

San Juan County Shoreline Master Program Periodic Update Briefing: Draft Ordinance

Briefing

San Juan County Council

March 17, 2020



ORDINANCE TO UPDATE THE SHORELINE MASTER PROGRAM REGULATIONS

AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140,
18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050,
18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.110 AND
15.12.030

Shoreline Management Act (SMA) (Chapter 90.58 RCW)
Washington Administrative Code Chapter 173-96, and 173-97 WAC

Staff Transmittals: Two memos

- ▶ March 5, 2020: PC recommended version
- ▶ March 12, 2020: Approved as to form version (housekeeping - non substantive)

Staff recommends the March 12th version for the Council public hearing draft.

Ecology: Guidance Checklist and Direction

- Nine changes to comply with new laws and rules
- Three County Council Issues
 - **Institutional uses:** Add water-enjoyment & water-related uses
 - **Public pedestrian trails:** Make DCD director the decision-maker on SSD
 - **Existing nonconforming barge landing sites:** Clarify nonconforming
- Follow Ecology suggestions
 - Definition of temporary barge landing, and
 - SJCC 18.50.540(D) residential development:
Codify DCD residential accessory use policy

Planning Commission Recommendation

Approve as staff presented. Same as Council reviewed in January

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

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

Summary of Changes



Section 1: SJCC 18.50.050

Barge Landing Sites

Ecology: Amend the definition of temporary barge landing site:

18.20.020 “B” definitions.

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

Ordinance Section 2 - SJCC 18.20.140

Definition of normal residential appurtenance

- Still includes “patio” but changed sequence.
- Clarifies the allowed sequence of construction on residential stairways to beaches.
- Other residential appurtenances may not be approved by the DCD director (**Ecology**).
- **Council: Strike “wind power” before generators.**

Ordinance Section 2

SJCC 18.20.140 “N” Definitions

Excerpt: Normal residential appurtenance, shoreline means ...

Structures and activities .. include accessory dwelling units ~~or other detached residential structures~~, garages, sheds, decks and patios attached to primary structures, private pedestrian pathways, stairways to access shorelines including those constructed prior to the construction of a residence on lots intended for single-family development, ramps, ~~patios~~, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, ~~wind power~~ generators serving a single structure,
.....

Ordinance Sections 3 and 4: SJCC 18.20.190 “S” definitions and 18.50.020 General

Section 3. Adds to the shoreline development definition:

It does not include dismantling or removing structures if there is no other associated development or redevelopment.

Section 4. Makes director decision-maker for Shl. Substantial Development applications for:

- **Public pedestrian trails, and**
- **Normal res. appurtenances & accessory structures > than the exemption value threshold.**

Ordinance Section 5

SJCC 18.50.030(C) General applicability

Replaces (2)(C) with the WAC language for clarity:

“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.”

Ordinance Section 5

SJCC 18.50.030(E) General applicability

New subsection E exempts developments that do not require shoreline permits or local review (summarized):

- Remedial actions;
- Boatyard improvements to meet NPDES requirements;
- WSDOT maintenance and safety improvements;
- Projects with environ. excellence program agreements; and
- Projects authorized by Energy Facility Site Eval. Council.

Section 6: SJCC 18.50.040 Exemptions from SSDs - General requirements

Updates dock exemption cost thresholds:

i. \$22,500 for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced; or

ii. \$11,200 for all other docks constructed in fresh waters.

Subsequent construction = substantial development if completed within 5 years of the prior construction, and the combined values exceed the exemption threshold.

Section 6: SJCC 18.50.040

Exemptions from SSDs - General requirements

- Subsection 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.
- Subsection 15. Habitat enhancement projects that conform to the provisions of RCW 77.55.290~~181~~ and RCW 90.58.147 are consistent with local shoreline master programs.
- New Subsection 16: Retrofitting of existing structures to comply with the Americans with Disabilities Act.

Section 7: SJCC 18.50.050 Exemptions

Normal residential appurtenances

- Subsection 1: Updated to **\$7,047**.
- Subsection (2)(i): Amends permit requirements for existing temporary barge landing sites to:
 - **Do not require a certificate of exemption.**
 - **Nonconforming use must be consistent with the historic cargo and frequency of the historic use.**
 - **Nonconforming use provisions still apply.**
 - **County makes an administrative determination regarding the same type and frequency of use, and compliance with NC code.**

Section 8: Amends SJCC 18.50.450 Forest Practices

Subsection 2:

- Cutting of timber **solely incidental to the preparation of land for other uses authorized by this chapter** is not considered a development under the SMA, and
- Does not require a shoreline exemption or substantial development permit and is allowed.

Section 9: Normal Residential Appurtenances and Accessory Structures.

1.not allowed in critical area buffers SJCC 18.50.120 except for:
 - b. Temporary fencing for shoreline habitat and natural systems enhancement projects pursuant to SJCC 18.50.590.

Critical area buffers must be met to achieve the no net loss.

A no net loss report cannot be used to meet critical area requirements.

Avoidance, the first mitigation sequence step, cannot be met.

Section 9: SJCC 18.50.540(D)

Residential development

2. Changed to:

Normal residential appurtenances and accessory structures are not allowed in the **shoreline aesthetic buffer** except for:

- a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and normal residential appurtenances,
- b. Normal residential appurtenance structures and accessory structures less than thirty inches in height, and
- c. Temporary fencing for shoreline habitat and natural systems enhancement projects pursuant to SJCC 18.50.590.

Section 9: SJCC 18.50.540(D)

Residential development

Ecology: Conditional use requirement is not needed.

Subsection 3: ~~Normal residential appurtenances not identified in the definition are allowed with a conditional use permit.~~

Subsection 4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to normal residential appurtenances and accessory structures 30” or less in height. **Note - Moved to (A)(2) in AATF version.**

Section 10: SJCC18.50.550

Transportation facilities and parking

Clarifies requirements for nonconforming temporary barge landings:

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 11: SJCC 18.50.600

Shoreline developments, uses, structures & activities by designation

- Makes institutional uses the same as the commercial:
Add water-related and water-enjoyment uses to the category.
- Added footnote number 7. Director is the local decision-maker for public pedestrian trails and SFR accessory use sub. dev. permit applications.

Section 12: SJCC18.80.110(G) and (H) Shoreline pre-application meetings, exemption procedures, and vesting

- Date of **filing receipt** - for permits sent to Ecology.
- Adds **Attorney General** to notice list.
- New subsection (H)(3) - **Makes DCD director the decision-maker** for:
 - public pedestrian trails, and
 - normal residential appurtenances/accessory structures that exceed the exemption value threshold.

Section 13: SJCC 15.12.030 Definitions

- Federal Insurance and Mitigation Administration
- Uses "floodway" definition from the Shoreline Management Act

The floodway is established by the Federal Insurance and Mitigation Administration on its Flood Insurance Rate Maps (FIRMs). It does not include lands that can be reasonably expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.

Schedule

Target completion date: June

- April 21, 2020: Joint Council and Ecology public hearing
- W/I 30 days, County transmits to Ecology a response to public comments and identifies any proposed changes,
- Ecology issues an initial determination of completeness regarding the transmittal,
- When complete, Ecology provides an initial determination of consistency,
- County modifies ordinance if needed and adopts, and
- Ecology issues final approval. Effective 14 days after approval.

Project website:

[https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic- Update](https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update)

Staff reports, resources, notices, and public participation plan including a tentative schedule are on the project webpage.

How to Obtain Notices and Comment

- ▶ Subscribe for project newsflashes and notices at:
<https://www.sanjuanco.com/list.aspx>.
Select SMP Update under “news flashes.”
- ▶ Project email: SMPCComments@sanjuanco.com.

Questions?

