AN ORDINANCE UPDATING AND REVISIONING THE COUNTY’S SHORELINE
MASTER PROGRAM; AMENDING SECTION B, ELEMENT 3 OF THE
COMPREHENSIVE PLAN, THE OFFICIAL MAP AND CHAPTERS 18.20, 18.50 AND
18.80 OF THE SAN JUAN COUNTY CODE AND ADOPTING A SHORELINE
RESTORATION PLAN

BACKGROUND

A. San Juan County first adopted a Shoreline Master Program (SMP) in 1976. The County’s last comprehensive SMP update was Ordinance 2-1998.

B. Revised Code of Washington (RCW) Chapter 90.58 is the Shoreline Management Act (SMA) and RCW 90.58.080 establishes a timetable for local governments to complete a comprehensive update of their SMPs consistent with the state guidelines.

C. RCW 90.58.080 set the deadline for the completion of San Juan County’s SMP update as December 1, 2012.

D. Washington Administrative Code (WAC) Chapter 173-26 is the state’s guidelines for the development of local jurisdictions’ SMPs.

E. After interviewing 4 different applicants, the Watershed Company was identified as the County’s SMP consultant.

F. A series of 20 interviews with 69 people representing 43 different groups, organizations, businesses and other interests were held to discuss the SMP update and to identify areas of concern. The interviews were conducted over a 3 day period: January 18, 2011 on Lopez Island; January 19, 2011 on Orcas Island; and January 20, 2011 on San Juan Island. Interviewees were provided with a topic guide prior to the interviews.

A report summarizing the results of the interviews was published in March 2011.

G. Following the interviews and first round of public meetings, the County established an email list that grew to include almost 700 separate email addresses.

H. A public participation plan for the SMP update was developed and presented to the Council at public meetings where public comments were taken.

The first public meeting was on January 25, 2011. Following direction from the Council, staff redrafted the public participation plan to include a table of SMP development steps, tentative completion dates, a Gantt chart and a description of the roles and responsibilities of the identified interested parties.

The redrafted public participation plan was presented to the Council on March 1, 2011 and subsequently adopted by Resolution 10-2011.
I. The County identified the interested parties to the update and began notifying them of upcoming meetings and requesting their review following the publication of significant documents.

J. The first of 3 county wide public meetings to present and answer questions on the SMP update process were advertised on February 9, 15, 16, 22, 23 and were held on March 1, 2 and 3, 2011 on Lopez, Orcas and San Juan Islands. An additional meeting was held during the afternoon of March 2, 2011 on Orcas for residents of non-ferry served Islands. Approximately 115 people attended the summits in total, 49 from Lopez, 28 on Orcas (plus another 4 at the daytime meeting for non-ferry served islands) and 34 on San Juan Island.

K. The County published a request for statements of interest and qualifications for a Technical Advisory Committee (TAC) which would be responsible for reviewing the Shoreline Inventory and Characterization Report (I&C) developed by the Consultants in April, 2011. Members of the County Council interviewed TAC applicants and appointed TAC members in late May and early July, 2011. The TAC was sent copies of the draft I&C Report immediately. Following the TAC’s review, the first draft of the I&C report was published online for public review on September 7, 2011. Copies of the I&C were sent to the public libraries on San Juan, Orcas, Shaw and Lopez as well as to the Waldron Community Meeting on September 9, 2011. The County published requests for comments in the Journal of the San Juans, The Islands Sounder, The Islands Weekly, on September 27, 28, October 4 and 5, 2011 as well as in the online news sources, the San Juan Islander and the Island Guardian over the same period.

L. The County staffed an SMP information booth at San Juan Island, Orcas Island and Lopez Island farmers markets. The booth provided residents and visitors an opportunity to question staff and provide feedback. Advertisements announcing the dates the SMP information would be on a given island were published in local newspapers and online on June 1, 2011. The SMP information booth was at the Lopez farmers market on June 18, July 23, and August 13, 2011; at the Orcas farmers market on June 25, July 30, and August 27, 2011; at the San Juan farmers market on June 11, and July 16, 2011. In addition, an SMP update information booth was staffed for the entirety of the County Fair, August 19 and 20, 2011. Staff also attended a meeting to discuss the SMP hosted by the Common Sense Alliance, a citizen property rights group, on September 16, 2011.

M. The County held a second round of meetings to present the I&C and gather feedback on future visions of the shoreline on San Juan Island, Orcas Island and Lopez Island on September 20, 21 and 22, 2011. To publicise the meetings, the County placed posters on the Washington State Ferries serving the County in August, 2011. Advertisements for the second round of meetings in the Island Guardian.com and SanjuanIslander.com and in the Journal of the San Juans, The Islands Sounder and The Islands Weekly began August 10 and then each week for 3 weeks prior to the meetings themselves, August 31, September 6, September 7, September 14, September 21, 2011 for Lopez. On September 9, 2011 the County mailed postcards announcing the dates of the meetings to every address in the County. 199 people attended the meetings.

Following the discussion of the I&C, the audience was presented with a visual survey of
different types of shoreline development. The survey allowed members of the audience to ‘vote’
electronically on their preferred types of shoreline development.

N. Over 300 comments from the TAC and the public on the I&C report were provided to the
consultants. Revisions were undertaken. Explicit responses to the public’s original comments
and questions were included in the 2nd draft of the I&C report.

P. On March 9, 2012 all of the County’s taxpayers were sent a letter outlining the ongoing
SMP update and adoption process and providing links to the revised Inventory and
Characterization Report, additional documents on the county’s SMP update webpage and direct
contact information for the lead planner.

Q. The second draft of the I&C report was published on February 1, 2012. Explicit responses
to the public’s original comments and questions were included in the second draft of the I&C.
Federal, state agencies and native nations with usual and accustomed rights were informed by
email that the report was available. Notices were posted to the email list and advertisements
appeared in the Journal of the San Juans, The Islands Sounder and Islands Weekly as well as
online at the Sanjuanislander.com and Islandguardian.com; on February 8, 14 and 28 announcing
the availability of the revised I&C report. An initial comment deadline was established as March
15, 2012. This deadline was extended to April 30, 2012. Advertisements in the Journal of the San
Juans, Islands Sounder and Islands Weekly announcing the extended deadline were published on
March 7, April 3, and April 4, 2012.

R. The County received over 100 property descriptions from county property owners that
were then mapped and scanned. The descriptions of the property were added to the I&C as an
appendix.

S. Citizens began questioning the methodologies used to analyze the data presented in the
I&C. Of particular concern was accounting for the interaction of shore form and ecological
functions. The County organized a public meeting so that data providers, such as Washington
Department of Fish and Wildlife, Washington Department of Natural Resources (WDNR),
Washington Department of Ecology (WDOE), Department of Parks and Recreation, Native
Tribes, the Friends of the San Juans and the Technical Advisory Committee could meet with the
consultants to discuss the data used and its presentation in the I&C. The invites to all those
concerned were sent out on April 4, 2012 and a notice announcing the prospective workshop was
announced to the listserv on April 12, 2012 the meeting was held on April 27, 2012.

T. The third draft of the I&C was published on its own webpage on April 29, 2013. The third
draft of the I&C incorporated the property owners descriptions of their properties. It also
addressed issues raised by the Technical Advisory Committee and other interested parties.

U. On July 9, 2012, a field trip to view how proposed regulations would apply to two
shoreline properties for the public and County Council took place.

V. Planning Commission workshops to identify and discuss broad policy options and to
provide directions for possible amendments to the SMP were held on July 20, 2012 and were
continued to August 17 2012, September 7, 2012 and September 21, 2012. The workshops were advertised on July 12, 2012. The workshops were live streamed on the County’s website.

W. A series of public ‘Open House’ meetings to discuss the preliminary draft of the updated SMP were held by the Department of Community Development on March 18, 19 and 20, 2013. A meeting notice, detailing locations, times and subjects to be covered was mailed to all property owners in the County (11,000 +/- distinct addresses) on March 8, 2013. Advertisements were published on March 13 in the Journal of the San Juans, The Islandssounder, the Islands Weekly, the San Juan Islander and the Island Guardian. A notice was sent out to the listserv announcing the open houses and availability of draft SMPs on March 8, 2013. A total of 146 people attended the ‘Open Houses.’

X. A duly advertised public hearing with the Planning Commission was held May 9, 2013. A combined public notice and State Environmental Protection Act (SEPA) Determination of Nonsignificance was published on April 24, 2013. Notice was provided to federal, state and local agencies in accordance with San Juan County Code 18.80.050 and WAC 197-11-390. A notice was sent to the listserv on April 24, 2013 announcing the public hearing and providing recipients with direct links to the documents to be considered.

Y. A 60 day notice of intent to amend the County’s Comprehensive Plan was submitted to the Department of Commerce on April 25, 2013.

Z. On May 3, 2013 additional notice was sent to the local, state and federal organizations which share shoreline jurisdiction and the tribes that have usual and accustomed fishing rights of the May 9 public hearing with the Planning Commission and the publication of the third draft of the Inventory and Characterization Report.

AA. On April 19, 2012, as required by WAC 173-26-100(5) notice was sent to DOE of the County’s intent to update the existing SMP.

BB. On May 9, 2013 the Planning Commission held a duly advertised public hearing and took public comment from 8 people. The Planning Commission continued the public hearing to May 30, 2013.

CC. On July 19, 2013 the Planning Commission conducted a duly advertised public hearing to hear testimony and to consider the adoption of the proposed Restoration Plan. A combined hearing notice and SEPA Determination of Nonsignificance was published on June 26, 2013 in the Journal of the San Juans, The Islands Sounder, The Islands Weekly, the San Juan Islander and the Island Guardian.

DD. The Planning Commission concluded its deliberations and adopted findings and recommendations regarding proposed amendments to the Comprehensive Plan, including the proposed restoration plan, Unified Development Code and Official map at the duly noticed public hearing on July 19, 2013.
EE. The San Juan County Council held a duly advertised public hearing on XXXXXX 2015 which was continued to XXXXX. The County Council considered public comments and deliberated on the proposed amendments during these meetings.

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

SECTION 1. Amendments to the Comprehensive Plan:
The San Juan County Comprehensive Plan, Section B, Element 3, Shoreline Master Program, and Ordinance Nos. 13-2001 and 2-1998 are each amended as shown on attached Exhibit A.

SECTION 2. Amendment of Comprehensive Plan Land Use and Shoreline Master Program Map:
The Comprehensive Plan Land Use and Shoreline Master Program map signed on September 2014 shall be amended to remove all shoreline designations.

SECTION 3. Amendments to the Comprehensive Land Use and Shoreline Master Program Map:
An amended San Juan County Comprehensive Land Use and Shoreline Master Program map showing amended shoreline designations as shown on attached Exhibit B is adopted.

SECTION 4. Adoption of Shoreline Restoration Plan:
A Shoreline Restoration Plan is hereby adopted as Appendix 11 to the San Juan County Comprehensive Plan as shown on attached Exhibit C.

SECTION 5. SJCC 18.80.110 and Ord. 15-2002 § 11; Ord. 4-2001 § 4; and Ord. 2-1998 Exh. B § 8.11 are each amended to read as follows:

18.80.110 Shoreline permit and exemption procedures.

A. Purpose and Applicability.

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

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

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

   a. Shoreline substantial development permits;

   b. Shoreline conditional use permits, which include:
      
      i. Uses which are permitted under the provisions of the master program only as conditional uses;

      ii. The expansion of nonconforming uses; and

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

   c. Shoreline variances; and

   d. Certificates of exemption from shoreline substantial development permits.


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

2. A public hearing is required for shoreline permit applications as provided in SJCC 18.80.030 and 18.40.040. The administrator shall submit notice of shoreline permit applications to the appropriate subcommittee (by commissioner district) of the planning commission.

23. Applications for shoreline permits shall be circulated to the director of the University of Washington Friday Harbor Laboratories for comment as a reviewing agency.

C. Administrative Responsibilities. The Director’s responsibilities are set forth in SJCC 18.50.010(E).

D. Consolidated Permit Processing.

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

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

E. Decisionmaking Authority. The hearing examiner has authority to take the following actions:

1. Based upon the criteria in subsection (H) of this section, hear and issue or deny shoreline permits following receipt of the recommendations of the Director administrator, and to impose conditions of approval on such permits; and

2. Grant or deny variances from the provisions of the SMP master program according to the criteria and procedures provided in subsection (I) of this section.

F. Exemptions from Need for Shoreline Substantial Development Permit Exemptions.

1. The scope of developments which are exempt from the need to obtain a shoreline substantial development permit are set forth in WAC 173–27–040 and SJCC 18.50.020(FE) and (GF) (Section 7). In making this a determination, the Director administrator shall consider the ultimate scope of a proposal development and the extent to which the development is its consistency with the policies and regulations of the SMA and SMP master program. The administrator Director may request additional information from the applicant and may make site inspections, if necessary. A use classified as a conditional use or a use not named or contemplated in this chapter is allowed only as a conditional use and is ineligible for shoreline permit exemption.

2. If a development proposal is exempt from the need to obtain a shoreline substantial development permit, the Director shall prepare and issue a certificate of exemption consistent with WAC 173-27-040 and Section 7 (G) of this ordinance.
4. The burden of proving that a proposal is exempt from the need to obtain a shoreline substantial development permit shall be on the person seeking the exemption.

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

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

7. In addition, a certificate of exemption An administrative determination shall be prepared in the format described in WAC 173–27–050 for any proposal which is exempt from shoreline substantial development permit requirements under Chapter 18.50 SJCC whenever:

   a. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 is required for the project (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 administrator shall review shoreline permit applications, and development and project building permit applications that also require a shoreline permit, for consistency with the policies and regulations of the SMP for permits requiring a hearing master program, and report the results of this review and determination to the hearing examiner. In making this determination, the Director administrator shall consider the ultimate scope of project proposal a development and the extent to which the project proposal development is consistent with the policies and regulations of the SMA and master program-SMP. The Director administrator may request additional information from the applicant and may make site inspections, if necessary.

2. The Director administrator shall not issue a building development or project permit for development that is subject to shoreline permit requirements until a shoreline permit has been granted. Any building development permit issued for such development shall be subject to the conditions attached to approval for the shoreline permit.

3. In granting a shoreline permit, the hearing examiner may attach such conditions as deemed necessary to ensure that the development will be consistent with the SMP master program and other applicable provisions of San Juan County Code this code. The examiner shall also prepare findings of fact and conclusions of law.

4. In approving shoreline conditional use permits, the hearing examiner is authorized, on a case-by-case basis, to impose any special conditions or standards which are reasonable and necessary to enable a proposed conditional use to be consistent with satisfy the criteria established in subsection (J) of this section.
5. Filing with the Washington Department of Ecology (WDOE). Within eight days of
the final decision, the Director administrator will file with WDOE copies of the permit
application and other pertinent materials used in the final decision pursuant to either
Chapter 43.21C or 90.58 RCW, the permit, and any other written evidence of the final
order of the hearing examiner relative to the application. The County’s date of filing for
substantial shoreline development permits shall be the date the county’s decision is
received by WDOE. Filing shall not be complete until the materials required by WAC 173-
27-130 have actually been received by the WDOE. For shoreline conditional use permits or
shoreline variances, the date the WDOE transmits its final decision to the County
applicant shall be considered the date of filing. The WDOE transmittal date shall begin the period for WDOE review and
final permit decision as described in subsection (K) of this section.

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

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

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

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

However, nothing in this section shall preclude the hearing examiner from issuing
shoreline permits with a fixed termination date of less than five years based on
upon a finding of good cause.
H. Criteria for Approval of Shoreline Substantial Development Permits. A shoreline substantial development permit shall be granted by the County only when the applicant meets his burden of proving that the proposal is:

1. Consistent with the policies of the Shoreline Management Act, Chapter 90.58 RCW and its implementing regulations rules that include , Chapter 90.58 RCW, Chapter173-26 WAC and Chapter 173–27 WAC, as amended;

2. Consistent with the policies and regulations of the SMP Shoreline Master Program in Chapter 18.50 SJCC;

3. Consistent with this chapter;

4. Consistent with the other applicable sections of San Juan County Code this code (e.g., Chapter 18.60 SJCC);

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

6. All conditions specified by the hearing examiner to make the proposal consistent with the SMP Shoreline Master Program and to mitigate or avoid adverse impacts to shoreline ecological functions are attached to the permit.

I. Shoreline Variances.

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

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

3. Criteria for Approval of Shoreline Variances. The location of the proposed project will determine which of the following two sets of criteria are to be considered. Variances from the provisions of the SMP Shoreline Master Program may be granted when the applicant has proven that either of the following sets of criteria have been met:

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

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

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

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

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

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

Or

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

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

ii. Proposal is consistent with the criteria established under subsection (I)(3)(a)(ii) through (v) of this section; and

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

C-I (1)(a). In the granting of reviewing shoreline variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline ecological functions environment.

I (1)(b)). Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests shall be evaluated using the criteria set forth in subsection (J) of this section. Variances from the use regulations are prohibited.
I(1)(c). Filing of variances with and review by the WDOE Washington Department of Ecology are described in subsection (L-K) of this section.

4. Variance Application Requirements. Application for a shoreline variance shall include:
   a. The applicable items listed in SJCC Section 18.80.020(C) (Project Permit Applications-Forms) along with photos of the site and a detailed site plan showing:
      i. The location of frequently flooded areas within the proposed development area;
      ii. Geologically hazardous areas in or within 200 feet of the proposed development area;
      iii. The field located OHWM on the site; wetlands and fish and wildlife habitat conservation areas in or within 200 feet of the proposed development area;
      iv. The location of any golden eagle nests in or within 1,000 feet of the proposed development area; and
      v. The location of any peregrine falcon or great blue heron nests in or within 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, critical area 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 Chapter 18.60 SJCC;
   e. A narrative describing anticipated adverse impacts to the shoreline ecological functions and critical areas, based on Best Available Science BAS, and explaining how the proposal meets the shoreline variance approval criteria;
   f. Mitigation, Monitoring and Adaptive Management Plans. If necessary, plans meeting the requirements of SJCC 18.30.110(F) and SJCC 18.50. Section 12 of this ordinance for mitigating any adverse impacts or harm that would result in a net loss of the shoreline ecological functions of critical areas, for monitoring the effectiveness of mitigation actions, and when necessary for adaptively managing the mitigation project to ensure its success;
   g. A cost estimate, prepared by a qualified professional, for implementing mitigation and monitoring plans;
h. Financial Guarantee. A financial guarantee covering 115% of the cost of implementing mitigation and monitoring plans. This guarantee and the associated agreement must meet the requirements of Chapter 18.80 SJCC.

J. Shoreline Conditional Use Permits.

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

Shoreline conditional uses include the following:

a. Uses which are permitted under the provisions of the Shoreline Master Program only as conditional uses;

b. The expansion of non-conforming uses; and

e. Uses which are unnamed or not contemplated in the SJC SMP Shoreline Master Program.

2. Uses which are specifically prohibited by the SMP Shoreline Master Program shall not be authorized through a conditional use permit.

3. Other Local Regulations. Conditional use permits granted under other sections of the SMP this code shall not be construed to constitute approval of a shoreline conditional use.

4. Criteria for Approval of Shoreline Conditional Uses. Uses which are classified or set forth in the Shoreline Master Program SMP as conditional uses may be authorized by the County provided the applicant can demonstrate all of the following:

a. The proposed use is consistent with the policies of RCW 90.58.020 and the policies of the SMP Shoreline Master Program;

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

c. The proposed use of the site and design of the project is compatible with other allowed permitted uses within the area;

d. The proposed use will cause no unreasonably adverse effects to the shoreline ecological functions and designation environment in which it is to be located;
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1. The cumulative impacts of additional requests for like actions in the area, or for other locations where similar circumstances exist, shall not produce substantial adverse effects to the shoreline **ecological functions** environment, e.g., the total of the conditional uses shall remain consistent with the policies of RCW 90.58.020 and the SMP Shoreline Master Program; and

2. The public interest will suffer no substantial detrimental effect.

5. Other uses that are not classified or set forth in the SJC SMP Shoreline Master Program may be authorized with **conditional use permits** as conditional uses provided the applicant can demonstrate consistency with the criteria set forth in WAC 173–27–160(1), and the SMP this subsection.

6. Filing of shoreline conditional use permits with and review by the WDOE Washington Department of Ecology are described in subsection (K) of this section.

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

L. **Washington Department of Ecology WDOE Review.** As required by state law (RCW 90.58.140(10), locally approved shoreline variances and shoreline conditional use permits are subject to review by the WDOE Washington Department of Ecology for its ultimate approval or disapproval. Upon approval or denial of shoreline variances or conditional use permits by the hearing examiner or board of County commissioners, a copy of the final order and application shall be mailed to the WDOE Washington Department of Ecology within five days of such action. Construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173–27–130 or until all review proceedings initiated within 21 days from the date of such filing have been terminated; except as provided in RCW 90.58.140.

M. Procedures for Revisions to Shoreline Permits.

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

Proposed revisions are within the scope and intent of the original if all the following conditions are met:
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1. a. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

2. b. Footprint and height may be increased a maximum of ten percent from the provisions of the original permit;

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

4. d. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable regulations;

5. e. The use authorized pursuant to the original permit is not changed; and

6. f. No adverse environmental impact will be caused by the project revision.

2. If the revisions meet the above criteria for administrative approval, a public notice of application is required.

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

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

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

   c. Any permit revision approved by the hearing examiner shall become effective immediately. Within eight days of the hearing examiner’s action, the approved revision shall be submitted to the Washington Department of Ecology. In addition, the Director administrator shall submit a copy of the examiner’s decision to all parties of record to the original permit action.

   d. Appeals shall be in accordance with WAC 173–27–220 and SJCC 18.80.140.

M N. Rescission of Shoreline Permits. Any shoreline permit may be rescinded by the hearing examiner pursuant to RCW 90.58.140(8) upon the finding that the permittee has failed to comply with the terms and conditions thereof. In the event that the permittee is denied a required sewage disposal, building, or other permit necessary for the project in question, the shoreline permit may be rescinded by the hearing examiner. In the event a shoreline permit is rescinded by the hearing examiner, the permittee shall be notified by certified mail. Copies of the examiner’s final action shall be filed with the Washington Department of Ecology.
O. Appeals.

1. The BOCC has authority to hear and decide appeals from decisions of the hearing examiner on shoreline permit applications as provided in SJCC 18.80.140.

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

P. Effects on Property Values. As provided for in RCW 90.58.290, the restrictions imposed upon the use of real property through the implementation of the policies and regulations of the SMA and the master program shall be duly considered by the County assessor and the County board of equalization in establishing the fair market value of such properties. (Ord. 15-2002 § 11; Ord. 4-2001 § 4; Ord. 2-1998 Exh. B § 8.11)

SECTION 6. SJCC 18.50.010; and Res. 77-2003 § 1; Ord. 13-2002 § 1; and Ord. 2-1998 Exh. B § 5.1 are each amended to read as follows:

18.50.010 General.

A. Title. This chapter of the San Juan County Unified Development Code (SJC UDC), together with Element 3 of the Comprehensive Plan, and Sections 18.80.110(I)(3), 18.80.110(J)(4), and 18.80.120(D) of this code, is the Shoreline Master Program (SMP) for San Juan County, Washington. The following regulations implement Element 3 of the San Juan County Comprehensive Plan.

B. Short Title. The short title of this chapter and Element 3 of the Comprehensive Plan is the “SJC Shoreline Master Program” or “SMP.”

C. Authority.

1. The provisions of this chapter section are adopted pursuant to RCW 90.58.140(1-3) and 90.58.200, the Shoreline Management Act of 1971 (“SMA”), Chapters 173-26 and 173-27 WAC, Element 3 of the Comprehensive Plan, and this Chapter 18.50 SJCC, the San Juan County Shoreline Master Program. Except when specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the SMA Shoreline Management Act, and the SMP master program.

2. Liberal Construction. As provided in RCW 90.58.900, the SMA is exempted from the rule of strict construction, and it the SMA and the San Juan County SMP Shoreline Master Program shall be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the SMA and this program SMP were enacted and adopted, respectively.

3. Conflicting Policies or Regulations. The SMA and the SMP Shoreline Master Program comprise the basic state and local law regulating the use of shorelines in the
County. Unless specifically provided otherwise, in the event that provisions of the Shoreline Master Program (SMP) conflict with other applicable state or local policies or subarea plans, or other regulations, the most restrictive regulation shall control. Where there is a conflict between other applicable state policies and regulations, the SMP and SMA shall control. SMA and SJC Shoreline Master Program shall control. Where the SJC Shoreline Master Program is more restrictive than other applicable state or local policies or regulations, the SMA and SMP Shoreline Master Program shall control. Where other applicable state or local policies or regulations are more restrictive than the SMA and/or the SMP Shoreline Master Program, such policies or regulations most consistent with the applicable provisions of the SMA control.

D. Official Map.

1. A map, known officially as the “San Juan County Comprehensive Plan Land Use and Shoreline Master Program Map Designated Shoreline Environments Map,” (a.k.a., the “map,” “official map”) is part of the SMP SJC Master Program. The map shows all areas of San Juan County under the jurisdiction of the SMP this master program and the official shoreline designations designated environments as provided established by the Shoreline Element of the Comprehensive Plan for all affected lands and waters.

2. There are four is only one official copies of the map, one of which is maintained by the San Juan County Department of Community Development planning department, one archived by the San Juan County Auditor and one submitted to the Washington Department of Ecology (WDOE) as part of the official state master program. Amendments to the map are promptly recorded on the official copies.

3. At the time of adoption of this master program, one copy of the official map will be filed with the County auditor. In addition, at least once every 12 months following the filing of the initial map with the auditor, the planning department will make an additional copy of the official map and file it with the initial map, in the auditor’s office. If the official map has not been amended during the 12-month period, the planning department may file with the auditor a notice to that effect, signed by the planning director, in lieu of a copy of the official map. The purpose of these annual filings is to create an official record of the changes occurring over time in the designated shoreline environments. At no time will the copies of the map filed with the auditor be altered in any way.

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

4.5. Where questions arise regarding the precise boundaries of any shoreline designation designated environment, the administrator Director will make the final determination, subject to the provisions of SJCC 18.80.140, Appeals. Unofficial copies of the map may be prepared for administrative purposes as needed.
5.6. Lakes of 20 acres or more are subject to the Shoreline Management Act and the Shoreline Master Program, as provided in RCW 90.58.030(2)(d)(iii). Those lakes that meet this criterion but which are not shown on the official maps, or which are not shown with a shoreline environment designation, shall be considered to be subject to the underlying Comprehensive Plan density designation while shoreline use is subject to the shoreline environment designation matching the Comprehensive Plan land use district designation for the area, until such time as the lakes are assigned specific designations in the County’s Shoreline Master Program. All areas that were inadvertently overlooked and are not mapped in shoreline jurisdiction, but meet the jurisdictional criteria in RCW 90.58.030 (f) and in conformance with WAC 173-26-211, are assigned a Conservancy designation until the shoreline can be re-designated through an SMP amendment.

E. Responsibilities of Director Administrator, Planning Department, and Planning Commission.

1. Director Administrator.
   a. Technical and Administrative Assistance. The Director administrator shall make written recommendations to the decision maker regarding shoreline permit applications, provide technical and administrative assistance to the hearing examiner or the BOCC as required, and provide such technical assistance to the planning commission as may be needed; and
   b. Administrative Responsibilities. The administrator Director shall have the overall administrative responsibility for the SMP master program, which including es:
      i. Establishing the procedures and preparing the forms deemed essential for the administration of the SMP Shoreline Master Program;
      ii. Advising applicants for permits and other interested persons of the policies, regulations, and procedures established by the SMP Shoreline Master Program and the SMA Act;
      iii. Making administrative interpretations of the SMP Shoreline Master Program, as necessary;
      iv. Collecting required fees;
      v. Determining that applications are proper and complete prior to review;
      vi. Making field inspections; and
      vii. Seeking compliance with the provisions of the SMP Shoreline Master Program and the SMA and of conditions attached to a shoreline permit issued by the County.

2. Planning Department and Planning Commission. The planning department and planning commission have authority to review and recommend revisions to the SMP Shoreline Master Program.
Planning Commission Recommended Text in PA Approved Format (includes non-substantive PA and Staff amendments) #1

Program, and shall monitor shoreline developments to enable effective and comprehensive review of this SMP master program, as provided in SJCC 18.90.040. (Res.77-2003 § 1; Ord. 13-2002 § 1; Ord. 2-1998 Exh. B § 5.1)

SECTION 7. SJCC 18.50.020, Ord. 21-2002 § 6, Res. 145-1998, and Ord. 2-1998 Exh. B § 5.2 are each amended to read as follows:

18.50.020 General applicability.

A. Relationship to Comprehensive Plan. This SMP master program provides land use regulations to implement the goals and policies of the Comprehensive Plan Shoreline Element 3, Shoreline Master Program SMP (Goals and Policies). These regulations apply to all of the land and waters of San Juan County which fall under the jurisdiction of the Shoreline Management Act (SMA). These regulations do not apply to development and uses beyond the jurisdictional limits of the Act unless a proposed development involves both jurisdictional and non-jurisdictional land and the upslope upland development is likely found to adversely affect the shoreline ecological functions environment. If a conflict occurs between this chapter and other sections of this code, this chapter shall prevail.

B. Applicability to Persons. This SMP master program shall apply 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 administers lands, wetlands, or waters which fall under the jurisdiction of the SMA Shoreline Management Act, 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 Master Program and the Washington State Shoreline Management Act 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 Use and Development. This master program This SMP applies to all “development”, uses and vegetation removal as defined in Chapter 18.20 SJCC. Unless otherwise authorized, shoreline development without a permit or certificate of exemption, where appropriate, is prohibited.
E. **Applicability to Substantial Development.**

1. This master program applies to all “substantial development” as defined in Chapter 18.20 SJCC.

2. No substantial development may be undertaken unless a valid shoreline substantial development permit is first issued by the County and unless all work proceeds in compliance with the requirements of the Shoreline Management Act, this master program, and other applicable state and local regulations.

E. E. **Exemptions from Shoreline Substantial Development Permit Requirements.**

1. Exemption from the shoreline substantial development permit requirements under subsection (E) (G) of this section does not constitute an exemption from the policies of the SMA Shoreline Management Act, the policies and regulations of this SMP, or other applicable county local, state, or federal permit requirements.

2. Exemption procedures are provided in SJCC 18.80.110(F). Exemptions shall be 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.

3. Statements Certificates of exemption are required for certain developments; see SJCC 18.80.110 18.50.020(G). A use classified as a conditional use or a use not named or contemplated in this chapter is allowed only subject to a conditional use permit and is ineligible for a shoreline substantial development permit exemption.

4. The following developments, as defined in WAC 173–27–040, are not considered to be shoreline substantial developments and are required to obtain a certificate of exemption:

   a. Any development that of which the 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), 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 shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

   b. Normal maintenance or repair of existing structures or developments existing or vested before the effective date of this SMP, including those damaged by fire, accident, or the elements, subject to WAC 173–27–040(2)(b).

   c. Construction of the normal protective structural shoreline stabilization measure bulkhead common to associated with single-family residences existing or vested before the effective date of the SMP, subject to WAC 173–27–040(2)(c).

   d. 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.

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. However, 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 the result from of normal cultivation), shall not be considered normal or necessary farming or ranching activities. For the purposes of this chapter, a “feedlot” shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations, or barns or similar agricultural structures on wetlands (WAC 173–27–040(2)(e).

f. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173–27–040(2)(f).

g. Construction of a single-family residence for the use of the beneficial owner and their family is exempt from shoreline substantial development permit requirements in accordance with WAC 173–27–040(2)(g). Any other single-family residential construction is subject to shoreline substantial development permit requirements. For the purposes of this SMP, the beneficial owner is an individual who is 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. In no case shall construction of more than one single-family residence on a single lot owned by a family be exempt from shoreline substantial development permit requirements. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence does not exceed a height of 35 feet above average grade level, except as provided in this SMP, and which meets all requirements of the Act and this SMP, as specified in WAC 173–27–040(2)(g). Normal residential appurtenances that are exempt are listed in section (F) below.

h. 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, as specified in WAC 173–27–040(2)(h). This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed $2,500; or

ii. In fresh waters, the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500
occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this code.

i. 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 (WAC 173–27–040(2)(i)).

j. 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 (WAC 173–27–040(2)(j)).

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which that were created, developed, or utilized primarily as part of an agricultural drainage or diking system (WAC 173–27–040(2)(k)).

l. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under the SMP of this code if:

   i. The activity does not interfere with the normal public use of the surface waters;

   ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

   iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

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

   v. The activity is not subject to the permit requirements of RCW 90.58.550 (WAC 173–27–040(2)(m)).

m. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by in a final environmental impact statement published by the U.S. Department of Agriculture or the department jointly with other state agencies under Chapter 43.21C RCW (WAC 173–27–040(2)(n)). In order to qualify as exempt, noxious weed control must meet the following requirements:
i. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where a water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

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

iii. The control of aquatic weeds by derooting, roto-vating, or other method that disturbs the sea bed or benthos in order to maintain the pre-existing water depth for navigation in an area covered by a previous permit shall be considered as normal maintenance and repair. The control of aquatic weeds by similar methods in any other circumstance shall require a shoreline substantial development permit.

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

n. Watershed restoration projects as defined in WAC 173–27–040(2)(o) in accordance with Chapter 90.58 RCW.

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

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

ii. The project has received hydraulic project approval by the WDFW pursuant to Chapter 75.20 77.55 RCW; and

iii. The County has determined that the project is substantially consistent with this SMP master program.


F G. Exemptions from Substantial Development Permit Requirements – Residential Appurtenances. Normal appurtenances to a single-family residence are included in the shoreline substantial development permit exemption provided in subsection (E)(4)(g) of this section. “Normal appurtenances” means a structure that is necessarily connected to the use and enjoyment of a single-family residence and may include, but are not limited to, one garage, one accessory dwelling unit, attached decks, a patio, boathouses served by marine railways, a driveway, on-site sewage disposal system, utilities, fences, antennas, satellite dishes less than one meter in diameter, and solar arrays and wind powered generators serving one single-family

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residence. For the “normal appurtenance” exemption to apply, the applicant must submit a certificate the structure will be constructed by an owner, lessee, or contract purchaser of a single-family residence for his or her own use, or the use of his or her family, or a person providing health care to the owner or the owner’s family.

Normal appurtenances exemptions also include:

1. Grading of less than 250 cubic yards or removal of native vegetation that is not within the building setback or critical area buffer 50 feet of the OHWM or the top of the bank, whichever is greater, when associated with the construction or modification of a single-family residence.

2. Construction or renovation of structures with fair market value of less than the maximum value allowed by Chapter 90.58 RCW and WAC 173–27–040(2)(a)($6,416 October 2012).

3. Beach access structures. Pedestrian pathways, ramps and stairs; provided, that a written statement certificate of exemption is obtained; and provided, that 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 state law.
   b. No roofs or roof covering materials such as awnings are prohibited permitted.
   c. All materials must be finished in subdued natural earth colors.
   d. No construction or placement seaward or below the ordinary high water mark (OHWM) is permitted unless the stairs or ramp are connected to an exempt or permitted dock.
   e. Pedestrian pathways, stairs or ramps are allowed when no other beach shoreline access exists or is reasonably feasible.
   f. The maximum vertical height of the structure is 15 feet and the maximum width of the structure is three feet. One intermediate landing or platform with a maximum size of three feet by three feet is allowed. Stairways that are proposed for exposed areas of the shoreline shall not be located on rock faces or bluffs in excess of 172 percent average slope (i.e., a maximum 60-degree angle).
   g. The project complies with bank stability requirements of SJCC 18.50.080, Section 13 of this ordinance geologically hazardous areas shall be complied with.
   h. All disturbed areas shall be immediately replanted with naturally occurring vegetation. Deep-rooted plants as recommended by the Natural Resources Conservation Service or the WSU Cooperative Extension Service shall be planted on
the face and top of the bank to help stabilize the soil. All planting shall be
completed prior to the end of the growing season which immediately follows
construction. All construction debris shall be immediately removed from the site.

i. All stairs or ramps proposed for property associated with or located within subdivisions that contain shoreline common areas, as defined in SJCC 18.50.330(F)(2),
must be located within the common area or the access easements to the shoreline
common area.

H. Coordination with Element 3 of the Comprehensive Plan and UDC Regulations.

1. All shoreline use and development proposals must be consistent with the goals,
policies, and regulations of this SMP, Element 3 of the Comprehensive Plan, and other
applicable policies and regulations.

2. When a conditional use permit or variance is required by Chapter 18.30 SJCC for
development also within the jurisdiction of this SMP, the hearing examiner, with the advice
of the administrator, will attach such conditions to permit or variance approval as are
necessary to ensure the development is consistent with this SMP.

3. When any proposed subdivision of land or other development is subject to the
jurisdiction of this SMP the entire proposal will be reviewed as a single the Comprehensive
Plan, this code, and this SMP; however, the specific use regulations of this SMP will apply
only to those areas subject to shoreline management jurisdiction. (Ord. 21-2002 § 6;
Res. 145–1998; Ord. 2–1998 Exh. B § 5.2)

G. Certificates of exemption.

1. The Director shall grant or deny certificates of exemption from a shoreline substantial
development permit for uses and developments listed above in SJCC 18.50.020(E-F). The
certificate shall indicate the specific exemption that is being applied to the development.
The certificate shall indicate the consistency of the proposal with the SMP and the SMA.
Where appropriate, the certificate of exemption shall contain conditions and/or mitigation
measures required for consistency with the SMP and SMA. The denial of an exemption
shall be in writing and shall identify the findings for the denial. The Director’s approval or
denial of a certificate of exemption shall be subject to the appeal provisions of SJCC
18.80.140.

2. A certificate of exemption is required for:

   a. Dredging;

   b. Flood hazard control structures;

   c. Archaeological or historic site alteration;

   d. Clearing, grading, filling or excavations 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; and

h. Any residential, commercial or industrial development project within Natural, Aquatic shoreline designations.

3. Whenever an exempt activity also requires a U.S. Army Corps of Engineers 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 shall be sent to the applicant and the WDOE per WAC 173-27-050.

4. A separate certificate of exemption shall not be required for residential development when a County building permit application is being considered or approved by the Director.


6. A certificate of exemption shall be required for the repair and maintenance of existing structures that are in or over the water.

SECTION 8. SJCC 18.50.030 and Ord. 2-1998 Exh. B § 5.3 are each amended to read as follows:

18.50.030 Definitions.

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

SECTION 9. SJCC 18.50.040; Res. 77-2003 § 2; Ord. 13-2002 § 2; and Ord. 2-1998 Exh. B § 5.4.1 are each amended to read as follows:

18.50.040 Administration.

A. Administrative policies in Element 3 of the Comprehensive Plan and The general regulations in this chapter apply to all existing and proposed uses and activities within the jurisdiction of the SMP including those that are otherwise exempt from a shoreline substantial development permit. Regulations in this chapter are applicable to all uses and activities regardless of SMP environment designation or eligibility for shoreline permit exemption that may occur within SMP jurisdiction. The following general regulations are in addition to use-specific regulations.

B. All existing or proposed shoreline uses and activities shoreline modification activities,
including those that do not require a shoreline substantial development permit, must conform to Chapter 90.58 RCW, (the SMA) and the policies and regulations of this SMP.

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

D. Prohibited shoreline uses, modification activities, and conditions listed as “prohibited” are not eligible for consideration as a shoreline variances or a shoreline conditional use permits.

E. The policies listed in Element 3 of the Comprehensive Plan provide guidance and direction and will be used by the County in applying the regulations.

F. Where provisions of this SMP conflict, the provisions more consistent with the provisions of the SMA restrictive of the provisions applies unless specifically stated otherwise.

SECTION 10. SJCC 18.50.050 and Ord. 2-1998 Exh. B § 5.4.2 are each amended to read as follows:

18.50.050 Archaeological and historic resources.

A. When an application for a development permit is received for an area known to be archaeologically significant, the County will not take action on the application and the applicant will not initiate any excavation or development activity until the site has been inspected by a qualified archaeologist in coordination with affected Indian tribes or nations. No application will be delayed more than 10 working days for such an inspection. If the application is approved by the County, conditions will be attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.

B. All development permits shall contain a special provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the administrator Director, the Washington State Office of Archaeology and Historic Preservation and affected Indian tribes or nations must be notified at once. Activities authorized by the permit will not be delayed more than five working days for a finding of significance by the administrator, following the administrator’s receipt of notification, unless the permit holder agrees to an extension of that time period.

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

All development proposed for location adjacent to sites which are included in the state or national registers of historic places, or are determined to be eligible for listing, must be located so as to complement the historic site. Development which degrades or destroys the historical character of such sites is not permitted.
D. Prior to the issuance of a permit in areas known to contain archaeological artifacts and data, the County requires that the developer provide for a site inspection and written evaluation by an archaeologist. Significant archaeological data or artifacts must be recovered before work begins or resumes on a project.

E. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve archaeological artifacts or data, the project may be exempted from the permit requirements of these regulations. The County shall notify the Washington Department of Ecology, the State Attorney General’s Office, and the Washington Office of Archaeology and Historic Preservation of such a waiver in a timely manner.

F. Archaeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records) and must comply with Chapter 25-48 WAC (Archaeological Excavation and Removal Permit) as well as the provisions of this code.

G. Archaeological excavations are allowed subject to the provisions of this master program and applicable state laws.

H. Identified historical or archaeological resources must be considered in park, open space, public access, and site planning, with access to such areas designed and managed so as to give maximum protection to the resource. (Ord. 2-1998 Exh. B § 5.4.2)

SECTION 11. SJCC 18.50.060 and Ord. 2-1998 Exh. B § 5.4.3 are each amended to read as follows.

18.50.060 Clearing, and grading, fills, excavations and vegetation management.

A. In addition to the standards below, all clearing, grading, excavating and fill activities must comply with SJCC 18.60.060. Clearing and grading activities are allowed only if: (1) associated with an approved shoreline development; (2) conducted only landward of a required building setback from shorelines; and (3) disturbed areas not converted to another use within one year are replanted with native species. Replanted areas shall be maintained so that the vegetation is fully reestablished within three years of planting.

B. All shorelines shall be protected from degradation caused by the modification of the land surface within the shoreline area or the adjacent lands. Land clearing, surface grading and alteration of natural drainage features and land forms must be designed to prevent adverse impacts to adjacent properties and/or shoreline ecological functions. Unless specifically allowed by this chapter, vegetation clearing and land surface grading and filling is prohibited. Normal nondestructive pruning and trimming of vegetation for maintenance purposes is not subject to these clearing and grading regulations. In addition, clearing by hand-held equipment of invasive nonnative shoreline vegetation or plants listed on the state noxious weed list is allowed,
provided native vegetation is promptly reestablished in the disturbed area.

C. To minimize adverse impacts to shoreline ecological functions, the 75 linear feet between the first 35 feet landward of the OHWM or the top of the bank and 110 feet landward of the OHWM or the top of the bank is required to retain 21% tree canopy cover. Tree removal permitted in a development approval is exempt from the regulations in this section.

D. Commercial timber harvest conducted in accordance with an approved forest practices permit is exempt from the regulations in this section. Land clearing, grading, filling, alteration of wetlands, natural drainage features and topography shall be limited to the minimum area necessary for driveways, buildings, and view and shall take place in conformance with critical area requirements and setbacks required by this SMP. It is the property owner’s responsibility to obtain the required state and federal authorizations for work in wetlands, streams or shoreline waters. Fills and excavations within wetlands or waterward of the OHWM shall be allowed for only the following purposes:

1. Interagency environmental restoration or clean-up projects to dispose of contaminated sediment that also support water-dependent uses and/or public access;

2. Disposal of dredged material evaluated and conducted in accordance with the Dredged Material Management Program of the WDNR Washington Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see Section 23 of this ordinance, Dredging and dredge waste disposal);

3. For the expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;

4. For ecological restoration or enhancement projects, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with the restoration plan approved as part of this SMP; or

5. For protection of archaeological, cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected tribes and comply with applicable provisions of SJCC 18.60.210.

E. When clearing, grading, filling or excavating causes adverse impacts to ecological functions, a mitigation plan must be prepared and implemented in accordance with SJCC 18.50, Section 12 of this ordinance.

F. Fills landward of the OHWM are allowed provided they:

1. Are conducted outside required buffers and setbacks and are part of an approved shoreline use or modification;

2. Are the minimum size necessary to implement the approved use or modification;
3. Do not significantly change the topography of the landscape in a manner that affects
the runoff characteristics;
4. Do not increase the risk of slope failure; and
5. Are consistent with applicable provisions of Section 13 and Section 33 of this
ordinance.

G. All applications for new construction must show on the site plan any trees that will be
removed. If trees are to be removed at other times, a tree removal plan shall be submitted for
review and approval. Site and tree removal plans shall:
1. Identify the proposed and existing (at the time of the submission) building areas,
driveways and view corridors; and
2. Demonstrate how natural screening will be retained while providing for construction,
views, and sunlight.
3. Demonstrate how the tree protection requirements for critical area buffers and tree
protection zones will be met.

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

I. 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. (See
Section 24 of this ordinance, Forest management).

J. Topping of trees is prohibited, except for hazard trees when a safety risk is documented.

K. All overburden, debris, and other waste material resulting from construction shall be
managed or disposed of in a fashion that will prevent their entry into any water body or wetland.

L. Clearing, grading, fills or excavations shall not be located where shoreline stabilization will
be necessary to protect materials placed or removed, except when part of an approved plan for
the protection of cultural resources including archaeological artefacts.

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

N. Fills shall not be allowed for the sole purpose of expanding the developable area of a lot.

O. Applications for substantial development permits which include filling shall include the
following information:
1. Source of fill material;
2. Physical characteristics of fill material;
3. Proposed methods of placement and compaction;
4. Proposed surfacing material;
5. Proposed quantity of fill;
6. Proposed method(s) of erosion control; and
7. Proposed use of filled area.

P. Regulations by Designation.

1. Conservancy. Fills shall not be allowed on natural (as opposed to manmade, privately owned) lakes; and retaining walls shall not be used as erosion control devices on allowed fills. Fill prohibited within the Conservancy designation in Eastsound.

2. Aquatic. Fills shall be allowed in the aquatic designation subject to a conditional use permit, the regulations for the abutting shoreline designation. Where a proposed fill site abuts more than one shoreline designation the provisions of the more restrictive designation shall govern.

SECTION 12. SJCC 18.50.070 and Ord. 2-1998, Exh. B § 5.4.4 are each amended to read as follows:

18.50.070 Environmental impacts General Environmental Protection and Mitigation.

A. The location, design, construction, and management of all shoreline uses and activities must protect the quality and quantity of surface and ground water adjacent to the site and must adhere to the policies, standards, and regulations of applicable water quality management programs and related regulatory agencies. Land uses and developments that include vegetation removal or grading on County shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions. Where projects meet or exceed the protections required by the critical area regulations in Section 13 of this ordinance, mitigation is not required. All uses, developments and ancillary activities not maintained in compliance with Section 13 of this ordinance shall require the mitigation of the adverse impacts.

B. Solid waste disposal and liquid waste treatment facilities are prohibited on shorelines. Solid and liquid wastes, biosolids, and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto land. Projects that cannot meet the critical area requirements for no net loss in Section 13 of this ordinance must complete a mitigation sequence analysis. Where a project may increase the intensity of unavoidable adverse impacts on shoreline ecological functions, mitigation to offset the impacts is required and must be consistent with the mitigation sequence below.

C. The release of oil, chemicals or hazardous materials onto land or into the water contrary to state or federal law is prohibited. Equipment for the transportation, storage, handling, or
application of such materials in association with a lawful shoreline use must be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

D- C. All shoreline uses, and activities shall be located, designed, constructed, and managed in a manner that is minimizes adverse impacts to surrounding land and water uses and must be aesthetically compatible with the affected area.

D. All new shoreline structures must be located and designed to prevent the need for shoreline stabilization and flood protection measures for the life of the structure (minimum 75 years).

E. All shoreline uses and activities must utilize effective erosion control methods during construction and operation. Proposed methods must be included in the project description submitted with any permit application. Herbicides and pesticides may not be applied to or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

F. All shoreline uses and activities must be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes. Mitigation of adverse Impacts. This subsection outlines the provisions for mitigating adverse impacts associated with shoreline development and land uses.

1. In order to ensure that development activities meet the no net loss requirement by avoiding, minimizing and mitigating for adverse impacts to shoreline ecological functions, a mitigation sequence analysis is required for all projects.

2. Mitigation Sequencing Analysis. To justify use of a mitigation action lower in the hierarchy the applicant must demonstrate that those higher in the hierarchy are not feasible or practicable. Mitigation sequencing analysis must describe how the proposal is or will be consistent with the following:

   a. __ Avoiding the impact altogether by not taking a certain action or parts of an action;

   b. 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;

   c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

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

   e. Compensating for the impact by replacing or providing substitute resources or environments; and
f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

3. Mitigation, monitoring, and adaptive management plans must be developed by a qualified professional(s).

4. 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/approval).

5. Preparation of mitigation, monitoring, and adaptive management plans, and their review by the County, that may include referral to independent qualified professionals, shall be at the applicant’s expense. If review by a third party is necessary because of the complexity of the plans or apparent errors, the Department may require advance payment of fees for this review based on the estimated review time. As an alternative to third party review, the applicant and the director may jointly select the qualified professional who will complete the plans.

6. Mitigation options include the use of certified mitigation banks and approved in-lieu fee mitigation sites when they are developed.

7. Removal of illegal modifications cannot be used to mitigate new adverse impacts to shoreline ecological functions and critical area functions when those modifications were made by the owner of the property that is the subject of the application.

8. Mitigation plans must be appropriate for the scale and scope of the project, and include adequate information for the decision maker to determine that the project and application are in conformance with approval criteria. Potential components of an application include the following:

   a. For both the area proposed for development or vegetation removal, and the proposed mitigation site, the applicable items listed in SJCC Section 18.80.020(C) (Project Permit Applications-Forms) as well as photographs of both the development and mitigation sites;
   b. The field located OHWM;
   c. A mitigation sequencing analysis;
   d. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act SEPA;
   e. For both the area proposed for development or vegetation removal, and the proposed mitigation site, applicable critical area reports, critical area delineations and Best Available Science BAS documents supporting the proposal;
   f. For both the area proposed for development or vegetation removal and the mitigation site, copies of any proposed or approved storm water and erosion control plan required by Chapter 18.60 SJCC;
g. 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 shall be based on the Best Available Science (BAS).

h. For offsite 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;

i. Grading and excavation details. If grading or excavation is proposed, pre- and post-construction contour plans are required at a scale that is suitable for the site;

j. 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;

k. Any other drawings necessary to illustrate the proposal;

l. Monitoring and adaptive management plans appropriate for the scale and scope of the project. These plans must describe measurable data that will be collected to assess the effectiveness of the project, must include a monitoring schedule (monitoring is required at least once each calendar year, with a report submitted to the Department by November 1), and must explain corrective actions that will be taken to deal with any problems. The project shall be monitored for three (3) years or until the director determines that it is successful, functioning as designed, and that established performance standards have been met.

m. For mitigation of adverse impacts to wetlands, the plan, 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*; and *Wetland Mitigation in Washington State - Part 2, publication 06-06-011b*. 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* or another mitigation approach or publication approved by WDOE Ecology.

n. A description of the report author’s education and experience relevant to designing and implementing the proposed actions;

o. 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 project is anticipated to be fully completed and functional as determined by the qualified professional and approved by the decision maker (director or hearing examiner, depending on type of underlying permit);

p. Financial Guarantee. Unless exempt under RCW 36.32.590, a financial guarantee and associated agreement covering 115% of the cost of implementing the mitigation and monitoring plans. This guarantee and the associated agreement must
meet the requirements of SJCC 18.80.200, and for mitigation of adverse impacts to
Wetlands and Fish and Wildlife Habitat Conservation Areas, it must initially be
established to cover a time period of three (3) years or until the project is anticipated
to be fully completed and functional as determined by the qualified professional and
approved by the decision maker (director or hearing examiner, depending on type of
underlying permit). Note: The maximum cost to the property owner is the original
cost for implementing and monitoring the project, plus 115% of that cost;
q. A statement, signed by the property owner, agreeing to periodic inspections as
established in the monitoring plan. The purpose of inspections is to determine
compliance with approved plans. and 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 shall be by appointment or
following advance written notice.

9. Mitigation Plan Approval Criteria. Approval of mitigation plans shall be based on
conformance with the following criteria:

a. The application includes the applicable items listed in Section 12(F)(8) of this
ordinance.
b. Mitigation is authorized or required by the UDC.
c. The mitigation, monitoring and adaptive management plans were developed by
qualified professionals. For wetlands, the plans, including associated wetland
replacement ratios, shall be are consistent with the guidance provided in Wetland
publication 06-06-011a; and Wetland Mitigation in Washington State - Part 2,
publication 06-06-011b. These and other wetland mitigation and monitoring guidance
documents are available from the Department of Ecology. As an alternative,
mitigation requirements may be determined through application, by a qualified
professional, of procedures described in Ecology Publication No. 10-06-011,
Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western
Washington or another mitigation approach or publication approved by Ecology.
d. Mitigation actions are consistent with the above mitigation sequence.
e. When feasible, adverse impacts shall be mitigated on site. If this is not possible,
and offsite mitigation is proposed, the mitigation site shall be located on the same
island, as close as possible to the development site.
f. If removal of an illegal modification is proposed as mitigation, the modification
shall not have been constructed by the owner of the property or properties that are the
subject of the application.

10. Recording of Approved Plan and Notice to Title. The County shall record a copy of
the approved mitigation plan, along with a Notice to Title referencing the plan, with the
cost of recordation included in the application fee.
Planning Commission Recommended Text in PA Approved Format (includes non-substantive PA and Staff amendments) #1

11. If the goals, objectives and performance standards of the mitigation plan are not met, the decision maker may require additional actions and may extend or additional monitoring. To allow for successful completion of the mitigation project, the monitoring period, financial guarantee and associated agreement may be extended.

G. All shoreline uses and activities must be located, designed, constructed, and managed to minimize interference with natural shoreline processes such as water circulation, sand and gravel movement, erosion, and accretion.

H. Land clearing, grading, filling, and alteration of natural drainage features and land forms must be designed to prevent maintenance problems or adverse impacts to adjacent properties or shoreline features.

I. All shoreline developments must be located, constructed, and operated so as not to be a hazard to public health and safety.

J. All shoreline uses and activities must be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works, such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties, or substantial site regrades.

K. Herbicides and pesticides may not be applied to or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies. (Ord. 2–1998 Exh. B § 5.4.4)

SECTION 13. SJCC 18.50.080 and Ord. 2-1998 Exh. B § 5.4.5 are each amended to read as follows:

18.50.080 ((Environmentally sensitive areas)) Critical Areas.

When located in an environmentally sensitive area overlay district or its buffer, shoreline uses and activities must be located, designed, constructed, and managed in accordance with the applicable requirements of SJCC 18.30.110 through 18.30.160, environmentally sensitive areas: The San Juan County Critical Area Regulations as codified in SJCC 18.30.110-160, as adopted in Ordinances 52-2008, 27-2012, _______ , are herein incorporated into this master program the SMP except as noted below.

A. If provisions of the Critical Area Regulations and other parts of the master program conflict, the provisions most protective of the ecological resources shall apply, as determined by the Director;

B. Provisions of the Critical Area Regulations that are not consistent with Chapter 90.58 RCW (the Shoreline Management Act) and supporting WACs shall not apply in Shoreline jurisdiction;

C. SJCC 18.30.110 Reasonable Use Exception;

D. SJCC 18.30.110 Critical Area Mitigation Requirements:
E. SJCC 18.30.110 Existing Legally Established Structures, Uses and Activities;
F. SJCC 18.30.110 Nonconforming Structures, Uses and Activities; and
G. SJCC 18.30.160 Standards and Requirements for Shoreline Modifications

SECTION 14. SJCC 18.50.100; Res. 145-1998; and Ord. 2-1998 Exh. B § 5.4.7 are each amended to read as follows:

18.50.100 Public access.
A. Except as provided in subsections (B) and (C) of this section, activities requiring shoreline substantial development permits or conditional uses permits shall provide public access, reflecting both nexus and proportionality of the action, where any one of the following conditions are present:
1. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact;
2. Where a development or use will interfere with an existing public access way existing on the development or use date of application, the developer shall provide public access to mitigate this impact; Developments may interfere with access on their development site by blocking access or by discouraging use of existing on-site or nearby accesses;
3. Where uses which are not a priority shoreline use under the Shoreline Management Act SMA will locate on the shoreline of the state, the use or development shall provide public access to mitigate this impact, or the shoreline consistent RCW 90.58.020;
4. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact;
5. A land division creating five (5) or more lots or residences; or
6. Where a development is proposed by a public entity, Whenever public access is required, and the permit file shall describe the development’s impact, the required public access conditions, and how the conditions address the impact.

B. An applicant need not provide public access where one or more of the following conditions apply:
1. Land divisions creating no more than four (4) new residences or lots;
42. Unavoidable health or safety hazards to the public exist which cannot be prevented by practical means;

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

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

45. Unacceptable environmental harm will result from the public access which cannot be mitigated; or

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

7. A countywide public access planning process has been carried out by the County that provides more effective public access than single project access requirements; or

8. Other legal limitations that may be applicable.

C. In order to meet any one of the conditions in subsections (B)(4-2) through (B)(5-8) of this section, the applicant must first demonstrate and the County determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

1. Regulating access by means such as maintaining a gate and/or limiting hours of use;

2. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and

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

D. Developing uses and activities shall be designed and operated to avoid blocking, reducing or interfering with the public’s physical accesses to the water and shorelines.

E. Public access provided by shoreline street ends, public utilities, and rights-of-way may not be diminished (RCW 35.79.035 and RCW 36.87.130).

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

G. Required public access sites shall be fully developed and available for public use at the time of the occupancy of the use or activity.

H. Public access easements or common areas and permit other conditions shall be recorded on the deed of title and/or on the face of a plat for a subdivision or short subdivision as a condition running contemporaneously concurrently with the authorized land use. Said recordings shall occur at the time of permit approval (RCW 58.17.110).

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

J. Future actions by the
permit holder property owner shall not diminish the usefulness or
value of the public access provided.

K. A public access plan for Eastsound, consistent with the Eastsound Subarea Plan (Chapter
16.55 SJCC), has been developed by the County (Resolution 29–1996) in cooperation with
waterfront property owners and adopted as part of this master program the SMP for the village
commercial waterfront.

SECTION 15. SJCC 18.50.120; and Ord. 2-1998 Exh. B § 5.4.9 are each amended to read
as follows:

18.50.120 Signs.

In addition to the standards in SJCC Chapter 18.40 through 18.40.400 the following apply:

A. Regulations.

1. Plans and designs for nonexempt signs must be submitted for review at the time of
shoreline permit application.

2. All signs must be located and designed to minimize interference with vistas,
viewpoints, and visual access to the shoreline. Signs located outside of activity centers shall
not be facing or directed towards the water, except as provided in subsection (A)(3) of this
section.

3. Over-water signs or signs on floats or pilings are allowed only if directly related to
the operations of a water-dependent use.

4. Light sources for externally lighted signs must be hooded, shaded, or aimed shall be
shielded or recessed so that the direct light will not result in glare when viewed from
surrounding properties or watercourses. Internally lighted signs are prohibited, and
reflections are contained within the boundaries of the lot. No lighting shall blink or flash.

Exterior lighting fixtures must be shielded and the light must be directed downward and
away from:

a. Wetlands;
b. Wetland buffers;
c. Fish and wildlife habitat conservation areas and associated buffers;
d. Adjoining properties; and
e. Public roads and/or rights-of-way.

5. Signs related to specific on-site uses or activities must not exceed the maximum size
limits specified in SJCC Chapter 18.40 through 18.40.400. With the exception

of residential and marina designations within Eastsound. On-site freestanding signs must
not exceed six feet in height as measured from highest point to natural or altered grade elevation. Within Eastsound free standing signs must not exceed five feet in height as measured from highest point to natural or altered grade elevation. On-site freestanding signs on public property shall not exceed nine (9) feet in height as measured from the highest point to average the natural or altered grade. When feasible, signs must be mounted flush against a building.

6. Allowable Signs. The following types of signs may be allowed in all shoreline environments designations:

a. Water navigational signs and water way and roadway safety and directional signs.

b. On-premises public information signs directly relating to an allowed shoreline use or activity.

c. Off-premises, freestanding signs for community identification, information, or directional purposes, if consistent with this section and SJCC Chapter 18.40 SJCC 18.40.370 through 18.40.400.

d. National, state and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

e. Temporary directional signs to public or quasi-public events if removed within the 10 days 72 hours following the event.

f. No-trespassing signs and no-hunting signs, not to exceed two square feet; and

g. Political signs provided that they shall not be erected more than 45 days prior to an election and shall be removed no more than 72 hours following the election.

7. Signs mounted flush to the wall of a building must not extend above the highest point on the wall to which they are mounted. Signs mounted at right angles to the wall of a building and freestanding signs must not be more than 15 feet above average grade, measured from the top of the sign and may not exceed 2.5 square feet per face.

B. Additional Regulations by Environment Designation.

1. Rural, Rural Residential and Ports, Marinas and Marine Transportation. In rural, rural residential, Eastsound marina and Eastsound residential environments, and ports, marinas and marine transportation designations, freestanding signs shall not be more than five six feet above grade in height, measured from the top of the sign to average grade, except as otherwise provided in this code SMP.

2. Conservancy. In the conservancy environment, outdoor advertising designation signs shall be allowed only if they are mounted flush to the wall of an approved structure and relate directly to that structure or use a building.

3. Natural and Aquatic. In natural and aquatic environments designations, signs shall be prohibited except for traffic signs, official warning signs, signs identifying public facilities,
and other signs required by law; provided, that outdoor advertising other signs may be
allowed in the aquatic designation environment only if they are mounted flush to the wall
of an allowed over-water structure and only if they could not as effectively be located on
land.

C. Prohibited Signs. The following types of signs are prohibited:

1. Signs which significantly impair visual access to the shoreline.
2. Off-premises outdoor commercial advertising ‘A-frame’ signs.
3. Spinners, streamers, pennants, flashing lights, internally lit signs, and other animated
   signs used for commercial purposes.
4. Signs placed on trees or other natural features.

5. Signs not in conformance with performance standards in SJCC 18.40.370 through
   18.40.400. (Ord. 2-1998 Exh. B § 5.4.9)

SECTION 16. SJCC 18.50.160; and Ord. 2-1998 Exh. B § 5.5.1 are each amended to read
as follows:

18.50.160 General regulations.

A. Uses Not Identified in This SMP. Shoreline uses not specifically identified in this master
program the SMP and for which regulations have not been developed will be evaluated on a
case-by-case basis and shall be allowed-permitted only as conditional uses. Such use proposals
will be required to satisfy be consistent with the policies of the Shoreline Management Act SMA,
the goals and general policies of this SMP, and to be consistent with the character and
management policies of the designated shoreline environment in which designation they are
proposed to be located in. A shoreline conditional use permit is required.

B. The use regulations in Section 17 through Section 39 of this ordinance specify what will be
required of any development located within a shoreline area. These regulations are directly
supportive of the adopted policies for each designated environment designation and use. In the
development of the regulations, the special character of each designation has been recognized.
The regulations seek to reflect and preserve that character wherever appropriate. To this end,
each of the use categories is composed of several regulation sections. In each case, one section
contains regulations of general applicability in all environments designations where the use is
allowed. The succeeding sections contain additional regulations required for the conduct of an
activity in a specific shoreline environment designation. Where possible and appropriate, the
specific use, permit type and designation have been addressed in Table 5.2, Allowed and
Prohibited Uses.

C. Shoreline development shall not result in a net loss of shoreline ecological functions or
adversely impact other shoreline uses, resources and activities such as navigation, recreation and
public access. Impacts to shoreline resources must be mitigated consistent with the provisions of Section 12 of this ordinance.

SECTION 17. SJCC 18.50.170; and Ord. 2-1998 Exh. B § 5.5.2 are each amended to read as follows:

18.50.170 Agriculture

A. General Regulations.

1. Buffers of permanent vegetation or other suitable soil erosion controls shall be established and maintained between tilled or grazed areas and associated water bodies. The type and extent of such vegetation and other controls shall be of a width or character sufficient to prevent surface runoff and reduce silting sediments and other compounds.

2. Confined animal feeding operations, retention of storage ponds for feedlot wastes, and stockpiles of manure solids shall be located to prevent the pollution of water areas water contamination consistent with Control guidelines prepared by the U.S. Environmental Protection Agency and the requirements of state and local agencies shall be observed.

3. Commercial feedlots shall not be permitted on the shorelines prohibited.

4. All agricultural activities performed within watersheds for ground water collection or adjacent to shorelines shall develop a water quality conservation plan with the local USDA representative in line with “best management practices” and with the goal of protecting water quality. Agricultural activities conducted on agricultural resource lands will include the water quality plan as a portion of the five-year plan filed with the County assessor.

5. New agricultural activities in the shoreline jurisdiction shall be located, designed, constructed and managed to ensure no net loss of ecological functions.

B. Regulations by Environment Designation.

1. Urban. Agricultural activities shall be permitted in the urban environment subject to the policies and regulations contained in this master program.

2. Rural. Same as urban.

3. Rural Residential. Same as urban.

4. Rural Farm-Forest. Same as urban.
5. — Conservancy. Same as urban.

6. 1. Natural. Agricultural activities may be permitted in the natural environment designation subject to a conditional use permit; provided, that the resource which is to be protected by the natural designation will not be degraded.

7. — Aquatic. Agricultural activities proposed for the aquatic environment are considered to be aquacultural activities and the policies and regulations of SJCC 18.50.180, Aquaculture, shall govern.

8. — Eastsound Urban, Eastsound Residential, Eastsound Marina District and Eastsound Conservancy. Same as urban.

9. — Eastsound Natural. Same as natural.

10. — Shaw Rural, Shaw Rural Farm Forest and Shaw Conservancy. Same as urban.

11. — Shaw Natural. Same as natural. (Ord. 2-1998 Exh. B § 5.5.2)

SECTION 18. SJCC 18.50.180; and Ord. 7-2005 § 11 and 12; Ord. 2-1998 Exh. B § 5.5.3 are each amended to read as follows:

18.50.180 Aquaculture

A. General Regulations.

With the exception of shellfish aquaculture consistent with subsection B. aquaculture shall comply with the following standards.

1. Because all shorelines within the County seaward of the line of extreme low tide have been designated “shorelines of statewide significance,” aquaculture activities proposed in that area shall be subject to, first, the policies referred to in Section 3.2.H of the goals and policies element of the SMP, Shorelines of statewide significance and second, the general and use-specific regulations contained in this chapter.

2. No s Structures or facilities which that would have a significant adverse impact on the natural, dynamic processes of shoreline formation and change shall be approved or constructed. Shoreline ecological functions are prohibited.

3. No aquatic organism shall be introduced into San Juan County salt or fresh waters without prior written approval of the Washington Department of Fish and Wildlife, WDNR, Washington Department of Natural Resources, the San Juan County Noxious Weed Control Board or the appropriate regulatory agency for the specific organism proposed for introduction. The required approval shall be submitted in writing to the permit center Department prior to the introduction of the organism or the granting of the permit decision, whichever comes first. Introduction, for purposes of this section, shall mean the placing of any aquatic organism in any area within the waters of San Juan County regardless of
whether it is a native or resident organism within the San Juan County and regardless of whether it is being transferred from within or beyond the waters of San Juan County.

4. The County shall not issue permits for projects that include the introduction of aquatic organisms to salt waters until it has also requested written comment, and provided reasonable opportunity to comment on the proposed introduction, from the director of the University of Washington Friday Harbor Laboratories.

5. Unless otherwise provided in the shoreline permit issued by the County, after a permit is issued the repeated introduction of an approved organism in the same location shall not require subsequent approval by the County. Introduction, for purposes of this section, shall mean the placing of any aquatic organism in any area within the waters of San Juan County regardless of whether it is a native or resident organism within the County and regardless of whether it is being transferred from within or without the waters of San Juan County.

6. Aquacultural activities shall comply with all applicable governmental noise, light, glare, air pollution, and water quality standards, including those in Chapter 18.60 SJCC. All activities shall be operated and maintained to minimize odor and noise. Aquaculture operations shall minimize adverse impacts on nearby residents. It is recognized that some adverse impacts from odor, noise and light may be unavoidable and shall not be considered sufficient cause to deny a project application.

7. Aquacultural activities shall be restricted to reasonable hours, subject to tides, and days of operation, when necessary to minimize significant, adverse impacts from noise, light, and glare on nearby residents.

8. Aquacultural structures and equipment, except navigation aids, shall be designed, operated, and maintained to blend into their surroundings through the use of appropriate colors and materials. Aquacultural structures and equipment shall not adversely impact the aesthetic qualities of the surrounding area.

9. The County may require of commercial aquaculture permittees applicants evidence of to provide a financial responsibility guarantee in an amount commensurate with the risk of injury or damage to any person, property, or environment as a result of the project. Evidence of Financial responsibility guarantees shall not duplicate requirements of other agencies.

10. Where aquacultural projects are authorized to use public facilities, such as boat launches or docks, the County shall reserve the right to require the applicant to pay a portion of the cost of maintenance and any required improvements commensurate with the applicant’s use.

11. All aquacultural structures and facilities shall be marked in accordance with U.S. Coast Guard requirements.
1. Aquaculture structures and equipment shall be of sound construction and shall be maintained properly. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the County shall require evidence of financial guarantee responsibility in an amount commensurate with the cost of removal or repair. The County will abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in 30 days. The County may take such action as necessary to enforce the financial guarantee responsibility of the applicant. Evidence of financial guarantees responsibility shall not duplicate requirements of other agencies.

2. Applications shall include in their applications all adequate information to determine that the proposed operation complies with this SMP. As far as practicable, application shall needed to conduct thorough evaluations of their aquaculture proposals, including the following:

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. No 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 Departments of Ecology, Fish and Wildlife, and Agriculture, (as required), and proof of such approvals has been submitted to the County;

c. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances, and their predicted impacts;

d. Manpower or Number of employees; men necessary for the project;

e. Harvest and processing location, method, and timing;

f. Location and plans for any shore-side activities, including loading and unloading of the product, processing, and any use of freshwater supplies;

g. Methods of waste disposal and predator control;

h. An environmental assessment, including best available background 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 existing 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 where appropriate, submit
documents previously submitted to other agencies. Baseline monitoring shall be at the
applicant’s expense unless otherwise provided for;

h. For floating facilities, the County may require a visual impact analysis
consisting of information comparable to that found in the Washington Department of
Ecology’s WDOE’s “Aquacultural Siting Study” of 1986; and

i. Other pertinent information deemed necessary by the administrator/Director.

411. Legally established aquaculture enterprises, including authorized experimental
projects, shall be protected from incompatible uses which may seek to locate nearby.
Demonstration of a high probability that such an adjacent use would result in damage to or
destruction of such an aquaculture enterprise shall be grounds for the denial of that use.

4512. Operational monitoring of commercial aquaculture facilities may be required if and
to the extent that it is necessary to determine, ensure, or confirm compliance with predicted
or required performance. Monitoring shall, as appropriate, be consistent with federal and
state requirements. Such monitoring requirements shall be established as a condition of the
permit and shall be conducted at the applicant’s or operator’s expense.

4613. 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 and processing facilities shall be located on land and shall be
governed by the policies and regulations of SJCC 18.50. Section 30 of this ordinance

Ports and water-related port facilities, in addition to the policies and regulations in
this section.

4714. Aquaculture wastes must be disposed of in a manner that will ensure compliance
with all applicable governmental waste disposal standards. No garbage, wastes, or debris
shall be allowed to accumulate at the site of any aquaculture operation.

4815. Aquaculture uses and facilities must be located at least 600 feet from any national
wildlife refuge lands, or habitats of special significance for birds or mammals (as
identified in recognized reference documents, such as the Washington Department of
Ecology publication, “Washington Coastal Areas of Major Biological Significance,” or as
determined by the Washington Department of Fish and Wildlife). Fish net pens and
projects involving substantial substrate modification shall be located 1,500 feet or more
from such areas; however, lesser distances may be authorized by permit if it is
demonstrated by the applicant that the wildlife resource will be protected and if the
exception is supported by the reviewing resource agencies. Greater distances also may be
required if supported by the reviewing resource agencies, marine protected areas and state
or county parks.

16. Aquaculture uses and facilities may intrude into or over critical saltwater habitats
where an alternative alignment or location is not practicable and potential adverse impacts
are identified and mitigated to ensure no net loss of shoreline ecological functions.

17. Commercial fish net-pens and projects involving substantial substrate modification shall be located 1,500 feet or more from national wildlife refuges, marine protected areas and state or county parks; however, lesser distances may be authorized by permit if it is demonstrated by the applicant that the wildlife resource will be protected and if the exception is supported by the reviewing resource agencies. Greater distances also may be required if supported by the resource agencies reviewing the application.

4918. 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-foot-high fencing or netting for otters. The use of other nonlethal, nonabusive predator control measures shall be consistent with state and federal policies, regulations and permits. Additional written approval from the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, may be required.

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

2420. For commercial aquaculture projects using over-water structures, storage of necessary tools and apparatus seaward of the ordinary high water mark OHWM shall be limited to containers of not more than three feet in height, as measured from the surface of the raft or dock. However, in locations where the visual impact of the proposed commercial aquaculture structures will be minimal, the County may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant.

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

22. Proposals for mechanical clam harvesting or other actions that involve substantial substrate modification through dredging, trenching or digging or adverse sedimentation shall not be allowed prohibited in existing kelp beds or in beds of native eelgrass (Zostera marina) containing more than two turions per one quarter square meter in winter or three turions per one quarter square meter in summer. all eelgrass beds.

23. Fish net-pens shall meet, as a minimum, state-approved guidelines for the management of net-pen cultures. Where any conflict in requirements arises, the more stringent requirement shall prevail.

24. Individual fish net-pens shall not occupy more than two surface acres of water area, excluding necessary booming and anchoring.

25. Commercial aquaculture proposals that include net pens or rafts shall not be located closer than one nautical mile to any other commercial aquaculture facility that includes net pens or rafts. However, a lesser distance may be authorized by the County if the applicant can demonstrate to the County’s satisfaction that the environmental ecological
and aesthetic concerns expressed in protection requirements of this SMP will be protected met. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the structures, storage of necessary tools and apparatus seaward of the ordinary high water mark shall be limited to containers of not more than three feet in height, as measured from the surface of the raft, cumulative impacts of the existing and proposed operations will not be contrary to the regulations of this SMP.

26. Except as provided in subsection (A)(25) of this section, experimental and non-commercial aquaculture developments shall not exceed five acres in area (excluding anchorage for floating systems) and five years in duration. The County may, however, issue a new permit to continue an experimental project as many times as is deemed necessary and appropriate.

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

28. For all new development commercial aquaculture projects that would be likely to affect water quality or quantity affecting a permitted with potential adverse impacts on an allowed and currently established aquaculture project, a separate administrative review shall be completed prior to issuing any project permit. The administrator Director may request research or analysis, as necessary, by appropriate experts such as hydrologists or marine biologists, to assist in determining that marine water quality impacts will not damage or destroy the established aquaculture use, based on a preponderance of the evidence. No development project permit shall be granted if the established aquaculture operation will likely be damaged or destroyed based on a preponderance of the evidence.

B. Shellfish aquaculture.

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

   a. Where a feasible alternative alignment exists, the project does not intrude into critical saltwater habitats on shorelines of statewide significance;

   b. The project does not exceed the shoreline substantial development permit exemption criteria at SJCC 18.50.020(E)(4)(a). Section7 of this ordinance Shellfish
aquaculture projects that exceed the substantial shoreline development project
threshold shall be subject to the applicable regulations in Section A above.

2. Shellfish aquaculture and supplemental wild stock seeding shall document their
compliance with all state and federal requirements, including Hydraulic Project Approval,
Department of Health certification and license, or Shellfish Import or Shellfish Transfer
permits, where applicable as part of the application. Where projects conflict with public
access or navigation, or adversely impact critical saltwater or freshwater habitats, a
Conditional Use Permit is required.

3. Certificate of exemption for shellfish aquaculture applications shall include adequate
information to determine that the proposed operation complies with this SMP. As far as
practicable, the application shall include the following:

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. No 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 Departments of Ecology, Fish and Wildlife,
and Agriculture, (as required), and proof of such approvals has been submitted to the
County;

c. Documented compliance with all state and federal requirements, including,
where appropriate, Hydraulic Project Approval, Department of Health certification
and license, or Shellfish Import or Shellfish Transfer permits;

d. Number of employees;

e. Harvest and processing location, method, and timing;

f. Location and plans for any shore-side activities, including loading and
unloading of the product, processing, and any use of freshwater supplies;

g. Methods of waste disposal and predator control;

h. An assessment of the environment, including best available background
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. Additional studies may be required
depending upon the adequacy of available information, the conditions existing on the
date of the application and probable adverse impacts. Applicants may, where
appropriate, submit documents previously submitted to other agencies. Monitoring,
where necessary, shall be at the applicant’s expense unless otherwise provided for; and
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i. Other pertinent information deemed necessary by the Director to demonstrate compliance with County regulations.

### Regulations by Environment Designation

1. **Urban.** Aquacultural activities shall be permitted in the urban environment subject to the policies and regulations of this master program.

2. **Rural.** Aquacultural activities shall be permitted in the rural general use environment subject to the policies and regulations of this SMP; provided, that the proposed structures and facilities will not have a significant adverse impact on the aesthetic qualities of the surrounding area.

3. **Rural Residential.** Aquacultural activities shall be permitted in the rural residential environment subject to the policies and regulations of this SMP; provided, that the proposed structures and facilities will not have a significant adverse impact on the aesthetic qualities of the surrounding area. Commercial aquacultural project proposals containing net-pen facilities shall be located no closer than 1,500 feet from the OHWM of this designation, unless a lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within 1,500 feet of the OHWM but in such cases a visual analysis shall be mandatory.

4. **Rural Farm Forest.** Same as rural.

5. **Conservancy.** Aquacultural activities shall be allowed permitted in the conservancy environment subject to the policies and regulations of this SMP; provided, that the natural resources and ecological functions of the environment will not be significantly altered; and provided further, that the required structures and facilities, both terrestrial and aquatic, will not have a significant adverse impact on the aesthetic qualities of the surrounding area.

6. **Natural.** Aquacultural activities that do not require structures or facilities or mechanized harvest practices and that will not result in no net loss of shoreline ecological functions the alteration of natural systems or features shall be permitted in the natural environment subject to the policies and regulations contained in this SMP.

7. **Aquatic.** Aquacultural activities shall be permitted allowed in the aquatic designation environment subject to the policies and regulations of this SMP and to the regulations by environment applicable to the most restrictive abutting shoreline environment designation, to be determined on a case-by-case basis but to be considered generally as the shoreline designation environment visible within 1,500 feet directly landward of the center of a the project site; provided, that the policies and The regulations of a less restrictive abutting designation environment may be substituted if the Director administrator determines that the public interest would not be compromised by doing so.

8. **Eastsound Urban, Eastsound Residential, and Eastsound Marina.** Same as urban.
9. Eastsound Conservancy. Same as conservancy.
10. Eastsound Natural. Same as natural.
11. Shaw Rural and Shaw Rural Farm-Forest. Same as rural.
12. Shaw Conservancy. Same as conservancy.
13. Shaw Natural. Same as natural. (Ord. 7-2005 §§11, 12; Ord. 2-1998 Exh.B§5.5.3)

SECTION 19. SJCC 18.50.190 and Ord. 7-2005 §13; Ord. 12-2000 § 2; Res. 145-1998; Ord. 2-1998 Exh. B § 5.5.4 are each amended to read as follows:

18.50.190 Boating facilities (including docks, piers, and recreational floats).

Shoreline Modification Regulations - Overwater structures including boating facilities, docks, piers, mooring floats, mooring buoys and recreational floats

Notwithstanding any other provision of this code, all docks, floats, piers or other moorage structures in village and hamlet activity centers, including any breakwater attendant to such moorage structures, except those regulated under subsection (G) of this section (residential docks) shall be prohibited. This provision shall not affect the ability of an applicant to obtain required approvals to repair, replace, enhance, modify, or enlarge any existing dock, float, pier or other moorage structure in a manner consistent with existing law.

A. Exemptions. Docks, as specified in SJCC 18.50.020(F), are exempt from the requirement for a shoreline substantial development permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(2)(h).

AB. General Regulations.

1. Boating facilities shall be designed to minimize adverse impacts on marine life and the shore process corridor and its operating systems.

1. All overwater structures including boating facilities, docks, piers, mooring buoys and, mooring and recreational floats shall be designed to avoid, or if that is not possible, minimize adverse impacts on marine and aquatic life and the shore process corridor and its operating systems. Overwater structures shall be restricted to the minimum size necessary to meet the requirements of the proposed water-dependent use.

2. Boating facilities shall be designed to make use of the natural site configuration to the greatest possible degree.

2. All overwater structures shall be sited and designed to avoid, or if that is not possible, to minimize the need for new and maintenance dredging.

3. All boating facilities shall comply with the design criteria established by the State Department of Fish and Wildlife relative to disruption of currents, restrictions of tidal...
prisms, flushing characteristics, and fish passage to the extent that those criteria are consistent with protection of the shore process corridor and its operating systems. All overwater structures, including new and modifications or replacements of already existing facilities, shall comply with design criteria established by the State Department of Fish and Wildlife relative to disruption of currents, restrictions of tidal prisms, flushing characteristics, and fish passage to the extent that those criteria are consistent with protection of the shore process corridor and its operating systems, found in Table 5.14 below.

4. Areas with poor flushing action shall not be considered for overnight or long-term moorage facilities.

4. All new or enlarged overwater structures shall include at least one (1) safety ladder per every sixty (60) lineal feet.

5. In general, only one form of moorage or other structure for boat access to the water shall be allowed on a single parcel: such as a dock, or a marine railway or a boat launch ramp may be permitted subject to the applicable provisions of this code. A mooring buoy may be allowed in conjunction with another form of moorage, to serve single lots or areas with community use docks. In addition, however, multiple forms of moorage or other structures for boat access to the water may be allowed on a single parcel if:

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

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

6. Structures on piers and docks shall be prohibited, except as provided for marinas in subsection (H) of this section.

C. General Regulations – Docks, Piers, and Recreational Floats.

7. When feasible, public access and ecological restoration shall be incorporated into publicly financed projects.

8. With the exception of residential docks, all new boating facilities in village and hamlet activity centers, including any breakwater attendant to such moorage structures are prohibited. Repair, replacements, enhancements, modifications, or enlargements of any dock, float, pier or other moorage structure existing before the effective date of this SMP are allowed under this chapter.

9. Multiple use and expansion of existing facilities are overwater structures existing at the time of application is preferred over construction of new docks and piers.
210. Mooring buoys shall be preferred over docks and piers on all marine shorelines except in the cases of port, commercial, or industrial development in the urban environment.

311. Moorage floats, unattached to a pier or floating dock, are preferred over boating facilities, docks and piers.

12. Joint-use or community docks are preferred over single use docks.

413. Every application for a shoreline substantial development permit for dock or pier construction shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline. Boating facilities, docks, pier or moorage floats shall be evaluated to ensure that adverse impacts will be minimized and that impacts identified will be mitigated in accordance with SJCC 18.50, Section 12 of this ordinance. At a minimum the following shall be evaluated:

   a. Littoral drift;
   b. Sand movement;
   c. Water circulation and quality;
   d. Fish and wildlife;
   e. Navigation;
   f. Scenic views; and
   g. Public access to the shoreline.

514. Docks or piers which overwater structures that can reasonably be expected to interfere with the normal erosion-accretion process associated with feeder bluffs shall not be permitted; be prohibited.

615. Abandoned or unsafe docks and piers overwater structures shall be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the County may, following notice to the owner, abate the structure if the owner fails to do so within a reasonable time and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

716. Unless otherwise approved by shoreline conditional use permit, boats moored at residential docks, piers, mooring and recreational floats shall not be used for commercial overnight accommodations.

8. Use of a dock for regular float plane access and moorage shall be allowed only by shoreline conditional use permit and shall be allowed only at commercial or public moorage facilities or at private community docks.
DB. Regulations – General Design and Construction Standards.

1. Pilings must be structurally sound prior to placement in the water.

2. Chemically treated for coated piles, floats, or other structural members in direct contact with the water shall be non-toxic and consistent with materials as approved by the Environmental Protection Agency, U.S. Army Corps of Engineers, the WDOE and other applicable state agencies.

3. Pilings employed in piers or any other structure shall have a minimum vertical clearance of one foot above extreme high water along marine shorelines or OHWM along lakes.

4. All floats shall include stops which serve to keep the bottom of the float off tidelands at low tide or off the substrate in lakes.

5. When plastics or other nonbiodegradable materials are used in float, pier, or dock construction, full containment features in the design of the structures shall be required.

4. Non-biodegradable materials in float, pier, or dock construction shall be shielded and enclosed to prevent disintegration through use.

6. Overhead wiring or plumbing is not permitted on piers or docks.

7. New or relocated boathouses or covered moorages are prohibited on floats, piers and docks over water structures. Other structures on floats, piers, and docks shall be limited to three feet in height as measured to the highest point from the deck surface.

8. A pier shall not extend offshore farther than 50 feet beyond the extreme low tide contour in marine waters.

9. Dock lighting shall be designed to shine downward, be of a low wattage, and shall not exceed a height of three feet above the dock surface. Other exterior lighting fixtures must be shielded and the light must be directed downward and away from:

a. Wetlands;

b. Wetland buffers;

c. Fish and wildlife habitat conservation areas and associated buffers;

d. Adjoining properties; and

e. Public roads and/or rights-of-way.

10. All construction-related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly. Where feasible, floats shall be secured with anchored cables in place of pilings, provided that the cabling has a mid-line float or similar mechanism to keep the cable from dragging and disturbing the bottom substrates, vegetation and aquatic life.
104. **Materials used in dock construction shall be** Overwater structures must be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. In general, the exterior finish of all structures shall be non-reflective and of a color and finish that will blend visually with the background.

C. **Regulations – Boating facilities.**

1. As defined in SJCC 18.20.020, boating facilities are developments and uses that support access to shoreline waters for purposes of boating, including marinas, docks serving five or more single-family residences or multi-family units, moorage floats or buoys serving five or more single family residences, public docks, and boat launch facilities serving five or more single-family residences:

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

   a. The public need for such an intrusion is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020. To demonstrate how the project protects the public trust the applicant shall, as part of the application submit a narrative in the application that:

      i. **Demonstrates** the proposal is consistent with the goals and policies and regulations of the County’s SMP appropriate to that location;

      ii. **Itemizes** demonstrates the project’s benefits for the public such as providing physical or visual access to the shoreline; and

      iii. **Shows** demonstrates that the development will not have an adverse impact on the navigability of adjacent waters.

   b. **Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose:**

   c. **The project, including any required mitigation, will result in no net loss of shoreline ecological functions associated with critical saltwater habitat; and**

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

3. Applications for boating facilities, with the exception of marinas, shall not be approved unless the applicant provides evidence that:

   a. **Facilities existing at the time of application are not adequate or feasible for use;** and

   b. **Alternative moorage, including marinas, mooring buoys, mooring floats, and**
joint use facilities, is not adequate or feasible.

4. The location, construction, management, and if necessary, mitigation of adverse impacts of new boating facilities and associated accessory uses in conformance with Section 12 of this ordinance, shall ensure there will be no net loss of shoreline ecological functions.

5. No part of a boating facility may be wider than 8 feet, except that the Director may approve community dock or marina components up to 10 feet wide at the discretion of the Director based upon if justified in documentation submitted consistent with Section 19(L) of this ordinance, below.

6. Boating facilities must be no longer than necessary to accommodate the intended use, consistent with the demand analysis provided per SJCC 18.50, Section 19(L) of this ordinance below.

7. Private boating facilities must be designed to accommodate no more than 1 boat per residential unit that shares a legal interest. These facilities may include 1 additional space for guests for every 10 residential units served.

8. Boating facilities shall be set back at least 10 feet from side property lines. However, a boating facility may be located adjacent to or upon a side property line when mutually agreed to by contract or by covenant with the owners of the adjacent property. A copy of such covenant or contract must be recorded with the County auditor in a format that will allow it to run with the title for both parcels and filed with the approved permit to run with the title to both properties involved.

E. Regulations—Joint-Use Community Piers, Docks, and Floats.

1. No more than one moorage facility shall be allowed as an accessory to any hotel, motel, multifamily residential development, or similar development.

2. Proposals for joint use community piers and docks shall demonstrate and document that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties.

3. Recreational floats shall be placed offshore no farther than 200 feet beyond extreme low tide, the minus 3 fathom contour, or the line of navigation, whichever is closest to shore (WAC 332-30-148(2)).

4. All waterfront subdivisions approved after the adoption of this SMP shall include or provide for construction of a single joint-use moorage facility by the lot owners if moorage is desired by the owners, in a designated, reserved area of the waterfront. Identification of a moorage site shall not be construed to indicate that a shoreline permit will be granted for that site. Subdivisions located where it would be physically impossible to construct such a facility shall be exempt from this provision. Individual docks and piers shall be prohibited; however, the County may authorize more than one moorage facility if a single facility
would be inappropriate or undesirable given the specific site and marine conditions. A legal easement must be dedicated to all lot owners for access to joint-use facilities.

5. The dimensional standards in subsection (G)(2) of this section shall apply.

D. Regulations - Private, residential, non-commercial and community joint-use docks, and moorage and recreational floats.

1. New Shoreline Land divisions. New land divisions with OHWM frontage shall be required to provide community docks rather than individual, private docks, if any docks are proposed.

2. Private, noncommercial and joint-use docks, piers, moorage and recreational floats serving fewer than 5 residences shall not intrude into or over shoreline critical areas unless the following criteria are met:
   a. Avoidance of impacts to critical salt and fresh water habitats by an alternative alignment or location is not feasible; and
   b. The project, including any required mitigation, will result in no net loss of shoreline ecological functions associated with critical saltwater habitat.

3. Applications for private noncommercial and joint-use docks, piers, moorage and recreational floats serving up to four (4) residences shall not be approved unless the applicant provides evidence that:
   a. It can be shown by the applicant that the facilities existing at the time of application are not adequate or feasible for use; and
   b. Alternative moorage, including mooring buoys, mooring floats, boating facilities and joint use facilities, is not adequate or feasible.

4. Size and Dimensions of Single owner and Joint-use Docks, Piers, Moorage and recreational floats.
   a. Single owner and joint use docks. The following regulations apply only to new residential docks serving four or fewer residential units. Deviations from the dimensional standards must be approved through a Shoreline Variance.

<table>
<thead>
<tr>
<th>Dock Element</th>
<th>Marine and Lake</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>No more than one dock is allowed per residential shoreline lot.</td>
</tr>
<tr>
<td>Type</td>
<td>Must be fixed pile or combination of fixed-pile and floating</td>
</tr>
<tr>
<td>Dock Element</td>
<td>Marine and Lake</td>
</tr>
<tr>
<td>--------------</td>
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</tr>
<tr>
<td><strong>Width</strong></td>
<td>Private residential, joint-use, community docks</td>
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<tr>
<td></td>
<td>• Pier: 6 feet</td>
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<td></td>
<td>• Float: 8 feet</td>
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<tr>
<td></td>
<td>• Ramp: 4 feet</td>
</tr>
<tr>
<td><strong>Length</strong></td>
<td>Pier and ramp: length as needed to extend float to position where moorage can occur with rise and fall of tides without resulting in either float or vessel grounding or adversely affecting the substrate.</td>
</tr>
<tr>
<td></td>
<td>• Boating facilities: length as determined by site and expected adverse impacts.</td>
</tr>
<tr>
<td></td>
<td>• Private/Joint use community docks float length: 30 feet for single-use, 60 feet for joint use or minimum necessary to achieve purpose and expected adverse impacts.</td>
</tr>
<tr>
<td><strong>Area</strong></td>
<td>Moorage floats unconnected to the land: 250 square feet.</td>
</tr>
<tr>
<td></td>
<td>Recreational floats unconnected to the land: 150 square feet.</td>
</tr>
<tr>
<td><strong>Height</strong></td>
<td>The bottom of any piers or the landward edge of any ramp must be the maximum height practicable, but not less than 1.5 feet above the OHWM. The freeboard height on all floats must be at least 10 inches.</td>
</tr>
<tr>
<td><strong>Decking</strong></td>
<td>Pier: grating is not required if width is 4 feet or less, otherwise decking/grating must allow for a minimum of 30 percent of ambient light to reach the water.</td>
</tr>
<tr>
<td></td>
<td>Single-use Float: 30 percent of ambient light is required if float is 6 feet wide or less, floats greater than 6 feet wide require decking/grating that allows 50 percent of ambient light to reach the water.</td>
</tr>
<tr>
<td></td>
<td>Joint-use Float: must have decking/grating that allows 50 percent of ambient light to reach the water.</td>
</tr>
<tr>
<td></td>
<td>Ramps: must be fully grated.</td>
</tr>
<tr>
<td><strong>Orientation</strong></td>
<td>As close to North/South as feasible to minimize shadows</td>
</tr>
<tr>
<td><strong>Safety Ladders</strong></td>
<td>Every 60 lineal feet.</td>
</tr>
</tbody>
</table>
Dock Element | Marine and Lake
--- | ---
Boat/ Watercraft lifts | Prohibited
Covered moorage / watercraft lift canopies | Prohibited

5. Docks shall be set back a minimum of 10 feet from side property lines. However, a joint-use or community dock may be located adjacent to or upon a side property line when mutually agreed to by contract or by covenant with the owners of the adjacent property. A copy of such covenant or contract must be recorded with the County auditor in a format that will allow it to run with the title for both parcels.

**FE. Regulations — Commercial/Industrial docks and piers.**

1. Substantial development permits for new docks or piers serving single commercial or industrial enterprises shall not be granted until nearby commercial and industrial enterprises have been contacted regarding their water access needs and plans. Where more than one enterprise needs and could realistically make use of a single moorage facility, permits for individual facilities shall not be granted.

2. Commercial and industrial moorage facilities and other docks and piers consisting of more than 20 moorage spaces shall be subject also to the applicable policies and regulations of this section.

32. Bulk fuel storage (retail or wholesale) for gasoline, oil, and other petroleum products for any use or purpose is prohibited on piers and docks. Bulk storage means nonportable storage in fixed tanks.

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

**G. Regulations—Residential Docks.**

1. New Shoreline Subdivisions. New subdivisions with shoreline frontage shall be required to provide community docks rather than individual, private docks, if any docks are proposed, as set forth in subsection (E) of this section.

2. Size and Dimensions of Docks, Piers, and Floats.
a. The maximum dimensions for a dock (including the pier, ramp, and float) associated with a single-family residence shall not exceed 700 total square feet in area. In addition, the length of the dock (including the pier, ramp, and float) may not extend more than 115 feet in length seaward of the ordinary high water mark. Docks exceeding these dimensions may only be authorized by variance.

b. The maximum dimensions for a joint-use dock (including the pier, ramp, and float) associated with two single-family residences shall not exceed 1,400 square feet in area. In addition, the length of the dock (including the pier, ramp, and float) may not extend more than 200 feet in length seaward of the ordinary high water mark. Docks exceeding these dimensions may only be authorized by variance.

c. The maximum dimensions for a joint-use community dock (including the pier, ramp, and float) associated with more than two single-family residences shall not exceed 2,000 square feet in total area. In addition, the length of the dock (including the pier, ramp, and float) may not extend more than 300 feet in length seaward of the ordinary high water mark. If a variance is granted to allow a dock exceeding these dimensions, its construction may only be authorized subject to the regulations for a marina.

d. Maximum length and width of a ramp, pier or dock shall be the minimum necessary to accomplish moorage for the intended boating use.

3. Side Yard Setbacks. Docks shall be set back a minimum of 10 feet from side property lines. However, a joint use community dock may be located adjacent to or upon a side property line when mutually agreed to by contract or by covenant with the owners of the adjacent property. A copy of such covenant or contract must be recorded with the County auditor and filed with the approved permit to run with the title to both properties involved.

4. Development of a dock on a lot intended for single-family residential purposes shall require a shoreline substantial development permit or a statement of exemption issued by the County.

5. Applications for nonexempt docks and piers associated with single-family residences shall not be approved until:

a. It can be shown by the applicant that existing facilities are not adequate or feasible for use;

b. Alternative moorage is not adequate or feasible; and

c. The applicant shall have the burden of providing the information requested for in subsections (A) and (B) of this section, and shall provide this information in a manner prescribed by the administrator.

**HF. Regulations – Marinas.**
1. No part of a marina’s overwater structure may be wider than 8 feet, except that the Director may approve marina components up to 10 feet wide if justified at the discretion of the Director based upon documentation submitted consistent with Section 19(L) of this ordinance, below.

2. Marina’s overwater structures must be no longer than necessary to accommodate the intended use, consistent with the demand analysis provided per Section 19(L) of this ordinance below.

43. Dredging or filling of wetlands for the sole purpose of constructing a marina shall be prohibited.

24. No marina shall be approved for construction within one-half mile of any outfall of a primary treated domestic or industrial sewage treatment facility except as a conditional use.

35. All service facilities within or associated with a marina shall include provisions to prevent pollutants from entering the water.

46. Commercial covered moorages may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be necessary over water.

57. Marina-related structures or uses which are not in and of themselves shoreline water-dependent shall not be located over water.

68. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds and in compliance with the Washington Department of Health’s “Environmental Health Guidelines for Marina Development and Operation.”

79. The incorporation of reasonable public use access facilities into public marina design shall be required subject to the provisions of SJCC 18.50.100. Marinas may include specific areas restricted access to specific areas for security reasons.

810. Marinas shall be designed to minimize their adverse effects on the scenic qualities of the shorelines.

911. Surface runoff from marina areas shall be controlled so that pollutants will not be carried into water bodies.

4012. Marinas shall not be permitted on Class I beaches or where their presence would interrupt driftways feeding Class I beaches.

4413. Where landfill is permissible it shall be allowed only for the necessary water-dependent portions of the facility and shall conform to the policies and regulations of SJCC 18.50.060 and 18.50 Section 19 of this ordinance. Landfill shall not be permitted for the creation of parking areas unless no feasible alternative exists and the creation of a parking area would be consistent with the policies of this SMP and with the public interest. Fill, for the creation of parking areas, shall be prohibited.
### IG. Regulations – Boat launches (including marine railways).

1. Boat launching ramps and marine railways shall be designed so as not to obstruct longshore littoral drift.

2. **Residential Launch Ramps.** Boat launching ramps may be permitted allowed for individual private residences where the upland slope within 25 feet of the OHWM does not exceed 25 percent and where substantial cutting, grading, filling or defense works exceeding 250 cubic yards or retaining walls or structural shoreline stabilization measures are not necessary.

3. Boat launching ramps, minor accessory appurtenant buildings, and haul out facilities shall be designed to be in character and scale with the surrounding shoreline.

4. Boat launching ramps and marine railways shall not be permitted allowed on Class I beaches, pocket beaches or where their presence would interrupt driftways feeding Class I beaches.

5. Marine railways for boat launching shall be located on existing the unaltered grade, avoiding landfill where feasible, and shall not obstruct public access to and along the shoreline and across publicly-owned tidelands. When a boat is hauled out of the water, it shall be screened if it remains on the marine railway. A boathouse at the landward end of a marine railway, above the OHWM, is allowed in conjunction with a marine railway subject to the general regulations of this SMP provided that the structure meets all the required buffers and/or setbacks.

### JH. Regulations – Mooring Buoys.

1. Buoys shall not interfere with navigation or public access, and shall be visible in daylight 100 yards away. Buoys shall have reflectors for night visibility.

2. Mooring buoys shall be installed so as not to interfere with or obstruct legally existing piers, docks, floats, or other buoys.

2. Mooring buoys shall be placed as specified by State and Federal agencies. Mooring buoys shall be located to:
a. Avoid eelgrass beds and other critical saltwater habitats;

b. Prevent obstruction to navigation.

3. Mooring buoys must be consistent with this SMP and individually or cumulatively shall not:

   a. Impede the ability of other landowners to access private property; and
   b. Pose a hazard to or obstruct navigation or fishing; and
   c. Contribute to the degradation of water quality or habitat; and
   d. Pose a threat to a commercial shellfish growing area classification or reduce the ability to upgrade a commercial shellfish growing area classification.

4. The installation and use of mooring buoys in marine waters shall be consistent with all applicable state laws and regulations, including but not limited to Chapter 246-282 WAC, the National Shellfish Sanitation Program standards (NSSP).

5. Private mooring buoys on state-owned aquatic lands shall not be used for live-aboards or commercial purposes.

7. Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-approved designs to minimize adverse effects on aquatic ecosystem and fish.

8. Mooring buoys shall be clearly marked and labeled with the owner’s name and contact information and WDNR Washington Department of Natural Resources permit number(s).

9. The capacity of each mooring buoy shall not exceed one (1) boat and its appurtenant shore access craft.

I. Regulations – Recreational Floats.

1. Recreational floats shall be placed offshore no farther than 200 feet beyond extreme low tide or the line of navigability, whichever is closest to shore (WAC 332-30-148(2)).

2. Recreational floats shall not provide moorage for boats.

3. Private recreation floats serving four or fewer residences may not exceed 150 square feet.

4. Recreation floats must be located at least 10 feet from side property lines, unless designated as joint-use structures between two or more adjoining shoreline properties.

5. A maximum of one recreation float may be approved per shoreline property.

J. Replacement of Boating Facilities, Docks, Piers, Mooring and Recreational Floats.
The Director may approve a design different than the boating facility, pier, mooring float or recreational float being replaced without a shoreline variance if it meets all of the following criteria are met:

a. All appropriate State and Federal agencies have approved the proposal;

b. Any adverse impacts on the shoreline ecological functions are fully mitigated; and

c. The total square footage of the replacement facility is no larger than the facility it is replacing.

K. Additions to or expansions of boating facilities, docks, piers, mooring and recreational floats.

Proposals involving the addition to or enlargement of boating facilities, private and joint-use docks, piers, mooring and recreational floats existing or vested before the effective date of this SMP, shall be reviewed and permitted as new structures and must comply with the following additional measures:

a. The applicant must demonstrate that there is a need for the enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water;

b. Enlarged portions of docks, piers, mooring and recreational floats must comply with any applicable design and mitigation standards; and

c. Ensure there is no net loss of shoreline ecological functions on an island wide basis.

L. Regulations - Submittal Requirements.

For all new or enlarged boating facilities, new private noncommercial individual docks, joint-use docks, community use docks, piers, floats, and launching facilities, applicants must provide an assessment of demand, including, but not limited to, the following:

a. The total amount of moorage proposed (except for boat launch facility projects);

b. The total number of moorage spaces on the island of the proposed facility, including vacancies or waiting lists at facilities existing on the date of the application;

c. For new or expanded boat launch ramps:

   i. Identification of the nearest boat launch facility existing at the time of application;

   ii. The expected or current level of use of the new or expanded boat launch ramp; and
iii. 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;

d. Prior to providing boat launch facilities at a new location, documentation must be provided demonstrating that expansion of launch facilities existing at the time of application is not feasible or would not be adequate to meet demand;

e. The expected service population and boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or necessary water depth; and

f. Approved facilities, or pending applications, within the service range of the proposed new facility.

2. Additional studies for new or expanded boating facilities, private noncommercial docks, joint-use docks, community-use docks, piers, floats and launching facilities may be required at the discretion of the Director.

a. If the project results in unavoidable adverse impacts to shoreline ecological functions or processes, mitigation of adverse impacts in accordance with 18.50, Section 12 of this ordinance is required.

b. The mitigation plan must discuss how the proposed project avoids and minimizes impacts on shoreline critical areas. The mitigation plan shall be based upon a biological assessment compliant with U.S. Army Corps of Engineers and FEMA Region 10 Floodplain habitat assessment and mitigation standards and the demand analysis prepared under L.1 above.

d. A slope bathymetry map may be required if necessary to determine compliance.

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

3. New public boat launch facilities shall be approved if they provide public access to waters not adequately served by access facilities existing on the date of the application, or if the use of current facilities can be shown to exceed the design capacity.

KM. Regulations by Environment-Designation.

1. Urban. Marinas, marine railways, docks, and boat launches shall be permitted in the urban environment subject to the policies and regulations of this SMP.

2. Rural. Same as urban.

31. Rural Residential and Rural Farm-Forest. Boat launches, marine railways, and boathouses associated with them may be allowed as conditional uses only. Other boating facilities serving single-family residences, and community docks, shall be permitted in
these environments subject to the policies and regulations of this SMP. Marinas shall not be permitted; however, the expansion or alteration of a marina legally established prior to the effective date of this edition of the SMP may be allowed subject to the policies and regulations of this SMP.

4. — Conservancy. Boat launches, marine railways, and boathouses associated with them, may be allowed as conditional uses only. Other boating facilities serving single-family residences and community docks shall be permitted in these environments subject to the policies and regulations of this SMP. Marinas shall not be permitted.

5. — Natural. Marinas, boat launches, docks, boathouses, and marine railways are prohibited in the natural environment.

6. — Aquatic. Marina facilities, docks, and boat launches which are shoreline dependent shall be permitted in the aquatic environment subject to the policies and regulations of this SMP and to the regulations by environment applicable to the abutting shoreline area. Where a proposed boating facility abuts more than one shoreline environment, the policies and regulations of the most restrictive abutting environment shall govern.

7. — Eastsound Urban. Boating facilities shall be allowed only in accordance with moorage facility provisions specified in an adopted public access plan for public access purposes.

8. — Eastsound Marina District. Boating facilities other than marina-related uses are allowed only within the marina waterway.

9. — Eastsound Residential, Eastsound Conservancy, and Eastsound Natural. Boating facilities are prohibited.

10. — Shaw Rural. Same as urban, unless specified otherwise in the Shaw Island Subarea Plan.

11. — Shaw Rural Farm Forest. Same as rural farm forest, unless specified otherwise in the Shaw Island Subarea Plan.

12. — Shaw Conservancy. Same as conservancy.

13. — Shaw Natural. Same as natural. (Ord. 7-2005 § 13; Ord. 12-2000 § 2; Res. 145-1998; Ord. 2-1998 Exh. B § 5.5.4)

SECTION 20 SJCC 18.50.200 and Ord. 2–1998 Exh. B § 5.5.5 are each amended to read as follows:

18.50.200 Breakwaters, jetties, and groins.

A. Regulations.
1. Breakwaters, jetties and groins waterward of the OHWM are only allowed for water
dependent uses, public access and shoreline stabilization.

2. Breakwaters shall conform to all design requirements established by the State
Department of Fish and Wildlife and the U.S. Army Corps of Engineers.

3. Breakwaters shall be designed and constructed in a manner which will prevent
detrimental to avoid adverse impacts on the circulation of water, the movement of sand,
and on aquatic life other ecological functions. The design shall also be such that
impediments to navigation and to visual access from the shoreline shall be minimized.

4. Public breakwaters shall be designed to permit pedestrian use of their surfaces where
safe and feasible.

5. Applications for breakwater permits shall include at least the following information:
   a. The purpose of the breakwater;
   b. Direction of net longshore drift, when appropriate;
   c. Direction of prevailing winds and strongest tidal current;
   d. Proposed construction materials; and
   e. Proposed method of construction.

6. Jetties and groins may be allowed permitted only with shoreline conditional uses
permits. In Eastsound, jetties, breakwaters and groins are prohibited.

7. Applications for substantial development permits for jetties and groins shall include
at least the following information:
   a. Purpose of proposed project;
   b. Proposed type of construction;
   c. Proposed method of construction;
   d. Direction of net longshore drift (jetties only);
   e. Source and normal destination of material to be trapped (groins only);
   f. Proposed beach feeding procedures (where appropriate); and
   g. Source and composition of materials to be used for feeding (where appropriate).

B. Regulations by Designation Environment.

1. Urban. Breakwaters, jetties, and groins shall be permitted in the urban environment
subject to the policies and regulations of this SMP.

2. Rural. Same as urban.
3. Rural Residential and Rural Farm Forest. Same as urban.

14. Conservancy. Floating breakwaters may be permitted in the conservancy designation environment if they can be made visually compatible with their surroundings. Rigid breakwaters shall be allowed only as a shoreline conditional use. Jetties and groins shall be prohibited.

25. Natural. Breakwaters, jetties, and groins are prohibited in the natural designation environment.

36. Aquatic. Breakwaters shall be permitted in the aquatic designation environment subject to the policies and regulations of this SMP and to the regulations by designation environment applicable to the abutting shoreline area. Where the proposed breakwater site abuts more than one shoreline designation environment, the policies and regulations of the most restrictive abutting designation environment shall govern.

4. Breakwaters, jetties and groins prohibited in Eastsound subarea.

7. Eastsound Urban, Eastsound Residential, Eastsound Conservancy, and Eastsound Natural. Breakwaters, jetties, and groins are prohibited.

8. Eastsound Marina District. Breakwaters, jetties, and groins are prohibited; however, this shall not preclude the maintenance, expansion or extension of the existing marina basin retaining walls and groins.

9. Shaw Rural and Shaw Rural Farm-Forest. Same as urban.

10. Shaw Conservancy. Same as conservancy.

11. Shaw Natural. Same as natural. (Ord. 2-1998 Exh. B § 5.5.5)

SECTION 21. SJCC 18.50.210 and Ord. 2-1998 Exh. B § 5.5.6 are each amended to read as follows:

18.50.210 Bulkheads-Shoreline Modification Regulations - Structural shoreline stabilization measures

A. Regulations-General.

1. No bulkhead to protect a single family residence or appurtenant structures shall be constructed until the County has reviewed the proposed construction and determined that the project is or is not exempt from the shoreline permit requirements and is consistent with the policies of the SMA and this SMP.

1. When danger is imminent (damage expected within 3 years), new or enlarged hard shoreline stabilization measures may be permitted for the following types of structures:
a. The primary structure;

b. An accessory dwelling unit;

c. Underground utilities and components of on-site sewage disposal systems which cannot practicably be relocated; and

d. A road or driveway which cannot practicably be relocated and where there is no other reasonable means of access.

2. Nonexempt bulkheads shall be permitted only when nonstructural shoreline protection, restoration, or modification techniques have been shown to be ineffective and it can be shown that one or more of the following conditions exists:

   a. Serious erosion is threatening an established use on the adjacent uplands;
   
   b. A bulkhead is needed and is the most reasonable method of stabilizing an existing beach condition;
   
   c. There is a demonstrated need for a bulkhead in connection with water-dependent or water-related commerce or industry in an appropriate environment; or

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

3. Bulkheads shall not be permitted in conjunction with new projects or development when practical alternatives are available.

3. All shoreline stabilization measures must be designed to ensure there is no net loss of ecological functions.

4. Bulkheads shall be permitted on marine feeder bluffs only where (a) a clear and significant danger to established development exists and (b) there is reasonable cause to believe that the bulkhead will in fact arrest the bluff recession and will not seriously disrupt the feeder action or the driftway.

4. Fill waterward of the OHWM or within wetlands requires state and federal approval and it is the applicant’s responsibility to obtain all required permits prior to beginning work.

5. Bulkheads constructed on Class I marine beaches shall be located behind the berm.

5. Structural stabilization measures may be permitted to protect projects restoring shoreline ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW provided that nonstructural measures, planting vegetation, or the installation of on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
6. All bulkheads shall conform to the design requirements of the Washington Department of Fish and Wildlife, except where such design would be incompatible with protection of the shore process corridor and operating systems.

7. Applications for bulkhead permits shall include at least the following information:
   a. Purpose of proposed bulkhead;
   b. Low, normal, and high elevations, when appropriate;
   c. Direction of net longshore drift, when appropriate;
   d. Type of construction proposed; and
   e. Elevation of the toe and crest of the proposed bulkhead with respect to water levels.

8. Bulkheads shall be prohibited for any purpose if it will cause significant erosion or beach starvation.

B. Regulations by Environment.

1. Urban. Bulkheads shall be permitted in the urban environment subject to the policies and regulations of this SMP.

2. Rural. Same as urban.

3. Rural Residential and Rural Farm Forest. Same as urban.

4. Conservancy. Bulkheads may be permitted in the conservancy environment on marine shorelines subject to the policies and regulations of this SMP but shall not be allowed on freshwater shorelines.

5. Natural. Bulkheads are prohibited in the natural environment.

6. Aquatic. Bulkheads shall be permitted in the aquatic environment subject to terms under which bulkheads may be allowed in the abutting shoreline environment and to the policies and regulations of this SMP; provided, that a location landward of the OHWM is not feasible. Where permitting in the aquatic environment, bulkheads shall be constructed as close to the OHWM as possible.

7. Eastsound Urban. Bulkheads shall be permitted in the Eastsound urban environment subject to the provision that, for properties (cf. SJCC 16.55.210(E)(2)(d) within the geographic scope of the Eastsound Waterfront Access Plan (Resolution 27-1996), new and existing bulkheads are recognized as allowable and may be newly constructed, repaired, maintained, or reconstructed in their present locations or seaward of the OHWM, subject to the regulations and permit requirements of this code.

8. Eastsound Residential and Eastsound Marina District. Same as urban.

9. Eastsound Conservancy. Same as conservancy.
10. **Eastsound Natural. Same as natural.**

11. **Shaw Rural and Shaw Rural Farm Forest. Same as urban.**

12. **Shaw Conservancy. Same as conservancy.**

13. **Shaw Natural. Same as natural.** (Ord. 2-1998 Exh. B § 5.5.6)

**B. Regulations - General design standards.**

1. New, enlarged and replacement structural shoreline stabilization measures shall be considered in the following hierarchy—sequence of preference. Actions later in the sequence lower in the hierarchy may not be considered until those ahead in the sequence higher in the hierarchy have been shown to be impracticable or infeasible:

   a. First, use of other alternatives. A stabilization measure is not constructed. Shoreline remains in its current condition and if subject to erosion, may naturally retreat. Options that must be considered include use of drainage controls and improvements, increased building setbacks, and/or relocation of structures;

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

   c. Third, hard structural shoreline stabilization measures including rigid works constructed of materials such as riprap or concrete.

2. For new, enlarged or replacement structural shoreline stabilization measures excavation and fill must be located landward of the OHWM to the maximum extent practicable.

3. All shoreline stabilization measures must minimize adverse impacts to shoreline ecological functions resulting from short-term construction activities, consistent with Section 12 of this ordinance. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to land or in-water work, and stabilization of exposed soils following construction.

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

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

   b. Shifting the hard structural shoreline stabilization measure landward and/or sloping the hard structural shoreline stabilization measure landward to provide some
5. All new and enlarged shoreline stabilization measures must include plans to minimize adverse impacts to shoreline ecological functions by incorporating the following measures into the project as appropriate:

   a. Restoration of substrate conditions including substrate and gradient waterward of the OHWM. Where near stream outlets, the material should be sized and placed to remain stable during a two-year flood event, and under typical currents, boat wakes and wind-driven waves including those occurring during storm events.

   b. Planting of native, non-toxic, riparian vegetation along at least 75 percent of the shoreline linear frontage affected by the new or enlarged structural stabilization measure. The vegetated portion of the shoreline must average 10 feet in depth landward from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation must consist of a mixture of trees, shrubs, and groundcover and be designed to improve habitat functions. Where appropriate, at least 3 trees, no less than 3 feet tall, per 100 linear feet of shoreline should be included in the planting. Plant materials must be native to the ecosystem of the project area.

   c. In lieu of meeting these requirements, alternative measures may be allowed if they are functionally equivalent.

6. The shoreline stabilization measure must be designed so that it does not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.

7. The shoreline stabilization measure must be designed so as not to constitute a hazard to navigation.

8. Stairs, pedestrian pathways, ramps or other shoreline access measures may be incorporated into the structural shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but they must not extend waterward of the structural shoreline stabilization measure.

9. Publicly financed or subsidized shoreline stabilization measures must provide for public access to the shoreline except where such access is determined to be infeasible due the presence of incompatible uses, safety issues, security threats, or predictable harm to shoreline ecological functions. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water and long-term multiple use must be incorporated into the shoreline stabilization structure design (e.g., steps integrated...
into the bulkhead, coved area with shallow entry).  Access measures should not extend farther waterward than the face of the shoreline stabilization measure.

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

C. Regulations – Enlarged structural shoreline stabilization.

Enlarging structural shoreline stabilization measures is allowed only when the structural stabilization measure will not result in a net loss of shoreline ecological functions. “Enlargement” of an structural shoreline stabilization measure includes additions to or increases in size (such as height, width, length, or depth) to shoreline stabilization measures existing before the effective date of this SMP. An enlarged structure is considered and permitted as an entirely new structure.

D. Regulations – Replacement and repair of stabilization measures

1. For purposes of this section, "replacement" means the construction of a new shoreline stabilization measure, or portion of a stabilization measure, to perform the function of one that no longer adequately serves its purpose.

2. The following must be designed and reviewed as a new shoreline stabilization measure:

   a. Replacement of greater than 75 percent of the existing structure within a 3-year time period;

   b. Replacement of greater than 75 percent of the linear length of the existing structure, within a 3-year time period;

3. Replacement hard structural shoreline stabilization measures must not encroach waterward of the OHWM or waterward of the existing hard structural shoreline stabilization measure unless the threatened residence was constructed prior to January 1, 1992, and overriding safety concerns are demonstrated. In such cases, the replacement structure must be attached to the current hard shoreline stabilization structure.

4. Where a net loss of shoreline ecological functions associated with critical saltwater habitats would occur by leaving an obsolete structure, it shall be removed.

5. For purposes of this section, “maintenance and repair” includes modifications or improvements designed to ensure the continued function of a stabilization structure. Actions that remove and replace only the material above the footing or bottom course of rock are regulated as repair and maintenance up to the 75% threshold outlined above.

6. A geotechnical analysis is not required for the replacement of soft structural shoreline stabilization measures with a similar or softer measure.
7. Soft shoreline stabilization measures may include some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through improvements in substrate condition or gradient.

E. Regulations - hard structural shoreline stabilization design standards. In addition to the general design requirements of this subsection, the following must be incorporated into the design of hard structural shoreline stabilization measures:

1. When a hard structural shoreline stabilization measure is proposed on a site where hard structural shoreline stabilization measures are not located on adjacent properties, the construction of the hard structural shoreline stabilization measure must be expected to tie in with the contours of the adjoining properties, as feasible, so that the proposed stabilization will not cause erosion of the adjoining properties;

2. When a hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures are, the proposed stabilization may tie in flush with stabilization measures on adjoining properties. The new stabilization measure shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and shall not extend onto the adjacent property;

3. Any filling in excess of 1 cubic yard per linear foot of stabilization structure is subject to Section 11 of this ordinance and requires a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit;

4. New hard structural shoreline stabilization measures are prohibited adjacent to documented forage fish spawning areas;

5. The sizing and placement of all materials must be selected to accomplish the following objectives:
   a. Protect upland structures from erosion over the long term;
   b. Size and place materials so they will remain stable during a two-year flood event (if near stream outlets), and under typical currents, boat wakes and wind-driven waves including those occurring during storm events;
   c. Allow safe passage and migration of fish and wildlife; and
   d. Minimize or eliminate juvenile salmon predator habitat.

F. Soft Structural Shoreline Stabilization Design Standards. In addition to the general design requirements of this subsection, the following must be incorporated into the design of soft structural shoreline stabilization measures:

1. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects that include hard structural shoreline stabilization elements...
to tie in with hard structural shoreline stabilization measures on adjacent properties may be permitted as soft shoreline stabilization measures. The need to use hard structural shoreline elements shall be documented as outlined in Section 21 (G) of this ordinance below. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible, and shall not exceed 10 linear feet. The hard structural shoreline stabilization transition area must not extend waterward of the OHWM, except as needed to make the connection to the adjoining stabilization structure, and must not extend onto the adjacent property:

2. The soft shoreline stabilization design must include an arrangement of various sizes of gravels, cobbles, logs, and boulders so the project will remain stable and dissipate wave and current energy without presenting extended linear faces to oncoming waves or currents.

3. The sizing and placement of all materials must be selected to accomplish the following objectives:
   a. Protect upland structures from erosion over the long term.
   b. Size and place materials so they will remain stable during a two-year flood event (if near stream outlets), and under typical currents, boat wakes and wind-driven waves including those occurring during storm events.
   c. Allow safe passage and migration of fish and wildlife; and
   d. Minimize or eliminate juvenile salmon predator habitat.

G. Additional submittal requirements.

1. The following analysis must be submitted with applications to construct new and enlarged structural shoreline stabilization measures:
   a. A report, prepared by a qualified professional, demonstrating the need for the stabilization measure. The demonstration of need must consist of the following:
      i. A determination that the shoreline erosion is being cause by the action of waves and currents and not by drainage from upland areas. If erosion is being caused by drainage from upland areas, the report should present options for controlling the erosion.
      ii. An assessment of the erosion rate and site-specific conditions contributing to the erosion such as water depth, orientation of the shoreline, wave fetch and flow velocities;
      iii. For hard shoreline stabilization measures, an analysis documenting that without the proposed measures there is a significant possibility that one of the following types of development will be damaged within three (3) years as a result of erosion caused by waves and currents, or that postponing the work until the need is imminent (within 3 years) will result in the loss of opportunities...
to use measures that will avoid impacts on shoreline ecological functions. New
and expanded hard structural shoreline stabilization measures are allowed only
when necessary to protect the following types of upland structures:

(A) The primary structure;

(B) An accessory dwelling unit;

(C) Underground utilities and components of on-site sewage disposal
    systems which cannot practicably be relocated;

(D) A road or driveway which cannot practicably be relocated and
    where there is no other reasonable means of access;

iv. Where the geotechnical analysis confirms a need to prevent potential
damage to upland structures, but the need is not as imminent as three (3) years,
that analysis may be used to justify authorization for soft structural shoreline
stabilization measures;

v. An assessment of alternatives to shoreline stabilization, including:

(A) Relocation of the structure farther inland. If the structure does
    not meet current buffer or setback standards, the new location does not
    have to meet these standards provided the magnitude of the non-
    conformity in not increased, new non-conformities are not created, and
    there is no net loss of shoreline ecological functions; and

(B) Correction of any groundwater or drainage issues that may be
    causing shoreline erosion.

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

vii. An assessment of the anticipated effects of the proposed project on
    ecosystem processes and functions, including, but not limited to effects on
    feeder bluffs, drift cells and areas adjacent to and down drift of the site.

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

ix. Design recommendations for minimizing hard or soft structural shoreline
    stabilization materials, including gravel and cobble beach substrates necessary
    to dissipate wave energy, eliminate scour, and provide long-term shoreline
    stability.

2. A demonstration of need may be waived by the Director when a hard structural
    shoreline stabilization measure is proposed to be replaced using soft structural shoreline
stabilization measures, resulting in restoration of shoreline ecological functions or processes.

3. For all soft and hard structural shoreline stabilization measures, detailed construction plans adequate to determine compliance with the standards are required, including:
   a. Plan and cross-section views of the shoreline configuration both as it exists at the time of the application and as proposed, showing topography and OHWMs.
   b. Construction sequence.
   c. Specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

SECTION 22. SJCC 18.50.220; Ord. 21-2002 § 6; and Ord. 2-1998 Exh. B § 5.5.7 are each amended to read as follows:

18.50.220 Commercial development.

A. General Regulations.

1. Applications for commercial development shall include a detailed statement explaining the nature and intensity of the water dependency or orientation of the proposed activity. Such statement shall include at least the following:
   a. Nature of the commercial activity;
   b. Need for shoreline frontage;
   c. Proposed measures to enhance the relationship of the activity to mitigate adverse impacts to the shoreline ecological functions; and
   d. Proposed provision for public visual or physical access to the shoreline.

2. Commercial resorts and campgrounds shall provide adequate access to water areas for their patrons and adequate on-site recreation facilities so that such resorts and campgrounds will not be dependent on nor place undue burdens on public recreational facilities.

3. The draining or filling of water bodies or natural wetlands for commercial developments shall not be permitted except allowed as a conditional use permit.

4. Only those commercial uses which are water-dependent, such as boat fueling stations, shall be permitted to be located over the water.

5. All structures shall be set back a safe distance behind the tops of feeder bluffs. Commercial uses including ports and marinas, with the potential to release toxic substances into the aquatic designation, shall be equipped to contain and clean up oil, gasoline, and other spilled pollutants.
6. — Parking areas associated with commercial developments shall be subject to the policies and regulations of SJCC 18.20.090, Parking, and 18.50.340, Transportation facilities. Structures for the sale of aquacultural products constitute commercial development.

7. — Ports and marinas shall be equipped to contain and clean up oil, gasoline, and other polluting spills. Where a commercial use is proposed to be located on land in public ownership, public access shall be required.

8. — Drainage and surface runoff from commercial areas shall be controlled so that pollutants will not be carried into water bodies. Any commercial development shall not result in a net loss of shoreline ecological functions or adversely impacts other shoreline uses, resources and activities such as navigation, recreation and public access must be mitigated. Impacts to shoreline resources by commercial development or uses must be mitigated by public access and ecological restoration unless such improvements are demonstrated to be infeasible or inappropriate.

9. Signs associated with commercial developments shall comply with the policies and general regulations of SJCC 18.40.370 through 18.40.400 and SJCC 18.50.120. Commercial uses on the shoreline that are not water-oriented are prohibited unless they meet the following criteria:

   a. Navigability is severely limited at the site and the use provides a benefit with respect to the objectives of the SMA such as providing public access and ecological restoration; or

   b. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA’s objectives such as providing public access and/or ecological restoration.

10. — The processing of agricultural and aquacultural products for sale constitutes commercial or industrial development, as determined by the administrator. Provisions for the sale of such products constitutes commercial development. Proposed commercial developments shall be consistent with any applicable subarea plans.

112. Accessory development such as parking, warehousing, open air storage, waste storage and treatment, storm water runoff control facilities, utilities, and land transportation that does not require a shoreline location must be located landward of the OHWM of the water-dependent portions of the development.

B. **Regulations by Environment Designation.**

1. Urban. Commercial development shall be permitted in the urban environment subject to the policies and regulations of this SMP. Except as provided for in subsection (A)(4) of this section, commercial structures and facilities shall be set back at least 50 feet from the OHWM unless otherwise provided for by conditional use permit. Commercial
development shall be allowed in the urban designation. As provided for in the Eastsound
Waterfront Access Plan Figure 130–6 of the Eastsound Subarea Plan, commercial
structures, facilities and uses shall adhere to the setbacks and building envelopes identified
in the adopted and WDOE approved plan.

2. Rural. Commercial development which will not significantly alter the character
of the area shall be permitted allowed in the rural environment designation only by
conditional use and subject to the policies and regulations contained in this SMP permit.
Such development would include, but not necessarily be limited to, farm produce sales,
activities directly related to the commercial fishing industry, small campgrounds, and other
low intensity recreational facilities. All other commercial development shall be permitted
by conditional use only. Except In the absence of critical areas and associated protective
buffers except as provided for in subsection (A)(4) of this section, all commercial
structures and facilities shall be set back at least 100 feet from the OHWM unless otherwise
provided for by conditional use-variance. On Shaw Island the following commercial uses
are prohibited: commercial recreational facilities; commercial transient accommodations by
themselves or in combination with any other commercial use; food service facilities; and
transient moorage facilities.

3. Rural Residential and Rural Farm-Forest. Commercial development is prohibited,
except that the alteration, modification or expansion of small resorts, camps or commercial
facilities associated with a commercial marina, lawfully existing prior to the effective date
of this code, may be allowed subject to the policies and regulations of this SMP before the
effective date of this SMP may be allowed. In Eastsound, home day care, day nursery and
transient rentals are allowed. On Shaw Island the following commercial uses are
prohibited: commercial recreational facilities; commercial transient accommodations by
themselves or in combination with any other commercial use; food service facilities; and
transient moorage facilities.

4. Conservancy.

   a. Commercial development which is of a Low intensity and recreational nature
      and which commercial development that will not significantly alter the character of
      the area shall be permitted allowed in the conservancy environment subject to the
      policies and regulations contained in this master program designation. Other low
      intensity commercial uses may be permitted as shall require conditional use permits.

   b. Any With the exception of shoreline dependent structures, commercial
      structures permitted in a conservancy environment shall be set back at least 100 feet
      from the OHWM.


5. Ports, Marinas and Marine Transportation. New commercial developments shall be
water-dependent, water-related or water-enjoyment uses. All projects must provide public
access to the shoreline subject to the provisions of Section 14 of this ordinance.

6. Aquatic. Commercial development of a shoreline-water-dependent nature shall be permitted in the aquatic environment-designation subject to the policies and regulations of this code and the regulations by environment applicable SMP to the abutting upland area-designation regulations of the abutting area landward of the OHWM. Where the proposed commercial development site abuts more than one upland environment the policies and shoreline designation the regulations of the most restrictive abutting environment-designation shall govern.

7. Eastsound Urban. Same as urban, except as provided for in the Eastsound Waterfront Access Plan (EWAP), (Resolution 29-1996) Figure 130-6, commercial structures and facilities shall adhere to the setbacks and building envelopes provided for in the waterfront access plan. All existing uses and structures subject to the EWAP are deemed conforming development because of the physical and visual access provided through the EWAP, pursuant to SJCC 18.50.100. All allowable uses listed in the village commercial designation of the Eastsound Subarea Plan are permitted within this designation, in accordance with the terms of the EWAP.

8. Eastsound Residential. The only commercial uses allowed within the Eastsound residential shoreline environment shall be limited to those uses listed as allowable uses in the Eastsound residential one-half and two acre district, SJCC 16.55.240(2), subject to the policies and regulations of this SMP. Other commercial uses shall be prohibited.

9. Eastsound Marina District. Same as urban; provided, that new commercial uses which are not water-dependent or water-related should plan for appropriate public access to the shoreline. Otherwise allowable uses are not required to grant public access as a condition of any permit approval.

10. Eastsound Conservancy. Same as conservancy; provided, that the use(s) proposed are also allowable uses under the adjoining upland designation(s) established in the Eastsound Subarea Plan, Chapter 16.55 SJCC.

11. Eastsound Natural. Same as natural.

12. Shaw Rural. The following uses shall be prohibited: commercial recreational facilities; commercial transient accommodations by themselves or in combination with any other commercial use; food service facilities; and transient moorage facilities.

The County park is not a commercial use. Any expansion, modification, or intensification of the County park shall be subject to the applicable provisions and permit requirements of this SMP and the Shaw Island Subarea Plan.

Commercial development not otherwise prohibited shall be permitted subject to the policies and regulations of this SMP and the Shaw Island Subarea Plan, unless otherwise provided for by conditional use. Only allowable water-dependent uses may be located within 200
feet of the OHWM unless otherwise authorized by conditional use.

13. Shaw Rural Farm-Forest. Same as Shaw rural.

14. Shaw Conservancy. Same as Shaw rural farm-forest, except that commercial structures and facilities shall be set back at least 100 feet from the OHWM except as provided for in subsection (A)(4) of this section, or unless otherwise provided for by conditional use.


SECTION 23. SJCC 18.50.230 and Ord. 2-1998 Exh. B § 5.5.8 are each amended to read:

18.50.230 Dredging and dredge material disposal.

A. Regulations.

1. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in conformance with Section 12 of this ordinance.

2. New development must be sited and designed to avoid or if that is not possible, to minimize the need for new and maintenance dredging.

3. Dredging may be permitted only for the following purposes and only where other alternatives are impractical;

   a. To improve water quality or aquatic habitat;

   b. To establish, expand, relocate or reconfigure navigation channels where necessary to assure safe and efficient accommodation of lawfully existing navigational uses before the effective date of this SMP. Maintenance dredging of established navigation channels and basins must be restricted to maintaining previously dredged and/or existing or vested locations, and shall not exceed the depths, and widths authorized before the effective date of this SMP; maintain or improve navigability or water flow;

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

   d. To create or improve public recreational opportunities.

24. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. Placement of fill shall be waterward of the OHWM.

5. All dredge spoils shall be deposited at spoils deposit sites which are consistent with the policies and regulations of the SMP.
36. In addition to any other required application materials, applications for shoreline substantial development permits for dredging shall include at least the following information:

a. A description of the purpose of the proposed dredging and an analysis of compliance with the regulations of this SMP.

b. A detailed description of the physical characteristics, shoreline geomorphology, and biological resources in the area proposed to be dredged, including:

   i. Location and size of the proposed dredging site;

   ii. A site plan outlining the perimeter of the area proposed to be dredged. The site plan must also include the bathymetry existing on the date of application and have data points at a minimum of two-foot depth increments;

   iii. A habitat survey conducted according to the most recent WDFW eelgrass/macroalgae survey guidelines, if applicable;

   iv. Information regarding the stability of bedlands adjacent to the proposed dredging site;

   v. Tidal fluctuation, current speed and direction.

   vi. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:

      i. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).

      ii. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand, grease and oil content, mercury, lead and zinc content, etc.).

      iii. Biological analysis of material to be dredged.

   d. A description of the anticipated dredging operations including:

      i. Total spoils volume;

      ii. Location, size, capacity, and physical characteristics of the proposed spoils disposal area;

      iii. Frequency and volume of anticipated maintenance dredging; and

      iv. Method of dredging, including facilities for settlement and movement of materials;

   v. Project timeline; and

   vi. A plan for disposal of maintenance spoils for the life of the project or a period of 25 years, whichever is shorter.
B. Regulations by Environment Designation.

1. Urban. Dredging and spoils disposal shall be permitted in the urban environment subject to the policies and regulations of this SMP.

2. Rural, Rural Residential, and Rural Farm-Forest. Dredging shall be permitted allowed in these environments designations subject to the policies and regulations of this SMP. Spoils disposal sites shall be permitted allowed only if it can be shown that the disposal site will ultimately be used for an activity allowed permitted in the affected environment designation.

3. Conservancy. Dredging within the conservancy designation environment shall be limited to maintenance of existing navigation channels and facilities existing or vested before the effective date of this SMP. Spoils disposal shall be limited to existing sites designated by the WDNR Department of Natural Resources.

4. Natural. Dredging and spoils disposal shall be prohibited in the natural environment.

5. Aquatic. Dredging shall be allowed permitted in the aquatic environment designation subject to the policies and regulations of this SMP and to the regulations by environment for the abutting shoreline designation area. Where the proposed site abuts more than one shoreline designation environment, the policies and regulations of the most restrictive abutting designation environment shall govern. Spoils disposal is prohibited in the aquatic designation environment.

6. Eastsound Urban and Eastsound Marina District. Dredging shall be allowed in these environments only if the applicant demonstrates that dredging is necessary to maintain or improve public recreational facilities or to protect public safety.

7. Eastsound Residential. Dredging is prohibited; provided, that dredging which is necessary to establish a small boat launch ramp may be allowed if associated with a public waterfront park. Spoils disposal is prohibited.

8. Eastsound Conservancy and Eastsound Natural. Dredging and spoils disposal is prohibited in these environments.

9. Shaw Rural and Shaw Rural Farm Forest. Same as rural.

10. Shaw Conservancy. Same as conservancy.

11. Shaw Natural. Same as natural. (Ord. 2-1998 Exh. B § 5.5.8)

SECTION 24. SJCC 18.50.240; Ord. 7-2005 § 14; and Ord. 2-1998 Exh. B § 5.5.9 are each amended to read as follows:

18.50.240 Forest management.
A. General Regulations.

1. Any commercial logging permitted on shorelines shall comply with the regulations contained in the Washington State Forest Practices Act, Chapter 76.09 RCW; provided, that the following regulations shall also apply. With respect to timber situated within two hundred feet landward of the OHWM within shorelines of statewide significance, only selective commercial timber cutting shall be allowed. No more than thirty percent (30%) of the merchantable trees may be harvested in any ten year period of time. Harvesting will not be allowed within 75 feet of the OHWM provided that merchantable timber within the protected area may be included in the 30 percent calculation for the shoreline area. Other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

2. When a logging project involves drilling, dredging, dumping, filling, removal of sand or gravel, bulkheading, or significant construction, all or part of which would be located within 200 feet of the ordinary high water mark, a substantial development permit is required. The cutting of timber that is solely incidental to the preparation of land for other uses authorized by this chapter shall be allowed.

3. A logging project which includes construction of roads, bridges, trails, or loading facilities would potentially require a substantial development permit if it involves any of the activities noted in subsection (A)(2) of this section. Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to non-forest uses shall:

   a. Assure 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 provided for in RCW 90.58.020 such as navigation, recreation and public access.

4. No more than 30 percent of merchantable timber may be harvested within 200 feet of the ordinary high water mark within any 10 year period. Harvesting shall not be allowed within 75 feet of the OHWM; provided, that merchantable timber within this protected area may be included in the 30 percent calculation for the shoreline area. Clearcutting on shorelines shall not be permitted unless specifically allowed by an approved Class IV General forest practices permit.

5. All roads and trails must be fitted to the existing topography so that the need to alter natural features will be minimized. Steep or unstable areas, regulated wetlands, and natural drainageways must be avoided.

6. All road surfaces must be constructed to the minimum width required to accommodate the anticipated use.
7. Unnecessary road construction and drainageway crossings must be minimized by making all possible use of existing roads. Where roads pass through land in another ownership, but would otherwise adequately serve the proposed operation, the applicant must attempt to secure the right to use the existing road before proposing the construction of a new road.

8. Road cuts and fills must be balanced or waste or borrow areas must be located where erosion will not present a problem. Cuts and fills must be constructed at or below the normal angle of repose for the material being cut or used for fill. Fill slopes must not obstruct drainageways and shall be properly compacted.

9. Where culverts must be installed, they shall be adequate in size and design to carry the anticipated peak flow and shall be kept free of obstructions.

10. Road drainage, regardless of the method of collection, must be directed onto the forest or woodlot floor in a manner which will permit the accumulated sediment to settle and be deposited before the water reaches any marine or freshwater body.

11. Drainageways must be cleared of all debris generated during road construction or maintenance which might interfere with normal drainage or adversely affect water quality.

12. Road construction must be undertaken during that portion of the year when soil erosion does not pose a serious problem. When this is not practical, acceptable measures for the prevention of erosion shall be taken.

13. Roads must be maintained sufficiently to ensure the proper functioning of the drainage system throughout the active use of the road. When active use is to be discontinued, the road shall be left in a condition which will provide for adequate drainage and soil stability without continuous active maintenance.

14. Within study areas one through 12 of the San Juan County Inventory of Natural Areas, forest practices not exempted from the Shoreline Management Act under Chapter 76.09 RCW may be permitted only as conditional uses.

15. Soil stabilization and water quality maintenance along seasonal waterways and other significant drainageways must be provided for by leaving buffer strips of ground vegetation and nonmerchantable timber along such watercourses. Where insufficient nonmerchantable timber exists to maintain an effective buffer zone, an adequate fringe of merchantable timber must be left undisturbed. Where it is impractical to leave buffer strips of either merchantable or nonmerchantable timber along watercourses, a plan to reestablish adequate cover must be approved by the County.

16. Logging and log dumping is not permitted on or immediately above feeder bluffs.

17. Trees shall be felled, bucked, and limbed so that no part of any tree shall be deposited into or across any watercourse. If any timber or debris should enter the watercourse as a result of the logging activity, it shall be removed immediately in a manner which will...
disturb the watercourse as little as possible.

18. Tractor skids must be located carefully and drained adequately so that sediment will be kept out of watercourses and water bodies. Tractor yarding is prohibited on unstable slopes and on slopes in excess of 30 percent. Cable yarding through watercourses is prohibited.

19. Timber harvesting is prohibited on slopes where significant erosion and sedimentation would be precipitated unless a plan for adequate and prompt erosion control and restoration is approved by the County.

20. All nonorganic waste materials resulting from the logging operations, such as grease and oil containers, and machine parts, must be disposed of in a proper off-site location immediately following termination of the harvesting operations. At no time may such waste materials be disposed of in watercourses or water bodies.

21. Conversion option harvest plan (COHP) forest practices are not permitted in the shoreline.

22. Timber harvest in areas of exposed bedrock along shorelines, and in other areas of high visual value and sensitivity, as identified in the Open Space and Conservation Plan or SJCC 18.30.110, shall be avoided where possible.

B. Regulations by Environment Designation.

1. Urban. Forest management practices shall be permitted in the urban environment only as a conditional use.

2. Rural and Rural Residential. Same as urban.

3. Rural Farm-Forest. Forest management practices shall be permitted in the rural environments subject to the policies and regulations contained in this SMP.

4. Conservancy. Same as rural farm-forest.

5. Natural. Forest management practices are permitted in the natural designation environment only when 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 which are absolutely necessary to cope with the emergency situation.

6. Aquatic. Forest management practices are prohibited in the aquatic environment.

7. Eastsound Urban, Eastsound Residential, Eastsound Marina District and Eastsound Conservancy. Same as urban.

8. Eastsound Natural. Same as natural.

9. Shaw Rural, Shaw Rural Farm-Forest and Shaw Conservancy. Same as rural farm-
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forest unless otherwise specified in the Shaw Island Subarea Plan.

10. Shaw Natural. Same as natural. (Ord. 7-2005 § 14; Ord. 2–1998 Exh. B § 5.5.9)

SECTION 25. SJCC 18.50.250 and Ord. 2-1998 Exh. B § 5.5.10 are each amended to read as follows:

18.50.250 Industrial development.

A. General Regulations.

1. Non water-oriented industry is prohibited in all environments.

2. Proposed industrial developments must be consistent with any applicable comprehensive waterfront, or subarea, hamlet or village plans.

3. Only water-dependent and water-related industries are allowed permitted within the shoreline jurisdiction. They must be consistent with or compatible with neighboring shoreline existing uses existing on the day of the application of neighboring shoreline areas.

4. Accessory development including but not limited to parking, warehousing, open air storage, waste storage and treatment, storm water runoff control facilities, utilities, and land transportation that which does not require a shoreline location must be located landward of the OHWM upland of the water-dependent portions of the development and setback from the OHWM. This category of development includes parking, warehousing, open air storage, waste storage and treatment, storm runoff control facilities, utilities, and land transportation.

5. Existing industrial development or vested on shorelines before the effective date of this SMP that which is neither water-dependent nor water-related may be allowed subject to a conditional use permit permitted as a conditional use to expand inland from existing structures existing or vested before the effective date of this SMP, but not parallel to or waterward of the OHWM. Waterward or lateral expansion of existing non-water-oriented industry or existing or vested before the effective date of this SMP is prohibited.

6. Water-dependent industry must be located and designed, where feasible, to eliminate minimize the need for initial or continual dredging, filling, dredge material disposal, and other harbor and channel maintenance activities.

7. Storage or disposal of industrial wastes is prohibited within the shoreline jurisdiction.

8. At new or expanded industrial developments, the best available facilities practices and procedures must be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water. Optimum means must be employed for prompt and effective clean-up of any spills that occur.
89. All exterior lighting must be designed and operated to minimize glare impacts to nearby properties and local traffic. No lighting shall blink or flash.

Exterior lighting fixtures must be shielded and the light must be directed downward and away from:

a. Wetlands;
b. Wetland buffers;
c. Fish and wildlife habitat conservation areas and associated buffers;
d. Adjoining properties; and
e. Public roads and/or rights-of-way.

940. The use of County shorelines for the processing of oil or for the handling of oil and oil products for other than local consumption shall be prohibited.

104. The installation of underwater cross-sound oil pipelines and over-water facilities for the refining of oil shall be prohibited.

11. All industrial uses and activities in shoreline jurisdictions must be located, designed, constructed, and managed to ensure no net loss of shoreline ecological functions.

12. Any use with the potential for the release of toxic substances into marine waters must have adequate response equipment on site.

13. Where an industrial use is proposed on public lands, public access to the waterfront must be provided.

14. Solid waste disposal and liquid waste treatment facilities are prohibited on shorelines. Solid and liquid wastes, biosolids, and untreated effluents may not be allowed to enter any bodies of water or to be discharged onto land.

15. New solid waste disposal and liquid waste treatment facilities, with treatment capacities exceeding 5,000 gallons per day, are prohibited on shorelines.

B. Regulations by Environment Designation.

1. Urban. Water dependent and water-related industrial uses may be permitted in the urban environment, subject to the policies and regulations contained in this SMP.

2. Rural. Water dependent and water-related industrial uses may be permitted as conditional uses in the rural environment, subject to the policies and regulations contained in this SMP.

3. Rural Residential, Conservancy and Natural. Industrial uses are prohibited in these environments.

4. Rural Farm-Forest. Industrial uses other than that are not water-oriented dependent
and water related uses directly related to the commercial fishing industry are prohibited in
the rural farm-forest designation environment.

25. Aquatic. Industrial uses are prohibited in the aquatic designation environment except
those uses that are water-dependent, subject to the policies and regulations of this SMP and
to the regulations by environment applicable to the abutting shoreline designation area.
Where the proposed development would abut more than one shoreline designation
environment, the policies and regulations of the most restrictive abutting environment
designation shall govern.

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

6. Eastsound Urban. Industrial uses are prohibited in the Eastsound urban environment.

7. Eastsound Residential, Eastsound Conservancy, and Eastsound Natural. Industrial
uses are prohibited in these environments.

8. Eastsound Marina District. Marine fueling facilities and sewage pump-out facilities
may be allowed. All other industrial uses are prohibited.

9. Shaw Rural and Shaw Rural Farm-Forest. Industrial uses shall be allowed subject to
the policies and regulations of this SMP and to the provisions of the Shaw Island Subarea
Plan.

10. Shaw Conservancy and Shaw Natural. Industrial uses shall be prohibited in these
environments. (Ord. 2–1998 Exh. B § 5.5.10)

SECTION 26. SJCC 18.50.260 and Ord. 2-1998 Exh. B § 5.5.11 are each amended to read
as follows:

18.50.260 Institutional development.

A. General Regulations.

1. Applications for institutional development must include a detailed statement
explaining the nature and intensity of the water dependency or orientation of the proposed
activity. Such statement shall include at least the following:

a. Nature of the institutional activity;

b. Need for shoreline frontage;

c. Proposed measures to enhance the relationship of the activity to the shoreline
mitigate potential adverse impacts and to ensure no net loss of shoreline ecological
functions; and

d. Proposed provisions for public visual or physical access to the shoreline.
2. Proposed institutional developments shall be consistent with any applicable comprehensive waterfront or subarea plans.

3. Only water-dependent and water-related institutional development are permitted within shoreline jurisdiction. They shall be consistent or compatible with existing use of neighboring shoreline areas existing before the effective date of this SMP.

4. Accessory development such as including but not limited to parking, storage, waste storage and treatment, stormwater runoff control facilities, utilities and land transportation that does not require a shoreline location must be located upland of the water dependent portions of the development and setback from landward of the OHWM of the water-dependent portions of the development. This category includes parking, storage, waste storage and treatment, stormwater runoff control facilities, utilities and land transportation.

5. Existing Institutional development on shorelines which that is neither water-dependent nor water-related existing or vested before the effective date of this SMP may be permitted as a conditional use to expand inland from existing structures existing at the time of application but not parallel to or waterward of the OHWM. Waterward or lateral expansion of non-water-dependent institutions existing non-water oriented institutions before the effective date of this SMP is prohibited.

B. Regulations by Environment Designation.

1. Urban. Institutional uses shall be allowed in the urban environment, subject to the policies and regulations contained in this SMP.

2. Rural. Institutional uses shall be allowed in the rural environment, subject to the policies and regulations contained in this SMP.

3. Rural Residential. Institutional uses are prohibited in the rural residential environment.

4. Rural Farm Forest. Institutional uses are prohibited in the rural farm-forest environment.

5. Conservancy. Institutional uses shall be allowed as conditional uses in the conservancy environment, subject to the policies and regulations contained in this SMP.

6. Natural. Institutional uses are prohibited in the natural environment.

7. Aquatic. Institutional uses are prohibited in the aquatic environment designation, unless the use is water-dependent.

8. All Eastsound Environments. Institutional uses are prohibited in all Eastsound environments unless the use in question is listed as an allowable use for the adjoining uplands. Uses so allowed are subject to the policies and regulations contained in this SMP.
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9.— Shaw Rural and Shaw Rural Farm Forest. Institutional uses are allowed in these environments subject to the policies and regulations of this SMP and the provisions of the Shaw Island Subarea Plan.

10.— Shaw Conservancy and Shaw Natural. Institutional uses are prohibited in these environments.

SECTION 27. SJCC 18.50.280 and Ord. 2-1998 Exh. B § 5.5.13 are each amended to read as follows:

18.50.280 Log transfer sites and facilities and log storage.

A. Regulations.

1. Dry land log storage shall be preferred over water storage unless the applicant demonstrates that in-water storage will be less detrimental to the natural environment shoreline ecological functions or other public interest.

2. Unpaved areas which have seasonal high water tables (less than three feet below ground surface) or poor surface drainage shall not be used for log storage during the wet season unless specifically authorized by the administrator Director following investigation of the site.

3. Log storage is prohibited in public waters where state and federal quality standards cannot be met at all times nor where such storage would constitute a significant hindrance to other legitimate water uses such as small craft navigation.

4. In conformance with Washington Department of Natural Resources (WDNR) established policy, log rafting, transfer, and storage areas on leased public tidelands shall be used cooperatively and jointly by loggers and not exclusively by the leaseholder.

5. In conformance with WDNR established policy, (“Special Provisions for Booming and Rafting Leases,” 17–2–72) easy-let-down devices shall be preferred over the free dumping of logs into the water. However, in no event shall the free-fall dumping of logs be permitted in a manner which would do unnecessary damage to the shoreline life forms ecological functions.

6. Effective bark and wood debris controls and collection and disposal methods must be employed at log storage and raft construction areas for both floating and sinking particles.

7. Drainage and surface runoff from log storage areas must be controlled so that pollutants, including bark and other wood debris, will not be carried into water bodies.

8. Dikes, drains, vegetated buffer strips, or other means shall be used to ensure that surface runoff is collected and discharged from the storage area at one point. It must be demonstrated that state water quality standards or criteria will not be violated by such
runoff discharge under any conditions of flow in nearby water courses. If such demonstration is not possible, treatment facilities for runoff shall be provided meeting state and federal standards.

89. Where water depths will permit the floating of bundled logs, they must be secured in bundles on land before being placed in the water. Bundles shall not be broken again except on land or at millsites.

910. Log transfer facilities will not be approved until:

a. It can be shown by the applicant that existing facilities existing or vested on the date of application are not adequate or feasible for use;

b. Alternative access is not adequate or feasible;

c. The feasibility and determination of demand for a multiple-user facility has been thoroughly investigated and demonstrated. If feasible, facility shall be allowed.

d. The applicant has the burden of providing the information requested for subsections (A)(10)(a) through (e) of this section, and must provide this information in a manner prescribed by the administrator.

1044. The development of a facility for log transfer, or the use of an unimproved shoreline area for a log transfer site, is subject to being allowed as a conditional use permit.

1142. Proposals for commercial timber harvest on islands not served by Washington State Ferries shall identify all sites that are proposed for the transfer of logs off of the islands. A shoreline conditional use permit is required for each log transfer site; however, the ongoing use of a legally operating, single transfer site on a given non-ferry-served island shall not require a separate shoreline permit for each user.

B. Regulations by Environment Designation.

1. Urban. Log handling and storage facilities and log transfer sites and facilities shall be permitted in the urban environment subject to the policies and regulations of this SMP.

21. Rural and Rural Residential. Log handling and storage facilities and log transfer sites and facilities shall be allowed only on non-ferry-served islands and if the site will serve multiple users on the island affected subject to the policies and regulations of this SMP.

3. Rural Farm-Forest. Same as urban.

42. Conservancy. Log handling, dry storage, and wet storage facilities may be allowed in the conservancy environment designation only on non-ferry-served islands and if the site will serve multiple users on the island affected, and the applicant demonstrates that conservancy shoreline resources ecological functions will not be materially harmed.

5. Natural. Log handling, dry storage, and wet storage facilities, and log transfer sites
and facilities, shall be prohibited in the natural environment.

63. Aquatic. Wet storage and log transfer sites and facilities shall be allowed in the aquatic environment designation subject to the policies and regulations of this SMP and to the regulations by environment for the abutting shoreline environment designation. If a proposed site or facility would abut more than one abutting shoreline environment designation the more restrictive regulations shall govern.

7. All Eastsound Environments. Same as natural.

8. Shaw Rural and Shaw Rural Farm Forest. Same as urban.

9. Shaw Conservancy. Same as conservancy.

10. Shaw Natural. Same as natural.

SECTION 28. SJCC 18.50.290 and Ord. 2-1998 Exh. B § 5.5.14 are each amended to read as follows:

18.50.290 Mineral extraction.

A. General Regulations.

1. All mineral extraction projects are subject to the mitigation sequencing analysis set out in Section 12 of this ordinance.

2. Applications for substantial development permits for mineral extraction must be accompanied by a report prepared by a competent qualified professional geologist which (see SJCC 18.20.170) that must include at least the following information:

   a. Types of materials present on the site;

   b. Quantity and quality of each material;

   c. Lateral extent of mineral deposit(s);

   d. Depth of mineral deposit(s); and

   e. Depth of overburden.

23. All mineral extraction and reclamation must be performed in full compliance with the Washington State Surface Mining Act (Chapter 78.44 RCW) except where such compliance would, in the opinion of the administrator, result in adverse impacts on the shore process corridor and its operating systems.

34. The extraction of minerals from any marine beach or feeder bluff or any lake beach for any commercial or industrial purpose is not permitted prohibited.

45. The extraction of minerals from any marine or lake beach for noncommercial,
nonindustrial purposes is strongly discouraged and must shall may be prohibited if necessary to protect natural shoreline ecological functions, resources or systems.

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

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

78. Each application for a substantial development permit for mineral extraction must be accompanied by a detailed reclamation plan. The plan must indicate the approximate dates on which that the reclamation effort is to be initiated and completed and must show that the site is to be reclaimed for a use which that is permitted allowed by this master program, the SMP on the subject site. The plan must indicate the mitigation efforts to be undertaken to assure that there is no net loss of ecological functions. In all cases the reclamation program will be initiated within 60 days following the completion of the extraction operations.

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

910. Mineral extraction or reclamation activities must meet all critical area regulations and ensure there will be no net loss of shoreline ecological functions.

B. Regulations by Environment Designations.

1. Urban. Mineral extraction may permitted in the urban environment subject to the policies and regulations contained in this SMP if potential adverse impacts on the human environment can be adequately controlled or mitigated.

2. Rural. Mineral extraction is allowed in the rural environment designation subject to the policies and regulations contained in this section. A 10-50 foot buffer of undisturbed soil and vegetation must be maintained between the extraction site (including all accessory developments) and adjacent properties, water bodies, and wetlands.

3. Rural Residential. Mineral extraction is prohibited in the rural residential environment.

4. Rural Farm Forest. Mineral extraction is prohibited in the rural farm forest environment.

5. Conservancy. Mineral extraction is prohibited in the conservancy environment.

6. Natural. Mineral extraction is prohibited in the natural environment.
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7. Aquatic. Mineral extraction shall not be permitted in the aquatic environment.

8. All Eastsound Environments. Mineral extraction is prohibited in all Eastsound environments.

9. Shaw Rural. Same as rural.

10. Shaw Rural Farm-Forest. Same as rural farm-forest.

11. Shaw Conservancy and Shaw Natural. Mineral extraction is prohibited in these environments.

SECTION 29. SJCC 18.50.300 and Ord. 2-1998 Exh. B § 5.5.15 are hereby amended to read as follows:

18.50.300 Private Pedestrian pathways, stairways and ramps beach access structures.

A.

1. “A beach access structure” is a set of steps or stairs, a pathway or a ramp used to provide pedestrian access to the OHWM as normal appurtenances to single-family residences in San Juan County. All nonexempt beach access structures require a shoreline substantial development permit and must meet all of the general regulations for beach access structures. Private pedestrian pathways, stairways and ramps are only exempt from shoreline substantial development permits under limited circumstances, pursuant to Section 7 of this ordinance.

2. Exempt private pedestrian pathways, ramps and stairs must obtain a certificate of exemption. Exempt appurtenances must meet the following:

   a. The total cost or fair market value of the improvements does not exceed the maximum allowed by state law;

   b. Roofs or roof covering materials such as awnings are prohibited;

   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 stairs or ramp are physically connected to an exempt or permitted dock;

   e. The maximum vertical height of the staircase is 15 feet and the maximum width of the structure is three feet. One intermediate landing or platform with a maximum size of three feet by three feet is allowed. Stairways that are proposed for exposed areas of the shoreline may not be located on rock faces or bluffs that exceed a 60-degree angle.

   f. The project complies with bank stability requirements of Section 13 of this ordinance.
3. Nonexempt private pedestrian pathways, ramps and stairs must meet standards b – d above; however, nonexempt stairs may expand up to 6 feet wide with landings that are 6 feet by 6 feet.

4. Every application, whether exempt or for a substantial development permit for a nonexempt for private pedestrian pathways, stairways and ramps, beach access structure shall be evaluated on the basis of multiple the following considerations: including but not necessarily limited to the potential impacts on

   a. Bank stability;
   b. Bank geology;
   c. Vegetation removal in zone 1 of the Tree Protection Buffer;
   d. Potential for re-vegetation;
   e. the extent of vegetation removal, visual impacts, and structural stability;
   f. Adverse impacts on shoreline ecological functions; and
   g. Aesthetic impacts.

5. Beach access structures which Private pedestrian pathways, stairways and ramps that can reasonably be expected to interfere with the normal erosion accretion process associated with feeder bluffs is shall not be prohibited permitted.

6. All private pedestrian pathways, stairways, and ramps, beach access structures must demonstrate compliance with the bank stability requirements of Section 13 of this ordinance.

7. Public pedestrian trails connecting geographically disparate areas that are part of a network identified in county planning documents are permitted in the shoreline. Public pedestrian trails shall be regulated by Section 33 of this ordinance.

8. Beach access structures. Pedestrian pathways, stairways and ramps shall not be located below the ordinary high water mark (OHWM) unless connected to an exempt or permitted structure meeting the requirements of this SMP.

B. Regulations by Environment.

1. Urban. Beach access structures shall be permitted in the urban environment subject to the policies and general regulations contained in this master program.

2. Rural and Rural Residential. Same as urban.

3. Rural Farm-Forest. Same as urban.

4. Conservancy. Same as urban.
5.—— Natural. Beach access structures shall not be permitted in the natural environment.

6.—— Aquatic. Beach access structures shall not be permitted in the aquatic environment.

7.—— Eastsound Urban. Beach access structures shall be allowed only in accordance with public beach access or moorage facility provisions specified in an adopted public access plan for this environment. Until such a plan is adopted, the regulations for the urban environment shall apply.

8.—— Eastsound Residential, Eastsound Conservancy and Eastsound Marina District. Same as urban.

9.—— Eastsound Natural District. Same as natural.

10.—— Shaw Rural, Shaw Rural Farm Forest and Shaw Conservancy. Same as urban.

11.—— Shaw Natural. Same as natural. (Ord. 2–1998 Exh. B § 5.5.15)

SECTION 30. SJCC 18.50.310 and Ord. 2-1998 Exh. B § 5.5.16 are each amended to read as follows:

18.50.310 Ports and water-related port facilities.

A. General Regulations.

1. All proposed port development activities must take place within the jurisdiction of a port district and shall be consistent with an adopted comprehensive harbor/port development district improvement plan.

2. Industrial enterprises which are not water-dependent are not permitted to locate within any marine port area. Expansion of non-water related industrial enterprises existing within marine port areas which are not water-related are not permitted to locate within 200 feet of any before the effective date of this SMP is prohibited within the shoreline jurisdiction.

3. Utilities, roads, parking areas, docks, and other facilities which are installed or constructed to serve ports will be subject to the appropriate sections of this master program.

4. Opportunities for public visual or physical access to port areas must be maximized; provided that included as part of each development project to the maximum extent practicable; unless such access will not significantly interfere with port operations or endanger public health or is shown to be incompatible due to reasons of safety, security, or impact to the shoreline ecological functions.

B. Regulations by Environment Designation.

1.—— Urban. Ports and water dependent or water related port facilities may be permitted as
conditional uses in the urban environment, subject to the policies and regulations contained in this SMP.

12. Rural. Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are permitted in the rural environment designation subject to the policies and regulations contained in this SMP. Other water-dependent or water-related port facilities may be permitted as a conditional use.

3. Rural Residential. Ports and water-dependent or water-related port facilities are prohibited in the rural residential environment.

24. Rural Farm-Forest. Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are permitted in the rural farm-forest environment designation subject to the policies and regulations contained in this SMP. Other port uses are prohibited.

5. Conservancy. Ports and water-dependent or water-related port facilities are prohibited in the conservancy environment.

6. Natural. Ports and water-dependent or water-related port facilities are prohibited in the natural environment.

37. Aquatic. Ports and water-dependent or water-related port facilities are allowed in the aquatic designation, subject to the policies and regulations contained in this master program and to the regulations by environment applicable to the abutting shoreline area. Where the proposed port or water-dependent or water-related facility would abut more than one shoreline environment designation, the the policies and regulations of the most restrictive abutting environment designation shall govern.

8. Eastsound Urban. Port facilities are allowed only if public access is provided and if proposed port development is in accordance with a port development plan adopted as a part of this master program. Log dumping and storage, seaplane bases, marine fueling stations, sewage pump-out facilities, and industrial uses are prohibited.

9. Eastsound Residential, Eastsound Conservancy, Eastsound Marina District, and Eastsound Natural. Ports are prohibited.

10. All Shaw Island Environments. Ports and port facilities are prohibited. (Ord. 2-1998 Exh. B § 5.5.16)

4. Ports, marinas and marine transportation. Port development is allowed subject to the standards set forth for its elements (Boating facilities, breakwaters, dredging etc.) in this SMP.

SECTION 31. SJCC 18.50.320 and Ord. 2-1998 Exh. B § 5.5.17 are each amended to read as follows:
18.50.320  Recreation.

A.  General Regulations.

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

2.  Parking areas associated with shoreline recreational areas must be (a) located inland away from the water and beaches, (b) designed to control surface runoff, (c) prevent the pollution of water bodies, and (d) subject to the provisions of SJCC 18.50.090, Parking, and SJCC 18.50.340, Transportation facilities. Safe access from parking areas to recreational areas shall be provided by means of walkways or other suitable facilities.

2.  Recreational uses and facilities located within shoreline jurisdiction must include features that relate to access, enjoyment and use of the water and shorelines of the state. Accessory uses, such as including but not limited to restrooms, commercial services, access roads, and parking lots, must be located according to the following preferences:

   a.  Outside of shoreline jurisdiction, where feasible; or

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

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

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

5.  Drainage and surface runoff from recreational areas shall be controlled so that pollutants will not be carried into water bodies.

6.  Recreational facilities which normally require the use of large quantities of chemical fertilizers and herbicides, such as golf courses and playing fields, shall not be located on shoreline areas unless adequate provisions can be made for the protection of water areas from drainage and surface runoff.

7.  Recreational structures shall be set back a safe sufficient distance behind the tops of feeder bluffs to avoid the need for future stabilization for the life of the structure.

7.  All recreational development in shoreline jurisdiction must be located, designed, constructed, and managed to ensure no net loss of shoreline ecological functions.

B.  Regulations by Environment Designation.
1. Urban. Recreational uses shall be permitted in the urban environment, subject to the policies and regulations contained in this SMP.

2. Rural. Same as urban.

3.1. Rural Residential and Rural Farm-Forest. Recreational uses are permitted in these environments, subject to the policies and regulations contained in this master program and, except for public parks, only if the use is designed to serve a residential subdivision, land division or multifamily development. Public parks are prohibited.

4. Conservancy. Recreational uses of a nature and intensity consistent with the objectives of the conservancy environment shall be permitted in that environment, subject to the policies and regulations contained in this SMP.

5. Natural. Recreational uses of a nature and intensity consistent with the objectives of the natural environment designation are permitted, subject to the policies and regulations contained in this SMP. Such uses might include viewpoints and pedestrian trails. Where feasible, however, roads, camping areas, parking areas, restrooms, and similar facilities shall not be located within the shoreline-SMP jurisdiction only when all other locations are demonstrably infeasible. Golf courses, playing fields, and similar large area uses are prohibited. The use of chemical fertilizers, pesticides, and herbicides is prohibited. Landscaping, where permitted and appropriate, shall consist solely of native vegetation.

6. Aquatic. Recreational uses shall be allowed in the aquatic environment designation, subject to the policies and regulations of this master program and to the regulations by environment applicable to the subject to the abutting shoreline area. Where the proposed recreational use would abut more than one shoreline environment designation, the policies and regulations of the most restrictive abutting environment designation shall governs.

7. Eastsound Urban, Eastsound Residential, Eastsound Conservancy, and Eastsound Natural. Recreational use and development is limited to outdoor parks for public, passive recreational use and water access, without facilities for overnight camping.

8. Eastsound Marina District. Recreational use and development shall not include facilities for overnight camping.

9. All Shaw Island Environments. Recreational use and development shall be limited to outdoor parks for public, passive recreational use and water access, without commercial facilities for overnight camping.

4. Ports, Marinas and Marine Transportation. Recreational use and development will shall may not include permanent facilities for overnight camping.
SECTION 32. SJCC 18.50.330 and Ord. 7-2005 §§ 15 and 16 are each amended to read as follows:

18.50.330 Residential development.

A. Exemptions. The SMA specifically exempts from the substantial development permit requirements the construction of a single-family residence by an owner, contract purchaser or lessee for his or her own use, or the use of his or her family. Such construction and normal appurtenant structures must otherwise conform to this master program including any shoreline variance or conditional use permit requirements of this section. Exempt residential appurtenances are specified in SJCC 18.50.020(G).

B. Regulations – Location and Design.

1. Residential development is only permitted landward of the OHWM extreme high water mark, except as specifically allowed for live-aboard vessels in subsection E, houseboats, below.

2. If there is evidence that a shoreline area proposed for residential development may be unstable, as indicated by the “Coastal Zone Atlas of Washington” or similar reasonable evidence, the applicant may be required to submit a geological or geohydrological report attesting to the stability of the building site, a plan for stabilizing the area, and a plan for controlling erosion during and following construction activities. Any such plan shall be prepared by a qualified, licensed professional geotechnical engineer. However, residential structures which will require bulkheads or other shoreline fortifications at the time of construction or in the foreseeable future are prohibited. Evidence that such fortifications will be necessary to protect all or part of the development shall be grounds for denial of all or part of the proposed development.

3. Mobile home courts and parks, and subdivisions for mobile homes, shall not be permitted on shorelines unless all structures can be thoroughly screened from view from both the water and the land by means of natural cover (such as trees and shrubs).

4. Utility lines installed within subdivisions and nonexempt developments shall be placed underground and shall comply with applicable provisions of SJCC 18.50.130 and 18.50.350.

5. Drainage and surface runoff from residential areas shall be controlled so that pollutants will not be carried into water bodies.

B. Land division.

1. In addition to the requirements of Chapter 18.70 of this code, all land divisions shall be consistent with the following requirements:
2. All applications shall include a site plan demonstrating that new lots, with the exception of common area lots, will be are developable. The site plan shall not constrain future development options.

3. The site plan shall show, where appropriate, the following:
   a. Lot boundaries;
   b. Topography;
   c. Current land cover;
   d. Current trees;
   e. Trees removed as part of the potential development;
   f. At least one potential location for primary and appurtenant structures;
   g. Potential location of parking areas and other impervious areas;
   h. Potentially graded areas;
   i. Potential lawns, gardens etc.;
   j. Potential location of joint use dock;
   k. Critical areas;
   l. Setbacks;
   m. Tree protection zones;
   n. Habitat buffers;
   o. Water quality buffers;
   p. Easements or common areas;
   q. Potential on-site sewage system;
   r. Potential stormwater treatment/infiltration areas;
   s. Potential well sites;
   t. Potential location of utility lines including water, sewer, power and phone;
   u. All streams, ditches, drainage ways, seeps, ponds, wetlands;
   v. Areas with slumps, landslides or ongoing soil erosion;
   w. Areas of unfractured bedrock;
   x. Rocky balds, meadows, fields with wildflowers/native grass or Garry Oak.

46. In all new land divisions that yield five (5) or more lots, and multiple unit and multifamily developments, one (1) of the following access standards shall be met:
   a. An easement shall be established to provide all lots usable physical access to the OHWM; or
   b. A common area of 75 feet deep measured landward from the OHWM ordinary high water mark shall be established along the entire waterfront of the property to be developed, and all other common area requirements of subsection (F)(2) of this section shall also be met. A minimum of one and one-quarter acres within shoreline jurisdiction shall be provided for each residential unit to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of units within the shoreline jurisdiction; or
   c. At least 20 percent of the area within the shoreline jurisdiction shall be
5. Land division applications for non-bedrock lots shall provide a geotechnical evaluation, prepared by a qualified professional identifying any setbacks necessary or other conditions to allow for natural erosive processes to occur over the life of the proposed development (75 years) without requiring structural shoreline stabilization measures.

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

7. In land divisions creating five (5) or more lots, public access easements or common areas, consistent with the provisions of Section 14 of this ordinance and other conditions shall be noted on the deed and/or on the face of the plat at the time of approval. (RCW 58.17.110).

8. If any docks are proposed, shoreline land divisions shall be required to provide community docks rather than individual private docks.

9. As residential development is not allowed on common area lots, lots designated as common area shall not be counted as contributing to an area’s overall density.

10. Land division of parcels with designation of natural is prohibited.

116. In rare instances, land division of land that would exceed maximum density standards may be allowed by conditional use if the following circumstances are also demonstrated by the owners:

   a. The property is not located within a the natural shoreline environment designation.

   b. The property is occupied by existing, individually owned single-family dwelling units whose numbers that exceed currently allowable maximum residential density standards and all such units are documented to have existed on the property before May 28, 1976.

   c. All the dwelling units have been maintained on the site consistent with nonconforming use standards in Section 37 of this ordinance WAC 173-14-055, as amended, and have not been abandoned or removed from the property since May 28, 1976.

   d. There is no history of use or occupancy other than for residential or vacation residual purposes for the owners’ personal use and that of their nonpaying guests.

   e. There is evidence of an adequate approved water supply for each unit accepted in writing by the County Environmental Health Officer; sanitarian.
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f. There is an approved septic on-site sewage disposal system for each unit or there is documentation that a functioning septic on-site sewage disposal system exists to serve each unit and that adequate drainfield reserve area exists; and

g. The proposal is designed to allow the simultaneous transfer or division of each ownership interest in the property.

g. Complies with the general shoreline conditional use provisions of SJCC 18.80.110(J) Section 5 of this ordinance.

127. Any conditional use permit granted under the provisions in subsection (11) to allow transfers of individual ownerships in property owned and developed as described in subsection (B)(16) of this section shall include the following conditions, at a minimum:

a. Conditional use permit approval shall not itself constitute a legal division of the land or transfer of land ownership. The property owners must legally divide the entire property simultaneously effect a legal division or segregation of property attached to each residential unit, under all applicable state and County laws before any transfer of individual units may occur. Such division or segregation must be initiated with the submission of a complete land division application within two years of the effective date of the conditional use permit.

b. Residential density on the property shall may not exceed that which currently exists, expressly provided for in subsection (B)(16) of this section.

c. Residential use and development shall be restricted to single-family units and residential accessories appurtenances only.

d. The entire parcel owned in common shall be restricted to prohibit a residential density in excess of that made legally nonconforming on May 28, 1976.

7. In all proposed land divisions and multiple unit and multifamily developments on shorelines the terrain, access, potential building sites, areas, appropriate for common ownership, and special features of the site shall be considered in the design of the development. Allowable densities are maximum densities and are not guaranteed. The approved density shall be determined on a case-by-case basis and shall be based on considerations of topography, protection of natural resources and systems, and the intent and policies of the Shoreline Management Act, the State Environmental Policy Act, the Comprehensive Plan, this code, and this Shoreline Master Program.

The allowed density may be reduced below the maximum if SEPA analysis or other evaluation of the site or area wide conditions demonstrates that adverse effects of development at the maximum density can be mitigated or avoided by a reduction to the approved density, and no appropriate alternative means of mitigation is available.

8. Land clearing, grading, filling, or alteration of wetlands, natural drainage, and topography for residential construction shall be limited to the area necessary for driveways,
buildings, and view and solar access corridors. Cleared surfaces not to be covered with
gravel or impervious surfaces shall be replanted promptly with native or compatible plants
(i.e., groundcovers or other plant materials adapted to site conditions which will protect
against soil erosion). This applies to individual construction and shoreline subdivisions.

Existing vegetation shall be used to visually buffer structures as viewed from the shoreline,
public roads, and adjoining properties. All applications for new construction and
subdivisions shall indicate any trees to be removed. If trees are to be removed beyond those
required to construct a single-family residence, then a tree removal plan shall also be
submitted. The plan shall:

a. Identify the proposed building areas and driveways and view and solar access
corridors; and

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

Removal of trees smaller than three inches in diameter, as measured four feet above
grade, shall not be restricted unless there is evidence that the shoreline is unstable The
removal of smaller trees, brush, and groundcover may be restricted in unstable
shorelines.

9. All subdivisions and nonexempt residential developments shall have water supplies
adequate so that groundwater quality and quantity are not endangered by over-pumping.

10. All new waterfront subdivisions and multifamily residential developments shall
prohibit moorage facilities other than mooring buoys, but allow property owners to seek
approval of joint use moorage facilities to serve the entire subdivision or development.

11. Any parcel which constituted a legal building site prior to the adoption of this master
program shall continue to constitute a legal building site regardless of the density
requirements imposed by this master program. All parcels are subject to all other applicable
state and County regulations.

12. Construction of a single-family residence for the use of the owner and their family is
exempt from substantial development permit requirements in accordance with WAC 173–
27–040(2)(g) and SJCC 18.50.020(F). Any other single-family residential construction is
subject to shoreline permit requirements. For the purposes of this SMP, the beneficial
owner is an individual who is 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. In no case shall construction of more than one
single-family residence on a single parcel owned by a family be exempt from shoreline
permit requirements.

A. Regulations-Location and design continued

Where waterfront screening trees are absent, developments on waterfront parcels

lots shall cover no more than 50 percent of the width of the lot parcel 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 50 percent of the width of the single lot. However, on lots less than 80 feet wide at the most seaward point of the proposed residential structure, structures may cover an area up to 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is maintained. With the exception of patios, pedestrian pathways, ramps and stairs all appurtenant structures shall be placed landward of the primary residential structure. See Fig 5.6.1

**Figure 5.1 50% of Frontage Width**

### 3.4.4 Generally, the maximum permitted allowed height for residential structures is 28.35 feet as determined by the Structural Height Measurement Method set forth in SJCC 18.20.
Residential structures exceeding are permitted to exceed this height only when the roof has a minimum 6 in 12 pitch which does not extend beyond a maximum height of 35 feet shall be allowed only as a conditional use permit, above the existing grade at the base of the structure. Any residential structure which exceeds a height of 35 feet above existing grade, as measured along a plumb line at any point, shall be permitted only as a conditional use. The conditional use permit to exceed the 35 feet in height will only be approved if the applicant demonstrates that the structure will not result in significant adverse visual impacts, nor interfere with normal, public, visual access to the water. The applicant must also demonstrate that there are compensating factors which make a taller structure desirable from the standpoint of the public interest. Artificially created grades to gain height advantages are prohibited.

15. One garage building and/or one accessory dwelling unit each of which covers no more than 1,000 square feet of land area and is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 2,000 square feet which is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 1,000 square feet on each floor and no taller than 28 feet above existing grade.

419. Miscellaneous Exceptions. The lot coverage and setback requirements of subsections (A)(2)(B)(13) and (C) (D) of this section shall not apply to designated building sites on a common area, or lots surrounded by a common area that meet the following criteria:

a. those parcels which are less than 0.3 acres in size;

b. where the building sites or lots parcel boundaries were approved in a division of land or binding site plan before December 31, 1990;

c. are circular; and

d. if the lot a document approving a division of land recorded before the effective date of this SMP establishes different coverage and setback standards from those in subsections (A)(2)(B)(13) and (D) of this section, the standards on the document approving the division of land shall control. Lot coverage and setback standards of this section may be waived by the decisionmaking body if necessary to accommodate actual development legally established on the affected property. Land division must occur according to the subdivision or short subdivision standards in the County code or by condominium standards under state law.

C. Prohibited Uses and Activities.

4. Except as otherwise provided in the live-aboard provisions in subsection G of Section 32 of this ordinance new residential structures and accessory appurtenant structures are
prohibited over water or floating on the water, except as specifically allowed in this chapter.

2. Subdivisions and nonexempt residential structures, including accessory uses, which will exceed the physical capabilities of the proposed site to absorb the resulting impacts shall not be approved.

3. Residential development within floodways, wetlands, and other hazardous (such as steep slopes and areas with unstable soils or geologic conditions) or environmentally sensitive areas shall only be approved subject to the regulations of the environmentally sensitive areas overlay district as specified in this code (SJCC 18.30.110 through 18.30.160).

4. The creation of landfills in water bodies or their associated wetlands for the purpose of residential development is prohibited.

D. Regulations – Setback Standards.

1. As an alternative to the buffer provisions of Section 13 of this ordinance, structures located on lakes and bedrock areas of the marine shorelines may be set back 110 feet from the OHWM or top of bank. Coastal geologic buffers on non-bedrock shorelines shall be determined by a geotechnical report that specifies the distance from the top of the bank, (or where there is no bank, the OHWM) the structure must be to ensure that stabilization is not necessary for the life of the structure (75 years).

1. All structures shall be set back from water bodies and associated wetlands sufficiently to protect natural resources and systems from degradation.

   a. All structures shall be set back a safe distance behind the tops of feeder bluffs, as determined by a licensed geotechnical engineer.

   b. Every residential structure built at a beach site shall be located landward of the berm or bank, as dictated by the topography, to assure protection of the beach site.

2. In addition to any required buffers or tree protection zones, there shall be a minimum 50 foot aesthetic setback from the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2. Residential structures shall be located behind the treeline and set back a minimum of 50 feet from the OHWM, top of bank or berm, whichever is greater.

3. In addition to any required buffers or tree protection zones, there shall be a minimum 100 foot aesthetic setback from the top of bank or OHWM for residential structures on parcels that either lack screening vegetation and/or do not have 21% tree canopy cover within the 75 lineal feet between 35 feet landward of the OHWM and 110 feet landward of the OHWM or have screening vegetation but lack 21% tree canopy cover in Tree Protection Zone 2.
4. Residential structures are also subject to the following:

   a. Setbacks from wetlands associated with shorelines (Chapter 173–22 WAC) shall be measured from the natural edge of these features.

   b. If there is no natural screening or if the shoreline area is cleared so as to preclude natural screening before a building permit application is approved, then a minimum setback of 100 feet from the OHWM or from the top of bank or berm, whichever is greater, will apply regardless of the environment designation.

   e. A setback less than the minimums specified above may be authorized by the administrator only if it will result in a lesser environmental or visual impact.

   ad. If existing houses on adjoining waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the top of bank or OHWM water than the specified minimum setback or buffer and may potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized by the Director if:

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

      ii. Adverse impacts are mitigated in conformance with Section 12 of this ordinance; and

      iii. The authorized buffer and tree protection zones are the greater of:

              (A) The waterward side of a line between the most waterward points of the houses on the adjoining lots; and

              (B) The average of the distances from the OHWM to the most waterward points of the houses on adjoining lots. This setback may be equal to the average setback of existing houses on adjacent lots, if the minimum setback would cause obstruction of views from the building site due to the location of existing houses and if consistent with other applicable regulations in this master program.

   e. Nonconforming single-family residential development, made nonconforming by the above setback regulation in 1991, shall be subject to the standards contained in Chapter 173–27 WAC (Permits for Development on Shorelines of the State); provided, that:

      i. A nonconforming residence of 2,000 square feet or smaller may be expanded by an amount equal to the existing floor area of the residence as long as the resulting total floor area does not exceed 2,000 square feet, or the existing floor area may be increased by an amount not to exceed 25 percent, whichever is larger. A nonconforming residence with an existing floor area in excess of
2,000 square feet may be expanded by no more than 25 percent of the total
existing floor area. In no case shall any portion of the expansion be located
seaward of the most seaward point of the existing residence. For the purposes of
this computation, floor area shall include all areas enclosed within the walls of
the house and all attached decks and porches.

ii. Additions to nonconforming residences shall conform to all other
applicable shoreline regulations as well as to other applicable County and state
regulations.

iii. A nonconforming residence may be expanded incrementally if the
ultimate expansion does not exceed the maximum allowable increase in floor
area over that existing on the effective date of this regulation.

iv. For purposes of this section, “residence” shall mean the primary
residential structure on the property. Accessory dwelling units and other
accessory residential structures are not included.

3. Building setbacks from shorelines must be established as conditions of preliminary
plat approval in all new waterfront subdivisions and short subdivisions. A plat restriction
must specify the required setbacks and all building setbacks must be shown on the face of
the plat. Once a building setback line is determined, removal of trees seaward of the
setback line shall be expressly limited in plat restrictions. Tree removal restrictions in
subsection (B)(8) of this section will also apply.

E. Regulations – Accessory Use Appurtenant structures.

1. With the exception of stairs, pathways, and decks appurtenant accessory structures
which are not water-dependent shall not be permitted seaward of the most landward
extent of the residence. If this regulation would result in greater adverse impacts on
shoreline ecological functions, features or resources or would conflict with other applicable
regulations of this master program the SMP, the administrator Director may authorize
by written findings and determination an alternative location without requiring a shoreline
variance permit after preparing written findings and an administrative determination.

2. Appurtenant structures that are not specified in Section 7 of this ordinance as normal
appurtenances to a residential use shall be subject to a conditional use permit. The
following accessory uses and developments, when associated with an exempt single-family
residence, are defined as “normal appurtenances” and are therefore exempt as provided in
SJCC 18.50.020(F)(2)(g):

   a. One garage building and/or one accessory dwelling unit each of which covers
no more than 1,000 square feet of land area and is no taller than 16 feet above
existing grade as measured along a plumb line at any point; or a combination of these
uses in a single structure no larger than 2,000 square feet which is no taller than 16
feet above existing grade as measured along a plumb line at any point; or a
combination of these uses in a single structure no larger than 1,000 square feet on each floor and no taller than 28 feet above existing grade. In no case shall an accessory dwelling unit exceed 1,000 square feet;
b. No more than two separate outbuildings no larger than 200 square feet each, no taller than 16 feet above average grade level, and not used for human habitation; provided, that in addition, one outbuilding for any other residential purpose may be substituted for an accessory dwelling unit or garage if the structures do not exceed size limits specified in subsection (E)(2)(a) of this section; and
c. Grading (excavation and fill) of up to the maximum cubic yardage allowed by state law (see WAC 173-27-040(g)) for foundations and a driveway, plus any additional grading necessary for an individual on-site sewage disposal system.

3. A shoreline substantial development permit shall be required for construction of any nonexempt accessory development on a single parcel within 200 feet of the ordinary high water mark. Construction of an accessory dwelling unit that will be used for vacation rental (short term) or long-term rental is not exempt. Any grading in excess of the amount exempt under SJCC 18.50.020(F)(2)(g) shall be subject to substantial development permit requirements.

4. Accessory structures which are not specified in this section as normal appurtenances to a residential use shall be permitted only as conditional uses.

5. Vacation rental or transient occupancy of a single-family residence or an accessory dwelling unit is subject to the applicable provisions of this section, the performance standards in SJCC 18.40.270 and the permit requirements specified in UDC Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040.

6. Every accessory dwelling unit in the shoreline must be located in a way that maintains the single-family appearance and shall also meet the performance standards for accessory dwelling units set forth in SJCC 18.40.240.

F. Regulations — Public/Visual Access.

1. Opportunities for physical and visual public access to the shoreline shall be considered in review of residential subdivisions and nonexempt developments. Physical public access shall be based on an adopted County public access plan.

2. Land divisions and multiple-unit or multifamily unit developments shall provide a usable shoreline common area of reasonable size for the number of dwelling units in the development. In addition to the designated common area(s), there shall be appropriate easements dedicated to provide land access to the common area(s) to all property owners within the development. In all new subdivisions, standards for care and maintenance of shoreline common areas shall appear on the face of the plat and shall be consistent with the provisions of this SMP.
a. If tidelands are privately owned, the area between ordinary high tide and the line of extreme low tide shall be dedicated to all property owners in the development as a part of the common area.

b. In locations where, as a result of topography or sensitive features of the site, such as natural marshes, swamps, or unstable, eroding bluffs, the application of this provision would not be feasible or would create a potential hazard, the administrator may authorize the designation of a different waterfront common area.

FG. Live-aboard Vessels/Houseboats.

1. Location. Houseboats are prohibited on state-owned aquatic land and live-aboard vessels shall be are allowed only within a portion of a marinas located within the shoreline jurisdiction of an activity center which has been granted shoreline substantial development permit approval for houseboat moorages. Houseboat live-aboard moorage spaces shall be limited to those areas within a marina specifically identified on approved project plans for this use and the allotted area and shall may not exceed 40 25 percent of the total number of slips in a marina, overall moorage space. The maximum square footage and height of any houseboat unit shall be specified in the project approval and shall minimize adverse impacts on the scenic qualities of the shoreline. Individual houseboat moorages are prohibited.

2. Standards. Houseboat live-aboard vessel moorages proposals shall ensure demonstrate that:

   a. Live-aboard vessels will have access to a sewage pump out facility within a day’s travel; Houseboat units will be connected to an approved sanitary sewer or other approved upland waste disposal system with demonstrated capacity to serve the number of units proposed, and that greywater will also be discharged to such a system;

   b. Live-aboard residents will have access to to onsite restrooms; and Houseboat units will be connected to an approved potable water supply with demonstrated capacity to serve the number of units proposed;

   c. Live-aboard residents will have access to an on onsite potable water supply/system. Materials used in the maintenance of houseboats moored at the marina will not result in contaminants or debris entering the water; and

   d. Location of the houseboat area shall ensure that at least six feet of water depth shall be maintained at low water and that grounding at low tides will be prevented.

H. Regulations by Designation Environment.

1. Urban. Residential development shall be permitted in the urban environment subject to the policies and regulations of this SMP.
2. Rural. Residential development shall be permitted in the rural environment subject to the policies and regulations of this SMP.

3. Rural Residential. Same as rural.

4. Rural Farm-Forest. Same as rural.

5. Conservancy. Residential development shall be permitted in the conservancy environment subject to the policies and regulations contained in this master program. No residential land division or other form of multiple-unit residential development shall be allowed unless conservancy values are fully recognized and protected.

6. Natural. Residential development are shall not be permitted prohibited in the natural designation environment; provided, that the owner of an lot of record existing before the effective date of this SMP, parcel of record may construct a one single-family residence and appurtenant structures for his or her own use. Vacation (short-term) rental of a single-family residence or accessory dwelling unit is prohibited. Land division is prohibited. Alteration of natural topography and vegetation shall be restricted to the minimum square footage that which is absolutely necessary for the construction of the structure(s) and access to them. Alteration of the land-water interface is prohibited.

7. Aquatic. Residential development, except for allowed live-aboard vessels permitted houseboats, is prohibited in the aquatic designation environment.

8. Eastsound Urban. Same as urban. Multifamily developments shall include provisions for public shoreline access.

9. Eastsound Residential District. Residential development is allowed subject to this master program and the applicable provisions of the Eastsound Subarea Plan. Multifamily developments shall include provision for public shoreline access.

10. Eastsound Marina District. Residential development is allowed in accordance with the marina district section of the Eastsound Subarea Plan.

11. Eastsound Conservancy. Same as conservancy.

12. Eastsound Natural. Same as natural.

13. Shaw Rural. Same as rural, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination with any commercial use shall be prohibited.

14. Shaw Rural Farm-Forest. Same as rural farm-forest, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination with any commercial use shall be prohibited.

15. Shaw Conservancy. Same as conservancy, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination
with any commercial use shall be prohibited.

16. Shaw Natural. Same as natural. (Ord. 7-2005 § 15 & 16; Ord. 21-2002 § 6; Res. 5-2002 §§ 2, 3; Ord. 12–2000 § 2; Res. 145–1998; Ord. 2–1998 Exh. B § 5.5.18)

SECTION 33. SJCC 18.50.340 and Res. 64-2001 are hereby amended to read as follows:

18.50.340 Transportation facilities.

A. Regulations – General.

34. Transportation facilities located in shoreline jurisdiction areas must be located, designed, constructed, and managed to ensure no net loss of shoreline ecological functions and processes, prevent erosion and to permit the natural movement of surface water.

2. The filling of wetlands for the construction of transportation facilities is not permitted unless it can be clearly shown that no feasible alternative exists.

3. All overburden, debris, and other waste material resulting from the construction of transportation facilities shall be disposed of in a fashion which will prevent their entry into any water body.

4. Excess construction materials shall be removed from the shoreline immediately following completion of the construction project.

15. Where appropriate, provisions for pedestrian access to or along the water shall be included in the plans for all new public transportation facilities.

26. Commercial watercraft and seaplane operations at public access points require a conditional use substantial development permit.

4. Transportation facilities in shoreline jurisdiction shall may not adversely impact planned or water-dependent uses existing on the date of the application.

B. Regulations – Roads (Public and Private).

1. Primary Major collector roads shall not be constructed in shoreline areas where an alternative upland alignment landward of the SMP Shoreline jurisdiction is feasible and practicable.

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

3. Road alignments shall be designed to fit the topography so that alterations of the natural site conditions will be minimized.
4. Cut and fill slopes shall be stabilized and, where appropriate, planted with native vegetation.

45. Roadside brush shall be controlled by mechanical rather than chemical means.

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

67. Roads shall be set back a safe distance behind the tops of feeder bluffs a sufficient distance to ensure there will be no need for shoreline stabilization within 75 years.

8. Drainage and surface runoff from roads and road construction or maintenance areas shall be controlled so that pollutants will not be carried into water bodies.

C. Regulations – Parking.

1. Parking areas shall not be located within the shoreline jurisdiction unless it can be shown that the parking area is an essential accessory to an allowed use, and that it could not feasibly be located on the upland site outside the shoreline jurisdiction and that the structure can be constructed, used and maintained in a manner that will ensure no net loss of shoreline ecological functions. Parking and holding areas designed to serving ferry terminals shall be permitted on the shorelines.

2. Parking areas permitted on shorelines shall be located landward of the uses they are designed to serve, unless an alternative orientation would reduce the adverse impacts. They shall be no larger than is absolutely necessary and, where appropriate, shall be screened from view, facilities and accessory uses, such as including but not limited to restrooms, commercial services, and access roads must be located according to the following preferences:

   a. Outside of shoreline jurisdiction, where feasible; or

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

3. Upland parking areas serving ferry terminals shall be located landward of the uses they are designed to serve, unless an alternative orientation would reduce the adverse impacts linked to those uses by safe, pedestrian accesses.

4. Parking is prohibited over water.

5. Parking facilities shall be designed and landscaped to minimize adverse impacts to adjacent shoreline activities and properties. Landscaping shall consist of native vegetation or species contained in an approved landscape plan. Vegetation shall be planted in the planting season prior to completion of the parking area. Plantings must provide effective screening within three years of project completion and through maturity of the species. Must provide safe and convenient pedestrian circulation within the parking area and access to the shoreline.
D. Regulations – Airports, Airfields and Airstrips. New airports, airfields and airstrips are prohibited within the shoreline jurisdiction. Airports, airstrips and runways existing before the effective date of this SMP shall be repaired, maintained and/or expanded with Section 37 of this ordinance.

E. Regulations – Ferry Terminals.

1. Ferry terminals and their related parking areas shall be located, designed, and constructed to ensure there is no net loss of shoreline ecological functions minimize their impacts on shoreline natural resources and systems.

2. Subsection (B) of this section applies to ferry terminals.

F. Regulations – County Docks.

1. County docks shall be located only on islands served by County roads.

2. Overnight moorage shall not be allowed at County docks.

3. County docks shall be designed and located to ensure there is no net loss of shoreline ecological functions minimize impacts on the shoreline environment.

G. Regulations – Float Plane Facilities. (See the definition of “float plane” in Chapter 18.20 SJCC.)

1. Use of docks for scheduled commercial float plane service, meaning five or more round trips per week according to a published schedule, shall be allowed only in public or private marinas or established port areas and shall require a shoreline conditional use permit for float plane use.

2. Use of docks for regular float plane access or moorage shall be allowed only at public or private marinas, port areas or private community docks and shall require a shoreline conditional use permit for float plane use.

3. Irregular use, meaning a sporadic and transitory pattern of dock and marina use for float plane service shall be allowed outright.

4. Any shoreline conditional use permit for float plane use shall specify:
   a. Taxiing patterns to be used by float planes that will minimize noise impacts on area residents and wildlife and minimize interference with navigation and moorage;
   b. Fuel spill and oil spill clean-up plans and materials and fire-fighting equipment commensurate with the size of the facility and use by float planes; and
   c. Hours of the day in which float plane access is allowed.

5. Float plane access shall be prohibited at County road ends, County parks, and at freshwater shorelines at the point where public shoreline access exists.
H. Regulations – Barge Landing Sites and Facilities.

1. Single use barge landing sites or barge landing sites existing before the effective date of this SMP are exempt from a shoreline substantial development permit.

24. Permanent barge landing sites and facilities shall not be approved until:
   a. It can be shown by the applicant that existing facilities existing on the date of application are not adequate or feasible for use;
   b. Alternative access is not adequate or feasible;
   c. The feasibility and determination of demand for a multiple-user facility has been thoroughly investigated; and
   d. The applicant shall have the burden of providing the information requested for subsections (A), (B), and (C) of this section, and shall provide this information in a manner prescribed by the administrator.

32. Barge landing sites and facilities shall be located, designed, constructed, and maintained in a manner that ensures no net loss of shoreline ecological functions which provides the least adverse impacts to the shoreline environment and which maximizes the opportunity to serve multiple users on a given island.

43. The development of a new, permanent facility for barge landings, or the use of an unimproved shoreline area for a barge landing site, shall be subject to a conditional use permit.

5. As part of the permit review consideration shall be given to establishing barge landing schedules that minimize negative offsite impacts.

6. The use of an unimproved beach for emergency response to fire, other natural disasters, or medical emergencies to respond to emergencies is allowed. In this case, the shoreline exemption is may be processed after the landing activity.

I. Regulations - Trails

1. Public trails shall be aligned to avoid or minimize adverse impacts on shoreline ecological functions.

2. Public trail construction shall be consistent with standards approved by the San Juan County Parks and Fair department.

II. Regulations by Designation Environment.

1. Urban. Transportation facilities shall be permitted in the urban environment, subject to the policies and regulations contained in this master program.

2. Rural. Same as urban, provided, that barge landing sites and facilities shall be allowed only on non-ferry served islands if the site will serve multiple users on the island.
13. **Rural Residential.** Pedestrian trails shall be permitted in the rural residential. Roads are shall be permitted allowed where no feasible alternative exists. Permanent barge landing sites and facilities are prohibited.

25. **Conservancy and Rural Farm Forest.** Pedestrian trails shall be permitted in the conservancy designation environment. Roads and parking areas serving allowed permitted uses are shall be permitted approved only where no feasible alternative exists; ferry terminals may be approved permitted as conditional uses permits where it can be shown that no feasible alternative exists and that the public interest clearly would be better served by construction of the facility. Barge landing sites and facilities may be allowed in the conservancy designation environment only on non-ferry-served islands if the site will serve multiple users on the island affected, and the applicant demonstrates that conservancy shoreline resources will not be materially harmed. Parking lots and other transportation facilities are shall not be prohibited permitted.

36. **Natural.** Transportation facilities shall not be permitted in the natural environment; provided that With the exception of pedestrian or and fire trails, transportation facilities shall be prohibited in the natural designation. Parking facilities are prohibited in the natural shoreline use designation. may be permitted if they would not significantly degrade the values which warrant the designation of the area as natural.

47. **Aquatic.** Transportation facilities in the aquatic designation environment shall be are limited to terminals facilities serving waterborne traffic and essential crossings of shorelines by land-based facilities.

8. **All Eastsound Environments.** Public streets, driveways, and pedestrian paths shall be allowed in accordance with the Eastsound Subarea Plan. Parking areas serving other uses allowed in this environment shall be allowed, subject to the policies and regulations of this master program. Other transportation facilities are allowed by conditional use.

9. **Shaw Rural.** Same as rural.

10. **Shaw Rural Farm-Forest.** Same as rural farm-forest.

11. **Shaw Conservancy.** Same as conservancy.

12. **Shaw Natural.** Same as natural. (Res. 64–2001; Ord. 10–2000; Ord. 2–1998 Exh. B § 5.5.19)
18.50.350 Utilities.

A. Regulations – General.

1. In shoreline areas land based, utility transmission lines, pipelines, and cables must be placed underground unless demonstrated to be infeasible. Further, such lines must utilize existing easements, rights-of-way and trails existing on the date of the application whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of routes existing routes on the date of the application.

2. Utility development must, through coordination with government agencies, provide for compatible multiple use of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.

3. Sites disturbed for utility installation must be stabilized during and following construction to avoid adverse impacts from erosion.

4. Immediately following the completion of utilities installation or maintenance projects on shorelines, disturbed areas must be restored to project configurations, replanted with local vegetation, and the vegetation maintained until it is firmly established.

5. Utility lines, pipes, stations, plants, and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.

6. Utility lines shall be installed underground. Desalination intake and discharge lines shall be located underground wherever feasible, except for that portion located underneath or along any docks, piers, walkways, stairs, or other shoreline improvements located on the site.

7. Underwater cables which must cross shorelines shall be installed underground from the water line to the tree line, unless otherwise authorized by the County. The County shall authorize variances from this regulation only for good cause.

8. Where installation of utility lines, pipes, or other apparatus in shoreline areas is approved, clearing shall be confined to that which is absolutely necessary to permit the installation and to prevent interference by vegetation once the system is in operation.

9. Where utility lines, pipes, or other apparatus must cross shoreline areas, they shall do so by the route that will cause the least damage to the shoreline, both physically and visually aesthetics and shoreline ecological functions.

10. Applications for outfalls and underwater pipelines that transport substances harmful or potentially harmful to aquatic life or water quality shall not be approved unless the applicant has demonstrated that no significant adverse impacts will result. Desalination and reverse osmosis brine discharge is not considered to be potentially harmful to aquatic life.
7. All utilities, uses and activities in the shoreline jurisdiction shall be located, designed, constructed and managed to ensure no net loss of shoreline ecological functions.

B. Regulations – Desalination.

12. Desalination lines must be located along existing paths, trails, or connected to existing docks, ramps and beach access stairs or other structures existing on the date of the application wherever feasible.

23. Desalination and reverse osmosis systems on shorelines that are known or demonstrated to be eroding bluffs, unstable bluffs, eroding beaches, or exposed cliffs, will require design and engineering which will assure that no significant visual or environmental impacts will be created and that effects on the natural shoreline conditions must be minimized designed to prevent a net loss of shoreline ecological functions.

34. All desalination and reverse osmosis production equipment and necessary pumping equipment, utility connections, and pipelines must be located and designed to blend in with the natural surroundings to the extent feasible to reduce visual impacts. Existing vegetation, whenever possible, vegetation and terrain features existing at the time of the application must be used whenever possible for screening.

45. Desalination and reverse osmosis facilities must not impede public access to public tidelands or materially interfere with normal public use of public waters.

51. Desalination facilities and reverse osmosis systems are will not be allowed as for the purposes of providing the primary water supply for new and existing land divisions or other development projects within the shoreline jurisdiction, within new subdivisions and short subdivisions. Such facilities may be allowed for the purpose of supplying water for an established community water system.

6. Desalination facilities with an intake of greater than 100,000 gallons per day are not allowed unless a detailed assessment of the conditions of the site and a mitigation analysis, consistent with Section 12 of this ordinance shows the project will ensure that there is no net loss of shoreline ecological functions.

6. Desalination intake and discharge lines shall be located underground wherever feasible, except for that portion located underneath or along any docks, piers, walkways, stairs, or other shoreline improvements located on the site.

7. Desalination and reverse osmosis brine discharge is not considered to be potentially harmful to aquatic life or water quality provided all required state and federal requirements are met.

7. As part of the permit application, new desalination facilities applications must show the number, capacity and location of current desalination facilities within a half mile radius.
8. All desalination and reverse osmosis installations shall comply with the following regulations:
   a. The intake and discharge lines must be trenched, run, or located together except where necessary to provide adequate separation between intake and discharged water.
   b. The intake and discharge lines must be engineered so as to not materially interfere with normal public use of public tidelands or navigation. The intake point shall not float on the surface.
   c. Intake and discharge lines must not be placed through or over any known or discovered archaeological resources, unless the location is approved by the Washington Office of Archaeology and Historic Preservation.
   d. The use of existing wells with salt water contamination or intrusion as the intake source for desalination or reverse osmosis systems is prohibited unless specifically authorized by the County department of health and community services.
   e. The use of pre-filtration beach wells located landward of the line of mean lower low water is allowed provided all state and federal requirements are met.
   e. When practicable, all cleaning of desalination facilities and equipment must take place offsite to ensure cleaning chemicals are not inadvertently introduced to the marine waters.

C. Regulation by Environment Designation.
   1. Urban. Utility facilities shall be permitted in the urban environment subject to the policies and regulations contained in this master program.
   2. Rural, Rural Residential, and Rural Farm-Forest. Same as urban.
   3. Conservancy. Utility transmission, distribution, or collection facilities are permissible allowed in the conservancy environment designation provided, that the applicant can demonstrate that no feasible alternative exists and that the utility line shall follow a route which will minimize the adverse impacts on the physical and visual resources of the area. Desalination and reverse osmosis systems shall be permitted in the conservancy environment subject to the policies and general regulations contained in this master program.
   4. Natural. Utility facilities are prohibited not be permitted in the natural environment designation; provided, that facilities which must cross the shoreline in order to cross a water body may be installed, subject to the policies and regulations contained in this master program if no feasible alternative location exists and if the facility is installed underground. Desalination and reverse osmosis systems shall be permitted allowed in the natural environment designation only for a single-family residence subject to the policies and general regulations contained in this master program and only if serving a use allowed...
in the natural environment designation.

53. Aquatic. Utility transmission and collection facilities shall be permitted in the aquatic environment designation subject to the policies and regulations contained in this master program, provided, that no feasible alternative exists. Desalination and reverse osmosis systems shall be permitted in the aquatic environment subject to the policies and regulations contained in this master program.

6. Eastsound Urban. Utility service offices and distribution facilities shall be allowed only on nonwaterfront parcels. Commercial radio, television, and telecommunications broadcast and relay towers are prohibited. No other utility development is allowed except as necessary to provide utilities to other uses allowed in this environment. Desalination and reverse osmosis systems shall be permitted in the Eastsound urban environment.

7. Eastsound Residential, Eastsound Marina, Eastsound Conservancy, and Eastsound Natural. Utility development necessary to serve other uses allowed in these environments shall be allowed. Other utility development shall be prohibited. Desalination and reverse osmosis systems shall be permitted in these environments.

8. Shaw Rural. Same as rural.

9. Shaw Rural Farm Forest. Same as rural farm forest.

10. Shaw Conservancy. Same as conservancy.

11. Shaw Natural. Same as natural.

SECTION 35. SJCC 18.50.360, and Ord. 2-1998 Exh. B § 5.6.1 are each amended to read as follows:

18.50.360. Shoreline Modification Regulations - General shoreline modification activities

A. Regulations.

1. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.

2. All new development activities shall be located and designed to prevent or minimize the need for shoreline stabilization.

3. The County shall require and utilize the following information during its review of shoreline stabilization and flood protection proposals:

   a. Project purpose;

   b. Hydraulic characteristics of water bodies within one-quarter mile on each side of proposed project;
e. Existing shoreline stabilization and flood protection devices within a quarter of a mile on each side of proposed project;
d. Construction material and methods;
e. Physical, geological and soil characteristics of the area;
f. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
g. Alternative measures (including nonstructural) which will achieve the same purpose.

4. The County shall require and utilize the following information in its review of all shoreline modification proposals:
   a. Construction materials (e.g., materials used, dimensions, design);
b. Method of construction (e.g., source of backfill, erosion controls);
c. Location of project relative to toe and crest of uplands and upland structures;
d. Ordinary, low, and high water elevations;
e. Net direction of littoral drift and tidal currents (if any);
f. General direction and speed of prevailing winds;
g. Profile rendition of beach and uplands;
h. Beach type, slope, and material;
i. Uplands type, slope, and material;
j. Soil types (SCS);
k. Physical or geologic stability of uplands; and
l. Potential impacts upon area shore processes, adjacent properties, and upland stability.

5. Shoreline stabilization measures shall not be designed and constructed in such a manner as to result in channelization of normal stream flows.

6. Stream channel direction modification, realignment, and straightening are prohibited unless they are essential to uses that are consistent with this SMP.

7. Shoreline stabilization shall not be designed in a manner that will permit scouring of the beach at the toe of protective devices nor erosion on the level of the seaward beach.

8. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with native vegetation.
9. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon and trout spawning areas except for fish or wildlife habitat enhancement.

A. Prior to undertaking any shoreline modification project the responsible party applicant is required to obtain a certificate of exemption, a shoreline substantial development permit, a shoreline variance or a shoreline conditional use permit. Shoreline modifications including structural shoreline stabilization measures are permitted within the shoreline subject to the procedures and requirements set forth below.

B. Regulations by Environment.

1. Urban. Shoreline modification for stabilization and flood control works shall be permitted in the urban environment subject to the policies and regulations of this SMP.

2. Rural, Rural Residential, and Rural Farm-Forest. Shoreline modification for stabilization and flood control works shall be permitted in these environments subject to the policies and regulations of this SMP.

3. Conservancy. Shoreline modification for stabilization and flood control works shall be only by conditional use within the conservancy environment.

4. Natural. Shoreline modification for stabilization and flood control works shall be prohibited in the natural environment.

5. Aquatic. Shoreline modification for stabilization and flood control works shall be permitted in the aquatic environment subject to the policies and regulations of this SMP and to the regulations by environment for the abutting shoreline area. Where the proposed site abuts more than one shoreline environment, the policies and regulations of the most restrictive abutting environment shall govern.

6. Eastsound Urban and Eastsound Marina District. Shoreline modification for stabilization and flood control works shall be allowed in these environments only as a conditional use and only if it is necessary to maintain or improve public recreational facilities or to protect public safety.

7. Eastsound Residential. Only those shoreline modifications for stabilization and flood control which are necessary to protect public uses may be allowed.

8. Eastsound Conservancy and Eastsound Natural. Shoreline modification for stabilization and flood control works are prohibited in these environments.

9. Shaw Rural and Shaw Rural Farm-Forest. Same as rural.

10. Shaw Conservancy. Same as conservancy.

11. Shaw Natural. Same as natural. (Ord. 2-1998 Exh. B § 5.6.1)

B. General Standards.
1. If inventories of critical saltwater habitats have not been completed, an inventory and assessment of the site and nearby beach sections, to identify these habitats and their functions, is required as part of the application. The methods and extent of the inventory shall be consistent with accepted research methodology, in consultation with the WDOE’s technical assistance materials.

2. All shoreline modifications shall be the minimum size necessary to achieve purpose.

3. Note: Shown as modified from A.4 above. The County shall require and utilize the following information in its review of all shoreline modification proposals: For all shoreline modification proposals the applicant shall provide adequate information to determine that the project will meet all applicable requirements. In most cases The required information includes but may not be limited to this includes:

   a. Construction materials (e.g., materials used, type, dimensions, design);
   
   b. Method of construction and erosion control; (e.g., source of backfill, erosion controls);
   
   c. Location of project relative to toe and crest of uplands and upland structures; on lot;
   
   d. Ordinary, low, and high water elevations. The OHWM shall be based on observed field indicators and is subject to verification by WDOE;
   
   e. Net direction of littoral drift and tidal currents (if any);
   
   f. General direction and speed of prevailing winds and fetch when applicable;
   
   g. Profile rendition of beach and uplands project including beach and building site landward of the OHWM;
   
   h. Beach type, slope, and material;
   
   i. UpLands type, slope, and material;
   
   j. Soil types (NRCS);
   
   k. Physical or geologic stability of uplands; and Assessment of the stability of the site before and after the project; and
   
   l. Potential impacts upon area-shore processes adjacent properties, and upland stability and nearby properties.

4. Shoreline modification projects must control erosion throughout the project, and promptly revegetate the area after the project is completed.

SECTION 36. SJCC 18.50.370 and Ord. 2-1998 Exh. B § 5.6.2 are each amended to read as

n:\land use\long range projects\pcompl-11-0001 smp update fr 10-30-2013\docs fr staff\ordinance drafts\2015-03-06_dcd_pc_maycock_draft_pc recommended text_pa format.doc
18.50.370 Shoreline restoration and beach enhancement Modification Regulations - Shoreline habitat and natural systems enhancement projects.

A. Regulations.

1. Beach enhancement in all environments shall be undertaken only for restoration, enhancement, or maintenance of natural resources.

2. Shoreline habitat and natural systems enhancement projects must:

   a. Have the specific purpose of establishing, restoring or enhancing shoreline habitat;

   b. Be consistent with the restoration plan of this SMP;

   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 the normal public use of the navigable waters of the state without appropriate mitigation; and

   f. Demonstrate that no significant change in littoral drift will result that will adversely affect adjacent properties or habitats.

2. Beach enhancement may be permitted when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats.

3. Shoreline habitat and natural systems enhancement project applications are prohibited within fish or wildlife spawning, nesting, or breeding habitat and also where littoral drift of the project materials adversely effect adjacent spawning grounds or other areas of biological significance unless the applicant demonstrates that the project will occur at a time of year that will not impact spawning, nesting, or breeding and that the project will increase ecological functions that have been identified as degraded at the project site.

B. Natural Beach Restoration or Enhancement projects.

1. Design Alternatives. Design alternatives shall include the best available technology such as:

   a. Gravel berms, drift sills, beach nourishment, and beach enhancement when appropriate;

   b. Planting vegetation, when appropriate. All plantings must be maintained. Vegetation planted to restore or enhance beaches shall be non-toxic native plants suited to the habitat characteristics of the site.
2b. Design Criteria. Natural beach restoration or enhancement shall not:

ai. Detrimentally interrupt littoral drift or redirect waves, current, or sediments to other shorelines;

bii. Result in any exposed groin-like structures; however, small “drift sill” groins may be used as a means of stabilizing restored sediment where part of a well-planned beach restoration program;

ciii. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;

div. Result in contours sufficiently steep to impede easy pedestrian passage or trap drifting sediments;

ev. Create “additional developable dry land mass”; and

fxi. Disturb significant amounts of valuable shallow water forage fish or wildlife habitat, unless such habitat is immediately replaced by new habitat that is comparable or better.

3c. Natural Beach Enhancement Restoration Construction Standards.

ai. The size and/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.

bii. The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk, or profile (but not enough to obviously create additional dry land mass).

4. All shoreline modification activities must be in support of an allowable shoreline use that is in conformance with the provisions of this master program. All shoreline modification activities not in support of a conforming shoreline use are prohibited.

5. Beach enhancement is prohibited within spawning, nesting, or breeding habitat and also where littoral drift of the materials uses adversely effects adjacent spawning grounds or other areas of biological significance.

6. Beach enhancement is prohibited if it interferes with the normal public use of the navigable waters of the state.

4. Long-term maintenance and monitoring provisions for with a duration of at least a minimum of three years, must be included in shoreline habitat and natural systems enhancement project proposals. The Director may require longer monitoring commitments based upon the project characteristics.

5. In the event that a shoreline habitat and natural systems enhancement project may shift the OHWM landward, applicants are advised to work with the County to assess
whether and how RCW 90.58.580 might afford relief.

C. Regulations by Environment Designation

1. Urban. Shoreline restoration and beach enhancement shall be permitted in the urban environment subject to the policies and regulations of this SMP.

2. Rural, Rural Residential, and Rural Farm-Forest. Shoreline restoration and beach enhancement shall be permitted in these environments subject to the policies and regulations of this SMP.

3. Conservancy. Shoreline restoration and beach enhancement shall be permitted allowed in the conservancy environment designation only by with a conditional use permit and where it is demonstrated that conservancy shoreline values will be protected or enhanced.

4. Natural. Shoreline restoration and beach enhancement shall be prohibited in the natural environment designation unless the proposal is to restore natural conditions that have been degraded by conditions other than the erosion-accretion process.

5. Aquatic. Shoreline restoration and beach enhancement shall be permitted allowed in the aquatic environment designation subject to the policies and regulations of this SMP and to the regulations by environment designation for the abutting shoreline designation area. Where the proposed site abuts more than one shoreline environment designation, the policies and regulations of the most restrictive abutting environment designation shall govern.

6. Eastsound Urban and Eastsound Marina District. Shoreline restoration and beach enhancement shall be allowed in these environments only as a conditional use and only if the project is necessary to maintain or improve public recreational facilities or to protect public safety.

7. Eastsound Residential. Shoreline restoration and beach enhancement shall be permitted subject to the policies and regulations of this SMP.

8. Eastsound Conservancy. Same as conservancy.

9. Eastsound Natural. Same as natural.

10. Shaw Rural and Shaw Rural Farm-Forest. Same as rural.

11. Shaw Conservancy. Same as conservancy.

12. Shaw Natural. Same as natural. (Ord. 2-1998 Exh. B § 5.6.2)

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

18.50.350 Allowed and prohibited use table for shoreline designations.
1. The table below provides a concise guide to details the activities allowed, the required permits and those activities that are prohibited within the different shoreline designations. Regulations governing the specific activities may be found in the appropriate section.
### Table 5.2 Districts

The chart is coded according to the following legend.

- **SD/E** = Allowed, may be subject to Shoreline Substantial Development Permit, Variance or Certificate of Exemption
- **CUP** = Conditional Use Permit
- **No** = Prohibited; the use is not eligible for a Variance or Conditional Use Permit
- **--** = Not applicable
- *** = See appropriate text

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**Boating Facilities and Other Overwater Structures**

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¹ See appropriate text.

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**Dredging and Dredge Material Disposal**

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Planning Commission Recommended Text in PA Approved Format (includes non-substantive PA and Staff amendments) #1

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| Dredging or dredge material disposal associated with restoration          | SD/E*   | SD/E*       | SD/E* | SD/E*             | SD/E*             | SD/E  | SD/E*                                  | SD/E*   |
| Fill                                                                     | No      | SD/E*       | SD/E* | SD/E*             | SD/E*             | SD/E  | SD/E*                                  | SD/E*   |
| Excavation                                                               | No      | SD/E        | SD/E  | SD/E              | SD/E              | SD/E  | SD/E                                   | SD/E    |
| Dikes, levees                                                            | CUP     | CUP         | CUP   | CUP               | CUP               | CUP   | CUP                                    | CUP     |
| Commercial Forestry                                                     | SD/E*   | SD/E        | CUP   | SD/E              | CUP               | CUP   | No                                     | No      |
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**Institutional Development**

\(^2\) Log transfer sites/Log Storage

\(^3\) CUP
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<td><strong>Lakes</strong></td>
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**Residential Development**

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<tbody>
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<td>Multi-family</td>
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**Private Pathways, Stairs and Ramps**
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**Notes:**

1. Breakwaters, Jetties and groins prohibited in neighborhoods regulated by the Eastsound subarea plan.
2. Log transfer sites and log storage prohibited in neighborhoods regulated by the Eastsound subarea plan.
3. With the exception of the Marinas, ports and marine transportation designation, industrial development is prohibited in neighborhoods regulated by the Eastsound subarea plan.
4. Institutional uses prohibited on Shaw Island and in neighborhoods regulated by the Eastsound subarea plan.
5. Mineral extraction is prohibited in neighborhoods regulated by the Eastsound subarea plan.
6. On Shaw Island and in neighborhoods regulated by the Eastsound subarea plan recreational development is limited to outdoor parks for public passive recreational use and water access, without commercial facilities for overnight camping.
7. On Shaw Island, residential vacation rentals by themselves or in combination with any commercial uses are prohibited.
NEW SECTION. SECTION 38. A new section is added to Chapter 18.50 SJCC to read as follows:
Nonconforming structures, uses, and activities.
A. A non-conforming structure, use or activity is one that was legally established and complied with the applicable codes in effect on the date it was created or vested, but that no longer complies due to subsequent code changes. Legal nonconformities are commonly referred to as ‘grandfathered.’
B. Legally established structures, uses and activities existing or vested before the effective date of this ordinance may continue in perpetuity. Due to the risk they pose to shoreline ecological functions, this provision does not apply to structural shoreline stabilization measures.
C. With the exception of the replacement of structural shoreline stabilization measures, non-conforming structures, uses and activities may be changed, maintained, modified, expanded, replaced or relocated on the same property provided that the degree of non-conformity, and the magnitude of adverse impacts to critical areas, critical salt water habitats and shoreline ecological functions are not increased.
D. Complete application(s) for any required project or development permits for replacement structures shall be submitted within 48 months of removal or destruction of the original structure, unless the director approves an extension for good cause, or the property owner provides a letter declaring their intent to rebuild the structure in the future. To retain the right to rebuild, a letter of intent must be submitted to the Director every 48 months.
E. Structures that are non-conforming with critical area buffer or tree protection zones and shoreline setbacks, may not be expanded laterally or waterward of the existing structure. Expansions along other axes may be allowed subject to the provisions of this section.
F. Factors that shall be considered in evaluating increased adverse impacts to critical areas, critical salt water habitats and shoreline ecological functions include but are not limited to:
   1. Increases in the quantity of surface runoff from the site;
   2. Increases in the quantity of pollutants from the site;
   3. Decreases in trees and other vegetation within buffers and tree protection zones;
   4. Decreases in the stability of the site and other properties; and
   5. Changes to the transport of sediment to and within nearshore areas.
G. If mitigation is proposed to offset unavoidable adverse impacts to critical areas, critical salt water habitats or shoreline ecological functions, a mitigation plan must be reviewed and approved in conformance with Section 12 of this ordinance.
H. A structure for which a variance has been issued in accordance with SJCC chapter 18.80 is considered a legal non-conforming structure.

I. For structures that are to be replaced, complete applications for any required project or development permits must be submitted. Applicants reconstructing no longer extent structures shall demonstrate the dimensions and location of the structure being replaced to the satisfaction of the Director.

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

Flood hazard reduction.

A. General regulations.

1. Structural flood hazard reduction measures shall be processed as a conditional use permit in all shoreline designations.

2. All development or uses in floodplains shall be subject to the provisions of Chapter 15.12 Flood Hazard Control regulations and Section 13 of this ordinance.

3. New structural flood hazard reduction measures shall be allowed in the shoreline jurisdiction only when consistent with an adopted and WDOE approved Flood hazard management plan.

4. New structural flood hazard reduction measures shall be allowed in the shoreline jurisdiction when a geotechnical analysis prepared by a qualified professional demonstrates:

a. Such structures are necessary to protect structures existing before or vested by the effective date of this SMP;

b. That nonstructural measures, such as moving the structure on the lot, are not feasible;

c. That impacts to shoreline ecological functions and protected species and habitats can be successfully mitigated so as to assure no net loss; and

d. That vegetation is minimally disturbed.

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

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

7. The County shall require the applicant to provide the following information during its review of shoreline flood management projects and programs.
a. Flood hazard area characteristics adjacent to the project area;  
b. Shoreline stabilization measures and flood protection works within the area  
   existing at the time of application;  
c. Physical, geological and soil characteristics of the area;  
d. Biological resources and predicted impact to fish, vegetation and animal habitat  
   associated with shoreline ecological systems;  
e. Predicted impact upon area shore and hydraulic processes, adjacent properties,  
   and shoreline and water uses; and  
f. Analysis of alternative flood protection measures, both structural and  
   nonstructural.

SECTION 40. SJCC 18.20.010 and Ord. 26-2012 § 2 are each amended to read as follows:

“Abandon” means to terminate or remove a structure by an affirmative act, such as changing to a  
new use; or to cease, terminate, or vacate a use or structure through nonaction.

“Abutting” means adjoining as defined herein, but will often have the added component of  
joining end to end, or sharing an end border.

Accessory Apartment, Accessory Dwelling Unit. See “internal accessory dwelling unit (IADU).”

“Accessory dwelling unit (ADU)” means a living area that is accessory to the principal  
residence, located on the same lot, and that provides for sleeping quarters, kitchen, and sanitation  
facilities. An ADU may be internal, attached or detached.

“Accessory structure” means a structure detached from a principal building located on the same  
lot and which is incidental and secondary to the principal building.

“Accessory use” means use of land or of a building or portion thereof incidental and subordinate  
to the principal use or building and located on the same lot with the principal use.

“Accretion shoreform” means shoreline with a backshore which has been produced by the long-  
term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such  
shoreforms include barrier beaches, points, spits, hooks, and tombolos.

“Acoustical engineer” means, for the purposes of this subarea plan, a professional engineer,  
licensed in Washington, with a degree in mechanical engineering and membership in the  
Acoustical Society of America; or a professional engineer with demonstrated education,  
accreditation and experience to perform and certify noise measurements, as determined by the  
director.

“Acre” means a unit of measure of land area which consists of 43,560 square feet.
“Activity centers” in San Juan County include villages, hamlets, residential activity centers, island centers, and master planned resorts.

“Adaptive management” means a style of management which relies upon the best available information to make decisions, but implements decisions with a strategy to obtain additional information. The decisions, or their implementation, are then adapted, if necessary, based on the new information.

“Adequate” means acceptable but not excessive.

“Adequate capacity (adequate capital facilities)” means capital facilities and services that have the capacity available to serve development at the time of occupancy or use without decreasing levels of service (LOS) below the standards set forth in the Comprehensive Plan. “Adequate capacity” also includes a financial commitment that is in place to complete the improvements, or noncapital strategies, necessary to provide a specific level of service within six years. (See also “available capacity,” “concurrency,” “level of service,” and “noncapital alternative strategies.”)

“Adjacent” means either (1) adjoining as defined herein, or (2) being near or in close proximity, implying two objects that are not widely separated, though they may not actually touch. If a conflict arises over the meaning of the term “adjacent” as used in the UDC, the meaning shall be as interpreted by the director.

“Adjacent lands, shoreline” means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). See RCW 90.58.340.

“Adjoining” means being in physical contact, touching at some point or along a line, having a common point or border, sharing a common boundary, or being so joined or united to each other that no third object intervenes.

“Administrator,” “planning director,” and “director” each mean the San Juan County community development and planning department director or a designated representative.

“Adverse” means contrary to one’s interest or welfare; harmful or unfavorable circumstances.

“Adverse impacts” means a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

“Affordable housing” means housing where the occupants pay no more than 30 percent of gross monthly income for total housing costs, including the cost of property taxes and insurance for homeowners and monthly utilities for owners and renters.

“Agriculture” means the science, art, and business of cultivating land and producing crops or raising livestock primarily for commercial sale or use; farming.

“Agricultural activities” means agricultural uses and practices including, but not limited to: agritourism; producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow; allowing land used...
for agricultural activities to lie dormant as a result of adverse agricultural market conditions;
allowing land used for agricultural activities to lie dormant because the land is enrolled in a
private, local, state, or federal conservation or restoration program, or the land is subject to a
conservation easement; conducting agricultural operations including but not limited to land
preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing,
plowing, tilling, planting, cultivating, agricultural composting, fertilizing, weed/pest/disease
control, spraying, pruning, trimming, harvesting, processing, packing and agricultural sales;
livestock management, such as breeding, birthing, feeding, grazing, and care of animals, birds,
honey bees, and fish raised outside of shoreline jurisdiction; construction of farm and stock
ponds, irrigation ditches, and water systems; maintaining, repairing, and replacing agricultural
equipment; maintaining, repairing, and replacing agricultural facilities and structures for the
repair, maintenance, and storage of farm equipment, animal husbandry operations, storage of
agricultural products and machinery, and maintaining agricultural lands under production or
cultivation.

**Agricultural activities** means agricultural uses and practices including, but not limited to:
Producing, breeding, or increasing agricultural products; rotating and changing agricultural
crops; allowing land used for agricultural activities to lie fallow; in which it is plowed and tilled
but left unseeded; allowing land used for agricultural activities to lie dormant as a result of
adverse agricultural market conditions; allowing land used for agricultural activities to lie
dormant because the land is enrolled in a private, local, state, or federal conservation or
restoration program, or the land is subject to a conservation easement; conducting agricultural
operations including but not limited to land preparation for agricultural purposes, such as
clearing, grading, and care of animals, birds, honey bees, and fish raised outside of the shoreline
jurisdiction; construction of farm and stock ponds, irrigation ditches, and water systems
maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and
replacing agricultural facilities and structures for the repair, maintenance, and storage of fame
equipment, animal husbandry operations, storage of agricultural products and machinery,
provided that the replacement facility is no closer to the shoreline than the original facility; and
maintaining agricultural lands under production or cultivation.

“**Agricultural commodity**” means sheep, cattle, horses, goats, pigs, llamas, alpacas, or any other
animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable,
or animal product, including, but not limited to, products qualifying as organic food products
under Chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW
19.85.020 and other fish and fish products, either in their natural or processed state, including
bees and honey and Christmas trees but not including timber or timber products.

“**Agricultural composting**” means composting of agricultural waste as an integral component of a
system designed to improve soil health and recycling agricultural wastes. Agricultural
composting is conducted on lands used for farming and is an agricultural activity. Agricultural
composting can include the collection of off-site yard, landscape, agricultural waste and other
compostable materials to be processed into compost, including sales or delivery of finished composted product. Such operation shall be accessory to the primary agricultural activities of the farm operation and shall not generate traffic and/or noise uncommon to a farm operation.

“Agricultural equipment and facilities” includes, but is not limited to: (1) the following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; composting and water storage facilities; fences; upland finfish rearing facilities located outside of shoreline jurisdiction; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (2) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (3) farm residences and associated equipment, lands, and facilities; and (4) roadside stands and on-farm markets for farm products (see RCW 90.58.065(2)).

“Agricultural processing, retail, and visitor-serving facilities for products” means the commercial processing (preparing for market, packing, and sales) of agricultural commodities, and the on-site facilities for retail display and sale of such agricultural commodity products.

“Agricultural products” includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products (see RCW 90.58.065(2)).

“Agricultural resource lands” means lands that are primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, livestock, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, and have long-term commercial significance for agricultural production (RCW 36.70A.030(2)). “Agricultural resource lands” is also a land use designation (AG) in the Comprehensive Plan.

“Agricultural sales” means the sales of agricultural products grown, raised or harvested in San Juan County, including processed products whose defining ingredients are produced or harvested in the County. “Agricultural sales” can include the sale of agricultural promotional materials which shall be accessory to the sale of the primary agricultural products.

“Agricultural soils” means lands with USDA-San Juan County Soil Survey Class II, III, and IV soils or other soil classes where the land is suitable for a particular agricultural use.

“Agricultural wastes” means wastes on farms resulting from the raising or growing of plants and animals including, but not limited to, crop residue, manure and animal bedding, and carcasses of dead animals weighing each or collectively in excess of 15 pounds.

“Agriculture” means the science, art, and business of cultivating land and producing crops or raising livestock primarily for commercial sale or use; farming.
“Agriculture, existing and ongoing” means any agricultural activity conducted on lands defined in RCW 84.34.020(2); agricultural use ceases when the area on which it is conducted is converted to a nonagricultural use.

“Agritourism” means recreational, educational or agricultural-related activities that are accessory to the agricultural activities of the farm operation.

“Aid to avigation” means any visual or electronic device airborne or on the surface which provides point-to-point guidance information or position data to aircraft in flight.

“Aircraft accident safety zone” means an area of land that is designated in order to meet the land use compatibility direction in RCW 36.70A.510 and 36.70.547 for general aviation airports and to implement the health and safety and land use purposes of an airport overlay district, and is shown on the official maps of the overlay district. Guidance for the delineation of these safety zones is provided by the Washington State Department of Transportation, which can be modified in order to address local circumstances as part of the adoption of individual airport overlay districts.

1. “Safety zone 1: Runway protection zone” is an area that has the same dimensions as the FAA runway protection zone. It is a trapezoidally shaped area that extends from the outer boundaries of the primary surface along the extended runway centerline. Where only a portion of the runway is declared as usable (the remainder of the pavement being part of a paved “stopway”), as is the case at Orcas Island airport, the measurements for the zone begin at the threshold line on the pavement which marks the end of the declared usable runway surface.

2. “Safety zone 2: Inner safety zone” is an area that underlies the main departure/approach path. It begins at the end of the runway protection zone (zone 1) and extends out along the extension of the runway centerline.

3. “Safety zone 3: Inner turning zone” is an area where aircraft turn into the direct approach path, or turn out of the departure path. The zone begins at the primary surface and extends out at 30 degrees from both sides of the runway centerline. It connects to the centerline of the inner safety zone (zone 2) with sweeping arcs.

4. “Safety zone 4: Outer safety zone” is an area that underlies the main departure/approach path, after the inner turning zone (zone 3). It extends out from both sides of the extended runway centerline, beginning at the outer edge of the inner turning zone (zone 3) and extending to the outer boundary of zone 6 (or to outer boundary of the horizontal zone if zone 6 is not designated).

5. “Safety zone 5: Sideline safety zone/airport development zone” is an area that is immediately adjacent to the airport and runway area. The standard zone begins at the primary surface, extending out from the extended runway centerline and connecting at its ends to the inner turning zone (zone 3).

6. “Safety zone 6: Traffic pattern zone” is an area that encircles the other five safety zones. The
standard area consists of a long oval that is centered longitudinally on the runway, and which
envelops the other safety zones. The perimeter is constructed by swinging arcs from a point
along the extended runway centerline that is 500 feet from the edge of the primary surface. The
arcs are connected by line segments that are extended from the edge of the safety zone 5. Zone 6
may or may not be designated for a given airport overlay district.

“Airfield” means a privately owned area of land open to general or limited public use for aircraft
operations. An airfield may include related noncommercial services, aircraft maintenance, or
fuelling facilities.

“Airport” means an area of land or facility publicly owned and open to general public use for
aircraft operations, except any airfield or airstrip as defined herein. An airport may include
related services and facilities.

“Airport overlay district” means an overlay district which governs use of land in the vicinity and
environs of an airport and protects public safety in the area.

“Airstrip” means a privately owned area of land, closed to the public, and restricted to use by the
owner for noncommercial aircraft operations and, on an occasional basis, invited guests of the
owner.

“Aliquot part” means a parcel of unplatted land which is described by record legal description as
a fractional portion of a section, excluding government lots.

“Allowable uses” means the land uses that are allowed under this title, divided into five
categories, as identified in SJCC 18.30.050 and Tables 3.1 and 3.2 in SJCC 18.30.030 and
18.30.040. These are uses allowed outright (“Yes”), provisional (“Prov” or “P”), “P/C” (formerly
referred to as discretionary), conditional (“C”), and plan amendment (“P.A.”) uses.

“Allowed outright use (“Yes” use)” means a use that is allowed outright within a land use
designation, which does not require a project permit, and is identified in Tables 3.1 and 3.2 in
SJCC 18.30.030 and 18.30.040 by the symbol “Yes.” All “Yes” uses are subject to and must
comply with all applicable development standards of this title (see Chapter 18.60 SJCC and
SJCC 18.80.070).

“Alteration, nonconforming structures” means any change or rearrangement in the supporting
members of existing buildings, such as bearing walls, columns, beams, girders, or interior
partitions, as well as any changes in doors, windows, means of egress or ingress or any
enlargement to or diminution of a building or structure, horizontally or vertically, or the moving
of a building from one location to another. This definition excludes normal repair and
maintenance, such as painting or roof replacement, but includes more substantial changes.

“Alteration, nonconforming use” means the expansion, modification or intensification of a use
that does not conform to the land use regulations of the UDC.

“Angle of repose” means the slope at which a land mass normally will remain stable without
artificial means of support. The specific angle is largely dependent on the type(s) of material(s)
present in the land mass.

“Animal shelter (kennel)” means a commercial or nonprofit establishment in which animals other than livestock are temporarily housed or boarded, groomed, bred, trained, treated, or sold.

“Antenna” means any apparatus designed for transmitting and/or receiving electromagnetic waves by converting those waves from and to electrical current.

“Antenna array” means one or more antennas and their associated mounting hardware, feed lines, or other appurtenances which share a common attachment device, such as a mounting frame or support structure.

“Appeal, closed-record” means an administrative appeal on the record to the board of County commissioners, following an open-record hearing on a project permit application. A closed-record appeal is on the record made before the decision maker with no or limited new evidence or information allowed to be submitted and only appeal argument allowed (RCW 36.70B.020).

“Appeal, open-record” means a hearing, conducted by the hearing examiner, that creates the County’s record through testimony and submittal of evidence and information, under procedures prescribed by the County by ordinance or resolution when a timely appeal of the director’s decision on a project permit application or a timely appeal of an administrative determination is filed.

“Applicant” means any person who files a permit application with the County and who is either the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on which the proposed activity would be located.

“Approach surface” means the FAA imaginary surface that is the lower boundary of an airspace which begins at the ends of the primary surface and extends upward and outward along the extended runway centerline. The initial width of the surface coincides with the width of the primary surface, and expands outward uniformly from the primary surface.

“Approach, transitional, horizontal, and conical surfaces” means the imaginary surfaces that relate to an airport or airfield runway as defined in Federal Aviation Administration (FAA) regulations, 14 CFR, Part 77, “Objects Affecting Navigable Airspace,” as amended, and as shown on the approach and clear zone plan for an airport or airfield. They are so-called “imaginary” surfaces because, with the exception of the runway, they cannot be seen.

“Approach, transitional, horizontal, and conical zones” means the zones which apply to the ground areas immediately under a runway approach; transitional, horizontal, and conical surfaces as projected along a vertical axis.

Appurtenant Structure means a structure that is within single ownership and necessarily connected to the use and enjoyment of a single-family residence. Appurtenant structures include but are not limited to, one garage, one accessory dwelling unit, attached decks, a patio, paths, ramps and stairs to access shoreline, boat houses served by marine railways, official registered historic structures, a one driveway, on-site sewage disposal systems, utilities, fences, antennas.
satellite dishes, solar arrays, wind powered generators serving one single-family residence. (See WAC 173-27-040). Hard structural shoreline stabilization measures and other shoreline modifications or overwater structures are not considered appurtenant structures.

**Appurtenances:** any legally established activity or structure that is commonly or normally associated with, but subordinate to, any principal use or structure; this includes garages, sheds, decks, stairs, fences, driveways, utilities, on-site sewage disposal systems, boat houses served by marine railways, official registered historic structures, and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM where no shoreline modifications are required. It does not include bulkheads and other shoreline modifications or overwater structures.

“Aquacultural activities” means use of the land and water for aquacultural purposes including, but not limited to: producing, breeding, or increasing products; rotating and changing products; processing, packing, storing and selling products; composting organic materials; and construction, maintenance and repair of structures and facilities associated with the operation.

“Aquacultural equipment and facilities” includes, but is not limited to: (1) the following used in aquacultural operations: equipment; machinery; constructed shelters, buildings, and ponds; water storage facilities; water diversion, withdrawal, conveyance, and use equipment and facilities such as pumps, pipes, canals, ditches, and drains; (2) farm residences and associated equipment, lands, and facilities; and (3) roadside stands and on-farm markets for products (see RCW 90.58.065(2)).

“Aquacultural products” includes fish, shellfish, or other aquatic animals or plants.

“Aquaculture” means the science or art of cultivating fish, shellfish or other aquatic animals or plants; the use of the land and water for aquacultural purposes including, but not limited to: cultivation of fish, shellfish, or other aquatic animals or plants, producing, breeding, or increasing products; rotating and changing products; processing, packing, storing and selling products; composting organic materials; and construction, maintenance and repair of structures and facilities associated with the operation. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery (see WAC 173-26-020(6)). Non-commercial aquaculture includes but is not harvesting fish, shellfish or other aquatic animals and plants for subsistence, recreational and personal consumption, scientific research and/or restoration activities.

“Aquatic shoreline designation environment” means all water bodies under the jurisdiction of the Shoreline Management Act of 1971 and within the boundaries of San Juan County, including the water surface together with the underlying lands and the water column, including but not limited to bays, straits, harbors, coves, estuaries, tidelands, shorelands, and lakes.

“Aquifer” means a body of permeable saturated rock material or soil capable of conducting ground water.

“Aquifer recharge areas” means lands through which precipitation and surface water infiltrate the soil and are transmitted through rocks and soil to create ground water storage.
“Archaeological” means having to do with the scientific study of material remains of past human life and activities.

“Archaeological site” means an area of ancestral human use such as middens, burial grounds, and earthworks.

“Area” means the size of a parcel of land, as expressed in square feet or acres to two decimal places. When a public road right-of-way lies within a tract of land otherwise in contiguous ownership, area within the right-of-way may be included in gross area for the purpose of calculating maximum allowable density. When public road right-of-way abuts a tract of land, area to the centerline may be included in the gross area of the parcel for this purpose.

“Area, nominal” means the approximate area of a parcel of land, such as the aliquot part or the land area in the assessor’s records.

“Area of more intensive rural development (AMIRD)” means a class of rural lands that includes village and hamlet activity centers, residential activity centers, and island centers. AMIRDS were identified and delineated according to the criteria in RCW 36.70A.070(5)(d). They consist of commercial, industrial, residential, or mixed-use areas in which the kinds, intensities, or densities of use, or the capital facilities and services available, exceed the levels normally associated with rural development. Thus, these areas recognize and provide for existing compact rural development and uses, and allow for infill in the areas to the level of existing patterns.

“Area of natural terrain obstruction” means an area where the natural land surface penetrates the FAA imaginary surface.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, as indicated on the flood insurance rate maps (FIRMs).

“Assembly facility” means a facility designed and used for the gathering of people, or in which they may come together in a body, such as a meeting hall, community club or center, church, etc. (See also “community club or facility” and “religious assembly facility.”)

“Assessor’s parcel number” means a geocoding number assigned by the assessor’s office for property tax assessment purposes only.

“Associated Wetland” means those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake subject to the Shoreline Management Act.

“At grade” means at ground level.

“Attached accessory dwelling unit (AADU)” means an ADU which is internal to or attached to the principal residence by (1) a common wall, or (2) a continuous roof and exterior wall enclosures, or (3) a continuous roof no less than six feet in width, the area of which is included in the living area of the ADU.

“Automotive fuel station” means any building, land area, or other premises used for the retail sale of automotive fuels.
dispensing or sales of vehicular fuels, but at which there is no servicing or repair of automobiles.

“Automotive repair station” means any building, land area, or other premises used for the retail servicing or repair of automobiles, but at which there is no dispensing or sale of vehicular fuels.

“Automotive service station” means any building, land area, or other premises used for the retail dispensing or sale of vehicular fuels and the servicing or repair of automobiles.

“Automobile wrecking and junk (or salvage) yards” means an outdoor area used for the wrecking, storage, and recycling/salvage of wrecked or abandoned vehicles for scrap metal and/or parts. (See “junk yard or salvage facility.”)

“Available capital facilities (available capacity)” means capital facilities or services that are in place (“existing capacity”), or for which a financial commitment is in place to provide the facilities or services within a specified time (“planned capacity”). “Available capacity” consists of existing plus planned capacity. (See also “adequate capacity,” “concurrency,” and “levels of service.”)

“Average tree height” means the mean height of existing trees within a 150-foot radius of the facility site.

“Average vehicular trips” means the average number of all vehicles entering or leaving a site during a defined period. (Ord. 26-2012 § 2; Ord. 25-2012 § 1; Ord. 10-2012 §§ 1, 32; Ord. 11-2011 § 1; Ord. 52-2008 § 1; Ord. 7-2006 § 1; Ord. 7-2005 § 2; Ord. 21-2002 § 3; Ord. 12-2002 § 1; Ord. 5-2002 § 2; Ord. 12-2001 § 3; Ord. 14-2000 § 7(XX); Ord. 11-2000 § 3; Ord. 2-1998 Exh. B § 2.3)

SECTION 41. SJCC 18.20.020 and Ord. 26-2012 § 3 are each amended to read as follows:

“Backshore” means a berm, together with associated marshes or meadows on marine shores landward of the ordinary high water mark that has been gradually built up by accretion.

“Barge landing site” means any location established for the purpose of landing a barge (including powered landing craft) for more than a single, temporary use. (See also “log storage or transfer site.”)

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the “100-year flood,” as shown on the FIRM maps.

“Base flood elevation” means the elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it.

“Beach enhancement/restoration” means a process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, and other nonintrusive means.
“Beach feeding” means a process of replenishing a beach by delivery of materials dredged or excavated elsewhere.

“Bed and breakfast inn” means a hospitality commercial use containing three to five lodging units without cooking facilities, which provides overnight accommodation and breakfast meals in a proprietor- or owner-occupied existing single-family residence and additional legal structures or up to 10 lodging units in an existing historic structure.

“Bed and breakfast residence” means a hospitality commercial use containing one to two lodging units without cooking facilities, which provides overnight accommodation and breakfast meals in an owner-occupied existing single-family residence.

“Beneficial owner” means an individual who is a member of a family corporation, trust, or a partnership, and who is related by blood, adoption, marriage, or domestic partnership, to all other members of the corporation, trust or partnership.

“Best available science” means current scientific information used in the process of designating, protecting, or restoring critical area functions and values, that is derived from a valid scientific process as described in WAC 365-195-900 through 365-195-925.

“Best management practices (BMPs)” means systems of practices, schedules of activities, prohibitions, maintenance procedures, and structural or management measures that prevent or minimize the release of pollutants or other adverse impacts to the environment.

“Binding site plan” is a method of division of land intended primarily for projects such as condominiums, residential clusters or planned unit developments, industrial parks and shopping centers, which are developed as a whole rather than for sale of individual lots for development.

“Biodiesel” means biodiesel as defined by RCW 19.112.010.

“Biofiltration system” means a water filtration system using biological processes.

“Bluff backed beach” means a beach adjacent to and below a coastal bluff.

“Board (BOCC)” means the San Juan County council.

“Boat launch, ramp or retrieval system” means an area, structure, or equipment used to launch or retrieve boats.

“Boating Facilities” means developments and uses that support access to shoreline waters for purposes of boating, including marinas, covered moorages, boathouses, boat launches, marine railways, mooring buoys, docks and floats serving five or more single-family residences or multi-family units and including public facilities and docks.

“Boathouse” means an enclosed structure designed and used for the storage of boats and boat equipment.

“Boating facilities” means marinas, covered moorages, boathouses, boat launches, marine railways, mooring buoys, docks, and floats.
“Bonus-density residential district” means a district in which a density bonus is permitted for affordable housing. The official maps indicate both the base density permitted without a density bonus and the maximum density permitted with a density bonus for affordable housing.

“Boundary line adjustment” means a change in the location of the boundary or boundaries between parcels of land to correct errors.

“Boundary line modification” means a change in the location of the boundary or boundaries between parcels of land; provided, that no additional parcels are created, except that a change in a land description to correct errors shall not be considered a boundary line modification.

“Breakwater” means protective structures that are normally built offshore to protect beaches, bluffs, dunes, or harbor areas from wave action.

“Buffer zone, strip, or area” means either an area designed to separate incompatible uses or activities, or a contiguous area that helps moderate adverse impacts associated with adjacent land uses and that is necessary for the continued maintenance, function, and structural stability of the protected area. Different types of buffers perform different functions.

“Building envelope” means:

1. A three-dimensional space in which a building or structure may be built;
2. A plat restriction for the purpose of defining lot coverage areas for individual lots, or for describing shoreline building setbacks.

“Bulk fuel storage plant or terminal” means an area where flammable or combustible liquids are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container (see International Fire Code).

“Building Footprint” means the horizontal area enclosed by the exterior wall, as measured from the outermost layer of exterior wall assembly and attached porches and decks.

“Bulk fuel storage (retail)” means the storage of fuel in structures or tanks for subsequent retail sale.

“Bulk fuel storage (wholesale)” means the storage of fuel in structures or tanks for subsequent wholesale distribution.

“Bulkheads or seawalls” means structures erected parallel to and near the high water mark for the purpose of protecting the adjacent bank or uplands from the action of waves or currents.

SECTION 42. SJCC 18.20.030 and Ord. 26-2012 § 4 are each amended to read as follows:

“Calendar decade” means a 10-year period beginning January 1st of any year evenly divisible by 10.
“Campground and camping facilities” means a facility in which sites are offered for less than 30 days for persons using tents or other personal, portable overnight shelters.

“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.”)

“Class I beach” means a beach or shore having dependable, geologically fully developed, and normally dry backshore.

“Class I beaches” are beaches that encompass stable, infrequently wetted backshore berms, dunes or marshes. Bauer further describes these shoreforms as: ...Having a more or less permanent backshore composed of a storm-tide berm of sand, gravel and driftwood that is wetted only under extreme tide and wave conditions. Class I “dry” beaches are, with only few exceptions, accretion shore deposits that represent both driftway and net accretion terminal within their drift sector...Class I beaches are more characteristically associated with shoreforms such as spits and points, tombolos and the barrier berms accreted across marsh or estuarine embayments...” (Bauer 1974). Cited in CGS. Bauer Class 1 Beach Mapping in San Juan County, MRC, March 16, 2007.

“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 vegetative ground cover or trees including, but not limited to, root material or topsoil material.

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

“Co-applicant” means all persons and/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.

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

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

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

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

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

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

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

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

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

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

“Community development and planning department” means the San Juan County community
development and planning department, the former San Juan County permit center and the former
San Juan County planning department.

“Community dock,” for purposes of SJCC 18.50.190(C)(8) and 18.50.340(G), means a dock
serving three or more residential waterfront properties.

“Community docks, single or joint use docks, piers, moorage floats and recreational floats”
means private water-dependent facilities designed for moorage of pleasure craft as the primary
use and serving up to four single-family residences. Other water-enjoyment uses, such as fishing or viewing, may occur on single or joint use/community docks, piers, moorage floats and recreational floats.

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

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

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

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

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

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

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

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

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

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

“Conical surface” means the FAA imaginary surface that is the lower boundary of an airspace which extends outward and upward from the periphery of the horizontal surface.
“Conservancy designation” means the land use designation of the Comprehensive Plan designed
to protect valuable natural resources, wildlife, historical, and scenic areas.

“Conservancy-environment, shoreline designation” means an environment designation that is
applied to areas which are largely free of intensive development.

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

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

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

Contract Purchaser. See “applicant.”

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

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

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

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

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

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

“Critical water resource areas” means selected watersheds and critical aquifers where resources
are potentially threatened by salt water intrusion or primary contaminants or limited due to poor
recharge.
“Cul-de-sac” means a road closed at one end by an area of sufficient size for turning vehicles around.

SECTION 43. SJCC 18.20.060 and Ord. 26-2012 § 6 are each amended to read as follows:

“Facility and service provider” means the department, district, agency or private entity responsible for providing a specific concurrency facility.

“Fair market value, shorelines” means the open-market bid price for conducting the work, using the equipment and facilities, and purchasing the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, equipment and facility usage, transportation, and contractor overhead and profit (WAC 173-27-030).

“Fall zone” means the area on the ground within which there is a potential hazard from falling debris or a collapsing structure (e.g., a tower).

“Family” means individuals related by genetics, adoption, or marriage or a group of not more than eight unrelated individuals who share a single dwelling unit.

“Farm stay accommodation” means a hospitality commercial use associated with agriculture.

“Farm worker accommodation” means a residential use associated with agricultural labor.

“Feasible alternative” means an alternative that:

1. Meets the requirements of federal, state, and local laws and regulations;
2. Attains most or all of the basic objectives of the project;
3. Is technically and technologically possible;
4. Can be accomplished at a reasonable cost;
5. Can be accomplished in a reasonable amount of time; and
6. Adverse environmental, health, and safety effects are no greater than those of the original proposal.

A determination of what is reasonable or feasible is made by the decisionmaking body on a case-by-case basis, taking into account the:

1. Probable intensity, severity, and cumulative impacts of the original proposal and alternative approaches, and opportunity for the avoidance or reduction in the number, intensity, or severity of significant impacts, or of the aggregate adverse impact;
2. Risk of “upset conditions” (i.e., the risk that the control and mitigation measures will fail, be overwhelmed, or exceed allowed limits), and the potential severity of the impact should control or mitigation measures be ineffective or fail;
3. Capital and operating costs;

4. Period of time to accomplish, costs of additional time or delay, and time constraints for completion; and

5. Location and site-specific factors, such as seasonal or topographic constraints, critical areas, site accessibility, and local community concerns. (For areas within shoreline jurisdiction, see definition of “feasible” in WAC 173-26-020.)

“Feeder bluff” means any shoreline land mass subject to periodic erosion from waves, or sliding and slumping, and from which the eroded sand or gravel is naturally transported via a driftway to an accretion shoreform.

“Feedlot” means a confined area or structures, pen, or corral, used to fatten livestock prior to final shipment.

“Feedlot (commercial)” means a dry-feed yard where heavy portions of concentrated feed are fed to cattle to put a finish on the animals either consigned or sold to the feedlot.

Filing. See “recording.”

“Filling” means deposition of earth materials by any purposive means.

“Final plat” means the final plat (drawing) of a subdivision and dedication prepared for recording with the County auditor by a licensed surveyor and containing all elements and requirements set forth in Chapter 18.70 SJCC and Chapter 58.17 RCW.

“Finding of concurrency” means the finding by the director that a transportation system or other concurrency facility has adequate unused or uncommitted capacity, or will have adequate capacity, to accommodate the demand for the facility or service generated by a proposed development, without causing levels of service to decline below the level-of-service (LOS) standards set forth in the Comprehensive Plan.

Float (Moorage). See “mooring buoy.”

“Float plane” means an aircraft on floats, including float planes, seaplanes, and amphibious aircraft.

“Float (recreational)” means an off-shore platform used for water-dependent activities, such as swimming and diving.

“Floating dock” means a dock designed to float on the water surface, secured to the shore by means other than a fixed, elevated pier structure.

“Flood Hazard Reduction” means structural and non-structural methods of reducing flood damage and hazards to uses. Non-structural measures including but not limited to setbacks, land use controls, wetland restoration, dike removal, use or structure relocation, biotechnical measures, and storm water management programs. Structural measures include, but are not
limited to; dikes, levees, revetments, floodwalls, channel realignment and elevation of structures consistent with the National Flood Insurance Program

“Flood Insurance Rate Map (FIRM)” means the official map issued by the Federal Emergency Management Agency that delineates both the special hazard areas and the risk premium zones applicable to San Juan County.

“Flood or flooding” means the temporary inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface waters.

“Floor area ratio (FAR)” means the gross floor area of all buildings and structures on a site or lot divided by the total area of the site or lot for which the ratio is being calculated.

“Food service facility” means a commercial use that sells or serves food products for consumption on-site or for carry-out.

“Forest management” means forest practices pertaining to protecting, producing, and harvesting timber for economic use.

“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber on a harvest site for less than 30 days per calendar year, including but not limited to, road and trail construction and maintenance; harvest, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practices are regulated under Chapter 76.09 RCW, the Washington State Forest Practices Act, its implementing regulations at WAC Title 222, and other applicable regulations.

“Forest practice, conversion” means the conversion of land to an active use incompatible with timber growing and where future nonforest uses will be located on currently forested land. Under the rules of the Forest Practices Act, WAC Title 222, this requires a Class IV general forest practices permit or COHP with Class III permit.

“Forest practice, conversion option harvest plan (COHP)” means a voluntary plan developed by the landowner and approved by the County that indicates the limits and types of harvest areas, road locations, and open space. This jointly agreed plan is submitted to the Washington Department of Natural Resources (WDNR) as part of a Class II, III, or IV special forest practice permit application, and is attached to and becomes part of the conditions of the permit approved by the WDNR.

“Forest resource lands” means lands primarily devoted to growing trees for long-term commercial production on land that can be economically and practically managed for such production (RCW 36.70A.030(8)).

“Frequently flooded areas” means lands subject to a one percent or greater chance of flooding in any given year.
Functions and Values. See “critical area functions and values.”

SECTION 44. SJCC 18.20.080 and Ord. 26-2012 § 8 are each amended to read as follows:

“Habitat” means the place or type of site where a plant or animal naturally or normally lives and grows.

“Hamlet” means an activity center with high-density residential areas and a small commercial center that provides goods and services to surrounding rural residential, rural, and resource uses.

“Hangars” means covered areas and enclosed structures for housing and/or repairing aircraft.

“Hard structural shoreline stabilization measures” means shore erosion control structures and measures composed of hard surfaces, arranged with primarily linear and vertical or near-vertical faces that armor the shoreline and prevent erosion. These measures include bulkheads, rip-rap, groins, retaining walls and similar structures composed of materials such as boulders, gabions, dimensional lumber, and concrete.

“Hazard tree” means a tree that a certified arborist has determined has: (1) a high probability of falling due to a debilitating disease or a structural defect; and (2) potential for significant property damage or personal injury if it falls.

“Heavy industrial use” means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials; a use engaged in storage of, or manufacturing processes using flammable, hazardous or explosive materials.

“Height” means the vertical distance measured from the average existing grade beneath a structure or object along a plumb line to the highest point of a structure or object.

“Height of building” means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hip roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade; or

2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection (1) of this definition is more than 10 feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building (cf. Uniform Building Code).

“Height, shoreline” means the height of shoreline structures, measured from average grade level to the highest point of a structure, provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where they obstruct the view of the

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shoreline of a substantial number of residences on areas adjoining such shorelines, excluding temporary construction equipment (WAC 173-27-030).

“Helipads” means areas for the landing and take-off of rotary-wing aircraft, but not adequate for fixed-wing aircraft.

“Herbaceous balds and bluffs” means native plant areas located on shallow soils over bedrock, often on steep, exposed slopes with few trees, which support grasses, herbaceous plants, dwarf shrubs, brittle prickly pear cactus, mosses and lichens adapted for survival on shallow soils amid seasonally dry conditions. Trees that may be present include Douglas fir, Pacific madrone, and Garry oak.

“Herbaceous vegetation” means non-woody vascular plants.

“Historic camps” means, for the purposes of determining allowable uses, nonprofit recreational and educational camping facilities owned by a nonprofit entity and in continuous operation since October 2, 1979.

“Historic educational and scientific facilities” means, for the purposes of determining allowable uses, educational and scientific facilities in continuous operation since October 2, 1979.

“Historic resort” means, for the purposes of determining allowable uses, a resort established prior to and in continuous operation since October 2, 1979.

“Historic site, structure or landmark” means a site, structure or building of outstanding archaeological, historical or cultural significance. This is shown by its designation as such by the National or Washington State Register of Historic Places or an adopted San Juan County Historic Preservation Plan, designation as an historic landmark, or any such structure or feature for which the State Historic Preservation Officer has made a determination of significance pursuant to Section 106 of the National Historic Preservation Act.

“Home occupation” means any commercial activity carried out by a resident of a single-family residence and conducted as an incidental and accessory use of the residence.

“Horizontal surface” means the FAA imaginary surface that is the lower boundary of a horizontal airspace that is located above the airport and forms and elongated oval above the runway.

“Hospitality commercial use” means restaurants and transient lodging establishments and associated guest facilities available for short-term accommodation for a period not to exceed 30 days.

“Hotel” means a hospitality commercial use containing three or more individually rented lodging units (in one or more buildings), which provides sleeping accommodations, with or without meals or the facilities for preparing meals, for travelers and transient guests, and which does not meet the definitions of “bed and breakfast inn,” “bed and breakfast residence,” or “vacation rentals of a residence or an ADU.”
“Houseboat” means a building constructed on a float and used wholly or in part for human habitation, which does not have the following characteristics of a vessel: a seaworthy hull design which meets U.S. Coast Guard standards for flotation, safety equipment, and fuel, electrical and ventilation systems; capability for travel in open water and for use for water transportation in general; permanent equipment for water travel including a method for steering and propulsion, deck fittings, navigational equipment and marine hardware; and registration as a vessel with federal, state, and local agencies.

“Household” means one or more related or unrelated persons occupying a dwelling unit.

“Hydric soil” means soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part, as determined by following the methods described in the currently accepted Federal Manual for Identifying and Delineating Jurisdictional Wetlands. San Juan County soil map units that are dominantly comprised of hydric soils as identified in the Soil Survey of San Juan County, Washington (USDA, 2009), are: Coveland loam, zero to five percent slopes; Coupeville loam, zero to five percent slopes; Limepoint-Sholander complex, zero to eight percent slopes; Shalcar muck, zero to two percent slopes; Semiahmoo muck, zero to two percent slopes; Coveland-Mitchellbay complex, two to 15 percent slopes; Bazal-Mitchellbay complex, zero to five percent slopes; Orcas peat, zero to two percent slopes; and Dugualla muck, zero to two percent slopes. Other soils not classified as hydric by the Soil Conservation Service may still meet the hydric soil criteria.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, as determined by following the methods described in the currently accepted Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

SECTION 45. SJCC 18.20.120 and Ord. 26-2012 § 11 are each amended to read as follows:

Land Division. See “division of land.”

“Landfill” means the placement of soil, rock, gravel, existing sediment, or other material (excluding solid waste) to create new land, tideland, or bottom land, along the shoreline below the ordinary high water mark or on upland areas or wetlands, in order to raise the elevation.

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

“Landward” means to or toward the land.

“Lawn” means an area consisting predominantly of grass that is maintained at a height of six inches or less.

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

“Licensed carrier” means a carrier authorized by the FCC.

“Light industrial” means a use involving (1) basic processing and manufacturing of materials or products predominantly from previously prepared materials; or (2) finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials except food products.

“Limited area of more intensive rural development (LAMIRD)” means a class of rural lands that includes village and hamlet activity centers, residential activity centers, and island centers. LAMIRDS were identified and delineated according to the criteria in RCW 36.70A.070(5)(d). They consist of commercial, industrial, residential, or mixed-use areas in which the kinds, intensities, or densities of use, or the capital facilities and services available, exceed the levels normally associated with rural development. Thus, these areas recognize and provide for existing compact rural development and uses, and allow for infill in the areas to the level of existing patterns.

“Littoral drift” means the natural movement of sediment, particularly sand and gravel, along marine or lake shorelines as a result of wave and wind action.

“Live-aboard vessel” means:
(a) Any vessel used primarily as a residence;
(b) Other than with the exception of commercial fishing boats, any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence.

“Livestock” means cattle, bison, sheep, goats, swine, horses, mules, llamas, ostriches and other poultry, and other like animals.

“Living area” means the internal space measured from the interior of the exterior walls, excluding decks, overhangs, unenclosed porches or unheated enclosed porches, and the stairwell on one level of a two-story structure.

“Logging” means the harvesting of timber.

“Log storage or transfer site” means any location established for the purpose of storing logs or holding logs for transfer to another location. (See also “barge landing site.”)

“Long-term commercial significance” means lands with the growing capacity, productivity, soil composition, and economic viability for long-term agricultural or silvicultural production.

Lot. See “parcel.”

“Lot coverage” means the surface area of a lot or lots within a single development which is occupied by buildings, excluding roof overhangs and covered porches not used for sales, storage, or service.
“Lumber mill, portable” means portable equipment to mill, split, or otherwise process forest products.

“Lumber mill, stationary” means a permanently located facility or equipment used to process forest products.

SECTION 46. SJCC 18.20.130 and Ord. 26-2012 § 12 are each amended to read as follows:

“Maintenance agreement” means a written agreement between parties to physically maintain a facility for common use in a manner which conforms to standards of adequacy specified in such an agreement.

Maintenance and Repair, Normal.

1. “Normal maintenance” includes those acts to prevent a decline, lapse, or cessation from a lawfully established condition.

2. “Normal repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction.

Normal maintenance and repair do not include maintenance and repair that causes substantial adverse effects to shoreline resources or environment (WAC 173-27-040).

“Manufacturing” means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

“Marina” means a facility that provides wet moorage or dry storage, supplies, and services for pleasure craft and some types of commercial craft. Boat-launching facilities may also be provided at a marina.

“Marine Port Area” means the space in which the shoreline jurisdiction overlaps that of a Port District.

“Marine railway” means a set of rails running from the upland area into the water upon which a boat can be launched.

“Market value” means value of land or structures as assessed by the San Juan County assessor’s office.

“Marsh” means a soft, wet area periodically or continuously flooded to a shallow depth, usually characterized by a particular subclass (monocotyledons) of grasses, cattails, and other low plants.

“Master planned resort” means a self-contained and fully integrated planned unit development in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of on-site indoor or outdoor recreational facilities.
“Material change” means a measurable change that has significance for existing or proposed development or for the existing environment.

“Maximum net benefit” means the total of all benefits less the total of all costs including opportunities lost, as defined in the Water Resource Act of 1971 (Chapter 90.54 RCW).

“Mean higher high water” or “MHHW” means the tidal elevation obtained by averaging each day’s highest tide at a particular location over a period of 19 years. It is measured from the MLLW equals 0.0 tidal elevation.

“Mean lower low water” or “MLLW” means the 0.0 tidal flat elevation. It is determined by averaging each day’s lowest tide at a particular location over a period of 19 years. It is the tidal datum for vertical tidal references in the salt water area.

“Midden” means an area of ancestral human use that consists of an ancient refuse heap.

“Mine hazard” means an area of potential danger to persons or property due to past or present mineral extraction operations.

“Mineral extraction” means the removal of naturally occurring materials from the earth for economic use. Extraction materials include nonmetallic minerals such as sand, gravel, clay, coal, and various types of stone.

“Mineral resource lands” means those lands from which the commercial extraction of minerals (sand, gravel, rock, and other valuable aggregate or metallic substances) can be anticipated to have long-term commercial significance.

“Mini-storage” means a structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

“Mitigation” means measures prescribed and implemented to avoid, minimize, lessen, or compensate for adverse impacts.

“Mobile home” means a structure that is (1) designed to be transportable in one or more sections; (2) built on a permanent chassis; (3) designed to be used as a dwelling unit, with or without permanent foundation; and (4) connected to the required utilities, including plumbing, heating, septic, and electrical systems (RCW 43.22.340).

“Mobile home park” means a development with two or more improved pads or spaces with required improvements and utilities designed to accommodate mobile homes, according to RCW 59.20.030 (4).

“Monitoring network” means a set of locations, stations, or points used for collecting samples or taking measurements over time.

“Monopole” means the type of antenna mount that is self-supporting with a single shaft, typically of wood, steel or concrete, and is self-supporting without guy wires.
“Moorage” means any over-water facility for securing boats, including docks, piers, and mooring buoys, but excluding anchorage and dry boat storage.

“Mooring Buoy” means an anchored float meeting all Federal and State standards, unconnected to the land above the OHWM, permanently secured to the sea or lake bed by moorings, a buoy secured to the bottom by permanent moorings and provided with means for mooring a vessel by use of its anchor chain or mooring lines.

“Mooring Float” means a large anchored float that is unconnected to the land above the OHWM, and permanently secured to the sea or lake bed by cables and/or chains.

“Motel.” See “hotel.”

“Motor home” means a motor vehicle originally designed, reconstructed, or permanently altered to provide facilities for human habitation, which include lodging, cooking, and sewage disposal, and enclosed within a solid body shell with the vehicle, but excluding a camper or similar unit constructed separately and affixed to a motor vehicle (RCW 46.04.305).

“Multiple unit development” means a single project, whether one or more buildings, with not less than 5 residential units.

SECTION 47. SJCC 18.20.160 and Ord. 26-2012 § 14 are each amended to read as follows:

“Parcel” means a lot or plot of land proposed or created in accordance with this code or prior subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or future, of transfer of ownership. The external boundaries existing as of October 2, 1979, shall be used to establish what is a parcel for the purposes of this code. For parcels which have not been conveyed since that date, the legal description used in the conveyance closest to that date shall control. The term “parcel” is synonymous with the terms “lot” and “tract.”

“Park” means a tract of land that is specifically designated as a “park” and is used by the public for recreation.

“Parking lot” means an off-street, ground level open area, usually improved, for the temporary storage of motor vehicles.

“Parking structure” means a building or structure consisting of more than one level and used to store motor vehicles. Underground parking is considered a parking structure.

“Party of record” means all persons, agencies, or organizations who have submitted written comments or notified San Juan County of their desire to receive a copy of the final decision on a permit. (WAC 173-27-030).

“Peak demand” means the highest demand associated with a particular interval, such as peak day or peak hour.
“Performance standard” means a set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

“Permanent mooring facility” means a facility which provides wet mooring or dry storage for pleasure craft or commercial craft for a fee for periods of six months or more.

“Permanently affordable housing” means affordable housing, the affordability of which is assured for at least 99 years.

Permit Center. See “department.”

“Permit review” means the process of reviewing applications for project permits for consistency with the requirements of this code.

“Permittee” means the entity to whom a permit is granted.

“Person” means any individual, owner, contractor, tenant, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of a state or local governmental unit however designated, public or private institution, or an employee or agent of any of the foregoing entities.

“Personal and professional services” means, for the purposes of this code, establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, not listed specifically in this code as a distinct use for regulatory purposes, such as laundry and dry cleaning services; barber shops and beauty salons; legal, engineering, architectural, design and accounting services, and the like.

“Personal wireless service facility or PWSF” means a facility for the provision of personal wireless services, as defined by and includes the property lease area and all towers, antennas, mounts, transmission cables, equipment shelters or cabinets, and any other installations for the operation of a personal wireless facility. Amateur radio towers and antennas are not PWSFs and are exempt from height requirements in accordance with SJCC 18.60.050.

“Personal wireless services” means any Federal Communications Commission (FCC) licensed commercial wireless telecommunications service defined in Section 704 of the Federal Telecommunications Act of 1996, including cellular, personal communications services (PCS), commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services. Personal wireless services does not include the operation of amateur radio.

“Pervious surface” means a surface that absorbs water.

“Pier” means a structure that abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft. A pier is a fixed platform above the water.

“Planned unit development” means a development characterized by a unified site design, clustered residential units or commercial units, and areas of common open space.
“Planning department,” “permit center,” and “building department” all mean the San Juan County community development and planning department.

Planning Director. See “director.”

“Plat” means a map or representation of a subdivision or short subdivision of land showing the division of a parcel of land into lots, roads, dedications, common areas, restrictions and easements, as regulated by Chapter 58.17 RCW and this code.

Plat Alteration. See “subdivision, alteration of.”

Plat, Long. See “subdivision (long).”

Plat, Short. See “subdivision, short.”

Plat Vacation. See “subdivision, vacation of.”

“Playing field” means a land area designed and used for outdoor games, such as baseball, football, soccer, track events and tennis. It includes public outdoor swimming pools.

“Pocket beach” means a Class II or Class III beach which does not depend on littoral drift accretion. It depends on the erosion of immediately adjacent sources.

“Point” means a low profile shoreline promontory of more or less triangular shape, the tip of which extends seaward.

“Point-of-use demand management” means a set of policies, procedures, and facilities that provide for the maximum efficiency where they are actually used, as distinguished from efficiency practices in supply, transmission, and distribution systems.

“Point-source discharge” means the release of waste or other flows which can be described as confined to a small area, such as discharges from a pipe or conduit. Releases occurring over a broad or undefined area are referred to as “nonpoint sources.” (See also “nonpoint-source.”)

“Ports and water related port facilities” means shoreline modifications such as, breakwaters, jetties and groins as well as overwater structures that are within the jurisdiction of a port district.

“Potential critical aquifer recharge areas” means areas identified as significant due to their potential value in supplying groundwater and vulnerability to contamination. They are identified based upon the relative ability of the soil to accept water and allow it to flow to become groundwater.

“Predecision hearing, open-record” means a hearing, conducted by the hearing examiner, that creates the County’s record through testimony and submittal of evidence and information, under procedures prescribed by the County by ordinance or resolution. (RCW 36.70B.020).1
“Preliminary plat” means a neat and approximate drawing of a proposed subdivision or short subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this code and Chapter 58.17 RCW.

“Primary association” in the context of critical area regulations refers to those areas that provide fish and wildlife habitat, including physical and biological features, that are necessary for a species to survive over the long term. Examples include areas that are necessary for essential life cycle functions including areas used for feeding, nesting, breeding, and rearing.

“Primary surface” means the FAA imaginary surface that is longitudinally centered on and encloses an aircraft runway.

“Primary use” means the principal use of a property.

“Project permit” refers to a land use permit or license required from San Juan County for a project, including but not limited to land divisions, boundary line modifications, binding site plans, planned unit developments, conditional use permits, variances, shoreline substantial development permits (shoreline conditional use permits, shoreline variances), provisional use permits and temporary use permits. Concurrency findings, determinations of completeness, and other such administrative approvals are reviewed as part of the underlying project permit and are not project permits. SEPA threshold determinations are not project permits. Building, driveway, and other construction-type development permits and approvals are not project permits for this UDC (RCW 36.70B.020(4) and 36.70B.140). (See “development permit.”)

“Proprietor-occupied” means the residential occupancy by the owner of a building or property.

“Provision” means any written language contained in this code, including without limitation, any definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

“Public access areas” means ways or means of approach to provide the general public with a physical entrance to a property.

“Public facilities” means facilities which serve the general public including streets, roads, ferries, sidewalks, street and road lighting systems, traffic signals, community water systems, community sewage treatment systems, storm sewer systems, parks and recreational facilities, and public schools.

“Public schools” means a building (and grounds) or part thereof designed, constructed, or used for publicly operated education and/or instruction.

“Public services” means services available to and used by the general public. They may be, but are not necessarily, provided by a public agency for fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services (RCW 36.70A.030(13)). Some public services are essential public facilities.

“Public transportation systems” means public facilities for air, water, or land transportation.
SECTION 48. SJCC 18.20.180 and Ord. 26-2012 § 16 are each amended to read as follows:

“Radio-frequency (RF) engineer” means a person qualified by education, training, or experience to certify audio frequency measurements.

“RCW” means the Revised Code of Washington.

“Recording” means the filing of a document(s) for recordation with the County auditor.

“Recreational development” means parks and facilities for camping, indoor and outdoor sports, and similar developments.

“Recreational Float” means an anchored float that is unconnected to the land above the OHWM, permanently secured to the sea or lake bed by cables and/or chains.

“Recreational vehicle park” means a commercially developed tract of land in which two or more recreational vehicle sites are established as the principal use of the land.

“Recreational vehicle (RV)” means a vehicle designed primarily for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle, including travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes (RCW 43.22.335).

“Recycling” means the process of segregating solid waste for sale, processing, and beneficial use. Materials which can be removed through recycling include but are not limited to newsprint, cardboard, aluminum, glass, plastics, and ferrous metal. Recycling does not include combustion of solid waste or preparation of a fuel from solid waste.

“Recycling center” means an area, with or without buildings, upon which used materials are separated and processed for shipment.

“Recycling collection” means public drop-off and temporary storage of recyclables. Sorting and processing of recyclables occurs off the site.

“Recycling collection and/or processing” means public drop-off of recyclables with sorting and/or processing on the site.

“Regular use,” for the purposes of SJCC 18.50.190 (C)(8) and 18.50.340 Section 33 (G) of this ordinance, means a pattern of use that is intensive and sustained, including, but not limited to, daily commuter use.

“Religious assembly facility” means a facility designed and used primarily for ceremonies, rituals, and education pertaining to a particular system of spiritual beliefs.

“Residential activity center” means an area of more intensive rural development (AMIRRD) characterized by existing residential areas that have existing development patterns at nonrural densities (see RCW 36.70A.070(5)(d)).
“Residential care facility” means a facility that provides care for at least five, but not more than 15, functionally disabled persons that is not licensed pursuant to Chapter 70.128 RCW.

“Residential development” means development of land with dwelling units for nontransient occupancy. For the purposes of this code, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development unless regulated otherwise by this code or subarea plans. (See also “dwelling unit” and “accessory dwelling unit (ADU).”)

“Resort” means a land area devoted to providing commercial recreational facilities and related lodgings, sales, and personal services primarily serving vacationers, which may or may not include residential uses. (See also “master planned resort.”)

“Resource-based activities” means activities related to the harvesting, processing, manufacture, storage, and sale of agricultural, forestry or mineral products, including, but not limited to, wineries, nurseries, lumber mills, and gravel-processing plants.

“Resource lands” means agricultural, forest, and mineral lands that have long-term commercial significance.

“Restoration” means to return to an original or like condition.

“Restriction” means a limitation placed upon the use of parcel(s) of land.

“Revetment” means structures of materials such as stone or concrete built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

“Right to farm provisions” means provisions intended to enhance and encourage agricultural operations by recognizing agricultural activities as essential rural activities that do not constitute a nuisance.

“Right to forestry provisions” means provisions intended to enhance and encourage sustainable forestry operations by recognizing forestry activities as essential rural activities that do not constitute a nuisance.

“Riprap” means a layer, facing, or protecting mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment.

“Road” means an improved and maintained public or private right-of-way which provides vehicular access to abutting properties, and which may also include provision for public utilities, pedestrian access, cut and fill slopes, and drainage.

“Road end” means:

1. A road closed at one end which may be designed for future road extensions.

2. The point at which a public road meets the tidelands.
“Road, local access” means a road that functions solely to provide access to two or more properties.

“Road, major collector” means:

1. Roads designated as major collector roads in the transportation element of the Comprehensive Plan.
2. A road whose principal function is to collect and distribute traffic from minor collector and local access roads.

“Road, minor collector” means:

1. Roads designated as minor collector roads in the transportation element of the Comprehensive Plan.
2. A road whose principal function is to collect and distribute traffic from local access roads.

“Road, primary” means any existing or proposed road designated as an arterial or collector road in the transportation element of the Comprehensive Plan or so designated by the San Juan County engineer.

“Rockfall hazard areas” means slopes which are subject to rockfall, particularly those areas which have existing evidence of rockfalls, such as piles of talus at the base of cliffs, a lack of vegetation on a slope, or scarp.

“Runoff” means water that is not absorbed into the soil but rather flows along the ground surface following the topography.

“Runway” means the defined area at an airport, airfield, or airstrip indicated for landing and takeoff of aircraft along its length.

“Rural character” means a quality of the landscape dominated by pastoral, agricultural, forested, and natural areas interspersed with single-family homes and farm structures. Rural character refers to the patterns of land use and development established by the Comprehensive Plan:

1. In which open space, the natural landscape, and vegetation predominate over the built environment;
2. That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
3. That provide visual landscapes that are traditionally found in rural areas and communities;
4. That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
5. That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
6. That generally do not require the extension of urban governmental services; and
7. That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

“Rural commercial designation” means the land use designation of the Comprehensive Plan designed to provide opportunities for some commercial uses to be located in rural areas.

“Rural commercial uses” means the use of land or the use or construction of structures or facilities involving the retail sale of goods or services which is either unsuitable for an activity center or is better suited to rural lands and that does not require urban governmental services.

“Rural shoreline designation” means the Shoreline Master Program designation that is designed to protect, maintain, and enhance the rural character of the County’s shoreline. The rural shoreline designations are intended to retain the pastoral, forested, and natural landscape qualities of the islands while providing protection from expansion of urban and suburban forms of land uses.

“Rural farm-forest designation” means the land use designation of the Comprehensive Plan designed to protect rural, agriculture and timber areas from urban and suburban forms of development.

“Rural general use designation” means the land use designation of the Comprehensive Plan designed to provide flexibility for a variety of small-scale, low-impact uses to locate on rural lands.

“Rural governmental services” means those public services provided to rural areas at a scale consistent with the rural character of the area.

“Rural industrial designation” means the land use designation of the Comprehensive Plan designed to provide opportunities for some industrial uses to be located in rural areas.

“Rural industrial use” means the use of land or the use or construction of structures or facilities related to the processing, manufacture or storage of finished or partially finished goods which are either unsuitable for an activity center or are better suited to rural lands, and which do not require urban governmental services.

“Rural lands” means the class of land use designations which are intended to preserve the rural character of the islands. Rural land designations include the following: rural general use, rural farm-forest, rural residential, rural industrial, and rural commercial, together with the resource lands and special land use designations (conservancy and natural).

“Rural residential cluster” means a small cluster of residences and related structures that is intended to provide opportunities for affordable housing in rural areas, while remaining compatible with the rural, agricultural and natural character of rural lands and not requiring urban-level services.
“Rural residential designation” means the land use designation in the Comprehensive Plan designed to recognize existing residential development patterns of the rural landscape and provide for a variety of residential living opportunities at densities which maintain the primarily rural residential character of an area.

“Rural residential environment (shoreline) designation” means the rural shoreline designation intended to protect and enhance existing medium density residential areas on the shoreline and provide for additional areas of this type.

SECTION 49. SJCC 18.20.190 and Ord. 26-2012 § 17 are each amended to read as follows:

“Sale” means the transfer for consideration of legal or beneficial ownership.

“Salt water intrusion” means the underground flow of salt water into wells and aquifers.

“Sanctuaries” means places of habitation and refuge for plants and animals.

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

Seawall. See “bulkhead.”

“Seaward” means to or toward the sea.

“Secondary use” is secondary, or subordinate, to the primary use of the property, e.g., commercial, residential, utilities, etc.

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

“Sedimentation” means the process by which material is transported and deposited by water or wind.

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

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

“Service area” means an area identified by a public water system that includes existing and future service.

“Setback” means the distance a structure is placed behind a specified line or topographic feature.

“Sewerage treatment facilities” means the management, storage, collection, transportation, treatment, utilization, and processing of sewage from a municipal or community sewage treatment plant, not including community drain fields.
“Shooting range” means a facility specifically designed and used for safe shooting practice with firearms and/or for archery practice, with individual or group firing positions for specific weaponry.

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

“Shorelands” means 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 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 berm” means one or several linear mounds of sand and gravel generally paralleling the shore at or landward of the ordinary high water mark that are normally stable because of material size or vegetation.

“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 Management Act” means the Shoreline Management Act of 1971 (Chapter 90.58 RCW), as amended.

“Shoreline Master Program (SMP)” means the San Juan County Shoreline Master Program, being Element 3 of the Comprehensive Plan, and Chapter 18.50 SJCC.

“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 173-27-040).

“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;
3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes (RCW 90.58.030).

“Shorelines hearings board” means the board established by the Shoreline Management Act.

“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.

“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.

“Single Use Barge Landing Site” means an ad hoc location where landings occur no more than 3 in any three months, or a location that is used once (whether for single or multiple trips) to service one discrete project.

“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 a size or intensity which has minimal impacts on the surrounding area
and which makes minimal demands on the existing infrastructure.

“Soft shoreline stabilization measures” means shore erosion control structures and measures
composed of primarily natural and semi-rigid or flexible materials, logs and vegetation,
organized in a nonlinear, sloping arrangement, that dissipate wave energy and minimize erosion
in a way that is similar to natural shoreline processes.

“Soil test hole log” means the excavation and written record of soil septic suitability as per health
department written guidelines and requirements.

“Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except
wastes identified in WAC 173-304-015, including but not limited to junk vehicles, garbage,
rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles
or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues
returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials
which are not the primary products of public, private, industrial, commercial, mining and
agricultural operations. Solid waste includes but is not limited to sludge from waste water
treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem
wastes. Unrecovered residues from recycling operations shall be considered solid waste.

“Solid waste disposal” means the act or process of disposing of rubbish and garbage.

“Solid waste transfer station” means a fixed, supplemental collection and transportation facility,
used by persons and route collection vehicles to deposit collected solid waste from off-site into a
larger transfer vehicle for transport to a permanent disposal site. Solid waste transfer stations
include recycling centers. (See “recycling center.”)2

“Sound” means an oscillation in pressure, particle displacement, particle velocity, or other
physical parameter in a medium with internal forces that causes compression and rarefaction of
that medium, including any characteristics of sound, such as, duration, intensity, and frequency.

“Source of contamination” means a facility or disposal or storage site for material that impairs
the quality of ground water to a degree that creates a potential hazard to the environment, public
health, or interferes with a beneficial use.

“Special flood hazard” means land in the floodplain subject to a one percent or greater chance of
flooding in any given year.

“Special report” means a technical report or study containing certain site analyses or project
evaluations or a plan describing mitigation or monitoring recommendations.

“Spit” means an accretion shoreform which extends seaward from and parallel to the shoreline.
“Static level” means the stable equilibrium level of the water in a well which rises in the well column, without being influenced by pumping.

“Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as stand density.

“Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.

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

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

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

Structure Height Measurement Method means the process by which distance between the top of a structure and the ground is measured. The county shall use the following system to determine the height of all structures:

1. Where the natural grade remains unchanged the height shall be measured by a plumb line from the highest point of the object to the natural grade (NG). Natural grade shall mean the grade prior to any human modification. See Figure A, below.

2. Where the natural grade has been cut, the height shall be measured as by a plumb line from the highest point of the object to the altered grade elevation (AGE). See Figure B, below.

3. Where fill material has been added to the natural grade, the height shall be measured as by a plumb line from the highest point of the object to the natural grade, regardless of the height of fill. See Figure C, next.
“Subarea plan” means a detailed plan consistent with but more specific than this code or the Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a functional long-range plan for a land use or resource issue of County-wide concern.

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

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

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

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

“Substantial alteration” means any alteration, where the total cost of all alterations (including but not limited to electrical, mechanical, plumbing, and structural changes) for a building or facility within any 12-month period or single development permit application amounts to 50 percent or more of the value of the building or facility. In determining the current value of the building or facility, the assessor’s fair market value, or a current appraisal acceptable to the County, may be used.

“Substantial development” means any development of which the total cost, or fair market value, exceeds $2,500 or any development which materially interferes with normal public use of the water or shorelines of the state (RCW 90.58.030(3)(e)); except that developments meeting the
precise terms of the exemptions specified in WAC 173-27-040 and Chapter 18.50 SJCC (Shoreline Master Program) shall not be considered substantial developments.

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

“Subtidal” means the area seaward of the line of extreme low tide.

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

“Swale” means a depressed, vegetated, often wet area of land, or an open drainageway.

“Swamp” means a depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs.

SECTION 50. SJCC 18.20.200 and Ord. 26-2012 § 18 are each amended to read as follows:

“Tank farm” means an area used for the commercial bulk storage of fuel in tanks.

“Threshold determination” means the decision by the responsible official under the State Environmental Policy Act (SEPA) regarding the likelihood that a project or other “action” (WAC 197-11-704) will have a probable significant adverse impact on an element of the environment.

“Tidelands” means land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

“Timber land” means land supporting or capable of supporting a stand of merchantable timber and which is not being developed or used for an activity which is incompatible with timber production.

“Tombolo” means a causeway-like accretion spit which connects an offshore rock or island with the main shore. Tombolos normally develop from bars (submarine berms) and an active driftway.

“Top of Bank” means the first change of ten degrees or more in the slope from the OHWM. A major change is a change of ten degrees or more.

“Trailer” means a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office.
“Transfer of development rights (TDR)” means the transfer of the right to develop or build, expressed in dwelling units per acre, from land in one land use designation to land in another designation or from one property owner to another, where such a transfer is permitted.

“Transfer station” means a facility for the collection of solid waste from off-site into a larger transfer container or vehicle for transfer to a permanent disposal site. (See “solid waste transfer station.”)

“Transient accommodations” means a commercial or residential use involving the rental of any structure or portion thereof for the purpose of providing lodging for periods less than 30 days.

“Transitional surface” means the FAA imaginary surface that is the lower boundary of an airspace which begins on either side of the primary surface and which slopes outward and upward to meet the horizontal surface above the airport. This surface is also connected to the approach surface at both ends of the runway.

“Transportation facilities” means roads, trails, airports, airfields, public docks, ferries and related terminals, and parking areas.

“Tree line” means the line created by existing trees, at the trunk line, growing in a generally continuous line, as opposed to a line drawn between a few isolated trees.

“Tree protection zone” means a protective area established around a tree or cluster of trees. With regard to streams, lakes, ponds, and shorelines, this includes the area between the water and the tree or cluster of trees.

“Turbid (turbidity)” means thick or opaque with rolled sediment; muddy.

“Turion” means a shoot of eelgrass emanating from the rhizome.

SECTION 51. SJCC 18.80.120; Ord. 15-2002 § 12; and Ord. 2-1998 Exh. B § 8.12 are hereby repealed.

SECTION 52. SJCC 18.50.090 and Ord. 2-1998, Exh. B § 5.4.6 are hereby repealed.

SECTION 53. SJCC 18.50.110 and Ord. 2-1998, Exh. B § 5.4.8 are hereby repealed.

SECTION 54. SJCC 18.50.130 and Ord. 2-1998, Exh. B § 5.4.10 are hereby repealed.

SECTION 55. SJCC 18.50.140 and Ord. 2-1998, Exh. B § 5.4.11 are hereby repealed.

SECTION 56. SJCC 18.50.150 and Ord. 2-1998, Exh. B § 5.4.12 are hereby repealed.

SECTION 57. SJCC SJCC 18.50.270 and Ord. 2-1998 Exh. B § 5.5.13 are hereby repealed.
SECTION 58. **Savings Clause:**

This ordinance shall not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and effect.

SECTION 59. **Severability:**

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

SECTION 60. **Effective Date:** This ordinance shall take effect on the date of approval by WDOE pursuant to RCW 90.58.090.

SECTION 61. **Publication of Notice of Adoption:** Notice of adoption of this ordinance pursuant to RCW 36.70A.290 shall occur promptly after approval of the amendments by WDOE.

SECTION 62. **Codification.** Sections 5 through 50 shall be codified after the effective date of this ordinance which is described above.

Section 5 amending SJCC 18.80.110 subsection F should be reformatted so that section 1 is placed before section #2;

Section 32, sub-section B, provisions 1-12 to be codified as a separate section titled Shoreline land divisions;

Sections 19, 21, 30, 35, 36, and 39 to be combined as a separate shoreline modification and overwater structure sub-chapter;

Sub-section B, provisions 1-12 of amended section 32 to be codified as a separate section titled, Land divisions; Sections 19, 21, 30, 35, 36 and 39 to be combined as a separate shoreline modification and overwater structure sub-chapter; The amendments to the definitions in Sections 58–68 of this Ordinance are based upon the definitions set forth in the critical areas ordinance (Ord. 25-2012), with a delayed effective date of March 1, 2014.

Throughout text, where the term ‘effective date of this SMP’ appears, replace with actual date of DOE approval.
Sections 5 through 50 shall be codified.

ADOPTED this _____ day of __________________ 2015.

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

____________________
Bob Jarman, Chair
District 1

ATTEST: Clerk of the Council

____________________
Ingrid Gabriel, Clerk
Date: ________

____________________
Jamie Stevens, Chair
Date: ________
District 3

____________________
Rick Hughes, Member
Date: ________
District 2

REVIEWED BY COUNTY MANAGER

____________________
Mike Thomas
Date: ________

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: ______________________
Date: ________
Exhibit A
San Juan County Comprehensive Plan Section B, Element 3, Shoreline Master Program.

Exhibit B
San Juan County Shoreline Master Program map.

Exhibit C
Shoreline Restoration Plan (New Appendix 11 of the San Juan County Comprehensive Plan)