



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

REPORT DATE: March 5, 2020 
TO: San Juan County Council
FROM: Linda Kuller, AICP, Planning Manager
BRIEFING: March 17, 2020
SUBJECT: Periodic Review of the Shoreline Master Program (SMP)
ATTACHMENTS: A. Planning Commission Recommendation and Draft February Minutes
B. PC Recommended Ordinance
C. Public Comment from Ken and Miki Brostrom

Briefing Purpose: Confirm the public hearing date of April 21, 2020, for a proposed ordinance regarding an:

UPDATE TO THE SHORELINE MASTER PROGRAM REGULATIONS;
AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140, 18.20.190, 18.50.020, 18.50.030,
18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.110 AND 15.12.030

This public hearing will be a joint hearing with the WA Department of Ecology. Chad Yunge, Senior Regional Shoreline Planner, from Ecology will distribute the State’s public notice and attend the public hearing. A 30-day public comment period is required.

The joint-public hearing notice will be published in the Journal of the San Juans and Islands’ Sounder on March 18, 2020. The public hearing version of the draft ordinance will available on the project website on that date. The official comment period will be Wednesday, March 18, 2020 – Tuesday, April 21, 2020.

Planning Commission Public Hearing and Recommendation: The Planning Commission held a public hearing in February to receive testimony on the draft ordinance. They considered written comments from Ken and Miki Brostrom regarding barge landing sites (Attachment C). No one provided testimony at the hearing. After closing the public hearing, the Planning Commission unanimously recommended approval of the draft ordinance as presented by staff (Attachment A).

In section 4, although advertised in the Planning Commission public hearing notice, the language highlighted below was not in the ordinance. Staff identified it as a needed addition to (ii) below for consistency with other provisions in the ordinance:

ii. is the local decision-maker on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet and exemption threshold in SJCC 18.50.050; and

Approval as to Form: Staff transmitted the ordinance to the Prosecuting Attorney for review as to form.

Background: The proposed draft SMP amendments are required for the Shoreline Master Program (SMP) Periodic Review to keep the SMP current with changes in state law, changes in other County plans and regulations, and other changed local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Chapter 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

Project Webpage: <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>. Public hearing notices and staff reports including an Ecology periodic review checklist and the draft ordinance are available on this webpage.

Summary of Ordinance Sections:

Section 1. This is a new ordinance section proposed after the publication of the DNS and conversations with Ecology. Amends SJCC 18.20.020 "B" definition of "Barge landing site, temporary" to mean a location where a limited number of landings are allowed that will not result in permanent disturbance of the earth, development or permanent adverse impacts on shoreline ecological functions.

Section 2. Amends SJCC 18.20.140 "N" Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance. Proposed changes include moving the term "patio", clarifying the allowance for the sequence of construction on stairways to beaches on residential property, deleting the words "wind power" before generators and deleting "other" normal residential appurtenances that could have been approved by the DCD director.

Section-3. Amends SJCC 18.20.190 "S" definitions and Ordinance 21-2018 § 1 to update the definition of shoreline development to include "It does not include dismantling or removing structures if there is no other associated development or redevelopment."

Section 4. Amends SJCC 18.50.020 General and Ordinance 21-2018 § 2 to allow the director of the Community Development instead of the hearing examiner to make decisions on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet an exemption threshold.

Section 5. Amends SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 to delete subsection (2) (C) and replace it with the WAC language: "Those nonfederal lands lying within the exterior boundaries of federal lands and those federal lands leased to other persons, which fall within the definition of shorelands, shall be subject to the jurisdiction of Chapter 90.58 RCW. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW."

A new subsection E is proposed to be added for permitting exemptions for developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions (RCW 90.58.355 and Chapter 70.105D RCW).
2. Boatyard improvements to meet NPDES permit requirements (RCW 90.58.355).

3. WSDOT facility maintenance and safety improvements (RCW 90.58.356).
4. Projects consistent with environmental excellence program agreements (RCW 90.58.045).
5. Projects authorized through the Energy Facility Site Evaluation Council process (Chapter 80.50 RCW).

Section 6. Amends SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 § 5 in SJCC 18.50.040 (D)(8)(b). Makes housekeeping edits to reference proper code sections. Updates the specific cost threshold for dock exemptions to match the current allowed exemption thresholds. SJCC 18.50.040(14) and (15) are also proposed to be amended for consistency with State law:

14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o) including a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181.

15. Habitat enhancement projects that conform to the provisions of RCW 77.55.290 and RCW 90.58.147 are consistent with local shoreline master programs. A public or private project that is designed to improve fish or wildlife habitat or fish passage in accordance with WAC 173-27-040(2)(p) and RCW 77.55.181, when all of the following apply (excerpt).

In SJCC 18.50.040(16), a new item is added for consistency with the shoreline permit exemption for retrofitting an existing structure to comply with the Americans with Disabilities Act.

Section 7. Amends SJCC 18.50.050 Exemptions from substantial development permit requirements – Normal residential appurtenances and Ordinance 11-2017 § 6 in subsection 1 to provide the updated fair market value of \$7,047 in September 2017. In subsection (2)(i) permit requirements for existing temporary barge landing sites are clarified. These do not require a certificate of exemption if the proposed use is consistent with the historic transport of cargo at the site and frequency of the historic use.

Section 8. Amends SJCC 18.50.450 Forest Practices and Ordinance 11-2017 § 20 in subsection 2 to clarify that cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is “not considered a development under the SMA and does not require a shoreline exemption or substantial development permit” and is allowed.

Section 9. Amends SJCC 18.50.540 Residential development and Ordinance 11-2017 § 24 in SJCC 18.50.540(D) in a simpler form than suggested in the previous draft ordinance that would read as follows:

D. Regulations – Normal Residential Appurtenances and Accessory Structures.

1. Normal residential appurtenances and accessory structures are not allowed in critical area buffers required by SJCC 18.50.120 except for:
 - a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways.
 - b. Temporary fencing for shoreline habitat and natural systems enhancement projects pursuant to SJCC 18.50.590.

The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC must be met to achieve the no net loss standard in SJCC 18.50.120. A no net loss report may not be used to meet the critical area requirements because avoidance, the first step in the mitigation sequence analysis in SJCC 18.50.120(B) and 18.50.140, cannot be met.

2. Normal residential appurtenances and accessory structures are not allowed in the shoreline aesthetic buffer except for:
 - a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and normal residential appurtenances;
 - b. Normal residential appurtenant structures and accessory structures less than thirty inches in height; and
 - c. Temporary fencing for shoreline habitat and natural systems enhancement projects pursuant to SJCC 18.50.590.
3. Accessory dwelling units must comply with SJCC 18.40.240.
4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to the normal residential appurtenances and accessory structures thirty inches or less in height.

Section 10. Amends SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 § 25 in item H to clarify the permitting requirements for existing nonconforming temporary barge landings as follows: New Temporary barge landing sites require a certificate of exemption but are exempt from a shoreline substantial development permit. These sites shall not exceed 12 landings in any 24-month period and must be operated in a manner that will result in no net loss of shoreline ecological functions. Existing nonconforming temporary barge landing sites do not require a certificate of exemption if the proposed use is consistent with the historic transport of cargo at the site and frequency of the historic use.

Section 11. Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27 to make institutional uses the same as those in the commercial category. A new footnote number 7 is added to public pedestrian trails and single family residence to provide notice that the DCD director is the local decision-maker for substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet the exemption threshold.

Section 12. Amends SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 § to comply with WAC 173-27-044. "Date of filing" replaces "date of receipt" for shoreline permits sent to Ecology.

A new subsection (H)(3) authorizes the DCD director to be the decision-maker on applications for public pedestrian trails and residential accessory structures that do not meet an exemption thresholds is also proposed. A code reference is corrected in (I)(3).

Section 13. Amends SJCC 15.12.030 and Ordinance 13-2018 § 4 to include the one of the legislature's options for defining "floodway" as the floodway criteria set in the SMA.



San Juan County Planning Commission

DRAFT FINDINGS AND RECOMMENDATIONS

HEARING DATE: February 21, 2020

SUBJECT: Shoreline Master Program Periodic Update

APPLICANT: San Juan County

LOCATION: San Juan County

COMMISSION MEMBERS PARTICIPATING: Tim Blanchard, Dale Roundy, Michael Pickett, Georgette Wong, and Camille Uhlir

COMMUNITY DEVELOPMENT AND PLANNING

RECOMMENDATION: Approval

PLANNING COMMISSION

RECOMMENDATION: Approval

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS:

The San Juan County Planning Commission hereby recommends to the County Council, the staff recommendations for the Shoreline Master Program Periodic Update as submitted in the January 31, 2020 staff report, including Attachment B, the public hearing ordinance.

The vote of the Planning Commission on the above described recommendation is as follows:

<u>Name</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Tim Blanchard	X		
Dale Roundy	X		
Camille Uhlir	X		
Georgette Wong	X		
Michael Pickett	X		

RECOMMENDED this 21st day of February, 2020, which constitutes the date of the Planning Commission's action, per State law.

SAN JUAN COUNTY PLANNING COMMISSION

Chair or Vice-Chair

Date

Co-signor

Date



DRAFT
SAN JUAN COUNTY PLANNING COMMISSION MEETING
MINUTES OF THE FEBRUARY 21, 2020 MEETING

The meeting of the San Juan County Planning Commission was called to order by Chair, Tim Blanchard, at 8:32 a.m. in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, and San Juan Island.

Planning Commission

Members Present: Tim Blanchard, Dale Roundy, Camille Uhlir, Michael Pickett, and Georgette Wong (by phone).

Planning Commission

Members Excused: Steve Rubey

**Department of Community
Development (DCD) Staff**

Present: Erika Shook, Director; Linda Kuller, Planning Manager; Julie Thompson, Planner III, Adam Zack, Planner III; Sophia Cassam, Planner I; and Lynda Guernsey, AS II.

Administrative Items

Confirm Agenda – Dale Roundy stated he would need to leave the meeting by 11:00 a.m.

Election of Officers – Discussion of potential candidates.

Moved by Michael Pickett, seconded by Dale Roundy, to nominate Camille Uhlir as Chair. Dale Roundy – yes, Michael Pickett – yes, Camille Uhlir – yes, Georgette Wong – yes, and Tim Blanchard – yes. Motion passed unanimously.

Moved by Michael Pickett, seconded by Camille Uhlir, to nominate Dale Roundy for Secretary. Dale Roundy – yes, Michael Pickett – yes, Camille Uhlir – yes, Georgette Wong – yes, and Tim Blanchard – yes. Motion passed unanimously.

Moved by Camille Uhlir, seconded by Michael Pickett, to nominate Tim Blanchard for Vice Chair. Dale Roundy – yes, Michael Pickett – yes, Camille Uhlir – yes, Georgette Wong – yes, and Tim Blanchard – yes. Motion passed unanimously.

Results of the above motions were: Camille Uhlir – Chair; Tim Blanchard – Vice Chair; and Dale Roundy, Secretary.

Minutes of January 17, 2020

Moved by Dale Roundy, seconded by Georgette Wong, to approve the January 17, 2020 minutes as submitted. Motion passed with three yes votes, zero no votes, and two abstentions (Uhlir and Pickett).

DCD Update – Linda Kuller, Deputy Director

1. An updated Planning Commission and County Council calendar was handed out and Linda Kuller went through the dates with the Planning Commission.
2. There will be a hearing with the Planning Commission today on the Shoreline Master Program periodic update.
3. The County Council will be renewing the moratorium on marijuana in March 24th.
4. Linda Kuller and Adam Zack will be attending the Eastsound Planning Review Committee meeting in March to discuss land use issues.
5. The Deer Harbor Review Committee has made a request for changes to their land use map and code.

There was a reminder to staff about having a discussion on ethics in planning at a meeting. Linda Kuller responded to questions and comments from the Planning Commission.

Public Access Time – There was no one to speak.

Public Hearing on the Shoreline Master Program Periodic Update – Linda Kuller, AICP, Planning Manager

Linda Kuller gave a presentation on the background of changes proposed to the Shoreline Master Program as part of the program's periodic update.

Public testimony was opened and as there was no one to speak, closed with the option to reopen.

Staff responded to any questions and comments from the Planning Commission.

Deliberations

Moved by Camille Uhlir, seconded by Dale Roundy, to recommend approval of the changes to the Shoreline Master Program as submitted by staff in the January 31, 2019 staff report, and Attachment B, Draft Public Hearing Ordinance, as part of the periodic update. Dale Roundy – yes, Michael Pickett – yes, Camille Uhlir – yes, Georgette Wong – yes, and Tim Blanchard – yes. Motion passed unanimously.

The following briefings are part of the San Juan County Comprehensive Plan 2036 Update Project

Briefing on the Open Space Program - Julie Thompson, Planner III, DCD and Bill Shanks, Current Use/DFL Administrator, Assessor's Office

Julie Thompson and Bill Shanks were present to give the Planning Commission background on the current use and Designated Forest Land (DFL) programs. Bill Shanks addressed the DFL program and the current use farm and agriculture programs. Julie Thompson addressed the current use agriculture conservation land and current use open space programs. They both responded to questions and comments from the Planning Commission.

Briefing on Amendments to Element 10, Economic Development - Sophia Cassam, Planner I

Sophia Cassam gave a presentation of Bill Appel's, board member of the Economic Development Council, suggested changes to Element 10 of the Economic Development Element.

By Consensus, staff to work on clarifying the language suggested by Bill Appel, with input from the Planning Commission, and agree to have the clarified language added to the draft element.

Briefing on Element 8, Utilities - Sophia Cassam, Planner I

Sophia Cassam gave a presentation on what the Utilities Element includes and responded to questions from the Planning Commission. She then went through the draft Utilities Element dated February 20, 2020 to receive the Planning Commission's additions and revisions.

A handout was given to the Planning Commission of the Draft Utilities Element with Goals and Policies, with items in red being changes/suggestions by staff and items in blue suggestions by OPALCO. The Planning Commission went through the draft element including goals and policies with guidance by staff. The Planning Commission made the following changes and suggestions by consensus. Attachment A to these minutes will show the changes and/or items accepted by the Planning Commission in purple.

Comprehensive Plan, Draft Section B, Element 8, Utilities Element, February 20, 2020

There were no comments on the draft element up to 8.5 Goals and Policies.

8.5 Accept underlined changes.

8.5.A. Accept underline/strikeout changes.

Goal 1. Accept the "clean" underlined version.

Policies: 1. – 5. Accept the underline/strikeout changes.

Goal 2. Accept the underline/strikeout changes.

Policies: 1. – 4. Accept the underline/strikeout changes.

Goal 3. Accept the strikeout as shown.

Policies: 1. – 2. Accept strikeout and relocation of these policies.

New Goal 3. Accept the underline/strikeout changes.

New Policies:

1. Accept underline/strikeout changes.

2. Accept strikeout change.

New 2. Accept underline strikeout changes.

Goal 4. Accept underline/strikeout changes with the suggested addition of language from the Planning Commission.

Policies 1. – 5. Accept staff to rework policies to include code requirements.

Goal 5. Accept underline/strikeout changes.

Policies 1. – 4 Accept underline/strikeout changes.

Goal 6. Accept underline/strikeout changes.

Policies:

1. Accept underlined changes.
2. Accept with ending the policy after the word "mainland", making the remainder of the policy a new policy 3, and renumbering the policies.
- New Policy 3. Accept underline/strikeout of the new policy.
4. Accept underlined changes.
5. Accept underlined changes.
6. Accept underlined changes.
7. and Bullet 1. Accept underlined changes.
7. Bullet 2. Accept underline/strikeout changes, the strikeout are the words "beyond State energy efficiency requirements".

Goal 7. Accept the underline/strikeout changes.

Policies:

1. Accept as stated.
2. Accept the underline/strikeout changes.
3. Accept with the provision that staff research what the goal was behind this policy.
4. Accept the underline/strikeout changes.
5. Accept the underline/strikeout changes.
6. Accept the strikeout and have new language "Review appropriate land use designations for the location of alternative power generation facilities."

Goal 8. Accept underline/strikeout changes.

Policies:

1. Accept the underline/strikeout changes, the deletion of the OPALCO suggested wording.
2. Accept the strikeout/underline with staff to check if a "provider" in addition to Rock Island would be appropriate.

Goal 9. Accept the underlined change.

Policies:

1. Accept the underlined change.
2. Accept the underlined change
- New 3. Accept staff to add a policy regarding safe transport and storage of bulk fuel.

Briefing on Element 2, Land Use: Urban Land Use - Adam Zack, Planner III

Adam Zack gave a presentation on the background to the land use element, Growth Management Act (GMA) planning requirements, and how the sections would be handled going forward. He then went through the urban land use (UGAs) issues as part of his briefing and responded to questions and comments from the Planning Commission.

Return to Administrative Items

The Planning Commission heard from Erika Shook, Director of DCD, regarding vacation rental data and responded to questions and comments from the Planning Commission.

Adjournment

Moved by Michael Pickett, seconded by Camille Uhlir, to adjourn the meeting at 1:00 p.m. and the motion passed unanimously. The next meeting of the Planning Commission will be Friday, March 20, 2020, at 8:30 a.m. in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, San Juan Island.

Respectfully submitted,

Lynda Guernsey

Attachment A – Draft Comprehensive Plan, Section B, Element 8, Utilities Element, from 2/20/2020 with Planning Commission edits/suggestions in purple.

**COMPREHENSIVE PLAN
SECTION B, ELEMENT 8**

UTILITIES ELEMENT
~~November 2005~~
February 20, 2020

Staff comments in **RED**, OPALCO edits in **BLUE**, Planning Commission
edits in **PURPLE**.

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ELEMENT 8

**DRAFT
UTILITIES ELEMENT**

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8.1 INTRODUCTION

8.1.A Purpose

The purpose of the Utilities Element is to set goals and policies which provide guidelines for the provision of utility services in San Juan County, and to facilitate coordinated, cost-effective planning and construction by the County and by individual utility service providers in a manner consistent with the goals and policies set forth in this *Plan*. This element consists of General Goals and Policies, Utility Specific Goals and Policies, and a Utilities Inventory in Appendix 8.

The Utilities Element includes the current and projected conditions of utilities in San Juan County. Utility services included in this Element are electricity, propane, telecommunications, internet and cable. San Juan County does not provide utility services; therefore, this Element relies on information shared by utility providers.

This Element establishes goals and policies to guide the provision of utility services. Goals and policies aim to facilitate coordinated, cost-effective provision of services, planning, and construction by utility service providers in a manner consistent with the goals and policies of other elements of the *Comprehensive Plan (Plan)*. This document also identifies opportunities and challenges for utility services through the 2036 planning period. These opportunities and challenges stem from projected population increases, new technologies, and climate change.

The Utilities Element reflects certain key assumptions:

1. Utility providers are the best identifiers of utility problems and the solutions needed to overcome them;
2. Level of service (LOS) standards, concurrency, and capacity requirements do not apply to utility services addressed in this element;
3. Privately owned utilities are not public facilities although they provide a public service. Each utility bears the responsibility for providing services to San Juan County residents within the guidelines of their own policies and in a manner consistent with the regulatory bodies having jurisdiction over them; and
4. County residents ultimately bear the majority of the costs associated with the provision of utility services through utility rates, taxes, land development costs, and impacts to environmental and aesthetic values.

This Element supports the *Plan* Vision and fulfils the requirements of the Growth Management Act (GMA) for utilities planning. Regarding energy, the Vision states, "Our community strives for energy independence...we use renewable energy." Regarding communication systems, the Vision affirms that "Advanced communication infrastructure is encouraged...we encourage new ideas and new technology... [and] communication systems support our economy."

The Utilities Element is oriented toward meeting the needs of the people of the County in the midst of growth, climate change, and ever-advancing technologies. The GMA calls for comprehensive plans to include "the general location, proposed location, and capacity of all existing and proposed utilities" in

RCW 36.70A.070(4). By fulfilling the GMA requirement, the County positions itself to make effective use of existing utilities infrastructure, and to be responsive to inevitable change. Together, this Element and Appendix 8, Utilities Inventory meet this requirement. Appendix 8 contains the in-depth inventory of utilities.

8.2 RELATIONSHIP TO OTHER PLAN ELEMENTS

The siting and provision of utility services interacts with other topics in the *Plan*. Utilities information can be found in both the Utilities and Capital Facilities Elements and Inventories. Water and sewer utilities are discussed in the Capital Facilities Element and Inventory, and are subject to concurrency requirements and Level of Service (LOS) standards. Services discussed in the Utilities Element and Inventory are not subject to concurrency requirements or LOS standards. The siting of utilities facilities, such as propane storage, electrical substations, and telecommunication towers, is a land use issue. Telecommunication services are closely tied to issues discussed in the Economic Development Element. The Utilities Element must be consistent with other *Plan* elements. No element can be enacted independently without consideration of other elements.

8.3 CURRENT CONDITIONS AND FUTURE OUTLOOK

The following subsections summarize existing utilities conditions and provide a look at what the future may hold for the provision of those services. The outlook is based on the assumption that the County will grow according to the population projections in *Plan* Appendix 1. Both existing and future utility services are and will be operating in the context of climate change and the development of new energy and communication technologies.

8.3.1 Electricity

Current Conditions

Orcas Power and Light Co-operative (OPALCO) provides electricity in the County. The majority of electricity is sourced from hydropower on the mainland. Bonneville Power Administration and Puget Power generates and distributes it. Local alternative energy sources, such as solar power, currently generate about one percent of electricity. In 2019, OPALCO served 14,913 accounts on 21 islands. OPALCO estimates an annual increase of 0.5 percent for the number of residential accounts and 2.0 percent for commercial accounts.

Energy Outlook

Globally, we face a climate crisis induced by human-generated greenhouse gas emissions. In the Pacific Northwest, we have observed wildfires, drought, lack of snowpack, and increased ocean acidification in recent years¹. Governor Inslee's Executive Order 14-04 includes key areas for addressing climate change, including reducing carbon emissions and improving energy efficiency². San Juan County can reduce carbon emissions by increasing reliance on electricity if it comes from clean, renewable sources, and is used as efficiently as possible. Transportation and home heating/cooling are two major sources of energy

¹ <https://fortress.wa.gov/ecy/publications/documents/1902031.pdf>, pg. x.

² https://www.governor.wa.gov/sites/default/files/execute_order/eo_14-04.pdf

expenditure in the County (and anywhere else). Thirty five percent of county residential energy use is for heating, and over half of energy use is for transportation (source: OPALCO analysis, US Department of Energy), which accounts for 41 percent of Washington State fossil fuel emissions (source: WA Department of Ecology). Electric transportation costs about 75 percent less than fossil fueled transportation, helping keep dollars in the local economy (source: OPALCO analysis, US Department of Transportation, WA Department of Transportation).

The electrification of transportation and heating will add a are expected to increase load by 37 percent by 2030, and reduce greenhouse gas emissions by 72 percent by 2050 (source: The Brattle Group). The number of Electric Vehicles (EVs) in the county increased by 65 percent last year (source: WA DOT) to electricity demands due to an increase in the use of electric vehicles (EVs) as they become became less expensive and allowed for longer ranges. The State has reinstated tax breaks for non-luxury electric vehicles in an effort to increase their prevalence and reduce transportation emissions.

In 2019, Washington State Ferries (WSF) announced that it would begin transitioning its diesel ferry fleet to hybrid-electric, with the addition of at least one new all-electric ferry. The anticipated 2030 ferry electrification will add load as well. Ferry electrification is an effort to drastically reduce greenhouse gas emissions. Currently, WSF generates fifty percent of greenhouse gas emission from working boats in Puget Sound (220,000 metric tons annually), despite only making up only six percent of such boats³.

While power in Washington may be cleaner than in other states that rely heavily on fossil fuels to generate electricity, hydropower is not without environmental impact. Dams that generate hydropower are harmful to Chinook Salmon populations, which Orca Whales in the Salish Sea rely on as a food source. That said, WA hydro power is cleaner than solar, wind, coal and natural gas (source: UN IPCC https://archive.ipcc.ch/pdf/special-reports/srren/SRREN_FD_SPM_final.pdf) and most other sources of energy, and helps reduce the impacts of climate change on ocean warming and acidification, which is driving ecosystem collapse, impacting thousands of species. Hydro is an essential resource in the 2019 WA Clean Energy Transformation Act (CETA) for firming intermittent renewables like solar and wind.

There is a push toward energy independence from the mainland. Renewable energy resource costs have been falling, while mainland pricing has been slowly rising. The point at which they cross is called *grid parity*. In other words, grid parity is the point at which an emerging technology becomes economically viable. At that point, the emerging technology has increasing cost savings compared to the legacy technology. Once a resource is at grid parity or better, it can be added into OPALCO's energy portfolio to replace or moderate the cost of legacy energy sources. OPALCO expects that local renewable energy resources will become competitive with mainland power wholesale electric rates and reach grid parity around 2025. OPALCO is transitioning to a more locally generated energy mix, which could include member-generated energy (solar, wind, micro-hydro), Community Solar, utility-scale solar, tidal energy, and other new technologies. OPALCO expects that over fifty percent of County energy will be generated locally by 2040. (source: OPALCO Integrated Resource Plan).

More information about the future of electricity in San Juan County can be found in OPALCO's planning documents. OPALCO's long-range plan contains an analysis of capacity development needed to meet future demands. Additionally, their four-year Construction Work Plan contains load forecasts and information on construction projects.

³ <https://medium.com/wagovernor/clean-transportation-advances-with-hybrid-electric-ferries-85d2db1f902b>

8.3.2 Propane

There are no natural gas lines in San Juan County. The population relies heavily on propane. Propane tanks are not allowed on Washington State Ferries. Propane utility providers barge propane from the mainland to their distribution centers on San Juan, Orcas, and Lopez islands. The two propane providers in San Juan County are Inter-Island Propane and San Juan Propane. Inter-Island Propane recently established a facility on Orcas Island, which is subject to County inspection prior to starting operations.

The demand for propane will likely increase as the County's population increases. However, alternative renewable energy sources, such as home solar energy installations, and changes in State building code requirements to meet WA State Greenhouse Gas targets for energy efficiency may reduce the per capita demand for propane in the future.

8.3.3 Communications

San Juan County encourages the development of advanced communication infrastructure. Reliable, up-to-date communication services support everything from healthcare and public safety, to economic opportunity and modern lifestyles. Geographic isolation and relatively small resident populations have historically inhibited the extension of telecommunication services to some islands in the County. Today, Fiber and LTE are providing faster and more expansive communication services.

- **Fiber:** The availability of fiber optic based services has grown extensively throughout the County in the past decade, meeting the growing needs of the electric grid, emergency communications, and residential and business broadband and cell phone service. Approximately half of County addresses are located within a serviceable distance of existing fiber optic facilities. As demand for higher bandwidth and additional improvements are made to public infrastructure, the availability of fiber optic services are expected to continue to grow.
- **Voice over Internet Protocol (VoIP):** Anyone with a reliable internet connection can purchase VoIP service, which is becoming more common as internet access and speed increases. It is the predominant method for non-wireless voice communications around the nation, particularly for businesses.
- **Fixed Wireless - Long-Term Evolution (LTE):** LTE is a standard for wireless broadband communication for mobile devices and data terminals. It increases the capacity and speed using a different radio interface together with core network improvements. LTE utilizes cellular technology to provide high-speed data and voice service has been deployed throughout the County. It provides access to phone and internet where fiber is currently unavailable, including eighteen non ferry-served islands.
- **Fixed Wireless - Cellular:** All major cellular carriers have coverage to an extent in the County; however, the geography currently limits coverage in some areas. For some residents and visitors, lack of cell service poses a safety concern because it would be difficult to call for help in the case of an emergency.

- Plain Old Telephone Service (POTS): The main provider of POTS is CenturyLink. Use of POTS has decreased in the recent years as consumers discontinue landline service or switch to VoIP.
- Cable: Cable internet and television services are available from CenturyLink, Zito Media, and POGO Zone in parts of Friday Harbor and Orcas Island. Use of cable services is declining as fiber and wireless broadband becomes more popular.

8.4 KEY CHALLENGES

The key challenges for utilities provided below are based on the utilities inventory in *Plan* Appendix 8 and the energy outlook. Considering the assessment of electricity, propane, and communications services, the utilities goals and policies in the following section put an emphasis on:

- Preparing to serve the County's 2036 forecasted population in *Plan* Appendix 1;
- Meeting energy and telecommunications needs within and outside of population centers;
- Reducing greenhouse gas emissions;
- Reducing environmental impacts of generating the electricity all forms of energy we use;
- Increasing energy efficiency; and
- Working with the challenges presented by the islands' unique geography.

8.5 GOALS AND POLICIES

Utilities goals and policies guide San Juan County's actions affecting the provision of utility services. This section aims to result in meeting San Juan County's current and projected needs for energy and communications in a way that is cost-effective, efficient, appropriate for the character of the islands, and responsive to climate change. These goals and policies are informed by the 2005 Utilities Element, other *Plan* elements, information from utilities providers, community feedback, and by state climate directives.

8.5.A General Goals and Policies

The ~~G~~general ~~G~~goals and ~~P~~policies in this Element address the planning, location and siting of utilities; services to new development; and environmental protection. These issues are common among all utility services.

8.2.A Long-range Planning

Goal 1. Goal: ~~To e~~ Coordinate planning efforts between San Juan the County and utility service providers and encourage the regular exchange of information plans, maps, and other pertinent information; to aid utility service providers in anticipating and responding to growth ~~by establishing land use policies and regulations to direct and manage future growth;~~ and to maintain consistency between utility service plans and San Juan County plans.

CLEAN Read: Coordinate planning efforts between the County and utility service providers and encourage the regular exchange of information to aid utility service providers in anticipating and responding to growth and to maintain consistency between utility service plans and County plans.

Policies (8.2.A.1-6): (8.5.A.1.1 – 6)

1. Provide utility service providers with appropriate plans and mapped information to help establish a common eCounty-wide base map for utilities planning.
2. Obtain Maps and facility inventories, with text designating the approximate location of existing facilities and the general location of proposed new facilities, ~~will be obtained~~ from utility service providers and integrated them into the eCounty's Geographic Information System (GIS).
- ~~3. Review the utility facilities inventory annually and provide updates on a biennial basis or as necessary.~~
- ~~3.~~ 4. Provide utility service providers with ~~annual updates and status reports~~ for the six year capital improvement financing plan to aid in their ability to coordinate necessary system improvements.
- ~~4.~~ 5. Cooperate with utility providers in siting facilities for new and alternative technologies to save money and promote reliability of existing utilities by conserving existing energy resources, while promoting a feasible conversion to energy-saving technologies.
- ~~5.~~ 6. Cooperate with utility service providers in future comprehensive planning efforts, ~~and in to~~ evaluateing actual patterns and rates of growth and comparing ~~such patterns and rates~~ them to demand forecasts.

~~8.2.B~~ Project Coordination

Goal 2. ~~Goal: To a~~ Allow for the timely and cost-effective provision of utility services to eCounty residents by enabling inter-agency joint project planning; and ~~to~~ ensure the availability and use of utility corridors within public rights-of-way for the placement of utility service facilities.

Policies (8.2.B.1-4): (8.5.A.2.1 - 4)

1. Facilitate inter-agency coordination and planning for joint trenching, installation, upgrade, repair, maintenance, and construction of new utility facilities between the Public Works Department, the various utility service providers, and other agencies.
2. Provide timely notification of proposed projects in public rights-of-way to utility service providers and coordinate the placement of both above- and underground utility facilities, which are necessary to provide adequate service, including transformers, switch vaults, telephone pedestals, utility equipment cabinets, and other necessary utility equipment or structures.
3. Allow for utility services in New dedications for public rights-of-way ~~should allow for utility services.~~
4. ~~Utility providers should be consulted~~ Encourage consultation between permit applicants and utility providers during the permitting process for installation of utility systems. [Moved from Goal 4]

8.2.C Location and Siting

~~Goal 3, XX XXX~~

~~Goal: To Allow for the presence, continuing operation, maintenance, and expansion of the full range of utility services available as reflected in the facilities inventory; to Accommodate future changes in conditions and technologies which may impact the character and operation of utility facilities. ; to recognize that the geographic character of San Juan County necessitates providing access and the ability to cross shorelines and waterways to utilities; and to recognize that utility facilities must occupy and traverse a broad range of areas and land use designations.~~

Policies (8.2.C.1):

- ~~1. Recognize that the geographic character of San Juan County necessitates providing access and the ability to cross shorelines and waterways to utilities; and to and that recognize that utility facilities must occupy and traverse a broad range of areas and land use designations. [Moved to Environment/Rural Character goal]~~
- ~~2. Locate and site utility facilities to minimize negative impacts to the rural character and natural environment of the county. New transmission facilities, substations and submarine transmission cable terminal facilities should be located and sited to minimize adverse impacts to the county's shorelines and rural character. [Moved to Environment/Rural Character goal]~~
- ~~3. New utility facilities should conform to the policies of the Land Use Element.~~

8.2.D Permitting

Goal 3. ~~Goal: To f Foster~~ predictability and timeliness in processing permit applications for utilities new utility facilities or utility service work; and to allow for necessary maintenance, repair, improvement, and expansion of utility facilities in a timely and efficient manner.

Policies (8.2.D.1-3): (8.5.A.3.1 – 2)

- ~~1. Priority should be given to maintenance and repair work required to restore utility service under emergency circumstances.
Provide provisions for emergency response for delayed permitting of activities necessary to prevent an imminent threat to public health, safety, or the environment; or to public or private property.~~
- ~~2. Identify utility installation, relocation and maintenance activities that are expected to have significant permanent or immitigable impacts. [re-inserted by PC]~~
- ~~3. Identify utility installation, relocation and maintenance activities which are expected to have insignificant environmental impacts and will establish exemptions from permit requirements for those types of activities.~~

Continue to allow utility exemptions from critical area requirements for the installation and construction of utility lines and equipment, provided the conditions of exemption are met and documented.

8.2.E—New Development

Goal 4. Goal: ~~To minimize adverse impacts of providing utility services to new development on the rural character of San Juan County ; to allow for the provision of the full range of utility services to county residents; and to provide for new utility facilities which are compatible with or can be mitigated to minimize adverse impacts to adjacent land uses.~~ Protect rural character by minimizing the adverse impacts of utility services. PC suggestion: Protect rural character while also providing for the location and extension of necessary utility facilities.

Policies (8.2.E.1-3): (8.5.A.4.1 – 5)

1. ~~Require~~ New utility installations to serve for new development ~~should to~~ be installed underground, ~~except that s~~Services for single-family residential construction on an existing parcel may connect with existing overhead utility facilities.
2. ~~Require~~ New development should to be designed so that utility easements are accessible and have sufficient capacity for installation of the full range of required utility services.
3. ~~Utility providers should be consulted during the permitting process for installation of utility systems.~~ [Moved to Goal 2]
4. ~~New utility installations should provide vegetative screening or buffers for existing adjacent development.~~
5. ~~New development approved adjacent to existing utility facilities should provide vegetative screening or buffers.~~
3. Require landscaping to buffer adjacent uses for new utility installations excluding aboveground utility facility development and distribution or transmission corridors when located outside a public right-of-way.
4. Locate and site utility facilities to minimize negative impacts to the rural character and natural environment of the county. [Moved from old goal 3]
5. New transmission facilities, substations and submarine transmission cable terminal facilities should be located and sited to minimize adverse impacts to the eCounty’s shorelines and rural character. [Moved from old goal 3]

8.2.F—Environmental Protection

Goal 5. Goal: ~~To Protect and preserve natural habitats and environments while also providing for the location and extension of necessary utility facilities.~~

Policies (8.2.F.1-4): (8.5.A.5.1 – 4)

1. ~~View Environmental protection and a quality environment are viewed as one product of, and not a constraint on, good utility service, and are important components of operation in the public interest. Regulations for environmental protection should recognize both the significance and~~

- ~~permanence of potential environmental damage and the cost to mitigate or avoid potential damage for proposed utility projects.~~
2. Locate ~~N~~ew utility facilities should be located away from, or constructed them in a manner compatible with, critical areas, ~~R~~esource ~~L~~ands, and ~~S~~horelines. ~~Recognize that physical and service constraints may not allow relocation away from or full compatibility with such areas and resources.~~
 2. ~~3~~-Condition the approval of new utility facilities ~~so as to avoid or mitigate any significant adverse impacts, and to develop appropriate compensating measures where mitigation is not feasible.~~
 3. ~~4~~Ensure that utility service providers are responsible for costs such as those associated with damage caused to the environment and public rights-of-way so that utilities providers will seek to minimize those costs in their planning, decision-making, and project execution.
 4. ~~5~~-Recognize that the geographic character of ~~San Juan~~ the County necessitates requires providing access to and the ability to cross shorelines and waterways to connect utilities; ~~and to and that recognize that utility facilities must occupy and traverse a broad range of areas and land use designations. [Moved from old goal 3]~~

8.5.B Utility-Specific Goals and Policies

ELECTRICITY

8.3.A5.B Electricity

Goal 6. Minimize the environmental impacts of electricity production and use.

~~Goal: Encourage the exploration of innovative and alternative technologies regarding energy conservation.~~

Policies (8.2.G.1): (8.5.B.6.1 – 6)

1. Encourage utility service providers to explore innovative and alternative methods of producing energy.
2. Support the transition toward energy independence from the mainland by.
3. Working with the San Juan County Conservation District and OPALCO to promote community solar projects and provide technical assistance and incentives to increase individual home solar installations.
4. Encourage utility providers, WASDOT, and the public to reduce greenhouse gas emissions.
5. Adopt regulations that allow facilities that support the distribution of electricity for cleaner transportation including electric vehicles and electric ferries.
6. Provide (Promote the provision/availability of... OR Increase the prevalence/availability of...) electric vehicle chargers at key destinations throughout the County.
7. Increase energy efficiency of buildings and systems on the islands by:

- Providing educational materials and supporting education on energy efficiency in buildings, beyond State energy efficiency requirements; and
- Updating and building new County buildings beyond State energy efficiency requirements and generating some electricity with solar arrays when feasible alternatives are available. Installing solar panels on new new and updated county buildings (will the new Beaverton valley facility have solar panels??) when feasible.

Goal 7. ~~Goal:—To Assist Collaborate with the Orcas Power and Light Company Co-Operative (OPALCO) in achieving its goals for energy resiliency. as stated in the Cooperative's Bylaws and Articles of Incorporation: "to make electric energy available to its members at the lowest cost consistent with sound economy, good management, and the public interest."~~

Policies (8.3.A.1-6): (8.5.B.7.1 – 5)

1. Assist OPALCO when necessary to respond to new, unforeseen conditions and technologies that may affect utility operations and facilities.
2. Coordinate planning to allow for the appropriate location and siting of all necessary existing and future facilities including overhead, underground, and submarine transmission and distribution systems, substations, cable terminals, standby and utility-scale generation, and any other necessary equipment or structures. ~~Existing facilities are shown in Figure 1, below.~~
3. ~~Consider electric power facilities to be essential public facilities.~~ The impacts from climate change, the changing regulations around carbon emissions, and the restructuring of the electric transmission market throughout the Pacific Northwest will impact the electric grid serving San Juan County, with the potential for increased unplanned outages and rolling blackouts. The need for locally generated electricity from wind, solar, tidal, and other sources are vitally important to prevent economic disruption, and preserve San Juan County's environment. The siting of electric facilities serving locally generated electricity and its supporting infrastructure will enable the deployment of an electric ferry system and speed the electrification of the state's transportation system. These types of development activities are to be addressed as Essential Public Facilities due to their importance serving the San Juan County island community.

~~Staff does not recommend this change. Instead, OPALCO's suggested paragraph could be added to the Energy Outlook in part 8.3.1 Electricity.~~

4. Locate and site ~~new~~ upland power transmission facilities, substations and submarine transmission cable terminal facilities ~~should be located and sited~~ to minimize adverse impacts to the rural character, shorelines and natural environment of the County.
5. ~~Allow the testing of pilot programs to evaluate~~ new alternative energy sources which are consistent with the goals and policies of this *Plan* and that ~~which~~ comply with all attendant regulations.
6. ~~Develop a process for locating sites deemed appropriate for the location of alternative power generation facilities.~~ Review appropriate land use designations for the location of alternative power generation facilities. (Placeholder)

TELECOMMUNICATIONS

8.3.B Telecommunications

Goal 8. ~~Goal:~~ ~~To~~ Promote the widespread availability of communication systems to facilitate communication among members of the public, public institutions, government agencies, and businesses, and to promote the public service and safety advantages and economic opportunities afforded to the community due to the availability of state-of-the-art telecommunications technology.

Policies ~~(8.3.B.1):~~ (8.5.B.8.1 – 2)

1. ~~Consider~~ ~~Telecommunications facilities which are developed and operated expressly to carry out emergency services should be considered~~ as essential public facilities.

~~OPALCO suggested wording: Telecommunications facilities developed and operated expressly to carry out emergency services are to be addressed as Essential Public Facilities due to their importance serving the San Juan Island community.~~

Staff does not recommend this change. Policies should start with verbs. "Due to their importance" is unnecessary. The importance of telecommunications facilities can be assumed in the fact that the County has policies specific to telecommunications.

2. ~~In keeping with the County's goal to promote the public service, safety advantages and economic opportunities of widespread availability of state-of-the-art telecommunications technology, potentially suitable personal wireless facility locations identified on the Official County Map, per SJCC 16.80.040, as (1) preferred, (2) potentially suitable and (3) conditionally suitable locations, should be reviewed and updated every five years.~~

Coordinate with Rock Island (telecommunications providers), Emergency Services, Public Works, and the County's Fire Districts to upgrade the County's emergency radio communications.

PROPANE

Goal 9: Recognize propane as an important heating source in the County.

Policies (8.5.B.9.1 – 2)

1. Identify appropriate land use designations for the siting of bulk fuel storage.
2. Support the use of historic barge landings that have served as landing sites for transporting bulk fuels.
3. [Add policy related to safe propane transport and storage]

ORDINANCE NO. ____ - 2020

ATTACHMENT B

AN ORDINANCE TO UPDATE THE SHORELINE MASTER PROGRAM
REGULATIONS; AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140,
18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550,
18.50.600, 18.80.110 AND 15.12.030

BACKGROUND

- A. In accordance with the Shoreline Management Act (SMA) (Chapter 90.58 RCW) and implementation regulations Washington Administrative Code Chapter 173-96, and 173-97 WAC, San Juan County recently completed a comprehensive update of its Shoreline Master Program including Section B, Element 3 of the Comprehensive Plan; and shoreline management regulations in Ordinance 11-2017.
- B. Now a periodic review of the San Juan County Shoreline Master Program is required by RCW 90.58.080.
- C. According to WAC 173-26-090(2)(d)(i)(A) and (B) the minimum scope of review established by the SMA is:
- (A) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and
 - (B) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.
- D. The periodic review addresses changes in requirements of the SMA and guideline requirements since the comprehensive update and changes for consistency with revised comprehensive plans and regulations, together with any changes deemed necessary to reflect changed circumstances, new information or improved data.
- E. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans in the periodic update.
- F. Staff used the Washington State Department of Ecology's (Ecology) periodic review checklist to determine what amendments were needed to be consistent with state laws, rules and updated guidance adopted through 2019.
- G. In compliance with the State Environmental Policy Act (SEPA), the environmental and nonproject action SEPA checklists were completed for the project. It was determined that the proposals would be unlikely to create any significant adverse environmental impacts. A Determination of Non-significance (DNS) was issued on January 15, 2020. The DNS and notice of a February 21, 2020 Planning Commission public hearing was advertised in

1 the Journal of the San Juan Islands and The San Juan Islander on January 15, 2020. The
2 checklists and DNS were provided to federal, state and local agencies in accordance with
3 SJCC 18.80.050 and WAC 197-11-340. The Washington State Department of Ecology
4 published notice of the SEPA determination on their SEPA register under No. 202000229.
5

6 **H.** As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of
7 amendments to the Comprehensive Plan was provided to the Washington State Department
8 of Commerce on January 7, 2020. On the same day, Commerce acknowledged receipt of
9 the notice that was processed by the State under submittal ID No. 2020-S-1106.

10
11 **I.** Planning Commission was briefed on the periodic review on November 15, 2019,
12 December 20, 2019 and January 17, 2020.

13
14 **J.** Planning Commission held a duly advertised public hearing on February 21, 2020,
15 deliberated and recommended that the County Council approve the ordinance.
16

17 **K.** County Council was briefed on December 3, 2019 and gave staff direction.
18

19 **L.** County Council was briefed on January 28, 2020 regarding changes to the preliminary draft
20 ordinance.
21

22 **M.** County Council was briefed on the Planning Commission's recommendation on February
23 XX, 2020.
24

25 **N.** County Council and Ecology held a duly advertised joint public hearing on
26 XXXXXXXXXX, 2020 and received public testimony.
27

28 **O.** The County transmitted the XXXX ordinance to Ecology for review on XXXXX
29

30 **P.** Ecology
31 XX.
32

33 **Q.** The County Council XXXXX.
34

35 **R.** The County Council deliberated on the ordinance and made the following findings:
36

37 1. The proposed ordinance is consistent with the provisions of RCW 90.58.080 and WAC
38 173-26-090(2)(d)(i)(A) and (B).
39

40 2. The proposed ordinance is consistent with the provisions of XXXXXXXXXXXX
41

42 3. XXXXXXXX
43

44 **S.** The County Council makes the following conclusions: XXXXXXXXXXXXXXXX
45
46

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

3
4 **SECTION 1. SJCC 18.20.140 and Ordinance 1-2016 § 68 are each amended to read**
5 **as follows:**

6 **18.20.020 “B” definitions.**

7 “Barge landing site, permanent” means any location established for the purpose of landing a
8 barge (including powered landing craft) for more than a temporary use. (See also “log storage or
9 transfer site.”)

10 “Barge landing site, temporary” means a location where a limited number of landings are
11 allowed that will not result in permanent disturbance of the earth, development or permanent
12 adverse impacts on shoreline ecological functions.

13 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any
14 given year; also known as the “100-year flood,” as shown on the FIRM maps.

15 “Base flood elevation” means the elevation for which there is a one percent chance in any given
16 year that flood levels will equal or exceed it.

17 “Beach enhancement/restoration” means a process of restoring a beach to a state more closely
18 resembling a natural beach using beach feeding, vegetation, drift sills, and other nonintrusive
19 means.

20 “Bed and breakfast inn” means a hospitality commercial use containing three to five lodging
21 units without cooking facilities, which provides overnight accommodation and breakfast meals in
22 a proprietor- or owner-occupied existing single-family residence and additional legal structures
23 or up to 10 lodging units in an existing historic structure.

24 “Bed and breakfast residence” means a hospitality commercial use containing one to two lodging
25 units without cooking facilities, which provides overnight accommodation and breakfast meals in
26 an owner-occupied existing single-family residence.

27 “Beneficial owner” means an individual who is a member of a family corporation, trust, or a
28 partnership, and who is related by blood, adoption, marriage, or domestic partnership to all other
29 members of the corporation, trust or partnership.

1 “Best available science” means current scientific information used in the process of designating,
2 protecting, or restoring critical area functions and values, that is derived from a valid scientific
3 process as described in WAC 365-195-900 through 365-195-925.

4 “Best management practices (BMPs)” means systems of practices, schedules of activities,
5 prohibitions, maintenance procedures, and structural or management measures that prevent or
6 minimize the release of pollutants or other adverse impacts to the environment.

7 “Binding site plan” is a method of division of land intended primarily for projects such as
8 condominiums, residential clusters or planned unit developments, industrial parks and shopping
9 centers, which are developed as a whole rather than for sale of individual lots for development.

10 “Biodiesel” means biodiesel as defined by RCW 19.112.010.

11 “Biofiltration system” means a water filtration system using biological processes.

12 “Boat launch, ramp or retrieval system” means an area, structure, or equipment used to launch or
13 retrieve boats.

14 “Boathouse” means an enclosed structure designed and used for the storage of boats and boat
15 equipment.

16 “Boating facilities” means development and uses that support access to shoreline waters for
17 purposes of boating such as marinas, covered moorages, boathouses, ramps, marine railways,
18 mooring buoys, piers, docks and floats serving five or more single-family residences, or
19 multifamily units.

20 “Bonus-density residential district” means a district in which a density bonus is permitted for
21 affordable housing. The official maps indicate both the base density permitted without a density
22 bonus and the maximum density permitted with a density bonus for affordable housing.

23 “Boundary line adjustment” means a change in the location of the boundary or boundaries
24 between parcels of land to correct errors.

25 “Boundary line modification” means a change in the location of the boundary or boundaries
26 between parcels of land; provided, that no additional parcels are created, except that a change in
27 a land description to correct errors is not to be considered a boundary line modification.

1 “Breakwater” means protective structures that are normally built offshore to protect beaches,
2 bluffs, dunes, or harbor areas from wave action.

3 “Buffer zone, strip, or area” means either an area designed to separate incompatible uses or
4 activities, or a contiguous area that helps moderate adverse impacts associated with adjacent land
5 uses and that is necessary for the continued maintenance, function, and structural stability of the
6 protected area. Different types of buffers perform different functions.

7 “Building envelope” means:

8 1. A three-dimensional space in which a building or structure may be built;

9 2. A plat restriction for the purpose of defining lot coverage areas for individual lots, or for
10 describing shoreline building setbacks.

11 “Bulk fuel storage plant or terminal” means an area where flammable or combustible liquids are
12 received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for
13 the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable
14 tank, or container (see International Fire Code).

15 “Bulk fuel storage (retail)” means the storage of fuel in structures or tanks for subsequent retail
16 sale.

17 “Bulk fuel storage (wholesale)” means the storage of fuel in structures or tanks for subsequent
18 wholesale distribution.

19 “Bulkheads or seawalls” means structures erected parallel to and near the high water mark for
20 the purpose of protecting the adjacent bank or uplands from the action of waves or currents.

21 **SECTION 2. SJCC 18.20.140 and Ordinance 1-2016 § 74 are each amended to read**
22 **as follows:**

23 **18.20.140 “N” Definitions.**
24

25 “National Register of Historic Places” means the official federal list, established by the National
26 Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the
27 nation’s history and prehistory, or whose artistic or architectural value is unique.

28 “Native vegetation” means plant species which are indigenous to San Juan County.

1 “Natural designation” means the land use designation of the Comprehensive Plan that is
2 designed to preserve unusual or valuable natural resource systems by the regulation of all
3 activities or uses which might degrade or alter the natural characteristics which make these areas
4 unusual or valuable.

5 “Natural designation (shoreline)” means the Shoreline Master Program designation designed to
6 preserve unusual or valuable natural resource systems by regulating all potential uses which
7 might degrade or alter the natural characteristics that make the area unusual or valuable.

8 “Natural or existing topography” means the topography of the lot, parcel, or tract of real property
9 immediately prior to any site preparation or grading, including excavation or filling.

10 “Natural system (shoreline)” means a group of related objects or forces existing in nature: for
11 example, a shore process corridor.

12 “Net use area” means the area used to calculate the required number of parking spaces for
13 developments in Eastsound as specified in Table 22. Net use area is the gross floor area
14 excluding the following:

15 1. Circulation areas such as entries and weather vestibules, lobbies, hallways and corridors,
16 stairways, elevators and similar areas which do not have customer/patron uses other than
17 for circulation of people; and

18 2. Mechanical, custodial and storage areas such as mechanical rooms and chases/shafts,
19 electrical/utility rooms and vaults, toilets, custodial rooms, and areas used solely for
20 storage.

21 “No net loss” means the requirement that development and vegetation removal not result in net
22 harm in the aggregate to the existing functions and values of the ecosystem that includes the
23 adversely impacted or lost critical areas. The no net loss standard in WAC 365-196-830 requires
24 that where development regulations allow harm to critical area functions and values, they must
25 require compensatory mitigation of the harm unless alternative means of protecting critical areas
26 exist such as best management practices or a combination of regulatory and nonregulatory
27 programs.

28 “Noise” means any sound not occurring in the natural environment which causes or tends to
29 cause an adverse psychological or physiological effect on humans.

1 “Noise exposure forecast level” means the level of predicted noise exposure for areas within the
2 vicinity of an airport due to aircraft operations at some future date based on noise levels and
3 duration at the time of prediction.

4 “Noncapital alternative strategies” means programs, strategies, or methods that contribute to
5 achieving and maintaining adequate levels of service (as set forth in the Comprehensive Plan) for
6 concurrency facilities by means other than by constructing structural improvements. These
7 strategies include but are not limited to reduction of need or demand for a facility or service (as
8 by education efforts or increased efficiency of use), provision of a noncapital substitute, and use
9 of alternative methods to provide capacity. (See also “adequate capacity (adequate capital
10 facilities),” “available capital facilities (available capacity),” “concurrency,” and “level of
11 service (LOS).”)

12 “Nonconforming” means an existing use, structure, site, or lot that conformed to the applicable
13 codes in effect on the date of its creation but that no longer complies because of changes in code
14 requirements. Nonconformity is different than and not to be confused with illegality (see “illegal
15 use”). Legal nonconforming lots, structures, and uses are commonly referred to as
16 “grandfathered.”

17 “Nonconforming lot” means an existing lot that does not conform to the area, width, depth, or
18 street frontage regulations of the land use designation where it is located.

19 “Nonconforming structure” means an existing structure that does not conform to the dimensional
20 regulations, such as setback, height, lot coverage, density, and building configuration regulations
21 of the land use designation where it is located due to changes in code requirements. (See also
22 “alteration, nonconforming structures.”)

23 “Nonconforming use” means an existing use of a structure or of land that does not conform to
24 the regulations of the land use designation where the use exists due to changes in code
25 requirements. (See also “alteration, nonconforming use.”)

26 “Nonpoint-source” means the release of waste or other flows which occurs over a broad or
27 undefined area. Releases which can be described as confined to a small area, such as discharges
28 from a pipe or conduit, are referred to as “point-source discharges.” (See also “point-source
29 discharge.”)

30 “Normal residential appurtenance, shoreline” means a structure or development that is
31 necessarily connected to the use and enjoyment of a single-family residence and which is

1 expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption
2 from shoreline substantial development permit requirements in accordance with WAC 173-27-
3 040(g). Structures and activities considered normal residential appurtenances include accessory
4 dwelling units ~~or other detached residential structures~~, garages, sheds, decks and patios attached
5 to primary structures, private pedestrian pathways, stairways to access shorelines including those
6 constructed prior to the construction of a residence on lots intended for single-family
7 development, ramps, ~~patios~~, fences, driveways, utilities, on-site sewage disposal systems,
8 antennas, solar arrays, ~~wind power~~ generators serving a single structure, satellite dishes, boat
9 houses landward of the primary residential structure served by marine railways that require a
10 substantial development permit, official registered historic structures, and grading which does
11 not exceed 250 cubic yards and which does not involve placement of fill in any wetland or
12 waterward of the OHWM.

13 “Nursery” means lands or greenhouses used to raise flowers, shrubs, and plants for commercial
14 purposes.

15 “Nursing home (long-term health care facility)” means a facility or residence that provides health
16 or long-term care services to residents, including nursing or other supportive or restorative health
17 services, on a 24-hour basis (RCW 43.190.020).

18 **SECTION 3. SJCC 18.20.190 and Ordinance 21-2018 § 1 are each amended to read**
19 **as follows:**

20
21 **18.20.190 “S” definitions.**

22
23 “Sale” means the transfer for consideration of legal or beneficial ownership.
24

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

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

28 “Seaward” means to or toward the sea.

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

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

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

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

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

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

10 “Service range” means the area within eight driving miles measured from the property boundary
11 on ferry-served islands and existing facilities on each non-ferry-served island.

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

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

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

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

22 “Shorelands” means 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 which are subject to the provisions of Chapter 90.58 RCW, the
26 same to be designated as to location by the Department of Ecology.

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

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

10 “Shoreline development” means a use consisting of the construction or exterior alteration of
11 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals;
12 bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary
13 nature which interferes with the normal public use of the surface of the waters overlying lands
14 subject to Chapter 90.58 RCW at any stage of water level. It does not include dismantling or
15 removing structures if there is no other associated development or redevelopment
16 (RCW 90.58.030; WAC 173-27-030).

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

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

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

1 “Shoreline substantial development permit exemption” means certain developments that meet the
2 precise terms of listed exemptions and are granted exemption from the requirements of the
3 substantial development permit process of the Shoreline Management Act (SMA). An activity
4 that is exempt from the substantial development provisions of the SMA must still be carried out
5 in compliance with policies and standards of the Act and the Master Program (Element 3 of the
6 Plan and Chapter 18.50 SJCC). Shoreline conditional use or variance permits may also still be
7 required even though the activity does not need a substantial development permit (Cf.
8 RCW 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

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

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

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

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

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

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

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

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

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

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

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

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

- 13 1. There is a fee charged for the entire carcass to be returned to the animal owner; or
- 14 2. There is a group of residents who butcher their animals in a common area and there is no
15 fee for slaughtering services.

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

18 “Soft shoreline stabilization” means shore erosion control structures and measures that maintain
19 or enhance ecological functions composed of primarily natural and semi-rigid or flexible
20 materials, bioengineering tailored to site-specific natural conditions, and vegetation, organized in
21 a nonlinear, sloping arrangement, that dissipates wave energy and minimize erosion in a way that
22 is similar to natural shoreline processes.

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

25 “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except
26 wastes identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial
27 wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and
28 discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at

1 agronomic rates. This includes all liquid, solid and semi-solid materials which are not the
2 primary products of public, private, industrial, commercial, mining and agricultural operations.
3 Solid waste includes but is not limited to sludge from wastewater treatment plants and septage
4 from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues
5 from recycling operations are considered solid waste.

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

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

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

14 “Source of contamination” means a facility or disposal or storage site for material that impairs
15 the quality of groundwater to a degree that creates a potential hazard to the environment, public
16 health, or interferes with a beneficial use.

17 “Special flood hazard” means land in the floodplain subject to a one percent or greater chance of
18 flooding in any given year.

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

21 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as
22 stand density.

23 “Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.

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

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

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

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

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

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

13 “Subdivision, short” means subdivision of land into no more than four parcels, as provided by
14 this code and Chapter 58.17 RCW.

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

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

22 “Substantial development” means any development of which the total cost, or fair market value,
23 exceeds the dollar threshold established by the Washington State Office of Financial
24 Management (RCW 90.58.030(3)(e)); except for the exemptions specified in WAC 173-27-040,
25 Chapter 18.50 SJCC, or any development which materially interferes with the normal public use
26 of the water or shorelines of the state.

27 “Substantial improvement” means any maintenance, repair, structural modification, addition or
28 other improvement of a structure, the cost of which equals or exceeds 50 percent of the market
29 value of the structure either before the maintenance, repair, modification, or addition is started or
30 before the damage occurred, if the structure had been damaged and is being restored.

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

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

6 “Swale” means a depressed, vegetated, often wet area of land, or an open drainageway.

7 **SECTION 4. SJCC 18.50.020 and Ordinance 21-2018 § 2 are each amended to read**
8 **as follows:**

9 **18.50.020 General.**
10

11 A. Title. This chapter of the San Juan County Unified Development Code (UDC), together with
12 Element 3 of the Comprehensive Plan, the official maps and common descriptions of shoreline
13 designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section
14 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound
15 Waterfront Access Plan, and SJCC 18.80.110, is the Shoreline Master Program (SMP) for San
16 Juan County, Washington.

17 B. Short Title. The short title of this chapter and Element 3 of the Comprehensive Plan is the
18 “SMP.”

19 C. Authority.

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

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

28 3. The SMA and the SMP comprise the basic state and local law regulating the use of
29 shorelines in the County. Unless specifically provided otherwise, if the provisions of the

1 SMP conflict with other applicable state or local policies, subarea plans, or other
2 regulations, the most restrictive regulation controls.

3 D. Official Map.

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

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

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

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

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

19 E. Responsibilities of Department Director and Planning Commission.

20 1. Director.

21 a. The director:

22 i. makes written recommendations to the decision-maker regarding shoreline
23 permit applications, provides technical and administrative assistance to the
24 hearing examiner as required, and provides such technical assistance to the
25 planning commission and County council as may be needed; and

26 ii. is the local decision-maker on shoreline substantial development permit
27 applications for public pedestrian trails and residential accessory structures that
28 do not meet and exemption threshold in SJCC 18.50.050; and

- 1 b. The director has the overall administrative responsibility for the SMP including:
 - 2 i. Establishing the procedures and preparing the forms deemed essential for the
 - 3 administration of the SMP;
 - 4 ii. Advising applicants for permits and other interested persons of the policies,
 - 5 regulations, and procedures established by the SMP and the SMA;
 - 6 iii. Making administrative interpretations of the SMP, as necessary;
 - 7 iv. Collecting required fees;
 - 8 v. Determining that applications are proper and complete prior to review;
 - 9 vi. Making field inspections; and
 - 10 vii. Seeking compliance with the provisions of the SMP and the SMA and with
 - 11 conditions attached to a shoreline permit issued by the County.
- 12 2. The department and planning commission have authority to review and recommend
- 13 revisions to the SMP.
- 14 3. The department shall document all project review actions in the shoreline jurisdiction
- 15 and evaluate the cumulative effects of such development on shoreline conditions. The
- 16 cumulative effects evaluation shall be conducted every four years and consider:
 - 17 a. Permit applications, decisions, environmental reports, and other data from
 - 18 authorized shoreline exemptions and permits and GIS maps;
 - 19 b. Aerial and LIDAR photographs;
 - 20 c. Other available data; and
 - 21 d. Field observations.
- 22
- 23
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- 27

1 **SECTION 5. SJCC 18.50.030 and Ordinance 11-2017 § 4 are each amended to read**
2 **as follows:**

3 **18.50.030 General applicability.**
4

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

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

16 C. Applicability to Federal Agencies.

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

19 2. ~~The shoreline permit system applies to nonfederal activities constituting developments~~
20 ~~or conditional uses undertaken on lands subject to nonfederal ownership, lease, or~~
21 ~~easement even though such lands may fall within the external boundaries of federally~~
22 ~~owned lands. Those nonfederal lands lying within the exterior boundaries of federal lands~~
23 ~~and those federal lands leased to other persons, which fall within the definition of~~
24 ~~shorelands, shall be subject to the jurisdiction of Chapter 90.58 RCW. Areas and uses in~~
25 ~~those areas that are under exclusive federal jurisdiction as established through federal or~~
26 ~~state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.~~

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

30 D. Applicability to Developments, Uses, Structures, and Activities. This SMP applies to all
31 developments, uses, and structures, as well as activities regulated by SJCC 18.50.130. Unless
32 otherwise authorized, shoreline development without a project permit, shoreline substantial

1 development permit, shoreline conditional use permit, shoreline variance, or certificate of
2 exemption is prohibited.

3 E. Developments not required to obtain shoreline permits or local reviews. Requirements to
4 obtain a substantial development permit, conditional use permit, variance, letter of exemption, or
5 other review to implement the *Shoreline Management Act* do not apply to the following:

6 1. Remedial actions pursuant to RCW 90.58.355. Remedial actions conducted by any
7 person at a facility pursuant to a consent decree, order, or agreed order issued pursuant to
8 Chapter 70.105D RCW, or the Washington Department of Ecology when it conducts a
9 remedial action under Chapter 70.105D RCW;

10 2. Boatyard improvements to meet national pollutant discharge elimination system
11 (NPDES) permit requirements pursuant to RCW 90.58.355. Any person installing site
12 improvements for stormwater treatment in an existing boatyard facility needed to meet
13 requirements of a NPDES stormwater general permit;

14 3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.
15 Washington State Department of Transportation projects and activities meeting the
16 conditions of RCW 90.58.356;

17 4. Projects consistent with an environmental excellence program agreement pursuant to
18 RCW 90.58.045; and

19 5. Projects authorized through the Washington Energy Facility Site Evaluation Council
20 process pursuant to Chapter 80.50 RCW.

21 **SECTION 6. SJCC 18.50.040 and Ordinance 11-2017 § 5 are each amended to read**
22 **as follows:**

23 **18.50.040 Exemptions from shoreline substantial development permit requirements –**
24 **General requirements.**
25

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

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

4 C. Certificates of exemption are required for certain developments under SJCC 18.50.050(B). A
5 use classified as a conditional use, or a use not named or contemplated in this chapter, is allowed
6 subject to a conditional use permit and is ineligible for a shoreline substantial development
7 permit exemption.

8 D. The following developments, as defined in WAC 173-27-040, are not shoreline substantial
9 developments and require a certificate of exemption when not considered as part of a larger
10 project or development permit:

11 1. With the exception of docks, any development, use, structure or activity whose total cost
12 or fair market value, whichever is higher, does not exceed the maximum exempt amount
13 allowed by state law (~~\$6,416 as of October 2012~~ \$7,047 in September 2017) in accordance
14 with WAC 173-27-040(2)(a), if such development does not materially interfere with the
15 normal public use of the water or shorelines of the state. The total cost or fair market value
16 of the development includes the fair market value of any donated, contributed or found
17 labor, equipment, or materials.

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

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

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

25 5. Construction and practices necessary for farming, irrigation, and ranching activities,
26 including agricultural service roads and utilities on shorelands, construction and
27 maintenance of a barn or similar agricultural structure and the construction and
28 maintenance of irrigation structures such as head gates, pumping facilities, and irrigation
29 channels in accordance with WAC 173-27-040(2)(e); provided, that a feedlot of any size,
30 all processing plants, other activities of a commercial nature, and alteration of the contour

1 of the shorelands by leveling or filling (other than that which results from normal
2 cultivation) are not considered normal or necessary farming or ranching activities.

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

5 7. Construction of a single-family residence, including normal residential appurtenances,
6 for the use of the beneficial owner and their family is exempt from shoreline substantial
7 development permit requirements. For the purposes of this SMP, the beneficial owner is an
8 individual who may be a land owner, lessee, contract purchaser, or a member of a family
9 corporation, trust, or partnership, and who is related by blood, adoption, marriage or
10 domestic partnership to all other members of the corporation, trust or partnership. For the
11 construction of more than one single-family residence, a shoreline substantial development
12 permit is required in accordance with WAC 173-27-040(2)(g). Exempt normal residential
13 appurtenances are defined in SJCC 18.20.140 and regulated by SJCC 18.50.050.

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

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

19 b. In fresh waters, the fair market value of the dock does not exceed: ~~\$10,000, but if~~
20 ~~subsequent construction having a fair market value exceeding \$2,500 occurs within~~
21 ~~five years of completion of the prior construction, the subsequent construction is~~
22 ~~considered a substantial development.~~

23 i. Twenty-two thousand five hundred dollars (\$22,500) for docks that are
24 constructed to replace existing docks, and are of equal or lesser square footage
25 than the existing dock being replaced, or

26 ii. Eleven thousand two hundred (\$11,200) dollars for all other docks constructed
27 in fresh waters.

28 If subsequent construction occurs within five years of completion of prior construction, and
29 the combined fair market value of the subsequent and prior construction exceeds the

1 amount specified above, the subsequent construction is considered a substantial
2 development.

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

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

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

14 12. Site exploration and investigation activities that are prerequisite to preparation of an
15 application for development authorization under this SMP in accordance with WAC 173-
16 27-040(2)(m) if:

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

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

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

23 d. A private entity seeking development authorization under this section first posts a
24 financial guarantee or provides other evidence of financial responsibility to the
25 County to ensure that the site is restored to preexisting condition; and

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

27 13. The process of removing or controlling an aquatic noxious weed, as defined in state
28 law, through the use of herbicides or other treatment methods that are recommended in a
29 final environmental impact statement published by the U.S. Department of Agriculture or

1 the WDOE jointly with other state agencies under Chapter 43.21C RCW in accordance
2 with WAC 173-27-040(2)(n). In order to qualify as exempt, noxious weed control must
3 meet the following County requirements:

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

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

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

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

19 14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o) including a
20 public or private project designed to improve fish or wildlife habitat or fish passage that
21 conforms to the provisions of RCW 77.55.181.

22 15. Habitat enhancement projects that conform to the provisions of RCW 77.55.290 and
23 RCW 90.58.147 are consistent with local shoreline master programs. A public or private
24 project that is designed to improve fish or wildlife habitat or fish passage in accordance
25 with WAC 173-27-040(2)(p) and RCW 77.55.181, when all of the following apply:

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

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

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

3 16. The external or internal retrofitting of an existing structure with the exclusive purpose
4 of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et
5 seq.) or to otherwise provide physical access to the structure by individuals with
6 disabilities.

7 **SECTION 7. SJCC 18.50.050 and Ordinance 11-2017 § 6 are each amended to read**
8 **as follows:**

9 **18.50.050 Exemptions from substantial development permit requirements – Normal**
10 **residential appurtenances.**
11

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

17 1. Construction or renovation of structures with fair market value of less than the maximum
18 value allowed by WAC 173-27-040(2)(a) (~~\$6,416 in October 2012~~ \$7,047 in September
19 2017).

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

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

24 b. Roofs or roof covering materials such as awnings are not allowed for purposes of
25 this exemption;

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

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

29 e. No other shoreline access exists or is feasible;

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

5 g. The project complies with the bank stability and geologically hazardous area
6 requirements of SJCC 18.50.130.

7 B. Certificates of Exemption.

8 1. The director may approve or deny applications for an exemption from a shoreline
9 substantial development permit for uses and developments listed in SJCC 18.50.040 and
10 subsection (A) of this section. Approved certificates must describe the specific exemption
11 that is being applied to the development and indicate that a proposal is consistent with the
12 SMP and the SMA. The certificate of exemption may contain conditions or mitigation
13 measures required for consistency with the SMP and SMA. The denial of an exemption
14 must include written findings. The director's approval or denial of a certificate of
15 exemption may be appealed under SJCC 18.80.140.

16 2. When not part of an approved development or project permit a certificate of exemption
17 is required for:

18 a. Dredging;

19 b. Flood hazard control structures;

20 c. Archaeological or historic site alteration;

21 d. Clearing, grading, fill, excavation and vegetation removal;

22 e. Dock construction, repair, replacement, or enlargement;

23 f. Structural shoreline stabilization, repair, replacement, or enlargement;

24 g. Any residential, commercial or industrial development project within the natural
25 and aquatic designations;

26 h. Small scale shellfish aquaculture consistent with the provisions of
27 SJCC 18.50.230(B);

1 i. New ~~Temporary~~ temporary barge landing sites. Existing nonconforming temporary barge
2 landing sites do not require a certificate of exemption if the proposed use is consistent
3 with the historic transport of cargo at the site and frequency of the historic use; and

4 j. Private pedestrian pathways, stairways and ramps.

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

9 4. A certificate of exemption is not required for residential development, including normal
10 residential appurtenant structures, when a project or development permit application is
11 required. In addition to the conditional use permit required by SJCC 18.50.540(D)(3),
12 normal residential appurtenances that are not considered as part of the original
13 development permit are required to obtain a certificate of exemption.

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

17 **SECTION 8. SJCC 18.50.450 and Ordinance 11-2017 § 20 are each amended to**
18 **read as follows:**

19 **18.50.450 Forest practices.**

20
21 **A. General Regulations.**

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

27 2. The cutting of timber solely incidental to the preparation of land for other uses
28 authorized by this chapter is not considered a development under the SMA and does not
29 require a shoreline exemption or substantial development permit and is allowed.

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

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

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

5 c. Prevent significant adverse impacts to other shoreline uses, resources, and values;
6 and

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

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

12 C. Regulations by Designation.

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

18 **SECTION 9. SJCC 18.50.540 and Ordinance 11-2017 § 24 are each amended to**
19 **read as follows:**

20 **18.50.540 Residential development.**

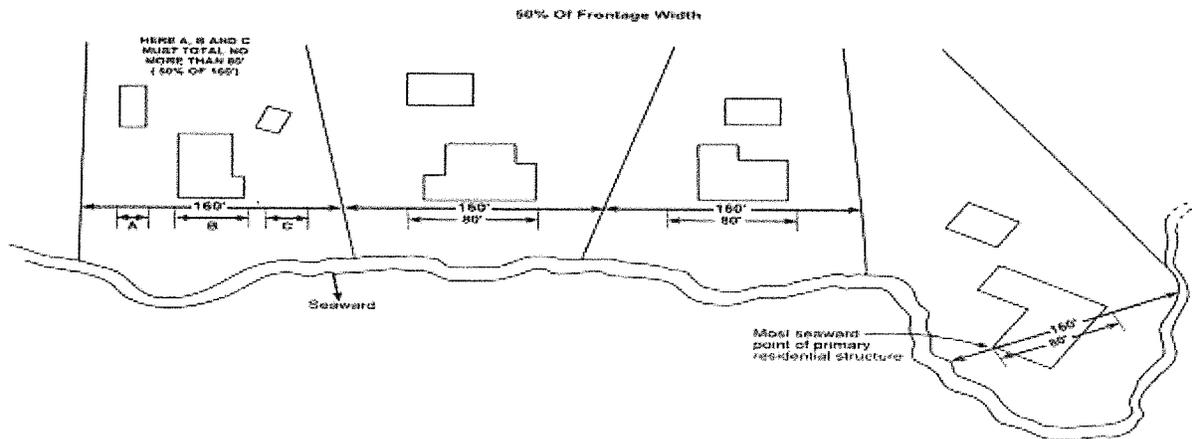
21 A. Regulations – Location and Design.

22 1. Residential development is only allowed landward of the OHWM, except as specifically
23 allowed for live aboard vessels in subsection (E) of this section.

24 2. Developments on waterfront lots may not cover more than 50 percent of the width of the
25 lot as measured by the shortest straight line distance from lot line to lot line through the
26 most seaward point of the primary residential structure. Developments with multiple
27 structures shall ensure that the combined width of all the structures does not exceed 50
28 percent of the width of the single lot. However, on lots less than 80 feet wide at the most
29 seaward point of the proposed residential structure, the structure may cover an area up to

1 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is
 2 maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all
 3 appurtenant structures must be placed landward of the primary residential structure. See
 4 Figure 18.50.540 below.

5 **Figure**
 6 **18.50.540**



7
 8 3. The maximum allowed height for residential structures is 35 feet above average grade
 9 level. An exception to allow residential structures to exceed the 35-foot height limitation
 10 may be allowed with a shoreline conditional use permit. In order for the height exception
 11 to be approved, the applicant must demonstrate that:

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

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

20 B. Prohibited Uses and Activities. Except as provided in the live aboard provisions in subsection
 21 (E) of this section, new residential structures and their normal residential appurtenant structures
 22 are prohibited over-water or floating on the water.

1 C. Regulations – Buffers and Setback Standards.

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

6 2. Development may also be subject to critical buffers and restrictions in SJCC 18.50.130.

7 3. If a lot has screening vegetation within 50 feet of the OHWM the aesthetic setback is 50
8 feet from the top of the bank. In all other cases, the aesthetic setback is 100 feet from the
9 top of the bank.

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

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

12 6. If existing houses on waterfront lots adjoining the project site are closer to the top of
13 bank or OHWM than any specified minimum setback or buffer and may potentially block
14 the view of the proposed residential structure, a lesser setback or buffer of not less than 35
15 feet may be authorized for a residential structure by the director if:

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

17 b. Adverse impacts are mitigated in conformance with
18 SJCC 18.50.140, 18.50.150 and 18.50.160; and

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

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

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

24 D. Regulations – Normal Residential Appurtenances and Accessory Structures.

25 1. ~~With the exception of private pedestrian pathways, stairways, ramps, patios, and decks~~
26 ~~attached to the primary structure, and boathouses served by marine railways, normal~~
27 ~~residential appurtenances that are not water dependent are not allowed seaward of the most~~

1 ~~landward extent of the residence. The director may authorize an alternative location~~
2 ~~without requiring a shoreline variance by issuing a written administrative determination. To~~
3 ~~be approved, the director must find that:~~

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

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

7 Normal residential appurtenant and accessory structures are not allowed in critical area
8 buffers required by SJCC 18.50.120 except for:

9 a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine
10 railways, and

11 b. Temporary fencing for shoreline habitat and natural systems enhancement
12 projects approved pursuant to SJCC 18.50.590.

13 The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC
14 must be met to achieve the no net loss standard in SJCC 18.50.120. A no net loss report
15 may not be used to meet the critical area requirements because avoidance, the first step in
16 the mitigation sequence analysis required by SJCC 18.50.120(B) and 18.50.140, cannot
17 be met.

18 2. ~~Accessory dwelling units must comply with SJCC 18.40.240.~~

19 Normal residential appurtenant and accessory structures are not allowed in the shoreline
20 aesthetic buffer except for:

21 a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine
22 railways and normal residential appurtenances;

23 b. Normal residential appurtenant structures and accessory structures less than thirty
24 inches in height; and

25 c. Temporary fencing for shoreline habitat and natural systems enhancement
26 projects approved pursuant to SJCC 18.50.590.

1 3. ~~Normal residential appurtenances that are not identified in the definition in~~
2 ~~SJCC 18.20.140 are allowed with a conditional use permit. Accessory dwelling units must~~
3 ~~comply with SJCC 18.40.240.~~

4 4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to normal residential
5 appurtenances and accessory structures thirty inches or less in height.

6 E. Live Aboard Vessels.

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

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

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

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

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

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

21 F. Regulations by Designation.

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

1 **SECTION 10. SJCC 18.50.550 and Ordinance 11-2017 § 25 are each amended to**
2 **read as follows:**

3 **18.50.550 Transportation facilities and parking.**
4

5 A. Regulations – General.

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

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

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

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

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

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

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

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

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

25 a. Outside of shoreline jurisdiction; or

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

28 5. Roadside vegetation shall be controlled.

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

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

5 C. Regulations – Parking.

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

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

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

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

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

16 a. Outside of the shoreline jurisdiction; or

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

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

20 4. Parking over-water is prohibited.

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

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

24 D. Regulations – Airports, Airfields, Airstrips and Runways.

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

1 2. Existing airports, airfields, airstrips and runways may be repaired, maintained or
2 expanded consistent with the provisions of SJCC 18.50.090.

3 E. Regulations – Ferry Terminals. Ferry terminals and their related parking lots shall be located,
4 designed, and constructed to result in no net loss of shoreline ecological functions.

5 F. Regulations – County Docks.

6 1. Overnight moorage is prohibited at County docks.

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

9 G. Regulations – Float Plane Facilities.

10 1. Use of docks for scheduled commercial float plane service, meaning five or more round
11 trips per week according to a published schedule, is only allowed in public or private
12 marinas, or established port areas, with a shoreline conditional use permit.

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

16 3. Use of docks and marinas for irregular float plane service is allowed.

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

19 a. Taxiing patterns must minimize noise impacts on area residents and wildlife, and
20 interference with navigation and moorage;

21 b. Fuel and oil spill clean-up plans and materials, and fire-fighting equipment are
22 required on site. Spill response equipment must be commensurate with the size of the
23 facility and float plane use; and

24 c. Specific hours of the day in which float plane access is allowed.

25 5. Float plane access is prohibited at County road ends and parks, and freshwater shorelines
26 where public shoreline access exists.

1 H. Regulations – Barge Landing Sites and Facilities.

2 1. New Temporary barge landing sites require a certificate of exemption but are exempt
3 from a shoreline substantial development permit. These sites shall not exceed 12 landings
4 in any 24-month period and must be operated in a manner that will result in no net loss of
5 shoreline ecological functions. Existing nonconforming temporary barge landing sites do
6 not require a certificate of exemption if the proposed use is consistent with the historic
7 transport of cargo at the site and frequency of the historic use.

8 2. New permanent barge landing sites and facilities require a shoreline conditional use
9 permit. The shoreline conditional use permit will not be approved unless the applicant can
10 demonstrate that:

11 a. The use of barge landing sites and facilities existing on the date of application is not
12 feasible;

13 b. An alternative access is not feasible; and

14 c. The proposed barge landing schedule will minimize negative off-site impacts.

15 3. All barge landing sites and facilities shall be located, designed, constructed, and
16 maintained in a manner that results in no net loss of shoreline ecological functions and
17 maximizes the opportunity to serve multiple users on an island.

18 4. The use of an unimproved beach as an emergency landing site is allowed. The shoreline
19 exemption required by SJCC 18.50.050 may be processed after the landing activity. Within
20 seven days of the emergency, the agency or person who undertook the landing(s) shall
21 report to the director the extent of the emergency actions and any adverse impacts to
22 shoreline ecological functions caused by the actions. The agency or person who undertook
23 the action is required to mitigate adverse impacts in accordance with the requirements of
24 SJCC 18.50.110 through 18.50.160.

25 I. Regulations – Public Pedestrian Trails.

26 1. Public pedestrian trails shall be aligned to avoid or minimize adverse impacts on
27 shoreline ecological functions.

28 2. Public pedestrian trails shall be constructed consistent with local, state and federal
29 standards.

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 alternative
9 exists with a shoreline substantial development permit.

10 c. Ferry terminals and scheduled commercial or regular use float planes may be allowed
11 as a conditional use if it can be shown that no feasible alternative exists and that the
12 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 if the
14 site will serve multiple users on the island affected, and the applicant demonstrates that
15 conservancy shoreline resources will not be materially harmed. Permanent barge landing
16 sites require a shoreline conditional use permit and temporary barge landing sites require
17 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 **SECTION 11. SJCC 18.50.600 and Ordinance 11-2017 § 27 are each amended to**
25 **read as follows:**

26 **18.50.600 Shoreline developments, uses, structures and activities by designation.**

27 A. In addition to the general and specific standards established in Article III of this chapter, for
28 development, uses, structures and activities, Table 18.50.600 indicates if a development, use,
29 structure or activity:

- 1 1. Is allowed;
- 2 2. Is prohibited;
- 3 3. Requires a shoreline substantial development permit;
- 4 4. Requires a shoreline conditional use permit; or
- 5 5. Is subject to other certificates or conditions.

6 B. Certain shoreline developments, uses, structures and activities in some shoreline designations
7 are subject to additional regulations. They are marked with an asterisk in Table 18.50.600. A use
8 not named or contemplated in this chapter may be allowed subject to a conditional use permit.

9 C. Legend for Table 18.50.600, Shoreline development, uses, structures and activities by
10 designation:

SD = Subject to shoreline substantial
development permit unless exempt
per subsection (B) of this section.

CUP = Conditional use permit.

No = Prohibited; the use is not eligible
for a variance or conditional use
permit.

NA = Not applicable.

* = See the specific regulations for the
shoreline designation or type of use
in Article III of this chapter.

Table 18.50.600. 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								

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
General aquaculture	SD*	SD*	SD	SD	SD*	SD	No	SD*
Small scale shellfish aquaculture	*	*	*	*	*	CUP	No	*
Noncommercial freshwater hatcheries	SD*	SD*	SD*	SD*	No	SD*	No	NA
Finfish net pens	No	No	No	No	No	No	No	No
Commercial geoduck aquaculture	CUP	CUP	CUP	CUP	CUP	CUP	No	CUP
Over-Water Structures¹ Including Boating Facilities								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single-family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
Breakwaters, Jetties								

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
and Groins¹								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	CUP	CUP	CUP	CUP	CUP	NA
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
Breakwaters, jetties and groins for shoreline restoration projects	SD	SD	SD	SD	SD	SD	SD	SD
Commercial Development								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Non-water-oriented uses*	No	No	No*/CUP *	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
Dredging and Dredge Material Disposal								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material disposal, in-water	No	No*	SD*	SD*	SD*	SD	SD	No
Dredge material disposal, upland	No	No	SD*	SD*	SD*	SD	SD	NA

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
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, flood walls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
Forest Practices								
Commercial forestry ^{1, 3}	CUP*	SD	SD*	SD	CUP	CUP	No	No
Log transfer sites, facilities and storage ^{1, 3}	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
Industrial								

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
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
Non-water-oriented uses	No	No	No	No	No	No	No	No
Institutional Development^{1, 2}								
Water-dependent uses	No	<u>SD*/CUP*</u>	<u>SD CUP*</u>	No*	No*	SD*	SD*	SD*
Water-related uses	No	<u>SD*/CUP*</u>	<u>CUP*</u>	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	<u>SD*/CUP*</u>	<u>CUP*</u>	No*	No*	SD*	SD*	SD*
Non-water-oriented uses	No	No	<u>No*/CUP*</u>	No*	No*	No SD*	No	No CUP
Mineral Extraction¹								
Mineral extraction	No	No	SD*	No	No	SD	No	No
Recreational Development^{1, 2}								
Water-oriented	SD*	SD/CUP*	SD/CUP if Commer- cial	SD*	SD*	SD	SD	SD*

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
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 ⁷	No*	SD	SD	SD	SD	SD	SD	No*
Multifamily	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	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

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Structural Shoreline Stabilization⁵								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
Signs								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
Transportation and Parking								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary	No	*	*	*	*	*	*	*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	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 ⁷	SD	SD	SD	SD	SD	SD	SD	NA

Table 18.50.600. Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
Utilities⁶								
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 18.50.600 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;

- 1 f. Institutional uses;
 - 2 g. Recreational development with commercial facilities for overnight camping; and
 - 3 h. Fill in the conservancy shoreline designation.
- 4 2. Shaw Island subarea plan prohibits:
- 5 a. Recreational development with commercial facilities for overnight camping;
 - 6 b. Residential vacation rentals by themselves or in combination with any commercial use;
 - 7 c. Institutional uses; and
 - 8 d. New commercial uses.
- 9 3. Subject to the general provisions of SJCC 18.50.450 and 18.50.480 forest management
- 10 activities including log handling and storage facilities are allowed in all shoreline designations
- 11 on Shaw Island.
- 12 4. Shoreline habitat and natural systems enhancement projects are a shoreline conditional use
- 13 within Eastsound subarea plan and are only allowed for public facility or public safety projects.
- 14 5. The replacement or expansion of structural shoreline stabilization measures is allowed but is
- 15 reviewed and permitted as a new structural shoreline stabilization measure.
- 16 6. New outfalls of a domestic or industrial sewage treatment facility within one-half mile of a
- 17 marina may be allowed as a conditional use.
- 18 7. The director shall make the final local decisions on shoreline substantial development permit
- 19 applications for public pedestrian trails and residential accessory structures that do not meet an
- 20 exemption threshold in SJCC 18.50.050.

21 **SECTION 12. SJCC 18.80.110 and Ordinance 11-2017 § 2 are each amended to**

22 **read as follows:**

23

24 **18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting.**

25

26 Preapplication Meetings. Preapplication meetings are required for all shoreline substantial

27 development permits, conditional use permits, and shoreline variances. Preapplication meetings

28 are encouraged for all other project or development permits. Preapplication materials must be

1 submitted to the department a minimum of 10 days prior to the scheduled preapplication
2 meeting. Failure to submit the documents will result in postponement of the preapplication
3 meeting. The director may waive this requirement for demonstrated cause.

4 A. Purpose and Applicability.

5 1. This section includes the procedures necessary to ensure that the provisions of the SMP
6 are implemented and enforced, and to ensure that all persons affected by the SMP are
7 treated in a fair and equitable manner. See SJCC 18.50.600 for the table of uses and permit
8 types by shoreline designation.

9 2. This section applies to all lands and waters within the jurisdiction of the SMP and to all
10 persons and agencies described in SJCC 18.50.030(B) and (C).

11 3. The following project permits are referred to as “shoreline permits” and are subject to
12 SMP procedure:

13 a. Shoreline substantial development permits;

14 b. Shoreline conditional use permits; and

15 c. Shoreline variances.

16 4. Certificates of exemption from shoreline substantial development permits are also
17 regulated by this chapter.

18 B. Notice of Application for Shoreline Permit.

19 1. A notice of application is required for shoreline permit applications as provided in
20 SJCC 18.80.030.

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

24 C. Administrative Responsibilities. The administrator’s responsibilities are set forth in
25 SJCC 18.50.020(E).

26 D. Consolidated Permit Processing. Proposals that involve two or more types of project permits
27 may be consolidated under the “highest” procedure (i.e., the right-most applicable column in
28 Table 8.1, SJCC 18.80.020) required for such permits, or the applications may be processed

1 individually under each of the procedures identified by this code. The applicant may request the
2 consolidation of hearings with other local, state, regional, federal or other agencies in accordance
3 with RCW 36.70B.110. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and
4 SJCC 18.80.140(G), Consolidated Appeal Hearings.)

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

9 1. Based upon the criteria in subsections (H) and (J) of this section, hear and approve,
10 approve with conditions, or deny shoreline substantial development permits and shoreline
11 conditional use permits following receipt of the recommendations of the director; and

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

15 F. Shoreline Substantial Development Permit Exemptions.

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

19 2. Developments that are exempt from a shoreline substantial development permit are
20 established in SJCC 18.50.040 and 18.50.050. In making this determination, the director
21 will consider the ultimate scope of a proposal and its consistency with the regulations of
22 the SMP. The director may request additional information from the applicant and may
23 make site inspections.

24 3. If a proposal is exempt from a shoreline substantial development permit, the director will
25 prepare and issue a certificate of exemption when required by WAC 173-27-040,
26 WAC 173-27-050 and SJCC 18.50.050(B).

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

29 G. Shoreline Permits – Administrative Actions.

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

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

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

12 4. Within eight days of the hearing examiner's final decision, the director using return
13 receipt requested mail will send WDOE and the office of the Attorney General copies of
14 the permit application, ~~and other~~ pertinent materials used to make the final decision (see
15 Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to the
16 hearing examiner's final decision. The date of filing a shoreline substantial development
17 permit decision is the date WDOE receives the County's decision. WDOE shall issue and
18 transmit their decisions on conditional use and variance permits to the department and
19 applicant within 30 days of department's submittal to them. The date of filing for shoreline
20 conditional use permits or shoreline variances is the date that WDOE transmits their permit
21 decision to the department and applicant. The date of filing for shoreline substantial
22 development permits simultaneously mailed to Ecology with a shoreline conditional use
23 permit or shoreline variance is the date that Ecology's decision on the shoreline conditional
24 use permit or shoreline variance is transmitted to the applicant and the department.

25 5. Construction or substantial progress toward construction of a project for which a
26 shoreline permit is granted must be undertaken within two years after WDOE's date of
27 filing. Substantial progress toward construction includes letting bids, making contracts,
28 purchase of materials, utility installation and site preparation, but does not include use or
29 development inconsistent with the SMP or the terms of permit approval. However, the two-
30 year period does not include time when development could not proceed due to related
31 administrative appeals or litigation, nor include time necessary to obtain other required
32 permits for the project from state and federal agencies.

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

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

7 b. Terminate the permit.

8 However, nothing in this section precludes the hearing examiner from issuing shoreline
9 permits with a fixed termination date other than five years based upon a finding of good
10 cause.

11 H. Criteria for Approval of Shoreline Substantial Development Permits.

12 1. A shoreline substantial development permit will be granted by the County if the
13 applicant demonstrates the proposal is:

14 a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-
15 26 and 173-27 WAC, as amended;

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

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

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

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

22 3. The director shall be the final local decision-maker for shoreline substantial development
23 permit applications for public pedestrian trails and residential accessory structures that do
24 not meet an exemption threshold in SJCC 18.50.050. The hearing examiner shall be the
25 decision-maker for all other shoreline substantial development permit applications.

26

27

1 I. Shoreline Variances.

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

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

9 3. The location of the proposed project will determine which of the following two sets of
10 variance criteria are to be considered. Variances from the provisions of this SMP may be
11 granted when the applicant has proven that one of the following sets of criteria has been
12 met:

13 a. Variances for development located landward of the ordinary high water mark
14 (OHWM) except within those areas designated as wetlands pursuant to Chapter 173-
15 22 WAC may be authorized if the applicant can demonstrate all of the following:

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

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

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

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

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

1 b. Variances for development that will be located either waterward of the OHWM or
2 within wetlands designated under Chapter 173-22 WAC may be authorized provided
3 the applicant can demonstrate all of the following:

4 i. Strict application of the bulk, dimensional, or performance standards set forth
5 in the SMP precludes a reasonable use of the property not otherwise prohibited
6 by it;

7 ii. The proposal is consistent with subsections (I)(3)(a)(i) through (v) of this
8 section; and

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

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

15 5. Requests to vary the use of a shoreline area are processed as a shoreline conditional use
16 permit rather than a shoreline variance. Uses that are prohibited by the SMP may not be
17 authorized by a variance or a conditional use permit.

18 6. Filing of variances with and review by the WDOE are described in subsection (G)~~(5)~~ (4)
19 of this section.

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

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

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

27 ii. Geologically hazardous areas in or within 200 feet of the proposed
28 development area;

1 iii. The field located OHWM on the site, and wetlands areas in or within 300 feet
2 of the proposed development area and fish and wildlife habitat conservation areas
3 in or within 200 feet of the proposed development area;

4 iv. The location of any golden eagle nests in or within 1,000 feet of the proposed
5 development area; and

6 v. The location of any peregrine falcon or great blue heron nests in or within one-
7 quarter mile of the proposed development area;

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

11 c. Required critical area reports, delineations, and the best available science (BAS)
12 documents supporting the proposal;

13 d. A copy of proposed or approved stormwater and erosion control plans as required
14 by SJCC 18.60.060 and 18.60.070;

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

18 f. If necessary, mitigation, monitoring and adaptive management plans meeting the
19 requirements of SJCC 18.50.140, 18.50.150 and 18.50.160 for mitigating any adverse
20 impacts or harm, and demonstrating how the proposal results in no net loss of
21 shoreline ecological functions;

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

24 h. A financial guarantee equal to the cost of implementing the mitigation and
25 monitoring plus an additional 15 percent. This guarantee and the associated agreement
26 must meet the requirements of SJCC 18.80.200.

27

28

1 J. Shoreline Conditional Use Permits.

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

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

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

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

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

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

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

20 d. The proposed use will result in no net loss of shoreline ecological functions;

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

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

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

1 K. Procedures for Revisions to Shoreline Permits.

2 1. When an applicant seeks to revise a shoreline permit, an application in a form prescribed
3 by the director together with detailed plans and text describing the proposed changes must
4 be filed with the department. The director will determine whether the proposed changes are
5 within the scope and intent of the original permit and are consistent with the SMP and the
6 SMA.

7 The director may find proposed revisions are within the scope and intent of the original
8 permit if all the following conditions are met:

9 a. No additional over-water construction is involved, except that pier, dock, or float
10 construction may be increased by 500 square feet or 10 percent more than the
11 provisions of the original permit, whichever is less;

12 b. The building footprint and height are not increased by more than 10 percent from
13 the provisions of the original permit;

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

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

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

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

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

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

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

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

9 If the revision to the original permit involves a conditional use or a variance, the
10 WDOE may approve, approve with conditions or deny the revision. (See subsection
11 (G)(4) of this section.)

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

13 L. Rescission of Shoreline Permits. Any shoreline permit may be rescinded by the issuing
14 authority pursuant to RCW 90.58.140(8) upon finding that the permittee has failed to comply
15 with the permit terms and conditions. In the event that the permittee is denied a required sewage
16 disposal, building, or other permit necessary for the project in question, the shoreline permit may
17 be rescinded by the hearing examiner. If a shoreline permit is rescinded by the hearing examiner,
18 the permittee shall be notified by certified mail. Copies of the examiner's final action will be
19 filed with the WDOE.

20 M. Appeals. Aggrieved parties have 21 days from the date of filing to file appeals to the
21 shoreline hearings board.

22 N. Vesting.

23 1. Complete applications for a development or project permit, to be processed under SJCC
24 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that were filed prior to October 30,
25 2017, vest to the laws and regulations in effect when the complete application was filed
26 with the department and all required permit fees were paid except as provided in
27 subsections (N)(6), (7) and (8) of this section.

28 2. An application for a development or project permit, to be processed under SJCC
29 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that is filed after October 30,
30 2017, vests to the laws and regulations in effect when the complete application was filed

1 with the department and all required permit fees were paid except as provided in
2 subsections (N)(6), (7) and (8) of this section.

3 3. If a vested permit application contemplates one or more future uses or structures and the
4 application contains a detailed description of the uses and improvements and a detailed site
5 plan consistent with all laws and regulations in effect at the time the original application
6 vested, then subsequent permit applications filed for those future use(s) are vested to the
7 laws and regulations in effect at the time original permit application vested.

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

14 5. If the development approval does not contain the information in subsections (N)(3) and
15 (4) of this section, applications for future use(s) are subject to all later enacted laws and
16 regulations in effect at the time the complete application for the future use(s) vests.

17 6. The County may impose conditions on development and project permits pursuant to the
18 State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and
19 SJCC 18.80.050 to mitigate potentially adverse environmental impacts.

20 7. The County may impose new regulations such as requirements of the building, health,
21 and fire codes on vested development permits when necessary to protect the public health
22 and safety.

23 8. Applications for Comprehensive Plan amendments processed under Chapter 18.90 SJCC
24 are not subject to the vesting rules in this section.

25 **SECTION 13. SJCC 15.12.030 and Ordinance 13-2018 § 4 are each amended to**
26 **read as follows:**

27 **15.12.030 Definitions.**

28 “Appeals” means a request for a review of the interpretation of any provision of this chapter or a
29 request for a variance.
30
31

1 “Areas of special flood hazard” means the land in the floodplain within a community subject to a
2 one percent or greater chance of flooding in any given year. Designation on Flood Rate
3 Insurance Maps always includes the letters A or V.

4 1. Areas of special flood hazard with the designation “A” are areas subject to inundation by
5 the one-percent-annual-chance flood event, also known as the “100-year floodplain,” that
6 have been defined using approximate methodologies. Because detailed hydraulic analyses
7 have not been performed, no base flood elevations (BFE) or flood depths are shown.
8 Properties in designation A are considered to be at a high risk of flooding under the
9 National Flood Insurance Program.

10 2. Areas of special flood hazard with the designation “AE” are areas subject to inundation
11 by the one-percent-annual-chance flood event, also known as the “100-year floodplain,”
12 and where predicted floodwater levels have been established. Properties in zone AE are
13 considered to be at high risk of flooding under the National Flood Insurance Program.

14 3. Areas of special flood hazard with the designation “VE” are areas subject to inundation
15 by the one-percent-annual-chance flood event, also known as the “100-year floodplain,”
16 with additional hazards due to storm-induced velocity wave action. Base flood elevations
17 derived from detailed hydraulic analyses are shown on the map. Properties in VE
18 designation are considered to be at very high risk of flooding and flood related damage
19 under the National Flood Insurance Program.

20 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any
21 given year (also referred to as the “100-year flood”). Designated on Flood Insurance Rate Maps
22 by the letters A or V.

23 “Basement” means any area of the building having its floor subgrade (below ground level) on all
24 sides.

25 “Breakaway wall” means a wall that is not part of the structural support of the building and is
26 intended through its design and construction to collapse under specific lateral loading forces,
27 without causing damage to the elevated portion of the building or supporting foundation system.

28 “Coastal high hazard area” means an area of special flood hazard extending from offshore to the
29 inland limit of a primary frontal dune along an open coast and any other area subject to high
30 velocity wave action from storms or seismic sources. The area is designated on the FIRM as
31 Zone V1-30, VE or V.

1 “Critical facility” means a facility for which even a slight chance of flooding might be too great.
2 Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire
3 and emergency response installations, and installations which produce, use, or store hazardous
4 materials or hazardous waste.

5 “Development” means any manmade change to improved or unimproved real estate, including
6 but not limited to buildings or other structures, mining, dredging, filling, grading, paving,
7 excavation or drilling operations or storage of equipment or materials located within the area of
8 special flood hazard.

9 “Elevated building” means, for insurance purposes, a non-basement building that has its lowest
10 elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or
11 columns.

12 “Elevation certificate” means the official Federal Emergency Management Agency (FEMA)
13 form (Form 086-0-33, or as may be subsequently revised or superseded), used to track
14 development, provide elevation information necessary to ensure compliance with community
15 floodplain management ordinances, and determine the proper insurance premium rate with
16 Section B completed by the floodplain administrator.

17 “Existing manufactured home park or subdivision” means a manufactured home park or
18 subdivision for which the construction of facilities for servicing the lots on which the
19 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the
20 construction of streets, and either final site grading or the pouring of concrete pads) is completed
21 before June 26, 2018.

22 “Expansion to an existing manufactured home park or subdivision” means the preparation of
23 additional sites by the construction of facilities for servicing the lots on which the manufactured
24 homes are to be affixed (including the installation of utilities, the construction of streets, and
25 either final site grading or the pouring of concrete pads).

26 “Flood” or “flooding” means a general and temporary condition of partial or complete
27 inundation of normally dry land areas from:

- 28 1. The overflow of inland or tidal waters; and/or
29 2. The unusual and rapid accumulation or runoff of surface waters from any source.

1 “Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance
2 and Mitigation Administration has delineated both the areas of special flood hazards and the risk
3 premium zones applicable to the community.

4 “Flood Insurance Study (FIS)” means the official report provided by the Federal Insurance and
5 Mitigation Administration that includes flood profiles, the Flood Insurance Rate Maps, and the
6 water surface elevation of the base flood.

7 “Floodway” means the channel of a river or other watercourse and the adjacent land areas that
8 must be reserved in order to discharge the base flood without cumulatively increasing the water
9 surface elevation more than one foot. The floodway is established by the Federal Insurance and
10 Mitigation Administration on its Flood Insurance Rate Maps (FIRMs). It does not include lands
11 that can be reasonably expected to be protected from flood waters by flood control devices
12 maintained by or maintained under license from the federal government, the state or a political
13 subdivision of the state.

14 “Increased cost of compliance (ICC)” means a flood insurance claim payment up to \$30,000
15 directly to a property owner for the cost to comply with floodplain management regulations after
16 a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single
17 instance of “substantial damage” or as a result of “cumulative substantial damage.”

18 “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An
19 unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or
20 storage in an area other than a basement area, is not considered a building’s lowest floor;
21 provided, that such enclosure is not built so as to render the structure in violation of the
22 applicable non-elevation design requirements of SJCC 15.12.080(A)(2), (i.e., provided there are
23 adequate flood ventilation openings).

24 “Manufactured home” means a structure, transportable in one or more sections, which is built on
25 a permanent chassis and is designed for use with or without a permanent foundation when
26 attached to the required utilities. The term “manufactured home” does not include a recreational
27 vehicle.

28 “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided
29 into two or more manufactured home lots for rent or sale.

30 “Market value” means current value for affected structures as determined by the County
31 assessor’s office.

1 “Mean sea level” means the data used in the current Flood Insurance Study (FIS) and referenced
2 on the adopted Flood Insurance Rate Maps (FIRMs).

3 “New construction” means structures for which the start of construction commenced on or after
4 June 26, 2018.

5 “New manufactured home park or subdivision” means a manufactured home park or subdivision
6 for which the construction of facilities for servicing the lots on which the manufactured homes
7 are to be affixed (including, at a minimum, the installation of utilities, the construction of streets,
8 and either final site grading or the pouring of concrete pads) is completed on or after June 26,
9 2018.

10 “Recreational vehicle” means a vehicle:

- 11 1. Built on a single chassis;
- 12 2. Four hundred square feet or less when measured at the largest horizontal projection;
- 13 3. Designed to be self-propelled or permanently towable by a light duty truck; and
- 14 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters
15 for recreational, camping, travel, or seasonal use.

16 “Start of construction” includes substantial improvement, and means the date the building permit
17 was issued, provided the actual start of construction, repair, reconstruction, placement or other
18 improvement was within 180 days of the permit date. The actual start means either the first
19 placement of permanent construction of a structure on a site, such as the pouring of slab or
20 footings, the installation of piles, the construction of columns, or any work beyond the stage of
21 excavation; or the placement of a manufactured home on a foundation. Permanent construction
22 does not include land preparation, such as clearing, grading and filling; nor does it include the
23 installation of streets and/or walkways; nor does it include excavation for a basement, footings,
24 piers, or foundations or the erection of temporary forms; nor does it include the installation on
25 the property of accessory buildings, such as garages or sheds not occupied as dwelling units or
26 not part of the main structure. For a substantial improvement, the actual start of construction
27 means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether
28 or not that alteration affects the external dimensions of the building.

29 “Structure” means a walled and roofed building, including a gas or liquid storage tank that is
30 principally above ground.

1 “Substantial damage” means damage of any origin sustained by a structure whereby the cost of
2 restoring the structure to its before damaged condition would equal or exceed 50 percent of the
3 market value of the structure before the damage occurred.

4 “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the
5 cost of which equals or exceeds 50 percent of the market value of the structure either:

- 6 1. Before the improvement or repair is started; or
- 7 2. If the structure has been damaged and is being restored, before the damage occurred. For
8 the purposes of this definition, “substantial improvement” is considered to occur when the
9 first alteration of any wall, ceiling, floor, or other structural part of the building
10 commences, whether or not that alteration affects the external dimensions of the structure.

11 The term can exclude:

- 12 1. Any project for improvement of a structure to correct pre-cited existing violations of
13 state or local health, sanitary, or safety code specifications which have been previously
14 identified by the local code enforcement official and which are the minimum necessary to
15 assure safe living conditions; or
- 16 2. Any alteration of a structure listed on the National Register of Historic Places or a state
17 inventory of historic places.

18 “Variance” means a grant of relief from the requirements of this chapter that permits
19 construction in a manner that would otherwise be prohibited by this chapter.

20 **SECTION 14. Effective Date.**

21
22 This Ordinance shall take effect fourteen days from the date of written approval by WDOE
23 pursuant to RCW 90.58.090.

24
25 **SECTION 15. Codification.**

26
27 Sections 1-13 of this ordinance shall be codified.
28
29
30
31
32
33
34

1 ADOPTED this _____ day of _____ 2020.
2
3

4 ATTEST: Clerk of the Council

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

5
6
7
8 _____
Ingrid Gabriel, Clerk Date

9
10 _____
Rick Hughes, Chair
District 2

11
12
13
14
15 REVIEWED BY COUNTY MANAGER

16
17 _____
18 Michael J. Thomas Date

19
20 _____
Bill Watson, Vice-Chair
District 1

21 RANDALL K. GAYLORD
22 APPROVED AS TO FORM ONLY

23
24
25 By: _____
26 Date
27

Jamie Stephens, Member
District 3

Linda Ann Kuller

From: Ken/Miki Brostrom <xnw@att.net>
Sent: Thursday, January 30, 2020 1:36 PM
To: Rick Hughes; Bill Watson; Jamie Stephens; Ingrid Gabriel; Lynda Guernsey; SMP
Subject: Comments; Erika Shook; Linda Ann Kuller; Colin Maycock
Comments on the SMP Periodic Update Ordinance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing with concern regarding a proposed addition to San Juan County shoreline regulations. Specifically,

Draft Ordinance Section 9.1 (SJCC 18.50.550 Section H.1):

Temporary barge landing sites require a certificate of exemption but are exempt from a shoreline substantial development permit. These sites shall not exceed 12 landings in any 24-month period and must be operated in a manner that will result in no net loss of shoreline ecological functions. Existing nonconforming temporary barge landing sites do not require a certificate of exemption if the proposed use is consistent with the historic transport of cargo at the site and frequency of the historic use.

The added new language, underlined above, would constitute an "Exemption-Exemption" to an already-codified exemption process. Here are my questions and concerns:

1. Why is this necessary? Where is the justification? Who proposed it and why? Where is the oversight? Who keeps track of the number of landings? Who monitors the impact on shorelines? The rolling 24-month period would allow perpetual use of a given site. This appears to be a free-pass, as if the county is saying, Do whatever you want, we don't care.
2. How is the proposed new section consistent with the SMA/ECY mandate to protect shoreline natural resources against adverse environmental effects and preserve the natural character and aesthetics of the shoreline?
3. How is this consistent with the SMA/ECY mandate to limit use of tidelands and shorelands, to maximize and protect the public's right to access? Are these sites for use only by the adjacent upland landowner or are they available to others? Many – if not most – of these nonconforming sites are on publicly-owned tidelands. Has this preemption of public use been considered?
4. How is this consistent with the current San Juan County code? A permit exemption application currently under consideration by the Planning Department for use of a nonconforming barge landing site as a log transfer (barge) site has been determined by the Planning Department to be a "temporary use" even though San Juan County Code has specific permit requirements for log transfer sites and this site has never been used as a log transfer site. In addition, the site is on shorelines designated "Natural" and this

use would be prohibited under current county regulations. This new language and its creative interpretations would make proposals such as this even more problematic.

5. What is the process for determining an "Exemption-Exemption"? Or is there one? How would it differ from the process for an "Exemption"? Or will it just be up to the landowner to decide the site's previous allowed use, type of use and frequency of use? Or up to the constant (and often adversarial) vigilance of neighbors?

6. Where in the code is there a list of the "existing nonconforming barge landing sites" and their "historic transport of cargo ... and frequency of the historic use."? There is a 2004 Public Works list of 96 identified barge landing sites, but it is out-of-date, inaccurate, and lacks specific description and detail as to historic use and frequency. For the pending exemption application referenced above, the Planning Department is not using the 2004 inventory, but a list from 2002, which is even more incomplete, inaccurate and lacking in specificity.

7. Where is there a definition of "barge"? Is use of these nonconforming sites limited in type and size of barge to self-powered landing craft like the *Pintail*? 23-feet wide by 48-feet in length? Does it include non-powered barges like the *Heavyweight*? some 33-feet in width and 110 to 130-feet long, requiring a tugboat to maneuver and hold in place on the beach, and which I have seen used on nonconforming barge landing sites?

I am not a land-use attorney, nor a land-use planner. I am an interested and concerned citizen who has been involved in both SEPA and SMA since their inception in the early 1970's. I have been a shoreland owner in San Juan County since 1973. I know that the original and primary purpose of SEPA and SMA (which seems to be largely forgotten over the past nearly 50 years) is to thoughtfully and thoroughly understand the environmental impacts of our land-use actions and to consider cumulative impacts of these actions.

Allowing "exemption-exemptions" to 96 – or more – already nonconforming shoreline barge landing sites throughout San Juan County without a finite list, without detail as to type and frequency of use, without thoughtful and thorough consideration of environmental impacts of individual sites and cumulative impacts of multiple sites is antithetical to the purpose and intent of both SEPA and the SMA.

Please withdraw this newly proposed "exemption-exemption" provision from this SMP Update until there is a discrete list of all "existing nonconforming temporary barge landing site" and a complete and detailed description for each site of the historic transport of cargo, type of cargo, and frequency of use.

And, please reconsider the use and purpose of shoreline "temporary uses" and "shoreline permit exemptions" to more clearly reflect their purpose, procedures and protections, and not simply codify artificial means of avoiding mandated and necessary regulations.

Respectfully submitted,

Miki Brostrom