
BACKGROUND

A. The County was scheduled to review, and where necessary, update its development regulations regarding critical areas by December 1, 2006, to ensure consistency with RCW 36.70A (the Growth Management Act, or GMA). A review of the County’s critical areas regulations, including General regulations, was adopted in Resolution 98-2005. Although some updates to critical areas regulations were adopted in Ordinance 15-2005, further action was reserved for a later time.

B. San Juan County adopted new critical area regulations on December 3, 2012, after an extensive public participation process and after considering the applicable science summarized in the Best Available Science Synthesis for San Juan County, May 2011 (BAS Synthesis), adopted in Resolution 22-2011.

C. The County’s critical area regulations were appealed to the State of Washington’s Growth Management Hearings Board (Board) in Case No. 13-2-0012c.

D. On September 6, 2013, the Board issued a final decision and order pursuant to RCW 36.70A.300 and remanded San Juan County Ordinance Nos. 26-, 28- and 29-2012 back to the County to take legislative action to comply with the requirements of the GMA as set forth in the order. The Board did not issue a determination of invalidity.

E. The Board found that a variety of factors lead to a high risk approach to the protection of critical areas and that:

I. The County’s allowance of new and expanding agricultural activities in wetlands and their buffers and in FWHCA buffers as well as the allowance of sewage disposal systems in wetlands, FWHCAs and their buffers did not comply with RCW 36.70A.060 and RCW 36.70A.172, and such actions were not guided by RCW 36.70A.020(9) and (10).

II. The County’s exemption for transmission and utility lines within private or public rights of way authorized by SJCC 18.30.110.C.3 does not comply with RCW 36.70A.060 and RCW 36.70A.172, and such action was not guided by RCW 36.70A.020(9) and (10).

III. The County’s definition of “development” in Ordinance 26-2012 does not comply with RCW 36.70A.060 and RCW 36.70A.172, and such action was not guided by RCW 36.70A.020(9) and (10).

IV. The County’s public agency and public/private utility exception included in Ordinance 26-2012 does not comply with RCW 36.70A.060 and RCW 36.70A.172, and such action was not guided by RCW 36.70A.020(9) and (10).

V. San Juan County’s Findings of Fact relating to water quality buffers and habitat buffers were not supported by substantial scientific evidence in the record.
VI. San Juan County’s water quality buffer widths and habitat buffer widths adopted in
Ordinance Nos. 28-2012 and 29-2012 fell outside of the range for buffer widths
recommended by the Best Available Science, without any reasoned justification.

VII. San Juan County’s water quality buffers and habitat buffers adopted in Ordinance Nos. 28-
2012 and 29-2012 would fail to protect the functions and values of Critical Areas comprised
of wetland ecosystems and fish and wildlife ecosystems.

VIII. The County’s water quality buffer and habitat buffer methodologies combined with the lack
of monitoring and an adaptive management program fail to protect Critical Areas from
degradation and did not comply with RCW 36.70A.060 and RCW 36.70A.172 and such
actions were not guided by RCW 36.70A.020(9) and (10).

IX. In adopting Ordinance Nos. 28-2012 and 29-2012, San Juan County failed to include the Best
Available Science in developing policies and development regulations to protect the functions
and values of critical area ecosystems and the County failed to provide a reasoned
justification for departing from the Best Available Science.

F. The Board issued a schedule with a March 5, 2014, compliance deadline.

G. These amendments address the Board’s decision and comply with the GMA.

H. An environmental checklist was prepared evaluating potential effects of the proposed amendments
and a notice of Determination of Non-significance was issued on October 15, 2013, and published on
October 23, 2013, in the Journal of the San Juan Islands and The San Juan Islander. The notice was
provided to federal, state and local agencies in accordance with San Juan County Code 18.80.050 and
WAC 197-11-340. A SEPA Addendum was issued on January 23, 2014 according to WAC 197-11-
600(4)(c) and 625 to indicate that the proposal was amended to contain minor new information about
the selected regulatory approach which was unlikely to generate and significant environmental
impacts.

I. As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of amendments to
the critical area regulations was provided to the Washington State Department of Commerce on
October 15, 2013.

J. Efforts to involve the public included a:

I. Planning Commission briefing on October 2, 2013;
II. Utility Coordinating Committee meeting on October 30, 2013;
III. Health Department meeting October 30, 2013;
IV. Planning Commission public hearing on November 7, 2013; and
V. Planning Commission public hearings and deliberations on November 15, 2013.

K. The Planning Commission conducted a duly advertised public hearing on November 7, 2013. Notice
of the hearing was published on October 23, 2013, in the Journal of the San Juan Islands and The San
Juan Islander October 23, 2013. The public hearing was continued on November 15, 2013, and on
that date the Planning Commission completed its deliberations.

L. The County Council held a public hearing on February 4, 2014 which was continued on February 11
and 25, and May 5, 2014. The County Council considered the public comments and deliberated on the
proposed amendments at these meetings.

M. The County Council makes the following findings:

I. The proposed regulations are consistent with the goals and policies of the San Juan County Comprehensive Plan.

II. This ordinance completes the 2006 update to the County’s development regulations regarding critical areas as required by RCW 36.70A.130 and WAC 365-196-610(1)(e).

III. This ordinance is adopted pursuant to the GMA, and does not amend the County’s Shoreline Master Program.

IV. The Best Available Science was included in developing the proposed amendments, which will protect critical areas in conformance with the requirements of the Growth Management Act.

V. The proposed amendments address the compliance issues outlined in the Boards’ Final Decision and Order.

VI. The ordinances are updated to include new buffer widths consistent with the Washington Department of Ecology’s Guidance in Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands April 2005 (Ecology Publication #05-06-008).

VII. Section 1 amends Ordinance No. 26-2012 and the definition of agricultural activities in SJCC 18.20.010 to mean all agricultural activities and uses defined in RCW 90.58.065 for consistency with the County’s participation in the Voluntary Stewardship Program and RCW 36.70A.703(1). In order to recognize the importance of agriculture in the County, the County Council by resolution 4-2012 opted for the Voluntary Stewardship Program for agricultural activities within the critical areas as provided for in ESHB 1886. Until such time as the State provides funding for program and the local watershed group develops management plans, existing and ongoing agricultural activities within critical areas are regulated by amendments adopted in December 2012. The definition of agricultural equipment and facilities is also amended for consistency with RCW 90.58.065(2).

VIII. Section 2 amends Ordinance No. 26-2012, and SJCC 18.20.040, the definition of development with the deletion of the sentence excluding activities with a duration of less than 24 months that do not adversely alter critical areas because the Board found that the County failed to include any standards to ascertain the actual duration of such activities or to address the potential impacts on critical areas from activities with a duration of less than 24 months.

IX. Section 3 amends Ordinance No. 26-2012 and SJCC 18.20.090, the definition of impervious surface with the deletion of the phrase “with a Rational Method runoff coefficient greater than .35.” The phrase is no longer necessary because the rational method is no longer used in the County’s buffer sizing procedure.

X. Section 4 amends Ordinance No. 26-2012 and SJCC 18.20.140 with the deletion of the definition of new and expanding agriculture because it is not needed.

XI. Section 5 amends Ordinance 26-2012 and SJCC 18.20.200 to include a definition of temporary development activity. This definition and the uses proposed insertion of the use in SJCC
18.30.150 Table 3.5 and SJCC 18.30.160 Table 3.8 to address the Planning Commission’s concern that the certain temporary development activities required during property development are addressed in the critical area regulations.

XII. Section 6 amends SJCC 18.30.110.C.3, the general utility exemption. The words “replacement, or modification” are deleted because these activities are addressed in another general exemption in SJCC 18.30.110.C.2. Because the optional public agency and utility exception is deleted in SJCC 18.30.110.E, the exemption is amended in SJCC 18.30.110.C.3(a) to clarify that utilities are allowed within existing structures, facilities, infrastructure systems, development areas and uses, utility easements, and public and private rights-of-way when there is no further intrusion into critical areas or their buffers; soil erosion is controlled; disturbed areas are promptly stabilized; and there is no adverse effect on the functions and values of critical areas. This is consistent with SJCC 18.30.110.G.

In SJCC 18.30.110.C.3(b), the installation and construction of utility lines and equipment not previously covered in SJCC 18.30.110(C)(2) and (C)(3)(a) are exempted provided that reasonable efforts are made to avoid impacts to critical area functions and values, and best management practices are used to minimize clearing, erosion, sedimentation and other soil disturbance; disturbed areas are promptly stabilized and revegetated; and adverse impacts to critical areas or their buffers are mitigated in accordance with SJCC 18.30.110 F to address the Board’s decision that the exception did not include steps to avoid, minimize or mitigate impacts to critical areas.

San Juan County utilities are small in scale and primarily are contained within existing right-of-way and developed areas. To prevent the discharge of sediment or other pollutants during utility installation or construction, best management practices are required under the County’s drainage regulations in SJCC 18.60.070. Required stormwater pollution prevention best management practices address the temporary and short term impacts of installation and construction of utilities. These best management practices address stabilization of exposed soils, control of runoff, dewatering and other pollutants, seasonal work limitations, and require other measures to protect water quality. For many projects utility companies have certified erosion and sediment control leads on site to oversee the proper implementation and maintenances of stormwater pollution control best management practices. San Juan County has a year-round growing season and disturbed areas can be easily and quickly revegetated with no long term adverse impacts to critical area functions and values.

XIII. Section 6 amends SJCC 18.30.110.D.6 to update the distance from a critical area that may be subject to the wetland and/or fish and wildlife habitat conservation area regulations. This measurement is amended to be more than 300 (not 205) feet from a wetland, and 200 feet from fish and wildlife habitat conservation area. This update is made throughout the regulations as necessary for consistency. These distances are based on the largest buffer established for wetlands and fish and wildlife conservation areas. In the case of wetlands, a 300 foot habitat buffer is the largest buffer proposed for wetlands in Table 3.4 Habitat Buffers. For FWHCAs, the largest buffer that may apply is the 200 foot coastal geologic buffer in SJCC 18.30.160.E.1 Figure 3.1 Step 2.

XIV. Section 6 amends SJCC 18.30.110.E with the deletion of the “Optional Public Agency/Utility Exception” because it is not be needed and the Board found that the location of a development would be left solely to the proponent and there were no standards by which to determine that a project proponent would have difficulty meeting standard critical area regulations. For
consistency purposes, references to the deleted exception are removed from the critical areas ordinances. This deletion results in a re-lettering of the section and related references.

XV. Section 7 amends SJCC 18.80.020.C.11 (Project permit applications—Procedures) and Ordinance No. 26-2012 to make the measurement for determining critical area review consistent with the proposal to use Ecology’s buffer sizing guidance. Areas proposed for development or vegetation removal must now be more than 300 (not 205) feet from a wetland (300 feet is based upon the highest potential wetland buffer, the habitat buffer), and 200 feet from a fish and wildlife habitat conservation area (based upon the highest potential FWHCA buffer, the coastal geologic buffer). This update is made throughout the regulations as necessary for consistency.

XVI. Section 9 amends SJCC 18.30.150.B by eliminating the requirement to use the County’s wetland typing system and replacing it with a requirement to use the Washington State Wetland Rating System for Western Washington - Revised, (Ecology Publication #04-06-025) as revised by Ecology. This rating system is used in State and Federal permitting and compensatory mitigation programs and its use is needed to implement the Washington State Department of Ecology’s rationale and guidance for establishing critical area buffers. SJCC 18.30.150.B.1 is amended to require wetlands to be rated based on their conditions at the time of permit application for consistency with the use of the State’s wetland rating system. SJCC 18.30.150.B.2 describes the State’s wetland rating categories. SJCC 18.30.150.C is amended to replace the County’s wetland rating category with the relevant State category. These updates are made throughout the document for consistency.

XVII. Section 9, SJCC 18.30.150.D (protection standards) for wetlands is amended to eliminate the previous wetland buffer sizing methodology including Figure 1. Amendments include a new site-specific procedure that has two components: a water quality buffer and a habitat buffer. Buffer widths are established using Ecology’s wetland rating system and Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publ. #05-06-008). The wetland habitat buffers are based on Ecology’s guidance in Appendix 8-C Guidance for Protecting and Managing Wetlands Appendix and the rationale for water quality buffering is based on Appendix 8-E Rationale for the Guidance on recommended Widths of Buffers and Other Methods for Protecting Wetlands. The new site-specific buffer sizing methodology is simply based on the wetland rating category and the land use intensity of the development, use or activity. The amendments adjust the pollution removal percentage to 70 percent to comport with the Best Available Science and account for intensity of impacts from adjacent land uses. Consistent with the Best Available Science, a 50 percent increase in a buffer is required when the buffer is on a slope greater than 30 percent. In addition, because Ecology’s wetland rating system accounts for the presence of trees and vegetation, the requirements for tree protection zones are unnecessary in the wetland buffers and they were eliminated from the wetland protection standards and tree protection standards were modified.

Agriculture in San Juan County is a vital part of our heritage and an integral part of the County’s landscape, culture and economy. The County’s quality of life depends on the successful integration of sustainable agriculture and ecological health. Ecology’s land use intensity table was modified because the scale of agriculture, especially hobby farms, orchards and hay fields on the Islands are generally small family farm operations. According to Table 26 of Appendix 1 of the San Juan Comprehensive Plan, approximately 37 percent of the County’s agricultural parcels are less than 10 acres in size, 22 percent are ten to twenty acres in size, 25 percent are between 20 and 40 acres and 17 percent are 40 acres or more. According to the latest Census of Agriculture,
of 291 farms in San Juan County, 213 generate less than $10,000 dollars annually and 37 generate less than $20,000 annually. Only 41 farms generate more than $20,000.

Step 3 of the wetland protection standards is amended to state that habitat buffers shall not be reduced by more than 25 percent to comply with Best Available Science and the Board’s decision. Step 4 is updated to provide instructions for determining the water quality buffer width. Because the component of the previous water quality buffer sizing procedure allowing reductions in the standard buffer widths in an Urban Growth Area was eliminated, new provisions are included in this step to allow buffer reductions when impacts to critical areas are mitigated.

XVIII. Section 9, buffer reductions in an Urban Growth Area (UGA) are a departure from the Best Available Science. WAC 365-195-915 provides guidance on including the Best Available Science in the development of critical area regulations. When departing from science based recommendations, this guidance specifies that the County should identify any information in the record that supports the decision, explain the rationale for departing from science based recommendations, identify potential risks to the functions and values of critical areas, and identify any measures chosen to limit such risk. The following amendment may be a potential departure from the Best Available Science. Throughout the process the public expressed concern that imposing large buffers in the County’s two small, non-municipal urban growth areas would make it difficult to achieve other GMA goals, and could significantly affect the character of those communities as well as those who own property adjacent to wetlands and Aquatic FWHCAs. To help accommodate growth within UGAs, and to support other GMA goals, the proposed regulations include a reduced buffer option in those areas. Potential risks to the functions and values of critical areas are limited by the condition that any adverse impacts are identified and mitigated. In addition to requiring mitigation of impacts, which is an acceptable alternative when impacts cannot be avoided, the County and other service providers have and continue to expand water, wastewater and stormwater infrastructure that will help reduce ongoing impacts to wetlands in UGAs. These improvements include a stormwater treatment system recently completed in Eastsound. The UGA buffer reduction provision is also permitted for Aquatic FWHCAs water quality buffers for and water quality buffers for designated plants in Ordinance Section 8, SCJJ 18.30.160 Fish and Wildlife Habitat Conservation Areas.

XIX. Section 9 amends SJCC 18.30.150.D Table 3.8 Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers is amended to change Item (f) to address new and expanding agriculture by deleting the provision. Consistent with the Board’s decision, conversion of wetlands that are not currently in agricultural use to a new agricultural will be regulated by the same regulations as any new development and will require a provisional or conditional use permit when permitted under SJCC 18.30.150.D. Temporary development activities defined in SJCC 18.20.200 is added to this table are permitted in wetland buffers provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).

XX. Section 9 amends SJCC 18.30.150.D Table 3.5 Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers Item (p) to delete the condition “If no practicable alternative exists” for components of stormwater management facilities. Instead the use is conditioned by the provision that reasonable efforts are made to avoid impacts to Aquatic FWHCA functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E). In response to the Board’s decision regarding no practicable alternative, the condition has also been deleted throughout the regulations and was replaced with a provision to require that reasonable efforts are
made to avoid critical area impacts and compliance with mitigation requirements in SJCC 13.30.110.E.

XXI. Section 9 amends SJCC 18.30.150.D Table 3.5 Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers item (u.) pertaining to on-site sewage disposal systems to prohibit water-tight septic tanks and pump chambers from being developed in a wetland and allow them in a wetland buffer. In addition, it is amended to allow sleeved and water-tight sewer lines in wetlands and their buffers. It is also amended to prohibit the placement of drainfields in wetlands and allow them outside of the wetland water quality buffer. When permitted, adverse impacts to critical areas or their buffers must be mitigated and other conditions are applied to protect critical areas including tree protection standards.

WAC 365-195-915 provides guidance on including the Best Available Science in the development of critical area regulations. When departing from science based recommendations, this guidance specifies that the County should identify any information in the record that supports the decision, explain the rationale for departing from science based recommendations, identify potential risks to the functions and values of critical areas, and identify any measures chosen to limit such risk. These amendments may potentially depart from the BAS and have associated risks. The following findings address this potential departure:

a. Rationale for departing from science based recommendations.

i. Development in San Juan County is predominantly in rural areas where connection to a public sewer system is not permitted or available due to lack of infrastructure. Approximately 75 percent of San Juan County’s population relies on on-site septic systems. According to Chapter 4 of the BAS Synthesis (page 15) very little area in San Juan County is suitable for conventional on-site septic systems, so alternative septic systems designed to provide an additional level of treatment are often used. These are the only systems available to manage sewage in most parts of the County and are often necessary to support existing and new development.

ii. Sometimes there is no practicable alternative to sited an on-site sewage system line in a wetland, FWHCA, or their buffer.

iii. Soil disturbance and vegetation removal associated with installation of on-site septic systems are usually of short duration and limited to small areas that can be quickly revegetated.

iv. Mitigation requirements are designed and required to protect critical areas from potential adverse impacts.

v. Onsite sewage systems are also regulated by San Juan County Health & Community Services under statewide standards adopted in WAC 246-272A, Rules and Regulations of the State Board of Health for On-site Sewage Systems. These standards regulate the siting, design, installation, operation and maintenance of on-site sewage treatment and disposal systems. The proposal follows these regulations and protects public health by minimizing both the potential for exposure to sewage from on-site sewage systems, and the adverse effects of discharges from on-site sewage systems on ground and surface waters.

vi. Under WAC 246-272A-0270, owners of on-site septic systems are responsible for the
operation, monitoring and maintenance of the system. On-site septic systems are required to be inspected once every three years for septic tank/gravity systems and annually for all other systems. In addition, maintenance records and a complete seller disclosure statement is required for residential real property transfers to keep owners informed of their responsibilities. When needed, system upgrades are often required prior to building permit issuance or property transfer. San Juan County Health & Community Services enforces the regulations and implements established programs that bring noncompliant systems into alignment with local and State standards.

vii. WAC 246-272A-0210 establishes horizontal separations between system components and sensitive areas including those from surface waters measured from the Ordinary High Water Mark (OHWM). This includes a 100 foot separation of dispersal components (drainfields) and reserve areas from surface waters. In addition, sewage tanks and distribution boxes must be located 50 feet from surface waters. In both instances, the separation is measured from the OHWM. When any site conditions indicate a greater potential for contamination or pollution, such as excessively permeable soils, the health official may increase the horizontal separation.

viii. San Juan County Health and Community Services adopted and is actively implementing a countywide comprehensive On-site Sewage Operation and Maintenance Program. The program follows adopted State regulations and requires O&M inspections every three years for gravity distribution systems and annually for all other system types. The program is designed to insure systems are functioning properly, preventing inadequately treated sewage from surfacing or entering surface and or groundwater water.

ix. San Juan County Health & Community Services designates sensitive areas that are subject to increased operation and maintenance requirements including shellfish protection districts and shellfish growing areas. These areas require annual inspection of sewage systems.

x. Chapter 70.118A RCW requires San Juan County Health & Community Services to identify and develop Marine Recovery Areas (MRA) and propose an MRA where existing on-site sewage disposal systems are a significant factor contributing to concerns associated with threatened or downgraded shellfish growing areas, marine water with low dissolved oxygen or fecal coliform, and marine waters where nitrogen has been identified as a contaminant of concern. Based on all available data, no Marine Recovery Areas are designated in the County.

xi. San Juan County Health & Community Services regulations help to protect critical areas through the regulation of materials, design, setbacks, construction, inspection, and notification of owner responsibilities. Education and financial assistance programs also help support the upgrade of existing systems.

b. Potential risks to the functions and values of critical areas:

i. Improperly maintained or malfunctioning septic systems could result in harmful viruses and bacteria in surface or groundwater. However, such systems are required to be repaired or replaced.

ii. Properly functioning on-site sewage systems effectively remove bacteria and nutrients (nitrate and phosphorus). However, as indicated in the BAS Synthesis various household...
chemicals and personal care products may not be consistently removed by onsite septic systems. These foreign substances may interfere with fish and wildlife populations by influencing fertility, natural chemical cues needed for homing/communication, and/or disease susceptibility.

iii. Nutrients, viruses, bacteria, and chemicals from septic tanks can also enter stormwater when ponded or inadequately treated effluent flows into surface runoff. However, such systems are required to be repaired or replaced limiting such events.

c. The requirements limit potential risks to the functions and values of critical areas by:

i. Prohibiting water-tight septic tanks, pump chambers and drainfields in aquatic FWHCAs and wetlands.

ii. Allowing on-site sewage sewer lines in wetlands, FWHCAs and/or their buffers only when there is no practicable alternative.

iii. Limiting the location of drainfields to areas outside of wetland and FWHCA water quality buffers.

iv. Requiring the mitigation of adverse impacts to critical areas or their buffers when system components are permitted in a wetland, FWHCA, or their buffers.

v. Requiring best management practices to minimize erosion, sedimentation and soil disturbance when system components are permitted in a wetland, FWHCA, or their buffers.

vi. Limiting tree removal.

vii. Following well established and accepted State regulations for siting, design, installation, operation and maintenance of on-site sewage treatment and disposal systems.

XXII. Section 10 amends SJCC 18.30.160.E.1 by renumbering Figure 3.2 to 3.1 and updating the procedures required for determining Aquatic FWHCA water quality buffer widths buffers under Ecology’s wetland rating system and guidance based upon 70 percent pollutant removal. SJCC 18.30.160.E Step 3 establishing Aquatic FWHCA water quality buffer widths is amended to reflect the use of the Washington State Wetland Rating System for Western Washington - Revised and Ecology’s Wetlands in Washington State Volume 2 Appendix 8-E and Land Use Intensity Table 3.3A.

The same approach that was adopted in 2012 was used to establish Aquatic FWHCA water quality buffers in Table 3.6 and FWHCA water quality buffers to protect designated plants in Table 3.10. The Aquatic FWHCA buffer widths are proposed based on the updated wetland water quality buffers which provide the same benefits for any type water. The Best Available Science indicates that marine riparian areas largely serve the same functions as freshwater riparian areas. Scientific consensus is that freshwater riparian data is generally applicable to marine environments.

In the 2012 regulations, the water quality buffers established to protect designated plants were based upon the old wetland rating system’s Water Quality Sensitivity Rating of Medium and
Habitat Sensitivity Rating of High. These categories correlate to a Category II wetland under the State wetland rating system. Categories I and II have the same water quality buffers under the new wetland water quality buffers. Use of the Category I and II wetland buffers to set the FWHCA water quality buffers provides a low risk approach to protect functions and values because Ecology's rationale on water quality buffers assumes a moderate risk approach to protection. The Best Available Science indicates that the water quality buffer science for wetlands is applicable to freshwater and marine environments.

XXIII. Section 10 also amends SJCC 18.30.160.F.2 Table 3.10 Structures, Uses and Activities Allowed in and over Aquatic FWHCAs and Their Water Quality Buffers by renumbering it to 3.8 making amendments similar to those discussed in findings XIX-XXI above.

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

SECTION 1. SJCC 18.20.010 (“A” Definitions) and Ord. 26-2012 § 2 are each amended to read as follows:

“Abandon” means to terminate or remove a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction.

“Abutting” means adjoining as defined herein, but will often have the added component of joining end to end, or sharing an end border.

Accessory Apartment, Accessory Dwelling Unit. See “Internal ADU.”

“Accessory dwelling unit (ADU)” means a living area that is accessory to the principal residence, located on the same lot, and that provides for sleeping quarters, kitchen, and sanitation facilities. An ADU may be internal, attached or detached.

“Accessory structure” means a structure detached from a principal building located on the same lot and which is incidental and secondary to the principal building.

“Accessory use” means use of land or of a building or portion thereof incidental and subordinate to the principal use or building and located on the same lot with the principal use.

“Acoustical engineer” means, for the purposes of this subarea plan, a professional engineer, licensed in Washington, with a degree in mechanical engineering and membership in the Acoustical Society of America, or a professional engineer with demonstrated education, accreditation and experience to perform and certify noise measurements, as determined by the Director.

“Accretion shoreform” means shoreline with a backshore which has been produced by the long-term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such shoreforms include barrier beaches, points, spits, hooks, and tombolos.

“Acre” means a unit of measure of land area which consists of 43,560 square feet.

“Activity centers” in San Juan County include villages, hamlets, residential activity centers, island centers, and master planned resorts.

“Adaptive management” means a style of management which relies upon the best available information to make decisions, but implements decisions with a strategy to obtain additional information. The decisions, or their implementation, are then adapted, if necessary, based on the new information.

“Adequate” means acceptable but not excessive.

“Adequate capacity (adequate capital facilities)” means capital facilities and services that have the capacity available to serve development at the time of occupancy or use without decreasing levels of service (LOS) below the standards set forth in the Comprehensive Plan. “Adequate capacity” also includes a financial commitment that is in place to complete the improvements, or noncapital strategies, necessary to provide a specific level of service within six years. (See also “available capacity,” “concurrency,” “levels of service,” and “noncapital alternative strategies.”)
“Adjacent” means either (1) adjoining as defined herein, or (2) being near or in close proximity, implying two objects that are not widely separated, though they may not actually touch. If a conflict arises over the meaning of the term “adjacent” as used in the UDC, the meaning shall be as interpreted by the director.

“Adjacent lands, shoreline” means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). See RCW 90.58.340.

“Adjoining” means being in physical contact, touching at some point or along a line, having a common point or border, sharing a common boundary, being so joined or united to each other that no third object intervenes.

“Administrator,” “planning director,” and “director” each mean the San Juan County community development and planning department director or a designated representative.

“Adverse” means contrary to one’s interest or welfare; harmful or unfavorable circumstances.

“Adverse impacts” means a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

“Affordable housing” means housing where the occupants pay no more than 30 percent of gross monthly income for total housing costs, including the cost of property taxes and insurance for homeowners and monthly utilities for owners and renters.

“Agriculture” means the science, art, and business of cultivating land and producing crops or raising livestock primarily for commercial sale or use; farming.

“Agricultural activities” means agricultural uses and practices defined in RCW 90.58.065 including, but not limited to: agritourism; producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a private, local, state, or federal conservation or restoration program, or the land is subject to a conservation easement; conducting agricultural operations including but not limited to land preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing, tilling, planting, cultivating, agricultural composting, fertilizing, weed/pest/disease control, spraying, pruning, trimming, harvesting, processing, packing and agricultural sales; livestock management, such as breeding, birthing, feeding, grazing, and care of animals, birds, honey bees, and fish raised outside of shoreline jurisdiction; construction of farm and stock ponds, irrigation ditches, and water systems; maintaining, repairing, and replacing agricultural equipment, maintaining, repairing, and replacing agricultural facilities and structures for the repair, maintenance, and storage of farm equipment, animal husbandry operations, storage of agricultural products and machinery and maintaining agricultural lands under production or cultivation.

“Agricultural commodity” means sheep, cattle, horses, goats, pigs, llamas, alpacas, or any other animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including, but not limited to, products qualifying as organic food products under Chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 19.85.020 and other fish and fish products, either in their natural or processed state, including bees and honey and Christmas trees but not including timber or timber products.

“Agricultural composting” means composting of agricultural waste as an integral component of a system designed to improve soil health and recycling agricultural wastes. Agricultural composting is conducted on lands used for farming and is an agricultural activity. Agricultural composting can include the collection of off-site yard, landscape, agricultural waste and other compostable materials to be processed into compost, including sales or delivery of finished composted product. Such operation shall be accessory to the primary agricultural activities of the farm operation and shall not generate traffic and/or noise uncommon to a farm operation.

"Agricultural equipment and facilities" means equipment and facilities includes, but is not limited to: (1) The following used in agricultural operations: equipment, machinery, constructed shelters, buildings, and
ponds; composting and water storage facilities; fences; upland fish-rearing facilities located outside of
shoreline jurisdiction; water diversion, withdrawal, conveyance, and use equipment and facilities
including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for
transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm
residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets
for farm products (see defined in RCW 90.58.065(2)).

"Agricultural processing, retail, and visitor-serving facilities for products" means the commercial
processing (preparing for market, packing, and sales) of agricultural commodities, and the on-site
facilities for retail display and sale of such agricultural commodity products.

"Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable,
fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock;
Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within
twenty years of planting; and livestock including both the animals themselves and animal products
including but not limited to meat, upland finfish, poultry and poultry products, and dairy products (see
RCW 90.58.065(2)).

"Agricultural resource lands" means lands that are primarily devoted to the commercial production of
horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain,
hay, straw, turf, seed, livestock, or Christmas trees not subject to the excise tax imposed by RCW
84.33.100 through 84.33.140, and have long-term commercial significance for agricultural production
(RCW 36.70A.030(2)). Agricultural resource lands is also a land use designation (AG) in the
Comprehensive Plan.

"Agricultural sales" means the sales of agricultural products grown, raised or harvested in San Juan
County, including processed products whose defining ingredients are produced or harvested in the county.
Agricultural sales can include the sale of agricultural promotional materials which shall be accessory to the
sale of the primary agricultural products.

"Agricultural soils" means lands with USDA-San Juan County Soil Survey Class II, III, and IV soils or
other soil classes where the land is suitable for a particular agricultural use.

"Agricultural wastes" means wastes on farms resulting from the raising or growing of plants and animals
including, but not limited to, crop residue, manure and animal bedding, and carcasses of dead animals
weighing each or collectively in excess of fifteen pounds.

"Agriculture" means the science, art, and business of cultivating land and producing crops or raising
livestock primarily for commercial sale or use; farming.

"Agriculture, existing and ongoing" means any agricultural activity conducted on lands defined in RCW
84.34.020(2); agricultural use ceases when the area on which it is conducted is converted to a
nonagricultural use.

"Agritourism" means recreational, educational or agricultural-related activities that are accessory to the
agricultural activities of the farm operation.

"Aid to navigation" means any visual or electronic device airborne or on the surface which provides
point-to-point guidance information or position data to aircraft in flight.

"Aircraft accident safety zone" means an area of land that is designated in order to meet the land use
compatibility direction in RCW 36.70A.510 and 36.70.547 for general aviation airports and to implement
the health and safety and land use purposes of an airport overlay district, and is shown on the official
maps of the overlay district. Guidance for the delineation of these safety zones is provided by the
Washington State Department of Transportation, which can be modified in order to address local
circumstances as part of the adoption of individual airport overlay districts.

1. "Safety zone 1: Runway protection zone" is an area that has the same dimensions as the FAA runway
protection zone. It is a trapezoidally shaped area that extends from the outer boundaries of the primary
surface along the extended runway centerline. Where only a portion of the runway is declared usable
(the remainder of the pavement being part of a paved "stopway"), as is the case at Orcas Island airport,
the measurements for the zone begin at the threshold line on the pavement which marks the end of the
declared usable runway surface.
2. “Safety zone 2: Inner safety zone” is an area that underlies the main departure/approach path. It begins
at the end of the runway protection zone (zone 1) and extends out along the extension of the runway
centerline.
3. “Safety zone 3: Inner turning zone” is an area where aircraft turn into the direct approach path, or turn
out of the departure path. The zone begins at the primary surface and extends cut at 30 degrees from both
sides of the runway centerline. It connects to the centerline of the inner safety zone (zone 2) with
sweeping arcs.
4. “Safety zone 4: Outer safety zone” is an area that underlies the main departure/approach path, after the
inner turning zone (zone 3). It extends out from both sides of the extended runway centerline, beginning
at the outer edge of the inner turning zone (zone 3) and extending to the outer boundary of zone 6 (or to
outer boundary of the horizontal zone if zone 6 is not designated).
5. “Safety zone 5: Sideline safety zone/airport development zone” is an area that is immediately adjacent
to the airport and runway area. The standard zone begins at the primary surface, extending out from the
extended runway centerline and connecting at its ends to the inner turning zone (zone 3).
6. “Safety zone 6: Traffic pattern zone” is an area that encircles the other five safety zones. The standard
area consists of a long oval that is centered longitudinally on the runway, and which envelops the other
safety zones. The perimeter is constructed by swinging arcs from a point along the extended runway
centerline that is 500 feet from the edge of the primary surface. The arcs are connected by line segments
that are extended from the edge of safety zone 5. Zone 6 may or may not be designated for a given airport
overlay district.
“Airfield” means a privately owned area of land open to general or limited public use for aircraft
operations. An airfield may include related noncommercial services, aircraft maintenance, or fueling
facilities.
“Airport” means an area of land or facility publicly owned and open to general public use for aircraft
operations, except any airfield or airstrip as defined herein. An airport may include related services and
facilities.
“Airport overlay district” means an overlay district which governs use of land in the vicinity and environs
of an airport and protects public safety in the area.
“Airstrip” means a privately owned area of land, closed to the public, and restricted to use by the owner
for noncommercial aircraft operations and, on an occasional basis, invited guests of the owner.
“Aliquot part” means a parcel of unplatted land which is described by record legal description as a
fractional portion of a section, excluding government lots.
“Allowable uses” means the land uses that are allowed under SJCC Title 18, divided into five categories,
as identified in SJCC 18.30.050 and Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040. These are uses
allowed outright (“Yes”), provisional (“Prov” or “P”), “P/C” (formerly referred to as discretionary) (“D”),
conditional (“C”), and plan amendment (“P.A.”) uses.
“Allowed outright use (“Yes” use)” means a use that is allowed outright within a land use designation,
and which does not require a project permit, is identified in Tables 3.1 and 3.2 in SJCC 18.30.030 and
18.30.040 by the symbol “Yes.” All “Yes” uses are subject to and must comply with all applicable
development standards of SJCC Title 18 (see Chapter 18.60 SJCC and SJCC 18.80.070).
“Alteration, nonconforming structures” means any change or rearrangement in the supporting members of
existing buildings, such as bearing walls, columns, beams, girders, or interior partitions, as well as any
changes in doors, windows, means of egress or ingress or any enlargement to or diminution of a building
or structure, horizontally or vertically, or the moving of a building from one location to another. This
definition excludes normal repair and maintenance, such as painting or roof replacement, but includes
more substantial changes.
“Alteration, nonconforming use” means the expansion, modification or intensification of a use that does
not conform to the land use regulations of the UDC.
"Angle of repose" means the slope at which a land mass normally will remain stable without artificial means of support. The specific angle is largely dependent on the type(s) of material(s) present in the land mass.

"Animal shelter (kennel)" means a commercial or nonprofit establishment in which animals other than livestock are temporarily housed or boarded, groomed, bred, trained, treated, or sold.

"Antenna" means any apparatus designed for transmitting and/or receiving electromagnetic waves by converting those waves from and to electrical current.

"Antenna array" means one (1) or more antennas and their associated mounting hardware, feed lines, or other appurtenances which share a common attachment device, such as a mounting frame or support structure.

"Appeal, closed-record" means an administrative appeal on the record to the board of County commissioners, following an open-record hearing on a project permit application. A closed-record appeal is on the record made before the decision maker with no or limited new evidence or information allowed to be submitted and only appeal argument allowed (RCW 36.70B.020).

"Appeal, open-record" means a hearing, conducted by the hearing examiner, that creates the County’s record through testimony and submittal of evidence and information, under procedures prescribed by the County by ordinance or resolution when a timely appeal of the director’s decision on a project permit application or a timely appeal of an administrative determination is filed.

"Applicant" means any person who files a permit application with the County and who is either the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on which the proposed activity would be located.

"Approach surface" means the FAA imaginary surface that is the lower boundary of an airspace which begins at the ends of the primary surface and extends upward and outward along the extended runway centerline. The initial width of the surface coincides with the width of the primary surface, and expands outward uniformly from the primary surface.

"Approach, transitional, horizontal, and conical surfaces" means the imaginary surfaces that relate to an airport or airfield runway as defined in Federal Aviation Administration (FAA) regulations, 14 CFR, Part 77, “Objects Affecting Navigable Airspace,” as amended, and as shown on the approach and clear zone plan for an airport or airfield. They are so-called “imaginary” surfaces because, with the exception of the runway, they cannot be seen.

"Approach, transitional, horizontal, and conical zones" means the zones which apply to the ground areas immediately under a runway approach; transitional, horizontal, and conical surfaces as projected along a vertical axis.

"Aquacultural activities" means use of the land and water for aquacultural purposes including, but not limited to: producing, breeding, or increasing products; rotating and changing products; processing, packing, storing and selling products; composting organic materials; and construction, maintenance and repair of structures and facilities associated with the operation.

"Aquacultural equipment and facilities" includes, but is not limited to: (i) The following used in aquacultural operations: equipment; machinery; constructed shelters, buildings, and ponds; water storage facilities; water diversion, withdrawal, conveyance, and use equipment and facilities such as pumps, pipes, canals, ditches, and drains; (ii) Farm residences and associated equipment, lands, and facilities; and (iii) roadside stands and on-farm markets for products (see RCW 90.58.065 (2)).

"Aquacultural products" includes fish, shellfish, or other aquatic animals or plants.

"Aquaculture" means the science or art of cultivating fish, shellfish, or other aquatic animals or plants.

Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery (see WAC 173-26-020(6)).

"Aquatic environment" means all water bodies under the jurisdiction of the Shoreline Management Act of 1971 and within the boundaries of San Juan County, including the water surface together with the underlying lands and the water column, including but not limited to bays, straits, harbors, coves, estuaries, tidelands, shorelands, and lakes.
“Aquifer” means a body of permeable saturated rock material or soil capable of conducting ground water.
“Aquifer recharge areas” means lands through which precipitation and surface water infiltrate the soil and are transmitted through rocks and soil to create ground water storage.
“Archaeological” means having to do with the scientific study of material remains of past human life and activities.
“Archaeological site” means an area of ancestral human use such as midden, burial grounds, and earthworks.
“Area” means the size of a parcel of land, as expressed in square feet or acres to two decimal places.
When a public road right-of-way lies within a tract of land otherwise in contiguous ownership, area within the right-of-way may be included in gross area for the purpose of calculating maximum allowable density. When public road right-of-way abuts a tract of land, area to the centerline may be included in the gross area of the parcel for this purpose.
“Area, nominal” means the approximate area of a parcel of land, such as the aliquot part or the land area in the assessor’s records.
“Area of more intensive rural development (AMIRD)” means a class of rural lands that includes village and hamlet activity centers, residential activity centers, and island centers. AMIRDS were identified and delineated according to the criteria in RCW 36.70A.070(5)(d). They consist of commercial, industrial, residential, or mixed-use areas in which the kinds, intensities, or densities of use, or the capital facilities and services available, exceed the levels normally associated with rural development. Thus, these areas recognize and provide for existing compact rural development and uses, and allow for infill in the areas to the level of existing patterns.
“Area of natural terrain obstruction” means an area where the natural land surface penetrates the FAA imaginary surface.
“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, as indicated on the flood insurance rate maps (FIRMs).
“Assembly facility” means a facility designed and used for the gathering of people, or in which they may come together in a body, such as a meeting hall, community club or center, church, etc. (See also “community club or facility” and “religious assembly facility.”)
“Assessor’s parcel number” means a geocoding number assigned by the assessor’s office for property tax assessment purposes only.
“At grade” means at ground level.
“Attached accessory dwelling unit (AADU)” means an ADU which is internal to or attached to the principal residence by (1) a common wall, or (2) a continuous roof and exterior wall enclosures, or (3) a continuous roof no less than six feet in width, the area of which is included in the living area of the ADU.
“Automotive fuel station” means any building, land area, or other premises used for the retail dispensing or sales of vehicular fuels, but at which there is no servicing or repair of automobiles.
“Automotive repair station” means any building, land area, or other premises used for the retail servicing or repair of automobiles, but at which there is no dispensing or sales of vehicular fuels.
“Automotive service station” means any building, land area, or other premises used for the retail dispensing or sales of vehicular fuels and the servicing or repair of automobiles.
“Automobile wrecking and junk (or salvage) yards” means an outdoor area used for the wrecking, storage, and recycling/salvage of wrecked or abandoned vehicles for scrap metal and/or parts. (See “junk yard or salvage facility.”)
“Available capital facilities (available capacity)” means capital facilities or services that are in place (“existing capacity”), or for which a financial commitment is in place to provide the facilities or services within a specified time (“planned capacity”). “Available capacity” consists of existing plus planned capacity. (See also “adequate capacity,” “concurrency,” and “levels of service.”)
“Average tree height” means the mean height of existing trees within a 150-foot radius of the facility site.
"Average vehicular trips" means the average number of all vehicles entering or leaving a site during a defined period.

SECTION 2. SJCC 18.20.040 ("D" Definitions) and Ord. 26-2012 § are amended to read as follows:

Day Care – Type 1. The following definitions apply to day care facilities for six or fewer children:

"Child care facility" means a family day care home (RCW 35.63.170).

"Family day care home" means a person regularly providing care during part of the 24-hour day to six or fewer children in the family abode of the person or persons under whose direct care the children are placed (RCW 35.63.170).

Day Care – Type 2. The following definitions apply to day care facilities for seven or more children:

"Day care center" means a person or agency that provides care for 13 or more children during part of the 24-hour day (RCW 74.15.020).

"Family day care provider" means a licensed day care provider who regularly provides day care for not more than 12 children in the provider’s home in the family living quarters (RCW 74.15.020).

"Mini day care center" means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons (RCW 35.63.170).

"dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter.

"dbh (diameter at breast height)" means the diameter of a tree measured at 4.5 feet above the ground surface on the uphill side of the tree.

"Day-night sound level (Ldn)" means a measurement used to characterize average sound levels in residential areas throughout the day and night. The Ldn is an A-weighted equivalent sound level at the property boundary in decibels (dB) for a 24-hour period to which 10 dB are added to nighttime sounds (10:00 p.m. to 7:00 a.m.).

"Dedicate" means to set aside a piece of real property, a structure, or a facility for public or private use or ownership.

"Dedication" means the appropriation of land by an owner for any public or private use, reserving no other rights than those compatible with the full exercise and enjoyment of the public or private uses to which the property is to be dedicated. The intention to dedicate shall be evidenced by the owner filing an application for final subdivision approval showing the intended dedication, and the acceptance shall be evidenced by the approval of said application for recording.

"Degradation" means to scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function, in terms of San Juan County standards and environment.

"Density" means the quantity per unit area, such as the number of dwelling units per acre or acres per dwelling unit.

"Department" means the San Juan County community development and planning department.

"Design capacity" means the theoretical or calculated maximum ability of a system or device to handle the duty for which it is to be used.

"Detached ADU" means an accessory dwelling unit that is physically distinct from the principal residence. To be detached, the ADU and principal residence may not be connected or must be structurally independent per the International Residential Code.

"Developable area" means the area of land which is not constrained from development by land use restrictions.

"Development" means the division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any grading, draining, dredging, drilling, filling, paving, excavation, mining, landfill; or any extension of the use of land. (See also “Shoreline development.”) For purposes of critical area regulations, development does not include
activities with a duration of less than 24 months that do not adversely alter critical areas. Not all
development requires a permit or review.

“Development area” means the area that is directly altered as a result of development. This includes, but
is not limited to, the area containing structures, driveways, gardens, landscaped areas, areas of grading,
excavation, or fill.

“Development permit” means a County permit or approval required for a project, including but not
limited to building and other construction permits, mechanical permits, demolition permits, plumbing
permits, clearing and grading permits, driveway permits, and on-site sewage disposal permits. (See
“project permit.”) SEPA threshold determinations are not development permits.

“Development right” means the right to develop property subject to federal, state, and local restrictions
and regulations.

Development, Shoreline. See “Shoreline development.”

“Director” means the director of the San Juan County community development and planning department
or a designated representative.

“District” means a part, zone, or geographic area within San Juan County within which certain
development regulations apply.

“Division of land” means the creation of two or more parcels of land within the boundaries of a single
parcel. All contiguous property held in the same or substantially the same ownership, or under the control
of the owner, whether or not the property is described in separate legal descriptions, shall be considered
as part of the original tract of record for the purposes of Chapter 18.70 SJCC.

“Dock” means a structure that abuts the shoreline and is used as a landing or moorage place for
commercial and pleasure craft. A dock typically consists of a pier, ramp, and float.

“Drainage” means surface water runoff; the removal of surface water or groundwater from land by drains,
grading, or other means, which include runoff controls to minimize erosion and sedimentation during and
after construction or development.

“Drainageway” means any natural or artificial watercourse, trench, ditch, swale, or other similar
depression where surface water accumulates and flows.

“Dredge spoils” means the material removed by dredging.

“Dredging” means the removal of earth from the bottom of a stream, river, lake, bay, or other water body.

“Driftway” means the critical link between the feeder bluff and the accretion shoreform, through which
sand and gravel are transported by the littoral drift process.

“Drinking establishment” means a business primarily engaged in the retail sale of alcoholic beverages for
consumption on the premises. A lounge operated as part of a restaurant is considered to be accessory to
the restaurant.

“Drive-thru window service” means businesses where patrons may carry on business on the premises
while in a motor vehicle.

“Driveway” means a strip of land which provides vehicular access to one or two lots.

“Dry boat storage” means a space on dry land or within a building which is rented to the public for the
purpose of storing boats.

“Dune” means a hill or ridge of sand piled up by the wind and/or wave action.

Duplex. See “ Dwelling unit, two-family.”

“ Dwelling unit” means a single unit providing complete independent living facilities for one or more
persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A principal
residence and an ADU that meets the requirements of SJCC 18.40.240 constitute a single dwelling unit.
Recreational vehicles are not dwelling units.

“ Dwelling unit, multiple-family” means one or more structures containing three or more dwelling units.

“ Dwelling unit, two-family (duplex)” means a structure containing two dwelling units.
SECTION 3. SJCC 18.20.090 ("I" Definitions) and Ord. 26-2012 § 9 are amended to read as follows:

"Illegal use" means any use of land or a structure which is inconsistent with current codes or was inconsistent with previous codes in effect when the use or structure was established. An illegal use is different than a "nonconforming use."

"Impervious surface" means a surface with a Rational Method runoff coefficient greater than 0.35 that creates a barrier to the entry of water into the soil in comparison with natural conditions prior to development, or that causes water to run off the surface in greater quantities or at an increased rate of flow in comparison with the flow prior to development.

"Improvements" means structures, roads, and other developments of land.

"Incidental" means subordinate to, minor in significance, and bearing a reasonable relationship with the primary use.

"Individual water system" means a water system serving a single-family residence and no more than one accessory dwelling unit, or meeting the definition in WAC 246-290-010 for "same farm" (per SJCC 8.06.070).

"Indoor entertainment facilities" means structures which cater to indoor leisure-time activities.

"Indoor recreational facilities" means places designed and equipped for the conduct of sports and leisure-time activities, including but not limited to physical fitness clubs, bowling alleys, and handball courts.

"Industrial development" means facilities for the processing, manufacture, or storage of finished or partially finished goods.

"Industrial wastewater" means industrial wastewater as defined in WAC 246-272A-0010.

"Infrastructure" means existing installed facilities and services including capital facilities such as water supply, sewage disposal, and storm drainage systems, and transportation facilities such as public roads.

"Institutional facilities or development" means structures and related activity areas used by organizations providing educational, social, or noncommercial recreational services to the community, including performance halls, government service offices, facilities for assembly, colleges, primary and secondary schools, museums, and libraries.

"Instream resources" means features, properties, or other beneficial assets which exist within a stream corridor, such as fish and wildlife habitat, recreation, and scenic beauty.

"Intensive" means highly concentrated, very large, or considerable, in terms of San Juan County standards and environment.

"Internal accessory dwelling unit (IADU)" means an ADU that is part of the principal residence and provides for egress and ingress between the IADU and principal residence, or that shares a common wall with the principal residence, but has separate egress and ingress.

"Invasive plant" means any species listed as a noxious weed (any Class) by the Washington State Noxious Weed Control Board, or the listed "Unregulated weeds of special concern in San Juan County" in the current version of the San Juan County Noxious Weed List.

"Island center" means an activity center characterized by existing general commercial or general industrial uses that may also include some rural commercial and rural industrial uses.

SECTION 4. SJCC 18.20.140 ("N" Definitions) and Ord. 26-2012 § 13 are amended to read as follows:

"National Pollutant Discharge Elimination System (NPDES)" means a joint federal and state permitting system for the control, monitoring, and reduction of point-sources of pollution, established under the Federal Water Pollution Control Act (Clean Water Act) (Public Law 92-500).

"National Register of Historic Places" means the official federal list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history and prehistory, or whose artistic or architectural value is unique.
“Native vegetation” means plant species which are indigenous to San Juan County.

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

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

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

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

“New and expanding agricultural activities” means agricultural activities that expand beyond the current geographic footprint existing on the effective date of this ordinance. (See also “Agricultural activities.”)

“New and expanding aquacultural activities” means aquacultural activities that expand beyond the current geographic footprint existing on the effective date of this ordinance (see aquacultural activities).

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

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

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

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

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

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

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

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

“Nonconsumptive use” means a use which does not permanently deplete, degrade, or destroy the resource involved.

“Nonpoint source” means the release of waste or other flows which occurs over a broad or undefined area. Releases which can be described as confined to a small area, such as discharges from a pipe or conduit, are referred to as “point-source discharges.” (See also “point-source discharge.”)
“Normal appurtenance, shoreline” means a structure or development that is 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). (See also “shoreline exemption.”)

“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 5. SJCC 18.20.200 (“T” Definitions) and Ord. 26-2012 § 18; are each amended to read as follows:

“Tank farm” means an area used for the commercial bulk storage of fuel in tanks.

“Temporary development activity” means the purpose of critical area regulations in SJCC Title 18, temporary uses or activities associated with development on a permitted active construction site. Temporary uses and activities include mobile contractor offices, equipment storage and storage yards, portable toilets, on-site equipment repair, on-site staging, and workshops.

“Threshold determination” means the decision by the responsible official under the State Environmental Policy Act (SEPA) regarding the likelihood that a project or other “action” (WAC 197-11-704) will have a probable significant adverse impact on an element of the environment.

“Tidelands” means land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

“Timber land” means land supporting or capable of supporting a stand of merchantable timber and which is not being developed or used for an activity which is incompatible with timber production.

“Tombolo” means a causeway-like accretion spit which connects an offshore rock or island with the main shore. Tombolos normally develop from bars (submarine berms) and an active driftway.

“Trailer” means a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office.

“Transfer of development rights (TDR)” means the transfer of the right to develop or build, expressed in dwelling units per acre, from land in one land use designation to land in another designation or from one property owner to another, where such a transfer is permitted.

“Transfer station” means a facility for the collection of solid waste from off-site into a larger transfer container or vehicle for transfer to a permanent disposal site. (See “solid waste transfer station.”)

“Transient accommodations” means a commercial or residential use involving the rental of any structure or portion thereof for the purpose of providing lodging for periods less than 30 days.

“Transitional surface” means the FAA imaginary surface that is the lower boundary of an airspace which begins on either side of the primary surface and which slopes outward and upward to meet the horizontal surface above the airport. This surface is also connected to the approach surface at both ends of the runway.

“Transportation facilities” means roads, trails, airports, airfields, public docks, ferries and related terminals, and parking areas.

“Tree line” means the line created by existing trees, at the trunk line, growing in a generally continuous line, as opposed to a line drawn between a few isolated trees.

“Tree Protection Zone” means a protective area established around a tree or cluster of trees. With regard to streams, lakes, ponds, and shorelines, this includes the area between the water and the tree or cluster of trees.

“Turbid (turbidity)” means thick or opaque with rolled sediment; muddy.

“Turion” means a shoot of eelgrass emanating from the rhizome.
SECTION 6. SJCC Section 18.30.110 and Ord. 26-2012 § 21 are each amended to read as follows:

18.30.110 Critical Areas.

A. Purpose. Critical areas overlay districts are adopted to protect the functions and values of critical areas in conformance with the requirements of the Washington Growth Management Act and the policies of the San Juan County Comprehensive Plan. There are five types of critical areas as defined in SJCC 18.30.120 through 18.30.160:

1. Geologically hazardous areas.
2. Frequently flooded areas.
3. Critical aquifer recharge areas.
4. Wetlands.
5. Fish and wildlife habitat conservation areas.

B. Applicability. These overlay districts provide regulations for land use, and development and vegetation removal in critical areas and areas adjacent to critical areas as established in SJCC 18.30.120-160.

Applicability to uses and structures within the shorelines of the state. Notwithstanding any provision in this code to the contrary, any use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the County's development regulations to protect critical areas, shall be regulated consistent with RCW 36.70A.480(3)(c). Such uses or structures may continue as a conforming use and may be redeveloped or modified if the redevelopment or modification is consistent with SJCC Chapter 18.50 and either: (1) the proposed redevelopment or modification will result in no net loss of shoreline ecological functions; or (2) the redevelopment or modification is consistent with SJCC 18.30.110-.160. If the applicant chooses to pursue option (1), the application materials for required project or development permits must include information sufficient to demonstrate no net loss of shoreline ecological functions. For purposes of this subsection, an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. For purposes of this paragraph "Agricultural activity" has the same meaning as defined in RCW 90.58.065.

C. General Exemptions. When conducted in accordance with the provisions of this subsection (C), and other applicable requirements the following uses and activities are exempt from standard critical area regulations:

1. Emergency Response. Those activities necessary to prevent an imminent threat to public health, safety, or the environment; or to public or private property, and that require remedial or preventive action in a time frame too short to allow for review and approval in accordance with critical area requirements. Within seven days of the emergency, the person or agency undertaking the action shall report to the director the extent of the action taken and any adverse impacts to critical area functions and values caused by the action. Any mitigation and/or restoration necessary to bring the action into compliance with these critical area requirements shall be undertaken pursuant to a mitigation plan or other plan that is consistent with the critical area requirements of this chapter. The director shall be the decision maker for these plans.

2. The operation, maintenance, repair, remodel, or replacement of existing structures, facilities, infrastructure systems, development areas and uses, provided there is no further intrusion into geologically hazardous areas, frequently flooded areas, wetlands, or fish and wildlife habitat conservation areas or their buffers; soil erosion is controlled; disturbed areas are promptly
stabilized; and actions do not have an additional adverse effect on the functions and values of
critical areas. Existing structures, uses and activities located within shorelines of the state are
addressed separately as described in SJCC 18.30.110(B) above and 18.30.160.

3. a. Installation, and construction replacement, or modification of (a) electrical lines, (b)
telecommunication lines, or (c) water and sewer lines within private or public rights-of-way,
provided that soil erosion is controlled and disturbed areas are promptly stabilize or revegetated
as appropriate: electrical, telecommunications, cable, water, sewer, and other utility lines and
equipment within existing structures, facilities, infrastructure systems, development areas and
uses, utility easements, and public and private rights-of-way, provided:
   i. There is no further intrusion into geologically hazardous areas, frequently flooded areas,
       wetlands, or fish and wildlife habitat conservation areas or their buffers;
   ii. Soil erosion is controlled;
   iii. Disturbed areas are promptly stabilized; and
   iv. Actions do not have any additional adverse effect on the functions and values of critical
       areas.

b. Installation and construction of utility lines and equipment not previously covered in SJCC
  18.30.110(C)(2) and (C)(3)(a) above provided that reasonable efforts are made to avoid impacts
to critical area functions and values, and:
   i. BMPs are used to minimize clearing, erosion, sedimentation and other soil disturbance;
   ii. Disturbed areas are promptly stabilized and revegetated; and
   iii. Any adverse impacts to critical areas are mitigated in accordance with SJCC 18.30.110(E).

4. Removal of hazard trees as defined in SJCC 18.20.080. In addition, to allow for defensible space
   for fire protection purposes, 30 feet of vegetation may be cleared around buildings lawfully
   existing on the effective date of this ordinance.

5. The divisions of land specified in 18.70.010(C) are exempt from critical area compliance review.
   Parcels created via 18.70.010(C) are, however, subject to compliance with critical area protection
   requirements, and if created subsequent to the effective date of this ordinance, they are not
   eligible for reasonable use exceptions.

6. Forest practices regulated under the provisions of RCW Chapter 76.09 and WAC Title 222.

7. Installation of navigation aids and survey markers.

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

D. Reasonable Use Exception.

It is the policy of San Juan County that private property shall not be taken for public use without just
compensation having been made. The property rights of landowners shall be protected from arbitrary
and discriminatory actions.

To avoid the taking of property without just compensation, this subsection establishes a reasonable
use exception from standard critical area protection regulations. (Also see SJCC section 18.80.100 on
the procedures and requirements for approval of a variance). Reasonable use shall be liberally
construed to protect the constitutional property rights of the applicant.

1. Reasonable use exceptions only apply to compliance with critical area requirements. They do not
   relieve the applicant of the duty to comply with other local, State, or Federal requirements.

2. The burden of proof is on the applicant to provide adequate information for the director to make a
   finding of compliance with the requirements of this subsection (D).

3. Reasonable use exceptions may only be granted for parcels created before the effective date of
   this ordinance. Reasonable use exceptions cannot be used to justify building on parcels not
intended to be used as a building site (e.g. recreational lots including those platted as common
area).

4. Two sets of options are available under the reasonable use exception.
   Option One – No Mitigation:
   a. A development area of up to 2,500 s.f. square feet of development constructed using Low
      Impact Development practices may be located in a critical area buffer.
   b. A development area of up to 1,500 s.f. square feet of development constructed using Low
      Impact Development practices may be located in a critical area.
   c. A combined development area of 2,500 s.f. square feet of low impact development, with no
      more than 1,500 s.f. square feet located in the critical area and the balance located in the
      critical area buffer.

And;

Option Two – With Mitigation
   a. Up to 10% of the parcel, or up to one half (1/2) acre, or the minimum necessary to allow for
      reasonable use of the property, whichever is more, may be developed if adverse impacts to
      critical area functions and values are mitigated in accordance with subsection 18.30.110.E of
      this section.
   b. Low impact development practices are encouraged in all development under the reasonable
      use exception and are required for all reasonable use exception development creating a
      footprint greater than 10,890 s.f. square feet in size.

5. Applications for reasonable use exceptions are project permits, which are reviewed and approved
   by the director as a provisional use permit.

6. Application for a reasonable use exception shall include:
   a. The applicable items listed in SJCC Section 18.80.020.C (Project Permit Applications-Forms)
      along with photos of the site and a detailed site plan showing the location of frequently
      flooded areas within the proposed development area; geologically hazardous areas in or
      within 200 feet of the proposed development area; wetlands in or within 300 feet of the
      proposed development area; and fish and wildlife habitat conservation areas in or within 205
      200 feet of the proposed development area; the location of any golden eagle nests in or within
      1,000 feet of the proposed development area; and the location of any peregrine falcon or great
      blue heron nests in or within ¼ mile of the proposed development area;
   b. Any related project documents such as applications to other agencies or environmental
      documents prepared pursuant to the State Environmental Policy Act;
   c. Required critical area reports, critical area delineations, and, for the “with mitigation” option,
      Best Available Science documents supporting the proposal;
   d. A copy of proposed or approved storm water and erosion control plans as required by SJCC
      18.60;
   e. A narrative describing anticipated adverse impacts to the functions and values of critical
      areas, based on Best Available Science, and explaining how the proposal meets the
      reasonable use exception approval criteria;
   f. Mitigation, Monitoring and Adaptive Management Plans. For the “With Mitigation” option,
      plans meeting the requirements of subsection 18.30.110.E for mitigating any adverse impacts
      or harm that would result in a net loss of the functions and values of critical areas, for
      monitoring the effectiveness of mitigation actions, and when necessary for adaptively
      managing the mitigation project to ensure its success;
g. For the “With Mitigation” option, a cost estimate, prepared by a qualified professional, for implementing mitigation and monitoring plans;

h. Financial Guarantee. For the “With Mitigation” option, a financial guarantee covering 115\% of the cost of implementing mitigation and monitoring plans. This guarantee and the associated agreement must meet the requirements of SJCC 18.80.

7. Reasonable Use Exception Approval Criteria.
   a. The application is complete and includes all applicable items listed in SJCC 18.30.110.D.6.
   b. The parcel was created before the effective date of this ordinance and was established as a building site.
   c. The applicant is unable to meet standard critical area protection regulations and the application of SJCC 18.30.110-160 would deprive the land owner of all economic or beneficial use of the property.
   d. The need for the exception is not the result of action by current or previous property owners after the effective date of this ordinance (e.g., creating new parcels without a feasible building site or means of access).
   e. Where possible, proposed development areas are located in such a way as to avoid adverse impacts to the functions and values of critical areas, considering the Best Available Science.
   f. The proposed development meets the requirements of either option One (No Mitigation) or Two (With Mitigation).
   g. The proposal is consistent with the requirements of subsections D.3 and D.4.

8. Recording of Approved Exception, Site Plan, and Notice to Title.
   The County shall record a copy of the approved exception and site plan, along with a Notice to Title referencing the plan, with the cost of recordation included in the application fee.

E. Optional Public Agency and Utility Exception.

The following provisions are available to public agencies and utilities that have difficulty meeting standard critical area protection requirements:

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

2. Public Agency and Utility Exceptions only apply to compliance with critical area requirements.
   They do not relieve the applicant of the duty to comply with other local, State, or Federal requirements.

3. In determining eligibility for Public Agency and Utility Exceptions, the burden of proof is on the applicant to provide adequate information for the decision maker to determine compliance with the requirements of this subsection (E).

4. Applications for Public Agency and Utility Exceptions are P/C uses.

5. Application for a Public Agency and Utility Exception shall include:
   a. The applicable items listed in SJCC Section 18.80.020.C (Project Permit Applications Forms)
   along with photos of the site and a detailed site plan showing the location of frequently flooded areas within the proposed development area; geologically hazardous areas in or within 200 feet of the proposed development area; wetlands and fish and wildlife habitat conservation areas in or within 205 feet of the proposed development area; the location of any golden eagle nests in or within 1,000 feet of the proposed development area; and the location of any peregrine falcon or great blue heron nests in or within ¼ mile of the proposed development area;
b. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act.

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

d. A copy of proposed or approved storm water and erosion control plans as required by SJCC 18.60.

e. A narrative describing anticipated adverse impacts to critical area functions and values, based on Best Available Science, and explaining how the proposal meets the Public Agency and Utility Exception approval criteria.

f. Mitigation, Monitoring and Adaptive Management Plans. Plans meeting the requirements of SJCC 18.30.110.F, for mitigating any adverse impacts to the functions and values of critical areas, for monitoring the effectiveness of mitigation actions, and when necessary for adaptively managing the mitigation project to ensure its success.

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

h. Financial Guarantee. Unless exempt under RCW 36.32.590, if mitigation of adverse impacts is necessary, a financial guarantee covering 115% of the cost of implementing the mitigation and monitoring plan. This guarantee and the associated agreement must meet the requirements SJCC 18.80.

6. Public Agency and Utility Exception Approval Criteria. Approval of public agency and utility exceptions shall be based on conformance with the following criteria:

a. The application is complete and includes all applicable items listed in SJCC 18.30.110.E.5.

b. The applicant is a public agency, public utility, or private utility regulated by the Washington Utilities and Transportation Commission or serving an Urban Growth Area.

c. The proposed project will benefit the public health, safety or welfare.

d. Adverse impacts will be mitigated in accordance with a mitigation plan approved in accordance with subsection 18.30.110.F so that there will be no net loss of critical area functions and values, considering the Best Available Science.

F. Critical Area Mitigation Requirements.

1. This section outlines the provisions for mitigating adverse impacts to critical area functions and values when mitigation is authorized or required by the San Juan County Code. Possible mitigation actions may include minimizing impacts as well as re-establishment, rehabilitation, restoration, creation, and enhancement.

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

3. Mitigation, monitoring, and adaptive management plans are reviewed and approved by the decision maker for the underlying permit or approval (director or hearing examiner, depending on type of permit/approval).

4. Preparation of mitigation, monitoring, and adaptive management plans, and their review by the County, which may include referral to independent qualified professionals, shall be at the applicant’s expense. If review by a third party is necessary because of the complexity of the plans or apparent errors, the Department may require advance payment of fees for this review based on the estimated review time. As an alternative to third party review, the applicant and the director may jointly select the qualified professional who will complete the plans.
5. Mitigation options include the use of certified mitigation banks and approved in-lieu fee mitigation sites when they are developed.

6. Removal of illegal modifications cannot be used to mitigate new adverse impacts to critical areas when those modifications were made by the owner of the property that is the subject of the application.

7. Mitigation plans must be appropriate for the scale and scope of the project, and include adequate information for the decision maker to determine that the project and application are in conformance with approval criteria. Potential components of an application include the following:
   a. For both the area proposed for development or vegetation removal, and the proposed mitigation site, the applicable items listed in SJCC Section 18.80.020.C (Project Permit Applications-Forms) as well as photos of both the development and mitigation sites,
   b. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act;
   c. For both the area proposed for development or vegetation removal, and the proposed mitigation site, applicable critical area reports, critical area delineations and Best Available Science documents supporting the proposal.
   d. For both the area proposed for development or vegetation removal and the mitigation site, copies of any proposed or approved storm water and erosion control plan required by SJCC 18.60.
   e. A narrative describing anticipated adverse impacts to critical area functions and values, the mitigation proposal (including the goals of the proposal, performance standards that will be used to gauge the effectiveness of the proposal, construction methods, and the sequence and timing of actions), and explaining how the proposal meets the plan approval criteria. Assessment of adverse impacts to critical area functions and values and the effectiveness of proposed mitigation shall be based on the Best Available Science.
   f. For offsite mitigation actions, an explanation of why on-site mitigation was not feasible, along with the site selection criteria employed.
   g. Grading and excavation details. If grading or excavation is proposed, pre- and post-construction contour plans are required at a scale that is suitable for the site.
   h. A planting plan (if planting is proposed) identifying plant species, quantities, sizes, locations, spacing, and density, along with proposed measures to protect and maintain the plants until they are established.
   i. Any other drawings necessary to illustrate the proposal.
   j. Monitoring and adaptive management plans appropriate for the scale and scope of the project. These plans must describe measurable data that will be collected to assess the effectiveness of the project, must include a monitoring schedule (monitoring is required at least once each year, with a report submitted to the Department by November 1), and must explain corrective actions that will be taken to deal with any problems. The project shall be monitored for three (3) years or until the director determines that it is successful, functioning as designed, and that established performance standards have been met.

k. For mitigation of adverse impacts to wetlands, the plan, including associated wetland replacement ratios, must be consistent with the guidance provided in Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance, Ecology publication 06-06-011a; and Wetland Mitigation in Washington State - Part 2, publication 06-06-011b. As an alternative, mitigation actions may follow the procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington or another mitigation approach or publication approved by Ecology.
l. A description of the report author’s education and experience relevant to designing and implementing the proposed actions.

m. A cost estimate, prepared by a qualified professional, for implementing the mitigation plan and monitoring the site for a period of three (3) years or until the project is anticipated to be fully completed and functional as determined by the qualified professional and approved by the decision maker (director or hearing examiner, depending on type of underlying permit).

n. Financial Guarantee. Unless exempt under RCW 36.32.590, a financial guarantee and associated agreement covering 115% of the cost of implementing the mitigation and monitoring plans. This guarantee and the associated agreement must meet the requirements of SJCC 18.80, and for mitigation of adverse impacts to Wetlands and Fish and Wildlife Habitat Conservation Areas, it must initially be established to cover a time period of three (3) years or until the project is anticipated to be fully completed and functional as determined by the qualified professional and approved by the decision maker (director or hearing examiner, depending on type of underlying permit). Note: The maximum cost to the property owner is the original cost for implementing and monitoring the project, plus 115% of that cost.

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

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

a. The application includes the applicable items listed in SJCC 18.30.110.E.7.

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

c. The mitigation, monitoring and adaptive management plans were developed by qualified professionals. For wetlands, the plans, including associated wetland replacement ratios, shall be consistent with the guidance provided in Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance, Ecology publication 06-06-011a; and Wetland Mitigation in Washington State - Part 2, publication 06-06-011b. These and other wetland mitigation and monitoring guidance documents are available from the Department of Ecology. As an alternative, mitigation requirements may be determined through application, by a qualified professional, of procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington or another mitigation approach or publication approved by Ecology.

d. For areas outside shoreline jurisdiction, proposed development is designed and located in such a way as to avoid adversely impacting the functions and values of critical areas, considering the Best Available Science. If adverse impacts cannot be avoided, then they must be mitigated so there will be no net loss of critical area functions and values, considering the Best Available Science. When necessary, mitigation actions shall occur in the following preferred sequence:

i. Reduce or minimize adverse impacts by limiting the degree and magnitude of the action, or by applying appropriate technology and engineering;

ii. Rectify adverse impacts by repairing, rehabilitating, or restoring the affected environment;

iii. Compensate for adverse impacts by replacing, enhancing, or providing similar resources or environments that will substitute for those functions and values that were adversely affected.

e. For areas within shoreline jurisdiction, mitigation actions must be consistent with the mitigation sequence outlined in SJCC 18.30.160.E.7.
f. When feasible, adverse impacts shall be mitigated on site. If this is not possible, and offsite mitigation is proposed, the mitigation site shall be located on the same island, as close as possible to the development site.

g. If removal of an illegal modification is proposed as mitigation, the modification was not made by the owner of the property or properties that are the subject of the application.

9. Recording of Approved Plan and Notice to Title. The County shall record a copy of the approved mitigation plan, along with a Notice to Title referencing the plan, with the cost of recordation included in the application fee.

10. If the goals, objectives and performance standards of the mitigation plan are not met, the decision maker (director or hearing examiner, depending on type of underlying permit or approval) may require additional actions or additional monitoring. To allow for successful completion of the mitigation project, the monitoring period, financial guarantee and associated agreement may be extended.

GF. Existing legally established structures, uses, and activities. It is the policy of San Juan County that existing legally established structures, uses and activities existing on the effective date of this ordinance may continue in perpetuity and will not be considered nonconforming as a result of critical area requirements. Existing structures, uses and activities located within shorelines of the state are addressed separately as described in SJCC 18.30.110(B) above.

Because they provide diminished support of the habitat, water quality and hydrologic functions and values of wetlands and FWHCAs, structures and development areas lawfully established prior to the effective date of this ordinance, are excluded from critical areas, their buffers or Tree Protection Zones.

To determine the applicable critical area, buffer, or Tree Protection Zone relevant to this Section, the area should be drawn to exclude all existing development areas.

Any legally established structures, uses, and activities within this area may be modified, replaced, relocated, or expanded within the development area existing on the effective date of this ordinance in conformance with the procedures and requirements of (1) through (3) below.

1. Legally established structures may be modified, replaced, relocated, or expanded within the development area existing on the effective date of this ordinance provided: a) any required project or development permits are obtained; b) the magnitude of adverse impacts to water quality or the functions and values of critical areas are not increased; c) risks to people and property will not be increased; and d) complete application(s) for any required project or development permits for replacement structures are submitted within 48 months of removal or destruction of the original structure, unless the director extends this time period for good cause, or the property owner provides a letter declaring their intent to rebuild the structure in the future. To retain the right to rebuild, a letter of intent must be submitted every 48 months.

2. Legally established structures may be maintained and repaired within the footprint existing on the effective date of this ordinance, provided any required project or development permits are obtained.

3. Uses and activities may be continued, replaced with other uses or activities, or relocated, provided, any required project or development permits are obtained, and there is no increase in the magnitude of adverse impacts to water quality or the functions and values of critical areas. Relocation of any use or activity in this area shall be reviewed as a provisional use.
HG. Nonconforming structures, uses, and activities.

1. A structure for which a variance to critical area requirements has been issued in accordance with SJCC chapter 18.80 shall be considered a legal nonconforming structure.

2. Abandonment of Nonconforming Uses and Activities. Nonconforming uses and activities shall be considered abandoned if the use or activity ceases to operate or is discontinued for 48 consecutive months unless the director extends this time period for good cause, or the property owner provides a letter declaring their intent to continue the use or activity in the future. To retain the right to continue a ceased or discontinued nonconforming use or activity, a letter of intent must be submitted every 48 months.

SECTION 7. SJCC 18.80.020 (Project permit applications -Procedures) and Ord. 26-2012 § 23 are each amended to read as follows:

A. Nonbinding Pre-application Conferences and Site Inspections. Pre-application conferences and site inspections are optional, but strongly encouraged, and will be conducted on a time-available basis. Any fee assessed for such a preapplication conference and site inspection shall be refunded upon submission of a permit application.

1. Pre-application conferences and site inspections are recommended to provide a prospective applicant and the County the opportunity to discuss the property owner’s plans; review available critical area maps; examine unique site characteristics; discuss stormwater management and low impact development options; determine if and how County regulations may apply; and to encourage the applicant to consider the effect of County regulations in designing the project.

2. Recognizing that project plans are typically incomplete at the pre-application stage, that more information is typically obtained prior to filing a project permit application, and that new regulations may be enacted prior to submission of a project permit application, preliminary discussions at a pre-application meeting shall not be binding on either the County or the potential applicant.

B. Determination of Proper Type of Project Permit.

1. Determination by Director. The director shall determine the proper type of project permit. Table 8.1 summarizes the steps in the review process for each type of project permit.

2. Consolidated Permit Processing. For a proposal that involves two or more shoreline permits and/or other project permits, such applications shall be consolidated under the “highest” procedure (i.e., the rightmost applicable column in Table 8.1) required for such permits or 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.090 and 36.70B.110. (See also SJCC 18.80.110(D)(1), shoreline permits consolidated permit processing, and SJCC 18.80.140.)

C. Project Permit Application – Forms. Applications for project permits shall be submitted on forms approved by the director. An application must (1) consist of all materials required by the applicable development regulations; (2) be accompanied by plans and appropriate narrative and descriptive information sufficiently detailed to clearly define the proposed project and demonstrate compliance with applicable provisions of this code; and, (3) except for project permit applications for temporary uses, include the following:

1. A completed project permit application form;
2. If the applicant is not the owner of the subject property, a notarized statement by the owner(s) that
(a) the application has been submitted with the consent of all owners of the subject property, and
(b) identification of the owner’s authorized agent or representative;
3. A legal description of the site and any other property description required by the applicable
development regulations;
4. The applicable fee;
5. Evidence of available and adequate water supply as required by SJCC Title 8; see also SJCC 18.60.020;
6. Evidence of sewer availability or septic approval or suitability as required by SJCC Title 8;
7. A plot plan to scale at no smaller than one inch equals 40 feet for a plot larger than one acre, and
no smaller than one inch equals 20 feet for a plot one acre or smaller;
8. Graphic depiction of the following:
   a. Compass direction and graphic scale;
   b. Corner grades and, if required by the director, existing contours of topography at five-foot
      contour intervals;
   c. Proposed developments or use areas;
   d. Existing structures and significant features on the subject property and on adjacent properties;
   e. Property lines, adjoining streets, and immediately adjoining properties and their ownerships;
   f. Location and dimensions of existing and proposed improvements on public rights-of-way,
      such as roads, sidewalks, and curbs;
   g. Existing and proposed grades and volume and deposition of excavated material;
   h. Natural drainage direction and storm drainage facilities and improvements;
   i. Locations of all existing and proposed utility connections;
   j. Parking spaces and driveways;
   k. Proposed landscaping;
   l. Wetlands and other critical areas; and
   m. All easements (recorded or unrecorded) must be shown. If recorded, the recording number
      must be shown;
9. The applicant shall provide a list showing the name and addresses of the owners of property within
300 feet of the boundaries of the property subject to the project permit application. For purposes of
this chapter, the owners of property within 300 feet of the boundaries of the subject property are those
whose names are shown on the tax assessment rolls on the date the project permit application is
submitted;
10. Photographs of the site depicting existing and proposed development areas and areas where
vegetation is proposed to be removed.
11. Critical Areas (CAs)
   a. All project permit applications shall include sufficient information about the site and the
      proposed project to demonstrate consistency with SJCC 18.30.110 through 18.30.160.
   b. Critical Area Review process. All plans for development of commercial, industrial,
      institutional and public facilities must undergo review for compliance with groundwater
      protection requirements for critical aquifer recharge areas (SJCC 18.30.140). The Department
      shall review the application, available maps, and information and if requested by the property
      owner, shall conduct a site inspection prior to determining whether the proposed project may
      affect or be affected by a wetland, fish and wildlife habitat conservation area, frequently
      flooded area, or geologically hazardous area. If the area proposed for development or
      vegetation removal is not in a frequently flooded area; is more than 200 feet from a
      geologically hazardous area; is more than 200 feet from a wetland; is more than 200
      feet from a fish and wildlife habitat conservation area; is more than 1,000 ft. from any golden
      eagle nests; and is more than ¼ mile from any peregrine falcon or great blue heron nests, the
      Department shall rule that the Critical Area review is complete with regard to those types of

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critical areas. Otherwise, the Department will notify the applicant and provide them with a
list of any report(s) or application materials required by SJCC 18.30.110-160. If required,
these reports and materials must be received before an application will be deemed complete.
c. Critical Area Reports.
i. Detailed requirements for Critical Area reports are identified in SJCC 18.30.110-160.
ii. If the director finds that a report does not accurately reflect site conditions, is inadequate to
determine compliance, or does not meet the requirements of SJCC Title 18, the director shall
contact the qualified professional who prepared the report to discuss the issues and, if
necessary, shall have the report reviewed by a third party qualified professional.
12. Frequently Flooded Areas. Project permit applications shall include the location of any frequently
flooded areas or special flood hazard area on the subject property, and an elevation certificate if
required by the director. No use or development shall be undertaken or approved within any area
of special flood hazard except in compliance with the provisions of SJCC Title 15 and Title 18.
Elevation certificates shall include certification by a land surveyor, licensed civil engineer or
architect authorized by law to certify elevation information. Elevation certificate forms shall be
provided by the director;
13. Additional Application Information for Divisions of Land and Boundary Line Modifications. The
application for a division of land shall meet the requirements of this subsection and the
requirements in Chapter 18.70 SJCC;
14. Additional Application Information for Binding Site Plans. The application for a binding site plan
shall meet the requirements of this subsection, SJCC 18.70.090, and the requirements in SJCC
18.80.170;
15. Additional Application Information for Planned Unit Developments. A planned unit development
application is part of the application for a subdivision or a binding site plan; additional
information requirements are summarized in SJCC 18.80.160. The application for a planned unit
development shall meet the requirements of this subsection and the requirements in SJCC
18.80.160;
16. Additional Application Information for Rural Residential Cluster Development. The application
for a rural residential cluster development shall meet the requirements of this subsection, SJCC
18.60.230 and 18.80.180, and shall also include the following:
a. The floor plan and elevations for each proposed residential structure, at a scale of not less
than 0.25 inch equals one foot;
b. A list, diagram and samples showing exterior materials and finishes for all structures, fences,
and other constructed features of the project;
c. The plot plan prepared under this subsection shall also show the location and species of any
existing trees greater than six inches in diameter at breast height on the property, except in
areas proposed for open space preservation or forest resource management;
d. A list showing the floor area and use of each structure to be constructed on the site, and the
total floor area of structures, and the area of the site devoted to residences, residential yards,
circulation spaces, other uses, and open space; and
e. A narrative description indicating how the project responds to the requirements of SJCC
18.60.230, including the minimum standards of SJCC 18.60.230(C), the separation
requirements of SJCC 18.60.230(F), and the design guidelines of SJCC 18.60.230(G);
17. Additional Information. The director may require additional information necessary for review and
evaluation or demonstration of project consistency with this code;
18. Director's Waiver. The director may waive specific submittal requirements determined to be
unnecessary for review of a project permit application required by this code; and
19. Temporary Use Permit Applications. All project permit applications for a temporary use shall be
submitted to the director in writing and contain sufficient information for the director to make a
decision (see SJCC 18.80.060). The director shall determine what information is necessary for review of such applications.

D. Project Permit Applications – Determination of Completeness, Modification, Referral and Review.

1. Determination of Completeness. Within 28 days after receiving a project permit application, the director shall determine if a project permit application is complete and notify the applicant in writing that either:
   a. The application is complete; or
   b. The application is incomplete. If such application is incomplete, the director shall specify what information is necessary to make the application complete.

2. Identification of Other Agencies with Jurisdiction. To the extent known by the County, other agencies with jurisdiction over the project permit application shall be identified.

3. Additional Information.
   a. A project permit application is complete for purposes of this chapter when it meets the submittal requirements in this section and any submittal requirements contained in applicable development regulations.
   b. If the submittal requirements have not been met, the director may determine that the application is complete and, at the same time, require that additional information or studies be provided within a time specified.
   c. Nothing in this section precludes the director from requesting additional information or studies at any time if new information is determined to be necessary due to the complexity of the plans, apparent errors, or where there are substantial changes in the proposal.
   d. If the applicant fails to submit the requested information or studies within the time specified, or within a longer period if agreed to by the director, the application shall lapse and the applicant shall forfeit the application fee.

4. Incomplete Applications.
   a. If the director notifies the applicant that an application is incomplete, the applicant shall have 90 days to submit the necessary information to the director. Within 14 days after an applicant has submitted the additional information, the director shall again make the determination described in subsection (D)(1) of this section, and notify the applicant. If the applicant submits the required information to the director within the 90-day period and the director determines that the application is now complete, the project permit application will be considered complete as of the date the project permit application was originally submitted; however, the 120-day processing period in SJCC 18.80.130 will be tolled during the 90-day resubmittal period.
   b. If the applicant fails to submit additional information, or does not within such 90-day period request additional time to submit the required information, the application shall lapse and the applicant shall forfeit the application fee.

5. Director’s Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the director does not timely notify the applicant that the application is incomplete.

6. Modifications to Applications. An applicant-initiated modification to an application which is not in response to technical review, a change requiring a new public notice, a change of land use(s), or a mitigation measure under SEPA may require a new application. A change requiring a new public notice establishes a new vesting date for that application.

7. Referral and Review of Project Permit Applications. Within 14 days of determining that a project permit application is complete, the director shall transmit a copy of the application, or appropriate parts of the application, to each affected agency and County department for review and comment, including those responsible for determining compliance with state and federal requirements.
Applications for shoreline permits shall also be circulated to the director of the University of Washington Friday Harbor Laboratories for comment as a reviewing agency. The affected agencies and County departments shall have 20 days to comment. The referral agency or County department is presumed to have no comments if comments are not received within the specified time period. The director shall grant an extension of time where unusual circumstances are present.

### 8.1. Summary of Project Permit Notice, Hearing, Decision and Appeals Processes.\(^{(1)}\)

<table>
<thead>
<tr>
<th>Project Permit Application</th>
<th>Boundary Line Modification; Simple Land Division</th>
<th>Provisional Use; Short Subdivisions; BSP to 4 Lots; Temporary Use Permits (Level II)</th>
<th>Conditional Use and/or Variance</th>
<th>Shoreline Permits (Substantial Development, Conditional Use or Variance)</th>
<th>Subdivisions; BSP for More than 4 Lots</th>
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<td></td>
<td>Administrative</td>
<td>Quasi-Judicial</td>
<td></td>
<td></td>
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<td>Public Notice of Application</td>
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<tr>
<td>Public Comment Period</td>
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<td>Open-Record Pre-decision Hearing</td>
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<td>Decision maker</td>
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<td>Director</td>
<td>Hearing Examiner</td>
<td>Hearing Examiner</td>
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<tr>
<td>Open-Record Appeal Hearing (Hearing Examiner)</td>
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<td>yes (of Hearing Examiner decision)</td>
<td>yes</td>
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<td>Other Appeal</td>
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<td>no</td>
<td>yes (to SHB)</td>
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</tr>
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</table>

1. Abbreviations: SHB: Shorelines Hearings Board  
BSP: Binding Site Plan
SECTION 8. SJCC 18.80.070 [Procedures for “yes” uses (uses allowed outright)] and Ord. 26-2012 § 24 are each amended to read as follows:

SJCC 18.80.070 Procedures for “yes” uses (uses allowed outright).

A. Purpose and Applicability. “Yes” uses (uses allowed outright as indicated by the symbol “Yes” in Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040) must comply with the development standards in Chapter 18.60 SJCC and other applicable sections of this and other codes, but do not require a land use project permit. All site development, construction and structures must conform to the development standards of this code.

B. Pre-application Conferences and Site Inspections. Pre-application conferences and site inspections, on a time available basis, are optional, but strongly encouraged to provide a prospective applicant and the County the opportunity to discuss the property owner’s plans; review available Critical Area maps; examine the unique characteristics of the site; identify protected species and habitat; discuss stormwater management and low impact development options; determine if and how other County regulations may apply; and to encourage the applicant to consider the effect of County regulations in designing the project. Any fee assessed for such a preapplication conference and site inspection shall be refunded upon submission of a permit application.

C. Critical Areas. This section outlines the process for reviewing projects to identify Critical Area requirements that apply under SJCC 18.30.110 through 18.30.160 (Critical Area regulations). Unless exempt under SJCC 18.30.110, prior to removal of vegetation or site disturbance, all development activities and vegetation removal requiring a project permit or development permit, review or approval under other sections of County Code, must undergo this review. Prior to approval, sufficient information must be provided to demonstrate compliance with SJCC 18.30.110-160. Any illegal degradation of protected Critical Areas must be mitigated and if mitigation is not completed prior to issuance of permits, a financial guarantee must be provided.

1. Critical Area Review process. All plans for development of commercial, industrial, institutional and public facilities must undergo review for compliance with groundwater protection requirements for critical aquifer recharge areas (SJCC 18.30.140). The Department shall review the application, available maps, and information and if requested by the property owner, shall conduct a site inspection prior to determining whether the proposed project may affect or be affected by a wetland, fish and wildlife habitat conservation area, frequently flooded area, or geologically hazardous area. If the area proposed for development or vegetation removal is not in a frequently flooded area; is more than 200 feet from a geologically hazardous area; is more than 295 feet from a wetland; or more than 200 feet from a fish and wildlife habitat conservation area; is more than 1,000 ft. from any golden eagle nests; and is more than 1/4 mile from any peregrine falcon or great blue heron nests, the Department shall rule that the Critical Area review is complete with regard to those types of critical areas. Otherwise, the Department will notify the applicant and provide them with a list of any report(s) or application materials required by SJCC 18.30.110-160. If required, these reports and materials must be received before an application will be deemed complete.

   i. Detailed requirements for Critical Area Reports are identified in SJCC 18.30.110-160.
   ii. If the director finds that a report does not accurately reflect site conditions, is inadequate to determine compliance, or does not meet the requirements of SJCC Title 18, the director shall contact the qualified professional who prepared the report to discuss the issues, and if
necessary shall have the report reviewed by a third party qualified professional. The report shall not be accepted as complete until it meets the applicable requirements.

D. Notice. Notice for “Yes” uses is given in accordance with SEPA review, if applicable (see requirements in SJCC 18.80.050).

E. Decision Making Authority. The director’s review of development permit applications for “Yes” uses includes review of the consistency of “Yes” uses with the applicable provisions of the Comprehensive Plan, this code (e.g., Chapter 18.60 SJCC, Development Standards, and Chapter 18.50 SJCC, Shoreline Master Program), review under SEPA (SJCC 18.80.050), if applicable, and the director’s finding that the proposal meets the requirements contained therein. (See definition of “development permit” in SJCC 18.20.040.)

F. Appeals. Appeals of determinations made in conjunction with “Yes” uses, including findings of consistency and concurrency, must be raised in a timely appeal of the approval or denial of the development permit application for the project. If no development permit is required for the proposed use, compliance with applicable standards of this and other codes is an enforcement matter (see Chapter 18.100 SJCC).

SECTION 9. SJCC Section 18.30.150 and Ord. 28-2012 § 1 are each amended to read as follows:

18.30.150 Wetlands.

A. Applicability. Unless exempted or allowed under SJCC 18.30.110, the provisions of this section apply to areas in or within 200 feet of wetlands as defined in SJCC 18.20.230. Many wetlands are depicted on various maps developed by the County and natural resource agencies. These maps are, however, only a guide and in all cases conditions in the field shall control. In order to protect their functions and values, development activities, removal of vegetation and other site modifications are limited or prohibited within wetlands and their buffers. Any use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the County’s development regulations to protect critical areas, shall be regulated consistent with RCW 36.70A.480(3)(c). Such uses or structures may continue as a conforming use and may be redeveloped or modified if the redevelopment or modification is consistent with SJCC Chapter 18.50 and either: (1) the proposed redevelopment or modification will result in no net loss of shoreline ecological functions; or (2) the redevelopment or modification is consistent with SJCC 18.30.110-160. If the applicant chooses to pursue option (1), the application materials for required project or development permits must include information sufficient to demonstrate no net loss of shoreline ecological functions. For purposes of this subsection, an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. For purposes of this paragraph "Agricultural activity" has the same meaning as defined in RCW 90.58.065.

In addition to County regulations, in some cases wetlands may be regulated under the federal Clean Water Act administered by the U.S. Army Corps of Engineers, or by the Washington State Water Pollution Control Act and/or Shoreline Management Act, administered by the Washington State Department of Ecology. Compliance with County regulations does not relieve the property owner of the responsibility to comply with state and federal requirements.

B. Wetland Rating. San Juan County wetlands are rated according to the Washington State Wetland Rating System for Western Washington - Revised, (Ecology Publication #04-06-025) as revised by Ecology. This rating system is designed to differentiate between wetlands based on their sensitivity to
disturbance, rarity, irreplaceability, and the functions and values they provide. Wetland ratings must be determined by a qualified wetlands professional.

1. Applicability of rating system. Rating categories apply to the regulated wetland as it exists on the date it is rated. Wetlands should be rated based on their condition at the time of permit application except that ratings shall not be based on illegal modifications of a wetland. In categorizing a wetland that has been illegally modified (e.g., modified since 1991 and not as permitted by County regulations then in effect), the rating that existed prior to the modification shall be used. In categorizing a wetland that has been voluntarily enhanced (i.e., not enhanced to offset adverse impacts associated with new development), the wetland rating that existed prior to the modification shall be used.

2. Wetland rating categories are:
   a. Category I. These wetlands are the “best of the best.” Category I wetlands represent a unique or rare wetland, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a very high level of functions. These are wetlands that are:
      i. Relatively undisturbed estuarine wetlands larger than 1 acre;
      ii. Wetlands that are identified by scientists of the Washington Natural Heritage Program Washington State Department of Natural Resources as high quality wetlands;
      iii. Bogs;
      iv. Mature and old-growth forested wetlands larger than 1 acre;
      v. Wetlands in coastal lagoons; or
      vi. Wetlands that perform many functions well.
   b. Category II. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands and need a relatively high level of protection. They include:
      i. Estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre;
      ii. Disturbed coastal lagoons;
      iii. Intertidal wetlands larger than 1 acre; or
      iv. Wetlands with a moderately high level of functions.
   c. Category III. Generally, wetlands in this category may have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. These wetlands provide important functions and values. They provide habitat for a variety of flora and fauna and occur more commonly throughout the County than either Category I or II wetlands. Category III wetlands are:
      i. Wetlands with a moderate level of functions; or
      ii. Intertidal wetlands between 0.1 and 1 acre in size.
   d. Category IV. These wetlands are smaller, isolated, and have less diverse vegetation than Category I, II, and III wetlands. Category IV wetlands have the lowest levels of functions and values and are often heavily disturbed.

**Wetland Type.** San Juan County wetlands are classified by their type as described below. These wetland types are also discussed in the *Best Available Science Synthesis, San Juan County, May 2011 (BAS Synthesis)*. In some cases, the wetland type may need to be determined by a qualified wetlands professional. In classifying a wetland that has been illegally modified (e.g., modified since 1991 and not as permitted by County regulations then in effect), the type that existed prior to the modification shall be used. In classifying a wetland that has been voluntarily enhanced (i.e., not enhanced to offset adverse impacts associated with new development), the wetland type that existed prior to the modification shall be used.
1. **Aspen or Cottonwood Wetland** means a stand of five (5) or more black cottonwood (Populus balsamifera) trees growing inside a wetland and being greater than 15 inches dbh, within 40 feet of another cottonwood tree, that forms a cottonwood stand or grove whose canopy is greater than 1 acre in size, or a stand (no specific stem or trunk count) of trembling aspen (Populus tremuloides) trees, with trunks located within 40 feet of another tree in the stand, and the stand having a minimum size of 25 acres.

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

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

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

5. **Mature-forested Wetland** means a stand 0.25 acre in size or larger of trees growing within a wetland where a minimum of 20-25% of trees have a dbh exceeding 18 inches, most of the trunks are within 50 feet of similar-sized trees in the stand, and the trees are one or more of the following species: Sitka Spruce, Western Red Cedar, Western Hemlock, Red Alder, Black Cottonwood, Pacific Willow, Aspen, and Lodgepole Pine.

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

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

8. **Structurally-Diverse Wetland** means a wetland that:

   (a) contains three habitat structural forms: woody vegetation, herbaceous vegetation, and open water (surface water without emergent vegetation, present during all or most of a normal year, that is within or contiguous to the wetland);

   (b) has each form well distributed in multiple patches; and

   (c) has nearly equal proportions of the three forms (no more than 50% of the area being comprised of any one, measured cumulatively at any time of a normal year).

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

10. **Tidal Wetland, Small**—means a wetland meeting the definition of Tidal Wetland—Large, but smaller than or equal 0.25 acres in size.

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

12. **Wetland with High Natural Connectivity**—means a wetland that has either:
   (a) an undisturbed land connection with all ponds and lakes located within a one-half mile radius of the wetland. An “undisturbed connection” means an animal could walk (not necessarily in a straight line) between this wetland and a lake or pond without crossing a road or driveway that is paved or that creates a gap in the forest canopy, or a lawn or field that is mowed more than once annually; or
   (b) an undisturbed land connection with a block of land that is ≥ 100 acres in size which is not actively managed and is not mowed more than once annually.
   (Note: The areas of connection are not regulated as wetlands.)

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

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

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

2. **Habitat Importance Sensitivity Rating.** Wetland types are organized into three groups based on the wetland’s importance and the sensitivity of the plants and animals to disturbances. For wetlands that include two or more wetland types, the higher rating shall apply:
   a. **High Habitat Importance Sensitivity.**
      i. Tidal wetland—Large
      ii. Bog
      iii. Mature forested wetland
      iv. Aspen/cottonwood wetland
   b. **Medium**
      i. Lakeside wetland
      ii. Salmonid wetland
vii. Large pond-wetland

b. Medium Habitat Importance-Sensitivity.
   i. Tidal wetland—Small and Tidally Contiguous Wetland
   ii. Structurally diverse wetland
   iii. Wetland with high natural connectivity
   iv. Salmonid-watershed wetland

e. Low Habitat Importance-Sensitivity: All other wetland types not listed above.

D. Minimum Size Thresholds for Regulated Wetlands. To allow for the reasonable administration of these regulations, some wetlands are exempted from the requirements of this section based on their size and rating Habitat Importance-Sensitivity Rating (see subsection (C.2) of this section). Regulated wetland mosaics greater than 2,500 s.f. in size, collective or cumulative wetland area, are not exempt.

Wetlands exceeding the following size thresholds, and those that are part of a wetland mosaic greater than 2,500 square feet in size, are regulated under SJCC 18.30.150:

1. High Habitat Importance-Sensitivity Category I wetlands: no exemption - all wetlands are regulated.
2. Medium Habitat Importance-Sensitivity Category II and III wetlands: 1,000 square feet.
3. Low Habitat Importance-Sensitivity Category IV wetlands and wetland mosaics: 2,500 square feet.

DF. Protection Standards.

This subsection establishes protection standards for wetlands, including a site-specific procedure for sizing wetland buffers, and Tree Protection Zones, along with standards for activities in wetlands and their buffers and Tree Protection Zones. This procedure is illustrated in the following flow chart:

Figure 3.1

Procedure for Determining Site-Specific Wetland Buffer

Is the proposed development, vegetation removal or other site modification within 205 feet of a wetland?

If yes, does the area to be modified drain to the wetland? If yes, continue with the Water Quality Buffer sizing procedure. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.8 and subsections E.6 and E.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer).

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

Determine the wetland type and Water Quality-Sensitivity Rating. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.F.)

If No: continue to the Habitat-Buffer sizing procedure.

Complete the Water Quality Buffer sizing procedure (Steps 1-7) for the area that drains to the wetland, beginning with the portion of the site containing the most impervious area (or if there is no impervious area, the area with the most grading and vegetation removal). If desired, repeat to determine buffer for less intensely developed portions of the site.
Complete the Habitat Buffer sizing procedure (Steps 1-5). (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.F. Also, if no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.8 and subsections E.6 and E.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the habitat buffer.)

1. Site-Specific Buffer Sizing Procedure. The following is a site-specific procedure for determining the size of vegetative buffers and Tree Protection Zones necessary to protect the water quality, water quantity, and habitat functions of wetlands. Two separate buffer components, a water quality component, and habitat component, are considered in the procedure, and for some types of wetlands there is also a Tree Protection Zone. When determining the required buffers and Tree Protection Zone for a wetland, the stricter (i.e., wider) applies except where otherwise noted.

Required buffers and Tree Protection Zones apply regardless of whether the wetland is on the same parcel or another parcel that may be under different ownership. If the wetland is under different ownership and is not accessible, then the wetland type rating and boundaries are established using available maps and information, including a visual assessment if possible. The Water Quality Buffer is determined first based on the wetland rating category and land use intensity from Tables 3.3 and 3.3A provided in Step 4 below, the characteristics of the site and the proposed development, vegetation removal or other site modification, whether runoff water will be primarily above or below ground; and the wetland type. This involves working through a procedure to determine the buffer size for each area that will be developed or modified. The Habitat Buffer, and where applicable, the Tree Protection Zone is then determined from based on the Habitat Importance Sensitivity Rating and wetland type Table 3.4. In all cases, conditions on the ground shall control.

a. Determine the Water Quality Buffer.

Step 1. Location relative to wetlands. Is the proposed development, vegetation removal or other site modification located within 205 300 feet of a wetland? If so, proceed to the next step. In some cases, to answer this question, it may be necessary to have the wetland edge facing the area that will be developed or modified delineated in accordance with subsection (E) of this section. In many cases, this can be based on a wetland reconnaissance rather than a full delineation. Although maps and other imagery can be used to help with this determination, conditions on the ground shall control. If the proposed development, vegetation removal, and other modifications are more than 205 300 feet from the wetland, no further action is needed for compliance with wetland critical area regulations. (Note: If proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.8 and subsections DE.6 and DE.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the water quality buffer.)

Step 2. Drainage Direction. Does the area proposed to be developed or modified drain to the wetland? If the area proposed to be developed or modified drains to the wetland, delineate the wetland in accordance with subsection (F) of this section and proceed to steps 3-7 to determine the required Water Quality Buffer. If the area proposed to be developed or modified does not drain to the wetland, a Water Quality Buffer is not required and only a Habitat Buffer applies. Proceed to the Habitat Buffer sizing procedure in subsection (DE.1.b) of this section.
Step 3. Wetland Type and Water Quality Sensitivity Rating Category. Determine the wetland type rating category using the above descriptions in subsection (B), Washington State Wetland Rating System for Western Washington - Revised (Ecology Publication #04-06-025) as revised by Ecology. This will require the assistance of a qualified professional. This may require the assistance of a qualified professional, particularly for wetlands that may be a bog. After the wetland type is determined, use subsection (C.1) above to determine the Water Quality Sensitivity Rating for the wetland. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.B and F).

Step 4. Identify the Water Quality Buffer Width. Using Tables 3.3 and 3.3A below, determine the water quality buffer based on the wetland rating category and land use intensity of the proposed development. Buffers are measured horizontally from the edge of the wetland.

The director may reduce the standard buffer widths in an Urban Growth Area when impacts to critical areas are mitigated according to SJCC 18.30.110(E) and the buffer reduction is consistent with all other applicable requirements of this section provided:

A. The buffer of a Category I or II wetland shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater, and

B. The buffer of a Category III or IV wetland shall not be reduced to less than 50 percent of the required buffer, or 25 feet, whichever is greater.

**Table 3.3 Water Quality Buffers**

<table>
<thead>
<tr>
<th>Wetland Rating</th>
<th>Land Use Intensity&lt;sup&gt;3&lt;/sup&gt;</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Category I Bogs and Natural Heritage Wetlands</strong>&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
<td>125 feet</td>
<td>190 feet</td>
<td>250 feet</td>
</tr>
<tr>
<td>Categories I and II</td>
<td></td>
<td>50 feet</td>
<td>75 feet</td>
<td>100 feet</td>
</tr>
<tr>
<td>Category III</td>
<td></td>
<td>40 feet</td>
<td>60 feet</td>
<td>80 feet</td>
</tr>
<tr>
<td>Category IV</td>
<td></td>
<td>25 feet</td>
<td>40 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

<sup>3</sup>See Table 3.3A for a list of land uses that are considered low, medium, or high land use intensity.

<sup>3</sup> If the bog is located within another wetland category, the bog buffer only applies to the area immediately adjacent to the bog, and not to the surrounding wetland. Buffers are measured horizontally from the edge of the wetland.

<sup>3</sup> Buffers shall be increased by 50 percent on slopes greater than 30 percent.
### Table 3.3A

<table>
<thead>
<tr>
<th>Land Use Intensity</th>
<th>Types of Land Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>Commercial&lt;br&gt;Urban&lt;br&gt;Industrial&lt;br&gt;Institutional&lt;br&gt;Retail sales&lt;br&gt;Residential at more than 1 unit per acre&lt;br&gt;High intensity agriculture (dairies, nurseries, greenhouses, annual tilling, raising animals etc.)&lt;br&gt;High intensity recreation (golf courses, ball fields etc.)</td>
</tr>
<tr>
<td>Medium</td>
<td>Residential at not more than 1 unit per acre&lt;br&gt;Moderate intensity open space (parks with biking, jogging etc.)&lt;br&gt;Paved trails&lt;br&gt;Logging roads&lt;br&gt;Utility corridors with access road&lt;br&gt;Hobby farms</td>
</tr>
<tr>
<td>Low</td>
<td>Forestry (limited to cutting of trees)&lt;br&gt;Low intensity agriculture (orchards, hay fields etc.)&lt;br&gt;Low intensity open space (hiking, bird watching etc. allowed)&lt;br&gt;Unpaved trails&lt;br&gt;Utility corridors without access road and little or no vegetation management</td>
</tr>
</tbody>
</table>

**Composite Stormwater Discharge Factor.** Use the following procedure to determine the Composite Stormwater Discharge Factor for the area or areas that are being developed or modified. This is determined by completing the following steps and using Tables 3.3 and 3.4 to complete Table 3.5. (Note: The information needed for items i., v., and vi. can be obtained through maps and other existing documents and imagery or through field investigation):

i. Identify the flow path. Using the most accurate topographic map available (i.e., with the greatest vertical resolution) and a properly scaled drawing of the area, draw a line representing the flow path through the portion of the site that includes the proposed development or modification, starting with the area that will have the most impervious surfaces. If there are no impervious surfaces, draw the line through the area that will have the most grading and vegetation removal. The flow path line begins at the top of the nearest rise or the parcel boundary, whichever is closest, and ends at the edge of the wetland. This path runs down the fall line, intersecting the contour of the land and the contour lines of the map at perpendicular angles. (Note: Maps with 5-foot contours are available for most islands through the County Geographic Information System.)

The flow path can also be determined in the field by standing in the middle of the area that will have the most impervious surfaces (or if there will be no impervious surfaces, the area that will have the most grading and vegetation removal), visually identifying the path runoff will take from that area to the wetland, and then turning around and visually identifying where the runoff is coming from.

ii. Break the flow path line into segments based on proposed surface types. Surface types are listed in Table 3.3. List these segments in column 1 of Table 3.5.
Segments that do not drain to the wetland may be omitted from the calculations (e.g., if roof runoff is tied to a location that does not drain to the wetland, then the area covered by the roof may be excluded from the calculation).

iii. Along the flow path line, mark where surface types change. Measure the length of each
surface type and enter these lengths in column 6 of Table 3.5.

iv. For each surface type enter a Base Stormwater Discharge Factor into column 2 of Table
3.5. Some Base Stormwater Discharge Factors are shown in Table 3.3. For surface types not
listed, discharge factors (which are Rational Method runoff coefficients) shall be based on
BAS such as hydrology texts or guidance manuals, using the lower end of ranges because the
factors will be adjusted upward to account for slopes and the presence of drainageways.

Base Stormwater Discharge Factors may be modified in conjunction with the installation of
stormwater management measures that facilitate below-ground flow of runoff, including
those required by other sections of the San Juan County Code. Examples include using the
discharge factor for lawn when roof runoff is disposed of in an infiltration trench constructed
in a lawn area. Applicants should submit proposals for base stormwater discharge factor
reductions to the Department for approval.

v. Slope adjustment. For vegetated surfaces, determine the approximate slope of each
segment along the flow path (as a percentage), multiply it by 0.01, and enter the product in
column 3 of Table 3.5. (e.g., for 8% slope enter 0.08). If the slope exceeds 30%, enter 0.3.

vi. Drainageway and stream adjustment. If a drainageway or stream connects any portion of
the development to the wetland (including existing and proposed lawn, gardens, and
impervious areas), select the appropriate factor from Table 3.4 and enter it in column 4 of
Table 3.5. (Note: This applies to the impervious areas, lawn, and garden throughout the
development area being evaluated, not just the portion along the flow path.)

vii. For each row in Table 3.5 (i.e., each segment along the flow path), add the values in
columns 2, 3, and 4 and enter the sum in column 5.

viii. For each row in Table 3.5 (i.e., each segment along the flow path), multiply the value in
column 5 by the value in column 6 and enter the resulting product in column 7.

ix. Add all the values in column 6 of Table 3.5. Add all the values in column 7. Divide the
total of column 7 by the total of column 6. This is the Composite Stormwater Discharge
Factor.

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

<table>
<thead>
<tr>
<th>Surface Type</th>
<th>Stormwater Discharge Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coniferous forest with ≥65% canopy cover, rough ground surface, and undisturbed soils and duff layer</td>
<td>.02</td>
</tr>
<tr>
<td>Other heavily vegetated areas with rough ground surface and undisturbed soils and duff layer</td>
<td>.05</td>
</tr>
<tr>
<td>Pasture</td>
<td>.07</td>
</tr>
<tr>
<td>Lawn or garden</td>
<td>.09</td>
</tr>
<tr>
<td>Green roof, slope ≤ 5°</td>
<td>.50</td>
</tr>
<tr>
<td></td>
<td>.30</td>
</tr>
</tbody>
</table>
### Table 3.4

**Stormwater Discharge Factor Adjustments for Drainageways and Streams**

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

### Table 3.5

**Composite Stormwater Discharge Factor**

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Type (by-segment along the flow)</td>
<td>Base Stormwater Discharge</td>
<td>Slope Adjustment</td>
<td>Drainageway and Stream Adjustment</td>
<td>Sum of Columns 2, 3, &amp; 4</td>
<td>Length of Segment (in feet)</td>
<td>Col. 5 * Col. 6</td>
</tr>
</tbody>
</table>
### Composite-Stormwater-Discharge-Factor

<table>
<thead>
<tr>
<th>path</th>
<th>Factor</th>
<th>42% slope = .12</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total for Column 6 (add all rows)

Total for Column 7 (add all rows)

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

---

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

i. The Green Development option only applies to buffers for proposed buildings and associated infrastructure and cannot be used to reduce buffers for lawns and landscaped areas.

ii. To use the Green Development option, as part of the permit approval the property owner must agree to the County recording a Notice to Title describing the requirements associated with the Green Development option.

iii. All of the following must be implemented and maintained while the Green Development remains on the property:

(A) Roof materials for proposed buildings must consist of product that are not known to release chemicals that are harmful to wetland plants or animals (e.g. enamel coated metal, tile without moss prevention products, sod if membrane does not contain fire retardant, phthalates etc.); and

(B) The disposal area for any on-site sewage systems associated with proposed buildings must meet current standards and, in addition, must be no closer to the wetland than the specified edge of the water-quality buffer for "normal" development; and

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

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

---

**Step 6. Urban Growth Area Option.** A buffer adjustment is available within the Eastsound and Lopez Village Urban Growth Areas as shown in Table 3.6. Within these areas, a reduced buffer may be used if adverse impacts to the functions and values of the wetland are identified and mitigated in accordance with SJCC-18.30.110.

**Step 7. Determine Water Quality Buffer from Table 3.6.** For all wetland types, apply the Composite-Stormwater-Discharge-Factor from Table 3.5, to the Water Quality Buffer Table 3.6, to determine the required size of the Water Quality Buffer. If the wetland type is a bog, use the greater of this value or 200 feet. (If the bog is located within another wetland type the 200-foot buffer only...
applies to the area immediately adjacent to the bog, and not to the surrounding wetland. Buffers are measured horizontally from the edge of the wetland.

### Table 3.6

<table>
<thead>
<tr>
<th>Composite Storm-water Discharge Factor for Flow-Path</th>
<th>Water Quality Buffer (feet)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Normal Development (60% Pollutant Removal)</td>
<td>Normal Development (65% Pollutant Removal)</td>
</tr>
<tr>
<td>&lt;0.10</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>0.10–&lt;0.20</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>0.20–&lt;0.30</td>
<td>30</td>
<td>50</td>
</tr>
<tr>
<td>0.30–&lt;0.40</td>
<td>45</td>
<td>65</td>
</tr>
<tr>
<td>0.40–&lt;0.50</td>
<td>65</td>
<td>85</td>
</tr>
<tr>
<td>0.50–&lt;0.60</td>
<td>80</td>
<td>105</td>
</tr>
<tr>
<td>0.60–&lt;0.70</td>
<td>95</td>
<td>125</td>
</tr>
<tr>
<td>0.70–&lt;0.80</td>
<td>110</td>
<td>140</td>
</tr>
<tr>
<td>≥0.80</td>
<td>125</td>
<td>160</td>
</tr>
</tbody>
</table>

1. Use of this option requires the mitigation of adverse impacts in accordance with SJCC 18.30.110.

b. Determine the Habitat Buffer.

Step 1. Determine Habitat Importance-Sensitivity Rating for the wetland. **Determine the Wetland Rating Category.**

Determine the wetland rating category using the *Washington State Wetland Rating System for Western Washington - Revised*, (Ecology Publication #04-06-025) as revised by Ecology (See SJCC 18.30.150.B.). This will require the assistance of a qualified professional.

Using subsection (C.2) above, determine the Habitat Importance-Sensitivity Rating for the wetland, then proceed to Step 2. (Note: If the wetland contains particular plants or animals protected as Fish and Wildlife Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160.B and F).
Step 2. Determine Habitat Buffer from Table 3.7.

Using the wetland type and Habitat Importance-Sensitivity Rating category and the proposed land use intensity type from Table 3.3A, determine the required size of the Habitat Buffer from Table 3.7. If the Water Quality Buffer required for the area draining to the wetland is wider than the Habitat Buffer, the stricter (i.e., wider) applies. Unlike the Water Quality Buffer, the Habitat Buffer must completely surround the wetland. Buffers and, where applicable, Tree Protection Zones are measured horizontally from the edge of the wetland. Proceed to Step 3 if desired. (Note: If no trees are being removed, proposed activities do not require development or project permits, and activities are consistent with the requirements outlined in Table 3.8 and subsections DE.6 and DE.7 of this section, it may not be necessary to identify the edge of the wetland and the size of the habitat buffer.)

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

1 Tree Protection Zone. If the wetland contains a cluster of ten (10) or more trees, more than 20 feet in height and more than 9 inches dbh, all trees within the cluster and within a distance of 50 feet from the cluster, are included in a Tree Protection Zone. The purpose of protecting these trees is to maintain wetland habitat including the microclimate, to prevent wind throw of trees within the wetland, and to provide young trees that will eventually replace the older trees. A cluster of trees is defined as a group of trees where the trunk of any one tree is within 50 feet of the trunk of another tree in the cluster. Within Tree Protection Zones, trees may not be removed except in accordance with the exemptions of S Ecc. 18.30.110.

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Land Use with Low Impact</th>
<th>Land Use with Moderate Impact</th>
<th>Land Use with High Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>150 feet</td>
<td>225 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>II</td>
<td>150 feet</td>
<td>225 feet</td>
<td>300 feet</td>
</tr>
<tr>
<td>III</td>
<td>75 feet</td>
<td>110 feet</td>
<td>150 feet</td>
</tr>
<tr>
<td>IV</td>
<td>25 feet</td>
<td>40 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

1 See Table 3.3A for types of land uses that can result in low, moderate, or high impacts to wetlands.

Step 3. Habitat Buffer Averaging. Habitat Buffer averaging allows reduction of the required Habitat Buffer in specified locations on the property proposed for development, vegetation removal or other modification, in conjunction with increases of the buffer in other areas, so that the total area of the Habitat Buffer is unchanged. Averaging of the Habitat Buffer will be allowed only if the applicant demonstrates that all of the following criteria are met:

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

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

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

(D) Averaging of required Tree Protection Zones is not allowed.

(E) In no instance shall the Habitat Buffer shall not be reduced to less than 30 feet by more than 25 percent, and the reduced Habitat Buffer must not occur along more than one-half the circumference of the wetland; and

(F) If a portion of the buffer is to be reduced, the remaining Habitat Buffer area will be enhanced using native vegetation and fencing where appropriate to improve the functional attributes of the buffer, and to provide additional protection for wetland functions and values. A proposal to enhance a buffer shall not be used as justification to reduce an otherwise functional standard Habitat Buffer, unless such buffer reduction complies with all other criteria for buffer averaging.

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

3. **Structures, Uses and Activities Allowed and Prohibited in Wetlands and Wetland Buffers.** Structures, uses and activities that are listed as “yes” uses in Table 3.85 below are allowed in wetlands or wetland buffers, subject to compliance with the San Juan County Code. State or federal requirements administered by the WA Department of Ecology, WA Dept. of Fish and Wildlife, WA Dept. of Natural Resources, or U.S. Army Corps of Engineers may also apply to these areas.

**Table 3.85**

<table>
<thead>
<tr>
<th>Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Activity</strong></td>
</tr>
<tr>
<td>a. Outdoor activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of wetlands.</td>
</tr>
<tr>
<td>b. The harvesting of wild plants and foods in conformance with applicable regulations and in a manner that is not injurious to the natural reproduction of wetland plants, provided the harvesting does not require tilling soil, planting, or changing existing topography, water conditions, or water sources except when allowed as an agricultural activity under (e) or (f); below.</td>
</tr>
<tr>
<td>c. Removal of invasive plants; planting of native wetland plants; and vegetation management activities implemented as part of a habitat management plan developed or approved by a local, state, federal or tribal agency.</td>
</tr>
<tr>
<td>d. Agricultural activities conducted in accordance with a voluntary stewardship program developed pursuant to RCW 36.70A.705, with the exception of the</td>
</tr>
<tr>
<td>Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td><strong>Activity</strong></td>
</tr>
<tr>
<td>construction of agricultural structures which are subject to the same provisions as other structures.</td>
</tr>
<tr>
<td>e. With the exception of the construction of agricultural structures, agricultural activities, including seasonal and recurrent activities existing or in development during the year prior to the effective date of these regulations, provided they do not result in additional adverse impacts to the functions and values of wetlands. This can include changing the type of farming, management practices, and crops within the existing geographic area already in use (such as in the rotational management of farmland) as long as the change does not result in additional adverse impacts to wetland functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)</td>
</tr>
<tr>
<td>f. With the exception of the construction of agricultural structures, new and expanding agricultural activities that are consistent with appropriate best management practices (BMPs) that will ensure no net loss of wetland functions and values. The BMPs must be described in a farm management plan or other comprehensive agricultural management document prepared or approved by the WSU Cooperative Extension Service or the San Juan Islands Conservation District. New and expanding agricultural activities must not result in additional adverse impacts to wetland functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.) Temporary development activities defined in SJCC 18.20.200 provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
</tr>
<tr>
<td>g. Noncompensatory enhancement. Wetland restoration or enhancement activities not required as project mitigation, provided the activity is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington Department of Fish and Wildlife, or other responsible local, state, federal, or tribal jurisdiction.</td>
</tr>
<tr>
<td>h. Within the buffers of wetlands with Low or Medium Habitat Importance-Sensitivity rated Category III or IV, the establishment and expansion of orchards and gardens, cultivated and managed with appropriate BMPs and without the use of synthetic chemicals provided that: i. They will occupy no more than 4,000 square feet of the buffer; ii. They are installed within the outer 25% of the buffer; iii. Other than fences, no structures or impervious surfaces are constructed or created and fences will not impede the flow of water or prevent the movement of wetland animals; iv. A buffer of at least 30 feet is retained; v. Mowing does not occur in the habitat portion of the buffer until after July</td>
</tr>
<tr>
<td>Activity</td>
</tr>
<tr>
<td>----------</td>
</tr>
<tr>
<td>15; and vi. Trees within Tree Protection Zones are protected in accordance with this section.</td>
</tr>
<tr>
<td>i. Construction of new ponds in or adjacent to wetlands with a Habitat Importance-Sensitivity Rating of Low Category IV wetland, as part of a wetland mitigation or noncompensatory enhancement project approved by the County or other responsible state, federal, or tribal jurisdiction. (Note: Construction of new ponds is not allowed in or adjacent to Category I, II, and III wetlands with Medium or High Habitat Importance Sensitivity.)</td>
</tr>
<tr>
<td>j. The construction of trails, stairs, or raised walkways provided that the improvement: i. Is designed to direct sheet flow runoff into adjacent vegetation; ii. Prevents adverse impacts to the wetland from runoff and eroding soil; iii. Does not exceed five feet in width; iv. Is constructed of non-toxic materials; v. Does not totally circumnavigate the wetland perimeter; vi. Does not include the placement of fill; and vii. Is consistent with the applicable requirements of subsection E.6 of this section.</td>
</tr>
<tr>
<td>k. Temporary wildlife watching blinds.</td>
</tr>
<tr>
<td>l. Drilling and digging of wells provided they are located within the outer 25% of the buffer, that there are no anticipated adverse impacts to adjoining wetlands, that measures are taken to avoid compaction of soils during drilling and development of the well, and that disturbed areas are immediately stabilized and replanted with the type of vegetation found in the buffer.</td>
</tr>
<tr>
<td>m. Outside of Tree Protection Zones, limited tree removal to allow for a filtered view from the primary structure, provided: i. Stumps are retained and disturbance of the soil and duff layer is minimized; ii. The remaining forest consists of trees that are multi-aged and well distributed across the buffer and the canopy cover for the remaining forest is at least 65%, except directly between the primary structure and the wetland, where the canopy cover may be reduced to not less than 50%; and iii. All vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained; and iv. Trees ≥ 12 inches dbh are retained.</td>
</tr>
<tr>
<td>n. Limited removal of other species of trees in order to prevent shading of aspens in and adjacent to an Aspen/cottonwood wetland, provided that at least 65% of the canopy cover is retained. Temporary development activities defined in SJCC 18.20.200 provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
</tr>
</tbody>
</table>
### Structures, Uses and Activities Allowed in Wetlands and Wetland Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>o. To allow for a view or for fire hazard reduction, minor trimming and pruning of the foliage of trees and shrubs, provided the health of the trees and shrubs is maintained, trees are not topped, and all vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained. In no case shall more than 20% of the foliage of individual trees or shrubs be removed during a 12 month period.</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>p. If no practicable alternative exists, Components of stormwater management facilities in conformance with local and State stormwater management requirements and any applicable Tree Protection Zone requirements, provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>q. Fences, provided they do not impede the flow of water or prevent the movement of wetland animals.</td>
<td></td>
<td>YES</td>
</tr>
<tr>
<td>r. Road and trail crossings in conformance with subsection E.6 of this section.</td>
<td></td>
<td>YES</td>
</tr>
<tr>
<td>s. Development allowed pursuant to an exemption, a reasonable use exception, a public agency/utility exception, or provisions for non-conforming structures, uses and activities outlined in SJCC 18.30.110.</td>
<td></td>
<td>YES</td>
</tr>
<tr>
<td>t. Maintenance to support or improve the functions and values of wetlands.</td>
<td></td>
<td>YES</td>
</tr>
<tr>
<td>u. If no practicable alternative components of following on-site sewage disposal systems components, in conformance with local and State requirements, provided:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Appropriate BMPs are used to minimize erosion, sedimentation and soil disturbance; Water-tight septic tanks and pump chambers;</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>ii. For new systems, trees within Tree Protection Zones are retained in accordance with subsection (E.1) of this section; and sleeved and water-tight sewer lines; and</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>iii. For replacement of existing, failing system where there is no other alternative that will meet State requirements (including locating the new system in the same place as the old system), trees within the Tree Protection Zones are retained to the greatest extent possible. Drainfields²,</td>
<td>NO</td>
<td>YES, outside of the water quality buffer</td>
</tr>
</tbody>
</table>

These components are allowed when they conform with local and State requirements, reasonable efforts are made to avoid impacts to wetland functions and values, and:

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

(B) For new systems, limited tree removal is allowed in habitat buffers, provided:

1. Stumps are retained and disturbance of the soil and duff layer is minimized;

2. The remaining forest consists of trees that are multi-aged and well distributed across the buffer and the canopy cover for the remaining forest is at least 65%;
<table>
<thead>
<tr>
<th>Activity</th>
<th>Allowed Within Wetland</th>
<th>Allowed Within Wetland Buffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3.) All vegetation overhanging streams, ponds, lakes, wetlands, and marine waters is retained; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4.) Trees &gt; 12 inches dbh are retained; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(C) Any adverse impacts to critical areas or their buffers are mitigated in accordance with SJCC 18.30.110(E).</td>
<td></td>
<td>P/C¹</td>
</tr>
<tr>
<td>v. Other uses that will not adversely impact wetland functions and values, considering the Best Available Science.</td>
<td></td>
<td>P/C¹</td>
</tr>
</tbody>
</table>

¹"P/C" means Provisional or Conditional Use Permit depending on the level of impacts (see SJCC 18.80.090).
² Drainfields shall not be located within 300 feet of a Natural Heritage Wetland.

4. **Field Marking of Wetland, and Wetland Buffer and Tree Protection Zone.** Prior to building permit approval, the location of the outer extent of the wetland and any wetland buffer or Tree Protection Zone adjacent to the area that will be developed shall be marked in the field, and the Director may require field approval prior to the commencement of permitted activities. Markings for wetlands, and buffers and Tree Protection Zones shall be maintained throughout the duration of construction activities.

5. For recorded plats, short plats and binding site plans the applicant shall show the boundary of required buffers and Tree Protection Zones on the face of the plat or plan.

6. **Road and Trail Crossings.** The construction of new or expanded roads, driveways, trails, and associated culverts and bridges across wetlands and their buffers and Tree Protection Zones is allowed, provided they are in conformance with SJCC 18.60.080 - 100 and the following. Road and driveway crossings may also be approved through the reasonable use exception process outlined in SJCC 18.30.110.

   a. New roads and driveways may only be constructed across wetlands, and their buffers or their Tree Protection Zones if there is no practicable alternative reasonable efforts are made to avoid and minimize impacts to wetland functions and values.
   
   b. When practicable, new roads, driveways, trails and walkways must be located on existing road grades, utility corridors, or previously disturbed areas.
   
   c. When required, permits and approvals must be obtained from appropriate state and federal agencies, including but not limited to: Washington Department of Fish and Wildlife; Washington State Department of Ecology; Washington State Department of Natural Resources; U.S. Army Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife Service.
   
   d. Roads must cross wetlands, and their buffers and Tree Protection Zones at, or as close as possible to, a ninety degree angle.
   
   e. Crossings must not interfere with the flow and circulation of water or other wetland processes. The location and design of the road or driveway crossing must be evaluated by a qualified wetland professional or other qualified professional, to ensure that wetland processes will not be adversely affected.
   
   f. Construction must occur during any work windows and time limits established by the state or federal agencies with jurisdiction.
   
   g. All crossings must be designed to accommodate 100-year flood flows.
   
   h. Whenever practicable, crossings must serve multiple properties.
i. When expanding existing crossings that do not meet these standards, the crossing must be upgraded as necessary to reduce wetland impacts and meet the requirements of this subsection (D.b.6). For purposes of this section, an expansion is an increase in the footprint of crossing structures and associated roads or trails.

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

k. Where roads and trails cross wetlands, adverse impacts must be mitigated in accordance with SJCC 18.30.110.

7. **Lighting.** Exterior lighting fixtures must be shielded and the light must be directed downward and away from wetlands, their buffers, and the habitat of any species listed as endangered, threatened, sensitive, or a San Juan County species of special importance.

8. **Final Inspections and Financial Guarantees.** Unless exempt under SJCC 18.30.110, all development activities, vegetation removal and other site modifications requiring a project permit or a development permit, must have a final inspection to verify compliance with approved plans and the requirements of this section. The property owner shall notify the Department when the work is complete and ready for inspection. For permitted projects that are not complete at the time that any associated building construction is completed, or for those that do not occur in conjunction with a permitted structure, the Director may require a financial guarantee and associated agreement in conformance with SJCC chapter 18.80.

**FF. Determination of Wetland Boundary and Requirements for Wetland Reports.**

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

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

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

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

5. A wetland report and boundary delineation, with an appropriate scope and scale to determine compliance with the County Code, must be provided with applications for project and development permits located within 205 feet of wetlands.


7. If the applicant wishes to have a delineation entered into the County’s Geographic Information System (GIS) for future wetland mapping, a copy of the delineation must be submitted to the County in a compatible electronic format.

8. Wetland reports – minimum requirements. Following are required components of wetland reports that are necessary to determine compliance with the wetland protection requirements of the County Code. Requirement 8.a.i., 8.b., 8.e. and 8.e. must be provided by a qualified wetlands professional. Other materials may be added by the property owner, contractor or other professional.
a. Map. A map at a scale and level of accuracy that is appropriate for the site and the project, showing:
   i. Location of the wetland. If a full delineation is not completed, the map must indicate where
the wetland boundaries were delineated, and where they were estimated.
   ii. Location of the required habitat buffer including any Tree Protection Zones.
   iii. Location of the water quality buffer if known.
   iv. Existing and proposed development features including structures, roads, utilities,
stormwater and sewage systems, areas to be graded, and areas to be converted to lawns and
gardens.

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

c. Wetland rating category type based on the Washington State Wetland Rating System for
Western Washington - Revised, (Ecology Publication #04-06-025) as revised by Ecology.
the descriptions in subsection (B) of this section and a narrative explaining the basis for the
determination of wetland rating category type (may be added by property owner, contractor or
other professional if they are able to determine wetland type, otherwise this must be provided by
the qualified wetlands professional).

d. Wetland Habitat Importance-Sensitivity Rating and if applicable, Water Quality Sensitivity
Rating from subsection (C) of this section along with a narrative explaining the basis for the
determinations. If the wetland contains particular plants or animals protected as Fish and Wildlife
Habitat Conservation Areas, a higher rating may apply. See SJCC 18.30.160 B and F.

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

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

   a. Hydrologic conditions including inflow/outflow, sources of water within the system, and
seasonal changes in hydrology.
   b. Detailed description of wetland functions and values.
   c. Mitigation plan meeting the requirements of SJCC 18.30.110.
   d. Other.

SECTION 10. SJCC Section 18.30.160 and Ord. 29-2012 § 1 are each amended to read as follows:

18.30.160 Fish and Wildlife Habitat Conservation Areas (FWHCAs).

A. Applicability. Unless exempted or otherwise allowed under SJCC 18.30.110, the provisions of this
section apply to uses and activities in or within 200 feet of fish and wildlife habitat conservation areas as
defined in SJCC Title 18 (the Unified Development Code). In addition, this section applies to uses and
activities located within 1,000 feet of a golden eagle nest, and ¼ mile of a peregrine falcon or great blue
heron nest. Many of these areas are depicted on maps, however, these maps are only a guide and in all
cases conditions in the field shall control. In order to protect their functions and values, this section limits
development activities, removal of vegetation and other site modifications within FWHCAs and their
buffers.

In some cases, fish and wildlife habitat conservation areas may overlap geologically hazardous areas,
frequently flooded areas, or wetlands regulated under SJCC 18.30.120, 18.30.130, and 18.30.150, or
shorelines regulated under SJCC chapter 18.50. If there are conflicts, unless directed otherwise in this
section, the most restrictive requirement applies.
For areas within shoreline jurisdiction, these requirements apply in addition to the standards of SJCC Chapter 18.50, until they are replaced with an approved comprehensive update of the Shoreline Master Program. With the exception of SJCC 18.50.330.B.19 (pertaining to existing platted setbacks), in case of conflict the more restrictive requirement applies.

Notwithstanding any provision in this code to the contrary, any use or structure lawfully located within shorelines of the state that was established or vested on or before the effective date of this ordinance, shall be regulated consistent with RCW 36.70A.480(3)(c). Such uses or structures may continue as a conforming use and may be redeveloped or modified if the redevelopment or modification is consistent with SJCC Chapter 18.50 and either: (1) the proposed redevelopment or modification will result in no net loss of shoreline ecological functions; or (2) the redevelopment or modification is consistent with SJCC 18.30.110 – 160. If the applicant chooses to pursue option (1), the application materials for required project or development permits must include information sufficient to demonstrate no net loss of shoreline ecological functions. For purposes of this subsection, an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. For purposes of this paragraph “agricultural activity” has the same meaning as defined in RCW 90.58.065.

In addition to County regulations, in some cases activities in fish and wildlife habitat conservation areas may be regulated by State and Federal agencies including the WA Department of Ecology, WA Department of Fish and Wildlife, WA Department of Natural Resources, and the U.S. Army Corps of Engineers. Compliance with County regulations does not relieve the property owner of the responsibility to comply with state and federal requirements.

**B. Types of Fish and Wildlife Habitat Conservation Areas (FWHCAs).**

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

1. Areas with which endangered, threatened and sensitive species have a primary association:
   a. Animal species listed under the State or Federal Endangered Species Acts as of the adoption date of this ordinance are identified below.

<table>
<thead>
<tr>
<th>Birds¹</th>
<th>Insects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brown pelican</td>
<td>Taylor’s Checker-spot butterfly</td>
</tr>
<tr>
<td>Common loon</td>
<td>Fish</td>
</tr>
<tr>
<td>Marbled murrelet</td>
<td></td>
</tr>
<tr>
<td>Peregrine falcon</td>
<td></td>
</tr>
</tbody>
</table>

**Marine Mammals**

<table>
<thead>
<tr>
<th>Southern resident orca</th>
<th>Salmon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steller sea lion</td>
<td>Chinook - Puget Sound ESU²</td>
</tr>
<tr>
<td>Humpback whale</td>
<td>Chum - Hood Canal Summer Run ESU²</td>
</tr>
<tr>
<td>Gray whale</td>
<td>Steelhead - Puget Sound DPS³</td>
</tr>
<tr>
<td>Sea otter</td>
<td>Rockfish</td>
</tr>
</tbody>
</table>

**Fish**

<table>
<thead>
<tr>
<th>Boccocio - Georgia Basin DPS³</th>
<th>Canary - Georgia Basin DPS³</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yelloweye - Georgia Basin DPS³</td>
<td></td>
</tr>
</tbody>
</table>

¹The bald eagle has been delisted but continues to be protected under other statutes.

²Evolutionary Significance Unit.

³Distinct Population Segment.

b. Plants listed under the State or Federal Endangered Species Acts as of the adoption date of
this ordinance are identified below.

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

2. Shellfish areas;
3. Kelp and eelgrass beds;
4. Herring, smelt, sand lance and other forage fish spawning areas;
5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
6. The following waters of the State: lakes and streams;
7. State natural area preserves, natural resource conservation areas and state wildlife areas;
8. Habitats of Local Importance;
   a. Critical salt water habitats. These habitats include all kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.
   b. West Side Prairie.
   c. Herbaceous Balds and Bluffs.
   d. Garry oak (Quercus garryana) woodlands and savannas.
   e. Pocket beaches.
   f. Bluff backed beaches.
9. Areas with which the following species of local importance have a primary association.
   a. Black oystercatcher.
   b. Golden eagle.
   c. Great blue heron.
   d. Island marble butterfly.
   e. Pigeon guillemot.
   f. Townsend's big eared bat.
   g. Flying squirrel
   h. Sharp-tailed snake.
   i. Western toad.
   j. Taylor's checkerspot butterfly.
   k. Great arctic butterfly.
   l. Valley silverspot butterfly.
   m. Sand verbena moth.
   n. Areas with roosting concentrations of bats (all species).
   o. Active nests of any of the following birds: golden eagle, northern harrier, merlin, black oystercatcher, Wilson's snipe, short-eared owl, long-eared owl, northern pygmy-owl, sooty grouse, common nighthawk, American dipper, western bluebird, chipping sparrow, vesper
sparrow, horned lark, western meadowlark, western screech owl, lazuli bunting, and
American kestral.
p. Brittle prickly pear cactus (Opuntia fragilis).
q. Alaska alkaligrass (Puccinellia nutkaensis)

C. Maps. Maps of FWHCAs, including those created and maintained by State and Federal agencies, are
available from San Juan County. These maps show lakes, the location and type of most streams, and
the approximate location of some protected species and habitats. These maps are however only a
guide to the possible location of these critical areas, and conditions in the field control. Maps showing
habitats and species that have been positively identified, including Type F streams, shall however be
presumed to be correct until proven otherwise by a qualified professional. (Note: Though State
regulations prohibit general dissemination of detailed maps showing the location of protected species,
staff can provide available information for particular sites).

D. General Protection Standards for all FWHCAs.

1. Lighting. Exterior lighting fixtures must be shielded and the light must be directed downward
and away from streams, lakes, ponds designated as FWHCAs, the marine shoreline, and habitat of
specific animals protected under this section.

2. Final Inspections and Financial Guarantees. Unless exempt under SJCC 18.30.110, all
development activities, vegetation removal and other site modification requiring a project or
development permit, must have a final inspection to verify compliance with approved plans and
the requirements of this section. The property owner shall notify the Department when the work
is complete and ready for inspection. For permitted projects that are not complete at the time that
any associated building construction is completed, or for those that do not occur in conjunction
with a permitted structure, the Director may require a financial guarantee and associated
agreement in conformance with SJCC chapter 18.80.

E. Protection Standards for Aquatic Fish and Wildlife Habitat Conservation Areas (FWHCAs).
This subsection establishes protection standards for aquatic FWHCAs including a site specific
procedure for sizing buffers and Tree Protection Zones.

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

- Streams.
- Lakes.
- Naturally occurring ponds that provide fish and wildlife habitat.
- Shellfish areas.
- Kelp and eelgrass beds.
- Spawning and holding areas for forage fish.
- Mudflats.
- Intertidal habitats with vascular plants.
- Pocket beaches.
- Bluff backed beaches including associated feeder bluffs.
- Areas with which the following have a primary association: brown pelican; common loon;
  marbled murrelet; peregrine falcon; southern resident orca; Steller sea lion; humpback whale;
  gray whale; sea otter; designated stocks of steelhead and chinook and chum salmon; boccocio
1. **Sizing Procedures for Buffers and Tree Protection Zones.** This subsection provides a site specific procedure for determining the size of vegetative buffers and Tree Protection Zones necessary to protect aquatic FWHCAs. Three separate components are considered: a water quality buffer that applies in all cases, Tree Protection Zones that apply to areas with trees, and a coastal geologic buffer that applies to areas subject to erosion caused by currents, tidal action, or waves. For properties with characteristics that vary, (e.g. a portion of the parcel has trees or a geologically hazardous area, and other areas of the parcel do not), the size of required buffers and Tree Protection Zones may vary, resulting in buffers and Tree Protection Zones that are larger in some areas and smaller in others. (Note: SJCC 18.50.330 also contains setback standards for marine shorelines and lakes over 20 acres).

The procedure for sizing buffers and Tree Protection Zones is illustrated in the following flow chart and step by step assessment process.

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**Figure 3.21**  
Procedure for Determining Buffers and Tree Protection Zones for Aquatic FWHCAs

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

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

**Step 3. Water Quality Buffer.** Determine the size of the water quality buffer for 60% pollutant removal using Table 3.6 in Step 3 below; the procedures in SJCC 18.30.150 (Wetlands) and Table 3.6 (Note: Within UGAs a reduced buffer option may be used if adverse impacts are mitigated).
Step 4 and 5. Tree Protection Zones. For areas with trees identify Tree Protection Zone(s). If desired, Tree Protection Zones may be averaged.

Step 6. Adjustments. Because they provide limited support of the habitat functions and values of aquatic FWHCAs, existing, lawfully established structures and impervious surfaces are excluded from these areas and are not labeled non-conforming with regard to buffer and Tree Protection Zone requirements. In some cases, buffers are adjusted so they do not cross roads.

Step 7. Proceed to evaluate compliance with protection requirements for other types of FWHCAs (see subsection 18.30.160.F).

Site-Specific Procedure for Sizing Buffers and Tree Protection Zones

Step 1. Location relative to aquatic FWHCAs. Is the proposed development, removal of vegetation or other site modification located in or over a designated aquatic FWHCA? Is it located within ±25 110 feet of the bank full width (BFW) of a stream as defined in WAC 222-16-010? Is it located within ±25 110 feet of the ordinary high water mark (OHWM) of a lake or pond? Is it located within 200 feet of the OHWM of a marine area designated as a FWHCA? If the answer to any of these questions is yes, continue to the next question. If the answer to all of these questions is no, no further action is necessary for compliance with requirements for aquatic FWHCAs; proceed to subsection 18.30.160.F to evaluate compliance with protection requirements for other types of FWHCAs.

Step 2. Determine if coastal geologic buffer is necessary. If proposed development, vegetation removal or other site modification is within 200 feet of the OHWM of an erodible marine shoreline (any shoreline that is not bedrock), determine if the site is a geologically hazardous area (see SJCC 18.30.120), or if it may provide sediment to an area with eelgrass, shellfish, spawning or holding areas for forage fish, mudflats, or intertidal habitats with vascular plants. If yes, a qualified professional must prepare a geotechnical report in accordance with SJCC 18.30.120, determine erosion causes and rates, and determine appropriate buffers and other measures to prevent increased erosion and allow for natural erosive processes for life of the structure (minimum 75 years). If collection and direct discharge of stormwater is recommended, the stormwater, including runoff from the roof, must first be treated to remove contaminants.

Step 3. Determine the size of the Aquatic FWHCA water quality buffer for 60-% pollutant removal using the procedures in SJCC 18.30.150 (Wetlands) and Table 3.6. The director may reduce the standard buffer widths in an Urban Growth Area when impacts to critical areas are mitigated according to SJCC 18.30.110(E) and the buffer reduction is consistent with all other applicable requirements of this section provided that the buffer of an Aquatic FWHCA shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater.
Table 3.6 Aquatic FWHCA Water Quality Buffers

<table>
<thead>
<tr>
<th>Land Use Intensity</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>50 feet</td>
<td>75 feet</td>
<td>100 feet</td>
</tr>
</tbody>
</table>

1 See Table 3.3A for a list of land uses that are considered low, medium or high land use intensity.
2 Buffers shall be increased by 50 percent on slopes greater than 30 percent.

The water quality buffer extends landward horizontally from the bank full width of streams (as defined in WAC 222-16-010) and the OHWM of lakes, ponds, and marine shorelines. (Note: Within UGAs a reduced buffer option may be used if adverse impacts are mitigated).

Step 4. For areas with trees, including individual trees, identify Tree Protection Zones. Trees and the wood, leaves, needles and insects that are associated with trees, help support the aquatic food chain and aquatic FWHCAs. Use Table 3.97 to determine the landward extent of the area to be evaluated for Tree Protection Zone requirements. If any trees are in these evaluation areas, they must be protected with a Tree Protection Zone. Tree Protection Zones include the area within the drip line of each tree along with the area between the drip line and the bank full width of streams or the OHWM of lakes, ponds, or marine shorelines. For individual trees, the Tree Protection Zone must be at least as wide as the drip line of the tree being protected. For example, for a type F stream with one tree with the trunk located 80 feet from the bank full width of the stream, with a drip line 30 feet in diameter, the dimensions of the Tree Protection Zone would be 30 ft. by 80 ft. plus the area within the drip line on the uphill side of the tree. For a tree with the trunk located 20 feet from the shoreline, with a drip line 30 feet in diameter, the dimension of the Tree Protection Zone would be 30 ft. by 20 ft. plus the area within the drip line on the uphill side of the tree.

Table 3.97

<table>
<thead>
<tr>
<th>Type of Water Body</th>
<th>Tree Protection Zone Evaluation Area (measured horizontally)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type F (Type 2 or 3) streams, lakes, ponds designated as FWHCAs, and marine waters (Type S) designated as FWHCAs</td>
<td>110 feet from Ordinary High Water Mark or Bank Full Width</td>
</tr>
<tr>
<td>Type Np (Type 4) streams</td>
<td>50 feet from Bank Full Width</td>
</tr>
<tr>
<td>Type Ns (Type 5) streams</td>
<td>30 feet from Bank Full Width</td>
</tr>
<tr>
<td>Type Ns (Type 5) streams flowing less than 6 months per year</td>
<td>Stream banks must be vegetated.</td>
</tr>
</tbody>
</table>

1 Stream types under both the new and old classification systems shown (see WAC 222-16-030 and 031).
2 Within urban growth areas this may be reduced to 50 feet if adverse impacts are identified and mitigated in accordance with SJCC 18.30.110.E.
Step 5. Averaging of Tree Protection Zones. Averaging of Tree Protection Zones allows
reduction of the zone in specified locations on the property proposed for development, vegetation
removal or other site modification, in conjunction with increases of the zone in other areas, so
that the total area of the zone is unchanged. The applicant may average the Tree Protection Zone
if all of the following criteria are met:

a. Averaging is necessary to accomplish the purposes of the proposal, and no reasonable
alternative is available;
b. The total total area contained within Tree Protection Zones after averaging is no less than
that contained within the Zones prior to averaging;
c. Only areas with trees located within 200 feet of the OHWM or bank full width will be
counted toward the required area of the Tree Protection Zones; and
d. In no case shall the Tree Protection Zones be reduced to less than the water quality buffer
or 70 feet, whichever is greater.

Step 6. Adjustments.

Buffers and Tree Protection Zones Do Not Cross Some Roads. Buffers and Tree
Protection Zones do not extend across public roads. For private roads, buffers and Tree
Protection Zones do not extend across the road when the road design, flow of runoff,
quantity of traffic, and/or gap in tree canopy result in an area that does not support functions
and values of the FWHCA to be protected, as determined by a qualified professional.

Step 7. Proceed to evaluate compliance with protection requirements for other types of
FWHCAs in subsection 18.30.160.F.

2. Structures, Uses and Activities Allowed and Prohibited in and over Aquatic FWHCAs and
their Water Quality Buffers and Tree Protection Zones.

Development activities, removal of vegetation and other site modifications are limited or
prohibited within aquatic FWHCAs and their water quality buffers and Tree Protection Zones.
Allowable activities vary depending on whether the activity is within a Tree Protection Zone or a
water quality buffer, and are described separately below.

a. Tree Protection Zones are divided into two sections: Zone 1 consists of the first 35 feet
adjacent to the water, beginning at the OHWM, or for streams, the bank full width. Zone 2 is the
remainder of the Tree Protection Zone.

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

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

i. The structure, impervious areas, and areas where soils will be graded, compacted or where
the organic soil horizon will be removed, are located landward of the water quality buffer;
ii. Appropriate BMPs are used to minimize erosion, sedimentation, and soil disturbance;

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

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

v. The remaining forest consists of trees that are multi-aged and are well distributed across the Tree Protection Zone;

vi. All vegetation overhanging aquatic FWHCAs is retained; and

vii. For primary structures to be located in Zone 2, there is a low probability of increased windthrow of trees within Tree Protection Zones as determined by a qualified professional.

b. Water Quality Buffers. Structures, uses and activities that are listed as “Yes” uses in Table 3.408 below are allowed within aquatic FWHCAs and required water quality buffers, subject to compliance with other sections of the San Juan County Code. State or federal requirements, administered by the WA Department of Ecology, WA Dept. of Fish and Wildlife, WA Dept. of Natural Resources, and U.S. Army Corps of Engineers, may also apply to these areas.

### Table 3.408
Structures, Uses and Activities Allowed in and over Aquatic FWHCAs and Their Water Quality Buffers

<table>
<thead>
<tr>
<th>Activity</th>
<th>Aquatic FWHCA (the area within the water)</th>
<th>Buffer</th>
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<tbody>
<tr>
<td>a. Outdoor uses and activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of FWHCAs.</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>b. The harvesting of wild plants and foods in conformance with applicable regulations and in a manner that is not injurious to the natural reproduction of native plants, provided the harvesting does not require tilling soil, planting, or changing existing topography, water conditions, or water sources, except when allowed as an agricultural activity under (e) or (f) below.</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>c. Removal of invasive plants; planting of native plants; vegetation management activities intended to preserve and maintain specific habitats for rare species; and vegetation management activities implemented as part of a habitat management plan developed or approved by a local, state or federal agency.</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>d. Agricultural activities conducted in accordance with a voluntary stewardship program developed pursuant to RCW 36.70A.705, with the exception of the</td>
<td>YES</td>
<td>YES</td>
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construction of agricultural structures which are subject to the same provisions as other structures.

e. With the exception of the construction of agricultural structures, agricultural activities, including seasonal and recurrent activities, existing or in development during the year prior to the effective date of this ordinance, provided they do not result in additional adverse impacts to the functions and values of FWHCAs. This can include changing the type of farming, management practices, and crops within the existing geographic area already in use (such as in the rotational management of farmland) as long as the change does not result in additional adverse impacts to FWHCA functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)

f. Aquacultural activities including seasonal and recurrent activities, existing or in development during the year prior to the effective date of this ordinance, provided they do not result in additional adverse impacts to the functions and values of aquatic FWHCAs. This can include changing the type of aquaculture, management practices, and products within the existing geographic area already in use, as long as the change does not result in additional adverse impacts to FWHCA functions and values. Aquacultural structures are subject to the same provisions as other structures. Aquacultural activities are also subject to the requirements of SJCC Chapter 18.50.

g. With the exception of the construction of agricultural structures, new and expanding agricultural activities that are consistent with appropriate best management practices (BMPs) that will ensure no net loss of the functions and values of aquatic FWHCAs. The BMPs must be described in a farm management plan or other comprehensive agricultural management document prepared or approved by WSU Cooperative Extension Service or the San Juan County Conservation District. New and expanding agricultural activities must not result in additional adverse impacts to FWHCA functions and values. Agricultural structures are subject to the same provisions as other structures. (Note: See definition of “garden” in SJCC 18.20.070.)

Temporary development activities defined in SJCC 18.20.200 provided that reasonable efforts are made to avoid impacts to wetland functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).

h. New and expanding aquacultural activities that are consistent with appropriate best management practices (BMPs) approved by the Dept. of Ecology. The BMPs must be described in a management plan. New and expanding aquacultural activities must not result in additional adverse impacts to FWHCA functions and values. New aquacultural structures are subject to the same provisions as other structures. Aquacultural activities are also subject to the requirements of SJCC Chapter 18.50.

i. Non-compensatory Enhancement. Restoration or enhancement activities not required as project mitigation, provided the activity is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department Fish and Wildlife, or other responsible local, state, federal, or tribal jurisdiction.

j. Within the water quality buffers of aquatic FWHCAs, the establishment and expansion of orchards and gardens, cultivated and managed with appropriate BMPs,
and without the use of synthetic chemicals, provided that:

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<td>i.</td>
<td>They will occupy no more than 4,000 square feet of the buffer;</td>
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<td>ii.</td>
<td>They are installed within the outer 25% of the buffer;</td>
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<td>iii.</td>
<td>Other than fences, no structures or impervious surfaces are constructed or created, and fences will not impede the flow of water or prevent wildlife access to streams, ponds, lakes or shorelines designated as FWHCAs;</td>
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<td>iv.</td>
<td>A buffer of at least 30 feet is retained.</td>
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<td>v.</td>
<td>Trees within Tree Protection Zones are protected in accordance with this section.</td>
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k. The construction of trails, stairs, or raised walkways, provided that the improvement:

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<td>i.</td>
<td>Is designed to direct sheet flow runoff into adjacent vegetation;</td>
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<td>ii.</td>
<td>Does not exceed five feet in width;</td>
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<td>iii.</td>
<td>Is constructed of non-toxic materials;</td>
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<td>iv.</td>
<td>Does not include the placement of fill;</td>
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<td>v.</td>
<td>Is consistent with the applicable requirements of subsection 18.30.160.E.5; and</td>
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<tr>
<td>vi.</td>
<td>For areas within shoreline jurisdiction, the improvement is consistent with the requirements of SJCC Chapter 18.50 and subsection 18.30.160. E.7.</td>
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l. Temporary wildlife watching blinds.  

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<td>m. Drilling and digging of wells, provided they are located within the outer 25% of the water quality buffer, that there are no anticipated adverse impacts to adjoining FWHCAs, that measures are taken to avoid compaction of soils during drilling and development of the well, and that disturbed areas are immediately stabilized.</td>
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<td>n. To allow for a view or for fire hazard reduction, minor trimming and pruning of the foliage of trees and shrubs, provided the health of the trees and shrubs is maintained, trees are not topped, and all vegetation overhanging aquatic FWHCAs is retained. In no case shall more than 20% of the foliage of individual trees or shrubs be removed during one 12 month period.</td>
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<td>o. If no practicable alternative exists, the Components of stormwater management facilities in conformance with local and State stormwater management requirements and the Tree Protection Zone requirements of this section, provided that reasonable efforts are made to avoid impacts to Aquatic FWHCA functions and values and any adverse impacts are mitigated in accordance with SJCC 18.30.110(E).</td>
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p. Fences provided they do not impede the flow of water or prevent wildlife access to the shoreline. |

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s. Storage of chemicals. |

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t. Components of on-site sewage disposal systems in conformance with local and state requirements provided:

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i. Appropriate BMPs are used to minimize erosion, sedimentation and soil disturbance; Water-tight septic tanks and pump chambers; |
| ii. | For new systems, trees within Tree Protection Zones are retained in accordance with this section; Sleeved and water-tight sewer lines; and/or |

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iii. For replacement of existing, failing system where there is no other alternative that will meet State requirements (including locating the new system in the same place as the old system, trees within the Tree Protection Zones are retained to the greatest extent possible. Drainfields.

These components are allowed provided reasonable efforts are made to avoid impacts to Aquatic FWHCA functions and values and:

(A) BMPs are used to minimize erosion, sedimentation and soil disturbance;
(B) For new systems, trees within Tree Protection Zones are retained in accordance with subsection E.2 of this section;
(C) Any adverse impacts to critical areas are mitigated in accordance with SJCC 18.30.110(E); and
(D) For replacement of existing, failing system where there is no other alternative that will meet State requirements (including locating the new system in the same place as the old system, trees within the Tree Protection Zones are retained to the greatest extent possible).

4. Development, vegetation removal, or other modification allowed pursuant to an exemption, a reasonable use exception, a public agency/utility exception, and provisions for non-conforming uses, structures and activities outlined in SJCC 18.30.110.

5. Structures, uses and activities allowed pursuant to an approved variance (see SJCC 18.80.100).


7. Other uses that will not adversely impact the functions and values of aquatic FWHCAs, considering the Best Available Science.

P/C 1  P/C 1

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

3. Field Marking of Buffers and Tree Protection Zones. Prior to building permit approval, the location of the outer extent of buffers and Tree Protection Zones adjacent to the area that will be developed shall be marked in the field, and the Director may require field approval prior to the commencement of permitted activities. Markings for buffers and Tree Protection Zones shall be maintained throughout the duration of construction activities.

4. For recorded plats, short plats, and binding site plans the applicant shall show the boundary of required buffers and Tree Protection Zones on the face of the plat or plan.


The construction of new or expanded roads, driveways, trails and associated culverts and bridges across streams, buffers and Tree Protection Zones are allowed in conformance with SJCC 18.60.080 - 100 and the following:

a. New roads and driveways may only be constructed across streams, or through buffers or Tree Protection Zones, if there is no practicable alternative.

b. For type F streams, bridges, culverts and crossings shall be designed according to the Washington Dept. of Fish and Wildlife “Design of Road Culverts for Fish Passage, 2003”. For streams that support fish that are designated for protection under the Federal Endangered Species Act, the following may also apply as determined by the agencies with jurisdiction: the National
Marine Fisheries Service “Guidelines for Salmonid Passage at Stream Crossings, 2000”; and
“Washington State Fish Passage and Habitat Enhancement Restoration Programmatic”, National
Marine Fisheries Service Tracking No. 2008-03598.
c. When practicable, new roads, driveways, trails and walkways shall be located on existing road
grades, utility corridors or previously disturbed areas.
d. When required, permits and approvals must be obtained from appropriate state and federal
agencies, including but not limited to: Washington Department of Fish and Wildlife; Washington
State Department of Ecology; Washington State Department of Natural Resources; U.S. Army
Corps of Engineers; U.S. Coast Guard; NOAA Fisheries Service; and U.S. Fish and Wildlife
Service.
e. The road, culvert or bridge shall be located and designed to minimize adverse impacts, and
shall not interfere with fish passage, the movement of water, large woody debris, gravel, or other
stream processes. Roads must cross aquatic FWHCAs and buffers at, or as close as possible to, a
ninety degree angle. Crossings shall not occur in salmonid spawning areas unless no other
feasible crossing site exists. In streams with salmonid breeding habitat, bridges, bottomless
culverts or other alternatives that will allow for fish passage are required, and bridge piers or
abutments may not be placed within the stream or stream banks unless there is no feasible
alternative. The length of conventional culverts shall be the minimum necessary.
f. The location and design of the road or driveway crossing must be evaluated by a qualified
professional to ensure that ecological processes will not be adversely affected.
g. Construction must occur during work windows and time limits established by the state and
federal agencies with jurisdiction.
h. All stream crossings shall be designed to accommodate 100-year projected flood flows.
i. When practicable, crossings shall serve multiple properties;
j. When expanding existing crossings that do not meet these standards, the crossing shall be
upgraded as necessary to reduce stream impacts and meet the requirements of this subsection. For
purposes of this section, an expansion is an increase in the footprint of the crossing structures or
the associated roads and trails.
k. Roads and driveways must be crowned, in-sloped, out-sloped or otherwise designed to direct
runoff from the road surface into vegetated areas.

6. Within shoreline jurisdiction, reduced water quality buffers and Tree Protection Zones
when views of the water are blocked by existing houses on adjoining waterfront parcels. If
existing houses on adjoining waterfront parcels are closer to the water than what is specified in
this section, reduced buffer and Tree Protection Zones shall be authorized if:
a. Adverse impacts to aquatic FWHCAs, if any, are identified by a qualified professional;
b. Adverse impacts are mitigated in conformance with SJCC 18.30.110; and
c. The authorized buffer and Tree Protection Zones are the greater of:
   i. The waterward side of a line drawn between the most waterward points of the houses on the
      adjoining parcels; and
   ii. The average of the distances from the OHWM to the most waterward points of the houses
      on the adjoining parcels.

7. Standards and Requirements for Shoreline Modifications. Shoreline modifications, including
shoreline stabilization measures, are allowed within and over aquatic FWHCAs and their buffers
subject to this section and SJCC chapter 18.50. These requirements remain in effect until they are
replaced with an approved comprehensive update of the Shoreline Master Program. Unless
specifically allowed by this section and SJCC chapter 18.50, construction of new shoreline
modifications is prohibited.
a. General Standards.

i. Definitions. Definitions applicable to this subsection (18.30.160.E.7) are found in RCW 90.58.030, WAC 173-26-020, and WAC 173-27-030.

ii. Mitigation Sequencing. Per WAC 173-26-201(2)(e) adverse impacts associated with new, expanded or replacement shoreline modifications must be mitigated consistent with the requirements of SJCC 18.30.110 and the following mitigation sequence:

(A) Avoiding the impact altogether by not taking the action or part of the action.
(B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.
(C) Rectifying the impact by using appropriate technology or by repairing, rehabilitating or restoring the affected environment.
(D) Reducing or eliminating the impact over time by preservation and maintenance operations.
(E) Compensating for the impact by replacing, enhancing or providing substitute resources or environments.
(F) Monitoring the impact and compensation projects and taking appropriate corrective measures.

iii. In accordance with WAC 173-26-221(2)(c)(iii)(C), if inventories of critical saltwater habitats have not been completed, overwater and near shore developments in marine waters designated as FWHCAs may not be approved without an inventory of the site and adjacent shoreline parcels to assess the presence of these habitats and their functions. The methods and extent of the inventory shall be consistent with accepted research methodology, in consultation with Department of Ecology technical assistance materials.

iv. Public docks and docks serving five or more single family residences, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, lifts, stairs, ramps, and other human-made structures shall not intrude into or over critical saltwater habitats unless all of the following conditions are satisfied:

(A) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust as embodied in RCW 90.58.020.

To show the project protects the public trust the application shall include a narrative that;

(1) Demonstrates the proposal is consistent with the goals, policies and regulations of the County’s SMP and is appropriate for the location;

(2) Itemizes the project’s benefits for the public, such as providing physical or visual access to the shoreline; and

(3) Shows that the development will not have an adverse impact on the navigability of adjacent waters.

(B) Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in an unreasonable and disproportionate cost to accomplish the same general purpose;

(C) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and

(D) The project is consistent with the State’s interest in resource protection and species recovery.

v. When feasible, public access and ecological restoration shall be incorporated into publicly financed projects.
b. **Additional Standards for docks**

i. Private, noncommercial docks and associated piers and floats for individual residential use, or for community use by the owners of no more than four adjacent or nearby residences, will be permitted over critical salt and freshwater habitats if the application complies with the applicable federal and state regulations and shows that:

(A) Avoidance of impacts to critical salt and fresh water habitats by an alternative alignment or location is not feasible; and

(B) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

ii. Application requirements. In addition to applicable requirements of SJCC 18.50, applications for approval of docks listed in this section shall include the following:

(A) The applicable items listed in SJCC 18.80.020.C (Project Permit Applications-Forms) along with photos of the site and a map showing the approximate location of critical areas and critical salt water habitats within 300 feet of the project area (existing maps may be used).

(B) The applicable items listed in SJCC 18.80.110 (Shoreline Permits).

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

(D) A narrative explaining how the proposal meets the requirements of this subsection 18.30.160.E.7, SJCC 18.50 and 18.30.110.

(E) Best Available Science documents supporting the proposal.

(F) A copy of proposed storm water and erosion control plans for the project as required by SJCC 18.60.

(G) A report, appropriate for the scale and scope of the project, prepared by a qualified biological professional, identifying any aquatic FWHCAs located within 50 feet of the proposed project, evaluating conformance of the proposal with the requirements of this subsection 18.30.160.E.7, and describing any potential adverse impacts to the ecological function of aquatic FWHCAs that may result from the proposal.

c. **Additional Standards for Shoreline Stabilization Measures**

i. In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, the following standards shall apply to shoreline stabilization measures:

(A) New development on bedrock shorelines should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

(B) New development on all shorelines other than bedrock shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure (minimum 75 years), as demonstrated by a geotechnical analysis.

(C) Using geotechnical analysis of the site and shoreline characteristics, subdivision of land must assure that the lots created will not require shoreline stabilization in order for development to occur.

(D) With the exception of areas located on bedrock, shoreline stabilization measures are not allowed to protect vegetated areas.

ii. When structural shoreline stabilization measures are demonstrated to be necessary, the following are required:

(A) The size of stabilization measures shall be limited to the minimum necessary. Measures designed to assure no net loss of shoreline ecological functions shall be used.
Soft approaches shall be used unless they are demonstrated to be insufficient to protect primary structures, dwellings, and businesses.

(B) Publicly financed or subsidized shoreline stabilization control measures shall not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, ecological restoration and public access improvements shall be incorporated into the project.

(C) New shoreline stabilization measures, including replacement structures on feeder bluffs and other actions that affect beach sediment-producing areas, shall be mitigated and, if that is not possible, designed and constructed to minimize adverse impacts to sediment conveyance systems.

iii. An existing shoreline stabilization structure may be replaced with a similar structure if a geotechnical report demonstrates the need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

(A) The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

(B) Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

(C) Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing obsolete structure, it shall be removed as part of the replacement project.

(D) Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

(E) For purposes of this subsection (18.30.160.E.7), "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be permitted as new structures.

iv. Soft structural shoreline stabilization measures that restore shoreline ecological functions without creating additional uplands, will be permitted water-ward of the ordinary high water mark subject to the provisions of this section, SJCC 18.50 and applicable federal and state requirements.

v. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

(A) To protect existing primary structures:

(1) New or enlarged structural shoreline stabilization measures for an existing primary structure such as a residence, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger and will suffer damage from shoreline erosion caused by tidal action, currents, or waves and where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible and less expensive than the proposed stabilization measure.

(2) Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.

(3) The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
(4) The shoreline stabilization structure, including any required mitigation, will not
result in a net loss of shoreline ecological functions.

(B) To protect and support new nonwater-dependent development including single
family residences, when all of the conditions below apply:
(1) The erosion is not being caused by upland conditions, such as drainage and the
loss of vegetation;
(2) Nonstructural measures, such as placing the development further from the
shoreline, planting vegetation, or installing on-site drainage improvements, are not
feasible or not sufficient.
(3) No alternatives, including relocation or reconstruction of existing structures, are
found to be feasible and less expensive than the proposed stabilization measure.
(4) The need to protect primary structures from damage due to erosion is
demonstrated through a geotechnical report. The damage must be caused by natural
processes, such as tidal action, currents, and waves.
(5) The shoreline stabilization structure, including any required mitigation, will not
result in a net loss of shoreline ecological functions.

(C) To protect and support water-dependent development when all of the conditions
below apply:
(1) The erosion is not being caused by upland conditions, such as the loss of
vegetation and drainage.
(2) Nonstructural measures, planting vegetation, or installing on-site drainage
improvements, are not feasible or not sufficient.
(3) No alternatives, including relocation or reconstruction of existing structures, are
found to be feasible and less expensive than the proposed stabilization measure.
(4) The need to protect primary structures from damage due to erosion is
demonstrated through a geotechnical report.
(5) The shoreline stabilization structure, including any required mitigation, will not
result in a net loss of shoreline ecological functions.

(D) To protect projects for the restoration of ecological functions or hazardous substance
remediation projects pursuant to chapter 70.105D RCW when all of the conditions below
apply:
(1) Nonstructural measures, planting vegetation, or installing on-site drainage
improvements, are not feasible or not sufficient.
(2) The shoreline stabilization structure will not result in a net loss of shoreline
ecological functions.

vi. Application Requirements. In addition to applicable requirements of SJCC 18.50, applications
for approval of structural shoreline stabilization measures regulated by this section shall
include the following:

(A) The applicable items listed in SJCC 18.80.020.C (Project Permit Applications-
Forms) along with photos of the site and a map showing the approximate location of
critical areas and critical salt water habitats within 300 feet of the project area (existing
maps may be used).
(B) Any related project documents such as applications to other agencies or
environmental documents prepared pursuant to the State Environmental Policy Act.
(C) A narrative explaining how the proposal meets the requirements of this
subsection 18.30.160.E.7 and SJCC 18.50.
(D) Best Available Science documents supporting the proposal.
(E) A copy of proposed storm water and erosion control plans for the project as required by SJCC 18.60.

(F) A report, appropriate for the scale and scope of the project, prepared by a qualified biological professional, identifying any aquatic FWHCAs located within 50 feet of the proposed project, evaluating conformance of the proposal with the requirements of this subsection 18.30.160.E.7, and describing any potential adverse impacts to the ecological function of aquatic FWHCAs that may result from the proposal. If the proposed structural stabilization measures may result in changes to longshore sediment transport, the report must include an evaluation of potential adverse impacts to aquatic FWHCAs located downdrift of the proposal.

(G) New, expanded and replacement structural stabilization measures require a geotechnical analysis and report, prepared by a qualified coastal geologic professional in accordance with SJCC 18.30.120, that includes the following:

1. A description of the causes for the erosion;
2. Past erosion rates over a period of at least 30 years;
3. Projection of future rates of erosion over the next 30 years;
4. Detailed topography from the proposed structure to the lower beach;
5. Evaluation of the anticipated impact of sea level rise on the structural stabilization measure, ecological functions associated with critical salt water habitat, and the development being protected, considering the most recent sea level rise predictions used by the San Juan County Public Works Department in planning road improvements.

(6) In the case of an application for hard structural stabilization measures, the report shall contain a determination that in the absence of such measures, there is a significant possibility that the structure to be protected will be damaged by shoreline erosion within three years.

(7) If the report shows that waiting until the need for stabilization is immediate would foreclose the opportunity to use measures that avoid impacts to ecological functions, the report may be used to justify the construction of soft structural stabilization measures.

(8) Analysis of slope stability and mechanism for slope failure in the vicinity;

(9) Estimate of when the structure to be protected will be undermined (including allowance for bank recession equal to the largest documented landslide in the vicinity);

(10) Summary of factors causing threat to the structure;

(11) Evaluation of potential effectiveness of corrective measures for on-site drainage issues as an alternative to installing hard or soft structural shoreline stabilization measures;

(12) Detailed evaluation of the potential for relocating the structure as an alternative to hard or soft structural shoreline stabilization measures;

(13) Description of any potential adverse impacts that may result from the proposal, including anticipated changes to the size or quantity of the substrate and/or sediment in the vicinity or down drift from the site; and

(14) An evaluation of the conformance of the proposal with the requirements of this subsection 18.30.160.E.7 and SJCC 18.50.

(H) Mitigation and Monitoring Plans. Plans for mitigating any unavoidable adverse impacts to adjacent or nearby properties, or to the functions and values of critical salt water habitats, must be consistent with the mitigation sequence above and the requirements of SJCC 18.30.110.
F. Additional protection recommendations and requirements for specific species and habitats.

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

1. Animals.

This subsection outlines additional protection recommendations and in some cases requirements for specific animals listed in subsection 18.30.160.B. This includes animals that are currently listed under the Endangered Species Act, as well as animals designated by San Juan County as species of local importance. The requirements identified in this subsection supplement the more general requirements of this section and the San Juan County Code, including those requirements intended to protect the quantity and quality of ground and surface water, and to support the aquatic food chain.

To aid property owners in implementing effective protection measures, standardized habitat management plans based on the provisions of Table 3.449 will be attached to permits and approvals. Approval of development and project permits will be contingent on compliance with these plans.

<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat Description</th>
<th>Protection Methods (Recommended unless noted as a requirement)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Amphibians</strong></td>
<td></td>
<td>(For additional information see <a href="http://wdfw.wa.gov/hab/phslist.htm">http://wdfw.wa.gov/hab/phslist.htm</a>)</td>
</tr>
</tbody>
</table>
| Sharp-tailed Snake | Relatively open, moist, woodlands, particularly near streams and secluded, south facing, rocky slopes. They spend most of the time under rocks and rotting woody material. Primary food source is slugs. Use communal egg laying sites in cracks between rocks, underground or in clumps of grass roots. | In areas with sharp tailed snakes:  
• Minimize soil-disturbing activities.  
• Retain rocks and down wood.  
• Avoid predation by domestic cats. |
| Western toad     | Live near springs, streams, meadows and woodlands, especially those within approximately 500 meters 1,640 feet of ponds or wetlands. Feed on insects. Preferred breeding sites are water bodies with shallow, sandy bottoms. After breeding they disperse into terrestrial habitats such as forests and grasslands, preferring damp conditions. Spend much time underground, often in small mammal | In areas with western toads:  
• Establish wetland buffers based on a Water Quality-Sensitivity Rating of “High” and a Habitat Importance-Sensitivity Rating of “High.” Category 1 Wetland Rating. Protect buffers in accordance with SJCC 18.30.150 (required).  
• Minimize soil-disturbing activities.  
• Prevent pollution of runoff.  
• Retain rocks and down wood.  
• Avoid the introduction of aquatic predators (e.g., fish) into ponds and lakes. |
| Birds                                      | Burrows, beneath logs, and within rock crevices. Hibernate in burrows over the winter. | • Prevent disturbance of active nesting areas during the spring.  
• Do not inhibit perennial flow in streams (required).  
• Maintain buffers along streams and lakes (required). |
<table>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>American dipper</td>
<td>Shorelines of perennial streams and lakes and ephemeral streams that flow into them.</td>
<td>• Protect snags and trees used for nesting (required).</td>
</tr>
</tbody>
</table>
| American kestrel                          | Open habitats with perching spots, including the edges of oak woodlands, open forests, and grasslands or agricultural areas with utility wires, fence posts or trees. Nest in tree cavities, cliffs, openings in man-made structures, and nesting boxes. | • Maintain forage fish populations and protect kelp and eelgrass beds in conformance with the Unified Development Code.  
• Discourage human presence near active nesting areas during the spring. |
| Black Oystercatcher                       | These birds nest on the ground above the rocky intertidal zone in areas without predatory mammals. | • Prevent disturbance of active nesting areas during the spring.  
• Maintain mix of open land and wooded areas. |
| Chipping sparrow                          | Savannas, orchards, low-density residential areas.                                   | • Prevent disturbance of active nesting areas during the spring.     |
| Common nighthawk                          | Rocky balds and flat areas with minimal vegetation.                                 | • Prevent disturbance of active nesting areas during the spring.     |
| Fox sparrow                               | Nesting occurs in dense shrub thickets with little or no forest canopy. The only suspected nesting is on small outer islands. | • Prevent disturbance of active nesting areas during the spring.     |
| Great Blue Heron                          | Feeding occurs in large ponds and wetlands, small ponds and wetlands not surrounded by forest, and marine waters. Nesting occurs in tall dense stands of conifers in areas mostly isolated from humans. | • Within 1/4 mile of nesting colonies avoid construction and activities that may disturb nesting birds February through September.  
• Protect wetlands and nearshore feeding areas in conformance with the Unified Development Code.  
• Maintain a 200 foot buffer around nests in colonies (required). |
| Golden-crowned sparrow                    | Nesting occurs in dense shrub thickets with little or no forest canopy. The only suspected nesting is on small outer islands. | • Prevent disturbance of active nesting areas during the spring.     |
| Golden Eagle                              | Nesting usually occurs on cliffs, but may also occur in trees, on the ground, or on human made structures. | • Within 1,000 feet of nests, avoid construction and activities that may disturb nesting birds February 15 – July 15.  
• Protect trees used for perching and nesting |
<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat Description</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horned lark</td>
<td>Prairie/savanna and other flat areas with minimal vegetation.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Lazuli bunting</td>
<td>Edges of oak woodlands, shrubby areas in forested zones, agricultural hedgerows,</td>
<td>• Protect shrubs and small trees used for nesting.</td>
</tr>
<tr>
<td></td>
<td>and shrubby habitat in residential gardens.</td>
<td>• Protect food sources including seeds, berries and invertebrates.</td>
</tr>
<tr>
<td>Long-eared owl</td>
<td>Woodlands. No recent nesting records.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Marbled murrelet</td>
<td>Nest in dense, mossy, wet, old growth conifer forests at least 7 acres in size and</td>
<td>• Maintain forage fish populations and protect kelp and eelgrass beds</td>
</tr>
<tr>
<td></td>
<td>within 50 miles of marine waters. Nesting sites very difficult to identify. Nesting</td>
<td>in conformance with the Unified Development Code.</td>
</tr>
<tr>
<td></td>
<td>trees are at least 32 in. diameter and the nest itself is typically located in a</td>
<td>• Protect old growth coniferous forests more than 7 acres in size that</td>
</tr>
<tr>
<td></td>
<td>depression in the moss and lichen. Murrelets feed year round on small, schooling</td>
<td>have trees more than 32 dbh that are used by nesting birds (see Chapter</td>
</tr>
<tr>
<td></td>
<td>fish and other small sea creatures found in calm, shallow (&lt; 100 ft.), nearshore</td>
<td>222-16 WAC for guidance on determining the presence of nesting birds).</td>
</tr>
<tr>
<td></td>
<td>waters in the San Juans. Concentrations of birds are found on Lopez Island and the</td>
<td>(required)</td>
</tr>
<tr>
<td></td>
<td>area between Orcas and Blakely Islands. They are not currently known to nest in the</td>
<td>• If areas used for nesting are identified, County staff will work with</td>
</tr>
<tr>
<td></td>
<td>San Juans, but that could change as second growth forests mature.</td>
<td>the landowner and the Dept. of Fish and Wildlife to develop a site</td>
</tr>
<tr>
<td></td>
<td></td>
<td>specific protection plan. (required)</td>
</tr>
<tr>
<td>Merlin</td>
<td>Edges of conifer woodlands.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Northern goshawk</td>
<td>Mature forest on main islands.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td>Northern harrier</td>
<td>Infrequently mowed pastures, prairie, and herbaceous wetlands without trees.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• In areas used for nesting or feeding, establish wetland buffers based</td>
</tr>
<tr>
<td>Species</td>
<td>Habitat Description</td>
<td>Protection Measures</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Northern pygmy-owl</td>
<td>Mature conifer forest on main islands.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
</tbody>
</table>
| Peregrine falcon              | Year-round resident in SJ County (~21 nesting pairs). Nests on cliffs and ledges.    | • Within ¼ mile of nests, avoid construction and activities that may disturb nesting birds March 1 – June 30.  
• If possible locate structures at least 1,500 feet back from cliffs with nests.  
• Prevent pesticide and chemical contamination of prey. Chemicals of particular concern include: lead, mercury, organochlorides, organophosphates, carbofuran, and famphur.  
• Near nesting and feeding areas, do not use lead shot, avoid use of insecticide, and avoid use of pesticides that will be ingested by birds that are food sources (e.g. pigeons).  
• Follow County stormwater and buffer requirements.  
• Avoid construction of power lines near nests or feeding areas.  
• Maintain trees along shorelines in conformance with this section. |
<p>| Pigeon Guillemot              | This seabird nests in colonies in burrows on sandy and rocky cliffs.                 | • Prevent disturbance of active nesting areas during the spring.                     |
| Short-eared owl               | Infrequently mowed pastures, prairie, and herbaceous wetlands without trees.         | • Prevent disturbance of active nesting areas during the spring.                     |
|                               |                                                                                      | • In areas with nesting or feeding short eared owls, establish wetland buffers based on Water Quality Sensitivity Rating of “High” and a Habitat Importance Sensitivity Rating of “High” Category I Wetland Rating. Protect buffers in accordance with SJCC 18.30.150. (required) |
| Sooty grouse                  | Extensive conifer forest on main islands.                                            | • Prevent disturbance of active nesting areas during the spring.                     |
| Vesper sparrow                | Savanna, prairie, and fields with scattered shrubs.                                  | • Prevent disturbance of active nesting areas during the spring.                     |
| Western bluebird              | Oak woodland and fields with nest boxes or many standing dead trees.                 | • Prevent disturbance of active nesting areas during the spring.                     |
|                               |                                                                                      | • Avoid pesticide use in or near active nesting areas.                              |
|                               |                                                                                      | • Avoid removal of dead standing trees in or near active nesting areas.              |</p>
<table>
<thead>
<tr>
<th>Wildlife</th>
<th>Preferred Habitat/Description</th>
<th>Conservation Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western meadowlark</td>
<td>Savanna, prairie, and fields with scattered shrubs.</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Avoid pesticide use in or near active nesting areas.</td>
</tr>
<tr>
<td>Western screech owl</td>
<td>Open woodlands, especially along streams. Nests in holes in cliffs and tree cavities, particularly cottonwood and big leaf maple.</td>
<td>• Protect snags and trees used for nesting (required).</td>
</tr>
<tr>
<td>Wilson’s snipe</td>
<td>Herbaceous wetlands and wet fields with scattered shrubs</td>
<td>• Prevent disturbance of active nesting areas during the spring.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Avoid pesticide use in or near active nesting areas.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• In areas with nesting or feeding Wilson’s snipe, establish wetland buffers based on a Water Quality Sensitivity Rating of “High” and a Habitat Importance Sensitivity Rating of “High” Category I Wetland Rating. Protect buffers in accordance with SJCC 18.30.150. (required)</td>
</tr>
</tbody>
</table>

**Insects**

| Great arctic butterfly   | Only recorded US population located on Orcas Island. Dependent on forest openings and rocky balds. | In areas with great arctic butterflies:                                    |
|                          |                                                                                             | • Avoid the use of insecticides and herbicides.                                 |
|                          |                                                                                             | • Protect rocky balds.                                                        |
| Island Marble Butterfly  | Only remaining populations on San Juan (American Camp) and Lopez Islands. Dependent on Puget Sound Peppergrass and other native mustards and non-native mustards. | In areas with island marble butterflies:                                    |
|                          |                                                                                             | • Avoid the use of insecticides and herbicides.                                 |
|                          |                                                                                             | • Limit grazing and agricultural land disturbance.                             |
|                          |                                                                                             | • During land development protect areas with food sources including Puget Sound peppergrass and other native and non-native mustards. |
| Sand verbena moth        | Only recorded US populations on San Juan Island and in Clallam County. Dependent on native sandy coastal habitat and Sand Verbena (Abronia) for larval food plant. | In areas with sand verbena moths:                                         |
|                          |                                                                                             | • Avoid the use of insecticides and herbicides.                                 |
|                          |                                                                                             | • Limit grazing and agricultural land disturbance.                             |
|                          |                                                                                             | • During land development protect areas with food sources including Sand Verbena (Abronia). |
| Taylor’s Checkerspot butterfly | Extremely rare and declining throughout range. Associated with maritime prairies and shorelines along the Strait of Juan De Fuca, the post-glacial gravelly outwash and mounded prairies of the Puget Trough, and open island prairies with a dominance of original vegetation. Host plants include the native seaside plantain (Plantago maritima macrocarpa) and the nonnative English plantain (P. major lanceolata). Concentrations have been | In areas with Taylor’s checkerspot butterflies:                                    |
|                          |                                                                                             | • Avoid the use of insecticides and herbicides.                                 |
|                          |                                                                                             | • Limit grazing and agricultural land disturbance.                             |
|                          |                                                                                             | • During land development, protect areas with plantain.                       |
| **Valley silverspot butterfly** | Dependent on Western Blue Violet (*Viola adunca*). Declining populations in San Juan Islands. Extinct in many locations. | In areas with valley silverspot butterflies:  
- Avoid the use of insecticides and herbicides.  
- Limit grazing and agricultural land disturbance.  
- During land development, protect areas with western blue violet. |
|-------------------------------|-------------------------------------------------|---------------------------------------------------------------------|
| **Mammals**                   | **Areas with roosting concentrations of all bat species.** | In areas with roosting concentrations of bats:  
- Avoid pesticide use.  
- Avoid removal of large dead trees (e.g. those over 12" dbh). |
| **Townsend's big eared bat**  | Found where there are suitable roosting sites and fresh water. Sites used for roosting include caves, mines, snags, large trees, buildings and barns. Roosting during the winter is generally in caves, but may also occur in the cavities of large trees, and in buildings. Primary food source is moths, but they will consume other arthropods. | In areas with roosting or feeding Townsend's big eared bats:  
- Avoid pesticide use.  
- Avoid removal of large dead trees. |
| **Flying squirrel**           | Mature forests and woodlands with many dead standing trees. | Avoid removal of large dead trees in or near known areas. |
| **Other animal species listed under the Endangered Species Act or found to have a primary association with habitats in San Juan County after the effective date of this ordinance** | | Until this code is amended to include new species, appropriate protection recommendations will be developed in consultation with the Washington Department of Fish and Wildlife, US Fish and Wildlife Service and National Marine Fisheries Service. |

2. **Plants.** For designated plants, informational materials will be provided with development and project permits, including photos of the plants, actions that can be taken to preserve them, and descriptions of how to reestablish plants that are displaced or destroyed during development, vegetation removal or other site modification activities. In addition, for designated plants that are located in a wetland, wetland water quality buffers shall be established based on a Water Quality Sensitivity Rating of "Medium" and a Habitat Importance Sensitivity Rating of "High", determined from Table 3.10. Habitat buffer widths shall be determined from Table 3.4 using the Category I Wetland buffer width for the proposed type of land use intensity. These buffers must be protected in accordance with SJCC 18.30.150. Buffers are measured horizontally from the edge of the wetland. The director may reduce the standard buffer widths
in an Urban Growth Area when impacts to critical areas are mitigated according to SJCC 18.30.110(E) and the buffer reduction is consistent with all other applicable requirements of this section provided that the buffer of a Category I or II wetland shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater.

**Table 3.10**

*Wetland Water Quality Buffer Widths for Protecting Designated Plants*

<table>
<thead>
<tr>
<th>Land Use Intensity</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 feet</td>
<td>75</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

*See Table 3.3A for a list of land uses that are considered low, medium, or high land use intensity. Buffers shall be increased by 50 percent on slopes greater than 30 percent.*

3. **Habitats of Local Importance.** This subsection outlines additional protection requirements and recommendations for habitats of local importance. The requirements identified in this subsection supplement the more general requirements of this section and the San Juan County Code, including those requirements intended to protect the quantity and quality of ground and surface water, and to support the aquatic food chain.

To aid property owners in implementing effective protection measures, standardized habitat management plans based on the provisions of Table 3.4211 will be attached to permits and approvals. Approval of development and project permits will be contingent on compliance with these plans.

**Table 3.4211**

*Additional Protection Recommendations for Habitats of Local Importance*

<table>
<thead>
<tr>
<th>Species or Habitat</th>
<th>Habitat Description</th>
<th>Protection Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bluff Backed Beaches</td>
<td>Includes erosional depositional beaches at the base sediment bluffs, sediment-covered rock beaches, and seeps/small streams that enter beaches via a bluff rather than via a pronounced stream valley. Bluff backed beaches do not form lagoons (though they may be a sediment source to barrier beaches that do form lagoons).</td>
<td>Minimize and encourage removal of hard shoreline stabilization measures. Compliance with the San Juan County Code.</td>
</tr>
<tr>
<td>Garry oak (Quercus garryana) woodlands and savannas</td>
<td>Garry oak is a type of Oregon White Oak found in warmer, drier areas within the Puget Sound and southern British Columbia. They are associated with what is becoming an increasingly rare ecosystem that supports a variety of rare wildflowers, butterflies (such as the Duskywing (Erynnis propertius)) and other plants and animals. Garry oak ecosystems are highly varied and found in areas with rock outcrops, coastal bluffs, maritime meadows, and treeless grasslands as well as seasonal wetlands, and are sometimes found in mixed stands with other trees including arbutus and Douglas fir. Acorns from the oaks provide a key food for many birds, and other wildlife. Areas in the County that contain Garry oak include English Camp, Cady Mountain, San Juan Valley, the west side of San Juan Island, Point Disney, Turtleback Mountain, West Sound.</td>
<td>In conjunction with new development and vegetation removal, minimize disturbance of areas with Garry oak and associated native grasslands and wildflowers. Removal of Douglas fir and other conifers is encouraged and authorized in Tree Protection Zones to allow adequate sunlight for the oak, grasses and wildflowers. If disturbance cannot be avoided mitigate by...</td>
</tr>
<tr>
<td>Herbaceous Balds and Bluffs</td>
<td>Herbaceous Balds and Bluffs. These are native plant areas located on shallow soils over bedrock, often on steep, exposed slopes with few trees. They support grasses, herbaceous plants, dwarf shrubs, Brittle prickly pear cactus, mosses and lichens that are adapted for survival on shallow soils amid seasonally dry conditions. Trees that may be present include Douglas fir, Pacific madrone, and Garry oak. In San Juan County this habitat supports many plant species that are rare or that grow in few other land cover types. They are the preferred habitat of the Taylor’s Checkerspot butterfly, which is a listed species. Information on the plants associated with herbaceous balds and bluffs can be found at <a href="http://www1.dnr.wa.gov/nhp/refdesk/communities/pdf/balds_veg.pdf">http://www1.dnr.wa.gov/nhp/refdesk/communities/pdf/balds_veg.pdf</a>.</td>
<td>In conjunction with new development and vegetation removal, minimize disturbance of herbaceous balds and bluffs.</td>
</tr>
<tr>
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<td>---------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Pocket Beaches</td>
<td>Beaches that are contained between two bedrock headlands that essentially functions as a closed system in terms of littoral sediment transport. Pocket beaches do not typically occur within a drift cell and there is little or no exchange of sediment between a pocket beach and adjacent shores. They can be found waterward of a rocky bank or cliff, or they may form barriers, sometimes partially or completely isolating a back-barrier lagoon or wetland. Pocket beaches are typically swash aligned, or oriented perpendicular to the direction of predominant wave approach. They are relatively short in length, as compared to the length of a barrier beach. In plan view their shape is crescent shaped and they often have well-sorted sediment.</td>
<td>Minimize and encourage removal of hard shoreline stabilization measures. Compliance with the San Juan County code.</td>
</tr>
<tr>
<td>West Side Prairie</td>
<td>These are relatively undisturbed, uncultivated meadows and fallow fields that are mostly treeless, and ideally have a significant presence of native forbs (herbaceous flowering plants such as Camas) and grasses (e.g. Danthonia californica and Festuca rubra). West side prairies in San Juan County include parts of Mt. Constitution and Turtleback Mountain on Orcas Island, the west side of San Juan Island, Iceberg Point on Lopez Island, and Yellow Island.</td>
<td>In conjunction with new development and vegetation removal, minimize disturbance of native grasslands and Camas prairies. If disturbance cannot be avoided mitigate by replanting suitable areas with native grasses and wildflowers.</td>
</tr>
</tbody>
</table>

G. Nomination of Species or Habitats of Local Importance.

San Juan County has the option of protecting species and habitats of local importance. If not included in the adoption of this Critical Areas Ordinance, these species or habitats may be added by nominating the species or habitat and amending the ordinance through the following process:

1. A petition to nominate a habitat or a species to this category shall contain the following:
   a. Documentation demonstrating that local populations of native species are sensitive to habitat manipulation, declining, or are in danger of extirpation based on existing trends;
b. An explanation of whether specific habitat features are being nominated for protection (for example, nest sites, breeding areas, or nurseries), or whether a habitat or ecosystem is being nominated in its entirety;

c. A map showing known locations of nominated species or habitats.

d. Proposed management and protection strategies for the species or habitats, supported by the Best Available Science.

2. The Director shall determine whether the nomination proposal is complete, and if complete, shall request that State and Federal agencies and local conservation organizations review the proposal and provide comments and recommendations. These comments, the application, the recommendation of the Director, and a draft code amendment incorporating the species and/or habitat shall be forwarded the Planning Commission for a public hearing.

3. Following the recommendation of the Planning Commission, the County Council shall hold a public hearing and make a decision on the request and associated code amendment, and if approved shall add the species and/or habitat to subsection 18.30.160.B.

4. Removal of Species or Habitats of Local Importance. Species and habitats may be removed by amending subsection 18.30.160.B in accordance with applicable requirements, including a public hearing before the Planning Commission and County Council.

SECTION 11. Severability: If any provision of this ordinance or its application to any person is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected. Remaining sections of the ordinance shall be interpreted to give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

SECTION 12. Savings Clause: This ordinance shall not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and effect.

SECTION 13. Effective Date: This ordinance shall take effect on March 31, 2014.

SECTION 14. Codification: Sections 1 through 8 shall be codified.

ADOPTED this 5th day of March 2014.

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Rick Hughes, Chair
District 2

Opposed

Bob Jarman, Vice Chair
District 1

Ingrid Gabriel, Clerk
Date: 3.5.2014

Jamie Stephens, Member
District 3
REVIEWED BY COUNTY MANAGER

Mike Thomas
Date: 3/15/14

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: [Signature]
Date: 3/6/2014