



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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

MEMO

REPORT DATE: June 22, 2020

TO: San Juan County Council

CC: Mike Thomas, County Manager
Erika Shook, AICP, DCD Director
Chad Yunge, Senior Regional Shoreline Planner, WA Dept. of Ecology

FROM: Linda Kuller, AICP, Planning Manager
Adam Zack, Planner III 

HEARING: July 28, 2020

SUBJECT: Periodic Review of the Shoreline Master Program (SMP)

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

ATTACHMENTS:

- A. Draft Ordinance
- B. Public hearing Notice
- C. Periodic Review Checklist Updated March 30, 2020
- D. Public Comments
- E. Ecology's public notice distribution
- F. San Juan County Planning Commission February 21, 2020 Findings and Recommendations

Hearing Purpose: To take public testimony regarding a proposed ordinance for an:

UPDATE TO 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

This public hearing will be a joint hearing with the WA Department of Ecology (Ecology).

Official Comment Period: Wednesday, June 24, 2020 - Tuesday July 28, 2020. The County will forward comments to Ecology and they will be available on the project webpage. Comments provided to the County will be reviewed by the County and Ecology.

Methods of Commenting: It is possible that the hearing will take place telephonically to comply with social distancing measures if they remain in effect through the hearing date. Details for participating over the phone are provided below. Notice will be posted to the County website if the hearing will be held in-person.

- **Via Mail:** Prior to the hearing date, mail written comments to **Adam Zack, Department of Community Development** PO Box 947, Friday Harbor, WA 98250.
- **Via Email:** Email comments to smpcomments@sanjuanco.com.
Please title the email subject line: SMP Comments from (your last name or agency name).
- **Via Oral Testimony: To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#.** Comments during the hearing may be submitted by email at councilpc@sanjuanco.com.

Staff will copy comments submitted prior to noon on July 27, 2020, for the County Council and Ecology. Please provide six copies of written comments if you submit them to DCD after noon on July 27, 2020, or if you distribute them during the public hearing. Written comments will be posted on the project webpage and are preferred, especially under these social distancing circumstances. If requested in your written submittal, staff will read your written comments into the record. Please:

- Reference the related page and line numbers of the draft ordinance in your comments.
- Include your full name and address in all correspondence including emails for the record.

SMP Periodic Review: San Juan County and Ecology are accepting comments on a periodic review of the County's SMP (RCW 90.58.080(4)). The County is using the joint review process to combine the local and Ecology comment periods (WAC 173-26-104).

The proposed draft SMP amendments are required for the SMP Periodic Review to keep the SMP current with changes in state law, other County plans and regulations, and other local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

Joint Review Process: The following summarizes the review process for this project that has a June 30, 2020 deadline:

- Hold a joint County-Ecology public hearing to take testimony;
- Within 30 days of the hearing, the 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 the draft ordinance if needed, adopts it and transmits it to Ecology;
- Ecology issues final approval or additional work is completed;
- The ordinance becomes effective 14 days after Ecology's approval.

Periodic Review Checklist: DCD updated Ecology's periodic Review Checklist (Attachment C). This document was used to conduct the periodic review of the County's SMP. This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may have triggered the need for local SMP amendments. The checklist has been updated to correct the ordinance sections as they relate to the public hearing draft and summarize actions proposed in the draft ordinance prepared for the July 28, 2020 public hearing. It indicates where the SMP addresses applicable

amended laws, or indicates where no action is needed.

Summary of Ordinance Sections:

Section 1. This is a new ordinance section proposed after the publication of the DNS and conversations with Ecology. Amends SJCC 18.20.020 “B” definition of “Barge landing site, temporary” to mean a location where a limited number of landings are allowed that will not result in permanent disturbance of the earth, development or permanent adverse impacts on shoreline ecological functions.

Section 2. Amends SJCC 18.20.140 “N” Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance. Proposed changes include moving the term “patio”, clarifying the allowance for the sequence of construction on stairways to beaches on residential property, deleting the words “wind power” before generators and deleting “other” normal residential appurtenances that could have been approved by the DCD director.

Section 3. Amends SJCC 18.20.190 “S” definitions and Ordinance 21-2018 § 1 to update the definition of shoreline development to include “It does not include dismantling or removing structures if there is no other associated development or redevelopment.”

Section 4. Amends SJCC 18.50.020 General and Ordinance 21-2018 § 2 to allow the director of the Community Development instead of the hearing examiner to make decisions on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet an exemption threshold.

Section 5. Amends SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 to delete subsection (2)(C) and replace it with the WAC language: “Those nonfederal lands lying within the exterior boundaries of federal lands and those federal lands leased to other persons, which fall within the definition of shorelands, shall be subject to the jurisdiction of Chapter 90.58 RCW. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.”

A new subsection E is proposed to be added for permitting exemptions for developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

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

Section 6. Amends SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 § 5 in SJCC 18.50.040 (D)(8)(b). Makes housekeeping edits to reference proper code sections. Updates the specific cost threshold for dock exemptions to match the current allowed exemption thresholds. SJCC 18.50.040(14) and (15) are also proposed to be amended for consistency with State law:

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).

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

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

Section 8. Amends SJCC 18.50.450 Forest Practices and Ordinance 11-2017 § 20 in subsection 2 to clarify that cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is “not considered a development under the SMA and does not require a shoreline exemption or substantial development permit” and is allowed.

Section 9. Amends SJCC 18.50.540 Residential development and Ordinance 11-2017 § 24 in SJCC 18.50.540(D) in a simpler form than suggested in the previous draft ordinance that would read as follows:

D. Regulations – Normal Residential Appurtenances and Accessory Structures.

1. Normal residential appurtenances and accessory structures are not allowed in critical area buffers required by SJCC 18.50.120 except for:

- a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways.
- b. Temporary fencing for shoreline habitat and natural systems enhancement projects pursuant to SJCC 18.50.590.

The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC must be met to achieve the no net loss standard in SJCC 18.50.120. A no net loss report may not be used to meet the critical area requirements because avoidance, the first step in the mitigation sequence analysis in SJCC 18.50.120(B) and 18.50.140, cannot be met.

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

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

3. Accessory dwelling units must comply with SJCC 18.40.240.

4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to the normal residential appurtenances and accessory structures thirty inches or less in height.

Section 10. Amends SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 § 25 in item H to clarify the permitting requirements for existing nonconforming temporary barge landings as follows:

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

Section 11. Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27 to make institutional uses the same as those in the commercial category. A new footnote number 7 is added to public pedestrian trails and single-family residence to provide notice that the DCD director is the local decision-maker for substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet the exemption threshold.

Section 12. Amends SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 § to comply with WAC 173-27-044. "Date of filing" replaces "date of receipt" for shoreline permits sent to Ecology.

A new subsection (H)(3) authorizes the DCD director to be the decision-maker on applications for public pedestrian trails and residential accessory structures that do not meet an **exemption threshold** is also proposed. A code reference is corrected in (I)(3).

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

ORDINANCE NO. ____ - 2020

AN ORDINANCE TO UPDATE THE SHORELINE MASTER PROGRAM REGULATIONS; AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140, 18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.110 AND 15.12.030

BACKGROUND

- 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, 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. Periodic reviews of the San Juan County Shoreline Master Program are 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 that occurred 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.
 - 1. The proposed ordinance is consistent with the provisions of RCW 90.58.080 and WAC 173-26-090(2)(d)(i)(A) and (B).
 - 2. The proposed ordinance is consistent with the provisions of XXXXXXXXXXXX

1 3. XXXXXX
2

3 **S.** The County Council makes the following conclusions: XXXXXXXXXXXXXXXX
4

5 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,
6 State of Washington, as follows:
7

8 **SECTION 1. SJCC 18.20.020 and Ordinance 1-2016 §68 are each amended to read**
9 **as follows:**

10 **18.20.020 “B” definitions.**

11 “Barge landing site, permanent” means any location established for the purpose of landing a
12 barge (including powered landing craft) for more than a temporary use. (See also “log storage or
13 transfer site.”)

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

17 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any
18 given year; also known as the “100-year flood,” as shown on the FIRM maps.

19 “Base flood elevation” means the elevation for which there is a one percent chance in any given
20 year that flood levels will equal or exceed it.

21 “Beach enhancement/restoration” means a process of restoring a beach to a state more closely
22 resembling a natural beach using beach feeding, vegetation, drift sills, and other nonintrusive
23 means.

24 “Bed and breakfast inn” means a hospitality commercial use containing three to five lodging
25 units without cooking facilities, which provides overnight accommodation and breakfast meals in
26 a proprietor- or owner-occupied existing single-family residence and additional legal structures
27 or up to 10 lodging units in an existing historic structure.

28 “Bed and breakfast residence” means a hospitality commercial use containing one to two lodging
29 units without cooking facilities, which provides overnight accommodation and breakfast meals in
30 an owner-occupied existing single-family residence.

1 “Beneficial owner” means an individual who is a member of a family corporation, trust, or a
2 partnership, and who is related by blood, adoption, marriage, or domestic partnership to all other
3 members of the corporation, trust or partnership.

4 “Best available science” means current scientific information used in the process of designating,
5 protecting, or restoring critical area functions and values, that is derived from a valid scientific
6 process as described in WAC 365-195-900 through 365-195-925.

7 “Best management practices (BMPs)” means systems of practices, schedules of activities,
8 prohibitions, maintenance procedures, and structural or management measures that prevent or
9 minimize the release of pollutants or other adverse impacts to the environment.

10 “Binding site plan” is a method of division of land intended primarily for projects such as
11 condominiums, residential clusters or planned unit developments, industrial parks and shopping
12 centers, which are developed as a whole rather than for sale of individual lots for development.

13 “Biodiesel” means biodiesel as defined by RCW 19.112.010.

14 “Biofiltration system” means a water filtration system using biological processes.

15 “Boat launch, ramp or retrieval system” means an area, structure, or equipment used to launch or
16 retrieve boats.

17 “Boathouse” means an enclosed structure designed and used for the storage of boats and boat
18 equipment.

19 “Boating facilities” means development and uses that support access to shoreline waters for
20 purposes of boating such as marinas, covered moorages, boathouses, ramps, marine railways,
21 mooring buoys, piers, docks and floats serving five or more single-family residences, or
22 multifamily units.

23 “Bonus-density residential district” means a district in which a density bonus is permitted for
24 affordable housing. The official maps indicate both the base density permitted without a density
25 bonus and the maximum density permitted with a density bonus for affordable housing.

26 “Boundary line adjustment” means a change in the location of the boundary or boundaries
27 between parcels of land to correct errors.

1 “Boundary line modification” means a change in the location of the boundary or boundaries
2 between parcels of land; provided, that no additional parcels are created, except that a change in
3 a land description to correct errors is not to be considered a boundary line modification.

4 “Breakwater” means protective structures that are normally built offshore to protect beaches,
5 bluffs, dunes, or harbor areas from wave action.

6 “Buffer zone, strip, or area” means either an area designed to separate incompatible uses or
7 activities, or a contiguous area that helps moderate adverse impacts associated with adjacent land
8 uses and that is necessary for the continued maintenance, function, and structural stability of the
9 protected area. Different types of buffers perform different functions.

10 “Building envelope” means:

- 11 1. A three-dimensional space in which a building or structure may be built;
- 12 2. A plat restriction for the purpose of defining lot coverage areas for individual lots, or for
13 describing shoreline building setbacks.

14 “Bulk fuel storage plant or terminal” means an area where flammable or combustible liquids are
15 received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for
16 the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable
17 tank, or container (see International Fire Code).

18 “Bulk fuel storage (retail)” means the storage of fuel in structures or tanks for subsequent retail
19 sale.

20 “Bulk fuel storage (wholesale)” means the storage of fuel in structures or tanks for subsequent
21 wholesale distribution.

22 “Bulkheads or seawalls” means structures erected parallel to and near the high water mark for
23 the purpose of protecting the adjacent bank or uplands from the action of waves or currents.

24 **SECTION 2. SJCC 18.20.140 and Ordinance 1-2016 §74 are each amended to read**
25 **as follows:**

26 **18.20.140 “N” Definitions.**
27

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

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

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

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

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

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

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

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

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

25 “No net loss” means the requirement that development and vegetation removal not result in net
26 harm in the aggregate to the existing functions and values of the ecosystem that includes the
27 adversely impacted or lost critical areas. The no net loss standard in WAC 365-196-830 requires
28 that where development regulations allow harm to critical area functions and values, they must
29 require compensatory mitigation of the harm unless alternative means of protecting critical areas

1 exist such as best management practices or a combination of regulatory and nonregulatory
2 programs.

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

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

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

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

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

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

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

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

5 “Normal residential appurtenance, shoreline” means a structure or development that is
6 necessarily connected to the use and enjoyment of a single-family residence and which is
7 expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption
8 from shoreline substantial development permit requirements in accordance with WAC 173-27-
9 040(g). Structures and activities considered normal residential appurtenances include accessory
10 dwelling units ~~or other detached residential structures~~, garages, sheds, decks and patios attached
11 to primary structures, private pedestrian pathways, stairways to access shorelines including those
12 constructed prior to the construction of a residence on lots intended for single-family
13 development, ramps, ~~patios~~, fences, driveways, utilities, on-site sewage disposal systems,
14 antennas, solar arrays, ~~wind power~~ generators serving a single structure, satellite dishes, boat
15 houses landward of the primary residential structure served by marine railways that require a
16 substantial development permit, official registered historic structures, and grading which does
17 not exceed 250 cubic yards and which does not involve placement of fill in any wetland or
18 waterward of the OHWM.

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

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

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

26
27 **18.20.190 “S” definitions.**
28

29 “Sale” means the transfer for consideration of legal or beneficial ownership.
30

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

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

- 1 “Seaward” means to or toward the sea.
- 2 “Secondary use” is secondary, or subordinate, to the primary use of the property (e.g.,
3 commercial, residential, utilities, etc.).
- 4 “Security barrier” means a locked, impenetrable wall or fence that completely seals an area from
5 unauthorized entry or trespass.
- 6 “Sedimentation” means the process by which material is transported and deposited by water or
7 wind.
- 8 “Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-
9 induced ground shaking, slope failure, settlement, or soil liquefaction.
- 10 “Septage” means the mixture of solid, semi-solid, and liquid wastes, scum, and sludge that is
11 pumped from within septic tanks, pump chambers, holding tanks, and other septic system
12 components.
- 13 “Service area” means an area identified by a public water system that includes existing and
14 future service.
- 15 “Service range” means the area within eight driving miles measured from the property boundary
16 on ferry-served islands and existing facilities on each non-ferry-served island.
- 17 “Setback” means the distance a structure is placed behind a specified line or topographic feature.
- 18 “Sewerage treatment facilities” means the management, storage, collection, transportation,
19 treatment, utilization, and processing of sewage from a municipal or community sewage
20 treatment plant, not including community drain fields.
- 21 “Shooting range” means a facility specifically designed and used for safe shooting practice with
22 firearms and/or for archery practice, with individual or group firing positions for specific
23 weaponry.
- 24 “Shore process corridor” means the land-water zone within which certain geological, biological,
25 and hydraulic actions and interchanges critical to the integrity of the shoreline take place, for
26 example, a feeder bluff-driftway-accretion shoreform system.
- 27 “Shorelands” means lands extending landward for 200 feet in all directions as measured on a
28 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas

1 landward 200 feet from such floodways; and all wetlands and river deltas associated with the
2 streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW, the
3 same to be designated as to location by the Department of Ecology.

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

- 7 1. Signposts;
- 8 2. Benches and tables;
- 9 3. Parking areas;
- 10 4. Paths;
- 11 5. Public pedestrian trails;
- 12 6. Boat ramps without lifts;
- 13 7. Gates;
- 14 8. Staircases; or
- 15 9. Other shoreline access features.

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

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

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

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

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

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

- 17 1. Shorelines of statewide significance;
- 18 2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20
19 cubic feet per second or less, and the wetlands associated with such upstream segments;
20 and
- 21 3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small
22 lakes (RCW 90.58.030).

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

26 “Sign” means any object, device, display or structure, or part thereof, situated outdoors or
27 indoors, which is used to advertise, identify, display, direct or attract attention to an object,
28 person, institution, organization, business, product, service, event or location by any means,
29 including words, letters, figures, design, symbols, fixtures, colors, illumination or projected

1 images. Excluded from this definition are signs required by law and the flags of national and
2 state governments.

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

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

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

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

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

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

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

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

- 19 1. There is a fee charged for the entire carcass to be returned to the animal owner; or
20 2. There is a group of residents who butcher their animals in a common area and there is no
21 fee for slaughtering services.

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

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

- 1 “Soil test hole log” means the excavation and written record of soil septic suitability as per health
2 department written guidelines and requirements.
- 3 “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except
4 wastes identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial
5 wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and
6 discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at
7 agronomic rates. This includes all liquid, solid and semi-solid materials which are not the
8 primary products of public, private, industrial, commercial, mining and agricultural operations.
9 Solid waste includes but is not limited to sludge from wastewater treatment plants and septage
10 from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues
11 from recycling operations are considered solid waste.
- 12 “Solid waste disposal” means the act or process of disposing of rubbish and garbage.
- 13 “Solid waste transfer station” means a fixed, supplemental collection and transportation facility,
14 used by persons and route collection vehicles to deposit collected solid waste from off site into a
15 larger transfer vehicle for transport to a permanent disposal site. Solid waste transfer stations
16 include recycling centers. (See “recycling center.”)
- 17 “Sound” means an oscillation in pressure, particle displacement, particle velocity, or other
18 physical parameter in a medium with internal forces that causes compression and rarefaction of
19 that medium, including any characteristics of sound, such as duration, intensity, and frequency.
- 20 “Source of contamination” means a facility or disposal or storage site for material that impairs
21 the quality of groundwater to a degree that creates a potential hazard to the environment, public
22 health, or interferes with a beneficial use.
- 23 “Special flood hazard” means land in the floodplain subject to a one percent or greater chance of
24 flooding in any given year.
- 25 “Static level” means the stable equilibrium level of the water in a well which rises in the well
26 column, without being influenced by pumping.
- 27 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as
28 stand density.
- 29 “Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.

1 “Stream” means a watercourse with a defined bed and banks, not including manmade ditches,
2 canals, or other entirely artificial watercourses, except where they exist in a natural watercourse
3 (see WAC 220-110-020). Streams are classified in WAC 222-16-030 and 222-16-031.

4 “Street frontage” means the length along a street which a structure, business, or lot abuts or
5 fronts.

6 “Structure” means a permanent or temporary edifice or building or any piece of work artificially
7 built up or composed of parts joined together in some definite manner, whether installed on,
8 above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).

9 “Subarea plan” means a detailed plan consistent with but more specific than this code or the
10 Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a
11 functional long-range plan for a land use or resource issue of Countywide concern.

12 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions
13 or easements shown on the face of a plat of a subdivision or short subdivision; except as
14 provided by RCW 58.17.040(6) for boundary line adjustments.

15 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,
16 but under special circumstances for subdivision into two or more parcels, as provided by this
17 code and Chapter 58.17 RCW.

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

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

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

27 “Substantial development” means any development of which the total cost, or fair market value,
28 exceeds the dollar threshold established by the Washington State Office of Financial
29 Management (RCW 90.58.030(3)(e)); except for the exemptions specified in WAC 173-27-040,

1 Chapter 18.50 SJCC, or any development which materially interferes with the normal public use
2 of the water or shorelines of the state.

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

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

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

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

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

15 **18.50.020 General.**
16

17 A. Title. This chapter of the San Juan County Unified Development Code (UDC), together with
18 Element 3 of the Comprehensive Plan, the official maps and common descriptions of shoreline
19 designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section
20 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound
21 Waterfront Access Plan, and SJCC 18.80.110, is the Shoreline Master Program (SMP) for San
22 Juan County, Washington.

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

25 C. Authority.

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

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

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

8 D. Official Map.

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

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

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

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

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

24 E. Responsibilities of Department Director and Planning Commission.

25 1. Director.

26 a. The director:

27 i. makes written recommendations to the decision-maker regarding shoreline
28 permit applications, provides technical and administrative assistance to the

1 hearing examiner as required, and provides such technical assistance to the
2 planning commission and County council as may be needed; and

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

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

7 i. Establishing the procedures and preparing the forms deemed essential for the
8 administration of the SMP;

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

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

12 iv. Collecting required fees;

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

14 vi. Making field inspections; and

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

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

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

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

24 b. Aerial and LIDAR photographs;

25 c. Other available data; and

26 d. Field observations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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

18.50.030 General applicability.

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

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

C. Applicability to Federal Agencies.

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

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

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

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

9 E. Developments not required to obtain shoreline permits or local reviews. Requirements to
10 obtain a substantial development permit, conditional use permit, variance, letter of exemption, or
11 other review to implement the SMA do not apply to the following:

12 1. Remedial actions pursuant to RCW 90.58.355. Remedial actions conducted by any
13 person at a facility pursuant to a consent decree, order, or agreed order issued pursuant to
14 Chapter 70.105D RCW, or the WDOE when it conducts a remedial action under Chapter
15 70.105D RCW;

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

20 3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.
21 Washington State Department of Transportation projects and activities meeting the
22 conditions of RCW 90.58.356;

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

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

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

1 **18.50.040 Exemptions from shoreline substantial development permit requirements –**
2 **General requirements.**

3
4 A. Exemption from the shoreline substantial development permit requirements under this section
5 does not constitute an exemption from the policies of the SMA, the regulations of this SMP, or
6 other applicable County, state, or federal permit requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 12. Site exploration and investigation activities that are prerequisite to preparation of an
19 application for development authorization under this SMP in accordance with WAC 173-
20 27-040(2)(m) if:

- 21 a. The activity does not interfere with the normal public use of the surface waters;
- 22 b. The activity will have no significant adverse impact on the environment such as
23 fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
- 24 c. The activity does not involve the installation of any structure, and upon completion
25 of the activity the vegetation and land configuration of the site are restored to
26 conditions existing before the activity;
- 27 d. A private entity seeking development authorization under this section first posts a
28 financial guarantee or provides other evidence of financial responsibility to the
29 County to ensure that the site is restored to preexisting condition; and

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

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

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

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

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

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

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

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

- 1 a. The project has been approved by the Washington Department of Fish and Wildlife
2 (WDFW);
- 3 b. The project has received hydraulic project approval by the WDFW pursuant to
4 Chapter 77.55 RCW; and
- 5 c. The County has determined that the project is substantially consistent with this
6 SMP.

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

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

12 **18.50.050 Exemptions from substantial development permit requirements – Normal**
13 **residential appurtenances.**
14

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

20 1. Construction or renovation of structures with fair market value of less than the maximum
21 value allowed by WAC 173-27-040(2)(a) (~~\$6,416 in October 2012~~ \$7,047 in September
22 2017).

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

- 25 a. The total cost or fair market value of the improvements does not exceed the
26 maximum allowed by WAC 173-27-040(2)(a);
- 27 b. Roofs or roof covering materials such as awnings are not allowed for purposes of
28 this exemption;
- 29 c. All materials must be finished in subdued natural earth colors;

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

- 3 e. No other shoreline access exists or is feasible;

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

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

10 B. Certificates of Exemption.

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

- 19 2. When not part of an approved development or project permit a certificate of exemption
- 20 is required for:
 - 21 a. Dredging;
 - 22 b. Flood hazard control structures;
 - 23 c. Archaeological or historic site alteration;
 - 24 d. Clearing, grading, fill, excavation and vegetation removal;
 - 25 e. Dock construction, repair, replacement, or enlargement;
 - 26 f. Structural shoreline stabilization, repair, replacement, or enlargement;

1 g. Any residential, commercial or industrial development project within the natural
2 and aquatic designations;

3 h. Small scale shellfish aquaculture consistent with the provisions of
4 SJCC 18.50.230(B);

5 i. New ~~F~~ temporary barge landing sites. Existing nonconforming temporary barge
6 landing sites do not require a certificate of exemption if the proposed use is consistent
7 with the historic transport of cargo at the site and frequency of the historic use; and

8 j. Private pedestrian pathways, stairways and ramps.

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

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

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

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

23 **18.50.450 Forest practices.**
24

25 A. General Regulations.

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

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

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

- 6 a. Result in no net loss of shoreline ecological functions;
- 7 b. Maintain the ecological quality of the watershed’s hydrologic system;
- 8 c. Prevent significant adverse impacts to other shoreline uses, resources, and values;
- 9 and
- 10 d. Provide a benefit with respect to the objectives of the SMA such as navigation,
- 11 recreation and public access.

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

15 C. Regulations by Designation.

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

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

23 **18.50.540 Residential development.**

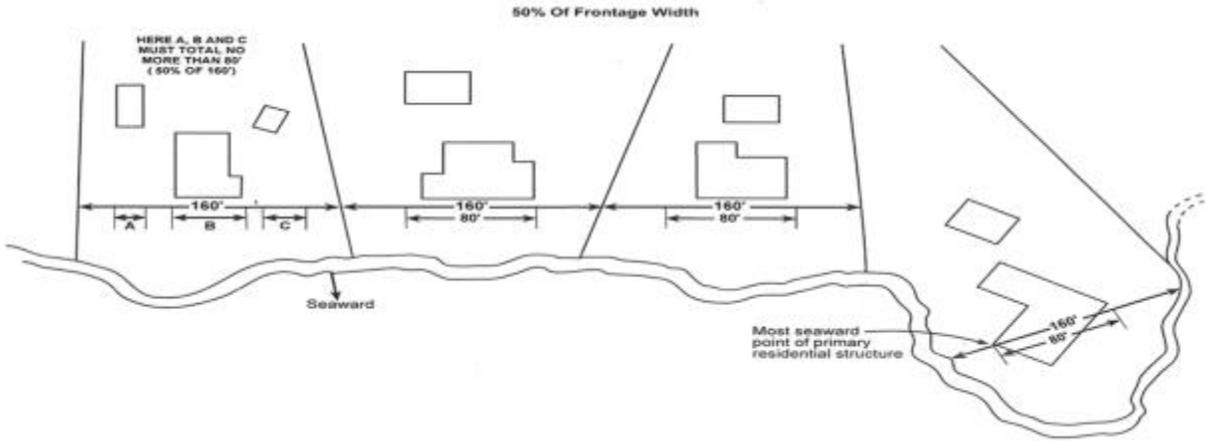
24 A. Regulations – Location and Design.

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

27 2. Developments on waterfront lots may not cover more than 50 percent of the width of the
28 lot as measured by the shortest straight line distance from lot line to lot line through the

1 most seaward point of the primary residential structure. Developments with multiple
2 structures shall ensure that the combined width of all the structures does not exceed 50
3 percent of the width of the single lot. However, on lots less than 80 feet wide at the most
4 seaward point of the proposed residential structure, the structure may cover an area up to
5 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is
6 maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all
7 appurtenant structures must be placed landward of the primary residential structure. See
8 Figure 18.50.540 below.

9 **Figure**
10 **18.50.540**



11
12 The lot width requirement does not apply to normal residential appurtenances and
13 accessory structures thirty inches or less in height.

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

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

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

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

7 C. Regulations – Buffers and Setback Standards.

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

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

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

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

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

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

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

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

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

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

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

4 D. Regulations – Normal Residential Appurtenances and Accessory Structures.

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

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

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

14 Normal residential appurtenant and accessory structures are not allowed in critical area
15 buffers required by SJCC 18.50.120 except for:

16 a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine
17 railways, and

18 b. Temporary fencing for shoreline habitat and natural systems enhancement
19 projects approved pursuant to SJCC 18.50.590.

20 The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC
21 must be met to achieve the no net loss standard in SJCC 18.50.120.

22 A no net loss report may not be used to meet the critical area requirements because
23 avoidance, the first step in the mitigation sequence analysis required by SJCC
24 18.50.120(B) and 18.50.140, cannot be met.

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

26 Normal residential appurtenant and accessory structures are not allowed in the shoreline
27 aesthetic buffer except for:

1 a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine
2 railways and normal residential appurtenances;

3 b. Normal residential appurtenant structures and accessory structures less than thirty
4 inches in height; and

5 c. Temporary fencing for shoreline habitat and natural systems enhancement
6 projects approved pursuant to SJCC 18.50.590.

7 ~~3. Normal residential appurtenances that are not identified in the definition in~~
8 ~~SJCC 18.20.140 are allowed with a conditional use permit. Accessory dwelling units must~~
9 ~~comply with SJCC 18.40.240.~~

10 ~~4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to normal residential~~
11 ~~appurtenances and accessory structures thirty inches or less in height. Note: Moved to (A)(2).~~

12 E. Live Aboard Vessels.

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

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

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

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

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

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

27 F. Regulations by Designation.

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

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

9 **18.50.550 Transportation facilities and parking.**

10
11 A. Regulations – General.

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

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

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

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

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

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

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

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

- 1 4. Access roads must be located according to the following preferences:
- 2 a. Outside of shoreline jurisdiction; or
- 3 b. Landward of water-oriented uses unless it can be shown that such facilities are
- 4 shoreline dependent.
- 5 5. Roadside vegetation shall be controlled.
- 6 6. Roads shall not be constructed on or seaward of a beach berm.
- 7 7. Roads shall be set back behind the tops of feeder bluffs to avoid the need for shoreline
- 8 stabilization for a minimum of 75 years. The setback shall be determined by a qualified
- 9 professional.

10 C. Regulations – Parking.

- 11 1. A parking lot may be located within shoreline jurisdiction if the applicant can
- 12 demonstrate that it:
 - 13 a. Is an essential accessory to an allowed use;
 - 14 b. Could not feasibly be located outside of the shoreline jurisdiction; and
 - 15 c. Can be constructed, used and maintained in a manner that will result in no net loss of
 - 16 shoreline ecological functions.
- 17 2. Parking and holding lots serving ferry terminals, marinas, community docks, and port
- 18 facilities may be allowed within the shoreline jurisdiction with a shoreline conditional use
- 19 permit. Parking lots and their accessory use, such as restrooms, commercial services, and
- 20 access roads, must be located according to the following preferences:
 - 21 a. Outside of the shoreline jurisdiction; or
 - 22 b. Landward of water-oriented uses unless it can be shown that such facilities are
 - 23 shoreline dependent.
- 24 3. Parking areas for shoreline access use are allowed.
- 25 4. Parking over-water is prohibited.

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

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

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

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

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

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

11 F. Regulations – County Docks.

12 1. Overnight moorage is prohibited at County docks.

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

15 G. Regulations – Float Plane Facilities.

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

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

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

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

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

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

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

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

7 H. Regulations – Barge Landing Sites and Facilities.

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

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

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

19 b. An alternative access is not feasible; and

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

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

24 4. The use of an unimproved beach as an emergency landing site is allowed. The shoreline
25 exemption required by SJCC 18.50.050 may be processed after the landing activity. Within
26 seven days of the emergency, the agency or person who undertook the landing(s) shall
27 report to the director the extent of the emergency actions and any adverse impacts to
28 shoreline ecological functions caused by the actions. The agency or person who undertook

1 the action is required to mitigate adverse impacts in accordance with the requirements of
2 SJCC 18.50.110 through 18.50.160.

3 I. Regulations – Public Pedestrian Trails.

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

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

8 J. Regulations by Designation.

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

13 2. Conservancy and Rural Farm Forest.

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

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

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

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

25 e. Other transportation facilities are prohibited.

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

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

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

5 **18.50.600 Shoreline developments, uses, structures and activities by designation.**

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

- 9 1. Is allowed;
- 10 2. Is prohibited;
- 11 3. Requires a shoreline substantial development permit;
- 12 4. Requires a shoreline conditional use permit; or
- 13 5. Is subject to other certificates or conditions.

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

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

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

CUP = Conditional use permit.

No = Prohibited; the use is not eligible
for a variance or conditional use
permit.

NA = Not applicable.

* = See the specific regulations for the
shoreline designation or type of use

in Article III of this chapter.

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Agriculture	CUP*	SD	SD	SD	SD	SD	No	NA
Aquaculture								
General aquaculture	SD*	SD*	SD	SD	SD*	SD	No	SD*
Small scale shellfish 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
Over-Water Structures¹ Including Boating Facilities								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single-family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated	No	CUP	SD	CUP	CUP	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
boat houses								
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
Breakwaters, Jetties and Groins¹								
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
Commercial Development								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Non-water-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
Dredging and Dredge Material Disposal								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material	No	No*	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
disposal, in-water								
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*
Clearing, Grading, Fill, and Excavation								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
Essential Public Facilities								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
Flood Hazard Reduction								
Dikes, levees, revetments, flood walls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
Forest Practices								
Commercial forestry ^{1, 3}	CUP*	SD	SD*	SD	CUP	CUP	No	No

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
Log transfer sites, facilities and storage ^{1,3}	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
Industrial Development¹								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP ¹	No*	No	SD	No	No
Processing aquacultural products	No	CUP	CUP	CUP	CUP	No	CUP	NA
Non-water-oriented uses	No	No	No	No	No	No	No	No
Institutional Development^{1,2}								
<u>Water-dependent 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>
<u>Non-water-oriented uses</u>	No	No	<u>No_*/CUP</u> <u>*_</u>	<u>No_*</u>	<u>No_*</u>	<u>No_*</u> <u>SD_*</u>	No	<u>No</u> <u>CUP</u>
Mineral Extraction¹								
Mineral extraction	No	No	SD*	No	No	SD	No	No
Recreational Development^{1,2}								
Water-oriented	SD*	SD/CUP*	SD/CUP if	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
			Commer- cial					
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
Residential Development²								
Single-family ⁷	No*	SD	SD	SD	SD	SD	SD	No*
Multifamily	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
Live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals ²	No*	No	CUP*	SD	SD	SD	SD	No
Private Pedestrian Pathways, Stairways and Ramps								
Private pedestrian pathways, stairways and ramps	No	SD	SD	SD	SD	SD	SD	No
Shoreline Habitat and Natural Systems Enhancement Projects⁴								

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
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
Structural Shoreline Stabilization⁵								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
Signs								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
Transportation and Parking								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary	No	*	*	*	*	*	*	*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	No	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA

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
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails ⁷	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
Utilities⁶								
Utility transmission and distribution lines, pipelines, cables, stations, plants, and other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations	No*	SD*	SD	SD	SD	SD	SD	SD
Desalination systems	SD*	SD	SD	SD	SD	SD	SD	SD

- 1 Table 18.50.600 Notes.
- 2 1. Eastsound subarea plan prohibits:
 - 3 a. New boating facilities, joint use and private docks;
 - 4 b. Breakwaters, jetties and groins;

- 1 c. Log transfer sites and log storage areas;
 - 2 d. Industrial development outside of the marina;
 - 3 e. Mineral extraction;
 - 4 f. Institutional uses;
 - 5 g. Recreational development with commercial facilities for overnight camping; and
 - 6 h. Fill in the conservancy shoreline designation.
- 7 2. Shaw Island subarea plan prohibits:
- 8 a. Recreational development with commercial facilities for overnight camping;
 - 9 b. Residential vacation rentals by themselves or in combination with any commercial use;
 - 10 c. Institutional uses; and
 - 11 d. New commercial uses.
- 12 3. Subject to the general provisions of SJCC 18.50.450 and 18.50.480 forest management
- 13 activities including log handling and storage facilities are allowed in all shoreline designations
- 14 on Shaw Island.
- 15 4. Shoreline habitat and natural systems enhancement projects are a shoreline conditional use
- 16 within Eastsound subarea plan and are only allowed for public facility or public safety projects.
- 17 5. The replacement or expansion of structural shoreline stabilization measures is allowed but is
- 18 reviewed and permitted as a new structural shoreline stabilization measure.
- 19 6. New outfalls of a domestic or industrial sewage treatment facility within one-half mile of a
- 20 marina may be allowed as a conditional use.
- 21 7. The director shall make the final local decisions on shoreline substantial development permit
- 22 applications for public pedestrian trails and residential accessory structures that do not meet an
- 23 exemption threshold in SJCC 18.50.050.

24
25

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

3
4 **18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting.**
5

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

12 **A. Purpose and Applicability.**

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

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

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

21 a. Shoreline substantial development permits;

22 b. Shoreline conditional use permits; and

23 c. Shoreline variances.

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

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

27 1. A notice of application is required for shoreline permit applications as provided in
28 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~~ decision-maker may attach
18 conditions to ensure consistency with the SMA, SMP and applicable provisions of this
19 code. The ~~hearing examiner~~ decision-maker shall also prepare findings of fact and
20 conclusions of law.

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

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

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

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

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

18 b. Terminate the permit.

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

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

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

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

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

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

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

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

5 3. The director shall be the final decision-maker for shoreline substantial development
6 permit applications for public pedestrian trails and residential accessory structures that do
7 not meet the exemption threshold in SJCC 18.50.050. The hearing examiner shall be the
8 final decision-maker for all other shoreline substantial development permit applications.

9 I. Shoreline Variances.

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

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

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

21 a. Variances for development located landward of the ordinary high water mark
22 (OHWM) except within those areas designated as wetlands pursuant to Chapter 173-
23 22 WAC may be authorized if the applicant can demonstrate all of the following:

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

27 ii. That the hardship is specifically related to the property, is the result of unique
28 conditions such as irregular lot shape, size, or natural features, is not, for
29 example, from deed restrictions or the applicant's own actions and results from
30 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~~ decision-maker. If a shoreline permit is rescinded by the
23 ~~hearing examiner~~, the permittee shall be notified by certified mail. Copies of the ~~examiner's~~
24 final action will be 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 13. SJCC 15.12.030 and Ordinance 13-2018 §4 are each amended to**
2 **read 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 14. Effective Date.

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

SECTION 15. Codification.

Sections 1-13 of this ordinance shall be codified.
Subsections A through N in Section 12 shall each be codified in its own section.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

1 ADOPTED this ____ day of _____ 2020.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

To: The Journal of the San Juan Islands and Islands Sounder
From: **Ingrid Gabriel, Clerk of the San Juan County Council**
Bill To: Department of Community Development
Publish: **1 Time(s) – Wednesday, June 24, 2020**

NOTICE OF A SAN JUAN COUNTY COUNCIL JOINT PUBLIC HEARING WITH THE WA DEPARTMENT OF ECOLOGY (ECOLOGY) TO HEAR TESTIMONY ON PROPOSED AMENDMENTS REGARDING 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

AND

NOTICE OF A SHORELINE MASTER PROGRAM PERIODIC REVIEW PUBLIC COMMENT PERIOD

The hearing will begin at or after 9:15 a.m. Tuesday, July 28, 2020 at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to submit written or oral comments regarding the proposal. It is possible that the hearing will take place telephonically to comply with social distancing measures if they remain in effect through the hearing date. Details for participating over the phone are provided below. Notice will be posted to the County website if the hearing will be held in-person.

The proposed draft SMP amendments are required for the Shoreline Master Program (SMP) Periodic Review to keep the SMP current with changes in state law, changes in other County plans and regulations, and other changed local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

A staff report and attachments including the Ecology periodic review checklist and draft ordinance are available on the project webpage at <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>. Interested parties may request a copy by contacting Adam Zack at (360) 370-7580 or adamz@sanjuanco.com.

Official Comment Period: Wednesday, June 24, 2020 - Tuesday July 28, 2020. The County will forward comments to Ecology and they will be available on the project webpage. Comments provided to the County will be reviewed by the County Council and Ecology.

Methods of Commenting:

- **Via Mail:** Prior to the hearing date, mail written comments to **Adam Zack, Department of Community Development** PO Box 947, Friday Harbor, WA 98250.
- **Via Email:** Email comments to smpcomments@sanjuanco.com.
Please title the email subject line: SMP Comments from (your last name or agency name).

- **Via Oral Testimony:** To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#. Comments during the hearing may be submitted by email at councilpc@sanjuanco.com.

Staff will copy comments submitted prior to noon on July 27, 2020, for the County Council and Ecology. Please provide six copies of written comments if you submit them to DCD after noon on July 27, 2020, or if you distribute them during the public hearing. Written comments will be posted on the project webpage and are preferred, especially under these social distancing circumstances. If requested in your written submittal, staff will read your written comments into the record. Please:

- Reference the related page and line numbers of the draft ordinance in your comments.
- Include your full name and address in all correspondence including emails for the record.

Project Contact: Adam Zack at (360) 370-7580 or adamz@sanjuanco.com.

Call in Contact: Clerk at (360) 378-2898 or councilpc@sanjuanco.com.

LEGAL ADVERTISEMENT

To: The Journal of the San Juan Islands and Islands Sounder
From: **Ingrid Gabriel, Clerk of the San Juan County Council**
Bill To: Department of Community Development
Publish: **1 Time(s) – Wednesday, March 18, 2020**

NOTICE OF A SAN JUAN COUNTY COUNCIL JOINT PUBLIC HEARING WITH THE WA DEPARTMENT OF ECOLOGY (ECOLOGY) TO HEAR TESTIMONY ON PROPOSED AMENDMENTS REGARDING 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
AND
NOTICE OF A SHORELINE MASTER PROGRAM PERIODIC REVIEW PUBLIC COMMENT PERIOD

The hearing will begin at or after 9:15 a.m. Tuesday, April 21, 2020 at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to attend the hearing, and submit written or oral comments regarding the proposal.

The proposed draft SMP amendments are required for the Shoreline Master Program (SMP) Periodic Review to keep the SMP current with changes in state law, changes in other County plans and regulations, and other changed local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

A staff report and attachments including the Ecology periodic review checklist and draft ordinance are available on the project webpage at <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>. Interested parties may review them at the SJC Department of Community Development, 135 Rhone Street, in Friday Harbor, WA 98250.

How to Comment: San Juan County and Ecology are accepting comments on a periodic review of the County's SMP under RCW 90.58.080(4). The County is using the optional joint review process to combine the local and Ecology comment periods, as allowed under WAC 173-26-104. No additional comment period will occur during the State review process.

Official Comment Period: Wednesday, March 18, 2020 - Tuesday April 21, 2020. The County will forward comments to Ecology and they will be available on the project webpage. Comments provided to the County will be reviewed by the County and Ecology.

Please refer to the related page and line numbers of the draft ordinance in your comments. Staff will copy comments submitted prior to 2:00 p.m. on April 20, 2020, for the County Council and

Ecology staff. Please provide six copies of written comments if you submit them to DCD after 2:00 p.m. on April 20, 2020, or if you distribute them during the public hearing.

Please comment:

- **Via Mail:** Prior to the hearing date, mail written comments to **Linda Kuller, Department of Community Development** PO Box 947, Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street, Friday Harbor, WA, 98250 during business hours.
- **Via Email:** Email comments to smpcomments@sanjuanco.com. **Please title the email subject line: SMP Comments from (your last name or agency name)**. For the record, include your full name and address in all correspondence including emails.
- **Via Oral Testimony:** Provide comments on the proposed ordinance at the joint public hearing.

Contact: Linda Kuller at (360) 370-7572 or LindaK@sanjuanco.com.

LEGAL ADVERTISEMENT

To: The Journal of the San Juan Islands and Islands Sounder
From: **Ingrid Gabriel, Clerk of the San Juan County Council**
Bill To: Department of Community Development
Publish: **1 Time(s) – Wednesday, April 8, 2020**

UPDATE: PROCESS FOR REMOTE PUBLIC COMMENT SECOND NOTICE: SHORELINE MASTER PROGRAM JOINT PUBLIC HEARING

SAN JUAN COUNTY COUNCIL JOINT PUBLIC HEARING WITH THE WA DEPARTMENT OF ECOLOGY TO HEAR TESTIMONY ON PROPOSED AMENDMENTS REGARDING THE SHORELINE MASTER PROGRAM (SMP) REGULATIONS; AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140, 18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.110 AND 15.12.030

The hearing will begin at or after 9:15 a.m. Tuesday, April 21, 2020, at the Council Legislative Hearing Room. Interested parties are encouraged to submit written comments regarding the proposal. During this time of social distancing, the San Juan County Council Hearing Room will be closed. The meeting will be live-streamed and may be watched via this link:

<https://www.sanjuanco.com/773/Council-Hearing-Room-Live-Stream>.

Oral Comments for the Hearing will be Taken Telephonically. If you wish to provide oral public comments at the hearing, fill out a form to get added to the speakers list. It is found at: <https://www.sanjuanco.com/CivicAlerts.aspx?AID=876>. The form must be submitted by 7 a.m. the day of the hearing. After submittal, the clerk will email you the call in instructions so you can make your comments.

SMP Periodic Review: San Juan County and Ecology are accepting comments on a periodic review of the County's SMP (RCW 90.58.080(4)). The County is using the joint review process to combine the local and Ecology comment periods (WAC 173-26-104).

The proposed draft SMP amendments are required for the SMP Periodic Review to keep the SMP current with changes in state law, changes in other County plans and regulations, and other changed local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

Official Comment Period: Wednesday, March 18, 2020 - Tuesday April 21, 2020. The County will forward written comments to Ecology. After the hearing, the County must transmit a copy of the public comments to Ecology with a proposed response.

Public Hearing Documents: The staff report and attachments including the Ecology periodic review checklist and draft ordinance are available on the project webpage at https://www.sanjuanco.com/1643/Shoreline-Master_Program-Periodic-Update. The draft ordinance will be mailed to persons upon request.

Methods of Commenting: Written comments will be available on the project webpage and are preferred, especially under these social distancing circumstances. If requested in your written submittal, staff will read your written comments into the record. Please:

- Reference the related page and line numbers of the draft ordinance in your comments.
- Include your full name and address in all correspondence including emails for the record.

Please Comment:

- **Via Mail:** Prior to the hearing date, mail written comments to **Linda Kuller, Department of Community Development** PO Box 947, Friday Harbor, WA 98250.
- **Via Email:** Email comments to smpcomments@sanjuanco.com.
Please title the email subject line: SMP Comments from (your last name or agency name).
- **Via Oral Testimony:** Fill out a form at <https://www.sanjuanco.com/CivicAlerts.aspx?AID=876> to be added to the speakers list. Forms must be submitted by **7 a.m. the day of the hearing**. The clerk will contact you via email with the instructions for calling in to make your comments.

Project Contact: Linda Kuller at (360) 370-7572 or LindaK@sanjuanco.com.

Call in Contact: Clerk at 360-378-2898 or councilpc@sanjuanco.com.

LEGAL ADVERTISEMENT

To: The Journal of the San Juan Islands and Islands Sounder
From: **Ingrid Gabriel, Clerk of the San Juan County Council**
Bill To: Department of Community Development
Publish: **1 Time(s) – Wednesday, April 8, 2020**

CANCELLED **SHORELINE MASTER PROGRAM JOINT PUBLIC HEARING ON APRIL 21, 2020**

SAN JUAN COUNTY COUNCIL JOINT PUBLIC HEARING WITH THE WA DEPARTMENT OF ECOLOGY TO HEAR TESTIMONY ON PROPOSED AMENDMENTS REGARDING THE SHORELINE MASTER PROGRAM (SMP) 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

Rescheduling: When the current emergency circumstances resolve, the County and Ecology will re-schedule the hearing and re-notice it for 30-days. A new official comment period will be established with that public hearing.

SMP Periodic Review: The proposed draft SMP amendments are required for the SMP Periodic Review to keep the SMP current with changes in state law, changes in other County plans and regulations, and other changed local circumstances. Authority for the periodic review is based on Washington's Shoreline Management Act (Ch. 90.58 RCW) and related rules. The County developed these amendments to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary.

Project Documents: The proposed ordinance and Ecology periodic review checklist are available for review on the project webpage at <https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update>. Please call or email Linda Kuller at (360) 370-7572 or LindaK@sanjuanco.com if you would like a mailed copy of the draft ordinance or have questions.

Attachment C

SHORELINE MASTER PROGRAM PERIODIC REVIEW

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	March 31, 2020

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	<p>18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements.</p> <p>D. The following developments, as defined in WAC 173-27-040, are not shoreline substantial developments and require a certificate of exemption when not considered as part of a larger project or development permit:</p> <p>1. With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials.</p> <p>8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owner, lessee, or contract purchaser of single- and multiple-family residences in accordance with WAC 173-27-040(2)(h). This exception applies if either:</p> <p>a. In salt waters, the fair market value of the dock does not exceed \$2,500; or</p> <p>b. In fresh waters, the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction is considered a substantial development.</p>	<p>Review consideration: If a local SMP includes a specific cost threshold, it should be revised to match the current numbers. The new thresholds are:</p> <p>(I) 22,500 dollars 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.</p> <p>Action: Ordinance Section 6. Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §6 in SJCC Subsection (D)(8)(b).</p> <p>b. In fresh waters, the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction is considered a substantial development.</p> <p><u>(i) 22,500 dollars for docks that are constructed to replace existing docks, and are of equal or lesser square footage than the existing dock being replaced, or</u></p> <p><u>(ii) \$11,200 for all other docks constructed in fresh waters.</u></p> <p><u>However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development.</u></p>
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged		<p>RCW 90.58.140 Review consideration: The statutory direction not to apply the SMA to use of DMMP sites applies whether or not a local SMP has been amended. This bill only applies to counties or cities that have open water disposal sites managed by DMMP within their jurisdiction: Clallam, Grays Harbor, Pacific, Pierce, Skagit, and Whatcom Counties, and the cities of Everett, Seattle, and Port Angeles.</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	<p>materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)</p>		<p>This is not applicable to San Juan County. No change is required.</p>
<p>c.</p>	<p>The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.</p> <p>The Legislature amended the SMA to update a dated cross-reference to the WDFW statute that defines fish habitat enhancement projects. The amendments also added kelp, eelgrass and native oyster restoration to the list of activities eligible for the streamlined permit review for these kinds of enhancement projects.</p>		<p>Review consideration: This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. For SMPs that include a full list of fish habitat enhancement projects types, add “kelp, eelgrass and native oyster restoration projects.” For SMPs that include a full list of fish habitat enhancement project types, add kelp, eelgrass and native oyster restoration projects. RCW 90.58.147 Substantial development permit—Exemption for projects to improve fish or wildlife habitat or fish passage.</p> <p>Action: Ordinance Section 6. Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §6 in SJCC Subsection (15).</p> <p>(1) A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:</p> <ul style="list-style-type: none"> (a) The project has been approved by the department of fish and wildlife; (b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and (c) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. <p>(2) Fish habitat enhancement projects that conform to the provisions of *RCW 77.55.290 are determined to be consistent with local shoreline master programs.</p> <p><u>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.</u> 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) <u>and RCW 77.55.181</u>, when all of the following apply:</p> <ul style="list-style-type: none"> a. The project has been approved by the Washington Department of Fish and Wildlife (WDFW); b. The project has received hydraulic project approval by the WDFW pursuant to Chapter 77.55 RCW; and c. The County has determined that the project is substantially consistent with this SMP.

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<p>SJCC 18.50.040 and SJCC 18.50.050</p> <p>D. The following developments, as defined in WAC 173-27-040, are not shoreline substantial developments and require a certificate of exemption when not considered as part of a larger project or development permit:</p> <ol style="list-style-type: none"> 1. With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials. 	<p>Review Consideration: This threshold applies whether or not it is adopted in code.</p> <p>No change is required; however, the update is made in two code section to make them user-friendly:</p> <p>1. Ordinance Section 6. Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §6 in SJCC subsection (D)(1).</p> <ol style="list-style-type: none"> 1. With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law (\$6,416 as of October 2012 <u>\$7,047 in September 2017</u>) in accordance with WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials. <p>2. Ordinance Section 7. Amend SJCC 18.50.050 Exemptions from substantial development permit requirements – Normal residential appurtenances and Ordinance 11-2017 §7 in subsection(A)(1):</p> <ol style="list-style-type: none"> 1. Construction or renovation of structures with fair market value of less than the maximum value allowed by WAC 173-27-040(2)(a) (\$6,416 in October 2012 <u>\$7,047 in September 2017</u>).
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	<p>“Shoreline development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).</p>	<p>Action: Ordinance Section 3. Amend SJCC 18.20.190 “S” definitions and Ordinance 21-2018 § 1 to update the definition of shoreline development by adding the following sentence:</p> <p><u>Shoreline development does not include dismantling or removing structures if there is no other associated development or re-development.</u></p>
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.		<p>Action: Ordinance Section 5. Amend SJCC 18.50.030 General applicability and Ordinance 11-2017 §4 to add a new subsection E to identify the following permitting exemptions:</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
			<p><u>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 <i>Shoreline Management Act</i> do not apply to the following:</u></p> <ol style="list-style-type: none"> 1. <u>Remedial actions pursuant to RCW 90.58.355. Remedial actions conducted by any person at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or the Washington Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW.</u> 2. <u>Boatyard improvements to meet national pollutant discharge elimination system (NPDES) permit requirements pursuant to RCW 90.58.355. Any person installing site improvements for stormwater treatment in an existing boatyard facility needed to meet requirements of a NPDES stormwater general permit.</u> 3. <u>WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356. Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356.</u> 4. <u>Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.</u> 5. <u>Projects authorized through the Washington Energy Facility Site Evaluation Council process pursuant to Chapter 80.50 RCW.</u>
d.	<p>Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.</p>	<p>SJCC 18.80.110</p> <p>D. Consolidated Permit Processing. Proposals that involve two or more types of project permits may be consolidated under the “highest” procedure (i.e., the right-most applicable column in Table 8.1, SJCC 18.80.020) required for such permits, or the applications may be processed individually under each of the procedures identified by this code. The applicant may request the consolidation of hearings with other local, state, regional, federal or other agencies in accordance with RCW 36.70B.110. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC 18.80.140(G), Consolidated Appeal Hearings.)</p> <p>G.4. Within eight days of the hearing examiner’s final decision, the director will send WDOE copies of the permit application and other pertinent materials used to make the final decision (see Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to the hearing examiner’s final decision. The date of filing a shoreline substantial development permit</p>	<p>Review considerations: “Date of filing” replaces “date of receipt” for shoreline permits sent to Ecology. Requires concurrent filing of permits if there are separate Substantial Development, Conditional Use Permits, and/or Variances. Ecology will notify local government and the applicant of the date of filing by telephone or electronic means followed by written communication.</p> <p>Action: Ordinance Section 12. Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §2 to comply with WAC 173-27-044.</p> <p>Amend SJCC 18.80.110(G)(4) to comply with WAC 173-27-044 and to change hearing examiner to decision-maker in (G)(1, 3, a, 4, and 6) for consistency with a local change proposed in subsection (H)((3) that makes the director the decision-maker for shoreline substantial development permits for public pedestrian trails and residential accessory structures that do not meet the exemption threshold in SJCC 18.50.050.</p> <p>4. Within eight days of the hearing examiner’s decision-maker’s final decision, the director <u>using return receipt requested mail</u> will send WDOE and the office of the Attorney General copies of the permit application, and other pertinent materials used to make the final decision (see</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		<p>decision is the date WDOE receives the County's decision. WDOE shall issue and transmit their decisions on conditional use and variance permits to the department and applicant within 30 days of department's submittal to them. The date of filing for shoreline conditional use permits or shoreline variances is the date that WDOE transmits their permit decision to the department and applicant.</p> <p>M. Appeals. Aggrieved parties have 21 days from the date of filing to file appeals to the shoreline hearings board.</p> <p>18.50.140 Judicial and State Board Appeals. The time limits, methods, procedures and criteria for review of land use decisions by the courts or by a quasi-judicial body created by state law, such as the Shorelines</p> <p>Hearings Board or the Growth Management Hearings Board, are provided by state law. See, for example, Chapter 36.70C RCW (21 days; appeal to superior court)</p>	<p>Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to the hearing examiner's <u>decision-maker's</u> final decision. The date of filing a shoreline substantial development permit decision is the date WDOE receives the County's decision. WDOE shall issue and transmit their decisions on conditional use and variance permits to the department and applicant within 30 days of department's submittal to them. The date of filing for shoreline conditional use permits or shoreline variances is the date that WDOE transmits their permit decision to the department and applicant. <u>The date of filing for shoreline substantial 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.</u></p>
e.	<p>Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.</p>	<p>18.50.450 Forest practices. A. General Regulations. 1. In any 10-year period, no more than 30 percent of marketable trees may be harvested on a parcel located within the shoreline jurisdiction in accordance with WAC 222-30-110. Other timber harvesting may be allowed in limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental. 2. The cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is allowed. 3. If there is a likelihood of conversion to nonforest uses, forest practice conversions and other Class IV general forest practices shall: a. Result in no net loss of shoreline ecological functions; b. Maintain the ecological quality of the watershed's hydrologic system; c. Prevent significant adverse impacts to other shoreline uses, resources, and values; and</p>	<p>Review considerations: A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.</p> <p>No change is required; however, SJCC 18.50.450 Forest practices can be amended to be clear by adding a line in (A)(2).</p> <p>Action: Ordinance Section 8. Amend SJCC 18.50.450 Forest Practices in Subsection (A)(2) and Ordinance 11-2017 §20 for clarification:</p> <p>2. The cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is <u>not considered a development under the SMA and does not require a shoreline exemption or substantial development permit and is allowed.</u></p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		<p>d. Provide a benefit with respect to the objectives of the SMA such as navigation, recreation and public access.</p> <p>B. Activities covered under the Washington State Forest Practices Act, Chapter 76.09 RCW, except for conversion to other uses, are exempt from the vegetation management standards in this section.</p>	
f.	<p>Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction</p>	<p>18.50.030 General applicability.</p> <p>A. Relationship to Comprehensive Plan. This SMP provides land use regulations to implement the goals and policies of the Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of the County that fall under the jurisdiction of the SMA. These regulations do not apply to development and uses beyond the jurisdictional limits of the SMA unless a proposed development involves both jurisdictional and non-jurisdictional land and the upslope land development is likely to adversely affect shoreline ecological functions.</p> <p>B. Applicability to Persons. This SMP applies to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or manages lands, wetlands, or waters that fall under the jurisdiction of the SMA, except for the right of any person established by treaty to which the United States is a party.</p> <p>C. Applicability to Federal Agencies.</p> <ol style="list-style-type: none"> 1. Federal agencies are subject to this SMP and the SMA, as provided by the Coastal Zone Management Act (16 U.S.C. 1451 et seq.; WAC 173-27-060(1)). 2. The shoreline permit system applies to nonfederal activities constituting developments or conditional uses undertaken on lands subject to nonfederal ownership, lease, or easement even though such lands may fall within the external boundaries of federally owned lands. 3. The shoreline permit system applies to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government. <p>D. Applicability to Developments, Uses, Structures, and Activities. This SMP applies to all developments, uses, and structures, as well as</p>	<p>Review consideration: It is not necessary to amend local SMPs to reflect this clarification. However, it could be included if a jurisdiction faces questions about applicability of the SMP on lands with exclusive jurisdiction.</p> <p>Sample language: 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.</p> <p>Action: Ordinance Section 5. Amend SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 for clarity:</p> <p>Amends SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 to delete subsection (2) (C) and replace it with the WAC language:</p> <p><u>“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.”</u></p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		activities regulated by SJCC 18.50.130. Unless otherwise authorized, shoreline development without a project permit, shoreline substantial development permit, shoreline conditional use permit, shoreline variance, or certificate of exemption is prohibited.	
g.	Ecology clarified "default" provisions for nonconforming uses and development .		<p>Review consideration: For local governments that adopted their own tailored provisions for nonconforming use and development during the comprehensive update, Ecology's rule amendments will have no effect.</p> <p>No change is required or proposed. San Juan County adopted specific nonconforming use provisions in SJCC 18.50.090.</p>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Local governments that want to use these provisions should review local amendment procedures to ensure there are no impediments to using this new option.	<p>Review consideration: This rule describes the process local governments must follow when conducting periodic reviews. It is not necessary to include any of these new provisions in local SMPs – they provide direction on how to undertake the periodic review process.</p> <p>No change is required or proposed.</p>
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.		<p>Review consideration:</p> <p>No change is required or proposed. SJC does not address the amendment process in code.</p>
j.	Submittal to Ecology of proposed SMP amendments.		<p>Review considerations:</p> <p>No change is required. SJC has not adopted the submittal process in code.</p>
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing	For SMPs that simply cite the RCW list of exemption, no change is needed.	<p>Action: Amend SJCC 18.50.040. Only 18.50.040 needs to be updated because the general regulations apply to all.</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	structure to comply with the Americans with Disabilities Act .		<p>Section 6. Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §5 by adding a new subsection 16:</p> <p><u>16. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.</u></p>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	<p>18.35.090 Wetlands – Rating. San Juan County wetlands are rated according to the Washington State Wetland Rating System for Western Washington – Revised (Ecology Publication No. 04-06-025), as revised by Ecology. This rating system is designed to differentiate between wetlands based on their sensitivity to disturbance, rarity, irreplaceability, and the functions and values they provide. Wetland ratings must be determined by a qualified wetlands professional.</p>	<p>No change is required. The 2014 Wetland Rating Guide is addressed in SJCC 18.35.090.</p>
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.		<p>Review considerations: It is not necessary to include these provisions in SMPs. A reference could help ensure SMPs are implemented consistent with the statute.</p> <p>No change is required or proposed.</p>
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.		<p>Review considerations: Local governments without floating homes need not amend their SMP to address this statute.</p> <p>No change is required. San Juan County does not have any floating homes.</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .		<p>Review consideration: These provisions are not about appeals of individual permits. They describe the appeal pathway after Ecology's approval of a Shoreline Master Program. If an SMP does describe the appeal steps for amendments to shoreline master programs, it should be reviewed for consistency with RCW 90.58.190.</p> <p>No change is required or proposed because the County's SMP does not address the appeal steps.</p>
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	<p>18.35.105 Wetlands – Determination of wetland boundary and requirements for wetland reports.</p> <p>F. Identification of Wetland Boundaries. Wetland boundaries shall be determined through a field investigation by a qualified wetlands professional using the definitions and methods prescribed in the 1987 U.S. Army Corps of Engineers "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, including any applicable regional supplements.</p>	No change is required because the federal wetland delineation manual is addressed in SJCC 18.35.105.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	<p>18.20.010 "A" definitions.</p> <p>"Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery (see WAC 173-26-020(6)).</p>	No change is required because the aquaculture definition addresses it in SJCC 18.20.010.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.		<p>Review consideration: Local governments without floating homes need not amend their SMP to address this statute.</p> <p>No change is required because the County does not have any floating homes.</p>
d.	The Legislature authorizing a new		<p>Review consideration: This law is optional. It is one way local government can address existing development.</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	option to classify existing structures as conforming.		<p>No change is required or proposed. San Juan County addressed nonconforming structures in its recent SMP update (SJCC 18.50.090).</p>
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.		<p>Review consideration: If an SMP describes the “effective date” of SMP amendments, it should be revised to clarify SMPs are effective 14 days from Ecology’s written notice of final action.</p> <p>No change is required or proposed because the code does not include this information.</p>
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.		<p>Review consideration: Local governments may want to include this option in local SMPs – though the process may be used even if the provision is not in the SMP. The Legislature created new “relief” procedures for instances in which a shoreline restoration project within an Urban Growth Area creates a shift in Ordinary High Water Mark, and this shift creates a hardship for properties subject to new or extra regulation. The Legislature was responding to concerns that SMP regulations on the Duwamish River in Seattle and other urban rivers have in some cases stopped habitat restoration projects or resulted in a redesign that reduced the restoration benefits.</p> <p>Option 1. The County may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.</p> <p>Option 2. Incorporate Ecology’s rule into an SMP. A more elaborate option is to incorporate the rule provisions into their SMP.</p> <p>No change is required or proposed.</p>
b.	Ecology adopted a rule for certifying wetland mitigation banks.	<p>18.50.150 Mitigation plans. A. If a mitigation sequence analysis demonstrates that adverse impacts on shoreline ecological functions are unavoidable, mitigation, monitoring and</p>	<p>Review Consideration: Ecology recommends local governments include SMP provision authorizing use of mitigation banks.</p> <p>No change is required or proposed because certified mitigation banks are addressed in SJCC 18.50.150(C).</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		<p>adaptive management plans to offset the adverse impacts must be developed by a qualified professional.</p> <p>B. Where the proposal will have an adverse impact on wetland ecological functions, mitigation plans, including associated wetland replacement ratios, must be consistent with the guidance provided in Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance, Ecology Publication No. 06-06-011a (as amended); and Wetland Mitigation in Washington State – Part 2, Publication No. 06-06-011b (as amended). As an alternative, mitigation actions may follow the procedures described in Ecology Publication No. 10-06-011, Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (as amended) or another mitigation approach or publication approved by WDOE.</p> <p>C. Mitigation options may include the use of certified mitigation banks and approved in lieu fee mitigation sites when they are identified and approved by the County council.</p>	
c.	The Legislature added moratoria authority and procedures to the SMA.		<p>Review consideration: The moratoria procedures may be included in an SMP but it is not necessary – local governments can simply rely on the statute or adopt these provisions into other ordinances.</p> <p>No change is required or proposed.</p>
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	<p>15.12.030 Definitions. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.</p> <p>18.20.190 "S" definitions. "Shorelands" means lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of</p>	<p>Review consideration: Option 1. If a local government elects to use FEMA maps to define the floodway, Ecology recommends the SMP include the following definition: "Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be 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. The word "established" in this suggested definition is consistent with the SMA definition and "effective" indicates that the map is FEMA's approved FIRM – not a preliminary or draft map – and also takes into account potential future changes to the maps. Reference to a specific dated version of the FIRM is not required.</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		<p>Chapter 90.58 RCW, the same to be designated as to location by the Department of Ecology.</p>	<p>Action: Ordinance Section 13. Amend SJCC 15.12.030 and Ordinance 13-2018 §4 and Ordinance 13-2018 §4 consistent with floodway criteria set in the SMA.-Amend the definition in SJCC 15.12.030 "F" definitions:</p> <p>"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance and Mitigation Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.</p> <p>"Flood Insurance Study (FIS)" means the official report provided by the Federal Insurance and Mitigation Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood.</p> <p>"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. <u>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.</u></p>
b.	<p>Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.</p>		<p>Review considerations: If a jurisdiction has identified any new streams or lakes since the comprehensive update, the lists and maps should be updated. These rule amendments clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction. (The SMP list and map will then supersede the list in Ecology rules). The amendments also clarify that if a stream segment or lake is subsequently discovered to meet the SMA criteria, the SMP shall be amended within three years of the discovery.</p> <p>No change is required or proposed. No new lakes or streams have been identified since the Comprehensive SMP update. Shoreline Inventory and characterization- San Juan County Section 3.10 and Table 16 lists lakes and their shoreline management area. Also see Section 3.8. Section 3.92 addresses Streams and Nearshore Riparian Areas. There is no list of streams. Also see Chapter 4 SJC BAS Table 4.1.</p>
c.	<p>Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include</p>	<p>18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements.</p> <p>14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o).</p>	<p>No change is required or proposed because WAC 173-27-040(2)(p) is addressed in SJCC 18.50.040(15).</p>

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	x) Consistent with WAC 173-27-040, 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.	

DRAFT

Section B. Local Amendments

This section reflects additional review issues and related amendments proposed in response to local circumstances.

Item	SMP Section	Summary of change	Discussion
1.	Ordinance Section 1: Amends SJCC 18.20.020 “B” Definitions to change the definition of “barge landing site temporary.”	<p>Amends SJCC 18.20.020 “B” Definitions</p> <p>Adds the word development to the definition.</p> <p>“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, <u>development</u> or permanent adverse impacts on shoreline ecological functions.</p>	<p>This change is proposed in response to a suggestion from Ecology.</p> <p>The intent is to make it clear that permanent development is not allowed at a temporary barge landing site.</p> <p>SJCC 18.20.190 “S” definitions: “Shoreline development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).</p>
2	Ordinance Section 2: Amends SJCC 18.20.140 “N” Definitions and Ordinance 1-2016 §74 to update the definition of normal residential appurtenance.	<p>SJCC 18.20.140 “N” Definitions</p> <p>“Normal residential appurtenance, shoreline” means a structure or development that is necessarily connected to the use and enjoyment of a single-family residence and which is expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption from shoreline substantial development permit</p> <p>requirements in accordance with WAC 173-27-040(g). Structures and activities considered normal residential appurtenances include accessory dwelling units or other detached residential structures, garages, sheds, decks <u>and patios</u> attached to primary structures, private pedestrian pathways, stairways to access shorelines <u>including those constructed prior to the construction of a residence on lots intended for single-family development</u>, ramps, patios, fences, driveways, utilities, on-site sewage disposal</p>	<p>Amends SJCC 18.20.140 “N” Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance to address everyday implementation issues. Proposed changes include:</p> <ul style="list-style-type: none"> ▪ Moving the term “patio” so it would mean those attached to a residence; ▪ Clarifying that the construction of stairways to beaches on residential property can come before the home construction; ▪ Deleting the words “wind power” before generators because there are other alternatives; and ▪ Deleting “other” normal residential appurtenances that could have been approved by the DCD director at Ecology’s suggestion because this definition should be a defined list.

		<p>systems, antennas, solar arrays, wind power generators serving a single structure, satellite dishes, boat houses landward of the primary residential structure served by marine railways that require a substantial development permit, official registered historic structures, and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM.</p>	
3	<p>Ordinance Sections 4: Amends SJCC 18.50.020 and Ordinance 21-2018 §2.</p>	<p>SJCC 18.50.020 General</p> <p>The proposed change to subsection E would allow for more timely permitting for two types of shoreline substantial development permits.</p> <p>E. Responsibilities of Department Director and Planning Commission.</p> <p>1. Director.</p> <p>a. The director:</p> <p>i. makes written recommendations to the decision-maker regarding shoreline permit applications, provides technical and administrative assistance to the hearing examiner as required, and provides such technical assistance to the planning commission and County council as may be needed; and</p> <p>ii. <u>is the local decision-maker on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures that do not meet an exemption threshold in SJCC 18.50.050; and</u></p>	<p>Approximately 2 months of permitting time would be saved by authorizing the director to be the decision-maker instead of the hearing examiner.</p>

4	<p>SECTION 9: SJCC 18.50.540 Residential development and Ordinance 11-2017 §24 are each amended to address the development of residential appurtenances and accessory structures more clearly.</p>	<p>SJCC 18.50.540 Residential development. The changes:</p> <ul style="list-style-type: none"> • Establish where normal residential appurtenances and accessory structures are allowed in critical area and shoreline aesthetic buffers. • Clarify that the fifty percent lot width requirement does not apply to normal residential appurtenances and accessory structures that are 30 inches or less in height because there is limited visual impact at this height. • Provide a new exemption to allow temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590 in critical area and shoreline aesthetic buffers. • Delete subsection (D)(3) that required a conditional use permit for normal residential appurtenances not identified in the definition in SJCC 18.20.140, a major implementation problem. Now most incidental residential structures will fall in the category of residential accessory structures. 	<p>DCD adopted policy PP-2019-02 to address the location of non-water-dependent uses and structures that are typically incidental to residential uses such as gardens, dog houses art installations, hot tubs, and fire rings as residential accessory structures. DCD's policy addresses these as "other normal residential appurtenances." The draft ordinance attached to the January 2, 2020, staff report had one method of addressing them. After further consideration and discussions with Ecology, these minor uses were changed to residential accessory structures and changes were proposed to address them in SJCC 18.50.540 and simplify subsection D.</p> <p>Action: Proposed changes include:</p> <ol style="list-style-type: none"> 1. The addition of a new sentence in subsection (A)(2): <u>The lot width requirement does not apply to normal residential appurtenances and accessory structures thirty inches or less in height.</u> 2. Revisions to subsections (D)(1) and (2) as shown below <p>D. Regulations – Normal Residential Appurtenances <u>and Accessory Structures.</u></p> <ol style="list-style-type: none"> 1. With the exception of private pedestrian pathways, stairways, ramps, patios, and decks attached to the primary structure, and boathouses served by marine railways, normal residential appurtenances that are not water dependent are not allowed seaward of the most landward extent of the residence. The director may authorize an alternative location without requiring a shoreline variance by issuing a written administrative determination. To be approved, the director must find that: <ol style="list-style-type: none"> a. Application of this regulation would result in greater adverse impacts on shoreline ecological functions; or b. The restriction conflicts with other applicable regulations of this SMP. <p><u>Normal residential appurtenant and accessory structures are not allowed in critical area buffers required by SJCC 18.50.120 except for:</u></p> <ol style="list-style-type: none"> <u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways, and</u> <u>b. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590.</u>
---	--	---	--

			<p><u>The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC must be met to achieve the no net loss standard in SJCC 18.50.120. A no net loss report may not be used to meet the critical area requirements because avoidance, the first step in the mitigation sequence analysis required by SJCC 18.50.120(B) and 18.50.140, cannot be met.</u></p> <p>2. Accessory dwelling units must comply with SJCC 18.40.240. <u>Normal residential appurtenant and accessory structures are not allowed in the shoreline aesthetic buffer except for:</u></p> <p><u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and normal residential appurtenances;</u></p> <p><u>b. Normal residential appurtenant structures and accessory structures less than thirty inches in height; and</u></p> <p><u>c. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590.</u> 3. Normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 are allowed with a conditional use permit. Accessory dwelling units must comply with SJCC 18.40.240.</p> <p>4. The lot width requirement in SJCC 18.50.540(A)(2) does not apply to normal residential appurtenances and accessory structures thirty inches or less in height. Note: Moved to (A)(2).</p>
5	<p>Ordinance Section 10: Amends SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 §25 to clarify the permitting needs of existing nonconforming temporary barge landing sites.</p>	<p>SJCC 18.50.550 Transportation facilities and parking is clarified so that:</p> <ul style="list-style-type: none"> • Only new temporary barge landing sites require a certificate of exemption, and • Nonconforming temporary barge landing sites do not require that certificate if they are to be used for the transport of the same cargo and at the same frequency as historic use. 	<p>SJCC 18.50.090 establishes requirements for nonconforming uses. Although the use of nonconforming temporary barge landing sites will not need a certificate of exemption, prior to use, the owners must request an administrative determination that the proposed use is consistent with the historic use and frequency. Compliance with SJCC 18.50.090 critical area protections must be demonstrated.</p> <p>Action: Amend SJCC 18.50.555 (H)(1) to read:</p> <p>H. Regulations – Barge Landing Sites and Facilities.</p> <p>1. <u>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.</u></p>

6	<p>Ordinance Section 11: Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27</p>	<p>SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation.</p> <p>The shoreline land use table includes changes making the institutional use category listings the same as those in the commercial land use category. The Shoreline Management Act does not specifically address institutional uses. Accordingly most jurisdictions treat them like commercial uses.</p> <p>Also, a new footnote is added and to include a new footnote on public pedestrian trails indicating that the director shall be the local decision -maker of permit applications.</p>	<p>SJCC Table 18.50.600 is amended to include water related uses and water-enjoyment uses and edited for consistency. These uses are listed in the commercial category and should also apply to the institutional category.</p> <div data-bbox="1446 365 2413 933" style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Table 18.50.600. Shoreline development, uses, structures and activities by designation</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Natural</th> <th>Conservancy</th> <th>Rural</th> <th>Rural Farm Forest</th> <th>Rural Residential</th> <th>Urban</th> <th>Port, Marina and Marine Transportation</th> <th>Aquatic</th> </tr> </thead> <tbody> <tr> <td>Water-dependent uses</td> <td>No</td> <td>SD*/CUP*</td> <td>SD CUP*</td> <td>No*</td> <td>No*</td> <td>SD*</td> <td>SD*</td> <td>SD*</td> </tr> <tr> <td>Water-related uses</td> <td>No</td> <td>SD*/CUP*</td> <td>CUP*</td> <td>No*</td> <td>No*</td> <td>SD*</td> <td>SD*</td> <td>SD*</td> </tr> <tr> <td>Water-enjoyment uses</td> <td>No</td> <td>SD*/CUP*</td> <td>CUP*</td> <td>No*</td> <td>No*</td> <td>SD*</td> <td>SD*</td> <td>SD*</td> </tr> <tr> <td>Non-water-oriented uses</td> <td>No</td> <td>No</td> <td>No*/CUP*</td> <td>No*</td> <td>No*</td> <td>No SD*</td> <td>No</td> <td>No CUP*</td> </tr> <tr> <td>Shoreline access points</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>Yes</td> </tr> <tr> <td>Public pedestrian trails</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>SD</td> <td>NA</td> </tr> </tbody> </table> </div> <p>Footnotes: 7. The director shall make the decisions on shoreline substantial development permit applications for public pedestrian trails.</p>		Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic	Water-dependent uses	No	SD*/CUP*	SD 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*	No SD*	No	No CUP*	Shoreline access points	SD	Yes	Public pedestrian trails	SD	NA												
	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic																																																										
Water-dependent uses	No	SD*/CUP*	SD 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*	No SD*	No	No CUP*																																																										
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes																																																										
Public pedestrian trails	SD	SD	SD	SD	SD	SD	SD	NA																																																										
7	<p>Ordinance Section 12: Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §2</p>	<p>SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting</p> <p>Multiple subsections are amended to for consistency with the addition of new subsection (H)(3) authorizing the DCD director to be the decision-maker on applications for public pedestrian trails and residential accessory structures that do not meet a shoreline substantial development permit exemption.</p>	<p>This change is will assist the County in more efficiently developing trails and reduce the burden on residential home owners that pursue development of residential accessory structures.</p> <p><u>3. The director shall be the decision-maker for shoreline substantial development permit applications for public pedestrian trails. The hearing examiner shall be the decision-maker for all other shoreline substantial development permit applications.</u></p>																																																															

8.	<p>Ordinance Section 11. Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §</p>	<p>This amendment corrects a code reference in SJCC 18.80.110 (I)(3).</p>	<p>6. Filing of variances with and review by the WDOE are described in subsection (G)(5) (4) of this section.</p>
----	--	--	---

DRAFT

Attachment D

Linda Ann Kuller

From: Ken/Miki Brostrom <xnw@att.net>
Sent: Thursday, January 30, 2020 1:36 PM
To: Rick Hughes; Bill Watson; Jamie Stephens; Ingrid Gabriel; Lynda Guernsey; SMP
Comments; Erika Shook; Linda Ann Kuller; Colin Maycock
Subject: Comments on the SMP Periodic Update Ordinance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing with concern regarding a proposed addition to San Juan County shoreline regulations. Specifically,

Draft Ordinance Section 9.1 (SJCC 18.50.550 Section H.1):

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.

The added new language, underlined above, would constitute an “Exemption-Exemption” to an already-codified exemption process. Here are my questions and concerns:

1. Why is this necessary? Where is the justification? Who proposed it and why? Where is the oversight? Who keeps track of the number of landings? Who monitors the impact on shorelines? The rolling 24-month period would allow perpetual use of a given site. This appears to be a free-pass, as if the county is saying, Do whatever you want, we don't care.
2. How is the proposed new section consistent with the SMA/ECY mandate to protect shoreline natural resources against adverse environmental effects and preserve the natural character and aesthetics of the shoreline?
3. How is this consistent with the SMA/ECY mandate to limit use of tidelands and shorelands, to maximize and protect the public's right to access? Are these sites for use only by the adjacent upland landowner or are they available to others? Many – if not most – of these nonconforming sites are on publicly-owned tidelands. Has this preemption of public use been considered?
4. How is this consistent with the current San Juan County code? A permit exemption application currently under consideration by the Planning Department for use of a nonconforming barge landing site as a log transfer (barge) site has been determined by the Planning Department to be a “temporary use” even though San Juan County Code has specific permit requirements for log transfer sites and this site has never been used as a log transfer site. In addition, the site is on shorelines designated “Natural” and this

use would be prohibited under current county regulations. This new language and its creative interpretations would make proposals such as this even more problematic.

5. What is the process for determining an “Exemption-Exemption”? Or is there one? How would it differ from the process for an “Exemption”? Or will it just be up to the landowner to decide the site’s previous allowed use, type of use and frequency of use? Or up to the constant (and often adversarial) vigilance of neighbors?

6. Where in the code is there a list of the “existing nonconforming barge landing sites” and their “historic transport of cargo ... and frequency of the historic use.”? There is a 2004 Public Works list of 96 identified barge landing sites, but it is out-of-date, inaccurate, and lacks specific description and detail as to historic use and frequency. For the pending exemption application referenced above, the Planning Department is not using the 2004 inventory, but a list from 2002, which is even more incomplete, inaccurate and lacking in specificity.

7. Where is there a definition of “barge”? Is use of these nonconforming sites limited in type and size of barge to self-powered landing craft like the *Pintail*? 23-feet wide by 48-feet in length? Does it include non-powered barges like the *Heavyweight*? some 33-feet in width and 110 to 130-feet long, requiring a tugboat to maneuver and hold in place on the beach, and which I have seen used on nonconforming barge landing sites?

I am not a land-use attorney, nor a land-use planner. I am an interested and concerned citizen who has been involved in both SEPA and SMA since their inception in the early 1970’s. I have been a shoreland owner in San Juan County since 1973. I know that the original and primary purpose of SEPA and SMA (which seems to be largely forgotten over the past nearly 50 years) is to thoughtfully and thoroughly understand the environmental impacts of our land-use actions and to consider cumulative impacts of these actions.

Allowing “exemption-exemptions” to 96 – or more – already nonconforming shoreline barge landing sites throughout San Juan County without a finite list, without detail as to type and frequency of use, without thoughtful and thorough consideration of environmental impacts of individual sites and cumulative impacts of multiple sites is antithetical to the purpose and intent of both SEPA and the SMA.

Please withdraw this newly proposed “exemption-exemption” provision from this SMP Update until there is a discrete list of all “existing nonconforming temporary barge landing site” and a complete and detailed description for each site of the historic transport of cargo, type of cargo, and frequency of use.

And, please reconsider the use and purpose of shoreline “temporary uses” and “shoreline permit exemptions” to more clearly reflect their purpose, procedures and protections, and not simply codify artificial means of avoiding mandated and necessary regulations.

Respectfully submitted,

Miki Brostrom

From: [Petersen, Amelia \(ECY\)](#) on behalf of [Burcar, Joe \(ECY\)](#)
To: trgobin@tulaliptribes-nsn.gov; rayfryberg@tulaliptribes-nsn.gov
Cc: [Watson, Laura \(ECY\)](#); [Oreiro, Tyson \(ECY\)](#); [Buroker, Thomas \(ECY\)](#); [Yunge, Chad \(ECY\)](#); [Adam Zack](#)
Subject: San Juan County Shoreline Master Program Periodic Review: Public Comment Period
Date: Thursday, June 18, 2020 12:57:33 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chairperson Gobin:

San Juan County is conducting a mandatory periodic review of their Shoreline Master Program (SMP) and has elected to use the optional joint review process with the Department of Ecology (Ecology) of their proposed amendments. As required by the Shoreline Management Act, we are initiating our formal review process with the opening of a joint public comment period and by notifying interested parties of the opportunity to provide comments. To better inform our review, we are specifically inviting you and other potentially interested tribal governments to provide comments and to consult government to government as needed. Ecology's joint review of the San Juan County SMP periodic review is allowed by the Shoreline Management Act (Chapter 90.58 RCW) and the SMP Guidelines (WAC 173-26-104). **The joint public comment period is open from June 24 to July 28, 2020.** Comments provided to the County will be reviewed by both the County and Ecology; there is no need to send duplicates. You may also submit comments at the **joint public hearing**, which will be held at 9:15 a.m. on July 28, 2020, at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. This hearing will take place over the phone to comply with social distancing measures if they remain in effect through the hearing date. Notice will be posted to the [County website](#) if the hearing will be held in person.

Please refer to the related page and line numbers of the draft ordinance in your comments. Comments may be submitted via:

- Mail: Prior to the hearing date, mail written comments to Adam Zack, Department of Community Development, PO Box 947, Friday Harbor, WA 98250.
- Email: Email comments to smpcomments@sanjuanco.com. Please title the email subject line: SMP Comments from (your last name or agency name).
- Oral testimony at the public hearing: To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#. Written comments during the hearing may be submitted via email to councilpc@sanjuanco.com.

At the conclusion of the comment period, the County will prepare a response to comments and determine if changes are needed. Public comments and the County responses will be shared with Ecology. After local adoption, the SMP amendment will be formally submitted to Ecology for final decision per WAC 173-26-104 and WAC 173-26-110. At the conclusion of our formal review, Ecology's Director must decide to approve the program as submitted, approve it with required changes and/or recommended changes, or deny approval. No additional comment period will occur during the state review process; therefore, this may be your only opportunity to comment on this proposed SMP amendment.

We invite you and your staff to comment on the proposed program and would appreciate

receiving your comments by the end of the joint public comment period on July 28, 2020, in order to give them full consideration prior to the Director's decision.

More information on how to provide comments and related documents may be found at the [County's website](#).

Should you or your staff have any questions or wish to set up a meeting with Ecology staff, please contact Chad Yunge, Senior Shoreline Planner, at (360) 255-4374 or by email at chad.yunge@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Burcar".

Joe Burcar | SEA Section Manager | [Department of Ecology](#) Northwest Regional Office | o: 425-649-7096 | c: 425-681-1051 | e: joe.burcar@ecy.wa.gov

This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56).

From: [Petersen, Amelia \(ECY\)](#) on behalf of [Burcar, Joe \(ECY\)](#)
To: sedwards@swinomish.nsn.us; tmitchell@swinomish.nsn.us
Cc: [Watson, Laura \(ECY\)](#); [Oreiro, Tyson \(ECY\)](#); [Buroker, Thomas \(ECY\)](#); [Yunge, Chad \(ECY\)](#); [Adam Zack](#)
Subject: San Juan County Shoreline Master Program Periodic Review: Public Comment Period
Date: Thursday, June 18, 2020 12:54:29 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chairperson Edwards:

San Juan County is conducting a mandatory periodic review of their Shoreline Master Program (SMP) and has elected to use the optional joint review process with the Department of Ecology (Ecology) of their proposed amendments. As required by the Shoreline Management Act, we are initiating our formal review process with the opening of a joint public comment period and by notifying interested parties of the opportunity to provide comments. To better inform our review, we are specifically inviting you and other potentially interested tribal governments to provide comments and to consult government to government as needed. Ecology's joint review of the San Juan County SMP periodic review is allowed by the Shoreline Management Act (Chapter 90.58 RCW) and the SMP Guidelines (WAC 173-26-104). **The joint public comment period is open from June 24 to July 28, 2020.** Comments provided to the County will be reviewed by both the County and Ecology; there is no need to send duplicates. You may also submit comments at the **joint public hearing**, which will be held at 9:15 a.m. on July 28, 2020, at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. This hearing will take place over the phone to comply with social distancing measures if they remain in effect through the hearing date. Notice will be posted to the [County website](#) if the hearing will be held in person.

Please refer to the related page and line numbers of the draft ordinance in your comments. Comments may be submitted via:

- Mail: Prior to the hearing date, mail written comments to Adam Zack, Department of Community Development, PO Box 947, Friday Harbor, WA 98250.
- Email: Email comments to smpcomments@sanjuanco.com. Please title the email subject line: SMP Comments from (your last name or agency name).
- Oral testimony at the public hearing: To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#. Written comments during the hearing may be submitted via email to councilpc@sanjuanco.com.

At the conclusion of the comment period, the County will prepare a response to comments and determine if changes are needed. Public comments and the County responses will be shared with Ecology. After local adoption, the SMP amendment will be formally submitted to Ecology for final decision per WAC 173-26-104 and WAC 173-26-110. At the conclusion of our formal review, Ecology's Director must decide to approve the program as submitted, approve it with required changes and/or recommended changes, or deny approval. No additional comment period will occur during the state review process; therefore, this may be your only opportunity to comment on this proposed SMP amendment.

We invite you and your staff to comment on the proposed program and would appreciate

receiving your comments by the end of the joint public comment period on July 28, 2020, in order to give them full consideration prior to the Director's decision.

More information on how to provide comments and related documents may be found at the [County's website](#).

Should you or your staff have any questions or wish to set up a meeting with Ecology staff, please contact Chad Yunge, Senior Shoreline Planner, at (360) 255-4374 or by email at chad.yunge@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Burcar".

Joe Burcar | SEA Section Manager | [Department of Ecology](#) Northwest Regional Office | o: 425-649-7096 | c: 425-681-1051 | e: joe.burcar@ecy.wa.gov

This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56).

From: [Petersen, Amelia \(ECY\)](#) on behalf of [Burcar, Joe \(ECY\)](#)
To: [Wooten, Tom](#)
Cc: [Watson, Laura \(ECY\)](#); [Oreiro, Tyson \(ECY\)](#); [Buroker, Thomas \(ECY\)](#); [Yunge, Chad \(ECY\)](#); [Adam Zack](#)
Subject: San Juan County Shoreline Master Program Periodic Review: Public Comment Period
Date: Thursday, June 18, 2020 12:49:54 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chairperson Wooten:

San Juan County is conducting a mandatory periodic review of their Shoreline Master Program (SMP) and has elected to use the optional joint review process with the Department of Ecology (Ecology) of their proposed amendments. As required by the Shoreline Management Act, we are initiating our formal review process with the opening of a joint public comment period and by notifying interested parties of the opportunity to provide comments. To better inform our review, we are specifically inviting you and other potentially interested tribal governments to provide comments and to consult government to government as needed. Ecology's joint review of the San Juan County SMP periodic review is allowed by the Shoreline Management Act (Chapter 90.58 RCW) and the SMP Guidelines (WAC 173-26-104). **The joint public comment period is open from June 24 to July 28, 2020.** Comments provided to the County will be reviewed by both the County and Ecology; there is no need to send duplicates. You may also submit comments at the **joint public hearing**, which will be held at 9:15 a.m. on July 28, 2020, at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. This hearing will take place over the phone to comply with social distancing measures if they remain in effect through the hearing date. Notice will be posted to the [County website](#) if the hearing will be held in person.

Please refer to the related page and line numbers of the draft ordinance in your comments. Comments may be submitted via:

- Mail: Prior to the hearing date, mail written comments to Adam Zack, Department of Community Development, PO Box 947, Friday Harbor, WA 98250.
- Email: Email comments to smpcomments@sanjuanco.com. Please title the email subject line: SMP Comments from (your last name or agency name).
- Oral testimony at the public hearing: To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#. Written comments during the hearing may be submitted via email to councilpc@sanjuanco.com.

At the conclusion of the comment period, the County will prepare a response to comments and determine if changes are needed. Public comments and the County responses will be shared with Ecology. After local adoption, the SMP amendment will be formally submitted to Ecology for final decision per WAC 173-26-104 and WAC 173-26-110. At the conclusion of our formal review, Ecology's Director must decide to approve the program as submitted, approve it with required changes and/or recommended changes, or deny approval. No additional comment period will occur during the state review process; therefore, this may be your only opportunity to comment on this proposed SMP amendment.

We invite you and your staff to comment on the proposed program and would appreciate

receiving your comments by the end of the joint public comment period on July 28, 2020, in order to give them full consideration prior to the Director's decision.

More information on how to provide comments and related documents may be found at the [County's website](#).

Should you or your staff have any questions or wish to set up a meeting with Ecology staff, please contact Chad Yunge, Senior Shoreline Planner, at (360) 255-4374 or by email at chad.yunge@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Burcar".

Joe Burcar | SEA Section Manager | [Department of Ecology](#) Northwest Regional Office | o: 425-649-7096 | c: 425-681-1051 | e: joe.burcar@ecy.wa.gov

This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56).

From: [Petersen, Amelia \(ECY\)](#) on behalf of [Burcar, Joe \(ECY\)](#)
To: lawrences@lummi-nsn.gov
Cc: [Watson, Laura \(ECY\)](#); [Buroker, Thomas \(ECY\)](#); [Yunge, Chad \(ECY\)](#); [Adam Zack](#); [Oreiro, Tyson \(ECY\)](#)
Subject: San Juan County Shoreline Master Program Periodic Review: Public Comment Period
Date: Thursday, June 18, 2020 12:47:24 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chairperson Solomon:

San Juan County is conducting a mandatory periodic review of their Shoreline Master Program (SMP) and has elected to use the optional joint review process with the Department of Ecology (Ecology) of their proposed amendments. As required by the Shoreline Management Act, we are initiating our formal review process with the opening of a joint public comment period and by notifying interested parties of the opportunity to provide comments. To better inform our review, we are specifically inviting you and other potentially interested tribal governments to provide comments and to consult government to government as needed. Ecology's joint review of the San Juan County SMP periodic review is allowed by the Shoreline Management Act (Chapter 90.58 RCW) and the SMP Guidelines (WAC 173-26-104). **The joint public comment period is open from June 24 to July 28, 2020.** Comments provided to the County will be reviewed by both the County and Ecology; there is no need to send duplicates. You may also submit comments at the **joint public hearing**, which will be held at 9:15 a.m. on July 28, 2020, at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. This hearing will take place over the phone to comply with social distancing measures if they remain in effect through the hearing date. Notice will be posted to the [County website](#) if the hearing will be held in person.

Please refer to the related page and line numbers of the draft ordinance in your comments. Comments may be submitted via:

- Mail: Prior to the hearing date, mail written comments to Adam Zack, Department of Community Development, PO Box 947, Friday Harbor, WA 98250.
- Email: Email comments to smpcomments@sanjuanco.com. Please title the email subject line: SMP Comments from (your last name or agency name).
- Oral testimony at the public hearing: To join by phone, please call 1 (360) 370-0599 and use the meeting ID 441250#. Written comments during the hearing may be submitted via email to councilpc@sanjuanco.com.

At the conclusion of the comment period, the County will prepare a response to comments and determine if changes are needed. Public comments and the County responses will be shared with Ecology. After local adoption, the SMP amendment will be formally submitted to Ecology for final decision per WAC 173-26-104 and WAC 173-26-110. At the conclusion of our formal review, Ecology's Director must decide to approve the program as submitted, approve it with required changes and/or recommended changes, or deny approval. No additional comment period will occur during the state review process; therefore, this may be your only opportunity to comment on this proposed SMP amendment.

We invite you and your staff to comment on the proposed program and would appreciate

receiving your comments by the end of the joint public comment period on July 28, 2020, in order to give them full consideration prior to the Director's decision.

More information on how to provide comments and related documents may be found at the [County's website](#).

Should you or your staff have any questions or wish to set up a meeting with Ecology staff, please contact Chad Yunge, Senior Shoreline Planner, at (360) 255-4374 or by email at chad.yunge@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Burcar".

Joe Burcar | SEA Section Manager | [Department of Ecology](#) Northwest Regional Office | o: 425-649-7096 | c: 425-681-1051 | e: joe.burcar@ecy.wa.gov

This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56).



San Juan County Planning Commission

FINDINGS AND RECOMMENDATIONS

HEARING DATE: February 21, 2020

SUBJECT: Shoreline Master Program Periodic Update

APPLICANT: San Juan County

LOCATION: San Juan County

COMMISSION MEMBERS

PARTICIPATING: Tim Blanchard, Dale Roundy, Michael Pickett, Georgette Wong, and Camille Uhlir

COMMUNITY DEVELOPMENT AND PLANNING

RECOMMENDATION: Approval

PLANNING COMMISSION

RECOMMENDATION: Approval

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS:

The San Juan County Planning Commission hereby recommends to the County Council, the staff recommendations for the Shoreline Master Program Periodic Update as submitted in the January 31, 2020 staff report, including Attachment B, the public hearing ordinance.

The vote of the Planning Commission on the above described recommendation is as follows:

<u>Name</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Tim Blanchard	X		
Dale Roundy	X		
Camille Uhlir	X		
Georgette Wong	X		
Michael Pickett	X		

RECOMMENDED this 21st day of February, 2020, which constitutes the date of the Planning Commission's action, per State law.

SAN JUAN COUNTY PLANNING COMMISSION



Chair or Vice-Chair

3-20-2020

Date



Co-signor

3-24-2020

Date