly displayed messages designed to provide information, direction, or advertise. The following goal and policies apply to all signs except those required by law or publicly owned signs where the purpose is safety, geographic direction or information.

Goal:

To protect the character and scenic qualities of the County's shorelines from the adverse impacts of signage.

Policies:

1. Keep shorelines free of all unnecessary signs.
2. Establish size, color, density, and lighting limitations for all signs.
3. Signs should be constructed or painted on existing buildings whenever feasible in order to minimize visual obstruction of the shoreline and water bodies.
4. Signs should serve an approved use and be designed and placed so that they do not block, degrade, interfere with, or obstruct visual access to or from the water and are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.

3.2.J Flood Hazard Reduction

Introduction:

Flood hazard areas along marine shorelines are identified on Federal Emergency Management Agency flood insurance rate maps. Routine construction practices are not considered flood hazard reduction measures. Structures such as such as dikes and seawalls are contemplated by this section.

Goal:

To prevent and minimize flood damages.

Policies:

1. To the extent feasible, support non-structural flood hazard reduction measures such as setbacks, wetlands restoration, stormwater management programs and structural relocation as preferred options.
2. Prefer non-structural flood hazard reduction measures over structural measures. When evaluating alternate flood control measures, the removal or relocation of structures in flood-prone areas should be considered.
3. Maintain the physical integrity of the shoreline by promoting the siting; design; construction and maintenance of flood control works; shoreline uses; developments and modifications to avoid geohydraulic shoreline processes that would cause significant damage to other properties or shoreline resources.

3.2.K Administration

Goal:

To establish administrative procedures which will assure the continuing compatibility of the SMP with the physical, social, and economic realities of the County and to ensure the fair and impartial administration of this Master Program.

Policies:

1. Property tax assessment and other pertinent policies and regulations should, to the extent legally possible, fully reflect any impairment or enhancement of property values which results from the implementation of these goals and policies.
2. Seek advice and assistance from recognized experts at federal, state, or local levels whenever technically complex issues are involved in substantial shoreline development applications.

3.3 SHORELINE DESIGNATIONS

3.3.A Urban Designation

Introduction:

The Urban Designation is intended for those areas that are developed or planned for more mixed uses. These areas may or may not be adjacent to an established activity center.

Goal:

The goal of the Urban Designation is to ensure optimum use of shorelines within areas characterized by medium and high density residential, commercial, industrial, and institutional uses by allowing continued intensive activities and managing development so that it enhances and maintains shorelines for a multiplicity of urban types of uses.

Designation Criteria: Shoreline areas to be designated "Urban" should meet one (1) or more of the following criteria:

- a. Areas characterized by intense land use, including recreational, residential, commercial, industrial, and institutional development, and port activities;
- b. Areas designated for the expansion of urban uses in the Land Use Element;
- c. Areas which do not fall under a. or b., above, but which do not present major biological or physical limitations for urban development and which can provide the necessary capital facilities, utilities, and access required to accommodate such development; or
- d. Areas which are suitable for intense non-residential uses.

Policies:

1. Direct new urban shoreline development to already developed areas because shorelines are a finite resource, and because urban uses tend to preclude other shoreline uses.
2. Uses which are water-dependent should be given preference over those which are not.
3. Public physical and visual access to the shoreline should be planned for and provided wherever appropriate.
4. In addition to marine access, where practical, public access points should be linked by non-motorized transportation routes, such as hiking and bicycle paths.
5. Redevelopment and renewal of substandard or obsolete urban shoreline development or structures should be encouraged in order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses.
6. Regulate the character and appearance of shoreline developments by means of site development standards.
7. Encourage the maintenance of vegetation and minimize plant removal.

3.3.B Rural Designation

Introduction:

The Rural Designation is intended for residential and mixed use forms of development such as marinas, restaurants, resorts, and rural commercial and industrial activities. The Rural Designation should be used where roads, utilities, and public services can be or are provided to serve a mix of uses on the shoreline.

Goal:

The goal of the Rural Designation is to accommodate residential and mixed use development, in areas not suitable or desirable for a more restrictive designation.

Designation Criteria: Shoreline areas to be designated Rural should meet one (1) or more of the following criteria:

- a. Areas presently containing medium density residential development mixed with non-residential uses;
- b. Areas designated for rural residential or non-residential uses in the Land Use Element;
- c. Areas which do not fall under criteria a. or b., above, but which do not present major biological or physical limitations for medium density residential development and which can provide the necessary capital facilities, utilities, and access required to accommodate such development;
- d. Areas which are suitable for non-residential uses that can be made compatible with residential areas; or
- e. Areas which would make desirable transition zones between Urban and Rural Farm-Forest, or between Urban and Conservancy Designations.

Policies:

1. Protect and enhance the mixed use character of the Rural Designation by regulation of the type, location, scale, and timing of new shoreline development.
2. Restrict uses in the Rural Designation to residential, recreational, and water-dependent or water-oriented non-residential uses which are compatible with each other and with the shoreline.
3. Public physical and visual access to the shoreline should be planned for and provided wherever appropriate.
4. In addition to marine access, where possible, public access points should be linked by non-motorized transportation routes, such as hiking and bicycle paths.
5. Setback controls, sign control, and site development standards should be applied to new developments to minimize impacts on the scenic quality of the shoreline.
6. Regulate development to protect the shore process corridor and its elements.

3.3.C Rural Residential Designation

Introduction:

The Rural Residential Designation is intended primarily for residential shoreline development only. This designation should be used where residential covenants and restrictions are in effect and where roads, utilities, and public services can be or are provided.

Goal:

The goal of the Rural Residential Designation is to accommodate areas where extensive medium density residential development already exists, but are not suitable or desirable for mixed use development.

Designation Criteria: Shoreline areas to be designated Rural Residential should meet one (1) or more of the following criteria:

- a. Areas presently containing considerable medium density residential development with few, if any, non-residential uses;
- b. Areas in the Land Use Element designated for the continuation of residential development on existing parcels of medium residential density; or
- c. Areas which do not fall under criteria a. or b., above, but which do not present major biological or physical limitations for residential development and which can provide the necessary rural services (capital facilities, utilities, and access) required to accommodate such development.

Policies:

1. Protect and enhance the residential character by regulation of the type, location, scale, and timing of new shoreline development.
2. Restrict uses to residential and recreational uses which are compatible with each other and with the shoreline.
3. Public physical and visual access to the shoreline should be planned for and provided wherever appropriate.
4. In addition to aquatic access, where possible, public access points should be linked by non-motorized transportation routes, such as hiking and bicycle paths.
5. Setback controls, sign control, and site development standards should be applied to new developments to minimize impacts on the scenic qualities of the shoreline.

3.3.D Rural Farm-Forest Designation

Introduction:

The rural farm-forest designation is intended for residential development that is compatible with the agricultural heritage of San Juan County.

Goal:

The goal of the Rural Farm-Forest Designation is to protect agricultural, mineral resource, as well as timber lands and to maintain and enhance the rural low density character of the County's shoreline while providing protection from expansion of mixed use and urban types of land uses. Open spaces and opportunities for recreational and other uses compatible with agricultural and forestry activities should be maintained. Development related to the commercial fishing industry and aquaculture would be allowed. Other forms of development which are not contrary to the purpose of the Rural Farm-Forest Designation would be permitted only under certain circumstances.

Designation Criteria: Areas to be designated Rural Farm-Forest should meet one (1) or more of the following criteria:

- a. Areas dominated by agricultural, forestry, or recreational uses;
- b. Areas possessing a high capacity to support agricultural and forestry uses and compatible forms of development;
- c. Areas modified from their natural vegetation and surface drainage patterns but generally possessing low density development;
- d. Areas where residential development is or should be low density because of biological or physical limitations, utility capabilities, access problems, and/or potential incompatibility with other uses;
- e. Areas of undeveloped land not appropriate for Natural or Conservancy Designations and not planned for significant mixed-use development;
- f. Areas which form buffer zones between Urban, Rural, or Rural Residential areas and Natural or Conservancy areas; or
- g. Areas possessing valuable sand, gravel, and mineral deposits.

Policies:

1. Maintain areas possessing a high capability to support small-scale agricultural, aquacultural or forestry uses.
2. Use the Rural Farm-Forest Designation as one means of preserving agricultural, forestry and mineral resource areas.

3. New developments in a Rural Farm-Forest Designation should reflect the character of the surrounding areas by limiting residential density, by providing permanent open space and by maintaining adequate building setbacks from the water to preserve shoreline ecological functions.
4. Locate and design public and private recreational facilities so as to create minimal conflicts with agriculture and forestry.
5. Encourage agricultural, forestry and mining practices which will prevent or minimize erosion, sedimentation, and the flow of waste material into the water courses.
6. Development which is not agricultural, forestry or mining related but which is consistent with the purpose of the Rural Farm-Forest Designation should be allowed.
7. Design, locate and manage development in the Rural Farm-Forest Designation to protect the shore process corridor and its elements.
8. Public physical and visual access to the shoreline should be planned for and provided wherever appropriate.

3.3.E Conservancy Designation

Introduction:

The Conservancy Designation is the most suitable for shoreline areas which possess a specific resource or value which can be protected without excluding or severely restricting all other uses, and for areas where primarily non-consumptive uses of the physical and biological resources are preferred. It should be applied to those areas which would most benefit the public if their existing character is maintained, but which are also able to tolerate limited or carefully planned development or resource use.

Goal:

The goal of the Conservancy Designation is to protect, conserve, and manage existing natural resources and systems and/or valuable historic, educational, or scientific research areas without precluding compatible human uses.

Designation Criteria: Areas to be designated Conservancy should meet one (1) or more of the following criteria:

- a. Areas possessing valuable natural resources or features, the use of which precludes activities or uses except those that would not degrade the area to be conserved;
- b. Areas possessing valuable natural resources which will tolerate only minimal disturbance of the existing terrestrial or marine/freshwater environments;
- c. Areas containing resources which lend themselves to management on a sustained-yield basis;
- d. Areas possessing scenic or recreational qualities of considerable local, regional, or statewide significance which would be adversely affected by extensive modification or use; or
- e. Areas which are free of extensive development and can serve as needed open space if their present character is maintained.

Policies:

1. Prohibit activities and uses which would substantially degrade or permanently deplete the physical, biological, or aquatic resources of the area.
2. Allow only new development which will be compatible with the natural and biological limitations of the land and water and which will not require extensive alteration of the land-water interface.
3. Protect the shore process corridor and its elements through the location, design and management of all development.

4. Prohibit activities or uses which would cause the substantial removal of vegetation, cause substantial erosion or sedimentation, or adversely affect aquatic life.
5. Allow residential development only at densities which will not endanger the resource which is the basis for the Conservancy designation and ensure that development design will preserve the natural character and Conservancy values of the shoreline.
6. Allow only those recreational activities and developments which are compatible with preservation of the shoreline character and with the natural forces which created and maintain the shoreline area.
7. Allow aquacultural and agricultural uses, and facilities supporting the commercial fishing industry, which are compatible with preservation of the shoreline and the resource which is the basis for the designation.
8. Public physical and visual access to the shoreline should be planned for and provided wherever appropriate, in a manner consistent with the goal of the Conservancy designation.

3.3.F Natural Designation

Introduction:

The primary determinant for assigning an area as a Natural Designation is the presence of some rare natural resource considered valuable in its natural or original condition and which is relatively intolerant to human use.

Goal:

To preserve rare or valuable natural resource systems by regulating uses which are likely to degrade or alter such resources.

Designation Criteria: Areas to be designated Natural should meet one (1) or more of the following criteria:

- a. General:
 - i. Areas where human influence and development are minimal, that are ecologically intact, and that are performing functions that could be damaged by human activity;
 - ii. Areas which have been degraded but which are capable of easily being restored to a natural condition or are capable of natural regeneration if left undisturbed;
 - iii. Areas having a high scenic value in their natural states;
 - iv. Areas having a high value in their natural states for low intensity recreational use;
 - v. Class I accretion beaches;
 - vi. Salt marshes, bogs, and swamps; or
 - vii. Areas unable to support human development or where development would be unsafe;
- b. Wildlife Habitat Conservation areas:
 - i. Areas used by rare, diminished, or endangered species (as identified in the federal/state list of threatened and endangered species), from which they obtain food, water, cover, and/or protection;
 - ii. Areas providing a seasonal haven for concentrations of aquatic or terrestrial animals; e.g., migration routes, breeding or spawning sites, etc.; or
 - iii. Unusual and/or residual wildlife habitats remaining within developed areas;
- c. Areas of Scientific Value:
 - i. Areas regarded as representing the County's basic ecosystem or geologic types that are valuable for scientific research and/or monitoring, including established research and/or collection areas, or areas identified by the Director of the University of Washington Friday Harbor Laboratories;
 - ii. Areas which deviate from the ecological or geological norms, but which are of particular scientific interest;
 - iii. Areas which best represent undisturbed natural conditions; or

iv. Areas which contain rare and/or scientifically important features;

Policies:

1. Natural areas should be kept free of development which would adversely affect the character and value of the resource.
2. Allow only those alterations which would not be detrimental to the forces which created and now maintain a Natural area (e.g., erosion-accretion systems forming spits and tombolos).
3. Allow limited public access to publicly owned natural areas for scientific, historical, educational, and low intensity water-oriented recreational purposes, provided that no significant adverse impact on the area will result.
4. Prohibit uses which diminish the shoreline ecological functions.
5. Require that uses and activities allowed in locations adjacent to natural areas are or can be made compatible with such areas and that the integrity of the Natural Designation will not be compromised.
6. Allow one (1) single-family residence on existing parcels in Natural for property owner use.
7. Prohibit land division.
8. Promote and require the conservation of existing vegetation.

3.3.G. Ports, Marinas and Marine Transportation Designation

Introduction:

Ports, marinas, and marine transportation facilities are developments that provide infrastructure for launching, docking, keeping, maintaining, repairing and storing a variety of marine craft. Marinas and ports are hubs of the County's tourist industry and publically owned docks, boat launches, barge landing sites and other facilities are essential components of the County's transportation system. Ports and marinas provide moorage for a variety of vessels, helping reduce the demand for single family residential docks by providing an alternative that helps minimize cumulative negative impacts on shoreline ecological functions.

Goal:

To allow for and support ports, marinas, and marine transportation facilities which have a vital economic role within the County.

Designation Criteria: Areas that may be designated as Ports, Marinas and Marine Transportation may include:

- a. Existing marinas, mooring buoys, boating facilities, docks, boat ramps, ferry and barge landing sites; or
- b. Basins or bays which due to their combination of geography and infrastructure may be suitable for development as new ports, marinas or marine transportation facilities without compromising the shoreline ecological functions.

Policies:

1. Require that new uses are either water-dependent or water-oriented.
2. Locate, design, construct and manage all port, marina and marine transportation facilities to ensure that public access is provided where appropriate.
3. Provide links to non-motorized transportation routes such as hiking and biking paths and trails, and marine access to the extent feasible.

4. Encourage the maintenance and expansion of recreation and transportation uses.
5. Minimize adverse impacts on adjacent lands and allowed land uses.

3.3.H Aquatic Designation

Introduction:

The Aquatic Designation consists of all areas waterward of the OHWM under the jurisdiction of the SMA and within the boundaries of San Juan County. It includes the water surface together with the underlying lands and the water column, such as bays, straits, harbors, coves, estuaries, tidelands, and lakes.

Goal:

The goal of the Aquatic Designation is to protect the quality and quantity of the water, to preserve the water surfaces and foreshores for shoreline dependent uses, such as navigation, commercial fishing, recreation, water-dependent industry, aquaculture, and to preserve the Aquatic area's natural features and resources.

Designation Criteria: Areas to be designated Aquatic are as follows:

- a. All marine waters, including estuarine channels and wetlands, seaward of the OHWM except where those waters between the OHWM and extreme low tide have been assigned a different environmental designation;
- b. All 12 freshwater lakes 20 acres or larger
Blakely: Spencer lake, Horseshoe lake;
Lopez: Hummel lake;
Orcas: Cascade lake, Martin (Diamond) lake, Mountain lake;
San Juan: Sportsman lake, Dream lake, Briggs lake, Trout lake, Woods Reservoir, Zylstra lake); and
- c. All wetlands (as defined in WAC 173-22) associated with waters described in criteria a. and b., above.

Policies:

1. Developments should be compatible with the adjoining upland designation.
2. Maintain the natural circulation and volume of water to the greatest extent possible.
3. Prohibit structures which are not water-dependent.
4. Prohibit activities and uses of a permanent nature which will adversely impact ecological functions of critical aquifer recharge, geologically-hazardous, frequently flooded, wetlands, fish and wildlife habitat conservation and critical saltwater habitat areas unless the public interest clearly will be better served by approval of the proposed activity or use.
5. Locate and design developments and activities using navigable waters or their beds to minimize interference with surface navigation, to minimize water quality impacts, to minimize adverse visual impacts, and to allow for the safe, unhindered passage of fish and animals.
6. Protect fishing, aquaculture, public access and recreational uses of the water, in appropriate areas, against competing uses that would substantially interfere with those activities.
7. The joint use of structures which intrude into Aquatic areas, such as docks, piers, jetties, breakwaters and bulkheads, etc., should be encouraged if the development is determined to be appropriate for the site and if adverse cumulative impacts can be mitigated.
8. Limit the size of all new over the water structures to the minimum necessary to support the intended use.
9. Prohibit general motorized travel in land-based vehicles on the tidelands and beaches, provided that such travel should be allowed for official emergency vehicles, for boat launchings, for purposes of

undertaking authorized construction and/or authorized repair activities, and for aquaculture when specifically approved.

10. Encourage restoration projects in and adjacent to the terrestrial/marine interface to increase the variety and intensity of the shoreline ecological functions.

3.3.1 Marine Habitat Management Area Overlay

Goal:

The goal of the Marine Habitat Management Area Overlay is to preserve and restore critical saltwater habitat areas and may be applied as an overlay to another shoreline designation. It is designed to be applied to specific water bodies only in concert with designation of the associated watershed as provided for in the Land Use Element of the Comprehensive Plan (Section B, Element 2: 2.5.E.2).

Designation Criteria: Areas to be designated a Marine Habitat Management Area should meet at least three (3) of the following criteria:

1. Areas currently designated Aquatic, Conservancy or Natural by this Master Program;
2. Areas supporting recreational and/or commercial shellfish growing;
3. Areas representing enclosed embayments or having limited tidal flushing and therefore more sensitive to sedimentation and nonpoint pollution sources than open waters;
4. Marine spawning and nursery areas; and
5. Areas particularly vulnerable to probable, cumulative adverse impacts of the forms of human use and development along and in the water that may otherwise occur in accordance with this SMP.

Policies:

1. This overlay should be applied only upon concurrent designation of a watershed as provided in the Land Use Element of the Comprehensive Plan and completion of a specific management plan for the watershed and marine habitat area.
2. Management plans should specify any use and development limitations or prohibitions established to accomplish the purpose of the overlay for the specific area. While the marine habitat management overlay may impose additional standards, it should not be construed to preclude uses allowed in upland designations through the Land Use Element of the Comprehensive Plan and its implementing regulations. Uses allowable in upland portions of the watersheds shall be mitigated as necessary to protect critical saltwater habitats and shoreline ecological resources.
3. Because each management plan will be specific to the characteristics and sensitivity of a particular location and to its associated watershed, plan development should include appropriate interdisciplinary study. Study participants should include, at a minimum, representatives from the County Planning, Health and Community Services and Public Works departments, a representative from the area affected, and a representative from the University of Washington Friday Harbor Laboratories.

3.3.J Marine Protected Area Overlay

Goal:

The goal of the Marine Protected Area Overlay is to preserve and restore critical marine habitat areas and may be applied as an overlay to another shoreline designation. It is designed to be applied to specific aquatic, intertidal and/or terrestrial shoreline areas.

Current Marine Protected Areas:

The County has one (1) marine protected area. SJC Ordinance 25-2002 designated the Orcas Bay Tidelands Reserve.

Designation Criteria: Areas to be designated a Marine Protected Area should meet at least two (2) of the following criteria:

- a. Areas currently designated Aquatic, Conservancy or Natural by this SMP;
- b. Spawning and nursery areas for invertebrates, fish, marine mammals, and/or seabirds;
- c. Areas that have been identified as capable of contributing significantly to the long-term health of the marine ecosystem if appropriately managed to sustain or restore living marine resources;
- d. Areas particularly vulnerable to probable, cumulative adverse impacts of the forms of human use and development along and in the water that may otherwise occur in accordance with this SMP; and
- e. Areas supporting recreational and/or commercial shellfish growing where they clearly support ecosystem health.

Policies:

1. Establish a marine protected area overlay after the completion of a specific management protocol or plan for the area. A concurrent watershed management plan is not required.
2. Ensure that management protocols or plans specify any use and development limitations or prohibitions established to accomplish the purpose of the marine protected area and to the greatest extent possible encourage voluntary compliance.

3.4 SHORELINE USE POLICIES

This section provides policies for specific uses in accordance with WAC 173-26-24. Shoreline uses not specifically identified in this SMP and for which policies have not been developed will be evaluated on a case-by-case basis. Such uses will be required to satisfy the policies of the SMA, the goals and policies of this SMP, and must be consistent with the character and management policies of the shoreline designation in which they are to be located.

3.4.A Agriculture

Introduction:

Agricultural practices are those methods used in vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization. Many of these practices require the use of agricultural chemicals, most of which are water soluble and may wash into contiguous land or water areas causing significant alteration and damage to plant and animal habitats, especially those in fragile shoreline areas. Proper land management techniques reduce the introduction of mineral and organic sediments and chemicals into water bodies.

Goal:

To encourage and ensure the continuation of agricultural activities within the shoreline jurisdiction.

Policies:

1. Encourage agricultural activities on shorelines consistent with the "right to farm" policy of the Comprehensive Plan and consistent with best management practices, including the maintenance of permanent vegetated buffers between tilled areas and water bodies to retard surface runoff and reduce siltation.
2. Encourage the use of erosion control measures consistent with or conforming to standards established by the U.S. Department of Agriculture and Natural Resources Conservation Service.
3. Require that new agricultural activities are consistent with the land use designation landward of the OHWM.
4. Restrict the location of confined animal feeding operations and manure stockpiles so that water areas will not be polluted.

3.4.B Aquaculture

Introduction:

When consistent with the control of pollution and prevention of damage to the environment, aquaculture activities are considered a preferred use along with single-family residences, ports, water-dependent industrial and commercial developments, and other uses that provide an opportunity for substantial numbers of people to enjoy the shorelines of the state (WAC 173-26-241(3)(b)(i)(A)).

Goals:

1. To ensure aquaculture does not adversely affect shoreline ecological functions and marine species and that they develop in a manner that is responsive to the needs and preferences of shoreline residents.
2. To ensure the continuation of aquaculture in the shoreline jurisdiction.

Policies:

1. Give preference to those forms of aquaculture that involve lesser environmental and visual impacts; for example, those that require no structures, submerged structures or intertidal structures rather than substantial floating aquaculture structures, those that require few land-based facilities, and those that involve little or no substrate modification.
2. Consider the impacts aquacultural development might have on the economy, physical environments, on other existing and approved land and water uses, including navigation, and the aesthetic qualities of the project area.
3. Require that the location, design and operation of aquaculture will not introduce invasive organisms or spread disease.
4. Prohibit aquaculture in the following:
 - a. Areas that have little natural potential for the type(s) of aquaculture under consideration.
 - b. Areas that have water quality problems that make the areas unsuitable for the type(s) of aquaculture under consideration.
 - c. Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline.
 - d. Areas where navigation by recreational boaters and commercial traffic will be significantly restricted.
 - e. Areas where an aquacultural proposal will result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

- f. Areas near National Wildlife Refuges or critical habitats (as defined by the State of Washington or San Juan County) where the proposed activity will adversely affect the refuge/habitat use or value.
5. Consider the relative environmental impacts of each method or proposal in instances where a choice of aquacultural methods is available, or where two or more incompatible aquacultural projects are proposed in the same area. In general, preference should be given to aquacultural projects listed in the following order of preference, below:
 - a. Projects involving no visible structures;
 - b. Projects involving structures with limited visibility i.e. submerged at high tide;
 - c. Projects or facilities entailing limited substrate modification; and
 - d. Projects involving large floating aquaculture structures with artificial feeding and/or substantial substrate modification
6. Minimize cumulative adverse impacts of floating aquaculture facilities on native fish and shoreline ecological functions.
7. Limit experimental aquaculture projects in scale and allow them for a limited period of time.
8. Require baseline and operational monitoring of specific, relevant environmental conditions, as necessary, at the applicant's expense, as a condition of approval. Permits should include provisions for adjustment or termination of the project at any time if the monitoring indicates significant adverse, environmental impacts that cannot be eliminated or adequately mitigated.
9. Limit aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic or pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species or other adverse effects on Endangered Species Act listed species.
10. Prohibit the introduction of genetically modified organisms consistent with San Juan County Code.

3.4.C Commercial Development

Introduction:

Commercial developments are those involving wholesale and retail trade, services, or other business activities complementing shoreline character and development. Examples include hotels, restaurants, shops, offices, commercial fishing facilities, and private or public recreation facilities. The SMA establishes preferences for certain types of commercial uses on shorelines and location and development standards are appropriate to protect shoreline resources where commercial development occurs. Uses and activities associated with commercial development which are identified as separate use activities in this program, such as campgrounds, mineral extraction, industrial development, overwater structures, ports, marinas and marine transportation facilities, utilities, etc., are subject to use policies for those in addition to the standards for commercial development.

Goal:

To ensure and encourage commercial shoreline development that is consistent with the rural character of the County.

Policies:

1. Commercial development on the shorelines should consist of uses which are water- oriented and/or uses which will provide an opportunity for substantial numbers of people to enjoy the shorelines. Commercial development in shoreline areas should be encouraged in descending order of preference as follows:
 - a. Water-dependent uses;
 - b. Water-related uses;

c. Water-enjoyment uses.

2. Prohibit non-water-oriented commercial uses. A non-water-oriented use may become a water-enjoyment use by providing meaningful physical or visual public access to the shoreline. Physical access is preferred if practical.
3. Encourage new commercial developments to locate in those areas where commercial uses already exist.
4. The height and bulk of proposed commercial structures should be designed, constructed and maintained to minimize the obstruction of views, and be compatible with the scale and use intensity of surrounding developments.
5. In applying conditions to a shoreline permit in order to ensure consistency with this SMP, recognize that different approaches can accomplish the same purpose and the most expensive is not necessarily the only effective means to obtain compliance.
6. Encourage recreational camping opportunities consistent with the SMA and shoreline ecological functions.

3.4.D Dredging

Goal:

To ensure that all dredging will be completed in conformance with Army Corps of Engineers guidelines.

Policies:

1. Control dredging in order to minimize damage to the natural resources and systems of both the area to be dredged and the area to receive the dredge materials.
2. Allow the depositing of dredge spoils in water areas only for habitat improvement, to correct problems of materials distribution adversely affecting fish and shellfish resources, or where significant adverse impacts will not result.
3. Seek the assistance of the Washington Department of Fish and Wildlife, Department of Natural Resources, and the University of Washington Friday Harbor Laboratories in identifying spoils disposal sites in water areas.
4. Prohibit dredging of bottom materials for the sole purpose of obtaining fill material.

3.4.E Essential Public Facilities

Introduction:

San Juan County's many islands have diverse essential public facility needs requiring policies for addressing the siting and development of water-dependent essential public facilities located within the SMP jurisdiction.

Identification of Shoreline Essential Public Facilities:

Shoreline Essential Public Facilities (EPFs) are facilities that provide a necessary public service as their primary mission, that are water-dependent, and that are difficult to site. Shoreline EPFs such as those facilities listed in RCW 36.70A.200; facilities that appear on the list maintained by the State Office of Financial Management under RCW 36.70A.200(4); state or regional transportation facilities as defined in RCW 47.06.140; public passenger and vehicle ferry terminals; facilities identified in the following Table 3.1; County roads, docks, County boat launching, and County barge landing sites and facilities; primary electrical transmission systems including systems owned and operated by OPALCO; telecommunications services; state, federal and County parks; community water systems; those community sewage systems serving urban growth areas, activity centers and master planned resorts; the Town of Friday Harbor's

municipal sewer and water systems; the Trout Lake watershed, the Eastsound Water Users Association reverse osmosis facility located adjacent to the end of the Airport runway and other facilities that are water-dependent and determined to be a shoreline EPF under the process established in SJCC Chapter 18.50 (Ordinance New Section 63).

Table 3.1- Shoreline essential public facilities

Island	Steward	Facility Name	Pier	Gangway & Float(s)	Boat Ramp	Parking*	Other
San Juan	PW	Griffin Bay					barge landing site
	PW / Port FH	Jacksons Beach		x	x	x	parking lot, restrooms
	PW / RH	Roche Harbor Public Dock	x	x		x	parking per arrangement with resort
	PW / Parks	Small Pox Bay			x	x	
Stuart	PW	Prevost Harbor	x	x			
	PW	Reid Harbor			x	x	
Orcas	WSF	Orcas Ferry Terminal				x	ferry terminal, parking lot
	PW / DH	Deer Harbor Public Float	x	x			County leases from private resort
	PW	Madrona Point	x	x		x	
	PW	Obstruction Pass	x	x	x	x	parking lot
	PW	Orcas Landing	x	x		x	buildings, pedestrian access, viewing deck
	PW	Westsound Dock	x	x		x	pedestrian access (stairs)
Waldron	PW	Cowlitz Bay	x	x			unimproved barge landing site
Lopez	WSF	Lopez Ferry Terminal				x	ferry terminal, parking lot
	PW	Hunter Bay	x	x	x	x	
	PW	MacKaye Harbor		x	x	x	parking lot
	PW	Odlin	x	x	x	x	parking lot
Shaw	WSF	Shaw Ferry Terminal					ferry terminal, parking lot
	Parks	Indian Cove			x		
	PW	Neck Point Cove					barge landing site
	PW	Shaw Landing					boardwalk
Decatur	PW	Decatur Head			x	x	

PW = Public Works; Parks = County Parks & Fair; Port FH = Port of Friday Harbor;
WSF = Washington State Ferries; RH = Roche Harbor Resort; DH = Deer Harbor Resort

* unless otherwise noted, parking means on-street "parking area"

Goals:

1. To ensure essential public facilities may be maintained, repaired, expanded or constructed in the shoreline if necessary.

2. Develop policies and regulations that do not preclude the siting and construction of shoreline EPFs. As a general rule EPFs shall comply with existing regulations and policies. When this is not possible, or when existing facilities need to be expanded, special siting, design and approval procedures should be developed that:
 - a. Consider impacts on existing land uses, resource lands, open space, scenic resources, the shoreline, and the natural and rural designations;
 - b. Consider the quality of service provided and the economic, social and environmental impacts and benefits;
 - c. Include the public in selecting sites and developing alternatives to mitigate negative impacts;
 - d. Require EPFs to provide mitigation sequencing of negative impacts. An application for approval of an EPF conditional use permit and/or substantial development permit may not be denied because impacts are not fully mitigated; and
 - e. Prevent the siting of incompatible uses adjacent to general aviation airports.
3. Prohibit the location of EPFs within wetlands, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous or critical saltwater habitat areas unless no feasible alternative exists.
4. Prohibit the location of EPFs outside an Urban Growth Area or Village Designation unless a functional analysis justifies a rural location.
5. Adopt a designation system and associated regulations based on existing use patterns, including the use and functions of existing essential public facilities.
6. To help offset any impacts that cannot be mitigated, develop voluntary, incentive based programs to protect the overall ecological functions necessary to sustain shoreline natural resources.

Policies:

1. Provide sufficient lands to accommodate EPFS in coordination with the Town of Friday Harbor.
2. Require a functional analysis justifying a rural location should be required for siting EPFs outside the Friday Harbor Growth.
3. Avoid duplicating facilities and EPF sites when facilities and EPFs can reasonably and practicably be shared with the Town of Friday Harbor, particularly those that, by their nature, warrant a rural location.
4. Maintain a standing task force of elected and appointed officials from the Town of Friday Harbor, the County and the Port of Friday Harbor to develop specific siting criteria for a given facility and to analyze and rank potential sites that are consistent with the relevant comprehensive plans.
5. Encourage public involvement in the siting decisions by the Town and County to the greatest extent possible by holding public meetings and otherwise distributing information at the earliest possible point in the decision process, and in addition to public notices and hearings that may be required by law

3.4.F Forest Practices

Introduction:

Forest management practices are those methods used for protection, production, and harvesting of timber. Best management practices will reduce the suspended sediment load and the turbidity of the water.

Goal:

To minimize adverse impacts associated with timber harvest and other forestry practices.

Policies:

1. Conduct all forest management practices in shoreline areas in a manner that will minimize adverse impacts on the land and water environments, wildlife, aquatic life, and their respective habitats, and which respects the natural character of the shoreline.
2. Conduct timber harvesting practices, including the construction of roads and trails and the disposal of debris so that erosion will be prevented or held to a minimum and so that the scenic qualities of the shoreline are not degraded.
3. Regulate commercial harvesting of any shoreline timber to ensure adequate protection against erosion, sedimentation, and siltation. The aesthetic impact of commercial harvesting should be mitigated.
4. Conduct thinning and harvesting operations in a manner which will prevent the accumulation of slash and other debris in waterways or shorelines of the County.
5. Locate, design, construct, and maintain all roads, bridges, and other structures associated with forest practices to prevent adverse impacts on shoreline resources.
6. Complete Class IV-General forest practices involving conversions of properties to non-forest use in a manner compatible with shoreline ecological functions and that avoids impacts to navigation, recreation and public access.
7. Establish regulations to address critical habitats, erosion and runoff, and maintenance of visual quality, for sustainable commercial harvesting of trees within the shoreline jurisdiction.
8. Require that commercial timber harvesting within the shoreline area be consistent with the requirements of the RCW 76.09. Prohibit clearcutting on shorelines unless specifically allowed by an approved conversion option harvest plan or Class IV General forest practices permit.

3.4.G Industrial Development

Introduction:

Industrial developments are facilities for processing, manufacturing and storage of finished or semi-finished goods. Uses and activities associated with industrial development that are identified as separate use activities in this program, such as Mineral Extraction, Overwater Structures, Transportation Facilities, Utilities, Aquaculture *etc.*, are subject to use policies for those in addition to these policies for industrial development.

Goal:

Require that new industrial development does not adversely affect shoreline ecological functions or adjacent properties and land uses.

Policies:

1. Industrial development on the shorelines should consist of uses which are water-dependent or water-related; with preference given to water-dependent activities. Industrial uses should be compatible with adjacent uses and adopted environmental standards; and should be located only in areas best suited for industrial development such as harbors with dry and level land access to adequate road and utility systems.
2. Encourage the expansion or redevelopment of existing legally established industrial areas, facilities and services. Mixed-use developments are preferred over the addition and/or location of new or single-purpose industrial facilities.
3. Require joint use of industrial piers, cargo handling, storage, parking and other accessory facilities among private or public entities in shoreline industrial areas if such development is determined to be

appropriate for the site and if adverse cumulative impacts can be mitigated by their joint use. Allow public access to the shoreline unless the ongoing industrial activities are hazardous.

4. Preference should be given to locating new industrial development on those parts of the shoreline where industrial development already occurs.
5. Preference should be given to locating new industrial development in areas amenable to environmental cleanup and restoration.
6. Encourage industrial uses with low demands on energy and resources.
7. Prohibit solid waste disposal activities and facilities in shoreline areas.

3.4.H Institutional Development

Introduction:

Institutions are establishments or foundations of public character which may be publicly or privately operated and are typically instructional or vocational in nature. Examples of institutions include schools, colleges, places of religious assembly, training facilities, and research and scientific facilities such as marine laboratories.

Goal:

To ensure that new institutional development does not adversely affect shoreline ecological functions or adjacent land uses.

Policies:

1. Institutional development on the shorelines should consist of uses which are water-oriented and/or uses which will provide an opportunity for substantial numbers of people to enjoy the shorelines. Institutional uses in shoreline areas should be encouraged in descending order of preference as follows:
 - a. Water-dependent uses;
 - b. Water-related uses; and
 - c. Water-enjoyment uses.
2. Prohibit non-water-oriented institutional uses. A non-water-oriented use may become a water-enjoyment use by providing meaningful physical or visual public access to the shoreline. Physical access is preferred.
3. Preference should be given to locating new institutional development on those parts of the shoreline where institutional development already occurs.
4. The height and bulk of any proposed institutional structures should be designed, to the extent practical, to accommodate the proposed use and to minimize the obstruction of views from the surrounding area, and consideration should be given to compatibility with the scale and use intensity of surrounding developments.

3.4.I Shoreline Land Division

Introduction:

Land division is a fundamental element of shoreline development and has a profound influence over the form of subsequent construction. Over time, distinct shoreline land division practices have developed in San Juan County.

Goals:

1. To maximize public access and use of the publicly owned shoreline.

2. To minimize the adverse impacts associated with shoreline development and increased density.

Policies:

1. Provide access to the shoreline for the general public in land divisions creating five (5) or more parcels where feasible.
2. Require land divisions to provide access to the waterfront for all subsequent lot owners through recorded easement(s) or the creation of common area tracts.
3. Do not allow common area tracts to be used for construction. Do not include them in the calculation of the number of lots any single (long or short) land division process generates.
4. Design land divisions and multi-family and multiple-unit developments for a density compatible with the physical capabilities and scenic characteristics of the shoreline and water body. Unless otherwise indicated, multifamily or multi-unit developments and land divisions creating five (5) or more parcels should provide public access to the shoreline.
5. Design, configure and construct shoreline land divisions to ensure that there will be no need to build hard structural shoreline stabilization measures such as bulkheads or other hard shoreline armoring structures within seventy-five (75) years of construction
6. Do not allow the creation of unbuildable lots in shoreline land divisions except for common area tracts.
7. Design shoreline land divisions to minimize adverse impacts on the shoreline ecological functions when built out, to preserve natural features, and to reduce utility and road costs.

3.4.J Fills

Fill is the placement of soil, rock, gravel, existing sediment, or other material (excluding solid waste).

Goal:

To eliminate or constrain fills within the shoreline jurisdiction.

Policies:

1. Prohibit fill in shoreline areas unless no feasible alternative exists. If allowed fill should be tightly controlled.
2. Give priority to fill for water-dependent uses and for public uses. In evaluating fill proposals and in designating areas appropriate for fill, factors to be considered should include the total water surface reduction; impacts on water flow, circulation, and quality; impacts on natural resources and systems; potential destruction of habitats; potential erosion problems; and potential restrictions on navigation.

3.4.K Mineral Extraction

Goal:

Require that mineral extraction operations are conducted in a manner that minimizes the adverse impacts on water quality, fish and wildlife, adjacent activities and properties, and the scenic qualities of the shoreline.

Policies:

1. Consider development of mineral extraction operations in non-shoreline areas before considering their location in shoreline areas. For actions that must take place in the shoreline, preference should be given to those projects that will mitigate the impacts of the project while it is ongoing and will rehabilitate the site when the project is complete.
2. Prohibit mineral extraction operations that would adversely affect agricultural activities or remove agricultural lands from production when feasible alternatives exist, unless the use would occur within a mineral resource land overlay district.
3. Require a detailed plan for reclamation and restoration of mineral extraction sites that demonstrates how no net loss of shoreline ecological functions will be achieved when completed.
4. Regulate the removal of sand, gravel and minerals from all shoreline areas to ensure adequate protection against erosion, sedimentation, siltation and other physical impacts. The aesthetic impact of the activity should also be considered.

3.4. L Private Pedestrian Pathways, Stairways and Ramps

Introduction:

On many properties, a private pedestrian pathway, stairs, or a ramp may be used to provide pedestrian access to the shoreline. Private pedestrian pathways are distinct from public trails in that they are not open to the general public.

Goal:

To prevent adverse visual and environmental impacts associated with private pedestrian pathways, stairways or ramps providing access to the shoreline.

Policies:

1. Allow private pedestrian pathways and stairways only as accessories to an existing single-family residence, as access to a common shoreline area in a land division or multi-family residential development, or for a public or private water-dependent facility.
2. Generally exempt private pedestrian pathways and stairways that are normal appurtenances to a single-family residence are exempt from a substantial shoreline development permit requirements.
3. Encourage the use of existing paths or trails over either beach access stairways or ramps.
4. Encourage access stairways or ramps to be connected to existing docks, as opposed to separate structures for beach access and vessel moorage.
5. Require design and engineering for access stairways or ramps on shorelines that are known or demonstrated to be feeder bluffs, unstable bluffs, eroding beaches, or exposed cliffs that will assure that no significant visual impacts will be created and any adverse impacts to shoreline ecological functions will be minimized.
6. Design all private pedestrian pathways, stairways and ramps to be the smallest size feasible to achieve the goal, and be located and designed to blend in with the natural surroundings to the extent feasible to reduce visual impacts. Existing vegetation and terrain features should be retained and used whenever feasible for screening.
7. Establish size, dimensional, and design limitations for all private pedestrian pathways, stairways and ramps in order to minimize the visual and environmental impacts of additional development along the shoreline.
8. Encourage the design of private pedestrian pathways, stairways and ramps to not extend below the OHWM or impede public access to public tidelands.

3.4. M Recreational Development

Goals:

1. To allow diverse, appropriate and adequate water-oriented recreational opportunities, that are compatible with the ecological functions of the shoreline areas involved.
2. To facilitate public access to the shoreline while protecting shoreline ecological functions.
3. To protect, maintain and enhance the opportunities to enjoy the shoreline San Juan County offers.
4. Optimize opportunities for both passive and active water-oriented recreation.

Policies:

1. Preference should be given to developments which provide for recreational activities and improvements facilitating public access to the shoreline.
2. Locate non-water-related recreational facilities outside of the shoreline area.
3. Consider the impact a proposed recreational site would have on the natural resources and environmental quality of the area.
4. Control the use of motorized vehicles on shorelines.
5. Prohibit recreational facilities and activities that are incompatible with shoreline areas.
6. Encourage State and local governments to acquire additional shoreline properties for public recreational uses.
7. Encourage the development of privately owned commercial recreational uses to provide well rounded recreational opportunities in order to relieve some of the pressures on publicly owned recreation facilities.
8. Reserve a portion of the shoreline within all land divisions for recreational use by the residents to the extent feasible when physical conditions are suitable.
9. Optimize opportunities for both passive and active water-oriented recreation.

3.4.N Residential Development

Introduction:

All residential development on the shoreline is subject to the Shoreline Management Act and the local SMP. The policies in this section apply to use and development of structures for residential. Certain single-family residences and normal appurtenances to them are exempt from shoreline permit requirements but must comply with local policies and regulations of the SMP.

Goal:

To ensure that single family residences and other more intensive forms of residential shoreline use are designed, located and constructed to conserve natural shoreline features and to minimize adverse impacts on shoreline ecological functions.

Policies:

1. Except as expressly provided in Policy 9 below, residential development is not a water-dependent use and should be prohibited over water or within wetlands associated with shorelines.
2. All residential and accessory structures should be located in a manner to blend into their surroundings. This should be accomplished by:

- a. Optimizing use of natural screening provided by the topography and by existing natural vegetation between structures and the shoreline; and/or
 - b. Enhancing limited natural screening through a combination of setbacks, landscaping, minimizing apparent building height and mass, and use of exterior materials which blend with the existing vegetation and topographic features of the site.
3. Residential development should be:
- a. Constructed to avoid the adverse impacts of geologically hazardous and frequently flooded areas;
 - b. Constructed to avoid adversely effecting wetlands, fish and wildlife habitat conservation areas and critical salt and freshwater habitat areas.

Residential development should not be allowed if it would require bulkheading or other shoreline fortification, at the time of construction or within seventy-five (75) years, in order to protect the development. Residential development should not be allowed on eroding, slumping or geologically unstable shorelines unless it can be set back from such shorelines so that hazardous conditions will not be created, erosion or slope instability will not be aggravated, and natural shoreline processes will not be impeded.

- 4. All residential developments, including land divisions, should include building setbacks, buffers or both, from the shoreline to preserve the natural character of the shoreline.
- 5. All residential development should be set back from the OHWM to protect bank stability and vegetation at the bank edge.
- 6. Open space between structures and the water should be provided to protect natural features and preserve views within the development.
- 7. Recognize the importance of solar energy and other renewable resources and support efforts to provide or facilitate solar orientation for building sites in new land divisions and non-exempt developments.
- 8. Water systems supplying groundwater to support new residential shoreline development should be adequate to protect against intrusion of saltwater into groundwater. Where feasible, use of surface water supplies should be used.
- 9. Allow live-aboard vessels only within marinas in activity centers and only within areas of such marinas specifically approved for live-aboard moorage. Such approval should specify that not more than twenty five percent (25%) of overall moorage space will be available for live-aboard vessels and limit individual live-aboard vessel moorages to identified areas within the marina. Such approval should also identify live-aboard unit height and square footage limitations appropriate to the site in order to minimize adverse impacts on the scenic quality of the shoreline.
 - a. Live-aboard vessel moorage proposals should demonstrate that:
 - i. Such moorages will have access to an approved sanitary sewer or other approved waste disposal system;
 - ii. Greywater will be discharged to the waste disposal system;
 - iii. Adequate capacity exists from approved potable water supply and waste disposal systems, and;
 - iv. Materials used in the construction and maintenance of live-aboard vessels moored at the marina will not result in contaminants or debris entering the water.
 - b. Live-aboard vessel moorages should be located in areas with at least six (6) feet of water depth between the floats and low water to preserve shallow habitat and prevent grounding at extreme tides.
 - c. Individual live-aboard vessel moorages should be prohibited.

10. Consider opportunities for visual public access to the shoreline in review of multi-family residential developments.
11. Preference should be given in shoreline land divisions or multiple-unit or multi-family residential developments to the joint use of a single moorage facility by the owners of the lots or units, or by the homeowners association for that land division or development, rather than construction of individual moorage facilities.

3.4.O Transportation and Parking

Introduction:

Transportation facilities include facilities such as roads, and road ends, trails, airports, barge landing and log transfer sites, docks, boat ramps, float plane facilities, ferries and related terminals, commercially operated transportation facilities, and parking areas. Generally such facilities account for a very small percentage of total shoreline uses, but are vital to the economic and social health of the County. The impact of new or expanded transportation facilities range from the minimal to the substantial. New transportation facilities within the shoreline must be planned for with considerable thought being given to their relationship to other shoreline uses and their various primary and secondary impacts. These facilities must also meet the requirements of the Transportation Element of the San Juan County Comprehensive Plan.

Goals:

1. To ensure that transportation facilities in the shoreline are located, constructed and operated to minimize the impacts on shoreline ecological functions.
2. To enhance visual access to the shoreline such as road ends.
3. To enable an efficient and effective means of transporting people and materials.
4. To provide opportunities to improve and enhance existing transportation facilities.

Policies:

1. Prohibit the location of transportation facilities in shoreline areas if they could feasibly and practically be located elsewhere.
2. Improve, retain, and keep open old roads, road ends, rights-of-way, and other facilities in public ownership which afford scenic views or access to the water.
3. Plan, locate and install transportation and utilities facilities in existing rights-of-way or where the effect will be to minimize the adverse impacts on the shorelines and water-dependent uses.
4. Confine inter-island transportation to air and waterborne craft. Prohibit bridges between islands.
5. Prohibit deep water ports for the handling or processing of oil.
6. Consider adverse impacts to shoreline ecological functions in building, improving, or maintaining roads.
7. Re-landscape or replant land with native species if it has been scarred or it is necessary to remove natural cover due to road construction or improvements.
8. Require, to the extent feasible, that all new roads proposed near the shoreline are set back at least two hundred (200) feet from the OHWM.
9. Locate airports and air transportation facilities to minimize adverse impacts on shoreline and upland areas.

10. For each inhabited island, one (1) designated barge landing site and one (1) designated log dump is preferred over the development of multiple sites.
11. Locate and conduct the use of log transfer and barge landing sites and associated operations in a manner that will minimize adverse impacts on existing water quality, fish habitats and the shoreline environment in general.
12. The use of an unimproved shoreline area or development to create a usable log transfer or barge landing site should be subject to a conditional use permit.
13. To the extent feasible barge landing sites should be located where a single location can serve multiple users. Land access to such sites should be provided for community use in order to prevent unnecessary damage to shoreline resources caused by shoreline modifications required for the creation of multiple sites.
14. Continue to develop plans for transportation facilities that address forms of transportation that are not single occupant automobiles.

3.4.O.i Parking

Goals:

1. To ensure that parking lots will be compatible with neighboring uses and minimize adverse impacts to shoreline ecological functions.
2. To protect the County's limited supply of shoreline areas suitable for recreational use from inappropriate uses, such as parking areas.

Policies:

1. Parking lots should directly serve allowable shoreline uses and its design and location should be compatible with adjacent shorelines and properties.
2. Parking lots should be located, designed, constructed and operated in a manner that will minimize adverse impacts to water quality, aesthetics, public shoreline access, vegetation, and wildlife habitat, and minimize stormwater runoff, noise and glare.
3. Parking lots should serve more than one (1) use (e.g., serving recreational use on weekends and commercial uses on weekdays) where possible.
4. Place parking lots inland, away from the water's edge and where necessary, screen parking lots to minimize their visual impact on shorelines, and include measures to control surface runoff and prevent pollution of nearby water bodies.
5. Encourage cooperative multiple use of parking lots in port areas.
6. Allow roadside view areas in suitable locations.

3.4.O.ii Circulation

Goal:

To develop safe and economical transportation systems that assure efficient movement of people, with minimum disruption of the shoreline ecological functions and minimum conflict between different types of users.

Policies:

1. Locate land circulation systems which are not shoreline-dependent as far from the shoreline as feasible to reduce conflicts with natural shoreline resources or other appropriate shoreline uses.

2. Acquire and develop physical and visual public access along shoreline public roads, including turnouts and viewpoints, where topography, views and natural features warrant acquisition.
3. Encourage the development of transportation alternatives to the automobile along the shoreline including bicycle facilities, pedestrian facilities and public transportation options.
4. Protect, manage, and enhance those characteristics of shoreline public roads that are unique or have historic significance or aesthetic quality, for the benefit and enjoyment of the public.

3.4.P Utilities and Capital Facilities

Introduction:

Utilities are services and facilities that produce, transmit, carry, store, process or dispose of electric power, telecommunications, oil, and gas. Utilities include small-scale distribution systems directly serving an allowed shoreline use such as power, telephone, water (including desalination and reverse osmosis facilities), onsite sewage disposal facilities and stormwater lines. Capital facilities are services and facilities for community water systems, and community sewage treatment facilities. The installation of utilities and capital facilities apparatus necessarily disturbs the environment but the adverse physical and visual impacts can be reduced by thoughtful planning and adherence to design criteria.

Goals:

1. To ensure necessary utility services may be provided to the citizens as efficiently and effectively as possible.
2. To ensure necessary utility services do not adversely impact the visual character of the shorelines.

Policies:

1. Require utilities and capital facilities necessary to serve shoreline uses to be properly installed so as to protect the shoreline and water from contamination and degradation.
2. Locate utilities, capital facilities, and associated rights-of-way outside of the shoreline area to the maximum extent possible, or locate them within existing transportation and utility sites, rights-of-way and corridors. Joint use of rights-of-way and corridors should be encouraged. When utility lines, connections and piping require a shoreline area location they should be placed underground or located so as to protect scenic views, whenever feasible. When feasible, desalination intake and discharge lines should be connected to existing docks, stairways, or other features as opposed to new and separate structures for these facilities.
3. Locate, or when necessary relocate, utilities and capital facilities so as not to require bulkheads and other hard shoreline stabilization structures. Utilities, capital facilities, and associated rights-of-way should be designed and located in a manner which preserves the natural landscape and shoreline ecology and minimizes conflicts with present and planned land and water uses.
4. Encourage utilities and capital facilities, including desalination and reverse osmosis systems, that will not impede public access to public tidelands or materially interfere with normal public use of public waters.
5. Restore shorelines to pre-project configurations and replant with native species upon completion of utility and capital facility projects.
6. Allow desalination of seawater for use by the owners of new or existing legally-created parcels provided that facilities are limited in scale and that cumulative impacts are assessed and mitigated where necessary.

7. Require a detailed assessment of conditions at the proposed location, and an environmental analysis of the impact of the project for desalination facilities with a seawater intake greater than one hundred thousand (100,000) gallons per day.
8. Locate and design all desalination and reverse osmosis production equipment and necessary pumping equipment, utility connections, and pipelines to blend in with the natural surroundings to the extent feasible to reduce visual impacts. Existing vegetation and terrain features should be used whenever possible for screening.
9. Prohibit use of wells with seawater intrusion as intakes for desalination or reverse osmosis systems.
10. Prohibit the discharge of brine upland of the OHWM by desalination or reverse osmosis systems.

3.5 SHORELINE MODIFICATION POLICIES

The following policies apply to all shoreline activities that modify the physical configuration or qualities of the shoreline area. Typically, activities are related to construction of a physical element such as a breakwater, dredged basin, or dike. Shoreline modification activities are usually undertaken in support of shoreline uses.

3.5.A Breakwaters, Jetties, and Groins

Introduction:

Breakwaters are protective structures which are normally built offshore to reduce or eliminate wave action and thus protect the shore immediately behind them. Breakwaters can be of either rigid or floating construction. Rigid breakwaters which are usually constructed of riprap or rock have both beneficial and detrimental effects on the shoreline. Rigid structures obstruct the free flow of sand along the coast and starve the downstream beaches. Floating breakwaters generally do not have the same negative effect on sand movement, but, with present construction techniques, cannot withstand extreme wave action and thus are of a limited usefulness in some locations.

Jetties and groins are structures designed to modify or control sand movement. Jetties are generally employed at inlets for the purpose of improving navigation. When sand being transported along the shoreline by waves and currents arrives at an inlet it flows inward on the flood tide to form an inner bar and outward on the ebb tide to form an outer bar. Both formations are detrimental to navigation through the inlet. In the process of protecting an inlet, a jetty impounds the sand which would otherwise supply the downdrift shores. This results not only in the starvation of the downdrift beaches but also in erosion of those beaches. Groins are barrier type structures extending from the backshore seaward across the beach which interrupt sand movement along the shore. The trapping of sand by a groin is done at the expense of the adjacent downdrift shore, unless the groin system is filled with sand to its entrapment capacity.

Goal:

To ensure that when necessary, breakwaters, jetties and groins are designed, located constructed, operated and maintained in a manner that results in no net loss of shoreline ecological functions.

Policies:

1. Construct breakwaters only where essential public and shoreline dependent uses are located seaward of the existing shoreline or where protection for the use from strong wave action is essential to ensure its longevity.
2. Preference should be given to proposals for floating breakwaters, as opposed to the rigid types, because of their lesser impacts on the circulation of water, sand movement and aquatic life.
3. Allow rigid breakwaters only where the design can eliminate the significant detrimental effects on water circulation, sand movement, and aquatic life.

4. Minimize the restrictions on the public use of the water surface resulting from the construction of breakwaters to the extent possible.
5. Encourage the multiple use of breakwaters in order to increase public access to and enjoyment of the shorelines.
6. Give careful consideration to the effect of proposed jetties and groins on fish and wildlife propagation, sand movement and on the scenic qualities of the shoreline.

3.5.B Boating Facilities and other Overwater Structures

Introduction:

Boating facilities and other overwater structures such as marinas, boat launches, covered moorage, boat houses, docks and piers, recreational floats, mooring buoys, marine travel lifts and railways, and other craft retrieval systems. Overwater structures support the marine transportation system and the commercial and recreational use of boats. They also can interfere with public use of public waters and tidelands and some can affect wave action, act as driftway barriers, disrupt aquatic and intertidal habitats, and affect water quality. Location and design considerations are important to minimize adverse impacts. These facilities may be used for a variety of commercial, industrial, recreational, and other purposes. Such facilities are subject to requirements for the type of use to be served as well as to the provisions of this section.

Goal:

To ensure that new boating facilities and other overwater structures are developed in a manner that results in no net loss of shoreline ecological functions.

Policies:

3.5.B.i General

1. Locate, design and construct overwater structures to protect all forms of aquatic, littoral or terrestrial life including animals, fish, shellfish, birds and plants, their habitats and their migratory routes.
2. Protect beneficial shoreline features and processes including erosion, littoral or riparian transport and accretion shoreforms, as well as scarce and valuable shore features including riparian habitat and wetlands.
3. Locate, design, configure boathouses, piers, ramps, and docks to both accommodate the proposed use and minimize obstructions to views from the surrounding area.
4. Design overwater structures to optimize the trade-offs between the number of boats served and the impacts on the natural and visual environments.
5. Consider the capacity of the shoreline site to mitigate the impact when permitting overwater structures.

3.5.B.ii Docks and Piers

1. Give preference to the use of mooring buoys over either piers or floating docks. Marinas are preferred to joint-use or community docks. Joint use or community docks are preferred to single family docks.
2. Give preference to the joint use of a single structure by several shoreline property owners, as opposed to the construction of several individual structures to spare San Juan County from the so-called "porcupine effect" created by dozens of individual private docks and piers on the same shoreline segment.
3. Give preference to the joint use of a single moorage facility by the owners of the land division lots or units, or by the homeowners association for that land division or multifamily residential development, rather than construction of individual moorage facilities. Individual docks and piers

should be prohibited, provided that the County may authorize more than one (1) moorage facility if a single facility would be inappropriate or undesirable given the specific site and marine conditions. Such developments should include identification of a site for a joint-use moorage facility and the dedication of legal access to it for each lot or unit. However, it should be recognized that identification of a site for a common moorage facility does not imply suitability for moorage or that moorage development will be approved.

4. Consider the capacity of the shoreline site to absorb the impacts of waste discharges from boats and gas and oil spills when evaluating every proposed dock or pier.
5. Encourage expansion or repair of existing facilities over construction of new docks and piers.
6. Encourage multiple-user docks through construction and dimensional incentives to reduce the demand for single-user docks.

3.5.B.iii Marinas

1. Discourage areas identified as hazardous due to storm tides, high winds, waves or flooding, for use as potential marina sites.
2. Discourage embayments with poor flushing action as marina sites.
3. Minimize the consumption of limited shoreline resources in marina development. To accomplish this as well as providing moorage opportunities for inland and shoreline residents, the following sequence is preferred:
 - a. The expansion of existing marinas over the addition of new marina sites;
 - b. The provision of a reasonable proportion of permanent moorage spaces to reduce the demand for, or proliferation of, individual docking facilities for numerous private, noncommercial pleasure craft; and
 - c. The use of boat launching ramps and dry storage of recreational boats as favorable alternatives to sheltered, year-around wet-moorage of watercraft.
4. Provide multiple use, and where practical, public access, in the design of every commercial marina.
5. Require installation and maintenance of boat sewage disposal (pump out) facilities in all marinas in convenient locations to all boaters.
6. Identify desirable marina locations based on environmental and population proximity considerations.
7. Do not allow covered moorages except where commercial construction or commercial repair of boats is the primary activity.
8. Live aboard vessels using overwater structures should be restricted to marinas and only allowed if they do not result in a net loss of shoreline ecological functions.

3.5.C Ports and Water-Related Port Facilities

Goal:

To ensure that ports and water related facilities are designed, located, constructed, operated, and maintained in a manner that results in no net loss of shoreline ecological functions.

Policies:

1. Encourage the master planning of port areas to streamline the permitting process and reduce the potential impacts on surrounding land uses. Prohibit piecemeal, uncoordinated development of port areas.

2. Locate, design and construct port docks and facilities to minimize their potential adverse impacts on other shoreline dependent uses.
3. Encourage cooperative multiple use of docking, cargo handling, and storage facilities in port areas.
4. Plan and design port facilities to include public facilities and to increase public access to the shoreline to the greatest degree feasible.
5. Encourage development which will enhance the commercial fishing industry in the County.

3.5.D Structural Shoreline Stabilization

Introduction:

Structural shoreline stabilization includes both hard and soft measures to minimize erosion and/or damage caused by waves, wake action, currents, and wind ~~and drainage patterns of development upslope from the SMP jurisdiction.~~

Goal:

To ensure that hard structural shoreline stabilization measures are used to protect a shoreline structure only after all other feasible options have been evaluated.

Policies:

1. Locate, design, and construct bulkheads in a manner which will not result in adverse effects on nearby beaches or the shore process corridor and its operating systems, and which will minimize changes in the natural shoreline.
2. Design and locate bulkheads or other hard structural stabilization so as to minimize their impact on the scenic quality of the shorelines.
3. Consider the impact of a proposed bulkhead on public access to publicly owned shorelines.
4. Locate and design all new development to prevent the need for future shoreline stabilization measures and flood protection measures. Prohibit new development that requires shoreline stabilization.
5. Allow hard structural shoreline stabilization for prevention of imminent (within the next three (3) years) damage to primary structures existing on the date the SMP was adopted.
6. Use stabilization and protection methods and strategies which are more natural in appearance, are compatible with on-going shore processes, and more flexible for long-term stream way management, such as protective berms or vegetation over structural means such as bulkheads, concrete revetments or extensive riprap.
7. Allow hard structural solutions to reduce shoreline damage if it is demonstrated that non-structural solutions would not be able to achieve the same protective purpose.
8. Prefer sloping revetments to vertical bulkheads unless they are not feasible due to the destructive scouring impact of bulkheads on beaches.
9. Provide publicly financed or subsidized shoreline stabilization projects for long term multiple use and shoreline public access. Consider providing public, pedestrian shoreline access for low-intensity recreation.
10. Leave undisturbed natural features such as snags, stumps or uprooted trees which support fish and other aquatic systems, and which do not intrude on the navigational channel or threaten other allowed uses.

11. Require that aquatic habitats, existing water quality levels and flood holding capacities are maintained in all beach enhancement projects.
12. Use naturally regenerating enhancement systems if:
 - a. The length and configuration of the beach will accommodate such systems;
 - b. Such protection is a reasonable solution to the needs of the specific site; and
 - c. Shoreline Restoration/Enhancement will accomplish one (1) or more of the following objectives:
 - i. Protect the structure from damage;
 - ii. Recreate or enhance natural conditions;
 - iii. Create or enhance natural habitat;
 - iv. Mitigate erosion; and
 - v. Enhance public access to the shoreline.
13. Encourage supplementary beach nourishment where existing shoreline stabilization is likely to increase impoverishment of existing beach materials at or down drift from the project site.
14. Conduct an analysis of off-site and cumulative impacts for all proposed bank stabilization, restoration and enhancement, and flood protection activities. Such activities should be prohibited if they would result in beach or bank erosion along nearby shorelines.

