



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250
(360) 378-2354 | (360) 378-2116
dcd@sanjuanco.com | www.sanjuanco.com

MEMO

REPORT DATE: January 31, 2019
TO: San Juan County Planning Commission
FROM: Linda Kuller, AICP, Planning Manager *LK*
HEARING: February 21, 2020
SUBJECT: Periodic Review of the Shoreline Master Program (SMP)
ATTACHMENTS: A. Public Hearing Notice with Summary of Proposed Changes
B. Draft Public Hearing Ordinance

Planning Commission Public Hearing: The Planning Commission will hold a public hearing to receive testimony on the draft ordinance beginning at or after 9 a.m. on Friday, February 21, 2020 at the County Council Chambers, 55 Second Street, Friday Harbor, WA.

Interested parties are encouraged to attend the hearing, and submit written or oral comments regarding the draft ordinance. The ordinance is proposed to amend San Juan County Code to comply with RCW 90.58.080 which requires periodic review of the SJC Shoreline Master Program. The minimum scope of review under the Shoreline Management Act is provided in WAC 173-26-090(2)(d).

Planning Commission Action Requested: Staff requests that the Planning Commission make a recommendation on the ordinance to County Council after deliberating on the public testimony.

Purpose: To provide the public hearing draft ordinance for your review. Adoption of the proposed ordinance would amend San Juan County Code (SJCC) to comply with the State's Shoreline Management Act requirements for a periodic update of the County's Shoreline Master Program. The ordinance is titled 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: Background regarding the development of this draft ordinance including the draft review of the WA. Department of Ecology's Periodic Update Checklist was provided in previous staff reports dated December 3, 2019 and January 3, 2020. These reports are available on the project webpage at the following link: <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>.

Videos including staff presentations made at Planning Commission December 20, 2020 and January 17, 2020 briefings and the January 28, 2020 County Council briefing are available at: <https://www.sanjuanco.com/903/Council-Agendas-and-Video>.

As noted at your last briefing, revisions were made to the ordinance after a discussion with the WA Department of Ecology (Ecology) on January 16, 2020. A new section 1 was added to the ordinance to include an amendment to the definition of "Barge Landing, Temporary." This shifted all of the previous

draft ordinance section numbers up by one number.

A different and simpler method of addressing the Department of Community Development's (DCD's) policy about "other normal residential appurtenances" resulted from that conversation. Shoreline property owners want to have incidental residential uses such as gardens, dog houses art installations, hot tubs, and fire rings. DCD adopted policy PP-2019-02 to address the location of these non-water-dependent structures. The draft ordinance attached to the January 2, 2020, staff report had one method of addressing them. After discussions with Ecology we determined that the items listed in DCD's policy should be considered residential accessory structures not normal residential appurtenances. Related code amendments are found in Ordinance Section 9.

Other minor changes recommended by Ecology are incorporated into this draft. They are shown in red strikeout/underline in the January 21, 2020 Council memo for their January 28, 2020 briefing at the following link:

<https://www.sanjuanco.com/DocumentCenter/View/19712/-Memo-for-January-28-2020-Council-briefing>.

Since the last Planning Commission briefing, County Council asked staff to delete the words "wind power" before the word generator in the definition of normal residential appurtenance (Ordinance Section 2).

The proposed changes are within the substantive scope of the previous version and within the scope of the SEPA environmental checklist.

Summary of Ordinance Sections: A summary of the proposed code amendments is provided in the public notice (Attachment B).

Public Comments: Project comments may be emailed to SMPCComments@sanjunaco.com. Please do not cc other staff. An email to the project email address is sufficient. Staff will transmit copies of comments to the Planning Commission and County Council.

Comments on the draft ordinance may be made up until and at the Planning Commission public hearing on Friday, February 21, 2020. Written comments submitted prior to 12:00 p.m. on February 20, 2020, will be copied for the Planning Commission unless they wish to review comments on-line. The public is invited to comment on the ordinance at the public hearing or send comments on the draft proposal:

- **Via Mail or Hand Delivery:** Prior to the deadlines above, mail written comments to SMPCComments@sanjunaco.com. PO Box 947 Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street Friday Harbor during business hours.
- **Via Email:** Email comments to SMPCComments@sanjuanaco.com. **Please title the Email subject line: Comments on the SMP Periodic Update Ordinance from (last name or agency name).** For the record, include your full address in all correspondence. The public notice says comments may be sent to LindaK@sanjuanaco.com. This email address may be used; however, the SMPCComments@sanjuanaco.com email address is preferred.

Copies: Please provide ten copies of written comments if you submit them to DCD after 12:00 p.m. on February 20, 2020, or if you distribute written comments at the hearing.

The public may subscribe for project news flashes and notices at: <https://www.sanjuanco.com/list.aspx>. Select SMP Update under "News flashes."

LEGAL ADVERTISEMENT

To: The Journal of the San Juan Islands and Islands Sounder
From: Lynda Guernsey, Administrative Specialist II
Bill To: Department of Community Development
Publish: 1 Time – February 5, 2020

**NOTICE OF A PLANNING COMMISSION PUBLIC HEARING TO HEAR TESTIMONY ON A
 PROPOSED 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**

The Planning Commission will hold a public hearing to receive testimony on the draft ordinance beginning **at or after 9 a.m. on Friday, February 21, 2020** at the County Council Chambers, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to attend the hearing, and submit written or oral comments regarding the draft ordinance. The ordinance is proposed to amend San Juan County Code to comply with RCW 90.58.080 which requires periodic review of the SJC Shoreline Master Program. The minimum scope of review under the Shoreline Management Act is provided in WAC 173-26-090(2)(d).

SMP Periodic Update webpage: <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>.

Summary of Changes by Draft Ordinance Section Updated:

After discussions with Ecology, some changes were made to the preliminary draft ordinance issued with the DNS. The changes shown in the public hearing draft do not alter the intent of the original proposal. They mostly simplify codification of DCD's policy on "other residential appurtenances" which are more appropriately called residential accessory structures.

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 to be 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 thresholds.

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 threshold. SJCC 18.50.040(14) and (15) are also proposed to be amended as noted below:

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).

A new item SJCC 18.50.040 (16) is added to the section 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.

The proposed staff reports and ordinance is filed at the Department of Community Development (DCD), 135 Rhone Street, Friday Harbor, WA and posted on project webpage. They may be obtained from DCD on business days between 8:00 a.m. and 4:30 p.m. and will be mailed without charge if requested.

Comments on the draft ordinance may be made up until and at the Planning Commission public hearing on Friday, February 21, 2020. Written comments submitted prior to 12:00 p.m. on February 20, 2020 will be copied for the Planning Commission unless they wish to review comments on-line. The public is invited to comment on the ordinance at the public hearing or send comments on the draft proposal:

- **Via Mail:** Prior to the deadlines above, mail written comments to **Linda Kuller, Department of Community Development** PO Box 947 Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street Friday Harbor during business hours.
- **Via Email:** Email comments to SMPCComments@sanjuanico.com. **Please title the Email subject line: Comments on the SMP Periodic Update Ordinance from (last name or agency name).** For the record, include your full address in all correspondence.

Copies: Please provide ten copies of written comments if you submit them to DCD after 12:00 p.m. on February 20, 2020, or if you distribute written comments at the hearing.

For questions, please contact Linda Kuller at (360) 370-7572 or lindak@sanjuanico.com.

ORDINANCE NO. ____ - 2020

**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

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

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

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

J. Planning Commission held a duly advertised public hearing on February 21, 2020, deliberated and recommended that the County Council should XXX the ordinance.

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

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

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

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

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

P. Ecology
XX.

Q. The County Council XXXXX.

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

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

2. The proposed ordinance is consistent with the provisions of XXXXXXXXXX

3. XXXXXX

S. The County Council makes the following conclusions: XXXXXXXXXXXXXXX

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

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

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

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

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

18.20.190 “S” definitions.

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

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

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

“Seaward” means to or toward the sea.

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

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

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

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

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

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

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

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.

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

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

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

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

18.50.020 General.

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

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

C. Authority.

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

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

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

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

D. Official Map.

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

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

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

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

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

E. Responsibilities of Department Director and Planning Commission.

1. Director.

a. The director:

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

ii. is the local decision-maker on shoreline substantial development permit applications for public pedestrian trails; and

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

- i. Establishing the procedures and preparing the forms deemed essential for the administration of the SMP;
- ii. Advising applicants for permits and other interested persons of the policies, regulations, and procedures established by the SMP and the SMA;
- iii. Making administrative interpretations of the SMP, as necessary;
- iv. Collecting required fees;
- v. Determining that applications are proper and complete prior to review;
- vi. Making field inspections; and
- vii. Seeking compliance with the provisions of the SMP and the SMA and with conditions attached to a shoreline permit issued by the County.

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

3. The department shall document all project review actions in the shoreline jurisdiction and evaluate the cumulative effects of such development on shoreline conditions. The cumulative effects evaluation shall be conducted every four years and consider:

- a. Permit applications, decisions, environmental reports, and other data from authorized shoreline exemptions and permits and GIS maps;
- b. Aerial and LIDAR photographs;
- c. Other available data; and
- d. Field observations.

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

18.50.030 General applicability.

A. Relationship to Comprehensive Plan. This SMP provides land use regulations to implement the goals and policies of the Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of the County that fall under the jurisdiction of the SMA. These

regulations do not apply to development and uses beyond the jurisdictional limits of the SMA unless a proposed development involves both jurisdictional and non-jurisdictional land and the upslope land development is likely to adversely affect shoreline ecological functions.

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

C. Applicability to Federal Agencies.

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

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

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

D. Applicability to Developments, Uses, Structures, and Activities. This SMP applies to all developments, uses, and structures, as well as activities regulated by SJCC 18.50.130. Unless otherwise authorized, shoreline development without a project permit, shoreline substantial development permit, shoreline conditional use permit, shoreline variance, or certificate of exemption is prohibited.

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

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

9 3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.
10 Washington State Department of Transportation projects and activities meeting the
11 conditions of RCW 90.58.356;

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

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

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

18 **18.50.040 Exemptions from shoreline substantial development permit requirements –**
19 **General requirements.**
20

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

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

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

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

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

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

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

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

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

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

7. Construction of a single-family residence, including normal residential appurtenances, for the use of the beneficial owner and their family is exempt from shoreline substantial development permit requirements. For the purposes of this SMP, the beneficial owner is an individual who may be a land owner, lessee, contract purchaser, or a member of a family

corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. For the construction of more than one single-family residence, a shoreline substantial development permit is required in accordance with WAC 173-27-040(2)(g). Exempt normal residential appurtenances are defined in SJCC 18.20.140 and regulated by SJCC 18.50.050.

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

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

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

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

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

If subsequent construction occurs within five years of completion of prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction is considered a substantial development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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:

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

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

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

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

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

18.50.050 Exemptions from substantial development permit requirements – Normal residential appurtenances.

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

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

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

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

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

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

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

e. No other shoreline access exists or is feasible;

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

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

B. Certificates of Exemption.

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

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

- a. Dredging;
- b. Flood hazard control structures;
- c. Archaeological or historic site alteration;
- d. Clearing, grading, fill, excavation and vegetation removal;
- e. Dock construction, repair, replacement, or enlargement;
- f. Structural shoreline stabilization, repair, replacement, or enlargement;
- g. Any residential, commercial or industrial development project within the natural and aquatic designations;
- h. Small scale shellfish aquaculture consistent with the provisions of SJCC 18.50.230(B);
- i. New temporary barge landing sites. 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; and
- j. Private pedestrian pathways, stairways and ramps.

3. Whenever an exempt activity also requires an ACOE Section 10 permit under the Rivers and Harbors Act of 1899, or a Section 404 permit under the Federal Water Pollution

Control Act of 1972, a copy of the certificate of exemption is sent to the applicant and the WDOE in accordance with WAC 173-27-050.

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

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

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

18.50.450 Forest practices.

A. General Regulations.

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

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

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

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

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

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

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

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

C. Regulations by Designation.

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

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

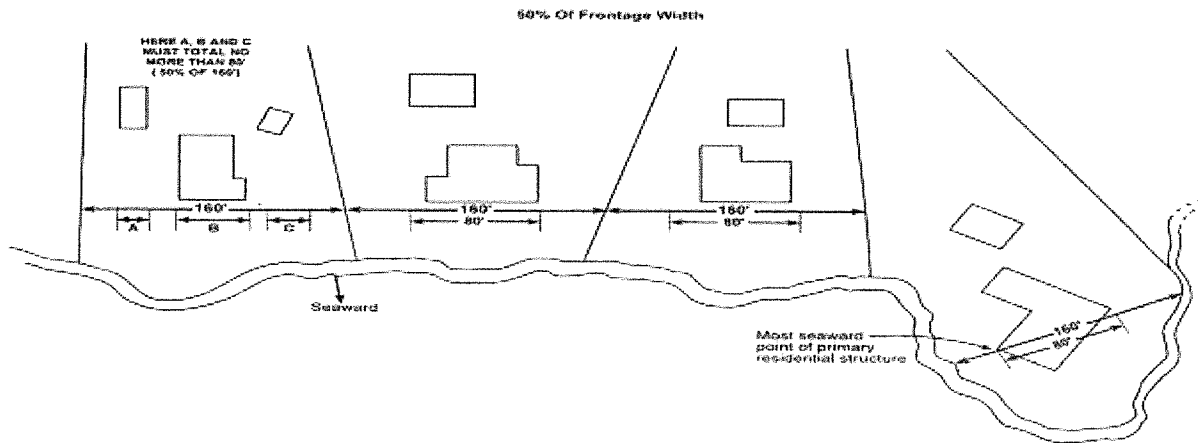
18.50.540 Residential development.

A. Regulations – Location and Design.

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

2. Developments on waterfront lots may not cover more than 50 percent of the width of the lot as measured by the shortest straight line distance from lot line to lot line through the most seaward point of the primary residential structure. Developments with multiple structures shall ensure that the combined width of all the structures does not exceed 50 percent of the width of the single lot. However, on lots less than 80 feet wide at the most seaward point of the proposed residential structure, the structure may cover an area up to 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all appurtenant structures must be placed landward of the primary residential structure. See Figure 18.50.540 below.

**Figure
18.50.540**



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

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

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

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

C. Regulations – Buffers and Setback Standards.

1. On all nonbedrock shorelines, coastal geologic buffers consistent with SJCC 18.35.130 are required. The required geotechnical report must demonstrate that the

proposed buffer will be sufficient to avoid the need for new protective structural shoreline stabilization measures for the life of the structure (75 years).

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

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

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

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

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

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

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

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

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

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

D. Regulations – Normal Residential Appurtenances and Accessory Structures.

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

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

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

Normal residential appurtenant 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, and

b. Temporary fencing for shoreline habitat and natural systems enhancement projects approved 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 required by SJCC 18.50.120(B) and 18.50.140, cannot be met.

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

Normal residential appurtenant 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 approved pursuant to SJCC 18.50.590.

~~3. Normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 are allowed with a conditional use permit. 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 normal residential appurtenances and accessory structures thirty inches or less in height.

E. Live Aboard Vessels.

1. Live aboard vessels are only allowed within marinas.

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

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

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

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

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

F. Regulations by Designation.

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

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

18.50.550 Transportation facilities and parking.

A. Regulations – General.

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

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

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

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

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

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

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

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

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

20 a. Outside of shoreline jurisdiction; or

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

23 5. Roadside vegetation shall be controlled.

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

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

C. Regulations – Parking.

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

- a. Is an essential accessory to an allowed use;
- b. Could not feasibly be located outside of the shoreline jurisdiction; and
- c. Can be constructed, used and maintained in a manner that will result in no net loss of shoreline ecological functions.

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

- a. Outside of the shoreline jurisdiction; or
- b. Landward of water-oriented uses unless it can be shown that such facilities are shoreline dependent.

3. Parking areas for shoreline access use are allowed.

4. Parking over-water is prohibited.

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

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

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

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

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

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

F. Regulations – County Docks.

1. Overnight moorage is prohibited at County docks.
2. County docks must be designed and located to increase public access and result in no net loss of shoreline ecological functions.

G. Regulations – Float Plane Facilities.

1. Use of docks for scheduled commercial float plane service, meaning five or more round trips per week according to a published schedule, is only allowed in public or private marinas, or established port areas, with a shoreline conditional use permit.
2. Regular use of docks for float plane access or moorage is allowed only at public or private marinas, port areas, or private and community docks with a shoreline conditional use permit.
3. Use of docks and marinas for irregular float plane service is allowed.
4. Shoreline conditional use permit applications for float plane use will include the following conditions:
 - a. Taxiing patterns must minimize noise impacts on area residents and wildlife, and interference with navigation and moorage;
 - b. Fuel and oil spill clean-up plans and materials, and fire-fighting equipment are required on site. Spill response equipment must be commensurate with the size of the facility and float plane use; and
 - c. Specific hours of the day in which float plane access is allowed.
5. Float plane access is prohibited at County road ends and parks, and freshwater shorelines where public shoreline access exists.

H. Regulations – Barge Landing Sites and Facilities.

1. 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

1 not require a certificate of exemption if the proposed use is consistent with the historic
2 transport of cargo at the site and frequency of the historic use.

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

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

8 b. An alternative access is not feasible; and

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

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

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

20 I. Regulations – Public Pedestrian Trails.

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

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

25 J. Regulations by Designation.

26 1. Rural Residential. Roads are allowed where no feasible alternative exists. Permanent
27 barge landing sites and facilities are prohibited unless a need has been established by

monitoring the use of temporary barge landing sites and a conditional use permit is obtained.

2. Conservancy and Rural Farm Forest.

a. Public pedestrian trails are allowed in these designations.

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

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

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

e. Other transportation facilities are prohibited.

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

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

SECTION 11. SJCC 18.50.600 and Ordinance 11-2017 § 27 are each amended to read as follows:

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

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

1. Is allowed;

2. Is prohibited;

1 3. Requires a shoreline substantial development permit;

2 4. Requires a shoreline conditional use permit; or

3 5. Is subject to other certificates or conditions.

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

7 C. Legend for Table 18.50.600, Shoreline development, uses, structures and activities by
8 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								
General aquaculture	SD*	SD*	SD	SD	SD*	SD	No	SD*
Small scale shellfish	*	*	*	*	*	CUP	No	*

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
aquaculture								
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 and Groins¹								
Breakwater (lakes)	No	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
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
Dredging or dredge material disposal associated with	No	No	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
restoration								
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, revet- ments, 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 Development¹								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP ¹	No*	No	SD	No	No

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
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 <u>uses</u>	No	<u>SD*/CUP*</u>	<u>SD CUP*</u>	No*	No*	SD*	SD*	SD*
Water-related <u>uses</u>	No	<u>SD*/CUP*</u>	<u>CUP*</u>	No*	No*	<u>SD*</u>	<u>SD*</u>	<u>SD*</u>
Water-enjoyment <u>uses</u>	No	<u>SD*/CUP*</u>	<u>CUP*</u>	No*	No*	<u>SD*</u>	<u>SD*</u>	<u>SD*</u>
Non-water-oriented <u>uses</u>	No	No	No*/CUP *	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*
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

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
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
Structural Shoreline Stabilization⁵								
New hard structural shoreline stabilization	No	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
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
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
Utilities⁶								

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
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;

8 f. Institutional uses;

9 g. Recreational development with commercial facilities for overnight camping; and

h. Fill in the conservancy shoreline designation.

2. Shaw Island subarea plan prohibits:

a. Recreational development with commercial facilities for overnight camping;

b. Residential vacation rentals by themselves or in combination with any commercial use;

c. Institutional uses; and

d. New commercial uses.

3. Subject to the general provisions of SJCC 18.50.450 and 18.50.480 forest management activities including log handling and storage facilities are allowed in all shoreline designations on Shaw Island.

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

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

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

7. The director shall make the final local decisions on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet an exemption threshold in SJCC 18.50.050.

SECTION 12. SJCC 18.80.110 and Ordinance 11-2017 § 2 are each amended to read as follows:

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

Preapplication Meetings. Preapplication meetings are required for all shoreline substantial development permits, conditional use permits, and shoreline variances. Preapplication meetings are encouraged for all other project or development permits. Preapplication materials must be submitted to the department a minimum of 10 days prior to the scheduled preapplication meeting. Failure to submit the documents will result in postponement of the preapplication meeting. The director may waive this requirement for demonstrated cause.

A. Purpose and Applicability.

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

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

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

a. Shoreline substantial development permits;

b. Shoreline conditional use permits; and

c. Shoreline variances.

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

B. Notice of Application for Shoreline Permit.

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

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

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

D. Consolidated Permit Processing. Proposals that involve two or more types of project permits may be consolidated under the “highest” procedure (i.e., the right-most applicable column in Table 8.1, SJCC 18.80.020) required for such permits, or the applications may be processed individually under each of the procedures identified by this code. The applicant may request the consolidation of hearings with other local, state, regional, federal or other agencies in accordance

with RCW 36.70B.110. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC 18.80.140(G), Consolidated Appeal Hearings.)

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

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

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

F. Shoreline Substantial Development Permit Exemptions.

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

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

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

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

G. Shoreline Permits – Administrative Actions.

1. The director shall review development and project permit applications for consistency with the SMA and SMP, make a consistency determination, and report the results of this

1 review and determination to the hearing examiner unless the director is the decision-maker.
2 The director may request additional information from the applicant and may make site
3 inspections.

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

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

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

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

31 6. Unless specified otherwise in permit conditions, all development authorized by a
32 shoreline permit shall be completed within five years of the WDOE date of filing or the

1 permit shall become null and void. A permittee may request a time extension before the
2 permit expires by making a written request to the director, stating the reasons. The hearing
3 examiner will review the permit, and upon a finding of good cause:

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

5 b. Terminate the permit.

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

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

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

12 a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-
13 26 and 173-27 WAC, as amended;

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

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

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

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

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

24 I. Shoreline Variances.

25 1. Variances are strictly limited to granting relief from specific bulk, dimensional, or
26 performance standards set forth in this SMP. Variances may be approved where there are
27 extraordinary or unique circumstances related to the property and the strict implementation

1 of the SMP will impose unnecessary hardships on the applicant or thwart the policies set
2 forth in RCW 90.58.020.

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

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

9 a. Variances for development located landward of the ordinary high water mark
10 (OHWM) except within those areas designated as wetlands pursuant to Chapter 173-
11 22 WAC may be authorized if the applicant can demonstrate all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. Shoreline Conditional Use Permits.

1. Shoreline conditional use permits allow greater flexibility in application of the use regulations of the SMP consistent with the policies of RCW 90.58.020. Shoreline conditional use permits may also be granted in circumstances where denial of the permit would thwart RCW 90.58.020. By providing for the control of undesirable impacts through the application of special conditions, the scope of uses within each of the shoreline

designations can be expanded to include additional uses. Activities classified as shoreline conditional uses will be allowed only when the applicant demonstrates that the proposed use will be compatible with allowed uses within the same area.

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

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

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

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

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

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

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

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

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

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

K. Procedures for Revisions to Shoreline Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 N. Vesting.

15 1. Complete applications for a development or project permit, to be processed under SJCC
16 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that were filed prior to October 30,
17 2017, vest to the laws and regulations in effect when the complete application was filed
18 with the department and all required permit fees were paid except as provided in
19 subsections (N)(6), (7) and (8) of this section.

20 2. An application for a development or project permit, to be processed under SJCC
21 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that is filed after October 30,
22 2017, vests to the laws and regulations in effect when the complete application was filed
23 with the department and all required permit fees were paid except as provided in
24 subsections (N)(6), (7) and (8) of this section.

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

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

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

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

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

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

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

15.12.030 Definitions.

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

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

1. Areas of special flood hazard with the designation “A” are areas subject to inundation by the one-percent-annual-chance flood event, also known as the “100-year floodplain,” that have been defined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no base flood elevations (BFE) or flood depths are shown.

Properties in designation A are considered to be at a high risk of flooding under the National Flood Insurance Program.

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

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

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

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

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

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

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

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving,

excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

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

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

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

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

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

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

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

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

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

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

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

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

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

“Recreational vehicle” means a vehicle:

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

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

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

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

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

1. Before the improvement or repair is started; or

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

The term can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

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

SECTION 14. Effective Date.

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

SECTION 15. Codification.

Sections 1-13 of this ordinance shall be codified.

ADOPTED this ____ day of _____ 2020.

1 ATTEST: Clerk of the Council

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

2
3
4
5 _____
Ingrid Gabriel, Clerk Date

6
7 _____
Rick Hughes, Chair
8 District 2
9

10
11
12 REVIEWED BY COUNTY MANAGER

13
14
15 _____
16 Michael J. Thomas Date

17
18 _____
Bill Watson, Vice-Chair
19 District 1

20
21
22 RANDALL K. GAYLORD
23 APPROVED AS TO FORM ONLY

24
By: _____
Date

Jamie Stephens, Member
District 3