



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

**REPORT DATE:** January 2, 2019  
**TO:** San Juan County Planning Commission  
**FROM:** Linda Kuller, AICP, Planning Manager *LK*  
**BRIEFINGS:** Planning Commission: January 17, 2020  
County Council: TBD *January 28, 2020*  
**SUBJECT:** Periodic Review of the Shoreline Master Program (SMP)  
**ATTACHMENTS:** A. Draft Ordinance  
B. Updated SJC Compliance Checklist

**Purpose:** To brief you on a draft ordinance to amend the shoreline regulations in San Juan County Code (SJCC) that implement the SJC Shoreline Master Program (SMP). Proposed amendments are highlighted in yellow to make them easy to see. The amendments are necessary to comply with the Washington Shoreline Management Act’s updated state laws, rules and guidance, and to address changing local circumstances or new information. The ordinance is titled:

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

**Background:** A periodic review of the SMP is required by RCW 90.58.080. This review is distinct from the 2018 comprehensive update of the SMP. The periodic review focuses on ensuring consistency with new Shoreline Management Act laws, rules and guidance adopted since the SMP comprehensive update.

No needed changes were identified in the San Juan County Comprehensive Plan (*Plan*), Section B, Element 3 Shoreline Master Program. Only amendments to code are proposed.

**Additional Background Material:** Copies of related state RCWs and WACs and the Department of Community Development’s (DCD) policy, PP-2019-02 related to “other” residential appurtenances are attached to previous staff reports along with additional background information. These reports are posted to the project webpage: <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>.

**Ecology Checklist Updated:** The Washington State Department of Ecology (Ecology) provides a periodic review checklist for counties to use in the update process. It summarizes amendments to state law, rules and updated guidance adopted between 2007 and 2019 that might trigger the need for local SMP amendments. The preliminary draft checklist provided in earlier briefings has been updated in Attachment B.

The updated checklist now identifies four areas of local concern not listed on the County’s preliminary review of the Ecology checklist. Background on these four issues identified by County Council is provided below.

## 1. Ordinance Section 1 Normal Residential Appurtenances.

The SJC Department of Community Development's (DCD) Policy PP 2019-02\_SMP\_Res\_Appurt related to normal residential appurtenances is codified in Ordinance Sections 1 and 8. This policy is used by DCD to address ongoing implementation issues related to miscellaneous detached residential structures such as dog houses and temporary fire pits. Many common miscellaneous structures are not included in the definition of normal residential appurtenance in SJCC 18.20.140 or the WACs/RCWs which do include "other detached residential structures."

Codifying the DCD policy on other appurtenance structures will be helpful to the public because the requirements would be found with other requirements for residential development. Consistent code interpretation and repetitive customer questions about if and where these uses are allowed will be reduced.

This section would amend SJCC 18.20.140 "N" Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance by making the following changes in a portion of the definition:

*"Structures and activities considered normal residential appurtenances include accessory dwelling units or other detached residential structures approved by the director, garages, sheds, decks attached to primary structures, private pedestrian pathways, stairways to access shorelines including those constructed prior to the construction of a residence on lots intended for single-family development, ramps, patios paved areas or areas assembled with solid materials such as an assembly of pavers attached to a home,  
Plan Section B, Element 3 Shoreline Master Program."*

The term "patio" is replaced with additional language and the construction sequence of residential stairways to the beach are clarified because of implementation questions.

### Consistency with the SMP

This proposal does not conflict with the SJC Comprehensive Plan Section B, Element 3, Shoreline Master Program goal and policies in Section 3.4.N:

### **3.4.N Residential Development**

#### Introduction:

All residential development on the shoreline is subject to the Shoreline Management Act and the local SMP. The policies in this section apply to use and development of structures for residential. Certain single-family residences and normal appurtenances to them are exempt from shoreline permit requirements but must comply with local policies and regulations of the SMP.

#### Goal:

To ensure that single family residences and other more intensive forms of residential shoreline use are designed, located and constructed to conserve natural shoreline features and to minimize adverse impacts on shoreline ecological functions.

#### Policies:

1. Except as expressly provided in Policy 9 below, residential development is not a water-dependent use and should be prohibited over water or within wetlands associated with shorelines.
2. All residential and accessory structures should be located in a manner to blend into their surroundings. This should be accomplished by:
  - a. Optimizing use of natural screening provided by the topography and by existing natural vegetation between structures and the shoreline; and/or
  - b. Enhancing limited natural screening through a combination of setbacks, landscaping, minimizing apparent building height and mass, and use of exterior materials which blend with the existing vegetation and topographic features of the site.
3. Residential development should be:
  - a. Constructed to avoid the adverse impacts of geologically hazardous and frequently flooded areas;
  - b. Constructed to avoid adversely effecting wetlands, fish and wildlife habitat conservation areas and critical salt and freshwater habitat areas.

Residential development should not be allowed if it would require bulkheading or other shoreline fortification, at the time of construction or within seventy-five (75) years, in order to protect the development. Residential development should not be allowed on eroding, slumping or geologically unstable shorelines unless it can be set back from such shorelines so that hazardous conditions will not be created, erosion or slope instability will not be aggravated, and natural shoreline processes will not be impeded.

4. All residential developments, including land divisions, should include building setbacks, buffers or both, from the shoreline to preserve the natural character of the shoreline.
5. All residential development should be set back from the OHWM to protect bank stability and vegetation at the bank edge.
6. Open space between structures and the water should be provided to protect natural features and preserve views within the development.
7. Recognize the importance of solar energy and other renewable resources and support efforts to provide or facilitate solar orientation for building sites in new land divisions and non-exempt developments.
8. Water systems supplying groundwater to support new residential shoreline development should be adequate to protect against intrusion of saltwater into groundwater. Where feasible, use of surface water supplies should be used.
9. Allow live-aboard vessels only within marinas in activity centers and only within areas of such marinas specifically approved for live-aboard moorage. Such approval should specify that not more than twenty five percent (25%) of overall moorage space will be available for live-aboard vessels and limit individual live-aboard vessel moorages to identified areas within the marina. Such approval should also identify live-aboard unit height and square footage limitations appropriate to the site in order to minimize adverse impacts on the scenic quality of the shoreline.
  - a. Live-aboard vessel moorage proposals should demonstrate that:

- j. Such moorages will have access to an approved sanitary sewer or other approved waste disposal system;
    - ii. Greywater will be discharged to the waste disposal system;
    - iii. Adequate capacity exists from approved potable water supply and waste disposal systems, and;
    - iv. Materials used in the construction and maintenance of live–aboard vessels moored at the marina will not result in contaminants or debris entering the water.
  - b. Live-aboard vessel moorages should be located in areas with at least six (6) feet of water depth between the floats and low water to preserve shallow habitat and prevent grounding at extreme tides.
  - c. Individual live-aboard vessel moorages should be prohibited.
- 10. Consider opportunities for visual public access to the shoreline in review of multi-family residential developments.
- 11. Preference should be given in shoreline land divisions or multiple-unit or multi-family residential developments to the joint use of a single moorage facility by the owners of the lots or units, or by the homeowners association for that land division or development, rather than construction of individual moorage facilities.

**Ordinance Section 8: Normal Residential Appurtenances.**

Section 8 includes proposed amendments to SJCC 18.50.540 Residential development and Ordinance 11-2017 § 24 that establish performance standards for certain non-water-dependent normal residential appurtenances addressed in Policy PP 2019-02\_SMP\_Res\_Appurt.

SJCC 18.50.540(D) protects views to and from the water as well as critical area functions and values by limiting the number and type of residential appurtenances located seaward of the residence. With height limitations, certain non-water-dependent normal residential appurtenances would be allowed waterward of a residence but outside of the required aesthetic buffers and critical area buffers. By following aesthetic setbacks and environmental restrictions, allowances for these detached residential structures will not conflict with the County’s residential goal and policies.

**Consistency with the SMP**

**3.4.N Residential Development**

Introduction:

All residential development on the shoreline is subject to the Shoreline Management Act and the local SMP. The policies in this section apply to use and development of structures for residential. Certain single-family residences and normal appurtenances to them are exempt from shoreline permit requirements but must comply with local policies and regulations of the SMP.

Goal:

To ensure that single family residences and other more intensive forms of residential shoreline use are designed, located and constructed to conserve natural shoreline features and to minimize adverse impacts on shoreline ecological functions.

Policies:

1. Except as expressly provided in Policy 9 below, residential development is not a water-dependent use and should be prohibited over water or within wetlands associated with shorelines.
2. All residential and accessory structures should be located in a manner to blend into their surroundings. This should be accomplished by:
  - a. Optimizing use of natural screening provided by the topography and by existing natural vegetation between structures and the shoreline; and/or
  - b. Enhancing limited natural screening through a combination of setbacks, landscaping, minimizing apparent building height and mass, and use of exterior materials which blend with the existing vegetation and topographic features of the site.
3. Residential development should be:
  - a. Constructed to avoid the adverse impacts of geologically hazardous and frequently flooded areas;
  - b. Constructed to avoid adversely effecting wetlands, fish and wildlife habitat conservation areas and critical salt and freshwater habitat areas.

Residential development should not be allowed if it would require bulkheading or other shoreline fortification, at the time of construction or within seventy-five (75) years, in order to protect the development. Residential development should not be allowed on eroding, slumping or geologically unstable shorelines unless it can be set back from such shorelines so that hazardous conditions will not be created, erosion or slope instability will not be aggravated, and natural shoreline processes will not be impeded.

4. All residential developments, including land divisions, should include building setbacks, buffers or both, from the shoreline to preserve the natural character of the shoreline.
5. All residential development should be set back from the OHWM to protect bank stability and vegetation at the bank edge.
6. Open space between structures and the water should be provided to protect natural features and preserve views within the development.
7. Recognize the importance of solar energy and other renewable resources and support efforts to provide or facilitate solar orientation for building sites in new land divisions and non-exempt developments.
8. Water systems supplying groundwater to support new residential shoreline development should be adequate to protect against intrusion of saltwater into groundwater. Where feasible, use of surface water supplies should be used.
9. Allow live-aboard vessels only within marinas in activity centers and only within areas of such marinas specifically approved for live-aboard moorage. Such approval should specify that not more than twenty five percent (25%) of overall moorage space will be available for live-aboard vessels and limit individual live-aboard vessel moorages to identified areas within the marina. Such approval should also identify live-aboard unit height and square footage limitations

appropriate to the site in order to minimize adverse impacts on the scenic quality of the shoreline.

- a. Live-aboard vessel moorage proposals should demonstrate that:
    - i. Such moorages will have access to an approved sanitary sewer or other approved waste disposal system;
    - ii. Greywater will be discharged to the waste disposal system;
    - iii. Adequate capacity exists from approved potable water supply and waste disposal systems, and;
    - iv. Materials used in the construction and maintenance of live-aboard vessels moored at the marina will not result in contaminants or debris entering the water.
  - b. Live-aboard vessel moorages should be located in areas with at least six (6) feet of water depth between the floats and low water to preserve shallow habitat and prevent grounding at extreme tides.
  - c. Individual live-aboard vessel moorages should be prohibited.
10. Consider opportunities for visual public access to the shoreline in review of multi-family residential developments.
  11. Preference should be given in shoreline land divisions or multiple-unit or multi-family residential developments to the joint use of a single moorage facility by the owners of the lots or units, or by the homeowners association for that land division or development, rather than construction of individual moorage facilities.

#### **Ordinance Section 9. Existing barge landing sites.**

County Council requested that permit requirements for existing nonconforming temporary barge landing sites be better addressed in code. The proposed amendments to SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 § 25 clarify that existing nonconforming temporary barge landing sites will not require a certificate of exemption. This proposal does not conflict with the SJC Comprehensive Plan Section B, Element 3, Shoreline Master Program goal and policies in Section 3.4.O:

#### **Consistency with the SMP**

#### **3.4.O Transportation and Parking**

##### **Introduction:**

Transportation facilities include facilities such as roads, and road ends, trails, airports, barge landing and log transfer sites, docks, boat ramps, float plane facilities, ferries and related terminals, commercially operated transportation facilities, and parking areas. Generally such facilities account for a very small percentage of total shoreline uses, but are vital to the economic and social health of the County. The impact of new or expanded transportation facilities range from the minimal to the substantial. New transportation facilities within the shoreline must be planned for with considerable thought being given to their relationship to other shoreline uses and their various primary and secondary impacts. These facilities must also meet the requirements of the Transportation Element of the San Juan County Comprehensive Plan.

##### **Goals:**

1. To ensure that transportation facilities in the shoreline are located, constructed and operated to minimize the impacts on shoreline ecological functions.
2. To enhance visual access to the shoreline such as road ends.
3. To enable an efficient and effective means of transporting people and materials.
4. To provide opportunities to improve and enhance existing transportation facilities.

Policies:

1. Prohibit the location of transportation facilities in shoreline areas if they could feasibly and practically be located elsewhere.
2. Improve, retain, and keep open old roads, road ends, rights-of-way, and other facilities in public ownership which afford scenic views or access to the water.
3. Plan, locate and install transportation and utilities facilities in existing rights-of-way or where the effect will be to minimize the adverse impacts on the shorelines and water-dependent uses.
4. Confine inter-island transportation to air and waterborne craft. Prohibit bridges between islands.
5. Prohibit deep water ports for the handling or processing of oil.
6. Consider adverse impacts to shoreline ecological functions in building, improving, or maintaining roads.
7. Re-landscape or replant land with native species if it has been scarred or it is necessary to remove natural cover due to road construction or improvements.
8. Require, to the extent feasible, that all new roads proposed near the shoreline are set back at least two hundred (200) feet from the OHWM.
9. Locate airports and air transportation facilities to minimize adverse impacts on shoreline and upland areas.
10. For each inhabited island, one (1) designated barge landing site and one (1) designated log dump is preferred over the development of multiple sites.
11. Locate and conduct the use of log transfer and barge landing sites and associated operations in a manner that will minimize adverse impacts on existing water quality, fish habitats and the shoreline environment in general.
12. The use of an unimproved shoreline area or development to create a usable log transfer or barge landing site should be subject to a conditional use permit.
13. To the extent feasible barge landing sites should be located where a single location can serve multiple users. Land access to such sites should be provided for community use in order to prevent unnecessary damage to shoreline resources caused by shoreline modifications required for the creation of multiple sites.

14. Continue to develop plans for transportation facilities that address forms of transportation that are not single occupant automobiles.

#### **Ordinance Section 10. Institutional Uses.**

Council discussed local issues with several post office locations that have water-enjoyment components. Some have been made nonconforming under current regulations. There were also concerns that code gaps in the institutional category might affect future institutional development.

Amendments to the institutional category in the land use table needs adjustment. The WACs do not specifically address this category. Most jurisdictions relate this category of uses with the commercial use WACs. After a review of the WACs, RCWs and SJC SMP, it makes sense to make the institutional use categories the same as the commercial categories.

Institutional developments provide community support and help them thrive. Institutional developments are often designed and constructed for the public including multipurpose uses that might include a water-enjoyment component when located in the shoreline jurisdiction. These amendments include:

- The addition of water-related uses and water-enjoyment uses under the Institutional category, and
- Changes to the permit requirements in the water dependent and non-water oriented use categories for consistency with the commercial use land use allowances.

For reference, related definitions from the SJCC are provided below.

#### **18.20.230 "W" definitions.**

"Water-dependent use (or activity)" means any reasonable use which requires a shoreline or over-the-water location because of its intrinsic nature. Such uses would include but not be limited to aquaculture, docks, marinas, boat-fueling stations, and marine research installations.

"Water-enjoyment use" means a recreational or other use facilitating public access to the shoreline as a primary characteristic of the use; a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which through location, design, and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline space of the project must be devoted to provisions that accommodate public shoreline enjoyment. Examples may include parks, piers, museums, educational or scientific reserves, resorts, and mixed use projects.

"Water-oriented use" refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all encompassing definition for priority uses under the Shoreline Management Act. Non-water-oriented are those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Non-water-oriented examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, parking lots, and gas stations.

“Water-related use” means a use or a portion of a use ancillary to the primary use which is not intrinsically dependent on a waterfront location, but whose operation cannot occur economically without a waterfront location. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, and log storage, and including the administrative activities associated with such uses.

The changes will not affect any pending land use decisions. By expanding the types of uses in the institutional category, future issues siting institutional uses may be avoided if they are water-related or water-enjoyment uses.

### Consistency with the SMP

Making the listed uses the same for institutional and commercial categories is consistent with the SJC Comprehensive Plan Section B, Element 3, Shoreline Master Program goal and policies in 3.4.h Institutional Development.

### **3.4.H Institutional Development**

#### Introduction:

Institutions are establishments or foundations of public character which may be publicly or privately operated and are typically instructional or vocational in nature. Examples of institutions include schools, colleges, places of religious assembly, training facilities, and research and scientific facilities such as marine laboratories.

#### Goal:

To ensure that new institutional development does not adversely affect shoreline ecological functions or adjacent land uses.

#### Policies:

1. Institutional development on the shorelines should consist of uses which are water-oriented and/or uses which will provide an opportunity for substantial numbers of people to enjoy the shorelines. Institutional uses in shoreline areas should be encouraged in descending order of preference as follows:
  - a. Water-dependent uses;
  - b. Water-related uses; and
  - c. Water-enjoyment uses.
2. Prohibit non-water-oriented institutional uses. A non-water-oriented use may become a water-enjoyment use by providing meaningful physical or visual public access to the shoreline. Physical access is preferred.
3. Preference should be given to locating new institutional development on those parts of the shoreline where institutional development already occurs.
4. The height and bulk of any proposed institutional structures should be designed, to the extent practical, to accommodate the proposed use and to minimize the obstruction of views from the surrounding area, and consideration should be given to compatibility with the scale and use intensity of surrounding developments.

SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27 are also amended to make institutional use listings the same as those for commercial uses and to include a new footnote on public pedestrian trails indicating that the director shall be the local decision-maker of permit applications consistent with a change in Ordinance section 11.

#### **4. Ordinance Section 11. Permitting timeline for public pedestrian trails.**

Because of the great demand for the construction of public pedestrian trails in San Juan County, amendments to SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 § 2 are proposed. These public pedestrian trails are most often constructed in existing right-of-way.

A new subsection (H)(3) authorizes the DCD director, not the hearing examiner, to be the local decision-maker on applications for public pedestrian trails. This change in administrative processing will be more efficient, save time and expenses, and help with construction season planning. Approximately two months of permit processing time may be saved by this change. All regulations and policies apply.

#### **Consistency with the SMP**

This proposal does not conflict with any goal or policy in the *Plan* Section B, Element 3, Shoreline Master Program.

### **3.2.K Administration**

#### **Goal:**

To establish administrative procedures which will assure the continuing compatibility of the SMP with the physical, social, and economic realities of the County and to ensure the fair and impartial administration of this Master Program.

#### **Policies:**

1. Property tax assessment and other pertinent policies and regulations should, to the extent legally possible, fully reflect any impairment or enhancement of property values which results from the implementation of these goals and policies.
2. Seek advice and assistance from recognized experts at federal, state, or local levels whenever technically complex issues are involved in substantial shoreline development applications.

#### **Summary of Changes by Draft Ordinance Section:**

**Section 1.** Amends SJCC 18.20.140 “N” Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance. Proposed changes include deletion of the term “patio” and replacing it with alternative language, clarifying the allowance for the sequence of construction on stairways to beaches on residential property, and allowing “other” normal residential appurtenances to be approved by the DCD director.

**Section 2.** Amends SJCC 18.20.190 “S” definitions and Ordinance 21-2018 § 1 to update the definition of shoreline development to include “It does not include dismantling or removing structures if there is no other associated development or redevelopment (RCW 90.58.030; WAC 173-27-030).”

**Section 3.** Amends SJCC 18.50.020 General and Ordinance 21-2018 § 2 to allow the director of the Department of Community Development instead of the hearing examiner to make decisions on shoreline substantial development permit applications for public pedestrian trails.

**Section 4.** Amends SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 to delete subsection (2) (C) and replace it with the WAC language:

“Those nonfederal lands lying within the exterior boundaries of federal lands and those federal lands leased to other persons, which fall within the definition of shorelands, shall be subject to the jurisdiction of Chapter 90.58 RCW. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.”

In addition, a new subsection E is proposed to be added to identify the following permitting exemptions:

E. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following (*note: these are summarized, please see ordinance for full language*):

1. Remedial actions pursuant to RCW 90.58.355 and Chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements pursuant to RCW 90.58.355
3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.
4. Projects consistent environmental excellence program agreements pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to Chapter 80.50 RCW.

**Section 5.** Amends SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 § 5 in SJCC Subsection (D)(8)(b). Makes housekeeping edits to reference proposer code sections. Updates the specific cost threshold for dock exemptions to match the current allowed exemption threshold.

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

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

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

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

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

**Section 7.** Amends SJCC 18.50.450 Forest Practices and Ordinance 11-2017 § 20 in subsection 2 to clarify that cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is “not considered a development under the SMA and does not require a shoreline exemption or substantial development permit and is” allowed.

**Section 8.** Amends SJCC 18.50.540 Residential development and Ordinance 11-2017 § 24 in SJCC 18.50.540(D) by:

- Amending subsection 3 to indicate that normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 or in subsection 4 below are allowed with a conditional use permit.
- Adding new subsections 4, 5, 6 and 7 to codify the performance standards established in SJC DCD Policy PP 2019-02\_SMP\_Res\_Appurt for certain non-water-dependent normal residential appurtenances. The proposal is to allow them seaward of the residence if they are established outside of aesthetic setback and critical area buffers. The lot width requirement in SJCC 18.50.540(A)(2) is not required for the appurtenances in subsection 2 unless they are taller than thirty inches. A new subsection 8 establishes standards for fencing.

Subsection 6 provides standards for at-grade paving and decks less than thirty inches tall and also codifies the policy referenced above. These would not need to meet the shoreline aesthetic buffer in SJCC 18.50.540(C)(3). If they are less than thirty inches tall, they must meet the no net loss standard in SJCC 18.50.120. Above-grade paving and decks attached to the house that are taller than 30 inches in height are subject to the same regulations as the home. Plug in hot tubs could be located on paving or decks attached to a home that meet these requirements.

Subsection 7 establishes temporary uses that do not require a shoreline exemption or permit provided they do not result in removal of trees or vegetation within critical area buffers or the shoreline aesthetic setback including temporary fire rings or bowls; dog house (three foot by three foot); and moveable, non-fixed furniture such as picnic tables and benches.

Subsection 8 codifies DCD interpretations about fences including deer fencing impact habitat corridors and views which must:

- a. Be located landward of the residence and meet the shoreline aesthetic setback required in SJCC 18.50.540(C)(3), and
- b. Meet the critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 and meet the no net loss standard in SJCC 18.50.120. A no net loss report is not required.

critical area requirements for these structures listed in 6 above because avoidance, the first step in the mitigation sequence analysis required by SJCC 18.50.120(B) and 18.50.140, cannot be met.

**Section 9.** Amends SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 § 25 in item H to clarify the permitting requirements for existing nonconforming temporary barge landings as follows:

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

**Section 10.** Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27 to make institutional uses the same as those in the commercial category. A new footnote number 7 is added to public pedestrian trails to provide notice that the DCD director is the local decision-maker for public pedestrian trails permit applications.

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

A new subsection (H)(3) authorizes the DCD director to be the decision-maker on applications for public pedestrian trails is also proposed.

A code reference is corrected in (I)(3).

**Section 12.** Amends SJCC 15.12.030 and Ordinance 13-2018 § 4 to include the one of the legislature's options for defining "floodway" as the floodway criteria set in the SMA.

**Sections 13 and 14:** Provides the effective date and codification instructions.

**Sixty-day notice to the WA Department of Commerce (Commerce):** Notice of the intent to adopt new development regulations will be sent to Commerce on January 15, 2020.

**State Environmental Policy Act (SEPA) Environmental Checklist and Determination:** An environmental checklist was prepared for this SEPA nonproject action. DCD intends to issue a SEPA Determination of Nonsignificance on January 15, 2020 and transmit it to interested parties and state agencies for review.

**Approval as to Form:** The Prosecuting Attorney is reviewing the ordinance for approval as to form.

**Public Participation Plan and Tentative Schedule (PPP):** A public participation plan reviewed by Ecology is posted on the project website. It outlines the intended project schedule including a process for joint County-State review of the necessary amendments. This joint review process will be efficient, saving review and adoption processing time. The primary legislative benchmarks are:

- February 2020: Planning Commission public hearing;

- April 2020: Joint Council and Ecology public hearing; and
- May/June 2020: County and Ecology final actions.

**Project Comments:** Project comments may be submitted to [SMPComments@sanjunaco.com](mailto:SMPComments@sanjunaco.com).

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

ORDINANCE NO. \_\_\_\_\_ - 2020

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

BACKGROUND

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

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

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

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

14  
15 **J.** Planning Commission held a duly advertised public hearing on XXXXXXXX, deliberated  
16 and recommended that the County Council should **XXX the** ordinance.

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

19  
20 **L.** County Council was briefed on the Planning Commission's recommendation on January  
21 **XX, 2020**.

22  
23 **M.** County Council and Ecology held a duly advertised joint public hearing on  
24 **XXXXXXXXXX, 2020**.

25  
26 **N.** The County transmitted the XXXX ordinance to Ecology for review on XXXXX

27  
28 **O.** Ecology  
29 **XX.**

30  
31 **P.** The County Council XXXXX.

32  
33 **Q.** The County Council deliberated on the ordinance and made the following findings:

34  
35 1. The proposed ordinance is consistent with the provisions of RCW 90.58.080 and  
36 WAC 173-26-090(2)(d)(i)(A) and (B).

37  
38 2. The proposed ordinance is consistent with the provisions of XXXXXXXXXXXX

39  
40 3. XXXXXX

1 WHEREAS, the County conducted a duly advertised public hearing and has received  
2 public testimony.

3  
4 NOW, THEREFORE, BE IT ORDAINED by the County Council of San Juan County,  
5 State of Washington, as follows:

6  
7 Section 1. SJCC 18.20.140 and Ordinance 1-2016 § 74 are each amended to read  
8 as follows:

9 **18.20.140 “N” Definitions.**

10  
11 “National Register of Historic Places” means the official federal list, established by the National  
12 Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the  
13 nation’s history and prehistory, or whose artistic or architectural value is unique.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “Normal residential appurtenance, shoreline” means a structure or development that is  
13 necessarily connected to the use and enjoyment of a single-family residence and which is  
14 expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption  
15 from shoreline substantial development permit requirements in accordance with WAC 173-27-  
16 040(g). Structures and activities considered normal residential appurtenances include accessory  
17 dwelling units or other detached residential structures **approved by the director**, garages, sheds,  
18 decks attached to primary structures, private pedestrian pathways, stairways to access shorelines  
19 **including those constructed prior to the construction of a residence on lots intended for single-**  
20 **family development, ramps, patios paved areas or areas assembled with solid materials such as**  
21 **an assembly of pavers attached to a home**, fences, driveways, utilities, on-site sewage disposal  
22 systems, antennas, solar arrays, wind power generators serving a single structure, satellite dishes,  
23 boat houses landward of the primary residential structure served by marine railways that require  
24 a substantial development permit, official registered historic structures, and grading which does  
25 not exceed 250 cubic yards and which does not involve placement of fill in any wetland or  
26 waterward of the OHWM.

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

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

1           **Section 2.     SJCC 18.20.190 and Ordinance 21-2018 § 1 are each amended to read**  
2 **as follows:**

3  
4 **18.20.190 “S” definitions.**

5  
6 “Sale” means the transfer for consideration of legal or beneficial ownership.

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

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

10 “Seaward” means to or toward the sea.

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

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

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

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

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

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

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

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

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

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

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

7 “Shorelands” means lands extending landward for 200 feet in all directions as measured on a  
8 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas  
9 landward 200 feet from such floodways; and all wetlands and river deltas associated with the  
10 streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW, the  
11 same to be designated as to location by the Department of Ecology.

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

- 15 1. Signposts;
- 16 2. Benches and tables;
- 17 3. Parking areas;
- 18 4. Paths;
- 19 5. Public pedestrian trails;
- 20 6. Boat ramps without lifts;
- 21 7. Gates;
- 22 8. Staircases; or
- 23 9. Other shoreline access features.

24 “Shoreline development” means a use consisting of the construction or exterior alteration of  
25 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals;  
26 bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary  
27 nature which interferes with the normal public use of the surface of the waters overlying lands

1 subject to Chapter 90.58 RCW at any stage of water level. It does not include dismantling or  
2 removing structures if there is no other associated development or redevelopment  
3 (RCW 90.58.030; WAC 173-27-030).

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

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

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

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

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

- 26 1. Shorelines of statewide significance;
- 27 2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20  
28 cubic feet per second or less, and the wetlands associated with such upstream segments;  
29 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 “Source of contamination” means a facility or disposal or storage site for material that impairs  
2 the quality of groundwater to a degree that creates a potential hazard to the environment, public  
3 health, or interferes with a beneficial use.
- 4 “Special flood hazard” means land in the floodplain subject to a one percent or greater chance of  
5 flooding in any given year.
- 6 “Static level” means the stable equilibrium level of the water in a well which rises in the well  
7 column, without being influenced by pumping.
- 8 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as  
9 stand density.
- 10 “Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.
- 11 “Stream” means a watercourse with a defined bed and banks, not including manmade ditches,  
12 canals, or other entirely artificial watercourses, except where they exist in a natural watercourse  
13 (see WAC 220-110-020). Streams are classified in WAC 222-16-030 and 222-16-031.
- 14 “Street frontage” means the length along a street which a structure, business, or lot abuts or  
15 fronts.
- 16 “Structure” means a permanent or temporary edifice or building or any piece of work artificially  
17 built up or composed of parts joined together in some definite manner, whether installed on,  
18 above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).
- 19 “Subarea plan” means a detailed plan consistent with but more specific than this code or the  
20 Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a  
21 functional long-range plan for a land use or resource issue of Countywide concern.
- 22 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions  
23 or easements shown on the face of a plat of a subdivision or short subdivision; except as  
24 provided by RCW 58.17.040(6) for boundary line adjustments.
- 25 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,  
26 but under special circumstances for subdivision into two or more parcels, as provided by this  
27 code and Chapter 58.17 RCW.

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

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

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

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

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

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

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

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

25 **Section 3. SJCC 18.50.020 and Ordinance 21-2018 § 2 are each amended to read as**  
26 **follows:**

27 **18.50.020 General.**  
28

29 A. Title. This chapter of the San Juan County Unified Development Code (UDC), together with  
30 Element 3 of the Comprehensive Plan, the official maps and common descriptions of shoreline

1 designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section  
2 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound  
3 Waterfront Access Plan, and SJCC 18.80.110, is the Shoreline Master Program (SMP) for San  
4 Juan County, Washington.

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

7 C. Authority.

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

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

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

20 D. Official Map.

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

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

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

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

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

7 E. Responsibilities of Department Director and Planning Commission.

8 1. Director.

9 a. The director:

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

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

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

17 i. Establishing the procedures and preparing the forms deemed essential for the  
18 administration of the SMP;

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

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

22 iv. Collecting required fees;

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

24 vi. Making field inspections; and

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

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

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

6                   a. Permit applications, decisions, environmental reports, and other data from  
7                   authorized shoreline exemptions and permits and GIS maps;

8                   b. Aerial and LIDAR photographs;

9                   c. Other available data; and

10                  d. Field observations.

11           **Section 4. SJCC 18.50.030 and Ordinance 11-2017 § 4 are each amended to read as**  
12           **follows:**

13           **18.50.030 General applicability.**  
14

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

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

26           C. Applicability to Federal Agencies.

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

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

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

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

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

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

24       2. Boatyard improvements to meet national pollutant discharge elimination system  
25       (NPDES) permit requirements pursuant to RCW 90.58.355. Any person installing site  
26       improvements for stormwater treatment in an existing boatyard facility needed to meet  
27       requirements of a NPDES stormwater general permit.

28       3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.  
29       Washington State Department of Transportation projects and activities meeting the  
30       conditions of RCW 90.58.356.

1 **4. Projects consistent with an environmental excellence program agreement pursuant to**  
2 **RCW 90.58.045.**

3 **5. Projects authorized through the Washington Energy Facility Site Evaluation Council**  
4 **process pursuant to Chapter 80.50 RCW.**

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

8 **18.50.040 Exemptions from shoreline substantial development permit requirements –**  
9 **General requirements.**

10  
11 A. Exemption from the shoreline substantial development permit requirements under this section  
12 does not constitute an exemption from the policies of the SMA, the regulations of this SMP, or  
13 other applicable County, state, or federal permit requirements.

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

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

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

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

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

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

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

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

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

18 7. Construction of a single-family residence, including normal residential appurtenances,  
19 for the use of the beneficial owner and their family is exempt from shoreline substantial  
20 development permit requirements. For the purposes of this SMP, the beneficial owner is an  
21 individual who may be a land owner, lessee, contract purchaser, or a member of a family  
22 corporation, trust, or partnership, and who is related by blood, adoption, marriage or  
23 domestic partnership to all other members of the corporation, trust or partnership. For the  
24 construction of more than one single-family residence, a shoreline substantial development  
25 permit is required in accordance with WAC 173-27-040(2)(g). Exempt normal residential  
26 appurtenances are defined in SJCC 18.20.140 and regulated by SJCC 18.50.050, and  
27 18.50.540.

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

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

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

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

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

11 However, if subsequent construction occurs within five years of completion of the prior  
12 construction, and the combined fair market value of the subsequent and prior construction  
13 exceeds the amount specified above, the subsequent construction shall be considered a  
14 substantial development.

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

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

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

26 12. Site exploration and investigation activities that are prerequisite to preparation of an  
27 application for development authorization under this SMP in accordance with WAC 173-  
28 27-040(2)(m) if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Section 6. SJCC 18.50.050 and Ordinance 11-2017 § 6 are each amended to read  
19 as follows:

20 **18.50.050 Exemptions from substantial development permit requirements – Normal**  
21 **residential appurtenances.**

22  
23 A. Normal residential appurtenances are structures or development that are necessarily connected  
24 to the use and enjoyment of a single-family residence and that are expressly defined in  
25 SJCC 18.20.140. Hard structural shoreline stabilization measures and other shoreline  
26 modifications or over-water structures are not considered normal appurtenant structures. Normal  
27 residential appurtenance exemptions also include:

28 1. Construction or renovation of structures with fair market value of less than the maximum  
29 value allowed by WAC 173-27-040(2)(a) (~~\$6,416 in October 2012~~ \$7,047 in September  
30 2017).

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

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

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

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

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

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

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

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

17 B. Certificates of Exemption.

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

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

28 a. Dredging;

- 1           b. Flood hazard control structures;
- 2           c. Archaeological or historic site alteration;
- 3           d. Clearing, grading, fill, excavation and vegetation removal;
- 4           e. Dock construction, repair, replacement, or enlargement;
- 5           f. Structural shoreline stabilization, repair, replacement, or enlargement;
- 6           g. Any residential, commercial or industrial development project within the natural
- 7           and aquatic designations;
- 8           h. Small scale shellfish aquaculture consistent with the provisions of
- 9           SJCC 18.50.230(B);
- 10          i. New ~~F~~ temporary barge landing sites. Existing nonconforming temporary barge
- 11          landing sites do not require a certificate of exemption if the proposed use is consistent
- 12          with the historic transport of cargo at the site and frequency of the historic use; and
- 13          j. Private pedestrian pathways, stairways and ramps.

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

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

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

26  
27

1           Section 7.     SJCC 18.50.450 and Ordinance 11-2017 § 20 are each amended to  
2 read as follows:

3     **18.50.450 Forest practices.**  
4

5     A. General Regulations.

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

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

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

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

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

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

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

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

25     C. Regulations by Designation.

26           1. Natural. Forest management practices are allowed in this designation only if no other  
27 means of control will work to control a fire, halt the spread of disease or damaging insects,  
28 or to clean up and restore an area devastated by a natural disaster such as fire, storm,

1 disease, or insect attack. No roads may be constructed except those necessary to cope with  
2 the emergency situation.

3 **Section 8. SJCC 18.50.540 and Ordinance 11-2017 § 24 are each amended to**  
4 **read as follows:**

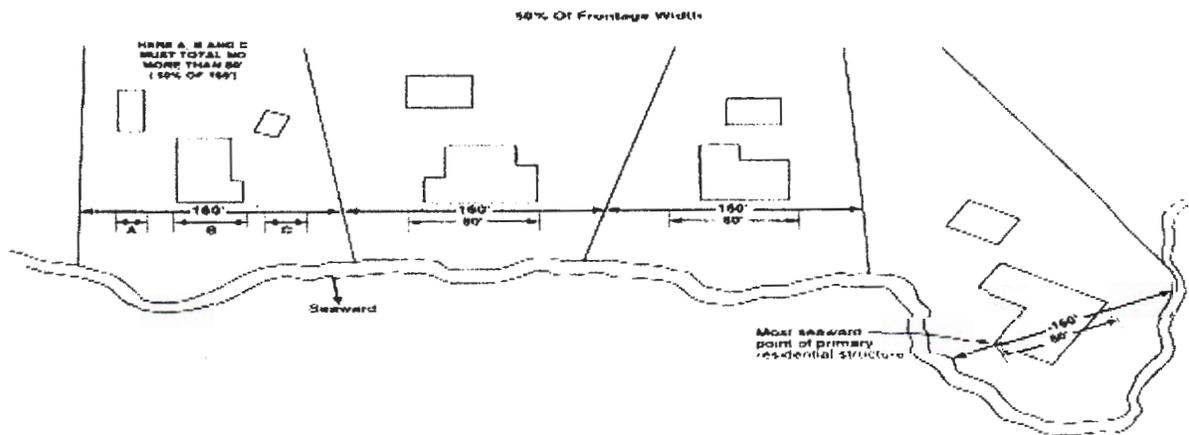
5 **18.50.540 Residential development.**

6 **A. Regulations – Location and Design.**

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

9 2. Developments on waterfront lots may not cover more than 50 percent of the width of the  
10 lot as measured by the shortest straight line distance from lot line to lot line through the  
11 most seaward point of the primary residential structure. Developments with multiple  
12 structures shall ensure that the combined width of all the structures does not exceed 50  
13 percent of the width of the single lot. However, on lots less than 80 feet wide at the most  
14 seaward point of the proposed residential structure, the structure may cover an area up to  
15 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is  
16 maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all  
17 appurtenant structures must be placed landward of the primary residential structure. See  
18 Figure 18.50.540 below.

19 **Figure**  
20 **18.50.540**



21  
22 3. The maximum allowed height for residential structures is 35 feet above average grade  
23 level. An exception to allow residential structures to exceed the 35-foot height limitation

1 may be allowed with a shoreline conditional use permit. In order for the height exception  
2 to be approved, the applicant must demonstrate that:

3 a. The structure will not result in significant adverse visual impacts;

4 b. The structure will not interfere with normal public and visual access to the water;  
5 and

6 c. There are compensating factors that make a taller structure desirable from the  
7 standpoint of the public interest.

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

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

14 C. Regulations – Buffers and Setback Standards.

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

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

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

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

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

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

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

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

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

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

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

9 D. Regulations – Normal Residential Appurtenances.

10 1. With the exception of private pedestrian pathways, stairways, ramps, **patios paved areas**  
11 **or areas assembled with solid materials such as an assembly of pavers attached to a home,**  
12 decks attached to the primary structure, and boathouses served by marine railways, normal  
13 residential appurtenances that are not water-dependent are not allowed seaward of the most  
14 landward extent of the residence **except as authorized in subsection 4, 5, 6, and 7 below.**  
15 The director may authorize an alternative location without requiring a shoreline variance by  
16 issuing a written administrative determination. To be approved, the director must find that:

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

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

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

21 3. Normal residential appurtenances that are not identified in the definition in  
22 SJCC 18.20.140 **or in subsection 4 below** are allowed with a conditional use permit.

23 **4. The following normal residential appurtenances that are not water-dependent must**  
24 **comply with the standards established in subsections 5, 6 and 7 below.**

25 a. **Fire pits made of temporary stone fire rings or temporary fire bowl;**

26 b. **Outdoor fireplaces up to three feet in height;**

- 1 c. Outdoor kitchens up to three feet in height;
- 2 d. Unfenced three foot by three foot temporary dog houses;
- 3 e. Ponds involving less than two hundred-fifty cubic yards of grading;
- 4 f. Garden trellises;
- 5 g. Gardens and raised beds;
- 6 h. Irrigation systems;
- 7 i. Sculptures and art installations;
- 8 j. Outdoor showers;
- 9 k. Above ground propane and liquid petroleum tanks, heating, ventilation and air  
10 conditioning equipment unattached to the house;
- 11 l. Retaining walls;
- 12 m. Kayak racks;
- 13 n. Children's play equipment such as swing sets or jungle gyms; and
- 14 o. Hot tubs not on located on a patio.

15 5. SJCC 18.50.540(D) protects views to and from the water as well as critical area  
16 functions and values by limiting the number and type of residential appurtenances located  
17 seaward of the residence. In instances where a residence is setback further than the  
18 minimum aesthetic set back required by SJCC 18.50.540(C)(3) and critical area buffers  
19 required by SJCC 18.50.120, normal residential appurtenances will not impact shoreline  
20 views and critical area functions. Normal residential appurtenances listed in subsection 4  
21 above may be located seaward of the residence if they are established outside of required  
22 aesthetic setback and critical area buffers. The lot width requirement in SJCC  
23 18.50.540(A)(2) does not apply to the appurtenances listed in subsection 4 above unless  
24 they are taller than thirty inches.

25 6. At-grade paved areas or areas assembled with solid materials such as an assembly of  
26 pavers attached to a home and decks less than thirty inches tall also do not need to meet the  
27 shoreline aesthetic buffer in SJCC 18.50.540(C)(3). If they are less than thirty inches tall  
28 they must meet the no net loss standard in SJCC 18.50.120. If they are above grade,  
29 attached to the house and are taller than 30 inches in height they are subject to the same  
30 regulations as the home. Plug in hot tubs maybe be located on paved areas or areas

1 assembled with solid materials such as an assembly of pavers attached to a home or decks  
2 attached to a home that meet these requirements.

3 7. The following temporary uses do not require a shoreline exemption or permit provided  
4 they do not result in removal of trees or vegetation within critical area buffers or the  
5 shoreline aesthetic setback:

6 a. Fire pits made of temporary stone fire rings or temporary fire bowl;

7 b. Temporary dog house (three foot by three foot); and

8 c. Moveable, non-fixed furniture such as picnic tables and benches.

9 8. Fences including deer fencing must:

10 a. Be located landward of the residence and meet the shoreline aesthetic setback required  
11 in SJCC 18.50.540(C)(3), and

12 b. Meet the critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter  
13 18.35 SJCC to meet the no net loss standard in SJCC 18.50.120. A no net loss report  
14 may not be used to meet the critical area requirements for these structures listed in  
15 subsection 7 above because avoidance, the first step in the mitigation sequence analysis  
16 required by SJCC 18.50.120(B) and 18.50.140 cannot be met.

17 E. Live Aboard Vessels.

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

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

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

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

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

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

5 F. Regulations by Designation.

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

12 **Section 9. SJCC 18.50.550 and Ordinance 11-2017 § 25 are each amended to read as**  
13 **follows:**

14 **18.50.550 Transportation facilities and parking.**

15  
16 A. Regulations – General.

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

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

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

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

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

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

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

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

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

7 a. Outside of shoreline jurisdiction; or

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

10 5. Roadside vegetation shall be controlled.

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

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

15 C. Regulations – Parking.

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

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

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

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

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

26 a. Outside of the shoreline jurisdiction; or

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

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

4           4. Parking over-water is prohibited.

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

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

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

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

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

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

15          F. Regulations – County Docks.

16          1. Overnight moorage is prohibited at County docks.

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

19          G. Regulations – Float Plane Facilities.

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

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

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

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

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

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

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

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

11 H. Regulations – Barge Landing Sites and Facilities.

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

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

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

23 b. An alternative access is not feasible; and

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

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

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

8 I. Regulations – Public Pedestrian Trails.

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

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

13 J. Regulations by Designation.

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

18 2. Conservancy and Rural Farm Forest.

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

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

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

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

1 e. Other transportation facilities are prohibited.

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

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

7 **Section 10. SJCC 18.50.600 and Ordinance 11-2017 § 27 are each amended to read**  
8 **as follows:**

9 **18.50.600 Shoreline developments, uses, structures and activities by designation.**

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

13 1. Is allowed;

14 2. Is prohibited;

15 3. Requires a shoreline substantial development permit;

16 4. Requires a shoreline conditional use permit; or

17 5. Is subject to other certificates or conditions.

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

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

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

CUP = Conditional use permit.

No = Prohibited; the use is not eligible

for a variance or conditional use permit.

NA = Not applicable.

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

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Agriculture	CUP*	SD	SD	SD	SD	SD	No	NA
<b>Aquaculture</b>								
General aquaculture	SD*	SD*	SD	SD	SD*	SD	No	SD*
Small scale shellfish aquaculture	*	*	*	*	*	CUP	No	*
Noncommercial freshwater hatcheries	SD*	SD*	SD*	SD*	No	SD*	No	NA
Finfish net pens	No	No	No	No	No	No	No	No
Commercial geoduck aquaculture	CUP	CUP	CUP	CUP	CUP	CUP	No	CUP
<b>Over-Water Structures<sup>1</sup> Including Boating Facilities</b>								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single-family,	No	SD	SD	SD	SD	SD	SD	SD

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
noncommercial and community use docks, moorage floats and recreation floats								
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
<b>Breakwaters, Jetties and Groins<sup>1</sup></b>								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	CUP	CUP	CUP	CUP	CUP	NA
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
Breakwaters, jetties and groins for shoreline restoration projects	SD	SD	SD	SD	SD	SD	SD	SD
<b>Commercial Development</b>								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Non-water-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
<b>Dredging and Dredge Material Disposal</b>								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material disposal, in-water	No	No*	SD*	SD*	SD*	SD	SD	No
Dredge material disposal, upland	No	No	SD*	SD*	SD*	SD	SD	NA
Dredging or dredge material disposal associated with restoration	No	No	SD*	SD*	SD*	SD	SD	SD*
<b>Clearing, Grading, Fill, and Excavation</b>								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
<b>Essential Public Facilities</b>								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
<b>Flood Hazard Reduction</b>								

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Dikes, levees, revetments, flood walls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
<b>Forest Practices</b>								
Commercial forestry <sup>1,3</sup>	CUP*	SD	SD*	SD	CUP	CUP	No	No
Log transfer sites, facilities and storage <sup>1,3</sup>	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
<b>Industrial Development<sup>1</sup></b>								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP <sup>1</sup>	No*	No	SD	No	No
Processing aquacultural products	No	CUP	CUP	CUP	CUP	No	CUP	NA
Non-water-oriented uses	No	No	No	No	No	No	No	No
<b>Institutional Development<sup>1,2</sup></b>								
Water-dependent <u>uses</u>	No	<u>SD*/CUP*</u>	<u>SD CUP*</u>	<u>No*</u>	<u>No*</u>	<u>SD*</u>	<u>SD*</u>	<u>SD*</u>
<u>Water-related uses</u>	<u>No</u>	<u>SD*/CUP*</u>	<u>CUP*</u>	<u>No*</u>	<u>No*</u>	<u>SD*</u>	<u>SD*</u>	<u>SD*</u>
<u>Water-enjoyment uses</u>	<u>No</u>	<u>SD*/CUP*</u>	<u>CUP*</u>	<u>No*</u>	<u>No*</u>	<u>SD*</u>	<u>SD*</u>	<u>SD*</u>
Non-water-oriented <u>uses</u>	No	No	<u>No*/CUP*</u>	<u>No*</u>	<u>No*</u>	<u>No SD*</u>	No	<u>No CUP</u>

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
<b>Mineral Extraction<sup>1</sup></b>								
Mineral extraction	No	No	SD*	No	No	SD	No	No
<b>Recreational Development<sup>1, 2</sup></b>								
Water-oriented	SD*	SD/CUP*	SD/CUP if Commere ial	SD*	SD*	SD	SD	SD*
Public park without camping facilities	SD	SD	SD	SD	SD	SD	SD	SD
Public park with camping facilities	SD	SD*	SD	No	No	SD	SD	SD
Private campground	SD*	SD/CUP*	SD	No	No	SD	SD	No
<b>Residential Development<sup>2</sup></b>								
Single-family	No*	SD	SD	SD	SD	SD	SD	No*
Multifamily	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
Live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals <sup>2</sup>	No*	No	CUP*	SD	SD	SD	SD	No
<b>Private Pedestrian Pathways, Stairways and Ramps</b>								
Private pedestrian	No	SD	SD	SD	SD	SD	SD	No

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
pathways, stairways and ramps								
<b>Shoreline Habitat and Natural Systems Enhancement Projects<sup>4</sup></b>								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
<b>Structural Shoreline Stabilization<sup>5</sup></b>								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
<b>Signs</b>								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
<b>Transportation and Parking</b>								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary	No	*	*	*	*	*	*	*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Float planes, commercial or regular use	No	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails <sup>7</sup>	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
<b>Utilities<sup>6</sup></b>								
Utility transmission and distribution lines, pipelines, cables, stations, plants, and other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations	No*	SD*	SD	SD	SD	SD	SD	SD
Desalination systems	SD*	SD	SD	SD	SD	SD	SD	SD

1 Table 18.50.600 Notes.

1 1. Eastsound subarea plan prohibits:

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

10 2. Shaw Island subarea plan prohibits:

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

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

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

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

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

**7. The director shall make the final local decisions on shoreline substantial development permit applications for public pedestrian trails.**

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

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

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

**A. Purpose and Applicability.**

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

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

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

a. Shoreline substantial development permits;

b. Shoreline conditional use permits; and

c. Shoreline variances.

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

**B. Notice of Application for Shoreline Permit.**

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

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

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

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

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

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

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

23          F. Shoreline Substantial Development Permit Exemptions.

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

27               2. Developments that are exempt from a shoreline substantial development permit are  
28               established in SJCC 18.50.040 and 18.50.050. In making this determination, the director  
29               will consider the ultimate scope of a proposal and its consistency with the regulations of

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

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

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

8 G. Shoreline Permits – Administrative Actions.

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

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

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

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

permit or shoreline variance is the date that Ecology's decision on the shoreline conditional use permit or shoreline variance is transmitted to the applicant and the department.

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

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

- a. Extend the permit for a period not to exceed one year; or
- b. Terminate the permit.

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

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

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

- a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-26 and 173-27 WAC, as amended;
- b. Consistent with the policies and regulations of this SMP;
- c. Consistent with other applicable sections of this code; and
- d. Consistent with the goals and policies of the Comprehensive Plan.

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

4 **3. The director shall be the final local decision-maker for shoreline substantial development**  
5 **permit applications for public pedestrian trails. The hearing examiner shall be the decision-**  
6 **maker for all other shoreline substantial development permit applications.**

7 I. Shoreline Variances.

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

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

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

19 a. Variances for development located landward of the ordinary high water mark  
20 (OHWM) except within those areas designated as wetlands pursuant to Chapter 173-  
21 22 WAC may be authorized if the applicant can demonstrate all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 J. Shoreline Conditional Use Permits.

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

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

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

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

- 21 a. The proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
- 22 b. The proposed use will not interfere with the normal public use of public shorelines;
- 23 c. The proposed use of the site and project design are compatible with other allowed  
24 uses within the area;
- 25 d. The proposed use will result in no net loss of shoreline ecological functions;
- 26 e. The cumulative impacts of additional requests for like actions in the area, or for  
27 other locations where similar circumstances exist, will result in no net loss of

1 shoreline ecological functions (e.g., the total of conditional uses shall remain  
2 consistent with RCW 90.58.020 and the SMP); and

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

4 5. Uses that are not classified in this SMP may be authorized by conditional use permit;  
5 provided, that the applicant demonstrates consistency with the criteria in WAC 173-27-  
6 160(1), and the SMP.

7 K. Procedures for Revisions to Shoreline Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 N. Vesting.

28 1. Complete applications for a development or project permit, to be processed under SJCC  
29 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that were filed prior to October 30,  
30 2017, vest to the laws and regulations in effect when the complete application was filed

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

3 2. An application for a development or project permit, to be processed under SJCC  
4 Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that is filed after October 30,  
5 2017, vests to the laws and regulations in effect when the complete application was filed  
6 with the department and all required permit fees were paid except as provided in  
7 subsections (N)(6), (7) and (8) of this section.

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

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

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

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

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

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

30

1           **Section 12. SJCC 15.12.030 and Ordinance 13-2018 § 4 are each amended to read**  
2 **as follows:**

3  
4 **15.12.030 Definitions.**

5  
6 “Appeals” means a request for a review of the interpretation of any provision of this chapter or a  
7 request for a variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “Expansion to an existing manufactured home park or subdivision” means the preparation of  
30 additional sites by the construction of facilities for servicing the lots on which the manufactured

1 homes are to be affixed (including the installation of utilities, the construction of streets, and  
2 either final site grading or the pouring of concrete pads).

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

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

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

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

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

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

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

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

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

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

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

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

13 “New manufactured home park or subdivision” means a manufactured home park or subdivision  
14 for which the construction of facilities for servicing the lots on which the manufactured homes  
15 are to be affixed (including, at a minimum, the installation of utilities, the construction of streets,  
16 and either final site grading or the pouring of concrete pads) is completed on or after June 26,  
17 2018.

18 “Recreational vehicle” means a vehicle:

19 1. Built on a single chassis;

20 2. Four hundred square feet or less when measured at the largest horizontal projection;

21 3. Designed to be self-propelled or permanently towable by a light duty truck; and

22 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters  
23 for recreational, camping, travel, or seasonal use.

24 “Start of construction” includes substantial improvement, and means the date the building permit  
25 was issued, provided the actual start of construction, repair, reconstruction, placement or other  
26 improvement was within 180 days of the permit date. The actual start means either the first  
27 placement of permanent construction of a structure on a site, such as the pouring of slab or  
28 footings, the installation of piles, the construction of columns, or any work beyond the stage of

1 excavation; or the placement of a manufactured home on a foundation. Permanent construction  
2 does not include land preparation, such as clearing, grading and filling; nor does it include the  
3 installation of streets and/or walkways; nor does it include excavation for a basement, footings,  
4 piers, or foundations or the erection of temporary forms; nor does it include the installation on  
5 the property of accessory buildings, such as garages or sheds not occupied as dwelling units or  
6 not part of the main structure. For a substantial improvement, the actual start of construction  
7 means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether  
8 or not that alteration affects the external dimensions of the building.

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

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

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

16 1. Before the improvement or repair is started; or

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

21 The term can exclude:

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

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

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

**Section 13. Effective Date.**

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

**Section 14. Codification.**

Sections 1-12 of this ordinance shall be codified.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
Rick Hughes, Chair  
District 2

REVIEWED BY COUNTY MANAGER

\_\_\_\_\_  
Michael J. Thomas Date

\_\_\_\_\_  
Bill Watson, Vice-Chair  
District 1

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

By: \_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Stephens, Member  
District 3

**Periodic Review Checklist**

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

**How to use this checklist**

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the **beginning of the periodic review**, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

**At the end of your review process**, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

*Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.*

Prepared By	Jurisdiction	Date
Linda Kuller, Dept. of Community Development	San Juan County	December 2019