

Ordinance No. 11 - 2017**AN ORDINANCE AMENDING SAN JUAN COUNTY ORDINANCE 1-2016; SECTION B, ELEMENT 3 OF THE COMPREHENSIVE PLAN; SHORELINE MANAGEMENT REGULATIONS; AND SAN JUAN COUNTY CODE CHAPTERS 18.20 AND 18.80****BACKGROUND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 a. Shoreline substantial development permits;
 - 2 b. Shoreline conditional use permits; and
 - 3 c. Shoreline variances.
- 4 4. Certificates of exemption from shoreline substantial development permits are also
5 regulated by this Chapter.

6 **B. Notice of application for shoreline permits.**

- 7 1. A notice of application is required for shoreline permit applications as provided in
8 SJCC 18.80.030.
- 9 2. Applications for shoreline permits may be circulated for comment to the director of
10 the University of Washington Friday Harbor Laboratories on the same schedule as other
11 reviewing agencies.

12 **C. Administrative responsibilities.** The administrator’s responsibilities are set forth in
13 Section 8(E) of this ordinance.

14 **D. Consolidated permit processing.** Proposals that involve two (2) or more types of project
15 permits may be consolidated under the “highest” procedure (i.e., the right-most applicable
16 column in Table 8.1, SJCC 18.80.020) required for such permits, or the applications may
17 be processed individually under each of the procedures identified by this code. The
18 applicant may request the consolidation of hearings with other local, state, regional, federal
19 or other agencies in accordance with RCW 36.70B.110. (See also SJCC 18.80.020(B)(2),
20 Consolidated Permit Processing, and SJCC 18.80.140(G), Consolidated Appeal Hearings.)

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

- 25 1. Based upon the criteria in subsection (H) and (J) of this section, hear and approve,
26 approve with conditions, or deny shoreline substantial development permits and shoreline
27 conditional use permits following receipt of the recommendations of the director; and
- 28 2. Based on the criteria in subsection (I) of this section hear, and approve, approve with
29 conditions, or deny variances from the provisions of the SMP following receipt of the
30 recommendations of the director.

31 **F. Shoreline substantial development permit exemptions.**

- 32 1. The director will make an administrative determination as to whether a proposal is
33 exempt from a shoreline substantial development permit. The applicant bears the burden of
34 proving that a proposal is exempt.
- 35 2. Developments that are exempt from a shoreline substantial development permit are
36 established in ~~SJCC 18.50.020~~ Sections 10 and 11 of this Ordinance. In making this
37 determination, the director will consider the ultimate scope of a proposal and its

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

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

6 4. A copy of approved certificates of exemption shall be mailed to the applicant and to
7 the WDOE.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **H. Criteria for approval of shoreline substantial development permits.**

- 15 1. A shoreline substantial development permit shall will be granted by the County if the
16 applicant demonstrates the proposal is:
 - 17 a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapter 173-
18 26 WAC and Chapter 173–27 WAC, as amended;
 - 19 b. Consistent with the policies and regulations of this SMP;
 - 20 c. Consistent with other applicable sections of this code; and
 - 21 d. Consistent with the goals and policies of the Comprehensive Plan;
- 22 2. The conditions specified by the hearing examiner to make the proposal consistent
23 with the SMP and to mitigate or avoid adverse impacts to shoreline ecological functions
24 will be attached to the permit.

25 **I. Shoreline variances.**

- 26 1. Variances are strictly limited to granting relief from specific bulk, dimensional, or
27 performance standards set forth in this SMP. Variances may be approved where there are
28 extraordinary or unique circumstances related to the property and the strict implementation
29 of the SMP will impose unnecessary hardships on the applicant or thwart the policies set
30 forth in RCW 90.58.020.
- 31 2. Variances or exemptions granted from the provisions of other local regulations will
32 not be construed to constitute variances from the provisions of this SMP.
- 33 3. The location of the proposed project will determine which of the following two (2)
34 sets of variance criteria are to be considered. Variances from the provisions of this SMP
35 may be granted when the applicant has proven that one (1) of the following sets of criteria
36 has been met:

1 a. Variances for development located landward of the ordinary high water mark
2 (OHWM) except within those areas designated as wetlands pursuant to Chapter 173–
3 22 WAC, may be authorized if the applicant can demonstrate all of the following:

4 i. That the strict application of the bulk, dimensional, or performance
5 standards set forth in this SMP precludes or significantly interferes with
6 reasonable use of the property that is not otherwise prohibited by the SMP.

7 ii. That the hardship specifically related to the property, is the result of
8 unique conditions such as irregular lot shape, size, or natural features, is not, for
9 example, from deed restrictions or the applicant’s own actions and results from
10 the application of specific provisions of the SMP;

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

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

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

18 OR

19 b. Variances for development that will be located either waterward of the OHWM
20 or within wetlands designated under Chapter 173–22 WAC, may be authorized
21 provided the applicant can demonstrate all of the following:

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

25 ii. The proposal is consistent with SJCC 18.80.110(I)(3)(a)(i) through (v);
26 and

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

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

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

37 6. Filing of variances with and review by the WDOE are described in subsection (G)(5)
38 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **J. Shoreline conditional use permits.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7
8 **N. Vesting.**

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

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

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

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

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

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

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

4
5 ~~86.~~ Applications for comprehensive plan amendments processed under Chapter 18.90
6 SJCC are not subject to the vesting rules in this section.

7
8 **SECTION 3. Ord. 1-2016 § 8 is amended to read as follows:**

9
10 **General.**

11
12 **A. Title.** This Chapter of the San Juan County Unified Development Code (UDC), together
13 with Element 3 of the Comprehensive Plan, the Official Maps and Common Descriptions of
14 Shoreline Designation Boundaries That Do Not Follow Property Lines (Ordinance 1-2016,
15 Exhibit D), and SJCC 16.55.040, 16.55.210(E)(2)(d), Section 2(B) figures 130-7, 130-6 of the
16 Eastsound Subarea plan, SJCC 18.30.480, the Eastsound Waterfront Access Plan, and SJCC
17 18.80.110 is the Shoreline Master Program (SMP) for San Juan County, Washington.

18
19 **B. Short Title.** The short title of this Chapter and Element 3 of the Comprehensive Plan is the
20 “SMP.”

21
22 **C. Authority.**

23
24 1. The provisions of this Chapter are adopted pursuant to RCW 90.58.140(1-3) and
25 90.58.200, the SMA, Chapters 173-26 and 173-27 WAC, and Element 3 of the
26 Comprehensive Plan. Except when specifically exempted by statute, all proposed uses and
27 development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW,
28 the SMA, and this SMP.

29
30 2. As provided in RCW 90.58.900, the SMA is exempt from the rule of strict
31 construction. The SMA and the SMP is liberally construed to give full effect to the
32 purposes, goals, objectives, and policies for which the SMA and this SMP were enacted
33 and adopted.

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

38
39
40 **D. Official map.**

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

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

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

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

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

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

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

17 1. Director.

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

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

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

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

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

29 iv. Collecting required fees;

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

31 vi. Making field inspections; and

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

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

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

2
3 **General applicability.**

4
5 **A. Relationship to comprehensive plan.**

6 This SMP provides land use regulations to implement the goals and policies of the
7 Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of
8 the County that fall under the jurisdiction of the SMA. These regulations do not apply to
9 development and uses beyond the jurisdictional limits of the SMA unless a proposed
10 development involves both jurisdictional and non-jurisdictional land and the upslope land
11 development is likely to adversely affect shoreline ecological functions.

12 **B. Applicability to persons.**

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

18 **C. Applicability to federal agencies.**

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

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

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

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

29 This SMP applies to all developments, uses, and structures, as well as activities regulated by
30 Section 18 of Ordinance 1-2016 Chapter 18.35 SJCC. Unless otherwise authorized, shoreline
31 development without a project permit, shoreline substantial development permit, shoreline
32 conditional use permit, shoreline variance, or certificate of exemption is prohibited.

33
34
35
36 **SECTION 5. Ord. 1-2016 § 10 is amended to read as follows:**

37
38 **Exemptions from shoreline substantial development permit requirements.**

1
2 **General requirements.**
3

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

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

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

14 **D.** The following developments, as defined in WAC 173-27-040, are not shoreline substantial
15 developments and ~~may~~ require a certificate of exemption when not considered as part of a larger
16 project or development permit:

17 1. With the exception of docks, any development, use, structure or activity whose total
18 cost or fair market value, whichever is higher, does not exceed the maximum exempt
19 amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173-
20 27-040(2)(a), if such development does not materially interfere with the normal public use
21 of the water or shorelines of the state. The total cost or fair market value of the
22 development includes the fair market value of any donated, contributed or found labor,
23 equipment, or materials.

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

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

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

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

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

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

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

15 a. In salt waters, the fair market value of the dock does not exceed twenty-five
16 hundred dollars (\$2,500); or

17 b. In fresh waters, the fair market value of the dock does not exceed ten thousand
18 dollars (\$10,000) but if subsequent construction having a fair market value exceeding
19 twenty-five hundred dollars (\$2,500) occurs within five (5) years of completion of the
20 prior construction, the subsequent construction is considered a substantial
21 development.

22 9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or
23 other facilities that now exist or are hereafter created or developed as part of an irrigation
24 system for the primary purpose of making use of the system waters, including return flow
25 and artificially stored ground water from the irrigation of lands in accordance with WAC
26 173-27-040(2)(i).

27 10. The marking of property lines or corners on state-owned lands, when such marking
28 does not significantly interfere with normal public use of the surface of the water in
29 accordance with WAC 173-27-040(2)(j).

30 11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities
31 existing on September 8, 1975, that were created, developed, or utilized primarily as part of
32 an agricultural drainage or diking system in accordance with WAC 173-27-040(2)(k).

33 12. Site exploration and investigation activities that are prerequisite to preparation of an
34 application for development authorization under this SMP in accordance with WAC 173-
35 27-040(2)(m) if:

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

37 b. The activity will have no significant adverse impact on the environment such as
38 fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

39 c. The activity does not involve the installation of any structure, and upon

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

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

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

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

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

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

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

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

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

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

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

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

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

38 **SECTION 6. Ord. 1-2016 § 11 is amended to read as follows:**

1
2 **Exemptions from substantial development permit requirements – Normal residential**
3 **appurtenances.**
4

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

- 10
11 1. Construction or renovation of structures with fair market value of less than the
12 maximum value allowed by WAC 173-27-040(2)(a) (\$6,416 in October 2012).
13
14 2. Private pedestrian pathways, stairways and ramps, provided that a written certificate
of exemption is obtained, and all of the following criteria are met:
15
16 a. The total cost or fair market value of the improvements does not exceed the
maximum allowed by WAC 173-27-040(2)(a);
17
18 b. Roofs or roof covering materials such as awnings are not allowed for purposes
of this exemption;
19
20 c. All materials must be finished in subdued natural earth colors;
21
22 d. No construction or placement seaward or below the OHWM is allowed unless
the stairways or ramp are connected to an exempt or permitted dock;
23
24 e. No other shoreline access exists or is feasible;
25
26 f. The maximum vertical height of the stairway is fifteen (15) feet and the
27 maximum width of the structure is five (5) feet. One intermediate landing or platform
with a maximum size of five (5) feet by five (5) feet is allowed. Stairways proposed
for exposed areas of the shoreline are not allowed on rock faces or bluffs that exceed
a sixty (60) degree angle; and
28
29 g. The project complies with the bank stability and geologically hazardous area
requirements of Section 18 of this ordinance and ~~Chapter 18.35 SJCC.~~

30 **B. Certificates of exemption.**

31 1. The director may approve or deny applications for an exemption from a shoreline
32 substantial development permit for uses and developments listed in Section 10 and Section
33 11(A) of this ordinance. Approved certificates must describe the specific exemption that is
34 being applied to the development and indicate that a proposal is consistent with the SMP
35 and the SMA. The certificate of exemption may contain conditions or mitigation measures
36 required for consistency with the SMP and SMA. The denial of an exemption must include
37 written findings. The director's approval or denial of a certificate of exemption may be
38 appealed under SJCC 18.80.140.

39 2. When not part of an approved development or project permit a ~~A~~ certificate of

1 exemption is required for:

- 2 a. Dredging;
- 3 b. Flood hazard control structures;
- 4 c. Archaeological or historic site alteration;
- 5 d. Clearing, grading, fill, excavation and vegetation removal (~~when not part of an~~
6 ~~approved project permit~~);
- 7 f. Dock construction, repair, replacement, or enlargement;
- 8 g. Structural shoreline stabilization, repair, replacement, or enlargement;
- 9 h. Any residential, commercial or industrial development project within the natural
10 and aquatic designations (~~when not part of an approved project permit~~);
- 11 i. Small scale shellfish aquaculture consistent with the provisions of Section 28(B)
12 of this ordinance;
- 13 j. Temporary barge landing sites; and
- 14 k. Private pedestrian pathways, stairways and ramps.

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

19 4. A certificate of exemption is not required for residential development, including
20 normal residential appurtenant structures, when a building project or development permit
21 application is required. In addition to the conditional use permit required by Section
22 60(D)(2) of this ordinance, normal residential appurtenances that are not considered as part
23 of original development permit are required to obtain a certificate of exemption.

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

27
28 **SECTION 7. Ord. 1-2016 § 16 is amended to read as follows:**

29
30 **Clearing, grading, fill, excavation and vegetation management.**

31
32 **A.** All clearing, grading, fill and excavation must comply with SJCC 18.60.060, 18.60.070 and
33 Section 18 of this ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **O.** Regulations by designation.

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

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

21 **General environmental protection.**

22 **A.** Land uses and developments that include vegetation removal, fill, excavation or grading on
23 County shorelines must be designed, located, sized, constructed and maintained to result in no
24 net loss of shoreline ecological functions.
25
26

27 **B.** Land use and development project proposals that do not meet the critical area requirements
28 for no net loss in Section 18 of this ordinance must include a mitigation sequence analysis that
29 considers avoiding actions, minimizing the scale and scope of the project and possible mitigation
30 actions. Where a project may cause or increase the intensity of unavoidable adverse impacts on
31 shoreline ecological functions, mitigation to offset the impacts is required and must be consistent
32 with the mitigation sequence and mitigation planning process in Sections 19, 20, and 21 of this
33 ordinance.
34

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

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

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

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

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

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

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

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

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

25 **Critical areas.**

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

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

- 36
37 1. Critical area applicability provisions do not apply in the shoreline jurisdiction.
38 Specifically SJCC 18.35.025 does not apply.

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

18
19 **SECTION 10. Ord. 1-2016 § 19 is amended to read as follows:**

20
21 **Mitigation of adverse impacts to shoreline ecological functions.**

- 22
23 **A.** Shoreline development, land uses, structures and activities must meet the no net loss
24 requirement of WAC 173-26-186(8)(b). If project proposals do not comply with the critical area
25 protections in ~~Chapter 18.35 SJCC~~ Section 18 of Ordinance 1-2016, applicants must submit a
26 mitigation sequence analysis to the department.
- 27 **B.** Mitigation measures must be applied in the following sequence. The applicant must
28 demonstrate that each mitigation action is not feasible or applicable before proceeding to the next
29 option or action:

- 30 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
- 31 2. Minimizing impacts by limiting the degree or magnitude of the action and its
32 implementation by using appropriate technology or by taking affirmative steps to avoid or
33 reduce impacts;
- 34 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected
35 environment;
- 36 4. Reducing or eliminating the impact over time by preservation and maintenance
37 operations; and
- 38 5. Compensating for the impact by replacing or providing substitute resources or
39 environments; and monitoring the impact and compensation projects, and taking

1 appropriate corrective measures

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

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

7
8 **D.** Modifications to wetlands or buffers may be exempt from the requirement to avoid impacts
9 when the wetland is below minimum size thresholds listed in SJCC 18.35.095 provided impacts
10 are fully mitigated according to the remaining mitigation sequence in Section 19(B) of
11 Ordinance 1-2016.

12
13 **SECTION 11. Ord. 1-2016 § 20 is amended to read as follows:**

14
15 **Mitigation plans.**

16
17 **A.** If a mitigation sequence analysis demonstrates that adverse impacts on shoreline ecological
18 functions are unavoidable, mitigation, monitoring and adaptive management plans to offset the
19 adverse impacts must be developed by a qualified professional.

20
21 **B.** Where the proposal will have an adverse impact on wetland ecological functions,
22 mitigation plans, including associated wetland replacement ratios, must be consistent with the
23 guidance provided in *Wetland Mitigation in Washington State - Part 1: Agency Policies and*
24 *Guidance, Ecology publication 06-06-011a (as amended); and Wetland Mitigation in*
25 *Washington State - Part 2, publication 06-06-011b (as amended).* As an alternative, mitigation
26 actions may follow the procedures described in Ecology Publication No. 10-06-011, *Calculating*
27 *Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (as*
28 *amended)* or another mitigation approach or publication approved by WDOE.

29
30 **C.** Mitigation options may include the use of certified mitigation banks and approved in lieu
31 fee mitigation sites when they are identified and approved by the County Council.

32
33 **D.** Removal of shoreline modifications constructed in violation of this code cannot be used to
34 mitigate new adverse impacts to shoreline ecological functions and critical area functions if those
35 modifications were made by the owner of the property, or if they are located on the property that
36 is the subject of the application.

37
38 **E.** Mitigation, monitoring, and adaptive management plans are reviewed and approved by the
39 decision-maker for the underlying permit or approval (director or hearing examiner, depending
40 on type of permit or approval).

41
42 **F.** Mitigation plans must address the scale and scope of the project, and document compliance
43 with the mitigation approval criteria. Mitigation plans must include at least the following
44 information, as applicable:

- 1
2 1. For both the area proposed for development or vegetation removal, and the proposed
3 mitigation site, the applicable items listed in SJCC 18.80.020(C);
4
- 5 2. Photographs of both the development and mitigation sites;
6
- 7 3. The field located OHWM;
8
- 9 4. A mitigation sequencing analysis;
10
- 11 5. Any related project documents such as applications to other agencies or
12 environmental documents prepared pursuant to the SEPA;
13
- 14 6. For both the area proposed for development or vegetation removal, and the proposed
15 mitigation site, applicable critical area reports, tree removal plans, and BAS documents
16 supporting the proposal;
17
- 18 7. For both the area proposed for development or vegetation removal, and the proposed
19 mitigation site, copies of any proposed or approved stormwater and erosion control plan
20 required by Chapter 18.60 SJCC;
21
- 22 8. A narrative describing anticipated unavoidable adverse impacts to critical area
23 functions, the mitigation proposal (including the goals of the proposal; performance
24 standards that will be used to gauge the effectiveness of the proposal, construction
25 methods, and the sequence and timing of actions), and explaining how the proposal meets
26 the plan approval criteria. Assessment of adverse impacts to critical area functions and of
27 the effectiveness of proposed mitigation must be based on the BAS;
- 28 9. For off-site mitigation actions, an explanation of why on site mitigation was not
29 feasible, along with the site selection criteria employed, including a watershed approach for
30 the selection of mitigation sites;
31
- 32 10. If grading, fill or excavation is proposed, pre- and post-construction contour plans
33 are required at a scale suitable for the site;
34
- 35 11. A planting plan (if planting is proposed) identifying plant species, quantities, sizes,
36 locations, spacing, and density, along with proposed measures to protect and maintain the
37 plants until they are established;
- 38 12. Any other drawings necessary to illustrate the proposal;
39
- 40 13. A description of the report author's education and experience relevant to designing
41 and implementing the proposed actions;
42
- 43 14. A monitoring and adaptive management plan appropriate for the scale and scope of
44 the project as determined by a qualified professional and approved by the decision-maker.
45 The monitoring and adaptive management plan must include:

- 1
2 a. A description of measureable indicator data to be collected. The description
3 will demonstrate the validity of the collected data to assess the effectiveness of the
4 project;
5
6 b. A monitoring schedule. Data collection must occur at least once each calendar
7 year. The minimum monitoring schedule is five (5) years, provided the schedule
8 can be reduced after three (3) years ~~unless~~ if the director makes a written
9 determination that the mitigation plan is successful, functioning as designed and
10 the established performance standards have been met. If the plan is unsuccessful,
11 the director may extend the monitoring requirements; and
12
13 c. A requirement for a report submitted to the department by November 1st of
14 each calendar year-explaining corrective actions that will be taken to address
15 unforeseen adverse impacts.
16

17 15. A cost estimate prepared by a qualified professional for implementing the
18 mitigation plan and monitoring the site ~~for a period of three (3) years, or until the qualified~~
19 ~~professional anticipates the plan to be fully completed and functional. The plan must be~~
20 ~~approved by the decision maker (director or hearing examiner, depending on type of~~
21 ~~underlying permit);~~
22

23 16. Unless exempt under RCW 36.32.590, a financial guarantee and associated
24 agreement ~~is required pursuant to SJCC 18.80.200 equal to a minimum of one hundred and~~
25 ~~fifteen percent (115%) of the projected cost of implementing the mitigation and monitoring~~
26 ~~plans (i.e. cost plus fifteen percent (15%)). The maximum cost to the property owner is the~~
27 ~~original cost for implementing and monitoring the project, plus fifteen percent (15%) of~~
28 ~~that cost;~~
29

30 17. The financial guarantee and the associated agreement must meet the requirements of
31 SJCC 18.80.200. For mitigation of adverse impacts to wetlands and fish and wildlife
32 habitat conservation areas, it must initially be established to cover a the time period of three
33 ~~(3) years or~~ until the project is anticipated to be completed and functional as determined by
34 the qualified professional and approved by the decision-maker; and
35

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

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

1 professional who will complete the plans.

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

4
5 **Flood hazard reduction.**

6
7 **A. Applicability.**

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

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

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

19 **B. General regulations.**

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

- 1 5. The removal of substrate for flood management purposes is prohibited.
- 2 6. The applicant must provide the following information:
 - 3 a. Flood hazard area characteristics adjacent to the project area;
 - 4 b. Physical, geological and soil characteristics of the area;
 - 5 c. An analysis of alternative flood protection measures, both structural and
6 nonstructural;
 - 7 d. Shoreline stabilization measures and flood protection works within the area
8 existing at the time of application;
 - 9 e. Predicted impact upon area shore and hydraulic processes, adjacent properties,
10 and shoreline and water uses; and
 - 11 f. Biological resources and predicted impact to fish, vegetation and animal habitat
12 associated with shoreline ecological systems.

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

14

15 **Agriculture.**

16

17 **A. General regulations.**

18

19 1. In accordance with ~~Chapter 18.35 SJCC~~ Section 18 of Ordinance 1-2016, buffers of
20 permanent vegetation or other suitable soil erosion controls shall be established and
21 maintained between tilled or grazed areas and associated water bodies and wetlands. The
22 type and extent of such vegetation and other controls shall be of a width or character
23 sufficient to capture sediments and other compounds.

24

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

29

30 3. Commercial feedlots are prohibited.

31

32 4. New agricultural activities in the shoreline jurisdiction shall be located, designed,
33 constructed and managed in a manner that will result in no net loss of shoreline ecological
34 functions.

35 **B. Regulations by designation.**

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

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

5
6 **Aquaculture.**

7
8 **A. General regulations.**

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

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

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

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

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

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

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

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

39 8. The department may require commercial aquaculture applicants to provide a financial
40 guarantee in an amount commensurate with the risk of injury or damage to any person,

1 property, or shoreline ecological functions as a result of the project. Financial guarantees
2 shall not duplicate the requirements of other agencies.

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

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

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

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

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

1 agents, feed, chemicals or other such materials shall be used until approval is obtained from
2 all appropriate state and federal agencies, including the U.S. Food and Drug
3 Administration, the Washington Department of Agriculture, Washington Department of
4 Health (WDOH), WDOE, and WDFW, and proof of such approvals has been submitted to
5 the department.

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

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

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

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

23 17. Projects involving substantial substrate modification shall be located fifteen hundred
24 (1,500) feet or more from areas identified in National Wildlife Refuge lands, marine
25 protected areas and state or County parks. Lesser distances may be authorized by permit if
26 the applicant demonstrates that the wildlife resource will be protected and the exception is
27 supported by the reviewing resource agencies. Greater distances also may be required if
28 recommended by the reviewing resource agencies.

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

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

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

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

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

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

13 24. Commercial finfish net pens are prohibited.

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

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

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

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

40 29. A conditional use permit is required for commercial geoduck aquaculture.

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

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

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

10 **B. Small scale shellfish aquaculture.**

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

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

16 b. Exceed the shoreline substantial development permit exemption criteria in Section
17 10 (D)(1) of this ordinance.

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

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

22 b. Certification and license from the WDOH; and

23 c. Shellfish Import or Shellfish Transfer permits from WDFW.

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

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

28 **C. Regulations by designation.**

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

32 2 Conservancy. Aquaculture activities are allowed in this designation provided that
33 natural resources and ecological functions will not be significantly altered; and proposed
34 structures and facilities, both terrestrial and aquatic, will not have a significant adverse
35 impact on the aesthetic qualities of the surrounding area.

36 3. Natural. Aquaculture activities that do not require structures, facilities or mechanized

1 harvest practices and will result in no net loss of shoreline ecological functions are allowed.

2 4. Aquatic. Aquaculture activities are allowed in this designation subject to the
3 regulations of the most restrictive abutting shoreline designation. This is determined on a
4 case-by-case basis but is generally the shoreline designation visible within fifteen hundred
5 feet (1,500) feet directly landward of the center of the project site. The regulations of a less
6 restrictive abutting designation may be substituted if the director determines that the public
7 interest would not be compromised.

8
9 **SECTION 15. Ord. 1-2016 § 34 is amended to read as follows:**

10
11 **Regulations – ramps (including marine railways).**

12
13 **A.** Ramps and marine railways shall be designed to not obstruct littoral drift.

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

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

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

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

26 **SECTION 16. Ord. 1-2016 § 35 is amended to read as follows:**

27
28 **Regulations – mooring buoys.**

29
30 **A.** Mooring buoys shall not interfere with navigation or access to the shoreline. They shall be
31 visible in daylight one hundred (100) yards away.

32 **B.** Mooring buoys shall be placed as specified by state and federal agencies.

33 **C.** Unless there is no feasible alternative, mooring buoys shall be located to avoid eelgrass
34 beds and other critical saltwater habitats.

35 **D.** Mooring buoys individually or cumulatively shall not:

36 1. Impede the ability of other landowners to access their private property;

37 2. Pose a hazard to or obstruct navigation or fishing;

38 3. Contribute to the degradation of water quality or habitat; or

1 4. Pose a threat to a commercial shellfish growing area classification or reduce the
2 potential for an existing area to be upgraded to a new commercial shellfish growing area
3 classification.

4 **E.** Residential mooring buoys shall not be used for live aboard vessels or commercial
5 purposes.

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

8 **G.** Mooring buoys shall be clearly marked and labeled with the owner's name and contact
9 information and WDNR permit authorization number(s).

10 **H.** Unless otherwise permitted by WDNR, the capacity of each mooring buoy shall not exceed
11 one (1) boat and its shore access craft.

12 **SECTION 17. Ord. 1-2016 § 38 is amended to read as follows:**

13
14 **Boating facilities, docks, piers, floats, and ramps - submittal requirements.**

15
16 **A.** For all new or expanded boating facilities, docks, piers, floats, and ramps, applicants must
17 provide a demand analysis demonstrating the need for the proposal that addresses at least the
18 following criteria:

- 19
20 1. The total amount of moorage proposed (except for ramps);
- 21 2. The total number of commercial moorage spaces ~~on the island~~ within the service
22 range of the proposed facility, including vacancies or waiting lists at facilities existing on
23 the date of the application;
- 24 3. The expected service population and boat ownership characteristics of the population,
25 if necessary for specific design elements related to facility length or necessary water depth;
- 26 4. Approved facilities, or pending applications, within the service range of the proposed
27 ~~new~~ facility.
- 28 5. Proposals for new boating facilities, docks, piers, floats, and ramps shall provide
29 documentation demonstrating that expansion of facilities existing at the time of application
30 is not feasible or would not be adequate to meet current demand; and
- 31 6. For new or expanded ramps:
- 32 a. Identification of the nearest public or commercial ramp existing at the time of
33 application;
- 34 b. Demonstration that planned expansion of existing facilities will not meet current
35 or future demand; and
- 36 c. Any other relevant factors related to the need for safe or efficient access to
37 public waters if that information supports justification for specific design elements.

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

- 3 1. A mitigation plan in accordance with Sections 19, 20, and 21 of this ordinance if the
4 project will result in unavoidable adverse impacts to shoreline ecological functions or
5 processes;
- 6 2. A biological assessment compliant with the ACOE and FEMA Region 10 floodplain
7 habitat assessment and mitigation guidance, and the demand analysis prepared in
8 accordance with Section 38(A) of this ordinance;
- 9 3. A slope bathymetry map;
- 10 4. An assessment of current water-dependent uses in the vicinity and documentation of
11 potential impacts to those uses and mitigating measures;
- 12 5. An assessment of pedestrian shoreline access or the infeasibility of providing public
13 access areas for public ramps;
- 14 6. Location of wetlands within three hundred (300) feet and FWHCAs within two
15 hundred (200) feet of the project area; and
- 16 7. Field location of the OHWM.

17 **SECTION 18. Ord. 1-2016 § 40 is amended to read as follows:**

18
19 **Breakwaters, jetties, and groins.**

20
21 **A. Regulations.**

- 22
23 1. Breakwaters, jetties and groins waterward of the OHWM are only allowed for water-
24 dependent uses, public access, restoration, and shoreline stabilization.
- 25
26 2. Breakwaters shall conform to all design requirements established by the WDFW and
the ACOE.
- 27
28 3. Breakwaters shall be designed and constructed to avoid adverse impacts on the
29 circulation of water, the movement of sand, sediment and other ecological functions. The
30 design shall minimize impediments to navigation. Visibility from the shoreline shall be
minimized.
- 31
32 4. Public breakwaters shall permit pedestrian use of their surfaces where safe and
feasible.
- 33
34 5. Breakwaters, jetties and groins require a conditional use permit except in
35 conjunction with a project to restore ecological functions.

36 **B. Regulations by designation.**

- 37
38 1. Conservancy. Floating breakwaters may be allowed in this designation if they can be

1 made visually compatible with their surroundings. Rigid breakwaters may be allowed only
2 as a shoreline conditional use. Jetties and groins are prohibited.

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

4 3. Aquatic. Breakwaters are allowed in this designation subject to the regulations of the
5 most restrictive abutting shoreline designation. Where the proposed breakwater site abuts
6 more than one shoreline designation, the regulations of the most restrictive abutting
7 designation govern.

8 4. Breakwaters, jetties and groins are prohibited in the Eastsound subarea.

9 5. Breakwaters, Jetties and groins required in a shoreline restoration project may be
10 allowed in all designations with a shoreline substantial development permit.

11 **SECTION 19. Ord. 1-2016 § 45 is amended to read as follows:**

12
13 **Soft structural shoreline stabilization design standards.**

14
15 In addition to the general design requirements of Section 43 of this ordinance, the following
16 design standards must be incorporated into the design of soft structural shoreline stabilization
17 measures:

18
19 **A.** The project must be designed to prevent increased erosion of adjacent properties. Soft
20 shoreline stabilization projects may include hard structural shoreline stabilization elements if
21 needed to tie in with hard structural shoreline stabilization measures on adjacent properties. The
22 need to use hard structural shoreline elements must be documented as required in Section 41 of
23 this ordinance. The length of the hard structural shoreline stabilization transition area to adjacent
24 properties shall be the shortest distance possible and not more than ten (10) linear feet. The hard
25 structural shoreline stabilization transition area must not extend waterward of the OHWM,
26 except as needed to connect to the adjoining stabilization structure. It must not extend onto
27 adjacent property.

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

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

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

33 2. ~~Size and place materials so~~ Ensure they will remain stable during a two (2)-year flood
34 event and under typical currents, boat wakes and wind-driven waves including those
35 occurring during storm events if the proposal is near a stream or drainage outlet;

36 3. Allow safe passage and migration of fish and wildlife;

37 4. Minimize the creation of juvenile salmon predator habitat; and

1 5. Use sand and gravel that is suitable as spawning substrate when a proposal is on a
2 shoreline reach with forage fish spawning habitat.

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

7
8 **SECTION 20. Ord. 1-2016 § 51 is amended to read as follows:**

9
10 **Forest practices.**

11
12 **A. General regulations.**

13
14 1. In any ten (10) year period, no more than thirty percent (30%) of marketable trees
15 may be harvested on a parcel located within the shoreline jurisdiction in accordance with
16 WAC 222-30-110. Other timber harvesting may be allowed in limited instances where the
17 topography, soil conditions or silviculture practices necessary for regeneration render
18 selective logging ecologically detrimental.

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

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

23 a. Result in no net loss of shoreline ecological functions;

24 b. Maintain the ecological quality of the watershed's hydrologic system; and

25 c. Prevent significant adverse impacts to other shoreline uses, resources, and
26 values; and

27 d. Provide a benefit with respect to the objectives of the SMA such as navigation,
28 recreation and public access.

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

32 **C. Regulations by designation.**

1 Natural. Forest management practices are allowed in this designation only if no other means of
2 control will work to control a fire, halt the spread of disease or damaging insects, or to clean up
3 and restore an area devastated by a natural disaster such as fire, storm, disease, or insect attack.
4 No roads may be constructed except those necessary to cope with the emergency situation.
5

6 **SECTION 21. Ord. 1-2016 § 52 is amended to read as follows:**
7

8 **Industrial developments and uses.**
9

10 **A. General regulations.**
11

12 1. Only water-dependent and water-related industrial developments and uses are
13 allowed. They must be consistent with or compatible with existing uses on adjacent
14 shoreline parcels.

15 2. Accessory developments and uses such as warehousing, outdoor storage, waste
16 storage and treatment, storm water runoff control facilities, and utilities that do not require
17 a shoreline location must be located landward of the OHWM.

18 3. Existing industrial development and uses on shorelines that are neither water-
19 dependent nor water-related may be allowed to expand inland from existing structures,
20 subject to a shoreline conditional use permit. Waterward or lateral expansion of nonwater-
21 oriented industrial development is prohibited.

22 4. Water-dependent industrial development and uses must be located and designed,
23 where feasible, to eliminate the need for initial or continual dredging, filling, dredge
24 material disposal, and other harbor and channel maintenance activities.

25 5. Storage or disposal of industrial waste is prohibited.

26 6. At new or expanded industrial developments and uses, source control and treatment
27 standards and best management practices required by SJCC 18.60.070 must be employed
28 for the safe handling of fuels and toxic or hazardous materials to prevent them from
29 entering the water.

30 7. The processing of oil and natural gas and their products is prohibited. The installation
31 of underwater oil and natural gas pipelines are prohibited.

32 8. The installation of over-water facilities for the refining of oil and natural gas is
33 prohibited.

34 9. Industrial developments and uses in shoreline jurisdictions must be located, designed,
35 constructed, and managed in a manner that will result in no net loss of shoreline ecological
36 functions.

37 10. Any industrial development and use having the potential for the release of toxic
38 substances into marine waters must have adequate response equipment on site.

39 11. Public access to the waterfront must be provided where an industrial development or

1 use is proposed on public lands.

2 12. Solid waste disposal and liquid waste treatment facilities are prohibited unless there is
3 no feasible alternative. ~~Solid and liquid wastes, biosolids, and untreated effluents~~
4 ~~discharges are prohibited.~~

5 13. Discharge of solid and liquid wastes, biosolids, and untreated effluent are prohibited.
6 ~~New solid waste disposal and liquid waste treatment facilities with treatment capacities~~
7 ~~exceeding five thousand (5,000) gallons per day are prohibited unless there is no feasible~~
8 ~~alternative.~~

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

11 **B. Regulations by designation.**

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

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

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

21
22 **SECTION 22. Ord. 1-2016 § 54 is amended to read as follows:**

23
24 **Log transfer sites, facilities and storage.**

25
26 **A. Regulations.**

27
28 1. Land log storage is preferred over-water log storage unless the applicant demonstrates
29 that water log storage will be less detrimental to the shoreline ecological functions or the
30 public interest.

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

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

36 4. Easy-let-down devices are preferred over the free-fall dumping of logs into the water
37 in conformance with WDNR established policy ("12.1 Log Booming and Log Storage
38 9/1994 or as updated Special Provisions for Booming and Rafting Leases," 17-2-72). The
39 free-fall dumping of logs in a manner that would do avoidable damage to the shoreline

1 ecological functions is prohibited.

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

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

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

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

10 a. There is no feasible alternative; and

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

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

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

17 **B. Regulations by designation.**

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

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

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

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

27 **Private pedestrian pathways, stairways and ramps - general regulations.**

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

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

33 1. All materials must be finished in subdued natural earth colors;
34
35
36

- 1 2. No construction or placement seaward or below the OHWM is allowed unless the
2 private pedestrian pathway, stairway or ramp is physically connected to an exempt or
3 permitted dock;
- 4 3. The maximum vertical height of the structure is fifteen (15) feet and the maximum
5 width of the structure is five (5) feet. One intermediate landing or platform with a
6 maximum size of five (5) feet by five (5) feet is allowed. Stairways may not be located on
7 rock faces or bluffs that exceed a sixty (60) degree angle; and
- 8 4. The project complies with bank stability requirements of SJCC 18.35.055 through
9 18.35.070.

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

- 12 1. Bank stability;
- 13 2. Bank geology;
- 14 3. Vegetation removal in Tree Protection Zone 1 and other requirements of ~~Chapter~~
15 ~~18.35~~ SJCC Section 18 of Ordinance 1-2016;
- 16 4. Potential for revegetation;
- 17 5. Structural stability;
- 18 6. Adverse impacts on shoreline ecological functions; and
- 19 7. Aesthetic impacts.

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

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

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

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

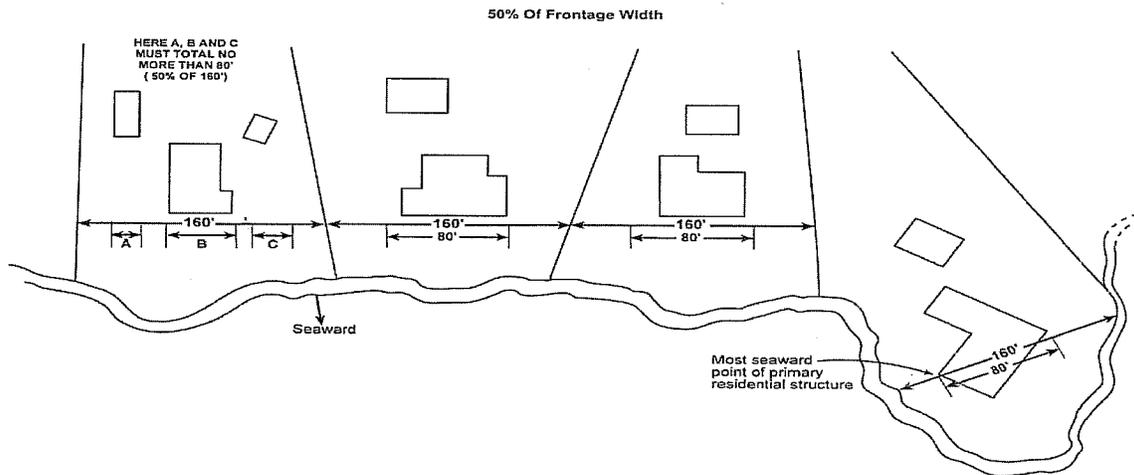
28
29 **Residential development.**

30
31 **A. Regulations – location and design.**

- 32
33 1. Residential development is only allowed landward of the OHWM, except as
34 specifically allowed for live aboard vessels in subsection (F) below.
- 35
36 2. Developments on waterfront lots may not cover more than fifty percent (50%) of the
37 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

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

8 Figure X.



9
10 3. The maximum allowed height for residential structures is thirty-five (35) feet above
11 average grade level. An exception to allow residential structures to exceed the thirty-five
12 (35) feet height limitation may be allowed with a shoreline conditional use permit. In order
13 for the height exception to be approved, the applicant must demonstrate that:

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

19
20 4. Developments on circular lots in the Decatur Northwest subdivision must comply
21 with the setback and development standards approved in that land division and are not
22 required to meet the shoreline setbacks.

1 **B. Prohibited uses and activities.**

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

5 **C. Regulations – buffers and setback standards.**

6 1. On all non-bedrock shorelines, coastal geologic buffers consistent with SJCC
7 18.35.130 are required. The required geotechnical report must demonstrate that the
8 proposed buffer will be sufficient to avoid the need for new protective structural shoreline
9 stabilization measures for the life of the structure (seventy-five (75) years).

10 2. Development may also be subject to critical buffers and restrictions in ~~Chapter 18.35~~
11 SJCC Section 18 of Ordinance 1-2016.

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

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

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

17 6. If existing houses on waterfront lots adjoining the project site are closer to the top of
18 bank or OHWM than any specified minimum setback or buffer and may potentially block
19 the view of the proposed residential structure, a lesser setback or buffer of not less than
20 thirty-five (35) feet may be authorized for a residential structure by the director if:

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

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

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

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

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

30 **D. Regulations – Normal residential appurtenances.**

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

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

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

4 2. Accessory dwelling units must comply with SJCC 18.40.240.

5 3. Normal residential appurtenances that are not identified in the definition in SJCC
6 18.20.140 are allowed with a conditional use permit.

7 **E. Live aboard vessels.**

8 1. Live aboard vessels are only allowed within marinas.

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

13 3. Marinas located outside of state owned tidelands that do not provide facilities for the
14 upland disposal of sewage, oil, grey water, and solid wastes consistent with local, state and
15 federal laws but and do not follow best management practices are allowed to use ten
16 percent (10%) of the total number of slips for live aboard vessels.
17

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

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

21 b. Residents will have access to an on-site restroom and an on-site potable water
22 system and either a restroom or an on-site pump-out facility.
23

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

27 **F. Regulations by designation.**

28 Natural. Residential development is prohibited in this designation, except that the owner of
29 an existing parcel of record may construct one (1) single-family residence and appurtenant
30 structures. Vacation rental of a single-family residence or accessory dwelling unit is
31 prohibited. Alteration of natural topography and vegetation is restricted to the minimum
32 square footage necessary for the construction of the structures and their access. Shoreline
33 modification is prohibited.
34

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

36 **Transportation facilities and parking.**

37 **A. Regulations - general.**
38
39

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

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

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

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

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

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

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

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

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

21 a. Outside of shoreline jurisdiction, or

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

24 5. Roadside vegetation shall be controlled.

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

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

29 **C. Regulations - parking.**

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

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

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

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

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

5 a. Outside of the shoreline jurisdiction, or

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

8 3. Parking areas for shoreline access use are allowed.

9 4. Parking over-water is prohibited.

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

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

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

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

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

18 **E. Regulations - ferry terminals.**

19 Ferry terminals and their related parking lots shall be located, designed, and constructed to
20 result in no net loss of shoreline ecological functions.

21 **F. Regulations - County docks.**

22 1. Overnight moorage is prohibited at County docks.

23 2. County docks must be designed and located to increase public access and result in no
24 net loss of shoreline ecological functions.

25 **G. Regulations - float plane facilities.**

26 1. Use of docks for scheduled commercial float plane service, meaning five (5) or more
27 round trips per week according to a published schedule, are only allowed in public or
28 private marinas, or established port areas, with a shoreline conditional use permit.

29 2. Regular use of docks for float plane access or moorage is allowed only at public or
30 private marinas, port areas, or private and community docks with a shoreline conditional
31 use permit.

32 3. Use of docks and marinas for irregularly scheduled float plane service is allowed.

33 4. Shoreline conditional use permit applications for float plane use will include the
34 following conditions:

- 1 a. Taxiing patterns must minimize noise impacts on area residents and wildlife,
2 and interference with navigation and moorage;
- 3 b. Fuel and oil spill clean-up plans and materials, and fire-fighting equipment are
4 required on site. Spill response equipment must be commensurate with the size of the
5 facility and float plane use; and
- 6 c. Specific hours of the day in which float plane access is allowed.
- 7 5. Float plane access is prohibited at County road ends and parks, and freshwater
8 shorelines where public shoreline access exists.

9 **H. Regulations - barge landing sites and facilities.**

- 10 1. Temporary barge landing sites require a certificate of exemption but are exempt from
11 a shoreline substantial development permit. These sites shall not exceed twelve (12)
12 landings in any twenty-four (24) month period and must be operated in a manner that will
13 result in no net loss of shoreline ecological functions.
- 14 2. New permanent barge landing sites and facilities require a shoreline conditional use
15 permit. The shoreline conditional use permit will not be approved unless the applicant can
16 demonstrate that:
 - 17 a. The use of barge landing sites and facilities existing on the date of application is
18 not feasible;
 - 19 b. An alternative access is not feasible; and
 - 20 c. The proposed barge landing schedule will minimize negative off-site impacts.
- 21 3. All barge landing sites and facilities shall be located, designed, constructed, and
22 maintained in a manner that results in no net loss of shoreline ecological functions and
23 maximizes the opportunity to serve multiple users on an island.
- 24 4. The use of an unimproved beach as an emergency landing site is allowed. The
25 shoreline exemption required by Section 11 of this ordinance may be processed after the
26 landing activity. Within seven (7) days of the emergency, the agency or person who
27 undertook the landing(s) shall report to the director the extent of the emergency actions and
28 any adverse impacts to shoreline ecological functions caused by the actions. The agency or
29 person who undertook the action is required to mitigate adverse impacts in accordance with
30 the requirements of Sections 16, 17, 18, 19, 20 and 21 of this ordinance.

31 **I. Regulations - public pedestrian trails.**

- 32 1. Public pedestrian trails shall be aligned to avoid or minimize adverse impacts on
33 shoreline ecological functions.
- 34 2. Public pedestrian trails shall be constructed consistent with local, state and federal
35 standards.

36

1 **J. Regulations by designation.**

2 1. Rural Residential. Roads are allowed where no feasible alternative exists. Permanent
3 barge landing sites and facilities are prohibited unless a need has been established by
4 monitoring the use of temporary barge landing sites and a conditional use permit is
5 obtained.

6 2. Conservancy and Rural Farm Forest.

7 a. Public pedestrian trails are allowed in these designations.

8 b. Roads and parking lots serving allowed uses may be allowed if no feasible
9 alternative exists with a shoreline substantial development permit.

10 c. Ferry terminals and scheduled commercial or regular use float planes may be
11 allowed as a conditional use if it can be shown that no feasible alternative exists and
12 that the public interest would be better served by construction of the facility.

13 d. Barge landing sites and facilities may be allowed in the conservancy designation
14 if the site will serve multiple users on the island affected, and the applicant
15 demonstrates that conservancy shoreline resources will not be materially harmed.
16 Permanent barge landing sites require a shoreline conditional use permit and
17 temporary barge landing sites require a certificate of exemption.

18 e. Other transportation facilities are prohibited.

19 3. Natural. With the exception of public pedestrian trails, transportation facilities are
20 prohibited in this designation. Parking lots are prohibited unless there is no feasible
21 alternative and a conditional use permit is obtained.

22 4. Aquatic. Transportation facilities in this designation are limited to facilities serving
23 waterborne traffic such as ferries, boats, kayaks, barges, and float planes.
24

25 **SECTION 26. Ord. 1-2016 § 65 is amended to read as follows:**

26
27 **Shoreline modification regulations - shoreline habitat and natural systems enhancement**
28 **projects.**

29
30 **A. Regulations.**

31
32 1. Shoreline habitat and natural systems enhancement projects must:

33 a. Establish, restore or enhance shoreline habitat;

34 b. Be consistent with the objectives and policies of the County's Restoration Plan;

35 c. Be designed using the best available scientific and technical information, and
36 implemented using best management practices;

37 d. Not adversely affect shoreline ecological functions and processes;

1 e. Not significantly interfere with public use of the navigable waters of the State
2 without appropriate mitigation or must demonstrate that interference with the public
3 use of the navigable waters of the State will be mitigated; and

4 f. Demonstrate that changes in littoral drift will not adversely affect adjacent
5 properties or habitats.

6 2. Shoreline habitat and natural systems enhancement applications will not be approved
7 unless the applicant demonstrates that the project will:

8 a. Will ~~Θ~~ occur at a time of year that will not impact spawning, nesting, or
9 breeding, ~~shoreline habitat~~; and

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

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

13 3. Shoreline habitat and natural systems enhancement projects are prohibited where
14 littoral drift of the project materials might adversely affect adjacent spawning grounds
15 or other areas of biological significance.

16 **B. Natural beach enhancement projects.**

17 1. Design alternatives for natural beach enhancement projects shall include appropriate
18 best management practices and available technology such as:

19 a. Gravel berms, drift sills, beach nourishment, and beach enhancement; and

20 b. Plantings of non-toxic native vegetation suited to the habitat characteristics of
21 the site.

22 2. Natural beach enhancement shall not:

23 a. Detrimently interrupt littoral drift or redirect waves, current, or sediments to
24 other shorelines;

25 b. Result in any exposed groin-like structures except small drift sill groins may be
26 used as a means of stabilizing restored sediment if they are part of a beach restoration
27 program;

28 c. Extend waterward more than the minimum amount necessary to implement the
29 enhancement plan;

30 d. Result in contours sufficiently steep to impede pedestrian passage or trap
31 drifting sediments;

32 e. Create additional dry land mass that could be developed; or

33 f. Permanently disturb shallow water forage fish or wildlife habitat, unless the
34 habitat is immediately replaced by a new enhanced habitat.
35

1 3. Natural beach enhancement projects must comply with the following construction
2 standards:

3
4 a. The size or mix of new materials to be added to a beach shall be as similar as
5 possible to the natural beach sediment, but large enough to resist normal current,
6 wake or wave action at the site; and

7 b. The enhanced beach shall approximate the natural beach profile (width, height,
8 and bulk).

9 **C. Regulations by designation.**

10 1. Conservancy. Shoreline restoration and beach enhancement is allowed in this
11 designation if shoreline values and functions are protected or enhanced.

12 2. Natural. Shoreline restoration and beach enhancement is prohibited in this
13 designation unless the proposal is to restore natural conditions.

14 3. Aquatic. Shoreline restoration and beach enhancement is allowed in this designation
15 subject to the regulations of the most restrictive abutting shoreline designation. Where the
16 proposed site abuts more than one (1) shoreline designation, the regulations of the most
17 restrictive abutting designation governs.

18
19 **SECTION 27. Ord. 1-2016 § 66 is amended to read as follows:**

20
21 **Shoreline developments, uses, structures and activities by designation.**

22 **A.** In addition to the general and specific standards established in Article III of this Chapter,
23 for development, uses, structures and activities, Table X indicates if a development, use,
24 structure or activity:

- 25
26 1. Is allowed;
27 2. Is prohibited;
28
29 3. Requires a shoreline substantial development permit;
30
31 4. Requires a shoreline conditional use permit; or
32
33 5. Is subject to other certificates or conditions.

34
35 **B.** Certain shoreline developments, uses, structures and activities in some shoreline
36 designations are subject to additional regulations. They are marked with an asterisk in Table X.
37 A use not named or contemplated in this Chapter may be allowed subject to a conditional use
38 permit.

39
40 **C.** Legend for Table X Shoreline development, uses, structures and activities by designation:

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

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Agriculture	CUP*	SD	SD	SD	SD	SD	No	NA
Aquaculture								
General aquaculture	SD *	SD *	SD	SD	SD *	SD	No	SD *
Small scale shellfish aquaculture	SD *	SD *	SD *	SD *	SD *	CUP	No	SD *
Noncommercial freshwater hatcheries	SD*	SD*	SD*	SD*	No	SD *	No	NA
Finfish net pens	No	No	No	No	No	No	No	No
Commercial geoduck aquaculture	CUP	CUP	CUP	CUP	CUP	CUP	No	CUP
Over-water Structures¹ including Boating Facilities								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Single family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
Breakwaters, Jetties and Groins¹								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	SD CUP	SD CUP	SD CUP	SD CUP	SD -CUP	SD -NA
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
<u>Breakwaters, Jetties and groins for shoreline restoration projects</u>	SD	SD	SD	SD	SD	SD	SD	SD
Commercial Development								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Nonwater-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Dredging and Dredge Material Disposal								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material disposal, in-water	No	No*	SD*	SD*	SD*	SD	SD	No
Dredge material disposal, upland	No	No	SD*	SD*	SD*	SD	SD	NA
Dredging or dredge material disposal associated with restoration	No	No	SD*	SD*	SD*	SD	SD	SD*
Clearing, Grading, Fill, and Excavation								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
Essential Public Facilities								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
Flood Hazard Reduction								
Dikes, levees, revetments, floodwalls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
Forest Practices								
Commercial forestry ^{1,3}	SD* CUP	SD	SD*	SD	CUP	CUP	No	No

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Log transfer sites, facilities and storage ^{1,3}	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
Industrial Development¹								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP ¹	No*	No	SD	No	No
Processing aquacultural products	No	CUP	CUP	CUP	CUP	No	CUP	NA
Nonwater-oriented uses	No	No	No	No	No	No	No	No
Institutional Development^{1,2}								
Water-Dependent	No	CUP	SD	No	No	SD	SD	SD*
Nonwater-oriented	No	No	CUP	No	No	No	No	No
Mineral Extraction¹								
Mineral extraction	No	No	SD*	No	No	SD	No	No
Recreational Development^{1,2}								
Water-oriented	SD*	SD/CUP*	SD/ CUP if Commercial	SD*	SD*	SD	SD	SD*
Public park without camping facilities	SD	SD	SD	SD	SD	SD	SD	SD
Public park with camping facilities	SD	SD*	SD	No	No	SD	SD	SD
Private campground	SD*	SD/CUP*	SD	No	No	SD	SD	No
Residential Development²								
Single family	No*	SD	SD	SD	SD	SD	SD	No*

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Multi-family	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals ^{2,6}	No*	No	CUP*	SD	SD	SD	SD	No
Private Pedestrian Pathways, Stairways and Ramps								
Private pedestrian pathways, stairways and ramps	No	SD	SD	SD	SD	SD	SD	No
Shoreline Habitat and Natural Systems Enhancement Projects⁴								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
Structural Shoreline Stabilization⁵								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
Signs								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
Transportation and Parking								

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

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary ⁶	No	See footnote 6*	See footnote 6*	See footnote 6*	See footnote 6*	See footnote 6*	See footnote 6*	See footnote 6*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	CUP No	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	NO	SD	NO	SD	SD	SD	NA

Table X Shoreline development, uses, structures and activities by designation								
	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Utilities^{7,6}								
Utility transmission and distribution lines, pipelines, cables, stations, plants, and other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations	No*	SD*	SD	SD	SD	SD	SD	SD
Desalination systems	SD*	SD	SD	SD	SD	SD	SD	SD

1 **Table X Notes:**

2 1. Eastsound subarea plan prohibits:

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

11 2. Shaw Island subarea plan prohibits:

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

17 3. Subject to the general provisions of Sections 51 and 54 of this ordinance forest management activities including log handling and storage facilities are allowed in all shoreline designations on Shaw Island.

18 4. Shoreline habitat and natural systems enhancement projects are a shoreline conditional use within Eastsound subarea plan and are only allowed for public facility or public safety projects.

1 5. The replacement or expansion of structural shoreline stabilization measures is allowed but is reviewed and
2 permitted as a new structural shoreline stabilization measure.

3
4 ~~6. Requires a certificate of exemption.~~

5
6 ~~7.~~ New outfalls of a domestic or industrial sewage treatment facility within one-half (0.5) mile of a marina may
7 be allowed as a conditional use.

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

9 “Campground and camping facilities” means a facility in which sites are offered for less than 30
10 days for persons using tents or other personal, portable overnight shelters.

11 “Camping” means to reside for less than 30 days in a tent or other personal, portable overnight
12 shelters.

13 “Capital facilities” means physical structures or facilities owned or operated by a government
14 entity which provides or supports a public service.

15 “Capital improvements” means improvements to land, structures, initial furnishings, and selected
16 equipment.

17 “Carrier” means a provider of telecommunications services.

18 “Channel” means an open conduit for water either naturally or artificially created, but does not
19 include artificially created irrigation, return flow, or stock watering channels. (See WAC 173-14-
20 030 (8)(b); see also “stream.”)

21 “Civic and cultural facilities” means structures and related activity areas used by organizations
22 providing educational, social, religious or recreational services to the community; including
23 performance halls, government service offices, facilities for religious assembly, colleges,
24 primary and secondary schools, museums, and libraries.

25 “Class I beach” means a beach that encompasses stable, infrequently wetted backshore berms,
26 dunes or marshes.

27 “Class II beach” means a beach or shore having only marginally, geologically partially
28 developed and not dependably dry backshore.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 “Comprehensive Plan” means the San Juan County Comprehensive Plan and all of its goals,
2 objectives, policies, documents, and maps.
- 3 “Concurrency” means a condition in which an adequate capacity of capital and transportation
4 facilities and services is available to support development at the time that the impacts of
5 development occur. (See also “adequate capacity,” “available capacity,” and “levels of service.”)
- 6 “Concurrency facilities” means the public facilities and services for which concurrency is
7 required in accordance with the policies of the Comprehensive Plan. They include transportation
8 facilities (ferry service and parking areas, Types 1 and 2 public docks, intersections in activity
9 centers or urban growth areas, and collector public roads), and “Category A” capital facilities
10 (County solid waste and recycling facilities); community water systems that serve urban growth
11 areas, AMIRDs (village, hamlet, and residential activity centers and island centers), or master
12 planned resort activity centers; and community sewage treatment facilities that serve village and
13 master planned resort activity centers.
- 14 “Concurrency test” means the comparison of a project’s impact on concurrency facilities to the
15 available capacity, including existing and planned capacity, of the concurrency facilities.
- 16 “Conditional use” means a use that is identified in Tables 3.1 and 3.2 in SJCC 18.30.030 and
17 18.30.040 by the symbol “C” and which requires a conditional use permit.
- 18 “Conditional use permit” means a permit issued by San Juan County stating that the land uses
19 and activities meet all criteria set forth in local ordinances, and all conditions of approval in
20 accordance with the procedural requirements of SJCC 18.80.100.
- 21 “Conditional use, shoreline” means a use, development, or substantial development which is
22 classified as a conditional use in the Shoreline Master Program (SMP; see Element 3 of the Plan
23 and Chapter 18.50 SJCC), or which is not classified within the SMP.
- 24 “Condominium” means the division of a building or land pursuant to the Horizontal Property
25 Regimes Act, Chapter 64.32 RCW, or to the Condominium Act, Chapter 64.34 RCW.
- 26 “Conical surface” means the FAA imaginary surface that is the lower boundary of an airspace
27 which extends outward and upward from the periphery of the horizontal surface.
- 28 “Conservancy designation” means the land use designation of the Comprehensive Plan designed
29 to protect valuable natural resources, wildlife, historical, and scenic areas.
- 30 “Conservancy shoreline designation” means a shoreline designation that is applied to areas
31 which are largely free of intensive development.
- 32 “Consolidated formation” means any geologic formation in which the earth materials have
33 become firm and coherent through natural rock-forming processes.
- 34 “Construction contractor yards and offices” means service establishments primarily engaged in
35 general contracting or subcontracting in the building construction trades. These include
36 administrative offices, workshops and the indoor or outdoor storage of tools, equipment,
37 materials, and vehicles.

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

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

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

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

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

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

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

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

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

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

28 Land Division. See “division of land.”

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

31 “Landward” means to or toward the land.

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

36 “Licensed carrier” means a carrier authorized by the FCC.

1 “Light industrial” means a use involving (1) basic processing and manufacturing of materials or
2 products predominantly from previously prepared materials; or (2) finished products or parts,
3 including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and
4 distribution of such products, but excluding basic processing of raw materials except food
5 products.

6 “Limited area of more intensive rural development (LAMIRD)” means a class of rural lands that
7 includes village and hamlet activity centers, residential activity centers, and island centers.
8 LAMIRDs were identified and delineated according to the criteria in RCW 36.70A.070(5)(d).
9 They consist of commercial, industrial, residential, or mixed use areas in which the kinds,
10 intensities, or densities of use, or the capital facilities and services available, exceed the levels
11 normally associated with rural development. Thus, these areas recognize and provide for existing
12 compact rural development and uses, and allow for infill in the areas to the level of existing
13 patterns.

14 “Littoral drift” means the natural movement of sediment, particularly sand and gravel, along
15 marine or lake shorelines as a result of wave and wind action.

16 “Live aboard vessel” means a vessel ~~having a currently safety registered ation~~ with federal, state
17 and local agencies that is used primarily as a place of residence, ~~vacation rental, or a place of~~
18 ~~business~~. A live aboard vessel has a seaworthy hull design that meets the U.S. Coast Guard
19 standards for floatation, safety equipment, fuel, and electrical and ventilation systems. It is
20 capable of travel in open water and waterborne movement in general. It has permanent
21 equipment for water travel, including a method for steering and propulsion, deck fittings,
22 navigational equipment, and marine hardware.

23 “Livestock” means cattle, bison, sheep, goats, swine, horses, mules, llamas, ostriches and other
24 poultry, and other like animals.

25 “Living area” means the internal space measured from the interior of the exterior walls,
26 excluding decks, overhangs, unenclosed porches or unheated enclosed porches, and the stairwell
27 on one level of a two-story structure.

28 “Logging” means the harvesting of timber.

29 “Log storage or transfer site” means any location established for the purpose of storing logs or
30 holding logs for transfer to another location. (See also “barge landing site.”)

31 “Long-term commercial significance” means lands with the growing capacity, productivity, soil
32 composition, and economic viability for long term agricultural or silvicultural production.

33 Lot. See “parcel.”

34 “Lot coverage” means the surface area of a lot or lots within a single development which is
35 occupied by buildings, excluding roof overhangs and covered porches not used for sales, storage,
36 or service.

37 “Lumber mill, portable” means portable equipment to mill, split, or otherwise process forest
38 products.

1 “Lumber mill, stationary” means a permanently located facility or equipment used to process
2 forest products.

3 **SECTION 30. SJCC 18.20.190 and Ord. 1-2016 § 77 are each amended to read as follows:**

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

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

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

8 “Seaward” means to or toward the sea.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 required even though the activity does not need a substantial development permit (Cf. RCW
2 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

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

5 1. Shorelines of statewide significance;

6 2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20
7 cubic feet per second or less, and the wetlands associated with such upstream segments;
8 and

9 3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small
10 lakes (RCW 90.58.030).

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

14 “Sign” means any object, device, display or structure, or part thereof, situated outdoors or
15 indoors, which is used to advertise, identify, display, direct or attract attention to an object,
16 person, institution, organization, business, product, service, event or location by any means,
17 including words, letters, figures, design, symbols, fixtures, colors, illumination or projected
18 images. Excluded from this definition are signs required by law and the flags of national and
19 state governments.

20 “Sign, commercial” means a sign that directs attention to a business or profession, to a
21 commodity or service sold, offered, or manufactured, or to an entertainment offered on the
22 premises where the sign is located.

23 “Sign, freestanding” means a sign not attached to a structure.

24 “Sign, off-site outdoor advertising” means an outdoor, off-site sign that calls attention to a
25 business, activity, profession, commodity, product, service or entertainment constructed in the
26 form of a freestanding “A” with no more than two faces, each no larger than six square feet.

27 “Sign, temporary” means a sign that will become obsolete after the occurrence of an event or
28 series of discrete events such as for sale or lease signs, and garage sale signs that are consistent
29 with the provisions for special event signs in SJCC 18.40.400.

30 “Simple land division” means a division of property meeting the criteria in SJCC 18.70.040.

31 “Single-family residence” means a dwelling unit designed for and occupied by no more than one
32 family.

33 “Siting” means the method and form of placement of a use or development on a specific area of a
34 subject property.

35 “Slaughterhouses, small-scale” means places where animals are butchered and:

36 1. There is a fee charged for the entire carcass to be returned to the animal owner; or

1 2. There is a group of residents who butcher their animals in a common area and there is no
2 fee for slaughtering services.

3 “Small scale” means of a size or intensity which has minimal impacts on the surrounding area
4 and which makes minimal demands on the existing infrastructure.

5 “Soil test hole log” means the excavation and written record of soil septic suitability as per health
6 department written guidelines and requirements.

7 “Soft shoreline stabilization measures” means shore erosion control structures and measures
8 composed of primarily natural and semi-rigid or flexible materials, logs and vegetation,
9 organized in a nonlinear, sloping arrangement, that dissipate wave energy and minimize erosion
10 in a way that is similar to natural shoreline processes.

11 “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except
12 wastes identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial
13 wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and
14 discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at
15 agronomic rates. This includes all liquid, solid and semi-solid materials which are not the
16 primary products of public, private, industrial, commercial, mining and agricultural operations.
17 Solid waste includes but is not limited to sludge from waste water treatment plants and septage
18 from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues
19 from recycling operations are considered solid waste.

20 “Solid waste disposal” means the act or process of disposing of rubbish and garbage.

21 “Solid waste transfer station” means a fixed, supplemental collection and transportation facility,
22 used by persons and route collection vehicles to deposit collected solid waste from off-site into a
23 larger transfer vehicle for transport to a permanent disposal site. Solid waste transfer stations
24 include recycling centers. (See “recycling center.”)

25 “Sound” means an oscillation in pressure, particle displacement, particle velocity, or other
26 physical parameter in a medium with internal forces that causes compression and rarefaction of
27 that medium, including any characteristics of sound, such as, duration, intensity, and frequency.

28 “Source of contamination” means a facility or disposal or storage site for material that impairs
29 the quality of ground water to a degree that creates a potential hazard to the environment, public
30 health, or interferes with a beneficial use.

31 “Special flood hazard” means land in the floodplain subject to a one percent (1%) or greater
32 chance of flooding in any given year.

33 “Static level” means the stable equilibrium level of the water in a well which rises in the well
34 column, without being influenced by pumping.

35 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as
36 stand density. “Storage yard” means an outdoor area used for the storage of equipment, vehicles
37 and materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17
18 **SECTION 35.** **Codification:** Sections 2 through 30 shall be codified after the effective
19 date of this ordinance.
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

ADOPTED this 19 day of September, 2017.

ATTEST: Clerk of the Council

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Ingrid Gabriel 9.27.2017
Ingrid Gabriel, Clerk Date

Rick Hughes
Rick Hughes, Chair
District 2

REVIEWED BY COUNTY MANAGER

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

William D. Watson
Bill Watson, Vice-Chair
District 1

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: gk 9/28/2017
Date

Jamie Stephens
Jamie Stephens, Member
District 3

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