An Ordinance for the Comprehensive Update of the County’s Shoreline Master Program (Element 3 of the Comprehensive Plan and SJCC Chapter 18.50); Shoreline Permit and Exemption Procedures (SJCC 18.80.110); Definitions (SJCC Chapter 18.20); and the Comprehensive Plan Land Use and Shoreline Master Program Map

JULY 19, 2013

Brian Ehrmantraut, Chair

Barbara Thomas, Vice-Chair
COMPREHENSIVE PLAN

SECTION B, ELEMENT 3

SHORELINE MASTER PROGRAM

(Regulations)

July 19, 2013 February 2002


Planning Commission Draft

“Our islands have exceptional natural beauty and healthy diverse ecosystems surrounded by pollution-free marine waters. . . . As careful stewards of these islands, we conserve resources, preserve open space, and take appropriate action to assure healthy land and marine environments. . . . The unique character of our shorelines is protected by encouraging uses which maintain or enhance the quality of the shoreline environment.”
CHAPTER 18.50
SHORELINE MASTER PROGRAM

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Article I. General Provisions

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(I)(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 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 Shoreline Management Act, and this 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 SMP were enacted and adopted, respectively.

3. Conflicting Policies or Regulations. The SMA and the SJC 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 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 SMP 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 SJC SMP Shoreline Master Program, such policies or regulations must be 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 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 three official copies of the map, one of which is maintained by the San Juan County Department of Planning and Development planning department, one archived by the San Juan County Auditor and one submitted to the Washington Department of Ecology 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, except those changes provided for in subsection (CD)(5) 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 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 a SMP amendment.

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

1. Director Administrator.
   a. Technical and Administrative Assistance. The administrator Director 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 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, 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)

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 (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 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 which 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 the SJC SMP Master Program and the Washington State Shoreline Management Act, 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 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 F. Exemptions from Shoreline Substantial Development Permit Requirements.
1. Exemption from the shoreline substantial development permit requirements under subsection (E) 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 state, local, 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). A use classified as a conditional use or a use not named or contemplated in this chapter is allowed only as 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, a 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 authority authorization under the SMP 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. In addition, 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, rotovating, 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 reasonable alternative exists and weed control complies with all state rules and regulations.

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

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 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 (F)(2)(g) of this section. “Normal appurtenance” means a structure that is necessarily connected to the use and enjoyment of a single-family residence and may include e., 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 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 17 percent average slope (i.e., a maximum 60-degree angle).
   g. The project complies with bank stability requirements of SJCC 18.50.080(D) geologically hazardous areas.
   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 sub divisions 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. The following exempt activities shall not be conducted until a certificate of exemption has been obtained from the Director:
   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 DOE per WAC 173-27-050.

4. In no instance shall a separate certificate of exemption be required for residential development when a County building permit application is being considered or approved by the Director.

5. In no instance shall a certificate of exemption be required for emergency actions taken pursuant to WAC 173–27–040(2)(d).

6. No certificate of exemption shall be required for other exempt uses activities such as repair and maintenance of existing structures that are not in or over the water.

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 WAC173-27-030 shall rule. (Ord. 2–1998 Exh. B § 5.3)

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.

BC. 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.

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

D. 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.

E. 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. (Res. 77–2003 § 2; Ord 13–2002 § 2; Ord. 2–1998 Exh. B § 5.4.1)

18.50.050 Archaeological and historic resources.
A. **Regulations to protect archaeological and historic resources are in SJCC 18.60.210.**

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, 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)

**18.50.060 Clearing, 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 only allowed 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. Tree removal permitted in a development approval is exempt from the regulations in this section.

D. 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.

D. Commercial timber harvest conducted in accordance with an approved forest practices permit is exempt from the regulations in this section. (Ord. 2-1998 Exh. B § 5.4.3) Land clearing, grading, filling and/or alteration of wetlands and/or 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/or 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 Washington Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see SJCC 18.50.170, 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 18.50.090.

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 SJCC 18.50.080 and 18.50.260. Commercial timber harvest conducted in accordance with an approved forest practices permit is exempt from the regulations in this section. (Ord. 2-1998 Exh. B § 5.4.3)

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 shall require a shoreline conditional use permit.
I. Activities covered under the Washington State Forest Practices Act, RCW 76.09 except for conversion to other uses, are exempt from these vegetation management standards. (See SJCC 18.50.180, 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.

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. Fills also prohibited in within the Conservancy designation in Eastsound.
   2. Aquatic. Fills shall be allowed in the aquatic designation subject to 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.

18.50.070 Environmental impacts.

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.

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.

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

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.

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.

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 defence 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)

18.50.070 Nonconforming structures, uses, and activities.

A. A nonconforming 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, nonconforming 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:
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 conformity with SICC 18.50.090.

H. A structure for which a variance has been issued in accordance with SICC 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.
18.50.080 Environmentally sensitive 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. (Ord. 2–1998 Exh. B § 5.4.5)

18.50.080 Critical Areas

A. Applicability. The regulations in this section apply to development, land use and vegetation removal in and within fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands as described in this section. In addition, the regulations for critical aquifer recharge areas found in SJCC 18.30.140 apply within shoreline jurisdiction.

B. General Exemptions. When conducted in accordance with the provisions of this subsection the following uses and activities are exempt from standard shoreline critical area regulations:

1. Emergency Response. Those activities necessary to prevent an imminent threat to public health, safety, or the environment; or to public or private property, and that require remedial or preventive action in a time frame too short to allow for review and approval in accordance with critical area requirements.

   Within seven days of the emergency, the person or agency undertaking the action shall report to the director the extent of the action taken and any adverse impacts to critical area functions caused by the action. Any mitigation and/or restoration necessary to bring the action into compliance with these critical area requirements, shall be undertaken pursuant to an approved mitigation plan or other plan that is consistent with the critical area requirements of this chapter.

   The director shall be the decision maker for these plans.

2. Except for the replacement of hard shoreline stabilization structures, the operation, maintenance, repair, remodel, or replacement of structures, facilities, infrastructure systems, development areas and uses existing or vested before the effective date of this SMP is allowed, provided:

   a. There is no further intrusion into geologically hazardous areas, frequently flooded areas, wetlands, fish and wildlife habitat conservation areas or critical saltwater habitats;

   b. There is no further intrusion into their buffers or tree protection zones;

   c. Soil erosion is controlled;

   d. Disturbed areas are promptly stabilized; and

   e. Actions do not increase the magnitude of adverse impacts on the functions of critical areas.

3. Provided impacts on shoreline ecological functions are mitigated, soil erosion is controlled and disturbed areas are promptly stabilized or revegetated. Installation, then the construction, replacement, or modification of:

   a. Electrical lines;

   b. Telecommunication lines; or

   c. Water and sewer line courses.

4. Removal of hazard trees as defined in SJCC 18.20.080. In addition, to allow for defensible space, 30 feet of vegetation may be cleared around buildings lawfully established or vested before the effective date of this ordinance.

5. Land divisions specified in SJCC 18.70.010(C) are exempt from critical area compliance review. Lots created via SJCC 18.70.010(C) are however, still subject to compliance with critical area protection requirements, and lots created after the effective date of this ordinance are not eligible for variances from those requirements.

6. Except for the conversion of forest land to other uses, forest practices regulated under RCW 76.09 and WAC Title 222.

7. Installation of navigation aids and survey markers.

8. Site investigative work associated with land use applications, such as surveys, soil borings, and test holes, provided that critical area functions are protected and disturbed areas are
immediately restored.

C. General Provisions.

1. In addition to regulation by San Juan County code, activities within critical areas may also be regulated by State and Federal agencies including the WA Department of Ecology, WA Department of Fish and Wildlife, WA Department of Natural Resources, WA Department of Archeology and Historic Preservation, and the U.S. Army Corps of Engineers. Compliance with County regulations does not relieve the property owner of the responsibility to comply with state and federal requirements.

2. Maps of critical areas, including those created and maintained by State and Federal agencies, are available from San Juan County. These maps are however only a guide to the possible location of critical areas, and conditions in the field control. Maps showing habitats and species that have been positively identified, including Type S waters, Type F streams, forage fish spawning beaches and the location of nests, shall however be presumed to be correct until proven otherwise by a qualified professional. State regulations prohibit general dissemination of detailed maps showing the location of protected species; however, the department can provide site specific information.

3. Optional public agency and utility exception.

a. Public agency and utility exceptions apply only to compliance with critical area requirements. They do not relieve the applicant of the duty to comply with other local, State, or Federal requirements. The following provisions apply to public agencies and utilities that have difficulty meeting standard critical area protection requirements:

   i. In determining eligibility for public agency and utility exceptions, the burden of proof is on the applicant to provide adequate information for the decision maker to determine compliance with the requirements of this subsection (SJCC 18.50.080.C.3).

   ii. If the application of standard critical area regulations would preclude a development proposal by a public agency; public utility; or private utility regulated by the Washington Utilities and Transportation Commission or serving an Urban Growth Area; the development may be allowed if it is consistent with this subsection (SJCC 18.50.080.C.3) and other applicable regulations and will benefit public health, safety, or welfare.

b. Public agency and utility exceptions are processed as Provisional/Conditional use permits depending on the scope and scale of the proposed project.

c. Application for a public agency and utility exception shall include:

   i. 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 the location of the field located OHWM, frequently flooded areas within the proposed development area; geologically hazardous areas, wetland or fish and wildlife habitat conservation areas within 200 feet of the proposed development area; the location of any golden eagle nests in or within 1,000 feet of the proposed development area; and the location of any peregrine falcon or great blue heron nests in or within ¼ mile of the proposed development area;

   ii. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act.

   iii. Required critical area reports, critical area delineations, and Best Available Science documents supporting the proposal.

   iv. A copy of storm water and erosion control plans required by SJCC 18.60.

   v. A narrative describing anticipated adverse impacts to critical area functions, based on Best Available Science, and explaining how the proposal meets the public agency and utility exception approval criteria.

   vi. Mitigation, monitoring and adaptive management plans. Plans meeting the requirements of SJCC 18.50.090 for mitigating any adverse impacts to the functions of critical areas, for monitoring the effectiveness of mitigation actions, and when necessary for adaptively managing the mitigation project to ensure its success.

   vii. A cost estimate, prepared by a qualified professional, for implementing mitigation and monitoring plans.
viii. Financial guarantee. Unless exempt under RCW 36.32.590, if mitigation of adverse impacts is necessary, a financial guarantee covering 115% of the entire cost of implementing the mitigation and monitoring plan. This guarantee and the associated agreement must meet the requirements SJCC chapter 18.90.

d. Public agency and utility exception approval criteria. Approval of public agency and utility exceptions shall be based on conformance with the following criteria:
i. The application is complete.
ii. The applicant is a public agency; public utility; or private utility regulated by the Washington Utilities and Transportation Commission or serving an Urban Growth Area.
iii. The proposed project will benefit the public health, safety or welfare.
iv. Adverse impacts will be mitigated in accordance with a mitigation plan approved in accordance with subsection 18.50.090 so that there will be no net loss of critical area functions, considering the Best Available Science.
v. The project complies with all other applicable regulations.

D. Geologically hazardous areas.
1. Applicability. Unless exempted or allowed under SJCC 18.50.080.B or C, this subsection applies in and within 200 feet of Geologically Hazardous Areas.

2. Identification and Classification.
a. All of San Juan County has some level of risk associated with geologic hazards. The County classifies areas of known or suspected risk into three categories as described in this subsection.
b. In applying these regulations, the requirement to identify geologically hazardous areas is limited to those activities that require a project or development permit and are located in or within 200 feet of a geologically hazardous area.
c. Slope is one factor that is considered in classifying geologically hazardous areas. Slope is the vertical change in elevation that occurs in a given distance expressed in percent (%). Slope is measured perpendicular to the contour of the land and for classification purposes it is measured in 10-foot vertical increments. In the absence of a topographic field survey of the subject property, the Director may use the San Juan County Digital Elevation Model (DEM) based on Light Distance and Ranging (LiDAR) technology, or other technology, to estimate slopes. In determining slopes and other geologic factors, however, conditions in the field shall control.
d. Geologically hazardous areas are classified into three categories according to the probability of hazardous geologic activity occurring and potential consequences to people and property:

i. Category I – Landslide and Other Hazards.
   (A) Areas designated in the Washington Department of Ecology Coastal Zone Atlas as U (Unstable), UB (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide) and other areas identified as landslide hazard areas by site-specific geologic reports.
   (B) Areas with slopes of greater than 50 percent and with a vertical relief of 20 feet or more, except areas of exposed, unfractured bedrock. If any portion of a slope meets this definition, the slope or some larger portion may be designated a landslide hazard area.
   (C) Areas designated as Quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources.

ii. Category II – Erosion, Landslide, and Other Hazards.
   (A) Erosion hazard areas characterized by soils identified in the USDA Soil Survey of San Juan County, Washington as having a high risk of erosion and those soils with a land capability subclass of “e.”
   (B) Areas with all three of the following characteristics:
      (1) Slopes in excess of 15 percent;
      (2) Pervious soil layers overlying semi-pervious to impervious soil layers; and
iii. **Category III – Seismic Hazards.**
   (A) San Juan County in its entirety is located within Seismic Design Category D of the International Building Code and the International Residential Code.
   (B) Liquefaction susceptibility zones identified in the Washington Department of Natural Resources Liquefaction Susceptibility Map.

3. **Protection Standards.**
   a. **Category I.**
      i. The following are prohibited:
         (A) Structures where the primary occupancy is public assembly, including but not limited to schools, churches, day care centers, hospitals and other medical facilities; and
         (B) Facilities associated with emergency response and public safety.
      ii. Applications for project and development permits for development and vegetation removal in or within 200 feet of Category I Geologically Hazardous Areas shall be accompanied by a geotechnical report, prepared in accordance with subsection 4 below (Geotechnical Reports) below which demonstrates that:
         (A) The slope is less than 80 percent; and
         (B) There is no hazard or the hazard will be mitigated with appropriate conditions. The geotechnical report shall specify adequate development conditions to ensure that proposed modifications to the land will not cause or contribute to instability of the site or adjacent areas.
      iii. The Director may, based on the content of the geotechnical report, waive or approve modifications to the requirements set forth in subsections SJCC 18.50.080(D)(3)(a)(iv – vii) below.
      iv. Structures and improvements shall be sited, designed, and constructed to minimize cut and fill and to retain as much of the natural topographic character of the slope as possible;
      v. Structures and improvements shall be located to avoid the most hazard-prone portion of the proposed development area and to preserve vegetation necessary to prevent soil erosion.
      vi. Where previous human activity has significantly modified natural topography, the County may allow further modification of such slopes if the geotechnical report demonstrates that such activity will result in improved slope stability.
      vii. To prevent soil erosion and destabilization of slopes, areas that are cleared, filled, used for fill stockpiling or graded, and that are not covered with structures or other improvements, must be protected from erosion until replacement plantings are established. Temporary erosion and drainage controls may be required unless permanent restoration and protection are timed to ensure slope stability during the wet season.
      viii. Where concentrated runoff (i.e. runoff that is visible above ground and that is not sheet flow) will be discharged within 50 feet of the boundary of a landslide or erosion hazard area, a geotechnical report, prepared in accordance with subsection 4 (Geotechnical Reports) below, is required.
   b. **Category II.**
      i. Applications for required project or development permits for activities in or within 200 feet of Category II Geologically Hazardous Areas shall be accompanied by a geotechnical report, prepared in accordance with subsection 4 (Geotechnical Reports) below.
      ii. Where concentrated runoff will be discharged within 50 feet of the boundary of a
landslide or erosion hazard area, a geotechnical report, prepared in accordance with subsection 4 (Geotechnical Reports) below, is required.

iii. The Director may, based on the content of the geotechnical report, waive or approve modifications to the requirements set forth in SJCC 18.50.080(D)(3)(a)(iv – vii).

c. Category III.
With the exception of construction performed in accordance with the San Juan County owner/builder provisions in SJCC 15.04.500-710 development activities must conform to the applicable provisions of the International Building Code or the International Residential Code, that contain structural safeguards to reduce the risks from seismic activity.

4. Geotechnical Reports.
   a. Geotechnical reports shall be prepared, stamped and signed by a qualified professional. These reports must:
      i. Be appropriate for the scale and scope of the project;
      ii. Include all geologically hazardous areas and all potentially affected areas in and within 200 feet of the proposed development area or vegetation removal. If the affected area extends beyond the subject property, the geotechnical analysis may utilize data sources pertaining to that area prior to or after the effective date of this SMP;
      iii. Clearly document and state that the proposed project will not decrease slope stability or pose an unreasonable threat to persons or property either on or off site;
      iv. Be adequate to determine compliance with the requirements of the San Juan County Code;
      v. Generally follow the guidelines set forth in the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006). In some cases a full report may not be necessary to determine compliance with this chapter, and in those cases a letter or abbreviated report may be provided.
   b. The Director will review geotechnical reports for completeness and compliance with this section.
   c. A geotechnical report does not expire unless there are changes in proposed land uses or site conditions.

E. Frequently flooded areas
1. Applicability. Unless exempted or allowed under SJCC 18.50.080.B or C, this subsection applies to areas of special flood hazards as identified by the Federal Insurance Administration on its Flood Insurance Rate Maps (FIRMs), existing before the effective date of this SMP or as later amended. These maps are hereby adopted by reference and declared to be part of the SMP. The Director shall maintain the most current FIRMs on file at the Department. Where differences exist between the FIRMs and conditions in the field, conditions in the field shall control.

2. Protection standards. All developments in areas of special flood hazards must first meet the requirements of the San Juan County Code including any subarea or activity center plans and the health and building codes adopted in SJCC Chapters 13.04 and 15.04 SJCC. When allowed, such developments must also meet the floodproofing and construction requirements of the County flood control ordinance adopted in SJCC Chapter 15.12.

F. Wetlands
1. Applicability. Unless exempted or allowed under SJCC 18.50.080.B or C, the provisions of this subsection apply to areas in or within 200 feet of wetlands (as defined in SJCC 18.20.230).

2. Wetland Type. San Juan County wetlands are classified by their type as described below. These wetland types are also discussed in the Best Available Science Synthesis, San Juan County, May 2011 (BAS Synthesis). In some cases, the wetland type may need to be determined by a qualified wetlands professional. In classifying a wetland that has been illegally modified (e.g. modified since 1991 and not as allowed by County regulations then in effect), the type that existed prior to the modification shall be used. In classifying a wetland that has been voluntarily enhanced (i.e. not enhanced to offset adverse impacts associated with new development), the wetland type that existed prior to the modification shall be used.
a. **Aspen or Cottonwood Wetland** means a wetland with a cluster of five (5) or more Black Cottonwood (*Populus balsamifera*) trees with trunks larger than 15 inches diameter at breast height (dbh), where the trunk of any one cottonwood tree is within 40 feet of the trunk of another cottonwood tree in the cluster, and which forms a canopy greater than 0.10 acre in size; or a cluster (no specific stem count or size) of trembling Aspen (*Populus tremuloides*) trees where the trunk of any one Aspen tree is within 40 feet of the trunk of another aspen tree in the cluster, and the cluster of trees is greater than 0.25 acre in size.

b. **Bog** means a wetland with a deep layer of accumulated moss (rooted or floating on water) that forms peat soils, or has more than 30% canopy cover of Sitka Spruce, Western Red Cedar, Western Hemlock, or Lodgepole Pine. The area must also contain one or more plant species characteristic of acidic conditions (pH < 5.0) as listed in Table 3 of the Washington State Department of Ecology's *Wetland Rating System for Western Washington (2004)*.

c. **Lakeside Wetland** means a wetland that is within, or contiguous to and within 100 feet of, a ponded water body larger than 20 acres, and whose water levels fluctuate in near synchrony with those of the water body. This does not include wetlands that develop on non-wetland sites, as may occur when water is impounded with a structure.

d. **Large Pond Wetland** means a wetland that is within, or contiguous to and within 100 feet of a body of surface water that is between 5 and 20 acres in size and that during most years is present through the end of August; or a wetland that contains patches of standing water that cumulatively cover between 5 and 20 acres and that during most years is present through the end of August.

e. **Mature forested wetland** means a wetland with a cluster of trees greater than 0.25 acre in size where more than 20% of the trees have a dbh exceeding 18 inches, most of the trunks are within 50 feet of the trunks of other trees in the stand, and the trees consist of one or more of the following species: Sitka Spruce, Western Red Cedar, Western Hemlock, Red Alder, Black Cottonwood, Pacific Willow, Aspen, and Lodgepole Pine.

f. **Salmonid Watershed Wetland** means a wetland that is in or within 160 feet of, and in the same watershed as, the portion of marine or fresh waters that are known or reasonably assumed to be physically accessible for any length of time during most years to sea-run coastal cutthroat trout or other salmonid species native to the Pacific Northwest. (This does not include stocked species of trout in lakes.) The wetland itself need not be accessible to such fish, as its primary purpose is to help protect the water quality and provide food chain support of nearby salmonid habitat.

g. **Salmonid Wetland** means a wetland known or reasonably assumed to be physically accessible during most years, for any length of time, to sea-run coastal cutthroat trout or other salmonid species native to the Pacific Northwest. (This does not include stocked species of trout in lakes.) These may include but are not limited to: all vegetated tidal wetlands, plus natural or artificial ponds intersected by Cascade Creek, False Bay Creek, Doe Bay Stream, West Beach Stream, and the stream complex in the Garrison Bay-Mitchell Hill area.

h. **Structurally Diverse Wetland** means a wetland that:
   i. Contains three habitat structural forms: woody vegetation, herbaceous vegetation, and open water (surface water without emergent vegetation, present during all or most of a normal year, that is within or contiguous to the wetland);
   ii. Has each form well-distributed in multiple patches; and
   iii. Has nearly equal proportions of the three forms (no more than 50% of the area being comprised of any one type).

i. **Tidal Wetland, Large** means a vegetated wetland larger than 0.25 acre when measured at mean lower low water (MLLW), that receives a tide-driven influx of marine surface water at least once during an average year. This includes but is not limited to salt marshes and vegetated parts of tidal lagoons. It does not include areas vegetated only with seaweed (algae). Salinity can range from fresh to hypersaline.
i. **Tidal Wetland, Small** means a wetland meeting the definition of Tidal Wetland – Large, but smaller than or equal 0.25 acres in size.

k. **Tidally Contiguous Wetland** means a non-tidal wetland that is contiguous to and within 100 feet of a tidal wetland. A surface water feature may or may not connect the wetlands. Some such wetlands were originally salt marshes, but were diked off and/or tidegated to create pastures and haylands that currently qualify as wetlands. These wetlands do not receive an annual tide-driven influx of marine water.

l. **Wetland with high natural connectivity** means a wetland that has either:
   i. An undisturbed land connection with all ponds and lakes located within a one-half mile radius of the wetland. An "undisturbed connection" means an animal could walk (not necessarily in a straight line) between this wetland and a lake or pond without crossing a road or driveway that is paved or that creates a gap in the forest canopy, or a lawn or field that is mowed more than once annually; or
   ii. An undisturbed land connection with a block of land that is ≥ 100 acres in size that is not actively managed and is not mowed more than once annually.

(Note: The areas of connection are not regulated as wetlands.)

m. **Other.** Any other wetlands of a type not listed above.

3. **Wetland Rating.** Wetland ratings are based on their hydrologic, water quality, and habitat characteristics and functions. The Water Quality-Sensitivity Rating considers adverse impacts associated with changes in water quality, while the Habitat Importance-Sensitivity Rating considers adverse impacts associated with changes to habitat structure or function.

   a. **Water Quality-Sensitivity Rating.** Wetland types are organized into three groups for this rating. For wetlands comprised of two or more types, the higher rating shall apply.
      i. **High** (Based on sensitivity to water contaminants, magnitude of impacts, and/or water used for human consumption. Includes wetlands with plants or animals that may be very sensitive to contaminants):
         (A) All sizes of tidal and tidally contiguous wetlands;
         (B) Bog;
         (C) Lakeside wetland;
         (D) Salmonid wetland; and
         (E) Large pond wetland.
      ii. **Medium**
         (A) Salmonid watershed wetland; and
         (B) Wetland that has no surface water outflow (during most years).
      iii. **Low** (Based on sensitivity to water contaminants. Includes wetlands where runoff is expected to receive additional treatment in the wetland without adversely impacting wetland functions):
         All other wetland types not listed above.

   b. **Habitat Importance-Sensitivity Rating.** Wetland types are organized into three groups based on the wetland’s importance and the sensitivity of the plants and animals to disturbances. For wetlands that include two or more wetland types, the higher rating shall apply.
      i. **High Habitat Importance-Sensitivity.**
         (A) Tidal wetland – Large;
         (B) Bog;
         (C) Mature forested wetland;
         (D) Aspen/cottonwood wetland;
         (E) Lakeside wetland;
         (F) Salmonid wetland; and
         (G) Large pond wetland.
      ii. **Medium Habitat Importance-Sensitivity.**
         (A) Tidal wetland - Small and Tidally Contiguous Wetland;
         (B) Structurally diverse wetland;
         (C) Wetland with high natural connectivity;
(D) Salmonid watershed wetland.

4. Minimum Size Thresholds for Regulated Wetlands. To allow for the reasonable administration of these regulations, some wetlands are exempted from the requirements of this subsection based on their size and Habitat Importance-Sensitivity Rating (see above subsection 3.b) and whether they are part of a wetland mosaic.

Wetlands exceeding the following size thresholds are regulated under this subsection:

a. High Habitat Importance-Sensitivity wetlands: no exemption - all wetlands are regulated;
b. Medium Habitat Importance-Sensitivity wetlands: 1,000 square feet;
c. Low Habitat Importance-Sensitivity wetlands and wetland mosaics: 2,500 square feet.

5. Protection Standards. This subsection establishes protection standards for wetlands, including a site-specific procedure for sizing wetland buffers and tree protection zones, along with standards for activities in these areas. The buffer and tree protection zone sizing procedure is illustrated in the following flow chart and diagram:
Figure 5.1 Procedure for Determining Site Specific Wetland Buffers and Tree Protection Zones

Is the proposed development, vegetation removal or other site modification within 200 feet of a wetland?

If yes, does the area to be modified drain to the wetland? If yes, continue with the Water Quality Buffer sizing procedure. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 5.6 and subsections 5.e. and 5.f of this subsection, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer).

Determine the wetland type and Water Quality-Sensitivity Rating. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.50.080.G.5).

Complete the Water Quality Buffer sizing procedure (Steps 1-7) for the area that drains to the wetland, beginning with the portion of the site containing the most impervious area (or if there is no impervious area, the area with the most grading and vegetation removal). If desired repeat to determine buffer for less intensely developed portions of the site.

If No: no further action is needed for compliance with wetland critical area regulations.

If No: continue to the Habitat Buffer and Tree Protection Zone sizing procedure.

a.

Complete the Habitat Buffer and tree protection zone sizing procedure (Steps 1-4). (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply (see SJCC 18.50.080(G)(5). Also, if no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 5.6 and subsections 5.e. and 5.f of this subsection, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer).
a. **Site-specific buffer sizing procedure.** The following is a site-specific procedure for determining the size of vegetative buffers and tree protection zones necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component, and habitat/tree protection component, are considered in the procedure. When determining the required buffer and tree protection zone for a wetland, the stricter (i.e., wider) applies except where otherwise noted. Required buffers and tree protection zones apply regardless of whether the wetland is on the same lot or another lot that may be under different ownership. If the wetland is under different ownership and is not accessible, the wetland type and boundaries are established using available maps and information, including a visual assessment if possible. The water quality buffer is determined first based on the characteristics of the site and the proposed development, vegetation removal or other site modification; whether runoff water will be primarily above or below ground; and the wetland type. This involves working through a procedure to determine the buffer size for each area that will be developed or modified. The habitat buffer, and where applicable, the tree protection zone is then determined based on the Habitat Importance-Sensitivity Rating, wetland type and the presence of trees. In all cases, conditions on the ground shall control.

i. **Determine the Water Quality Buffer.**

**Step 1. Location relative to wetlands.** Is the proposed development, vegetation removal or other site modification located within 200 feet of a wetland? If so, proceed to the next step. In some cases, to answer this question, it may be necessary to have the wetland edge facing the area that will be developed or modified delineated in accordance with subsection F.6 below. In many cases, this can be based on a wetland reconnaissance rather than a full delineation. Although maps and other imagery can be used to help with this determination, conditions on the ground control. If the proposed development, vegetation removal, and other modifications are more than 200 feet from the wetland, no further action is needed for compliance with wetland critical area regulations. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 5.6 and subsections 5.e and 5.f of this subsection, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer.)

**Step 2. Drainage direction.** Does the area proposed to be developed or modified drain to the wetland? If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with subsection F.6 below and proceed to steps 3-7 to determine the required water quality buffer. If the area proposed to be developed or modified does not drain to the wetland, a water quality buffer is not required and only a habitat buffer and if applicable a tree protection zone applies. Proceed to the habitat buffer/tree protection zone sizing procedure in subsection F.5.a.ii below.

**Step 3. Wetland type and water quality-sensitivity rating.** Determine the wetland type using the above descriptions in SJCC 18.50.080(F)(2)above. This may require the assistance of a qualified professional, particularly for wetlands that may be a bog. After the wetland type is determined, use subsection(F)(3) above to determine the Water Quality-Sensitivity Rating for the wetland. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.50.080(G)(5).
**Step 4. Composite stormwater discharge factor.** Use the following procedure to determine the Composite Stormwater Discharge Factor for the area or areas that are being developed or modified. This is determined by completing the following steps and using Tables 5.1 and 5.2 to complete Table 5.3. (Note: The information needed can be obtained through maps and other documents and imagery existing before the effective date of this SMP or through field investigation):

(A) **Identify the flow path.** Using the most accurate topographic map available (i.e. with the greatest vertical resolution) and a properly scaled drawing of the area, draw a line representing the runoff or drainage flow path through the portion of the site that includes the proposed development or modification, starting with the area that will have the most impervious surfaces. If there are no impervious surfaces, draw the line through the area that will have the most grading and vegetation removal. The flow path line begins at the top of the nearest rise or the lot boundary, whichever is closest, and ends at the edge of the wetland. This path runs down the fall line, intersecting the contour of the land and the contour lines of the map at perpendicular angles. (Note: Maps with 5-foot contours are available for most islands through the County Geographic Information System.) The flow path can also be determined in the field by standing in the middle of the area that will have the most impervious surfaces (or if there will be no impervious surfaces, the area that will have the most grading and vegetation removal), visually identifying the path runoff will take from that area to the wetland, and then turning around and visually identifying where the runoff is coming from.

(B) **Break the flow path line into segments based on proposed land surface types.** Surface types are listed in Table 5.1. List these segments in column 1 of Table 5.3. Segments that do not drain to the wetland may be omitted from the calculations (e.g. If roof runoff is tight lined to a location that does not drain to the wetland, then the area covered by the roof may be excluded from the calculation).

(C) **Along the flow path line, mark where surface types change.** Measure the length of each surface type and enter these lengths in column 6 of Table 5.3.

(D) **For each surface type enter a Base Stormwater Discharge Factor into column 2 of Table 5.3.** Some Base Stormwater Discharge Factors are shown in Table 5.1. For surface types not listed, discharge factors (that are Rational Method runoff coefficients) shall be based on BAS such as hydrology texts or guidance manuals, using the lower end of ranges (because the factors will be adjusted upward to account for slopes and the presence of drainageways). Base stormwater discharge factors may be modified in conjunction with the installation of stormwater management measures that facilitate below ground flow of runoff, including those required by other sections of the San Juan County Code. Examples include using the discharge factor for lawn when roof runoff is disposed of in an infiltration trench constructed in a lawn area. Applicants should submit proposals for base stormwater discharge factor reductions to the Department for approval.

(E) **Slope adjustment.** For vegetated surfaces, determine the approximate slope of each segment along the flow path (as a percentage), multiply it by 0.01, and enter the product in column 3 of Table 5.3. (e.g. for 8% slope enter 0.08). If the slope exceeds 30%, enter 0.3.

(F) **Drainageway and stream adjustment.** If a drainageway or stream connects any portion of the development to the wetland (including lawn, gardens and impervious areas existing or vested before the effective date of this SMP), select the appropriate factor from Table 5.2 and enter it in column 4 of Table 5.3 (Note: This applies to the impervious areas, lawn, and gardens throughout the development area being evaluated, not just the portion along the flow path.)
(G) For each row in Table 5.3 (i.e. each segment along the flow path), add the values in columns 2, 3, and 4 and enter the sum in column 5.

(H) For each row in Table 5.3 (i.e. each segment along the flow path), multiply the value in column 5 by the value in column 6 and enter the resulting product in column 7.

(I) Add all the values in column 6 of Table 5.3. Add all the values in column 7. Divide the total of column 7 by the total of column 6. This is the Composite Stormwater Discharge Factor.

(J) If desired, repeat to determine buffers for other, less intensely developed portions of the site.

### Table 5.1 Base Stormwater Discharge Factor by Surface Type

<table>
<thead>
<tr>
<th>Surface Type</th>
<th>Stormwater Discharge Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coniferous forest with ≥65% canopy cover, rough ground surface, and undisturbed soils and duff layer</td>
<td>0.02</td>
</tr>
<tr>
<td>Other heavily vegetated areas with rough ground surface and undisturbed soils and duff layer</td>
<td>0.05</td>
</tr>
<tr>
<td>Pasture</td>
<td>0.07</td>
</tr>
<tr>
<td>Lawn or garden</td>
<td>0.09</td>
</tr>
<tr>
<td>Green roof</td>
<td></td>
</tr>
<tr>
<td>slope ≤ 5°</td>
<td></td>
</tr>
<tr>
<td>&lt; 4&quot; thick</td>
<td>0.50</td>
</tr>
<tr>
<td>4-10&quot; thick</td>
<td>0.30</td>
</tr>
<tr>
<td>8-20&quot; thick</td>
<td>0.20</td>
</tr>
<tr>
<td>&gt; 20&quot; thick</td>
<td>0.10</td>
</tr>
<tr>
<td>Slope &gt; 5°</td>
<td>0.70</td>
</tr>
<tr>
<td>Permeable pavement or permeable concrete</td>
<td>0.35</td>
</tr>
<tr>
<td>Undisturbed, natural bedrock areas</td>
<td>0.35</td>
</tr>
<tr>
<td>Gravel driveway</td>
<td>0.40</td>
</tr>
<tr>
<td>Asphalt</td>
<td>0.85</td>
</tr>
<tr>
<td>Concrete</td>
<td>0.90</td>
</tr>
<tr>
<td>Brick</td>
<td>0.70</td>
</tr>
<tr>
<td>Roof</td>
<td>0.75</td>
</tr>
</tbody>
</table>

1 Stormwater discharge factors are based on runoff coefficients used with the “Rational Method,” a hydrologic model that estimates peak stormwater discharge from a drainage area. The factors represent the approximate percentage of runoff for a given amount of precipitation, and generally represent the low end of published values, with separate upward adjustments made for vegetated areas on slopes, and for the presence of drainageways. A value of 1.00 indicates that a surface is entirely impervious and that all precipitation will result in surface runoff.

### Table 5.2 Stormwater Discharge Factor Adjustments for Drainageways and Streams
Drainageway or Stream Characteristics

<table>
<thead>
<tr>
<th>Drainageway or Stream Characteristics</th>
<th>Stormwater Discharge Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. The drainageway(s) or stream(s) is not well defined (i.e., there is no bare soil, sand, or gravel, or discernible thinning of the vegetation in the drainageway).</td>
<td>0.06</td>
</tr>
<tr>
<td>B. The drainageway(s) or stream(s) is well-defined (e.g., there is discernible thinning of the vegetation and/or bare soil, sand, or gravel in the drainageway).</td>
<td>0.10</td>
</tr>
</tbody>
</table>

Table 5.3 Composite Stormwater Discharge Factor

<table>
<thead>
<tr>
<th>Composite Stormwater Discharge Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 1</td>
</tr>
<tr>
<td>Surface Type (by segment along the flow path)</td>
</tr>
</tbody>
</table>

Total for Column 6 (add all rows)

Total for Column 7 (add all rows)

Divide the total of Col. 7 by the total of Col. 6; this is the Composite Stormwater Discharge Factor:

Step 5. Green development option. A buffer adjustment is available to property owners who commit to using green development practices as outlined below.

(A) The green development option only applies to buffers for proposed buildings and associated infrastructure and cannot be used to reduce buffers for lawns and landscaped areas.

(B) To use the green development option, as part of the permit approval the property owner must agree to the County recording a Notice to Title describing the requirements associated with the green development option.

(C) All of the following must be implemented and maintained while the green development remains on the property:

1. Roof materials for proposed buildings must consist of products that are not known to release chemicals that are harmful to wetland plants or animals (e.g. enamel coated metal, tile without moss prevention products, sod if membrane does not contain fire retardant, phthalates etc.).
(2) The disposal area for any on-site sewage systems associated with proposed buildings must meet current standards and, in addition, must be no closer to the wetland than the specified edge of the water quality buffer for “normal” development;

(3) The driveway serving proposed buildings must be designed and built to direct runoff into vegetated areas. Options include crowning or insloping with properly spaced relief culverts; outsloping; and installing trench drains or flexible water diveters; and

(4) The portions of the driveway that drain to the wetland must be covered with gravel, permeable pavement, permeable concrete, or other suitable material that will minimize erosion, rutting, and tracking of mud.

Step 6. Urban growth area option. A buffer adjustment is available within the Eastsound and Lopez Village Urban Growth Areas as shown in Table 5.4. Within these areas, a reduced buffer may be used if adverse impacts to the functions and values of the wetland are identified and mitigated in accordance with SJCC 18.50.090.

Step 7. Determine water quality buffer from Table 5.4. For all wetland types apply the Composite Stormwater Discharge Factor from Table 5.3 to the water quality buffer Table 5.4 to determine the required size of the water quality buffer. If the wetland type is a bog, use the greater of this value or 200 feet. (If the bog is located within another wetland type the 200 foot buffer only applies to the area immediately adjacent to the bog, and not to the surrounding wetland). Buffers are measured horizontally from the edge of the wetland.

Table 5.4 Water Quality Buffer (feet)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Normal Development (60% Pollutant Removal)</td>
<td>30</td>
<td>30</td>
<td>50</td>
<td>70</td>
<td>50</td>
</tr>
<tr>
<td>Medium Water Quality Sensitivity Rating</td>
<td>30</td>
<td>30</td>
<td>50</td>
<td>70</td>
<td>50</td>
</tr>
<tr>
<td>High Water Quality Sensitivity Rating</td>
<td>30</td>
<td>30</td>
<td>50</td>
<td>70</td>
<td>50</td>
</tr>
<tr>
<td>Lopez Village and Eastsound UGA With Mitigation</td>
<td>30</td>
<td>30</td>
<td>50</td>
<td>70</td>
<td>50</td>
</tr>
</tbody>
</table>

| Lopez Village and Eastsound UGA With Mitigation     | 30                          | 30                                  | 50                                     | 70                                     | 50                                           |
| 0.20- <0.30                                        | 30                          | 30                                  | 50                                     | 70                                     | 50                                           |
| 0.30- <0.40                                        | 45                          | 45                                  | 95                                     | 65                                     | 65                                           |
| 0.40- <0.50                                        | 65                          | 65                                  | 95                                     | 65                                     | 65                                           |
| 0.50- <0.60                                        | 80                          | 80                                  | 115                                    | 85                                     | 85                                           |
| 0.60- <0.70                                        | 95                          | 125                                 | 160                                    | 125                                    | 125                                          |

N:\LAND USE\LONG RANGE PROJECTS\PCOMPL-11-0001 SMP Update\Docs from Staff\Phase 5-SJC Adoption\Planning Commission Hearings\7.19.13 Hearing\Final_PC_underlined_Regulations-2013-07-19-Final-TOC.doc
### Composite Storm-water Discharge Factor for Flow Path

<table>
<thead>
<tr>
<th>Composite Storm-water Discharge Factor for Flow Path</th>
<th>Water Quality Buffer (feet)</th>
<th>Lopez Village and Eastsound UGA With Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low Water Quality-Sensitivity Rating</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Medium Water Quality-Sensitivity Rating</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High Water Quality-Sensitivity Rating</td>
<td></td>
</tr>
<tr>
<td>Normal Development (60% Pollutant Removal)</td>
<td>Normal Development (65% Pollutant Removal)</td>
<td>Green Development Option (60% Pollutant Removal)</td>
</tr>
<tr>
<td>Normal Development (70% Pollutant Removal)</td>
<td>Green Development Option (65% Pollutant Removal)</td>
<td></td>
</tr>
<tr>
<td>0.70- &lt;0.80</td>
<td>110</td>
<td>140</td>
</tr>
<tr>
<td>0.80</td>
<td>125</td>
<td>160</td>
</tr>
</tbody>
</table>

1. Use of this option requires the mitigation of adverse impacts in accordance with SJCC 18.50.090.

#### ii. Determine the Habitat Buffer and Tree Protection Zones.

**Step 1. Determine habitat importance-sensitivity rating for the wetland.**
Using subsection 3.b above, determine the Habitat Importance-Sensitivity Rating for the wetland, then proceed to Step 2. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.50.080(G)(5).

**Step 2. Determine habitat buffer from Table 5.5.**
Using the wetland type and Habitat Importance-Sensitivity Rating, determine the required size of the habitat buffer from Table 5.5. If the water quality buffer required for the area draining to the wetland is wider than the habitat buffer or tree protection zone, the stricter (i.e., wider) applies. Unlike the water quality buffer, the habitat buffer must completely surround the wetland. Buffers and where applicable tree protection zones are measured horizontally from the edge of the wetland. Proceed to Step 3 if the wetland contains a cluster of trees, and to Step 4 if habitat buffers will be averaged. (Note: If no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 5.6 and subsections 5.e and 5.f below, it may not be necessary to identify the edge of the wetland and the size of the habitat buffer.)

**Table 5.5 Habitat Buffers**

<table>
<thead>
<tr>
<th>Habitat Buffers</th>
<th>Required Buffer (in Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Habitat Importance-Sensitivity Rating</td>
<td>Low</td>
</tr>
<tr>
<td>Low</td>
<td>30</td>
</tr>
<tr>
<td>Medium</td>
<td>50</td>
</tr>
<tr>
<td>High</td>
<td>80</td>
</tr>
</tbody>
</table>

**Step 3. Identify tree protection zones.** If the wetland contains a cluster of ten (10) or more trees more than 20 feet in height and more than 9 inches dbh, all trees within the cluster and within a distance of 50 feet from the cluster, are included in a tree...
protection zone. The purpose of protecting these trees is to maintain wetland habitat including the microclimate; to prevent wind throw of trees within the wetland; and to provide young trees that will eventually replace the older trees. A cluster of trees is defined as a group of trees where the trunk of any one tree is within 50 feet of the trunk of another tree in the cluster. Within tree protection zones, trees may not be removed except in accordance with the exemptions of SJCC 18.50.080(B) or the procedures of 18.50.080(C).

Step 4. Habitat buffer averaging. Habitat buffer averaging allows reduction of the required habitat buffer in specified locations on the property proposed for development, vegetation removal or other modification, in conjunction with increases of the buffer in other areas, so that the total area of the habitat buffer is unchanged. Averaging of the habitat buffer will be allowed only if the applicant demonstrates that all of the following criteria are met:

(A) Averaging is necessary to accomplish the purposes of the proposal, and no reasonable alternative is available;

(B) If the wetland contains variations in habitat sensitivity due to physical characteristics existing on the ground at the time of application, the reduction from standard habitat buffer sizes will occur only contiguous to the area of the wetland determined to be least sensitive;

(C) The total area contained within the habitat buffer after averaging is no less than that contained within the standard habitat buffer prior to averaging;

(D) Averaging of required tree protection zones is not allowed.

(E) In no instance shall the habitat buffer be reduced to less than 30 feet, and the reduced habitat buffer must not occur along more than one-half the circumference of the wetland; and

(F) If a portion of the buffer is to be reduced, the remaining habitat buffer area will be enhanced using native vegetation and fencing where appropriate to improve the functional attributes of the buffer, and to provide additional protection for wetland functions and values.

b. Buffers, tree protection zones, and roads. Buffers and tree protection zones shall not extend across public roads. For private roads, buffers and tree protection zones shall not extend across the road when the road design, flow of runoff, quantity of traffic, and/or gap in tree canopy result in an area that does not support the functions and values of the wetland being protected as determined by a qualified professional.

c. Structures, uses and activities allowed and prohibited in wetlands and wetland buffers. Structures, uses and activities that are listed as “yes” uses in Table 5.6 below are allowed in wetlands and wetland buffers, subject to compliance with other sections of the San Juan County Code.

Table 5.6 Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Outdoor activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of wetlands.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>b. The harvesting of wild plants and foods in conformance with applicable regulations and</td>
<td>YES</td>
<td>YES</td>
</tr>
</tbody>
</table>


### Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>in a manner that is not injurious to the natural reproduction of wetland plants, provided the harvesting does not require tilling soil, planting, or changing topography existing at the time of harvest, water conditions, or water sources except when allowed as an agricultural activity under (e) or (f), below.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Removal of invasive plants; planting of native wetland plants; and vegetation management activities implemented as part of a habitat management plan developed or approved by a local, state, federal or tribal agency.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>d. Agricultural activities conducted in accordance with a voluntary stewardship program developed pursuant to RCW 36.70A.705, with the exception of the construction of agricultural structures that are subject to the same provisions as other structures.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>e. With the exception of the construction of agricultural structures, agricultural activities, including seasonal and recurrent activities existing or in development during the year prior to the effective date of these regulations, provided they do not result in additional adverse impacts to the functions and values of wetlands. This can include changing the type of farming, management practices, and crops within the geographic area already in use (such as in the rotational management of farmland) as long as the change does not result in additional adverse impacts to wetland functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>f. With the exception of the construction of agricultural structures, new and expanding agricultural activities that are consistent with appropriate best management practices (BMPs) that will ensure no net loss of wetland functions and values. The BMPs must be described in a farm management plan or other comprehensive agricultural management document prepared or approved by the WSU Cooperative Extension Service or the San Juan Islands Conservation District. New and expanding agricultural activities must not result in additional adverse impacts to wetland functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>g. Noncompensatory enhancement. Wetland restoration or enhancement activities not required as project mitigation, provided the activity is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington Department of Fish and Wildlife, or other responsible local, state, federal, or tribal jurisdiction.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>h. Within the buffers of wetlands with Low or Medium Habitat Importance-Sensitivity, the establishment and expansion of orchards and gardens, cultivated and managed with appropriate BMPs and without the use of synthetic chemicals provided that:</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>i. They will occupy no more than 4,000 square feet of the buffer;</td>
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<tr>
<td>ii. They are installed within the outer 25% of the buffer;</td>
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<tr>
<td>iii. Other than fences, no structures or impervious surfaces are constructed or created and fences will not impede the flow of water or prevent the movement of wetland animals;</td>
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<tr>
<td>iv. A buffer of at least 30 feet is retained;</td>
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<tr>
<td>Activity</td>
<td>Allowed Within Wetland</td>
<td>Allowed Within Wetland Buffers</td>
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<tr>
<td>v. Mowing does not occur in the habitat portion of the buffer until after July 15; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>vi. Trees within tree protection zones are protected in accordance with this subsection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Construction of new ponds in or adjacent to wetlands with a Habitat Importance-Sensitivity Rating of Low, as part of a wetland mitigation or noncompensatory enhancement project approved by the County or other responsible state, federal, or tribal jurisdiction. (Note: Construction of new ponds is not allowed in or adjacent to wetlands with Medium or High Habitat Importance-Sensitivity.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>j. The construction of pathways, stairs, or raised walkways provided that the improvement:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Is designed to direct sheet flow runoff into adjacent vegetation;</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>ii. Prevents adverse impacts to the wetland from runoff and eroding soil;</td>
<td></td>
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<tr>
<td>iii. Does not exceed five feet in width;</td>
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<tr>
<td>iv. Is constructed of non-toxic materials;</td>
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<tr>
<td>v. Does not totally circumnavigate the wetland perimeter;</td>
<td></td>
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<tr>
<td>vi. Does not include the placement of fill; and</td>
<td></td>
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<tr>
<td>vii. Is consistent with the applicable requirements of subsection F.6 of this subsection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k. Temporary wildlife watching blinds.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>l. Drilling and digging of wells provided they are located within the outer 25% of the buffer, that there are no anticipated adverse impacts to adjoining wetlands, that measures are taken to avoid compaction of soils during drilling and development of the well, and that disturbed areas are immediately stabilized and replanted with the type of vegetation found in the buffer.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>m. Outside of tree protection zones, limited tree removal to allow for a filtered view from the primary structure, provided:</td>
<td></td>
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<tr>
<td>i. Stumps are retained and disturbance of the soil and duff layer is minimized;</td>
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<tr>
<td>ii. The remaining forest consists of trees that are multi-aged and well distributed across the buffer and the canopy cover for the remaining forest is at least 65%, except directly between the primary structure and the wetland, where the canopy cover may be reduced to not less than 50%; and</td>
<td></td>
<td></td>
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<tr>
<td>iii. All vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>iv. Trees ≥ 12 inches dbh are retained.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>n. Limited removal of other species of trees in order to prevent shading of aspens in and adjacent to an Aspen/cottonwood wetland, provided that at least 65% of the canopy cover is retained.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>o. To allow for a view or for fire hazard reduction, minor trimming and pruning of the foliage of trees and shrubs, provided the health of the trees and shrubs is maintained, trees are not topped, and all vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained. In no case shall more than 20% of the foliage of individual trees or shrubs be removed during a 12 month period.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Activity</td>
<td>Allowed Within Wetland</td>
<td>Allowed Within Wetland Buffers</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
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<td>--------------------------------</td>
</tr>
<tr>
<td>p. If no practicable alternative exists, components of stormwater management facilities in conformance with local and State stormwater management requirements and any applicable tree protection zone requirements.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>q. Fences, provided they do not impede the flow of water or prevent the movement of wetland animals. Fences may be used to prevent the access of deer or other vermin.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>r. Road and trail crossings in conformance with subsection 5.f. of this subsection.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>s. Maintenance to support or improve the functions and values of wetlands.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>t. If no practicable alternative exists, components of on-site sewage disposal systems in conformance with local and State requirements, provided:</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>i. Appropriate BMPs are used to minimize erosion, sedimentation and soil disturbance;</td>
<td></td>
<td></td>
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<tr>
<td>ii. For new systems, trees within tree protection zones are retained in conformance with this subsection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>iii. For replacement of existing, failing systems where there is no other alternative that will meet State requirements (including locating the new system in the same place as the old system), trees within tree protection zones are retained to the greatest extent possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>u. Other uses that will not adversely impact wetland functions and values, considering the Best Available Science.</td>
<td>P/C&lt;sup&gt;1&lt;/sup&gt;</td>
<td>P/C&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

<sup>1</sup>“P/C” means Provisional or Conditional Use Permit depending on the level of impacts (see SJCC 18.80.090).

d. **Field marking of wetland, wetland buffer and tree protection zone.** Prior to building permit approval, the location of the outer extent of the wetland and any wetland buffer or tree protection zone adjacent to the area that will be developed shall be marked in the field, and the Director may require field approval prior to the commencement of permitted activities. Markings for wetlands, buffers and tree protection zones shall be maintained throughout the duration of construction activities.

e. For binding site plans the applicant shall show the boundary of required buffers and tree protection zones on the face of the plan.

f. **Road and trail crossings.** The construction of new or expanded roads, driveways, trails, and associated culverts and bridges across wetlands and their buffers and tree protection zones is allowed, provided they are in conformance with SJCC 18.60.080-100 and the following:

   i. New roads and driveways may only be constructed across wetlands, their buffers or their tree protection zones if there is no practicable alternative and all unavoidable impacts are mitigated.

   ii. When practicable, new roads, driveways, trails and walkways must be located on road grades, utility corridors, or previously disturbed areas existing at the time of application;

   iii. When required, permits and approvals must be obtained from appropriate state and federal agencies, including but not limited to: Washington Department of Fish and
Wildlife; Washington State Department of Ecology; Washington State Department of Natural Resources; U.S. Army Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife Service;

iv. Roads must cross wetlands, buffers and tree protection zones at, or as close as possible to, a ninety degree angle;

v. Crossings must not interfere with the flow and circulation of water or other wetland processes. The location and design of the road or driveway crossing must be evaluated by a qualified wetland professional or other qualified professional, to ensure that wetland processes will not be adversely affected;

vi. Construction must occur during any work windows and time limits established by the state or federal agencies with jurisdiction;

vii. All crossings must be designed to accommodate 100-year flood flows;

viii. Whenever practicable, crossings must serve multiple properties;

ix. When expanding crossings existing or vested before the effective date of this SMP that do not meet these standards, the crossing must be upgraded as necessary to reduce wetland impacts and meet the requirements of this subsection (F)(5)(f). For purposes of this subsection, an expansion is an increase in the footprint of crossing structures and associated roads or trails;

x. Roads and driveways must be crowned, insloped, or outsloped to sheet flow runoff from the road surface and into vegetated areas such as grass-lined ditches or drainageways;

xi. Where roads and trails cross wetlands, adverse impacts must be mitigated in accordance with SJCC 18.50.090;

g. Lighting. No lighting shall blink or flash.

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

i. Wetlands;

ii. Wetland buffers;

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

iv. Adjoining properties; and

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

h. Final inspections and financial guarantees. Unless exempt under SJCC 18.50.080.B, all development activities, vegetation removal and other site modifications requiring a project permit or a development permit, must have a final inspection to verify compliance with approved plans and the requirements of this subsection. The property owner shall notify the Department when the work is complete and ready for inspection. For permitted projects that are not complete at the time that any associated building construction is completed, or for those that do not occur in conjunction with a permitted structure, the Director may require a financial guarantee and associated agreement in conformance with SJCC chapter 18.80.

6. Determination of wetland boundary and requirements for wetland reports.

a. The purpose of wetland boundary delineations and wetland reports is to provide the information necessary to determine compliance with the wetland protection requirements of the County Code, and to help maintain protected areas over time.

b. The delineation of wetland boundaries, and except as noted, the preparation of wetland reports, must be performed by a qualified wetlands professional.

c. If a wetland is under different ownership and is not accessible by the applicant, the wetland boundaries and information for the report will be obtained from available maps and information, including a visual assessment if possible.

d. The necessary scope of wetland delineations and reports ranges from a wetland reconnaissance that simply confirms the presence or absence of a wetland, determines the wetland type, rating, and approximate size, and identifies the edge of the wetland in a
limited area, to a delineation of the entire wetland with a detailed report describing its functions and values.

e. A wetland report and boundary delineation, with an appropriate scope and scale to determine compliance with the County Code, must be provided with applications for project and development permits located within 200 feet of wetlands. When regulated wetlands do not occur on the subject property, but wetland buffers or tree protection zones from offsite wetlands do occur, those wetland buffers and tree protection zones must be indicated on the submitted maps.


g. As the delineation will be entered into the County's Geographic Information System (GIS) for future wetland mapping, a copy of the delineation must be submitted to the County in a compatible electronic format, i.e., GCS North American 1983, Datum = D North American 1983; Projected coordinates: NAD 1983 state plane Washington North FIPS 4601ft; Projection Lambert Conformal Conic.

h. Wetland reports – minimum requirements. Following are required components of wetland reports that are necessary to determine compliance with the wetland protection requirements of the County Code. Requirements h.i.(A), h.ii. and h.iv. below must be provided by a qualified wetlands professional. Other materials may be added by the property owner, contractor or other professional.

i. Map. A map at a scale and level of accuracy that is appropriate for the site and the project, showing:

(A) Location of the wetland. If a full delineation is not completed, the map must indicate where the wetland boundaries were delineated, and where they were estimated;

(B) Location of required habitat buffers and tree protection zones;

(C) Location of the water quality buffer if known; and

(D) Existing on the date the application is submitted and proposed development features including structures, roads, utilities, stormwater and sewage systems, areas to be graded, and areas to be converted to lawns and gardens.

ii. A narrative describing the vegetation communities on site, classified in accordance with the U.S. Fish and Wildlife Service Classification of Wetland and Deepwater Habitats of the United States (1979).

iii. Wetland type based on the descriptions in subsection 18.50.080(F)(2) and a narrative explaining the basis for the determination of wetland type (may be added by property owner, contractor or other professional if they are able to determine wetland type, otherwise this must be provided by the qualified wetlands professional).

iv. Wetland Habitat Importance-Sensitivity Rating and if applicable, Water Quality-Sensitivity Rating from subsection 18.50.080(F)(3) along with a narrative explaining the basis for the determinations. If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.50.080(G)(5).

v. Expiration date of wetland report. Wetland reports are valid for a period of five (5) years.

i. Wetland delineations are valid for a period of five (5) years from the date of WA DOE verification.

j. Wetland reports – other elements that may be necessary to determine compliance with the wetland protection requirements of the County Code. These items must be provided by a qualified wetlands professional:

i. Hydrologic conditions including inflow/outflow, sources of water within the system, and
seasonal changes in hydrology;
ii. Detailed description of wetland functions and values;
iii. Mitigation plan meeting the requirements of SJCC 18.50.090;
iv. Other.

G. Fish and wildlife habitat conservation areas (FWHCAs)

1. Applicability. Unless exempted or allowed under SJCC 18.50.080(B) or (C), the provisions of this subsection apply in and within 200 feet of fish and wildlife habitat conservation areas as described in this subsection. In addition, this subsection applies to structures, uses and activities located within 1,000 feet of a golden eagle nest and ¼ mile of peregrine falcon and great blue heron nests.

2. Types of fish and wildlife habitat conservation areas.

Following are the types of fish and wildlife habitat conservation areas protected by these regulations. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

a. Areas that species listed under the State or Federal Endangered Species Act have a primary association:
   i. Animal species listed as of the adoption date of this ordinance are identified below.

   **Birds**
   - Brown pelican
   - Common loon
   - Marbled murrelet
   - Peregrine falcon

   **Marine Mammals**
   - Southern resident orca
   - Steller sea lion
   - Humpback whale
   - Gray whale
   - Sea otter

   **Fish**
   - Chinook - Puget Sound ESU\(^2\)
   - Chum - Hood Canal Summer Run ESU\(^2\)
   - Steelhead - Puget Sound DPS\(^3\)
   - Rockfish
     - Boccocio - Georgia Basin DPS\(^3\)
     - Canary - Georgia Basin DPS\(^3\)
     - Yelloweye - Georgia Basin DPS\(^3\)

1 The bald eagle has been delisted but continues to be protected under other statutes.
2 Evolutionary Significance Unit.
3 Distinct Population Segment.

b. Plants listed as of the adoption date of this ordinance are identified below.

- Adder's-tongue (*Ophioglossum pusillum*)
- Arctic Aster (*Eurybia merita*)
- Blunt-leaved Pondweed (*Potamogeton obtusifolius*)
- California Buttercup (*Ranunculus californicus*)
- Coast Microseris (*Microseris bigelovii*)
- Erect Pygmy-weed (*Crassula connata*)
- Lesser Bladderwort (*Utricularia minor*)
- Nuttall's Quillwort (*Isoetes nuttallii*)
- Slender Crazy Weed (*Oxytropis campestris var. gracilis*)
- Rosy Owl-clover (*Orthocarpus bracteosus*)
- Rush Aster (*Symphyotrichum boreale*)
- Sharpfruited Peppergrass (*Lepidium oxycarpum*)
• Few-flowered Sedge (*Carex pauciflora*)
• Golden Paintbrush (*Castilleja levisecta*)
• Water Lobelia (*Lobelia dortmanna*)
• White Meconella (*Meconella oregana*)
• White-top Aster (*Sericocarpus rigidus*)

iii. Critical salt water habitats. These habitats include all kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds and areas; mudflats; intertidal habitats with vascular plants; and areas that priority species have a primary association.

iv. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

v. The following waters of the State: lakes and streams;

vi. State natural area preserves, natural resource conservation areas and state wildlife areas;

vii. Habitats of Local Importance;
   (A) West Side Prairie;
   (B) Herbaceous Balds and Bluffs;
   (C) Garry oak (*Quercus garryana*) woodlands and savannas;
   (D) Pocket beaches; and
   (E) Bluff backed beaches.

viii. Areas that the following species of local importance have a primary association:
   (A) Black oystercatcher;
   (B) Golden eagle;
   (C) Great blue heron;
   (D) Island marble butterfly;
   (E) Pigeon guillemot.
   (F) Townsend’s big eared bat.
   (G) Flying squirrel;
   (H) Sharp-tailed snake;
   (I) Western toad;
   (J) Taylor’s checkerspot butterfly;
   (K) Great arctic butterfly;
   (L) Valley silverspot butterfly;
   (M) Sand verbena moth;
   (N) Areas with roosting concentrations of bats (all species);
   (O) Active nests of any of the following birds: golden eagle, northern harrier, merlin, black oystercatcher, Wilson’s snipe, short-eared owl, long-eared owl, northern pygmy-owl, sooty grouse, common nighthawk, American dipper, western bluebird, chipping sparrow, vesper sparrow, horned lark, western meadowlark, western screech owl, lazuli bunting, and American kestrel;
   (P) Brittle prickly pear cactus (*Opuntia fragilis*); and
   (Q) Alaska alkaligrass (*Puccinellia nutkaensis*)

3. General protection standards for all FWHCAs.
   a. Lighting. No lighting shall blink or flash.
      Exterior lighting fixtures must be shielded and the light must be directed downward and away from:
      i. Wetlands;
      ii. Wetland buffers;
      iii. Fish and wildlife habitat conservation areas and associated buffers;
iv. Adjoining properties; and

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

b. Final inspections and financial guarantees. Unless exempt under SJCC 18.50.080.B, all development activities, vegetation removal and other site modification requiring a project or development permit must have a final inspection to verify compliance with approved plans and the requirements of this subsection. The property owner shall notify the Department when the work is complete and ready for inspection. For permitted projects that are not complete at the time that any associated building construction is completed, or for those that do not occur in conjunction with a permitted structure, the Director may require a financial guarantee and associated agreement in conformance with SJCC chapter 18.80.

4. Protection standards for aquatic fish and wildlife habitat conservation areas. This subsection establishes protection standards for aquatic FWHCAs including a procedure for sizing buffers and tree protection zones.

Aquatic FWHCAs are those that contain or are inundated with water at some time during a normal year as follows:

- Streams.
- Lakes.
- Naturally occurring ponds that provide fish and wildlife habitat.
- Shellfish beds and areas.
- Kelp and eelgrass beds.
- Spawning and holding areas for forage fish.
- Mudflats.
- Intertidal habitats with vascular plants.
- Pocket beaches.
- Bluff backed beaches including feeder bluffs.
- Areas the following have a primary association with: brown pelican; common loon; marbled murrelet; peregrine falcon; southern resident orca; Steller sea lion; humpback whale; gray whale; sea otter; chinook, chum, coho, pink and sockeye salmon; steelhead; boccocio rockfish; canary rockfish; yelloweye rockfish; black oystercatcher; great blue heron; and pigeon guillemot.

a. Sizing procedures for buffers and tree protection zones. This subsection provides a site specific procedure for determining the size of vegetative buffers and tree protection zones necessary to protect aquatic FWHCAs. Three separate components are considered: a water quality buffer that applies in all cases, tree protection zones that apply to areas with trees, and a coastal geologic buffer that applies to areas subject to erosion caused by currents, tidal action, or waves. For properties with characteristics that vary, (e.g. a portion of the lot has trees or a geologically hazardous area, and other areas of the lot do not), the size of required buffers and tree protection zones may vary, resulting in buffers and tree protection zones that are larger in some areas and smaller in others.

The procedure for sizing buffers and tree protection zones is illustrated in the following flow chart (Figure 5.2). Examples illustrating the application of the procedures follow in Figures 5.3-5.5.
Figure 5.2 Procedure for Determining Buffers and Tree Protection Zones for Aquatic FWHCAs

**Step 1. Location relative to aquatic FWHCAs.** Is the proposed development, removal of vegetation or other site modification located in or over an aquatic FWHCA? Is it located within 125 feet of the bank full width (BFW) of a stream as defined in WAC 222-16-010? Is it located within 125 feet of the OHWM of a lake, pond? Is it located within 200 feet of the OHWM of a marine area designated as a FWHCA?

**Step 2. Determination of need for coastal geologic buffer.** If the response to any of the above questions is yes, determine whether a coastal geologic buffer is necessary. If proposed development, vegetation removal, or other site modification is within 200 feet of the OHWM of an erodible marine shoreline (any shoreline that is not bedrock), determine whether the site is a geologically hazardous area, or whether it may provide sediment to an area with eelgrass, shellfish, spawning or holding areas for forage fish, mudflats, or intertidal habitats with vascular plants. If the answer to either question is yes, a qualified professional must prepare a geotechnical report and determine an appropriate coastal geologic buffer and development conditions to prevent increased erosion and allow for natural erosive processes for life of structures (minimum 75 years). In all cases (yes or no response) continue with the buffer/tree protection zone sizing procedure.

If the response to all of the above questions is no, no further action is necessary for compliance with FWHCA protection requirements for aquatic FWHCAs. Proceed to evaluate compliance with protection requirements for other types of FWHCAs in subsection 18.50.080(G)(5).

**Step 3. Water Quality Buffer.** Determine the size of the water quality buffer for 60% pollutant removal using the procedures in SJCC 18.50.080(F) (Wetlands) and Table 5.4 (Note: Within Urban Growth Area a reduced buffer option may be used if adverse impacts are mitigated).

**Steps 4 and 5. Tree Protection Zones.** For areas with trees identify tree protection zone(s). If desired, tree protection zones may be averaged.

**Step 6. Adjustments.** In some cases, buffers and tree protection zones are adjusted so they do not cross roads.

**Step 7.** Proceed to evaluate compliance with protection requirements for other types of FWHCAs (see subsection 18.50.080(G)(5)).

**Site-Specific Procedure for Sizing Buffers and Tree Protection Zones**

**Step 1. Location relative to aquatic FWHCAs.** Is the proposed development, removal of vegetation or other site modification located in or over a designated aquatic FWHCA? Is it located within 125 feet of the bank full width (BFW) of a stream as defined in WAC 222-16-010? Is it located within 125 feet of the OHWM of a lake or pond? Is it located within 200 feet of the OHWM of a marine area designated as a FWHCA? If the answer to any of these questions is yes, continue to the next question. If the answer to all of these questions is no, no further action is necessary for compliance with requirements for aquatic FWHCAs; proceed to subsection...
18.50.080(G)(5) to evaluate compliance with protection requirements for other types of FWHCAs.

**Step 2. Determine if coastal geologic buffer is necessary.** If proposed development, vegetation removal or other site modification is within 200 feet of the OHWM of an erodible marine shoreline (any shoreline that is not bedrock), determine if the site is a geologically hazardous area (see SJCC 18.50.080(D)), or if it may provide sediment to an area with eelgrass, shellfish, spawning or holding areas for forage fish, mudflats, or intertidal habitats with vascular plants. If yes, a qualified professional must prepare a geotechnical report in accordance with SJCC 18.50.080(D)(4), determine erosion causes and rates, and determine appropriate buffers and other measures to prevent increased erosion and allow for natural erosive processes for life of the structure (minimum 75 years). If collection and direct discharge of stormwater is recommended, the stormwater, including runoff from the roof, must first be treated to remove contaminants.

**Step 3. Determine the size of the water quality buffer for 60% pollutant removal using the procedures in SJCC 18.50.080.F (Wetlands) and Table 5.4.** The water quality buffer extends landward horizontally from the bank full width of streams (as defined in WAC 222-16-010) and the OHWM of lakes, ponds, and marine shorelines. (Note: Within UGAs a reduced buffer option may be used if adverse impacts are mitigated).

**Step 4. For areas with trees, including individual trees, identify tree protection zones.** Trees and the wood, leaves, needles and insects that are associated with trees, help support the aquatic food chain and aquatic FWHCAs. Use Table 5.7 to determine the landward extent of the area to be evaluated for tree protection zone requirements. If any trees are in these evaluation areas, they must be protected with a tree protection zone. Tree protection zones include the area within the drip line of each tree along with the area between the drip line and the bank full width of streams or the OHWM of lakes, ponds, or marine shorelines. For individual trees, the tree protection zone must be at least as wide as the drip line of the tree being protected. For example, for a type F stream with one tree with the trunk located 80 feet from the bank full width of the stream, with a drip line 30 feet in diameter, the dimensions of the tree protection zone would be 30 ft. by 80 ft. plus the area within the drip line on the uphill side of the tree. For a tree with the trunk located 20 feet from the shoreline, with a drip line 30 feet in diameter, the dimension of the tree protection zone would be 30 ft. by 20 ft. plus the area within the drip line on the uphill side of the tree.
### Table 5.7 Tree Protection Zone Evaluation Area

<table>
<thead>
<tr>
<th>Type of Water Body¹</th>
<th>Tree Protection Zone Evaluation Area (measured horizontally)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type S</strong> waters marine or lacustrine waters designated as ‘shorelines of the state’ and periodically inundated areas of associated wetlands. Type F (Type 2 or 3) streams, lakes, ponds designated as FWHCAs, and marine waters designated as FWHCAs</td>
<td>110 feet from Ordinary High Water Mark of marine waters, lakes and ponds or Bank Full Width of streams²</td>
</tr>
<tr>
<td><strong>Type Np (Type 4) streams</strong></td>
<td>50 feet from Bank Full Width</td>
</tr>
<tr>
<td><strong>Type Ns (Type 5) streams</strong></td>
<td>30 feet from Bank Full Width</td>
</tr>
<tr>
<td><strong>Type Ns (Type 5) streams flowing less than 6 months per year</strong></td>
<td>Stream banks must be vegetated (Note: Tree protection requirements associated with water quality buffer still apply).</td>
</tr>
</tbody>
</table>

¹ Stream types under both the new and old classification systems shown (see WAC 222-16-030 and 031).
² Within urban growth areas this may be reduced to 50 feet if adverse impacts are identified and mitigated in accordance with SJCC 18.50.090.
Step 5. Averaging of tree protection zones for Type F streams, lakes, ponds and Type S marine waters. Averaging of tree protection zones allows reduction of the zone in specified locations on the property proposed for development, vegetation removal or other site modification, in conjunction with increases of the zone in other areas, so that the total area of the zone is unchanged. The applicant may average the tree protection zone if all of the following criteria are met:

a. Averaging is necessary to accomplish the purposes of the proposal, and no reasonable alternative is available;

b. The total area contained within tree protection zones after averaging is no less than that contained within the zones prior to averaging;

c. Only areas with trees located within 200 feet of the OHWM or bank full width will be counted toward the required area of tree protection zones; and

d. In no case shall tree protection zones be reduced to less than the water quality buffer or 70 feet, whichever is greater;
**Step 6. Adjustments.**

**Buffers and tree protection zones do not cross some roads.** Buffers and tree protection zones do not extend across public roads. For private roads, buffers and tree protection zones do not extend across the road when the road design, flow of runoff, quantity of traffic, and/or gap in tree canopy result in an area that does not support the functions of the FWHCA to be protected, as determined by a qualified professional(s).

**Step 7.** Proceed to evaluate compliance with protection requirements for other types of FWHCAs in subsection 18.50.080(G)(5).

**Figure 5.4 Tree Protection Zone**
b. **Structures, uses and activities allowed and prohibited in and over aquatic FWHCAs and their water quality buffers and tree protection zones.**

Development activities, removal of vegetation and other site modifications are limited or prohibited within aquatic FWHCAs and their water quality buffers and tree protection zones. Allowable activities vary depending on whether the activity is within a tree protection zone or a water quality buffer, and are described separately below.
i. **Tree protection zones are divided into two sections:** Zone 1 consists of the first 35 feet adjacent to the water, beginning at the OHWM, or for streams, the bank full width. Zone 2 is the remainder of the tree protection zone.

To allow for a view or for fire hazard reduction, minor trimming and pruning of trees within both Zone 1 and Zone 2 is allowed provided the health of the trees is maintained, trees are not toppled, and all branches and foliage overhanging aquatic FWHCAs is retained. In no case shall more than 20% of the foliage of a tree be removed during one 12 month period.

Within Zone 1 no tree removal is allowed. Within Zone 2 construction of one primary structure, and/or limited tree removal to allow for a filtered view from one primary structure are allowed in conformance with all of the following:

(A) The structure, impervious areas, and areas where soils will be graded, compacted or where the organic soil horizon will be removed, are located landward of the water quality buffer;

(B) Appropriate BMPs are used to minimize erosion, sedimentation, and soil disturbance;

(C) No more than 40% of the volume of trees over 6 inches dbh are removed in any 10 year period;

(D) Stocking levels for trees ≥ six inches dbh will not be reduced to less than:
   1. Softwood stands such as Douglas fir (>66% softwood volume): 80 s.f. basal area per acre including the area covered by any structures (approximately equivalent to 21% canopy cover);
   2. Mixed wood stands (34%-66% softwood volume): 70 s.f. basal area per acre including the area covered by any structures; and
   3. Hardwood stands such as maple (<34% softwood volume): 50 s.f. basal area per acre including the area covered by any structures;

(E) The remaining forest consists of trees that are multi-aged and are well distributed across the tree protection zone;

(F) All vegetation overhanging aquatic FWHCAs is retained; and

(G) For primary structures to be located in Zone 2, there is a low probability of increased windthrow of trees within tree protection zones as determined by a qualified professional.

ii. **Water Quality Buffers.** Structures, uses and activities that are listed as “Yes” uses in Table 5.8 below are allowed within aquatic FWHCAs and required water quality buffers if they are in compliance with other sections of the San Juan County Code.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Aquatic FWHCA (the area within the water)</th>
<th>Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Outdoor uses and activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions of FWHCAs.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(B) The harvesting of wild plants and foods in conformance with applicable regulations and in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity</td>
<td>Aquatic FWHCA (the area within the water)</td>
<td>Buffer</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>a manner that is not injurious to the natural reproduction of native plants, provided the harvesting does not require tilling soil, planting, or changing topography existing on the date of application, water conditions, or water sources, except when allowed as an agricultural activity under (E) or (F) below.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(C) Removal of invasive plants; planting of native plants; vegetation management activities intended to preserve and maintain specific habitats for rare species; and vegetation management activities implemented as part of a habitat management plan developed or approved by a local, state or federal agency.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(D) Agricultural activities conducted in accordance with a voluntary stewardship program developed pursuant to RCW 36.70A.705, with the exception of the construction of agricultural structures which are subject to the same provisions as other structures.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(E) With the exception of the construction of agricultural structures, agricultural activities, including seasonal and recurrent activities, existing or in development during the year prior to the effective date of this ordinance, provided they do not result in additional adverse impacts or impacts are mitigated on the functions of FWHCAs. This can include changing the type of farming, management practices, and crops within the geographic area already in use (such as in the rotational management of farmland) as long as the change does not result in additional adverse impacts to FWHCA functions. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(F) Aquacultural activities including seasonal and recurrent activities, existing or in development during the year prior to the effective date of this ordinance, provided they do not result in additional adverse impacts to the functions of aquatic FWHCAs, or that the impacts are mitigated and are consistent with other requirements of this chapter. This can include changing the type of aquaculture, management practices, and products within the geographic area already in use, as long as the change does not result in additional adverse impacts to FWHCA functions. Aquacultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(G) With the exception of the construction of agricultural structures, new and expanding agricultural activities that are consistent with appropriate best management practices (BMPs) that will ensure no net loss of the functions of aquatic FWHCAs. The BMPs must be described in a farm management plan or other comprehensive agricultural management document prepared or approved by WSU Cooperative Extension Service or the San Juan County Conservation District. New and expanding agricultural activities must not result in additional adverse impacts to FWHCA functions. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>(H) New and expanding aquaculture operations that are consistent with appropriate best management practices (BMPs) approved by the Dept. of Ecology and other requirements of this chapter. The BMPs must be described in a management plan. New and expanding aquaculture operations must not result in additional adverse impacts to FWHCA functions. New aquacultural structures are subject to the same provisions as other structures.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Activity</td>
<td>Aquatic FWHCA (the area within the water)</td>
<td>Buffer</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>-------------------------------------------</td>
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</tr>
<tr>
<td>(I) Non-compensatory Enhancement. Restoration or enhancement activities not required as project mitigation, provided the activity is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department Fish and Wildlife, or other responsible local, state, federal, or tribal jurisdiction.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(J) Within the water quality buffers of aquatic FWHCAs, the establishment and expansion of orchards and gardens, cultivated and managed with appropriate BMPs, and without the use of synthetic chemicals, provided that:</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>(1) They will occupy no more than 4,000 square feet of the buffer;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) They are installed within the outer 25% of the buffer;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Other than fences, no structures or impervious surfaces are constructed or created, and fences will not impede the flow of water or generally prevent wildlife access to streams, ponds, lakes or shorelines designated as FWHCAs; however, the fence may exclude wildlife that preys upon young plants.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) A buffer of at least 30 feet is retained.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) Trees within tree protection zones are protected in accordance with this subsection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(K) The construction of trails, stairs, or raised walkways, provided that the improvement:</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(1) Is designed to direct sheet flow runoff into adjacent vegetation;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Does not exceed five feet in width;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Is constructed of non-toxic materials;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Does not include the placement of fill;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) Is consistent with the applicable requirements of subsection 18.50.080(F)(5)(f); and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(6) The improvement is consistent with other requirements of this chapter and subsection 18.50.080(G)(4)(b)(v).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(L) Temporary wildlife watching blinds.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(M) Drilling and digging of wells, provided they are located within the outer 25% of the water quality buffer, that there are no anticipated adverse impacts to adjoining FWHCAs, that measures are taken to avoid compaction of soils during drilling and development of the well, and that disturbed areas are immediately stabilized.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>(N) To allow for a view or for fire hazard reduction, minor trimming and pruning of the foliage of trees and shrubs, provided the health of the trees and shrubs is maintained, trees are not topped, and all vegetation overhanging aquatic FWHCAs is retained. In no case shall more than 20% of the foliage of individual trees or shrubs be removed during one 12 month period.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>(O) If no practicable alternative exists, components of stormwater management facilities in conformance with local and state stormwater management requirements and the tree protection zone requirements of this subsection.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>(P) Fences provided they do not impede the flow of water or prevent wildlife access to the water. Fences may restrict the movement of wildlife such as deer and raccoons and other vermin.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Activity</td>
<td>Aquatic FWHCA (the area within the water)</td>
<td>Buffer</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>-------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>(Q) Stream crossings, and roads and trails in water quality buffers in conformance with subsection 18.50.080(G)(4)(b)(v).</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(R) Storage of chemicals.</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>(S) Components of on-site sewage disposal systems in conformance with local and State requirements, provided:</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>i. Appropriate BMPs are used to minimize erosion, sedimentation and soil disturbance;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ii. For new systems, trees within tree protection zones are retained in accordance with this subsection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>iii. For replacement of failing systems where there is no other alternative that will meet State requirements (including locating the new system in the same place as the old system), trees within tree protection zones are retained to the greatest extent possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(T) Shoreline modifications in conformance with this chapter.</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>(U) Other uses that will not adversely impact the functions of aquatic FWHCAs, considering the Best Available Science.</td>
<td>P/C&lt;sup&gt;1&lt;/sup&gt;</td>
<td>P/C&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

<sup>1</sup>“P/C” means Provisional or Conditional Use Permit depending on the level of impacts (see SJCC 18.80.090.

### iii. Field Marking of buffers and tree protection zones.
Prior to building permit approval, the location of the outer extent of buffers and tree protection zones adjacent to the area that will be developed shall be marked in the field, and the Director may require field approval prior to the commencement of activities. Markings for buffers and tree protection zones shall be maintained throughout the duration of construction activities.

### iv. For recorded plats, short plats, and binding site plans.
The applicant shall show the boundary of required buffers and tree protection zones on the face of the plat or plan.

### v. Stream crossings, roads, and trails in water quality buffers and tree protection zones.
The construction of new or expanded roads, driveways, trails and associated culverts and bridges across streams, buffers and tree protection zones are allowed in conformance with SJCC 18.60.080 - 100 and the following:

(A) New roads and driveways may only be constructed across streams, or through buffers or tree protection zones, if there is no practicable alternative and all unavoidable impacts are mitigated.

(B) For type F streams, bridges, culverts and crossings shall be designed according to the Washington Dept. of Fish and Wildlife “Design of Road Culverts for Fish Passage, 2003”. For streams that support fish that are designated for protection under the Federal Endangered Species Act, the following may also apply as determined by the agencies with jurisdiction: the National Marine Fisheries Service “Guidelines for Salmonid Passage at Stream Crossings, 2000”; and “Washington State Fish Passage and Habitat Enhancement Restoration Programmatic”, National Marine Fisheries Service Tracking No. 2008-03598.
(C) When practicable, new roads, driveways, trails and walkways shall be located on road grades, utility corridors or previously disturbed areas existing at the time of application.

(D) When required, permits and approvals must be obtained from appropriate state and federal agencies, including but not limited to: Washington Department of Fish and Wildlife; Washington State Department of Ecology; Washington State Department of Natural Resources; U.S. Army Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife Service.

(E) The road, culvert or bridge shall be located and designed to minimize adverse impacts, and shall not interfere with fish passage, the movement of water, large woody debris, gravel, or other stream processes. Roads must cross aquatic FWHCAs, buffers and tree protection zones at, or as close as possible to, a ninety degree angle. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. In streams with salmonid breeding habitat, bridges, bottomless culverts or other alternatives that will allow for fish passage are required, and bridge piers or abutments may not be placed within the stream or stream banks unless there is no feasible alternative. The length of conventional culverts shall be the minimum necessary.

(F) The location and design of the road or driveway crossing must be evaluated by a qualified professional to ensure that ecological processes will not be adversely affected.

(G) Construction must occur during work windows and time limits established by the state and federal agencies with jurisdiction.

(H) All stream crossings shall be designed to accommodate 100-year projected flood flows.

(I) When practicable, crossings shall serve multiple properties;

(J) When expanding crossings that do not meet these standards, the crossing shall be upgraded as necessary to reduce stream impacts and meet the requirements of this subsection. For purposes of this subsection, an expansion is an increase in the footprint of the crossing structures or the associated roads and trails.

(K) Roads and driveways must be crowned, in-sloped, out-sloped or otherwise designed to direct runoff from the road surface into vegetated areas.

vi. Reduced water quality buffers and tree protection zones when views of the water are blocked by houses existing at the time of application on adjoining waterfront lots. If houses, existing on the date of application on adjoining waterfront lots, are closer to the water than the distance specified in this subsection, reduced buffer and tree protection zones shall be authorized if:

(A) Adverse impacts to aquatic FWHCAs, if any, are identified by a qualified professional;

(B) Unavoidable adverse impacts are mitigated in conformance with SJCC 18.50.090; and

(C) The authorized buffer and tree protection zones are the greater of:

1. The waterward side of the shortest straight line drawn between the most waterward points of the houses on the adjoining lots; and

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

5. Additional protection recommendations and requirements for specific species and habitats.

This subsection outlines additional recommendations, and in some cases requirements, for protecting particular species and habitats. Maps showing the general location of some plants, animals and habitats are available from San Juan County. Though State regulations prohibit general dissemination
of detailed habitat and species maps, County staff can provide available information on particular sites.

a. Animals.

This subsection outlines additional protection recommendations and in some cases requirements for specific animals listed in subsection 18.50.080(G)(2)(a). This includes animals that are currently listed by the state or federal regulatory agencies as endangered, threatened or sensitive, as well as animals designated by San Juan County as species of local importance. The requirements identified in this subsection supplement the more general protection requirements of this chapter and the San Juan County Code, including those requirements intended to protect the quantity and quality of ground and surface water, and to support the aquatic food chain.

To aid property owners in implementing effective protection measures, standardized habitat management plans based on the provisions of Table 5.9 will be attached to permits and approvals. Approval of development and project permits will be contingent on compliance with these plans.

Table 5.9 Additional Protection Recommendations and Requirements for Specific Animals

<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat Description</th>
<th>Protection Methods (Recommended unless noted as a requirement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amphibians/Reptiles</td>
<td></td>
<td>(For additional information see <a href="http://wdfw.wa.gov/hab/phslist.htm">http://wdfw.wa.gov/hab/phslist.htm</a>)</td>
</tr>
<tr>
<td>Sharp-tailed Snake</td>
<td>Relatively open, moist, woodlands, particularly near streams and secluded, south facing, rocky slopes. They spend most of the time under rocks and rotting woody material. Primary food source is slugs. Use communal egg laying sites in cracks between rocks, underground or in clumps of grass roots.</td>
<td>In areas with sharp tailed snakes:● Minimize soil-disturbing activities.● Retain rocks and down wood.● Avoid predation by domestic cats.</td>
</tr>
<tr>
<td>Western toad</td>
<td>Live near springs, streams, meadows and woodlands, especially those within approximately 500 meters of ponds or wetlands. Feed on insects. Preferred breeding sites are water bodies with shallow, sandy bottoms. After breeding they disperse into terrestrial habitats such as forests and grasslands, preferring damp conditions. Spend much time underground, often in small mammal burrows, beneath logs, and within rock crevices. Hibernate in burrows over the winter.</td>
<td>In areas with western toads:● Establish wetland buffers based on a Water Quality-Sensitivity Rating of “High” and a Habitat Importance-Sensitivity Rating of “High”. Protect buffers in accordance with SJCC 18.50.080 (required).● Minimize soil-disturbing activities.● Prevent pollution of runoff.● Retain rocks and down wood.● Avoid the introduction of aquatic predators (e.g. fish) into ponds and lakes.</td>
</tr>
<tr>
<td>Birds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>American dipper</td>
<td>Shorelines of perennial streams and lakes</td>
<td>● Prevent disturbance of active nesting areas</td>
</tr>
</tbody>
</table>

N:\LAND USE\LONG RANGE PROJECTS\PCOMPL-11-0001 SMP Update\Docs from Staff\Phase 5-SJC Adoption\Planning Commission Hearings\7.19.13 Hearing\Final_PC_underlined_Regulations-2013-07-19-Final-TOC.doc
<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat Description</th>
<th>Conservation Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>American kestrel</td>
<td>Open habitats with perching spots, including the edges of oak woodlands, open forests, and grasslands or agricultural areas with utility wires, fence posts or trees. Nest in tree cavities, cliffs, openings in man-made structures, and nesting boxes.</td>
<td>● Protect snags and trees used for nesting (required).</td>
</tr>
<tr>
<td>Black Oystercatcher</td>
<td>These birds nest on the ground above the rocky intertidal zone in areas without predatory mammals.</td>
<td>● Maintain forage fish populations and protect kelp and eelgrass beds in conformance with the Unified Development Code.</td>
</tr>
<tr>
<td>Chipping sparrow</td>
<td>Savannas, orchards, low-density residential areas.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Common nighthawk</td>
<td>Rocky balds and flat areas with minimal vegetation</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Fox sparrow</td>
<td>Nesting occurs in dense shrub thickets with little or no forest canopy. The only suspected nesting is on small outer islands.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Great Blue Heron</td>
<td>Feeding occurs in large ponds and wetlands, small ponds and wetlands not surrounded by forest, and marine waters. Nesting occurs in tall dense stands of conifers in areas mostly isolated from humans.</td>
<td>● Within ¼ mile of nesting colonies avoid construction and activities that may disturb nesting birds February through September.</td>
</tr>
<tr>
<td>Golden-crowned sparrow</td>
<td>Nesting occurs in dense shrub thickets with little or no forest canopy. The only suspected nesting is on small outer islands.</td>
<td>● Protect wetlands and nearshore feeding areas in conformance with the Unified Development Code.</td>
</tr>
<tr>
<td>Golden Eagle</td>
<td>Nesting usually occurs on cliffs, but may also occur in trees, on the ground, or on human made structures.</td>
<td>● Within 1,000 feet of nests, avoid construction and activities that may disturb nesting birds February 15 – July 15.</td>
</tr>
</tbody>
</table>

*Do not inhibit perennial flow in streams (required).*  
*Maintain buffers along streams and lakes (required).*  
*Discourage human presence near active nesting areas during the spring.*  
*Prevent disturbance of active nesting areas during the spring.*  
*Maintain mix of open land and wooded areas.*  
*Prevent disturbance of active nesting areas during the spring.*  
*Maintain a 200 foot buffer around nests in colonies (required).*  
*Avoid use of rodenticides in hunting areas.*  
*Avoid construction of wind turbines near nesting areas.*
<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat Description</th>
<th>Additional Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horned lark</td>
<td>Prairie/savanna and other flat areas with minimal vegetation.</td>
<td>● Avoid construction of multiple phase transformers in hunting and nesting areas.</td>
</tr>
<tr>
<td>Lazuli bunting</td>
<td>Edges of oak woodlands, shrubby areas in forested zones, agricultural hedgerows, and shrubby habitat in residential gardens.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Long-eared owl</td>
<td>Woodlands. No recent nesting records.</td>
<td>● Protect shrubs and small trees used for nesting.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● Protect food sources including seeds, berries and invertebrates.</td>
</tr>
<tr>
<td>Marbled murrelet</td>
<td>Nest in dense, mossy, wet, old growth conifer forests at least 7 acres in size and within 50 miles of marine waters. Nesting sites very difficult to identify. Nesting trees are at least 32 in. diameter and the nest itself is typically located in a depression in the moss and lichen. Murrelets feed year round on small, schooling fish and other small sea creatures found in calm, shallow (&lt; 100 ft.), nearshore waters in the San Juans. Concentrations of birds are found on Lopez Island and the area between Orcas and Blakely Islands. They are not currently known to nest in the San Juans, but that could change as second growth forests mature.</td>
<td>● Maintain forage fish populations and protect kelp and eelgrass beds in conformance with the Unified Development Code. ● Protect old growth coniferous forests more than 7 acres in size that have trees more than 32 dbh that are used by nesting birds (see Chapter 222-16 WAC for guidance on determining the presence of nesting birds). (required) ● If areas used for nesting are identified, County staff will work with the landowner and the Dept. of Fish and Wildlife to develop a site specific protection plan.(required)</td>
</tr>
<tr>
<td>Merlin</td>
<td>Edges of conifer woodlands.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Northern goshawk</td>
<td>Mature forest on main islands.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Northern harrier</td>
<td>Infrequently mowed pastures, prairie, and herbaceous wetlands without trees.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>● In areas used for nesting or feeding, establish wetland buffers based on a Water Quality-Sensitivity Rating of “High” and a Habitat Importance-Sensitivity Rating of “High”. Protect buffers in accordance with SJCC 18.50.080. (required)</td>
</tr>
<tr>
<td>Northern pygmy-owl</td>
<td>Mature conifer forest on main islands.</td>
<td>● Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Peregrine falcon</td>
<td>Year-round resident in SJ County (= 21 nesting pairs). Nests on cliffs and ledges. Feed on birds, especially shorebirds and waterfowl.</td>
<td>● Within ¼ mile of nests, avoid construction and activities that may disturb nesting birds March 1 – June 30. ● If possible locate structures at least 1,500 feet</td>
</tr>
</tbody>
</table>
back from cliffs with nests.
- Prevent pesticide and chemical contamination of prey. Chemicals of particular concern include: lead, mercury, organochlorides, organophosphates, carbofuran, and famphur.
  - Near nesting and feeding areas, do not use lead shot, avoid use of insecticide, and avoid use of pesticides that will be ingested by birds that are food sources (e.g. pigeons).
  - Follow County stormwater and buffer requirements.
- Avoid construction of power lines near nests or feeding areas.
- Maintain trees along shorelines in conformance with this subsection.

### Pigeon Guillemot

This seabird nests in colonies in burrows on sandy and rocky cliffs.
- Prevent disturbance of active nesting areas during the spring.

### Short-eared owl

Infrequently mowed pastures, prairie, and herbaceous wetlands without trees.
- Prevent disturbance of active nesting areas during the spring.
  - In areas with nesting or feeding short eared owls, establish wetland buffers based on a Water Quality-Sensitivity Rating of “High” and a Habitat Importance-Sensitivity Rating of “High”. Protect buffers in accordance with SJCC 18.50.080. (required)

### Sooty grouse

Extensive conifer forest on main islands.
- Prevent disturbance of active nesting areas during the spring.
  - Minimize fragmentation of forest by roads, driveways, and tree removal.

### Vesper sparrow

Savanna, prairie, and fields with scattered shrubs.
- Prevent disturbance of active nesting areas during the spring.

### Western bluebird

Oak woodland and fields with nest boxes or many standing dead trees.
- Prevent disturbance of active nesting areas during the spring.
  - Avoid pesticide use in or near active nesting areas.
  - Avoid removal of dead standing trees in or near active nesting areas.

### Western meadowlark

Savanna, prairie, and fields with scattered shrubs.
- Prevent disturbance of active nesting areas during the spring.
  - Avoid pesticide use in or near active nesting areas.

### Western screech owl

Open woodlands, especially along streams. Nests in holes in cliffs and tree cavities, particularly cottonwood and big leaf maple.
- Protect snags and trees used for nesting (required).
| **Wilson’s snipe** | Herbaceous wetlands and wet fields with scattered shrubs | • Prevent disturbance of active nesting areas during the spring.  
• Avoid pesticide use in or near active nesting areas.  
• In areas with nesting or feeding Wilson’s snipe, establish wetland buffers based on a Water Quality-Sensitivity Rating of “High” and a Habitat Importance-Sensitivity Rating of “High”. Protect buffers in accordance with SJCC 18.50.080. (required) |
| **Insects** | | |
| **Great arctic butterfly** | Only recorded US population located on Orcas Island. Dependent on forest openings and rocky balds. | In areas with great arctic butterflies:  
• Avoid the use of insecticides and herbicides.  
• Protect rocky balds. |
| **Island Marble Butterfly** | Only remaining populations on San Juan (American Camp) and Lopez Islands. Dependent on Puget Sound Peppergrass and other native mustards and non-native mustards. | In areas with island marble butterflies:  
• Avoid the use of insecticides and herbicides.  
• Limit grazing and agricultural land disturbance.  
• During land development protect areas with food sources including Puget Sound peppergrass and other native and non-native mustards. |
| **Sand verbena moth** | Only recorded US populations on San Juan Island and in Clallam County. Dependent on native sandy coastal habitat and Sand Verbena (*Abronia*) for larval food plant. | In areas with sand verbena moths:  
• Avoid the use of insecticides and herbicides.  
• Limit grazing and agricultural land disturbance.  
• During land development protect areas with food sources including Sand Verbena (*Abronia*). |
| **Taylor’s Checkerspot butterfly** | Extremely rare and declining throughout range. Associated with maritime prairies and shorelines along the Strait of Juan De Fuca, the post-glacial gravelly outwash and mounded prairies of the Puget Trough, and open island prairies with a dominance of original vegetation. Host plants include the native seaside plantain (*Plantago maritima macrocarpa*) and the nonnative English plantain (*P. major lanceolata*). Concentrations have been found in SJ County on Long Island, and possibly Lopez Island. Current status unknown. | In areas with Taylor’s checkerspot butterflies:  
• Avoid the use of insecticides and herbicides.  
• Limit grazing and agricultural land disturbance.  
• During land development protect areas with plantain. |
| **Valley silverspot butterfly** | Dependent on Western Blue Violet (*Viola adunca*). Declining populations in San Juan Islands. Extinct in many locations. | In areas with valley silverspot butterflies:  
• Avoid the use of insecticides and herbicides.  
• Limit grazing and agricultural land disturbance.  
• During land development protect areas with western blue violet. |
| **Mammals** | | |
Areas with roosting concentrations of all bat species. Sites used for roosting include caves, mines, snags, large trees, buildings and barns. In areas with roosting concentrations of bats:

- Avoid pesticide use.
- Avoid removal of large dead trees (e.g. those over 12” dbh).

Towends big eared bat Found where there are suitable roosting sites and fresh water. Sites used for roosting include caves, mines, snags, large trees, buildings and barns. Roosting during the winter is generally in caves, but may also occur in the cavities of large trees and in buildings. Primary food source is moths, but they will consume other arthropods.

In areas with roosting or feeding Towends big eared bats:

- Avoid pesticide use.
- Avoid removal of large dead trees.

Flying squirrel Mature forests and woodlands with many dead standing trees.

- Avoid removal of large dead trees in or near known areas.

Other animal species listed under the Endangered Species Act or found to have a primary association with habitats in San Juan County after the effective date of this ordinance.

Until this chapter is amended to include new species, appropriate protection recommendations will be developed in consultation with the Washington Department of Fish and Wildlife, US Fish and Wildlife Service and National Marine Fisheries Service.

### Table 5.10 Additional Protection Recommendations for Habitats of Local Importance

<table>
<thead>
<tr>
<th>Species or Habitat</th>
<th>Habitat Description</th>
<th>Protection Measures</th>
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<tbody>
<tr>
<td>Bluff Backed Beaches</td>
<td>Includes erosional depositional beaches at the base sediment bluffs, sediment-covered rock beaches, and seeps/small streams that enter beaches via a bluff rather than via a pronounced stream valley. Bluff</td>
<td>Minimize and encourage removal of hard shoreline stabilization measures.</td>
</tr>
<tr>
<td>Backed Beaches</td>
<td>Garry Oak (Quercus garryana) Woodlands and Savannas</td>
<td>Herbaceous Balds and Bluffs</td>
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<tr>
<td>Backed beaches do not form lagoons (though they may be a sediment source to barrier beaches that do form lagoons).</td>
<td>Garry oak is a type of Oregon White Oak found in warmer, drier areas within the Puget Sound and southern British Columbia. They are associated with what is becoming an increasingly rare ecosystem that supports a variety of rare wildflowers, butterflies (such as the Duskywing (Erynnis propertius)) and other plants and animals. Garry oak ecosystems are highly varied and are found in areas with rock outcrops, coastal bluffs, maritime meadows, and treeless grasslands as well as seasonal wetlands, and are sometimes found in mixed stands with other trees including arbutus and Douglas fir. Acorns from the oaks provide a key food for many birds, and other wildlife. Areas in the County that contain Garry oak include English Camp, Cady Mountain, San Juan Valley, the west side of San Juan Island, Point Disney, Turtleback Mountain, West Sound.</td>
<td>Herbaceous Balds and Bluffs. These are native plant areas located on shallow soils over bedrock, often on steep, exposed slopes with few trees. They support grasses, herbaceous plants, dwarf shrubs, Brittle prickly pear cactus, mosses and lichens that are adapted for survival on shallow soils amid seasonally dry conditions. Trees that may be present include Douglas fir, Pacific madrone, and Garry oak. In San Juan County this habitat supports many plant species that are rare or that grow in few other land cover types. They are the preferred habitat of the Taylor’s Checkerspot butterfly, a listed species. Information on the plants associated with herbaceous balds and bluffs can be found at <a href="http://www1.dnr.wa.gov/nhp/refdesk/communities/pdf/balds_veg.pdf">http://www1.dnr.wa.gov/nhp/refdesk/communities/pdf/balds_veg.pdf</a>.</td>
</tr>
</tbody>
</table>
18.50.090 Parking

A. Parking is prohibited on structures located over water.

B. Parking facilities must be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping must consist of native vegetation and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion and through maturity of the species.

C. Parking facilities serving individual buildings on the shoreline must be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or where an alternative location would result in a lesser environmental impact on the shoreline.

D. Parking facilities for shoreline activities must provide safe and convenient pedestrian circulation within the parking area and to the shoreline.

E. Parking facilities shall be designed to prevent contamination of water bodies from surface water runoff. Parking facilities must be provided with the best available technologies and include a maintenance program that will assure proper functioning of all drainage facilities to prevent degradation of surface water quality. (Ord. 2–1998 Exh. B § 5.4.6)

18.50.090 General Environmental Protection and Mitigation

A. Land uses and developments that include vegetation removal or grading and vegetation removal 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 SJCC 18.50.080, mitigation will not be required. All uses, developments and ancillary activities shall be maintained in compliance with SJCC 18.50.080 or mitigation of the adverse impacts will be required.

B. Projects that cannot meet the critical area requirements for no net loss in SJCC 18.50.080 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.

If a project is likely to increase the magnitude of unavoidable adverse impacts to shoreline ecological functions, mitigation to offset the impacts is required and must be consistent with the preferred mitigation sequence outlined below.

C. All shoreline uses and activities shall be located, designed, constructed, and managed in a manner is aesthetically compatible with the surrounding 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. 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. 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 mitigation actions, appearing in order of preference, and must consider avoiding and minimizing adverse impacts to shoreline ecological functions in project design. 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:

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 photos 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;
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 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 SJCC 18.60;
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;
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 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, 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 subsection (SJCC 18.50.090(E)(8).

b. Mitigation is authorized or required by the San Juan County code.

c. The mitigation, monitoring and adaptive management plans were developed by qualified professionals. For wetlands, the plans, including associated wetland replacement ratios, shall 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. 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.

11. 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.

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

18.50.100 Public access.

A. Except as provided in subsections (B) and (C) of this section, shoreline substantial development permits or conditional uses shall provide public access where any 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, the development or use 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 will locate on the shoreline of the state, the use or development shall provide public access to mitigate this impact; or

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. Whenever public access is required, the permit file shall describe the 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. Unavoidable health or safety hazards to the public exist which cannot be prevented by practical means;

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

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

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

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

C. In order to meet any of the conditions in subsections (B)(1) through (B)(5) 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 and permit 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 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 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 for the village commercial waterfront. (Res. 145–1998; Ord. 2–1998 Exh. B § 5.4.7)

18.50.100 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 SJCC 15.12 Flood Hazard Control regulations and SJCC 18.50.080(E) Frequently flooded areas.

3. New structural flood hazard reduction measures shall be allowed in the shoreline jurisdiction only when consistent with an adopted and DOE 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.

18.50.110 Shorelines of statewide significance.
The legislature has designated all salt water surrounding the islands of San Juan County, seaward from the
line of extreme low tide, as shorelines of statewide significance (RCW 90.58.030(2)(e)). Use and
development of such areas is subject to compliance with policies in Element 3, Section 3.4.F of the
Comprehensive Plan. (Ord. 2–1998 Exh. B § 5.4.8)

18.50.110 Land divisions.
A. In addition to the requirements of SJCC 18.70, all land divisions shall be consistent with the following
requirements:
1. All applications shall include a site plan demonstrating that new lots, with the exception of
common area lots, will be developable. The site plan shall not constrain future development
options;
2. 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.
3. 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;
4. Land divisions creating four (4) or fewer lots are not required to provide public access;
5. In land divisions creating five (5) or more lots, public access easements or common areas, consistent with the provisions of SJCC 18.50.120, 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);

6. If any docks are proposed, shoreline land divisions shall be required to provide community docks rather than individual private docks.

B. In all land divisions that yield five (5) or more lots, one (1) of the following access standards shall be met:
   1. An easement shall be established to provide all lots usable physical access to the OHWM; or
   2. A common area 75 feet deep measured landward from the OHWM shall be established along the entire waterfront of the property to be developed. A minimum of one and one-quarter acres within shoreline jurisdiction shall be provided for each residential unit or lot to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of lots or units within the shoreline jurisdiction; or
   3. At least 20 percent of the area within the shoreline jurisdiction shall be designated as common area. A minimum of two acres within the shoreline jurisdiction shall be provided for each lot or 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.

C. In all land divisions that yield five (5) or more lots, 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 a shoreline access easement or a common area.

D. 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.

E. Land division of parcels with designation of natural is prohibited.

F. In rare instances, land division that would exceed maximum density may be allowed by conditional use if the following circumstances are demonstrated by the owners:
   1. The property is not located within the natural shoreline designation;
   2. The property is occupied by individually owned single-family dwelling units, whose numbers exceed the allowable maximum residential density standards and all such units are documented to have existed on the property before May 28, 1976;
   3. The dwelling units have been maintained on the site consistent with nonconforming use standards in SJCC 18.50.070 and have not been abandoned since May 28, 1976;
   4. There is evidence of an adequate approved water supply for each unit accepted in writing by the County Environmental Health Officer;
   5. There is an approved septic system for each unit or there is documentation that a functioning septic system exists to serve each unit and that adequate drainfield reserve area exists; and
   6. Complies with the general shoreline conditional use provisions of SJCC 18.80.110(J).

G. Any conditional use permit granted under the provisions in subsection (F) of this section shall include the following conditions:
   1. Conditional use permit approval shall not itself constitute a legal division of the land. The property owners must legally divide the entire property simultaneously. Such division must be initiated with the submission of a complete land division application within two years of the effective date of the conditional use permit.
   2. Residential density on the property shall not exceed that which currently exists.
   3. Residential use and development shall be restricted to single-family units and residential appurtenances only.

18.50.120 Signs.
In addition to the standards in SJCC 18.40.370 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 so that direct light will not result in glare when viewed from surrounding properties or watercourses. Internally lighted signs are prohibited.

5. Signs related to specific on-site uses or activities must not exceed the maximum size limits specified in SJCC 18.40.370 through 18.40.400. On-site freestanding signs must not exceed six feet in height. 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:
   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 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 following the event.
   f. No-trespassing signs and no-hunting signs, not to exceed two square feet.
   g. Political signs.

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 grade, measured from the top of the sign.

B. Additional Regulations by Environment.

1. In rural, rural residential, Eastsound marina and Eastsound residential environments, freestanding signs shall not be more than five feet above grade, measured from the top of the sign, except as otherwise provided in this code.

2. In the conservancy environment, outdoor advertising 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.

3. In natural and aquatic environments, 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 signs may be allowed in the aquatic 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 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.

18.50.120 Public access.

A. Except as provided in subsections (B) and (C) of this section, activities requiring shoreline substantial development permits or conditional use 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 a public access way existing on the date of application, the developer shall provide public access to mitigate this impact;
3. Where uses that are not a priority shoreline use under the SMA will locate on the shoreline of the state, the use or development shall provide public access to 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, 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;
2. Unavoidable health or safety hazards to the public exist that cannot be prevented by practical means;
3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
4. The cost of providing the access, easement or alternative amenity is unreasonably disproportionate to the long-term cost of the proposed development;
5. Unacceptable environmental harm will result from the public access that cannot be mitigated;
6. 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)(2) through (B)(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 other conditions shall be noted on the deed of title and/or on the face of a plat for a land division as a condition running concurrently with the authorized land use.

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

J. Future actions by the property owner 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 for the village commercial waterfront. (Res. 145–1998; Ord. 2–1998 Exh. B § 5.4.7)

18.50.130—Vegetation management.

A. All shorelines shall be protected from degradation caused by the modification of the land surface within the shoreline area or the adjacent uplands.

B. Development on shorelines that have been identified as unstable or sensitive to erosion in SJCC 18.30.120 is not allowed unless the applicant demonstrates that the development is located a sufficient distance from the shoreline to prevent contributing to its instability.

C. Restoration of any shoreline that has been disturbed or degraded shall be done with native plant materials with a diversity and type similar to that which originally occurred on-site.

D. Commercial nursery stock used in the restoration of disturbed or degraded shorelines shall, at maturity, emulate the previously existing vegetation in size, structure, and diversity.

E. Beach enhancement is prohibited:
   1. Within spawning, nesting, or breeding habitat;
   2. Where littoral drift of the enhancement materials will adversely affect adjacent spawning grounds or other areas of biological significance;
   3. If it will interfere with the normal public use of the navigable waters of the state; or
   4. Where the activity is in support of a nonconforming use unless such activities are necessary to maintain shoreline stability and the natural ecology.

F. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

G. The control of aquatic weeds by hand-pulling, mechanical harvesting, or placement of aqua-screens, if proposed to maintain existing water depth for navigation, shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline substantial development permit. (See the exemption procedures in SJCC 18.80.110(F).)

H. The control of aquatic weeds by derooting, rotovating, or other method which disturbs the bottom sediment or benthos shall be a substantial development unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity. In that case, it shall be considered normal maintenance and repair.

I. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control complies with all state rules and regulations. (Ord. 2–1998 Exh. B § 5.4.10)
18.50.130 Shorelines of statewide significance.
The legislature has designated all salt water surrounding the islands of San Juan County, seaward from the line of extreme low tide, as shorelines of statewide significance (RCW 90.58.030(2)(e)). Use and development of such areas is subject to compliance with policies in Element 3, Section 3.4.J of the County’s Comprehensive Plan.

18.50.140 View protection.
A. Shoreline uses and activities must be designed and operated to avoid blocking or adversely interfering with visual access from public areas to the water and shorelines except as provided for in SJCC 18.50.130.
B. The vacation of public road ends and rights-of-way which provide visual access to the water and shoreline may be allowed only in accordance with RCW 36.87.130 and local rules.
C. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.
D. In order to limit interference with views from surrounding properties to the shoreline and adjoining waters, development on or over the water shall be constructed only as far seaward as necessary for the intended use.
E. Development on or over the water must be constructed of materials that are compatible in color with the surrounding area.
F. Visual shoreline access must be maintained, enhanced, and preserved on public road ends and rights-of-way. (Ord. 2–1998 Exh. B § 5.4.11)

Article III. Specific Shoreline Use Regulations

18.50.130 General regulations.
A. Uses Not Identified in This SMP. Shoreline uses not specifically identified in this master program and for which regulations have not been developed will be evaluated on a case-by-case basis and shall be permitted only as conditional uses. Such use proposals will be required to be consistent with the policies of the Shoreline Management Act, the goals and general policies of this SMP, and to be consistent with the character and management policies of the shoreline designation they are proposed to be located in.
B. The use regulations in SJCC 18.50.140 through 18.50.330 specify what will be required of any development located within a shoreline area. These regulations are directly supportive of the adopted policies for each 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 designations where the use is allowed. The succeeding sections contain additional regulations required for the conduct of an activity in a specific shoreline designation. Where possible and appropriate, the specific use, permit type and designation have been addressed in Table 5.12, 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 SJCC 18.50.090.

18.50.150 Water quality.
A. During and after construction, all shoreline developments shall minimize any increase in surface runoff through control, treatment, and release of surface water runoff so that the receiving water quality and shore properties are not adversely affected. Control measures include dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls. All
surface water shall be retained on site unless discharge to road ditches or other drainage channels is approved in writing by the County engineer.

B. All industrial, institutional, commercial, residential, recreational, and agricultural uses shall adhere to all required setbacks, buffers, and standards for stormwater. (Refer to shoreline use and environment designation regulations for specific limits.)

C. All shoreline development must comply with the applicable requirements of the Stormwater Management Manual for the Puget Sound Basin or a County-approved program that meets or exceeds the requirements of the manual. (See also SJCC 18.60.060(B) and (C) and 18.60.070.) (Ord. 2–1998 Exh. B § 5.4.12)

18.50.140 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 capture 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 water contamination consistent with guidelines prepared by the U.S. Environmental Protection Agency and the requirements of state and local agencies.
3. Commercial feedlots shall be prohibited.
4. New agricultural activities in the shoreline jurisdiction shall be located, designed, constructed and managed to ensure no net loss of ecological functions.
5. The processing and/or sale of agricultural products will be reviewed and where appropriate shall obtain a permit subject to provisions of SJCC 18.30.030 and SJCC 18.30.040 Tables 3.1 and 3.2 as appropriate.

B. Regulations by Designation.
1. Natural. Agricultural activities may be allowed in the natural designation as a conditional use permit; provided the resource that is to be protected by the natural designation will not be degraded.

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

B. The use regulations in SJCC 18.50.160 through 18.50.350 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 and use. In the development of the regulations, the special character of each environment 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 where the use is allowed. The succeeding sections contain additional regulations required for the conduct of an activity in a specific shoreline environment. (Ord. 2–1998 Exh. B § 5.5.1)

18.50.150 Aquaculture.
A. General Regulations.

With the exception of shellfish aquaculture identified in consistent with subsection 8. aquaculture shall comply with the following standards.

1. As all shorelines within the County seaward of the line of extreme low tide have been designated “shorelines of statewide significance,” aquaculture proposed in this area shall be subject to the policies referred to in SJCC 18.50.130. Shorelines of statewide significance.

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

3. No aquatic organism shall be introduced into San Juan County waters without prior written approval of the Washington Department of Fish and Wildlife, 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 to the Department prior to the introduction of the organism or 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 County and regardless of whether it is being transferred from within or beyond the waters of San Juan County.

4. 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.

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

6. 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.

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

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

9. 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 a financial guarantee 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 of the applicant. Evidence of financial guarantees shall not duplicate requirements of other agencies.

10. Applications shall include adequate information to determine that the proposed operation complies with this SMP. As far as practicable, 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. Number of employees;
d. Harvest and processing location, method, and timing;
e. Location and plans for any shore-side activities, including loading and unloading of the
product, processing, and any use of freshwater supplies;
f. Methods of waste disposal and predator control;
g. An environmental assessment, 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.
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
“Aquacultural Siting Study” of 1986; and

i. Other pertinent information deemed necessary by the Director.

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

12. 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.

13. 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 regulations of SJCC
18.50.240 Ports and water-related port facilities, in addition to the regulations in this section.

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

15. Aquaculture uses and facilities must be located at least 600 feet from any national wildlife refuge
lands, 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.
18. 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.

20. For commercial aquaculture projects using over-water 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 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. Mechanical clam harvesting or other actions that involve substrate modification through dredging, trenching or digging shall be prohibited in 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 that the ecological and aesthetic protection requirements of this SMP will be upheld. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the 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, commercial aquaculture 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 commercial aquaculture projects likely to affect water quality 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 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 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). 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 shall be 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
   i. Other pertinent information deemed necessary by the Director to demonstrate compliance with County regulations.

C. Regulations by Designation.

1. Rural Residential. 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 facilities may be located within 1,500 feet of the OHWM but in such cases a visual analysis shall be mandatory.
2. **Conservancy.** Aquaculture activities shall be allowed in the conservancy designation provided, that the natural resources and ecological functions 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.

3. **Natural.** Aquaculture that does not require structures or facilities or mechanized harvest practices and that will result in no net loss of shoreline ecological functions shall be permitted.

4. **Aquatic.** Aquaculture shall be allowed in the aquatic designation subject to the regulations of the most restrictive abutting shoreline designation, to be determined on a case-by-case basis but to be considered generally as the shoreline designation visible within 1,500 feet directly landward of the center of the project site. The regulations of a less restrictive abutting designation may be substituted if the Director determines that the public interest would not be compromised by doing so.

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 control shall be of a width or character sufficient to prevent surface runoff and reduce siltation.

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. Control guidelines prepared by the U.S. Environmental Protection Agency and state and local agencies shall be observed.

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

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.

**B. Regulations by Environment.**

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. **Natural.** Agricultural activities may be permitted in the natural environment as a conditional use, 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)
18.50.160 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 mitigate adverse impacts to 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 be allowed as a conditional use permit.

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

5. 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. The processing of aquacultural products in the shoreline constitutes an unnamed industrial development, and will be a shoreline conditional use permit.

7. Structures for the sale of aquacultural products constitute commercial development.

8. 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. 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 Shoreline Management Act 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. Proposed commercial developments shall be consistent with any applicable subarea plans.

11. 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.

12. Regulations by Designation.

   1. Urban. 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 (EWAP), Ord 4–1996 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 DOE approved plan.

2. **Rural.** Commercial development that will not significantly alter the character of the area shall be allowed in the rural designation only by conditional use 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. In the absence of critical areas and associated protective buffers except as provided for in (A)(4) above of this section, all commercial structures and facilities shall be set back at least 100 feet from the OHWM unless otherwise provided for by 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 before the effective date of this SMP may be allowed. In Eastsound, home day care, day nursery and transient rentals shall be 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. Low intensity and recreational commercial development that will not significantly alter the character of the area shall be allowed in the conservancy designation. Other low intensity commercial uses shall require conditional use permits.
   b. With the exception of shoreline dependent structures, commercial structures 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, subject to the provisions of SJCC 18.50.120, provide public access to the shoreline.

6. **Aquatic.** Commercial development of a water-dependent nature shall be allowed in the aquatic designation subject to the designation regulations of the abutting area landward of the OHWM. Where the proposed commercial development site abuts more than one shoreline designation the regulations of the most restrictive abutting designation shall govern.

18.50.180 **Aquaculture.**

A. **General Regulations.**

1. Because all shorelines within the County seaward of the line of extreme low tide have been designated “shorelines of statewide significance,” aquacultural activities proposed in that area shall be subject to, first, the policies referred to in SJCC 18.50.110, Shorelines of statewide significance and second, the general and use-specific regulations contained in this chapter.

2. No structures or facilities which would have a significant adverse impact on the natural, dynamic processes of shoreline formation and change shall be approved or constructed.

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 or the appropriate regulatory agency for the specific organism proposed for introduction. The required approval shall be submitted in writing to the permit center prior to the introduction or the granting of the permit, whichever comes first.

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, 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.

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.

9. The County may require of aquacultural permittees evidence of financial responsibility 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 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.

12. Aquacultural 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 responsibility in an amount commensurate with the cost of removal or repair. The County 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 responsibility of the applicant. Evidence of financial responsibility shall not duplicate requirements of other agencies.

13. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including the following:
   a. Species to be reared.
   b. Aquaculture method(s).
   c. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances, and their predicted impacts.
   d. Manpower or employment 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. 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, biota, currents, littoral drift, and any existing shoreline or water uses. Further baseline studies may be
required depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline monitoring shall be at the applicant’s expense unless otherwise provided for.

i. Other pertinent information deemed necessary by the administrator.

14. Legally established aquacultural 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 aquacultural enterprise shall be grounds for the denial of that use.

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

16. No processing of any aquacultural 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 18.50.310, Ports and water-related port facilities, in addition to the policies and regulations in this section.

17. Aquacultural 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.

18. Aquacultural 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.

19. Predator control shall not involve the 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 contingent upon receipt of written approval from the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, as required.

20. Permit applications shall identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, 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 is submitted to the County. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing.

21. For aquacultural projects using over-water 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 or dock. However, in locations where the visual impact of the proposed 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. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark.

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

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

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

25. Aquacultural proposals that include net pens or rafts shall not be located closer than one nautical mile to any other aquacultural 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 and aesthetic concerns expressed in this SMP will be protected. 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, or that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of this SMP.

26. Except as provided in subsection (A)(22) of this section, aquacultural developments approved on an experimental basis shall not exceed five acres in area (except 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 research data collected, aquaculture developments which would be likely to jeopardize an experimental aquaculture development 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 nonexperimental status or terminated.

28. For floating culture facilities, the County shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Washington Department of Ecology’s “Aquacultural Siting Study” of 1986.

29. For all development that would be likely to affect water quality or quantity affecting a permitted and currently established aquaculture project, a separate administrative review shall be completed prior to issuing any development permit. The administrator 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 aquaculture use, based on a preponderance of the evidence. No development permit shall be granted if the aquaculture operation will likely be damaged or destroyed based on a preponderance of the evidence.

B. Regulations by Environment.

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. Proposals containing net-pen facilities shall be located no closer than 1,500 feet from the OHWM of this environment, 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 permitted in the conservancy environment subject to the policies and regulations of this SMP; provided, that the natural resources and systems 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 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 in the aquatic environment subject to the policies and regulations of this SMP and to the regulations by environment applicable to the most restrictive abutting shoreline environment, to be determined on a case-by-case basis but to be considered generally as the shoreline environment visible within 1,500 feet of a project site; provided, that the policies and regulations of a less restrictive abutting environment may be substituted if the 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)

18.50.170 Dredging and dredge material disposal.

A. General 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 SJC 18.50.090.

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 allowed 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 navigational uses existing 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;
   c. To mitigate conditions that could endanger public safety; or
   d. To create or improve public recreational opportunities.

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

5. All dredge spoils shall be deposited at spoils deposit sites that are consistent with the regulations of this SMP.
6. 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 character, 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;
         and
      v. Tidal fluctuation, current speed and direction.
   c. 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;
      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 Designation.
1. Rural, Rural Residential and Rural Farm-Forest. Dredging shall be allowed in these designations.
   Spoils disposal sites shall be allowed only if it can be shown that the disposal site will ultimately
   be used for an activity allowed in the affected designation.
2. Conservancy. Dredging within the conservancy designation shall be limited to maintenance of
   navigation channels and facilities existing or vested before the effective date of this SMP. Spoils
   disposal shall be limited to sites designated by the Department of Natural Resources.
3. Aquatic. Dredging shall be allowed in the aquatic designation subject to the regulations of this
   SMP and the regulations for the abutting shoreline designation. Where the proposed site abuts
   more than one shoreline designation, the regulations of the most restrictive abutting designation
   shall govern. Spoils disposal is prohibited in the aquatic designation.

18.50.190 Boating facilities (including docks, piers, 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(e)(vii) and WAC 173-27-
B. General Regulations.

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

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

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.

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

5. In general, only one form of moorage or other structure for boat access to the water shall be allowed on a single parcel: 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.) 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 waterfront parcels.

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.

1. Multiple use and expansion of existing facilities are preferred over construction of new docks and piers.

2. 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.

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

4. Every application for a 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.

5. Docks or piers which can reasonably be expected to interfere with the normal erosion-accretion process associated with feeder bluffs shall not be permitted.

6. Abandoned or unsafe docks and piers 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.

7. Unless otherwise approved by shoreline conditional use permit, boats moored at residential docks 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.

D. Regulations—General Design and Construction Standards.

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

2. Chemically treated or coated piles, floats, or other structural members in direct contact with the
water shall be as approved by the Environmental Protection Agency.

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

4. All floats shall include stops which serve to keep the bottom off tidelands at low tide.

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.

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

7. New boathouses or covered moorages are prohibited on floats, piers, and docks. Other structures on floats, piers, and docks shall be limited to three feet in height.

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

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.

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.

11. Materials used in dock construction shall be of a color and finish that will blend visually with the background.

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.

F. Regulations – Commercial/Industrial Docks.

1. Substantial development permits for 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.

3. Bulk storage 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.

4. Spill clean-up facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.
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 total 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.

H. Regulations – Marinas.

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

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

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

4. 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.

5. Marina-related structures or uses which are not in and of themselves shoreline dependent shall not be located over water.
6. 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.”

7. The incorporation of reasonable public use facilities into public marina design shall be required. Marinas may include specific areas restricted for security reasons.

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

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

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

11. Where landfill is permitted, it shall be only for the necessary water dependent portions of the facility and shall conform to the policies and regulations of SJCC 18.50.360 and 18.50.370. 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.

12. Parking areas associated with marinas shall be subject to the policies and regulations of SJCC 18.50.340, Transportation facilities.

13. Marinas shall be subject to the general design and construction standards for docks in subsection (D) of this section.

I. Regulations – Boat Launches (including marine railways).

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

2. Residential Launch Ramps. Boat launching ramps may be permitted for individual 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 are not necessary.

3. Boat launching ramps, minor accessory 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 on Class I beaches or where their presence would interrupt driftways feeding Class I beaches.

5. Marine railways for boat launching shall be located on existing 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.

J. Regulations – Mooring Buoys.

1. Buoys shall not interfere with navigation 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.

K. Regulations by Environment.

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.

3. 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 code 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)

### 18.50.180 Forest management.

**A. General Regulations.**

1. 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. The cutting of timber that is solely incidental to the preparation of land for other uses authorized by this chapter shall be allowed.

3. 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. Shall maintain the ecological quality of the watershed’s hydrologic system; and
   c. Shall 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.

**B. Regulations by Designation.**

1. **Natural.** Forest management practices are allowed in the natural designation 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 that are absolutely necessary to cope with the emergency situation

18.50.200—Breakwaters, jetties, and groins.

A. Regulations.

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

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

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

4. 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.

5. Jetties and groins may be permitted only as shoreline conditional uses.

6. 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 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.

4. Conservancy. Floating breakwaters may be permitted in the conservancy 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.

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

6. Aquatic. Breakwaters 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 the proposed breakwater site abuts more than one shoreline environment, the policies and regulations of the most restrictive abutting environment shall govern.

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)

### 18.50.190 Industrial development

#### A. General Regulations.

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

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

3. 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 and setback from the OHWM. This category of development includes parking, warehousing, open air storage, waste storage and treatment, storm water runoff control facilities, utilities, and land transportation.

4. Industrial development or vested on shorelines before the effective date of this SMP that is neither water-dependent nor water-related may, subject to a conditional use permit, be allowed to expand inland from structures existing or vested before the effective date of this SMP. Waterward or lateral expansion of non-water-oriented industry of existing or vested before the effective date of this SMP is prohibited.

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

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

7. 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.

8. 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.

9. 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.

10. 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 shall 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 shall 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 shall 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 Designation.

1. **Rural Farm-Forest.** Industrial uses that are not water-oriented uses directly related to the commercial fishing industry are prohibited in the rural farm-forest designation.

2. **Aquatic.** Industrial uses are prohibited in the aquatic designation except those uses that are water-dependent, subject to the regulations applicable to the abutting shoreline designation. Where the proposed development would abut more than one shoreline designation, the regulations of the most restrictive abutting designation shall govern.

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

18.50.210 Bulkheads.

A. Regulations.

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 SMC and this SMP.

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
   d. A bulkhead is the most desirable method for stabilizing a landfill permitted under this master program.

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

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.

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

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 29–1996), 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)

18.50.200 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 mitigate potential adverse impacts and to ensure no net loss of shoreline ecological functions; and

   d. Proposed provisions for public physical or visual access to the shoreline.

2. Proposed institutional developments shall be consistent with any applicable subarea plans.

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

4. Accessory development such as parking, storage, waste storage and treatment, stormwater
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 and setback from the OHWM. This category includes parking, storage, waste storage and treatment, stormwater runoff control facilities, utilities and land transportation.

5. Institutional development on shorelines 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 structures existing at the time of application. Waterward or lateral expansion of non-water-dependent institutions existing before the effective date of this SMP is prohibited.

B. Regulations by Designation.

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

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 the shoreline; 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 as a conditional use.

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.

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.

7. Ports and marinas shall be equipped to contain and clean up oil, gasoline, and other polluting spills.

8. Drainage and surface runoff from commercial areas shall be controlled so that pollutants will not be carried into water bodies.

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.

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.

B. Regulations by Environment.

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.

2. Rural. Commercial development which will not significantly alter the character of the area shall be permitted in the rural environment only by conditional use and subject to the policies and
regulations contained in this SMP. 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 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.

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.

4. Conservancy.
   a. Commercial development which is of a low intensity, recreational nature and which will not significantly alter the character of the area shall be permitted in the conservancy environment subject to the policies and regulations contained in this master program. Other low intensity commercial uses may be permitted as conditional uses.
   b. Any commercial structure permitted in a conservancy environment shall be set back at least 100 feet from the OHWM, provided, that structures which are shoreline dependent may be exempted from this provision.


6. Aquatic. Commercial development of a shoreline dependent nature shall be permitted in the aquatic environment subject to the policies and regulations of this code and to the regulations by environment applicable SMP to the abutting upland area. Where the proposed commercial development site abuts more than one upland environment the policies and regulations of the most restrictive abutting environment 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)(1) of this section, or unless otherwise provided for by conditional use.

15. **Shaw Natural.** Commercial development shall not be permitted in the Shaw natural environment. (Ord. 21–2002 § 6; Ord. 2–1998 Exh. B § 5.5.7)

18.50.210 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 shoreline ecological functions or other public interest.

2. Unpaved areas that 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 Director following investigation of the site.

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

4. 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 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. In no event shall the free-fall dumping of logs be allowed in a manner that would do unnecessary damage to the shoreline 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. 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.

10. Log transfer facilities will not be approved until:

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

   b. The feasibility for a multiple-user facility has been investigated and if feasible, facility shall be allowed.

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

12. 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 Designation.
1. **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.

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

3. **Aquatic.** Wet storage and log transfer sites and facilities shall be allowed in the aquatic designation subject to the regulations for the abutting shoreline designation. If a proposed site or facility would abut more than one abutting shoreline designation the more restrictive regulations shall govern.

18.50.230—Dredging.

A. Regulations.

1. 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 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.

2. All dredge spoils shall be deposited at spoils deposit sites which are consistent with the policies and regulations of this master program.

3. Applications for substantial development permits for dredging shall include at least the following information:
   a. Location, size, and physical characteristics of the proposed dredging site;
   b. Information regarding the stability of bedlands adjacent to the proposed dredging site;
   c. Total initial spoils volume;
   d. Location, size, capacity, and physical characteristics of the proposed spoils disposal area;
   e. Frequency and volume of anticipated maintenance dredging; and
   f. 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.

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 in these environments subject to the policies and regulations of this SMP. Spoils disposal sites shall be permitted only if it can be shown that the disposal site will ultimately be used for an activity permitted in the affected environment.

3. **Conservancy.** Dredging within the conservancy environment shall be limited to maintenance of existing navigation channels and facilities. Spoils disposal shall be limited to existing sites designated by the Department of Natural Resources.

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

5. **Aquatic.** Dredging 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. Spoils disposal is prohibited in the aquatic 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)

**18.50.220 Mineral extraction.**

A. **General Regulations.**

1. All mineral extraction projects are subject to the mitigation sequencing analysis set out in SJCC 18.50.090.

2. Applications for substantial development permits for mineral extraction must be accompanied by a report prepared by a qualified professional (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.

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

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

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

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

7. 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.

8. 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 that the reclamation effort is to be initiated and completed and must show that the site is to be reclaimed for a use that is allowed by this master program 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.

9. 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 this SMP.
10. 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 Designations.

1. Rural. Mineral extraction is allowed in the rural designation. A 110-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.

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:

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.

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.

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 25 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.

8. Regulations by Environment.

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 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-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)

18.50.230 Private pedestrian pathways, stairways and ramps.

A. **Regulations.**

1. A set of steps or stairs, a pathway or a ramp used to provide pedestrian access to the OHWM are normal appurtenances to single-family residences in San Juan County. Private pedestrian pathways, stairways and ramps are only exempt from shoreline substantial development permits under limited circumstances, pursuant to SJCC 18.50.020(f).

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 is 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 shall not be located on rock faces or bluffs that exceed a 60-degree angle,
   g. The project complies with bank stability requirements of SJCC 18.50.080(D) geologically hazardous areas.

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 nonexempt, for private pedestrian pathways, stairways and ramps shall be evaluated on the basis of the following considerations:
   a. Bank stability;
   b. Bank geology;
   c. Vegetation removal in zone 1 of the Tree Protection Buffer;
   d. Potential for re-vegetation;
   e. Structural stability;
   f. Adverse impacts on shoreline ecological functions; and
   g. Aesthetic impacts.

5. Private pedestrian pathways, stairways and ramps that can reasonably be expected to interfere with the normal erosion accretion process associated with feeder bluffs shall be prohibited.

6. All private pedestrian pathways, stairways and ramps must demonstrate compliance with the bank stability requirements of SJCC 18.50.080(D).

7. Public pedestrian trails connecting geographically disparate areas that are part of a network identified in County planning documents shall be permitted in the shoreline. Public pedestrian trails shall be regulated by SJCC 18.50.280(I). Trail construction shall be consistent with the San Juan County Parks and Fair department.

8. Pedestrian pathways, stairways and ramps shall not be located below the OHWM unless connected to a structure meeting the requirements of this SMP.

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 plans.

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

4. Accessory development which does not require a shoreline location must be located 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 on shorelines which is neither water-dependent nor water-related may be permitted as a conditional use to expand inland from existing structures but not parallel to or waterward of the OHWM. Waterward expansion of existing non-water-oriented industry is prohibited.

6. Water-dependent industry must be located and designed to 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.

9. All exterior lighting must be designed and operated to minimize glare impacts to nearby properties and local traffic.

10. 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.

11. The installation of underwater cross-sound oil pipelines and overwater facilities for the refining of oil shall be prohibited.

B. Regulations by Environment.

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 water-dependent and water-related uses directly related to the commercial fishing industry are prohibited in the rural farm-forest environment.

5. Aquatic. Industrial uses are prohibited in the aquatic 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 area. Where the proposed development would abut more than one shoreline environment, the policies and regulations of the most restrictive abutting environment shall govern.

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)

### 18.50.240 Ports and water-related port facilities.

#### A. General Regulations.

1. All proposed port development activities shall take place within the jurisdiction of a port district and shall be consistent with an adopted comprehensive harbor/port district improvement plan.
2. Industrial enterprises that are not water-dependent are not allowed to locate within any marine port area. Expansion of non-water related Industrial enterprises existing within marine port areas before the effective date of this SMP is prohibited within the shoreline jurisdiction.
3. Utilities, roads, parking areas, docks, and other facilities that 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 included as part of each development project to the maximum extent practicable; unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline ecological functions.

#### B. Regulations by Designation.

1. **Rural.** Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are allowed in the rural designation. Other water-dependent or water-related port facilities may be permitted as a conditional use.
2. **Rural Farm-Forest.** Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are allowed in the rural farm-forest designation. Other port uses are prohibited.
3. **Aquatic.** Ports and water-dependent or water-related port facilities are allowed in the aquatic designation, subject to the regulations applicable to the abutting shoreline area. Where the proposed port or water-dependent or water-related facility would abut more than one shoreline designation, the regulations of the most restrictive abutting designation shall govern.
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.

### 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; and
   d. Proposed provision 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 shall be permitted within shoreline jurisdiction. They shall be consistent or compatible with existing use of neighboring shoreline areas.
4. Accessory development which does not require a shoreline location must be located upland of the water dependent portions of the development and setback from the OHWM. This category includes parking, storage, waste storage and treatment, storm runoff control facilities, utilities and land transportation.
5. Existing institutional development on shorelines which is neither water-dependent nor water-related may be permitted as a conditional use to expand inland from existing structures but not parallel to or waterward of the OHWM. Waterward expansion of existing non-water-oriented institutions is prohibited.

B. Regulations by Environment.

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, 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.

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. (Ord. 2-1998 Exh. B § 5.5.11)

18.50.250 Recreation.

A. General Regulations.

1. Recreational areas shall be designed to take optimum advantage of and to enhance the natural character of the shoreline area.

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 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 allowed marine railways and boat launches.

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

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

6. Recreational structures shall be set back a 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 shall be located, designed, constructed, and managed to ensure no net loss of shoreline ecological functions.

B. Regulations by Designation.

1. Rural Residential and Rural Farm-Forest. Recreational uses shall be allowed in these designations, with the exception of public parks, however only if the use is designed to serve a residential land division or multifamily development. Public parks are prohibited.

2. Natural. Recreational uses of a nature and intensity consistent with the objectives of the natural designation are allowed. Such uses might include viewpoints and pedestrian trails. Where feasible, new roads, camping areas, parking areas, restrooms, and similar facilities shall not be located within the SMP jurisdiction. Golf courses, playing fields, and similar large area uses shall be prohibited. The use of chemical fertilizers, pesticides, and herbicides shall be prohibited. Landscaping, where allowed and appropriate, shall consist of native vegetation.

3. Aquatic. Recreational uses shall be allowed in the aquatic designation, subject to the abutting shoreline area. Where the proposed recreational use would abut more than one shoreline designation, the regulations of the most restrictive abutting designation shall govern.

4. Ports, Marinas and Marine Transportation. Recreational use and development shall not include permanent facilities for overnight camping.

18.50.270 Landfills and solid waste disposal.

A. Regulations.

1. Landfills may be permitted only as conditional uses.

2. The perimeters of all landfills shall include some means to control erosion and contain sediment, such as vegetation or retaining walls.

3. Shoreline areas shall not be considered for sanitary landfills or for the disposal of solid waste.

4. Applications for substantial development permits which include landfilling shall include at least the following information:
   a. Source of landfill material;
   b. Physical characteristics of landfill material;
   c. Proposed methods of placement and compaction;
   d. Proposed surfacing material;
   e. Proposed method(s) of perimeter erosion control; and
   f. Proposed use of filled area.

B. Regulations by Environment.

1. Urban, Rural, Rural Residential and Rural Farm-Forest. Landfills shall be allowed in these environments subject to the policies and regulations of this SMP; provided, that landfills shall not be permitted below the OHWM; and provided further, landfills shall not be permitted for the sole purpose of creating additional land area.

2. Conservancy. Same as urban; provided, that landfills shall not be permitted on natural (as opposed to manmade, privately owned) lakes; and provided further, that retaining walls shall not be used as an erosion control device on permitted landfills.

3. Natural. Landfills are prohibited in the natural environment.

4. Aquatic. Landfills shall be permitted in the aquatic environment subject to the policies and regulations of this SMP and subject to the regulations by environment for the abutting shoreline environment. Where a proposed landfill site abuts more than one shoreline environment the provisions of the more restrictive environment shall govern.

5. Eastsound Urban, Eastsound Residential, and Eastsound Marina District. Same as urban.
6. **Eastsound Conservancy and Eastsound Natural.** Landfills are prohibited in these environments.

7. **Shaw Rural and Shaw Rural Farm-Forest.** Same as urban.

8. **Shaw Conservancy and Shaw Natural.** Landfills are prohibited in these environments. (Ord. 2–1998 Exh. B § 5.5.12)

### 18.50.260 Residential development.

#### A. Regulations – Location and Design.

1. Residential development is only allowed landward of the OHWM except as specifically allowed for live-aboard vessels in subsection E.

2. Where waterfront screening trees are absent, developments on waterfront lots shall cover no more than 50 percent of the width of the lot as measured by the shortest straight line distance from lot line to lot line through the most seaward point of the primary residential structure. Developments with multiple structures shall ensure that the combined width of all the structures does not exceed 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, the structure 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 Figure 5.6

3. Generally, the maximum allowed height for residential structures is 35 feet as determined by the Structural Height Measurement Method set forth in SJCC 18.20. Residential structures exceeding a height of 35 feet shall be allowed only as a conditional use permit. The conditional use permit to exceed the 35 feet in height shall 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 that make a taller structure desirable from the standpoint of the public interest.
Figure 5.6 50% of Frontage Width

HERE A, B AND C
MUST TOTAL NO
MORE THAN 80'
(50% OF 160')

50% Of Frontage Width

A 160'  B  160'  80'  160'  80'

Seaward

Most seaward
point of primary
residential structure
4. **Miscellaneous Exceptions.** The lot coverage and setback requirements of subsections (A)(2) and (C) of this section shall not apply to designated building sites in a common area, or lots surrounded by a common area that meet all the following criteria:
   a. Are less than 0.3 acres in size;
   b. Where the building sites or lots were approved in a division of land or binding site plan on or before December 31, 1990;
   c. Are circular; and
   d. Are surrounded on all sides by property preserved as a common area or is protected in perpetuity by a conservation easement.

5. If 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) and (C) of this section, the standards on the document approving the division of land shall control.

**B. Prohibited Uses and Activities.**

1. Except as otherwise provided, new residential structures and appurtenant structures are prohibited over water or floating on the water.

**C. Regulations – Setback Standards.**

1. As an alternative to the buffer provisions of SJCC 18.50.080 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).

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.

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 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.

4. Residential structures are also subject to the following:
   a. If houses on waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the water than the specified minimum setback or buffer and 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 SJCC 18.50.090; and
      iii. The authorized buffer and tree protection zones are the greater of:
         A. The waterward side of a line drawn 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 the adjoining lots.

**D. Regulations – Appurtenant structures.**

1. With the exception of stairs, pathways and decks, appurtenant structures that are not water-dependent shall be prohibited seaward of the most landward extent of the residence. If this regulation would result in greater adverse impacts on shoreline ecological functions, or would
conflict with other applicable regulations of this master program, the Director may authorize 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 SJCC 18.50.020(F) as normal appurtenances to a residential use shall be subject to a conditional use permit.

E. Live-aboard Vessels.

1. Location. Live-aboards shall be allowed only within marinas. Live-aboard moorage spaces shall be limited and shall not exceed 25 percent of the total number of slips in a marina.

2. Standards. Live-aboard vessel moorages shall ensure that:
   a. Live-aboard vessels will have access to a sewage pump out facility within a day’s travel;
   b. Live-aboard residents will have access to onsite restrooms; and
   b. Live-aboard residents will have access to an onsite potable water supply/system.

F. Regulations by Designation.

1. Natural. Residential development shall be prohibited in the natural designation; provided, that the owner of a lot of record existing before the effective date of this SMP, may construct one single-family residence and appurtenant structures for his or her own use. Vacation (short-term) rental of the single-family residence or accessory dwelling unit is prohibited. Alteration of natural topography and vegetation shall be restricted to the minimum square footage absolutely necessary for the construction of the structure(s) and access to them. Alteration of the land-water interface is prohibited.

2. Aquatic. Residential development except for allowed live-aboard vessels is prohibited in the aquatic designation.

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.

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 following investigation of the site.

3. Log storage is not permitted 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.

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.

9. 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.

10. Log transfer facilities will not be approved until:
   a. It can be shown by the applicant that existing facilities 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 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.

11. The development of a facility for log transfer, or the use of an unimproved shoreline area for a log transfer site, shall be subject to conditional use.

12. 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.

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.

2. **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.

4. **Conservancy.** Log handling, dry storage, and wet storage facilities may be allowed in the conservancy environment 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 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.

6. **Aquatic.** Wet storage and log transfer sites and facilities shall be allowed in the aquatic environment subject to the policies and regulations of this SMP, and to the regulations by environment for the abutting shoreline environment. If a proposed site or facility would abut more than one abutting shoreline environment 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. (Ord. 2-1998 Exh. B § 5.5.13)

### 18.50.270 Signs.

In addition to the standards in SICC 18.40 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 toward 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 shall be shielded or recessed so that the direct glare 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 18.40. 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, freestanding 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 may be nine (9) feet in height as measured from the highest point to 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 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 18.40;
   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 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 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 Designation.**

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

2. **Conservancy.** In the conservancy designation signs shall be allowed only if they are mounted flush to the wall of a building.

3. **Natural and Aquatic.** In natural and aquatic designations, signs shall be prohibited except for traffic signs, official warning signs, signs identifying public facilities, and other signs required by law; provided, other signs may be allowed in the aquatic designation if they are mounted flush to the wall of an allowed 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 that significantly impair visual access to the shoreline.
3. Spinners, streamers, pennants, flashing lights, internally lit signs, and other animated signs.
4. Signs placed on trees or other natural features.

18.50.290 — Mineral extraction.

A. **General Regulations.**

1. Applications for substantial development permits for mineral extraction must be accompanied by a report prepared by a competent professional geologist which 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.
2. All mineral extraction 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.
3. The extraction of minerals from any marine beach or feeder bluff or any lake beach for any commercial or industrial purpose is not permitted.
4. The extraction of minerals from any marine or lake beach for noncommercial, nonindustrial purposes is strongly discouraged and must be prohibited if necessary to protect natural resources or systems.
5. Topsoil or other overburden having value for agriculture or other beneficial uses must not be removed or disposed of in a manner which will reduce its value or prevent its future use.
6. 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.
7. 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 the reclamation effort is to be initiated and completed and must show that the site is to be reclaimed for a use which is permitted by this master program on the subject site. In all cases the reclamation program will be initiated within 60 days following the completion of the extraction operations.
8. The extraction of minerals in or under San Juan County waters shall be undertaken only with the approval of the appropriate state and federal regulatory agencies and, where applicable, only in compliance with the provisions of this SMP.

B. **Regulations by Environment.**

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 permitted in the rural environment subject to the policies and regulations contained in this section. A 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.

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.

   (Ord. 2–1998 Exh. B § 5.5.14)

18.50.280 Transportation facilities.

**A. Regulations – General.**

1. Where appropriate, provisions for pedestrian access to or along the water shall be included in the plans for all new public transportation facilities.

2. Commercial watercraft and seaplane operations at public access points require a conditional use permit.

3. All transportation facilities in shoreline jurisdiction shall be located, designed, constructed, and managed to ensure no net loss of shoreline ecological functions and processes.

4. All transportation facilities in the shoreline jurisdiction shall not adversely impact planned or water-dependent uses existing on the date of the application.

**B. Regulations – Roads (Public and Private).**

1. Major collector roads shall not be constructed in shoreline areas where an alternative alignment landward of the SMP jurisdiction is feasible and practicable.

2. Major collector roads that must be constructed through shoreline areas shall follow the shortest, most direct route possible, consistent with protection of the physical ecological functions 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. Roadside brush shall be controlled by mechanical rather than chemical means.

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

6. Roads shall be set back behind the tops of feeder bluffs a sufficient distance to ensure there will be no need for shoreline stabilization within 75 years, a safe distance behind the tops of feeder bluffs.

**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, that it could not feasibly be located on a site outside the SMP 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 serving ferry terminals; however, shall be allowed in the shoreline jurisdiction.

2. Parking facilities and accessory uses, such as 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. Parking areas allowed on shorelines shall be located landward of the uses they are designed to serve, unless an alternative orientation would reduce the adverse impacts.
4. Parking is prohibited over water.

5. Parking facilities for shoreline activities 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 in accord with SJCC 18.50.070.

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.

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.

G. Regulations – Float Plane Facilities.

1. Use of docks for 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.

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.

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 that float plane access is allowed.

4. Float plane access shall be prohibited at County parks.

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.

2. Permanent barge landing sites and facilities shall not be approved until:
   a. It can be shown by the applicant that facilities existing on the date of the application are not adequate or feasible for use; and
   b. Alternative access is not adequate or feasible.

3. Barge landing sites and facilities shall be located, designed, constructed, and maintained in a manner that ensures no net loss of shoreline ecological and maximizes the opportunity to serve multiple users on a given island.

4. The development of a new permanent facility for barge landings shall require a shoreline 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 is allowed. In this case, the shoreline exemption is processed after the landing activity.

1. **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.

1. **Regulations by Designation.**
   
   1. **Rural Residential.** Roads shall be allowed where no feasible alternative exists. Permanent barge landing sites and facilities are prohibited.
   
   2. **Conservancy and Rural Farm Forest.** Pedestrian trails shall be allowed in the conservancy designation. Roads and parking areas serving allowed uses shall be approved only where no feasible alternative exists; ferry terminals may be approved as conditional use 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 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 shall be prohibited.
   
   3. **Natural.** With the exception of pedestrian and fire trails, transportation facilities shall be prohibited in the natural designation. Parking facilities are prohibited in the natural shoreline use designation.
   
   4. **Aquatic.** Transportation facilities in the aquatic designation shall be limited to facilities serving all types of waterborne traffic.

18.50.300 Pedestrian beach access structures.

A “beach access structure” is a set of steps or stairs or a ramp used to provide pedestrian access to the beach. A beach access structure is a normal appurtenance to single-family residence in San Juan County. Beach access structures are only defined as an exempt development under limited circumstances, pursuant to SJCC 18.50.020. All nonexempt beach access structures require a shoreline substantial development permit and must meet all of the general regulations for beach access structures.

**A. Regulations.**

1. Every application for a substantial development permit for a nonexempt beach access structure shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential impacts on bank stability, the extent of vegetation removal, visual impacts, and structural stability.

2. Beach access structures which can reasonably be expected to interfere with the normal erosion accretion process associated with feeder bluffs shall not be permitted. All beach access structures must comply with the bank stability requirements of SJCC 18.50.330(B)(2).

3. Beach access structures shall not be located below the ordinary high water mark (OHWM) unless connected to an exempt or permitted structure.

**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)

18.50.290 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 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 substantiate the infeasibility of routes existing 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. Utility lines, pipes, stations, plants, and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.

4. Where installation of utility lines, pipes, or other apparatus in shoreline areas is approved, clearing shall be confined to what is absolutely necessary to permit the installation and to prevent interference by vegetation once the system is in operation.

5. 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 aesthetics and shoreline ecological functions.

6. 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.

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.

1. Desalination and reverse osmosis systems are allowed as the primary water supply for new land divisions or other development projects within the shoreline jurisdiction. Such facilities may be allowed to provide fresh water to community water systems.

2. Desalination lines must be connected to docks, ramps and stairs or other structures existing on the date of the application wherever feasible.

3. Desalination and reverse osmosis systems on shorelines must be designed to prevent a net loss of shoreline ecological functions.

4. 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. Whenever possible, vegetation and terrain features existing at the time of the application must be used for screening.

5. Desalination and reverse osmosis facilities must not impede public access to public tidelands or materially interfere with normal public use of public waters.

6. Desalination facilities with an intake of greater than discharging more than 33,000-100,000 gallons of brine per day shall not be allowed unless a detailed assessment of the conditions of the site and
a mitigation analysis, consistent with SJCC 18.50.090 and shows the project will ensure that there is no net loss of shoreline ecological functions.

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 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 prohibited.
   f. 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 Designation.
   1. Conservancy. Utility transmission, distribution, or collection facilities are permissible in the conservancy designation provided, that the applicant can demonstrate that no feasible alternative exists.
   2. Natural. Utility facilities shall be prohibited in the natural designation; provided, that facilities that must cross the shoreline in order to cross a water body may be installed, if no feasible alternative location exists and if the facility is installed underground. Desalination and reverse osmosis systems shall be allowed in the natural designation only for a single-family residence and only if serving a use allowed in the natural designation.
   3. Aquatic. Utility transmission and collection facilities shall be allowed in the aquatic designation provided, that no feasible alternative exists.

18.50.310 Ports and water-related port facilities.

A. General Regulations.
   1. All proposed port development activities shall be consistent with an adopted comprehensive port development plan.
   2. Industrial enterprises which are not water-dependent are not permitted to locate within any marine port area. Industrial enterprises within marine port areas which are not water-related are not permitted to locate within 200 feet of any shoreline.
   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 such access will not significantly interfere with port operations or endanger public health or safety.

B. Regulations by Environment.
   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.
2. **Rural.** Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are permitted in the rural environment, 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.

4. **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, 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.

7. **Aquatic.** Ports and water-dependent or water-related port facilities are permitted in the aquatic environment, 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, the policies and regulations of the most restrictive abutting environment 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)

**Article IV. Shoreline Modification Regulations**

18.50.300 General shoreline modification activities

A. Prior to undertaking any shoreline modification project the responsible party 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. 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. For all shoreline modification proposals the applicant shall provide adequate information to determine that the project will meet all applicable requirements. In most cases this includes:
   a. Construction materials (e.g., type, dimensions, design);
   b. Method of construction and erosion control;
   c. Location of project on lot;
   d. Ordinary, low, and high water elevations. The OHWM shall be based on observed field indicators and is subject to verification by DOE;
   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 project including beach and building site landward of the OHWM;
h. Beach type, slope, and material;
i. Land type, slope, and material;
j. Soil types (NRCS);
k. Assessment of the stability of the site before and after the project; and
l. Potential impacts upon shore processes and nearby properties.

4. Shoreline modification projects must control erosion throughout the project, and promptly revegetate the area after the project is completed.

18.50.320 Recreation.

A. General Regulations.

1. Recreational areas shall 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.

3. Land vehicles are prohibited on beaches, dunes, or fragile shoreline areas except as necessary for official 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 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. Structures shall be set back a safe distance behind the tops of feeder bluffs.

B. Regulations by Environment.

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. Rural Residential and Rural Farm Forest. Recreational uses shall be 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 or multifamily development.

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 are permitted in that environment, subject to the policies and regulations contained in this SMP. Such uses might include viewpoints and pedestrian trails. However, roads, camping areas, parking areas, restrooms, and similar facilities shall not be located within the shoreline. Golf courses, playing fields, and similar large area uses shall not be permitted. The use of chemical fertilizers, pesticides, and herbicides shall be prohibited. Landscaping, where permitted, shall
consist solely of native vegetation.

6. **Aquatic.** Recreational uses shall be permitted in the aquatic environment, subject to the policies and regulations of this master program and to the regulations by environment applicable to the abutting shoreline area. Where the proposed recreational use would abut more than one shoreline environment, the policies and regulations of the most restrictive abutting environment shall govern.

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. (Ord. 2–1998 Exh. B § 5.5.17)

18.50.310 Breakwaters, jetties, and groins.

A. Regulations.

1. Breakwaters, jetties and groins waterward of OHWM 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 to avoid adverse impacts on the circulation of water, the movement of sand, and 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 shall be allowed only with shoreline conditional use 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. **Conservancy.** Floating breakwaters may be permitted in the conservancy designation 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.

2. **Natural.** Breakwaters, jetties, and groins are prohibited in the natural designation.

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

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

**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 extreme high water mark, except as specifically allowed for 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.

6. In all new land divisions and multiple-unit and multifamily developments, one of the following standards shall be met:
   a. A common area of 75 feet measured landward from the 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 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
   b. At least 20 percent of the area within the shoreline jurisdiction shall be designated as common area, and all other common area requirements shall also be met. A minimum of two acres within the shoreline jurisdiction shall be provided for each 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.

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 the 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.

13. Developments on waterfront parcels shall cover no more than 50 percent of the width of the parcel as measured across the seaward face of each building site from side lot line to side lot line. However, on lots less than 80 feet wide at the building line, 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.

14. The maximum permitted height for residential structures is 28 feet. Residential structures 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 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 applicant must demonstrate 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.

16.—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 natural shoreline environment designation.
   b. The property is occupied by existing, individually owned single-family dwelling units 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 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 residential 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 sanitarian.
   f. There is an approved septic system for each unit or there is documentation that a functioning septic system exists to serve each unit and that adequate drainfield reserve area exists.
   g. The proposal is designed to allow the simultaneous transfer or division of each ownership interest in the property.

17.—Any conditional use permit granted 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 or transfer of land ownership. The property owners must 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 within two years of the effective date of the conditional use permit.
   b. Residential density on the property shall not exceed that 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 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.

19.—Miscellaneous Exceptions. The lot coverage and setback requirements of subsections (B)(13) and (D) of this section shall not apply to those parcels which are less than 0.3 acres in size, where the parcel boundaries were approved in a division of land before December 31, 1990. If the lot document approving a division of land establishes different coverage and setback standards from those in subsections (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.

1. New residential structures and accessory 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 allowed 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. 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. 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. 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.
   c. 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.
   d. If existing houses on adjoining waterfront lots are closer than the specified minimum setback, a lesser setback may be authorized by the administrator. 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.

1. 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 features or resources or would conflict with other applicable regulations of this master program, the administrator may authorize by written findings and determination an alternative location without requiring a shoreline variance permit.

2. 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.

G. Houseboats.

1. Location. Houseboats are prohibited on state-owned aquatic land and shall be allowed only within a portion of a marina located within the shoreline jurisdiction of an activity center which has been granted shoreline substantial development permit approval for houseboat moorages. Houseboat moorage spaces shall be limited to those areas within a marina specifically identified on approved project plans for this use and the allotted area shall not exceed 10 percent of 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 moorage proposals shall demonstrate that:
   
   a. 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. Houseboat units will be connected to an approved potable water supply with demonstrated capacity to serve the number of units proposed;
   c. 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 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 shall not be permitted in the natural environment, provided, that the owner of an existing parcel of record may construct a 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 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 permitted houseboats, is prohibited in the aquatic 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. S-2002 §§ 2, 3; Ord. 12-2000 § 2; Res. 145-1998; Ord. 2-1998 Exh. B § 5.5.18)

### 18.50.320 Structural shoreline stabilization measures

#### A. General

1. When danger is imminent (damage expected within 3 years), new or enlarged hard shoreline stabilization measures shall be permitted for 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. A certificate of exemption is required prior to undertaking the repair of shoreline stabilization measures.

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

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. 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.

#### B. Regulations - General design standards.
1. New, enlarged and replacement structural shoreline stabilization measures shall be considered in the following hierarchy of preference. Actions lower in the hierarchy may not be considered until those higher in the hierarchy have been shown to be impracticable or infeasible:
   a. 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. 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. 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 SJCC 18.50.090, General Environmental Protection and Mitigation. 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 dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat; and
   c. Avoiding impacts in areas of ecological importance where possible, including significant areas of natural erosion and accretion.
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 to 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.

1. 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:

a. 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 tie in with the contours of the adjoining
properties, as feasible, so that the proposed stabilization will not cause erosion of the adjoining properties;

b. 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;

c. Any filling in excess of 1 cubic yard per linear foot of stabilization structure is subject to SJCC 18.50.060 and requires a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit;

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

e. The sizing and placement of all materials must be selected to accomplish the following objectives:
   i. Protect upland structures from erosion over the long term;
   ii. 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;
   iii. Allow safe passage and migration of fish and wildlife; and
   iv. 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:

a. 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 SJCC 18.50.320.G 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;

b. 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;

c. The sizing and placement of all materials must be selected to accomplish the following objectives:
   i. Protect upland structures from erosion over the long term;
   ii. 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.
   iii. Allow safe passage and migration of fish and wildlife; and
   iv. 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.

18.50.340 Transportation facilities.

A. Regulations—General.
1. Transportation facilities located in shoreline areas must be designed and maintained to 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.
5. Where appropriate, provisions for pedestrian access to or along the water shall be included in the
plans for all new public transportation facilities.

6. Commercial watercraft and seaplane operations at public access points require a substantial
development permit.

B. Regulations – Roads (Public and Private).

1. Primary roads shall not be constructed in shoreline areas where an alternative upland alignment is
feasible and practical.

2. Primary roads which must be constructed through shoreline areas shall follow the shortest, most
direct route possible, consistent with protection of the physical 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.

5. Roadside brush shall be controlled by mechanical rather than chemical means.

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

7. Roads shall be set back a safe distance behind the tops of feeder bluffs.

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 on shorelines unless it can be shown that the parking area is an
essential accessory to a permitted use and that it could not feasibly be located on the upland site.

2. Parking areas designed to serve ferry terminals shall be permitted on the shorelines.

3. 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.

4. Upland parking areas serving shoreline uses shall be linked to those uses by safe, pedestrian
accesses.

5. Parking is prohibited over water.

6. Parking facilities shall be designed and landscaped to minimize adverse impacts to adjacent
shorelines 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.

D. Regulations – Airports, Airfields and Airstrips. Airports, airfields and airstrips are prohibited within the
shoreline jurisdiction.

E. Regulations – Ferry Terminals.

1. Ferry terminals and their related parking areas shall be located, designed, and constructed to
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 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 shall be allowed only in public or
private marinas or established port areas and shall be subject to 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 or private community docks and shall be subject to a shoreline conditional use permit for
float plane use.

3. 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 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.

4. 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. Barge landing sites and facilities 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 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.

2. Barge landing sites and facilities shall be located, designed, constructed, and maintained in a manner which provides the least adverse impacts to the shoreline environment and which maximizes the opportunity to serve multiple users on a given island.

3. The development of a facility for barge landing, or the use of an unimproved shoreline area for a barge landing site, shall be subject to conditional use.

I. Regulations by 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 affected, subject to the policies and regulations of this SMP.

3. Rural Residential. Pedestrian trails shall be permitted in the rural residential. Roads shall be permitted where no feasible alternative exists. Barge landing sites and facilities are prohibited.

4. Rural Farm-Forest. Same as conservancy.

5. Conservancy. Pedestrian trails shall be permitted in the conservancy environment. Roads and parking areas serving permitted uses shall be permitted where no feasible alternative exists; ferry terminals may be permitted as conditional uses 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 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 shall not be permitted.

6. Natural. Transportation facilities shall not be permitted in the natural environment; provided, that pedestrian or fire trails may be permitted if they would not significantly degrade the values which warrant the designation of the area as natural.

7. Aquatic. Transportation facilities in the aquatic environment shall be limited to terminals 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)

18.50.330 Overwater structures including boating facilities, docks, piers, mooring floats, mooring buoys and recreational floats

A. General Regulations.

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. 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 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 5.11 below.

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 lot such as a dock, a marine railway or a boat launch ramp. A mooring buoy may be allowed to serve single lots or areas with community use docks. In addition multiple forms of moorage or structures for boat access to the water may be allowed on a single lot if:
   a. Each form of boat access to water serves a public or commercial recreational use, provides public access, is a part of a marina facility, or serves an historic camp or 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 lots.

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

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 overwater structures existing at the time of application is preferred over construction of new docks and piers.

10. Mooring buoys shall be preferred over docks and piers on all marine shorelines.

11. 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.

13. Every application for a shoreline substantial development permit for 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 18.50.090. 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;
14. Overwater structures that can reasonably be expected to interfere with the normal erosion-accretion process associated with feeder bluffs shall be prohibited.

15. Abandoned or unsafe 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.

16. 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.

C. Regulations – General Design and Construction Standards.

1. Chemical treatment for coated piles, floats, or other structural members shall be non-toxic and consistent with materials approved by the Environmental Protection Agency, U.S. Army Corps of Engineers, the WDOE and other applicable state agencies.

2. 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 ordinary high water along lakes.

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

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

5. Overhead wiring or plumbing is not allowed on piers or docks.

6. New or relocated boathouses or covered moorages are prohibited on 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.

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

8. 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.

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

10. 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 that will visually blend with the background.

D. Regulations – Boating facilities.

1. As defined in SJC 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 the project’s benefits for the public such as providing physical or visual access to the shoreline; and

iii. Shows 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 SJCC 18.50.090 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 if justified in documentation submitted consistent with SJCC 18.50.330(M), below.

6. Boating facilities must be no longer than necessary to accommodate the intended use, consistent with the demand analysis provided per SJCC 18.50.330(M) 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 – 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. Bulk fuel storage (retail or wholesale) for gasoline, oil, and other petroleum products for any use or purpose is prohibited on piers and docks.

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

F. Regulations Private, residential, non-commercial and community joint-use docks, 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 facilities existing at the time of application are not adequate or feasible for use;
   b. Alternative moorage, including mooring buoys, mooring floats, boating facilities and joint use facilities, is not adequate or feasible; and

4. Size and Dimensions of 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 5.11 Marine and Lake

<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>Width</td>
<td>Private residential, joint-use, community docks</td>
</tr>
<tr>
<td></td>
<td>• Pier: 6 feet</td>
</tr>
<tr>
<td></td>
<td>• Float: 8 feet</td>
</tr>
<tr>
<td></td>
<td>• Ramp: 4 feet</td>
</tr>
<tr>
<td>Length</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>Area</td>
<td>• Boating facilities: contingent on project and expected adverse impacts.</td>
</tr>
<tr>
<td></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>Height</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>Decking</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>Orientation</td>
<td>As close to North/South as feasible to minimize shadows</td>
</tr>
<tr>
<td>Safety Ladders</td>
<td>Every 60 lineal feet.</td>
</tr>
<tr>
<td>Boat/ Watercraft lifts</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>
### Dock Element vs. Marine and Lake

<table>
<thead>
<tr>
<th>Dock Element</th>
<th>Marine and Lake</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covered moorage / watercraft lift canopies</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

6. 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.

#### G. 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 in documentation submitted consistent with SJCC 18.50.330(M), below.

2. Marina’s overwater structures must be no longer than necessary to accommodate the intended use, consistent with the demand analysis provided per SJCC 18.50.330(M) below.

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

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

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

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

7. Marina-related structures or uses that are not in and of themselves water-dependent shall not be located over water.

8. 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.”

9. The incorporation of public access facilities into marina design shall be required subject to the provisions of SJC 18.50.120. Marinas may restrict access to specific areas for security reasons.

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

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

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

13. Where fill is permissible it shall be allowed only for the necessary water-dependent portions of the facility and shall conform to the regulations of SJCC 18.50.060 and 18.50.300. Fill, for the creation of parking areas, shall be prohibited.

14. Parking areas associated with marinas shall be subject to the regulations of SJCC 18.50.280 Transportation facilities.

15. Up to 25% of the total number of slips may be used for live-aboards in marinas, provided the marina requires use of best management practices and has facilities for disposal of sewage, oil and hazardous substances, gray water, and solid wastes in accordance with federal, state, and local laws. (WAC 332-30-171(2)(c))

#### H. Regulations – Boat launches (including marine railways).
1. Boat launching ramps and marine railways shall be designed so as not to obstruct littoral drift.

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

3. Boat launching ramps, minor 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 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 the unaltered grade, avoiding fill where feasible, and shall not obstruct public access to and along the shoreline and across publicly-owned tidelands. A boathouse at the landward end of a marine railway, above the OHWM, is allowed in conjunction with a marine railway provided that the structure meets all the required buffers and/or setbacks.

I. Regulations – Mooring Buoys.

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

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 WAC 246-282, 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.

6. 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.

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

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

J. 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.

K. Replacement of Boating Facilities, Docks, Piers, Mooring and Recreational Floats.

1. The Director may approve a design different than the facility being replaced without a shoreline variance if it meets all of the following criteria:
   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.
L. Additions to or expansions of boating facilities, docks, piers, mooring and recreational floats.

1. 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.

M. Regulations - Submittal Requirements.

1. For all new or enlarged boating facilities, private noncommercial, joint-use, 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/or
   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, joint-use, community-use docks, piers, floats and launching facilities.
   a. If the project results in unavoidable adverse impacts to shoreline ecological functions or processes, mitigation of adverse impacts in accordance with 18.50.090 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 N.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.

N. Regulations by Designation.

1. Rural Residential and Rural Farm-Forest. Marinas shall be prohibited; however, the expansion or alteration of a marina legally established prior to the effective date of this SMP may be allowed subject to the regulations of this SMP.

18.50.350 Utilities.

A. Regulations — General.

1. In shoreline areas, utility transmission lines, pipelines, and cables must be placed underground
2.—Utility development must, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, provided 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 which will cause the least damage to the shoreline, both physically and visually.

10.—Drainage and surface runoff from utility installation areas shall be controlled so that pollutants will not be carried into water bodies.

11.—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 or water quality provided all required state and federal requirements are met.

B.—Regulations—Desalination.

1.—Desalination lines must be located along existing paths, trails, or connected to existing docks and beach access structures wherever feasible.

2.—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 will be minimized.

3.—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 and terrain features must be used whenever possible for screening.

4.—Desalination and reverse osmosis facilities must not impede public access to public tidelands or materially interfere with normal public use of public waters.

5.—Desalination and reverse osmosis systems will not be allowed for the purposes of providing the primary water supply 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 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.

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 prefiltration beach wells located landward of the line of mean lower low water is allowed provided all state and federal requirements are met.

C. Regulation by Environment.

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 permitted in the conservancy environment subject to the policies and regulations contained in this master program; 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 shall not be permitted in the natural environment; 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 in the natural environment 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.

5. Aquatic. Utility transmission and collection facilities shall be permitted in the aquatic environment 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 general 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. (Ord. 2–1998 Exh. B § 5.5.20)

Article IV. Shoreline Modification Regulations

18.50.340 Shoreline habitat and natural systems enhancement projects.

A. Regulations.

1. 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. 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 except when timing and increased performance of identified ecological functions are proven, 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 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. Vegetation planted to restore or enhance beaches shall be non-toxic native plants suited to the habitat characteristics of the site.

2. Design Criteria. Natural beach enhancement shall not:
   a. Detrimentally interrupt littoral drift or redirect waves, current, or sediments to other shorelines;
   b. 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;
   c. Extend waterward more than the minimum amount necessary;
   d. Result in contours sufficiently steep to impede pedestrian passage or trap drifting sediments;
   e. Create additional developable dry land mass; and
   f. 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.

3. Construction Standards.
   a. 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.

b. The restored beach shall approximate, the natural beach width, height, bulk, or profile.

4. Long-term maintenance and monitoring provisions for 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 character.

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 Designation.

1. Conservancy. Shoreline restoration and beach enhancement shall be allowed in the conservancy designation only with a conditional use permit and where it is demonstrated that conservancy shoreline values will be protected or enhanced.

2. Natural. Shoreline restoration and beach enhancement shall be prohibited in the natural designation unless the proposal is to restore natural conditions that have been degraded by conditions other than the erosion-accretion process.

3. Aquatic. Shoreline restoration and beach enhancement shall be allowed in the aquatic designation subject to the regulations of this SMP and to the regulations by designation for the abutting designation area. Where the proposed site abuts more than one shoreline designation, the regulations of the most restrictive abutting designation shall govern.

18.50.360 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;
   c. 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.

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 the these environments subject to the policies and regulations of this SMP.

3. Conservancy. Shoreline modification for stabilization and flood control works shall be allowed 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)
### Article V Shoreline use table.

#### 18.50.350 Allowed and prohibited use table for shoreline designations.

1. The table below provides a concise guide to 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 5.12 Districts

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<th>Rural Farm-Forest</th>
<th>Rural Residential</th>
<th>Urban</th>
<th>Port, Marina and Transportation</th>
<th>Aquatic</th>
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<tr>
<td>CUP = Conditional Use Permit</td>
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</tr>
<tr>
<td>No = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</td>
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#### Agriculture

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#### Boating Facilities and Other Overwater Structures

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#### Marina

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#### Boating Facilities including docks, floats, boat launches

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#### Private residential boat launch/Marine railway and associated Boat Houses

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#### Mooring Buoy

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#### Breakwaters, jetties and groins

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<table>
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<th>SD/E</th>
<th>SD/E</th>
<th>SD/E</th>
</tr>
</thead>
</table>

1. Note: Certain activities may be subject to additional regulations not specified in this table.
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

<table>
<thead>
<tr>
<th>Jetties and groins</th>
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<th>Conservancy</th>
<th>Rural</th>
<th>Rural Farm-Forest</th>
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</table>

**Commercial Development**

- Water-dependent uses: No | SD/E* | SD/E* | No* | No* | SD/E* | SD/E* | SD/E* | SD/E*
- Water-related uses: No | SD/E* | SD/E* | No* | No* | SD/E* | SD/E* | SD/E* | SD/E*
- Water-enjoyment uses: No | SD/E* | SD/E* | No* | No* | SD/E* | SD/E* | SD/E* | SD/E*
- Nonwater-oriented uses: No | No | SD/E* | No* | No* | SD/E* | No | C | --
- Mixed use commercial: No | SD/E* | SD/E* | No* | No* | SD/E* | SD/E* | SD/E* | SD/E*
- Mixed use residential: No | SD/E | SD/E | SD/E | CUP | SD/E* | No | -- |

**Dredging and Dredge Material Disposal**

- Dredging: No | SD/E* | SD/E* | SD/E* | SD/E* | SD/E | SD/E | SD/E |
- Dredge material disposal, in-water: No | No* | SD/E* | SD/E* | SD/E* | SD/E | No |
- Dredge material disposal, upland: No | No | SD/E* | SD/E* | SD/E* | SD/E | SD/E | -- |
- Dredging or dredge material disposal associated with restoration: No | No | SD/E* | SD/E* | SD/E* | SD/E | SD/E | SD/E |

**Fill and Excavation**

- 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 |

**Flood Hazard Reduction**

- Dikes, levees: CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | -- |

**Forest Practices**

- Commercial Forestry: SD/E* | SD/E | CUP | SD/E | CUP | CUP | No | No |
- Log transfer sites/Log Storage: No | SD/E* | SD/E* | SD/E | SD/E* | SD/E | SD/E | SD/E* |

**Industry**

- Water-dependent uses: No | No | CUP* | * | No | SD/E* | SD/E* | SD/E* |
- Water-related uses: No | No | CUP* | * | No | SD/E* | SD/E* | No |
- Processing aquacultural products: No | CUP | CUP | CUP | CUP | No | CUP | -- |
- Nonwater-oriented uses: No | No | No | No | No | No | No | No |

**Institutional Development**
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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<thead>
<tr>
<th>Natural</th>
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<td>Jetties and Groins</td>
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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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| Desalination | SD/E* | SD/E | SD/E | SD/E | SD/E | SD/E | SD/E | SD/E |
| Large | No* | * | SD/E | SD/E | SD/E | SD/E | SD/E | SD/E |

**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.

**18.50.370—Shoreline restoration and beach enhancement.**

**A. Regulations.**

1. Beach enhancement in all environments shall be undertaken only for restoration, enhancement,
or maintenance of natural resources.

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. **Natural Beach Restoration or Enhancement.**
   a. **Design Alternatives.** Design alternatives shall include the best available technology such as:
      i. Gravel berms, drift sills, beach nourishment, and beach enhancement when appropriate;
      ii. Planting vegetation, when appropriate. All plantings must be maintained. Vegetation planted to restore or enhance beaches shall be native plants suited to the habitat characteristics of the site.
   b. **Design Criteria.** Natural beach restoration or enhancement shall not:
      i. Detrimentally interrupt littoral drift or redirect waves, current, or sediments to other shorelines;
      ii. 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;
      iii. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
      iv. Result in contours sufficiently steep to impede easy pedestrian passage or trap drifting sediments;
      v. Create “additional dry land mass”; and
      vi. Disturb significant amounts of valuable shallow water fish or wildlife habitat, unless such habitat is immediately replaced by new habitat that is comparable or better.
   c. **Natural Beach Restoration Construction Standards.**
      i. 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.
      ii. 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 affects 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.

B. Regulations by Environment.

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 in the conservancy environment only by conditional use 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 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 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 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)

**Article VI. Severability and Effective Date**

18.50.360 **Severability.**
If any provision of this master program or its application to any person, legal entity, or circumstances is held invalid, the remainder of the program and the application of said provision to any other person, legal entity, or circumstance shall not be affected.

18.50.380 **Severability.**
If any provision of this master program or its application to any person, legal entity, or circumstances is held invalid, the remainder of the program and the application of said provision to any other person, legal entity, or circumstance shall not be affected. (Ord. 2–1998 Exh. B § 5.7)

18.50.380 **Effective date.**
This master program shall be effective immediately upon final approval and adoption by the Washington Department of Ecology as provided in RCW 90.58.090.

18.50.390 **Effective date.**
This master program shall be effective immediately upon final approval and adoption by the Washington Department of Ecology as provided in RCW 90.58.090. (Ord. 2–1998 Exh. B § 5.8)

**Shoreline Permit Procedures**

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 SJCC) 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 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.

B. Notice of Application for Shoreline substantial development, Shoreline Conditional Use, Shoreline Variance Permits.

1. Notice of application and public hearing is required for shoreline permit applications as provided in SJCC 18.80.030 and 18.30.040. A public hearing is required for shoreline permit applications as provided in SJCC 18.80.030 and 18.30.040. The administrator shall submit notice of shoreline permit applications to the appropriate subcommittee (by commissioner district) of the planning commission.

2. 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 application may be processed individually under each of the procedures identified in the by 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 36.708.090 and 36.708.110. (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 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. 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(F) and (G). In making this determination, the administrator shall consider the ultimate scope of a development and the extent to which the development is consistent with the policies and regulations of the SMA and master program. The administrator 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.

1. The Director will make an administrative determination as to whether the proposal is exempt from the need for a shoreline substantial development permit. 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.

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

2. The scope of developments that 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(E) and (F). In making a determination, the Director shall consider the ultimate scope of a proposal and its consistency with the SMA and the SMP. The 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.

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

4. 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 173–27–050 and SJCC 18.50.020 (G).

5. 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.

4. In addition, a certificate of exemption shall be prepared for any proposal 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)).

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 such administrative determination shall be mailed to the applicant and to the Washington Department of Ecology.

7. A copy of any administrative determination shall be mailed to the applicant and to the Washington Department of Ecology.

7. An administrative determination shall be prepared in the format described in WAC 173–27–050 for a 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. 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
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. 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. 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 receives the County’s filing of the County decision, shall begin the period for WDOE review and final permit decision as described in subsection (L) of this section.

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

7. Construction or substantial progress toward construction of a project that 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 or the terms of permit approval. However, the two-year period shall not include time that 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, 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 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 173-26 WAC and Chapter 173–27 WAC, as amended;

2. Consistent with the policies and regulations of the 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 SJC 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 where there are extraordinary or unique circumstances related to the property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

   a. In 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 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.

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

   c. Filing of variances with and review by the DOE are described in subsection (L) of this section.

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 proved 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 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 SMP 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 SMP 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 precludes all reasonable use of the property not otherwise prohibited by the master program;
   ii. Proposal is consistent with the criteria established under subsection (1)(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. In the granting of 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 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 environment.

d. 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.

e. Filing of variances with and review by the Washington Department of Ecology are described in subsection (L) 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 the location of frequently flooded areas within the proposed development area; geologically hazardous areas in or within 200 feet of the proposed development area; 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; the location of any golden eagle nests in or within 1,000 feet of the proposed development area; and 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;
   c. Required critical area reports, critical area delineations, and the Best Available Science documents supporting the proposal;
   d. A copy of proposed or approved storm water and erosion control plans as required by SJCC Chapter 18.60;
   e. A narrative describing anticipated adverse impacts to the shoreline ecological functions and critical areas, based on Best Available Science, 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 18.50.090 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 SJCC Chapter 18.80.

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 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

c. 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 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;

e. 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;

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

5. Other uses that which 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 Washington Department of Ecology are described in subsection (L) 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 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:

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;

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

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);

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

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

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 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 WDOE 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)

18.80.120 Procedures for nonconforming uses and structures.

A. Legally established land uses and structures that have subsequently become nonconforming because of changes to County land use regulations continue to be legal. Standards governing such nonconforming structures and uses are located in SJCC 18.40.310.

B. No project permit or development permit shall be approved for any nonconforming use or structure that has been abandoned as per SJCC 18.40.310(J). Nonconforming uses or structures may not be moved to a new site nor be relocated on the same site.

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

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

E. Procedures for Nonconforming Use or Structure not Subject to the Shoreline Master Program.

1. The procedures for provisional uses (SJCC 18.80.070) shall apply to the actions and activities described in SJCC 18.40.310(B) through (D), as limited by SJCC 18.40.310(G) through (J).

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

F. Illegal Use. Any use, structure, or other site improvement not established in compliance with this code and other applicable codes and regulations in effect at the time of establishment is not nonconforming; rather, it is illegal and subject to enforcement provisions of Chapter 18.100 SJCC. (Ord. 15–2002 § 12; Ord. 2–1998 Exh. B)

To be added to 18.20 Definitions:

“A” Definitions

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 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 in 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 farm 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.

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 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.

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.

Aquaculture activities 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. Non-commercial aquaculture includes harvesting fish, shellfish or other aquatic animals and plants for subsistence, recreational and personal consumption, scientific research and/or restoration activities.

“B” Definitions

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.

Building Footprint means the horizontal area enclosed by the exterior wall and attached porches and decks.

“C” Definitions

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 I beach” means a beach or shore having dependable, geologically fully developed, and normally dry backshore.

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 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.

“F” Definitions
Flood Hazard Reduction means structural and non-structural methods of reducing flood damage and hazards to uses. Non-structural measures include 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.

“H” Definitions

“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), above, 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 shoreline of a substantial number of residences on areas adjoining such shorelines, excluding temporary construction equipment (WAC 173-27-030).

“L” Definitions

Live-aboard vessel means:

(a) Any vessel used primarily as a residence;

(b) Other than commercial fishing boats, any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence.

“M” Definitions

Marine Port Area means the space in which the shoreline jurisdiction overlaps that of a Port District.

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.

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.

Multiple unit development means a single project, whether one or more buildings, with not less than 5 residential units.

“P” Definitions

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.

“R” Definitions

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.

“S” Definitions

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.
**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.

"T" Definitions

**Top of Bank** means the first major change in the slope from the OHWM. A major change is a change of ten degrees or more.