



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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POLICIES/PROCEDURES/INTERPRETATIONS

Shoreline permit revisions for docks, piers, floats and ramps

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Issued 03/14/2018
LUP-2018-01_Dock_Rev

ISSUE: When does a change to an existing permitted boating facility, dock, pier, float, or ramp require a new shoreline permit application instead of a permit revision?

POLICY/INTERPRETATION: A change to a permitted boating facility, dock, pier, float or ramp may be administratively reviewed as a shoreline permit revision if the proposed change is found to be within the scope and intent of the original permit as defined in SJCC 18.80.110(K)(1) and WAC 173-27-100 Revisions to permits, subsection 2. DCD staff should use the following procedure to evaluate whether a new shoreline permit is required:

1. When an existing boating facility, dock, pier, float, or ramp permit is proposed to be revised, a new permit application is not required if the proposed revision is found to be within the scope and intent of the original permit (i.e. it meets the specific criteria in SJCC 18.80.110(K)(1) and WAC 173-27-100 Revisions to permits, subsection 2).
2. If it meets those criteria, administrative approval is allowed per SJCC 18.80.110(K)(2). SJCC 18.50.320(A) is consistent with this allowance.
3. If a proposed revision does not meet any one of the criteria in SJCC 18.80.110(K)(1) meaning it is outside the scope and intent, the revision may not be determined administratively per SJCC 18.80.110(K)(3).
4. Under SJCC 18.50.320(B), proposals involving the replacement, repair and expansion of boating facilities, private and joint use docks, piers, floats and ramps that exceed the thresholds for substantive change in WAC 173-27-100 (the same criteria in criteria in SJCC 18.80.110(K)(1)) must be reviewed and permitted as new structures. Under SJCC 18.80.110(K)(3), these new applications must be considered by the hearing examiner.

APPLICABLE CODE SECTIONS:

San Juan County Code Excerpts

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

K. Procedures for Revisions to Shoreline Permits.

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

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

- a. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by 500 square feet or 10 percent more than the provisions of the original permit, whichever is less;
 - b. The building footprint and height are not increased by more than 10 percent from the provisions of the original permit;
 - c. The permit revision does not exceed height, lot coverage, setback, or any other requirements of the SMP (unless a variance to specific development standards was approved as part of the original permit);
 - d. Additional or revised landscaping complies with any conditions attached to the original permit and with the applicable regulations;
 - e. The use authorized in the original permit is not changed; and
 - f. No increase in adverse impacts to shoreline ecological functions will be caused by the project revision.
2. If the revisions meet the above criteria for administrative approval, a notice of application will be published per SJCC 18.80.030.
 3. If the proposed revision cannot meet any one of the criteria in subsection (K)(1) of this section, a public hearing with the hearing examiner will be scheduled and advertised according to the public notice provisions of SJCC 18.80.030.

- a. If the hearing examiner determines that the proposed changes are within the scope and intent of the original permit, as defined by WAC 173-27-100(2), the revision will be granted.
- b. A permit revision approved by the hearing examiner will become effective immediately unless the original permit involves a conditional use or a variance. Following the hearing examiner's action, the locally approved revision will be submitted to the WDOE. In addition, the director shall submit a copy of the examiner's decision to all parties of record to the original permit action.

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

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

18.50.320 Replacement, repair, and expansion of boating facilities, docks, piers, floats and ramps.

- A. The director **may approve a design different than the one for a boating facility, dock, pier, float, or ramp that is being replaced** without a shoreline variance if the following criteria are met:
 - 1. Any adverse impacts on shoreline ecological functions are mitigated; and
 - 2. The new structure does not exceed the thresholds for substantive change set forth in WAC 173-27-100.
- B. Proposals involving the replacement, repair and expansion of boating facilities, private and joint use docks, piers, floats and ramps **that exceed the thresholds for substantive change in WAC 173-27-100** will be reviewed and permitted as new structures. They must comply with the following criteria:
 - 1. The enlargement is necessary due to safety concerns, inadequate depth of water, increased or changed use or demand;
 - 2. Applicable design and mitigation standards; and
 - 3. The proposal results in no net loss of shoreline ecological functions.
- C. Replacement of more than 33 percent or 250 square feet of decking or the replacement of decking substructure requires installation of functional grating in the replaced section only.
- D. The boating facility, docks, pier, float or ramp must have been usable at the site within the past 12 months prior to the time of application to be considered a replacement

structure. Usable means no major deterioration or section loss in critical structural components is present. (Ord. 1-2016 § 37)

WAC 173-27-100 Revisions to permits.

A permit revision is required **whenever the applicant proposes substantive changes** to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.

(2) "Within the scope and intent of the original permit" means all of the following:

(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

(b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

(c) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;

(d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

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

(f) No adverse environmental impact will be caused by the project revision.

(3) Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. **If the proposed change constitutes substantial development then a new permit is required.** Provided,

this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

- (4) If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (2) of this section, local government shall require that the applicant apply for a new permit.
- (5) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the department. In addition, local government shall notify parties of record of their action.
- (6) If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to the department for the department's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.
- (7) The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection (6) of this section, upon final action by the department.
- (8) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of receipt of the local government's action by the department or, when appropriate under subsection (6) of this section, the date the department's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

[Statutory Authority: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW. WSR 07-02-086 (Order 05-12), § 173-27-100, filed 1/2/07, effective 2/2/07. Statutory Authority: RCW 90.58.140(3) and [90.58].200. WSR 96-20-075 (Order 95-17), § 173-27-100, filed 9/30/96, effective 10/31/96.]