



# SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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## MEMO

**MEMO DATE:** August 28, 2020

**TO:** Washington State Department of Ecology (Ecology)

**CC:** Chad Yunge, Senior Regional Shoreline Planner, Department of Ecology

**FROM:** Erika Shook, AICP, DCD Director  
Adam Zack, Planner III 

**SUBJECT:** San Juan County Shoreline Master Program (SMP) Periodic Review

**ATTACHMENT:**

- A. 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, 18.80.020, 18.80.110 And 15.12.030
- B. SMP Periodic Review Checklist dated August 28, 2020
- C. Public Comments and Responses

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**PURPOSE:** To provide a draft Ordinance amending the San Juan County SMP to Ecology for review and initial determination, pursuant to WAC 173-26-110 and WAC 173-26-120.

**ACTION REQUESTED:** Please review and provide an initial determination on the attached proposed SMP amendments for consistency with applicable laws and rules.

**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, 18.80.020, 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).

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

3  
4           **SECTION 1. SJCC 18.20.020 and Ordinance 1-2016 §68 are each amended to read**  
5 **as follows:**

6   **18.20.020 “B” definitions.**

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

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

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

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

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

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

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

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

- 1 “Best available science” means current scientific information used in the process of designating,  
2 protecting, or restoring critical area functions and values, that is derived from a valid scientific  
3 process as described in WAC 365-195-900 through 365-195-925.
- 4 “Best management practices (BMPs)” means systems of practices, schedules of activities,  
5 prohibitions, maintenance procedures, and structural or management measures that prevent or  
6 minimize the release of pollutants or other adverse impacts to the environment.
- 7 “Binding site plan” is a method of division of land intended primarily for projects such as  
8 condominiums, residential clusters or planned unit developments, industrial parks and shopping  
9 centers, which are developed as a whole rather than for sale of individual lots for development.
- 10 “Biodiesel” means biodiesel as defined by RCW 19.112.010.
- 11 “Biofiltration system” means a water filtration system using biological processes.
- 12 “Boat launch, ramp or retrieval system” means an area, structure, or equipment used to launch or  
13 retrieve boats.
- 14 “Boathouse” means an enclosed structure designed and used for the storage of boats and boat  
15 equipment.
- 16 “Boating facilities” means development and uses that support access to shoreline waters for  
17 purposes of boating such as marinas, covered moorages, boathouses, ramps, marine railways,  
18 mooring buoys, piers, docks and floats serving five or more single-family residences, or  
19 multifamily units.
- 20 “Bonus-density residential district” means a district in which a density bonus is permitted for  
21 affordable housing. The official maps indicate both the base density permitted without a density  
22 bonus and the maximum density permitted with a density bonus for affordable housing.
- 23 “Boundary line adjustment” means a change in the location of the boundary or boundaries between  
24 parcels of land to correct errors.
- 25 “Boundary line modification” means a change in the location of the boundary or boundaries  
26 between parcels of land; provided, that no additional parcels are created, except that a change in a  
27 land description to correct errors is not to be considered a boundary line modification.

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

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

7 “Building envelope” means:

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

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

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

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

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

21  
22 **SECTION 2. SJCC 18.20.140 and Ordinance 1-2016 §74 are each amended to read**  
23 **as follows:**

24 **18.20.140 “N” Definitions.**  
25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “Normal residential appurtenance, shoreline” means a structure or development that is necessarily  
30 connected to the use and enjoyment of a single-family residence and which is expressly defined in  
31 WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption from shoreline

1 substantial development permit requirements in accordance with WAC 173-27-040(g). Structures  
2 and activities considered normal residential appurtenances include accessory dwelling units ~~or~~  
3 ~~other detached residential structures~~, garages, sheds, decks and patios attached to primary  
4 structures, private pedestrian pathways, stairways to access shorelines including those constructed  
5 prior to the construction of a residence on lots intended for single-family development, ramps,  
6 patios, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, ~~wind~~  
7 ~~power~~ generators serving a single structure, satellite dishes, boat houses landward of the primary  
8 residential structure served by marine railways that require a substantial development permit,  
9 official registered historic structures, and grading which does not exceed 250 cubic yards and  
10 which does not involve placement of fill in any wetland or waterward of the OHWM.

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

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

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

18  
19 **18.20.190 “S” definitions.**

20  
21 “Sale” means the transfer for consideration of legal or beneficial ownership.

22  
23 “Salt water intrusion” means the underground flow of salt water into wells and aquifers.

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

26 “Seaward” means to or toward the sea.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 1. Signposts;

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

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

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

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

26        “Shoreline permit” means a substantial development, shoreline conditional use, or shoreline  
27 variance permit.

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

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

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

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

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

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

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

- 1 “Sign, off-site outdoor advertising” means an outdoor, off-site sign that calls attention to a  
2 business, activity, profession, commodity, product, service or entertainment constructed in the  
3 form of a freestanding “A” with no more than two faces, each no larger than six square feet.
- 4 “Sign, temporary” means a sign that will become obsolete after the occurrence of an event or series  
5 of discrete events such as for sale or lease signs, and garage sale signs that are consistent with the  
6 provisions for special event signs in SJCC 18.40.400.
- 7 “Simple land division” means a division of property meeting the criteria in SJCC 18.70.040.
- 8 “Single-family residence” means a dwelling unit designed for and occupied by no more than one  
9 family.
- 10 “Siting” means the method and form of placement of a use or development on a specific area of a  
11 subject property.
- 12 “Slaughterhouses, small-scale” means places where animals are butchered and:
- 13 1. There is a fee charged for the entire carcass to be returned to the animal owner; or
  - 14 2. There is a group of residents who butcher their animals in a common area and there is no  
15 fee for slaughtering services.
- 16 “Small scale” means of a size or intensity which has minimal impacts on the surrounding area and  
17 which makes minimal demands on the existing infrastructure.
- 18 “Soft shoreline stabilization” means shore erosion control structures and measures that maintain  
19 or enhance ecological functions composed of primarily natural and semi-rigid or flexible materials,  
20 bioengineering tailored to site-specific natural conditions, and vegetation, organized in a nonlinear,  
21 sloping arrangement, that dissipates wave energy and minimize erosion in a way that is similar to  
22 natural shoreline processes.
- 23 “Soil test hole log” means the excavation and written record of soil septic suitability as per health  
24 department written guidelines and requirements.
- 25 “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except wastes  
26 identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial wastes,  
27 swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded  
28 commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic

1 rates. This includes all liquid, solid and semi-solid materials which are not the primary products  
2 of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes  
3 but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood  
4 waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations are  
5 considered solid waste.

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

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

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

14 “Source of contamination” means a facility or disposal or storage site for material that impairs the  
15 quality of groundwater to a degree that creates a potential hazard to the environment, public health,  
16 or interferes with a beneficial use.

17 “Special flood hazard” means land in the floodplain subject to a one percent or greater chance of  
18 flooding in any given year.

19 “Static level” means the stable equilibrium level of the water in a well which rises in the well  
20 column, without being influenced by pumping.

21 “Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as  
22 stand density.

23 “Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.

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

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

- 1 “Structure” means a permanent or temporary edifice or building or any piece of work artificially  
2 built up or composed of parts joined together in some definite manner, whether installed on, above,  
3 or below the surface of the ground or water, except for vessels (WAC 173-27-030).
- 4 “Subarea plan” means a detailed plan consistent with but more specific than this code or the  
5 Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a  
6 functional long-range plan for a land use or resource issue of Countywide concern.
- 7 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions or  
8 easements shown on the face of a plat of a subdivision or short subdivision; except as provided by  
9 RCW 58.17.040(6) for boundary line adjustments.
- 10 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,  
11 but under special circumstances for subdivision into two or more parcels, as provided by this code  
12 and Chapter 58.17 RCW.
- 13 “Subdivision, short” means subdivision of land into no more than four parcels, as provided by this  
14 code and Chapter 58.17 RCW.
- 15 “Subdivision, vacation of” means the removal of lots, boundaries, roads, dedications, restrictions,  
16 or easements of a recorded subdivision or short subdivision.
- 17 “Substantial alteration” means any alteration, where the total cost of all alterations such as  
18 electrical, mechanical, plumbing, and structural changes for a building or facility within any 12-  
19 month period or single development permit application amounts to 50 percent or more of the value  
20 of the building or facility. In determining the current value of the building or facility, the assessor’s  
21 fair market value, or a current appraisal acceptable to the County, may be used.
- 22 “Substantial development” means any development of which the total cost, or fair market value,  
23 exceeds the dollar threshold established by the Washington State Office of Financial Management  
24 (RCW 90.58.030(3)(e)); except for the exemptions specified in WAC 173-27-040,  
25 Chapter 18.50 SJCC, or any development which materially interferes with the normal public use  
26 of the water or shorelines of the state.
- 27 “Substantial improvement” means any maintenance, repair, structural modification, addition or  
28 other improvement of a structure, the cost of which equals or exceeds 50 percent of the market  
29 value of the structure either before the maintenance, repair, modification, or addition is started or  
30 before the damage occurred, if the structure had been damaged and is being restored.

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

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

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

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

9 **18.50.020 General.**  
10

11 A. Title. This chapter of the San Juan County Unified Development Code (UDC), together with  
12 Element 3 of the Comprehensive Plan, the official maps and common descriptions of shoreline  
13 designation boundaries that do not follow property lines (Ordinance 1-2016, Exhibit D), Section  
14 2(B) Figures 130-6, 130-7 of the Eastsound Subarea Plan, SJCC 18.30.480, the Eastsound  
15 Waterfront Access Plan, and SJCC 18.80.110, is the Shoreline Master Program (SMP) for San  
16 Juan County, Washington.

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

19 C. Authority.

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

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

28 3. The SMA and the SMP comprise the basic state and local law regulating the use of  
29 shorelines in the County. Unless specifically provided otherwise, if the provisions of the

1 SMP conflict with other applicable state or local policies, subarea plans, or other regulations,  
2 the most restrictive regulation controls.

3 D. Official Map.

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

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

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

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

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

19 E. Responsibilities of Department Director and Planning Commission.

20 1. Director.

21 a. The director:

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

26 ii. is the local decision-maker on shoreline substantial development permit  
27 applications for public pedestrian trails and residential accessory structures

1                   (excluding shoreline stabilization, boathouses and overwater structures) that do  
2                   not meet an exemption threshold in SJCC 18.50.050; and

- 3                   b. The director has the overall administrative responsibility for the SMP including:
- 4                   i. Establishing the procedures and preparing the forms deemed essential for the  
5                   administration of the SMP;
  - 6                   ii. Advising applicants for permits and other interested persons of the policies,  
7                   regulations, and procedures established by the SMP and the SMA;
  - 8                   iii. Making administrative interpretations of the SMP, as necessary;
  - 9                   iv. Collecting required fees;
  - 10                  v. Determining that applications are proper and complete prior to review;
  - 11                  vi. Making field inspections; and
  - 12                  vii. Seeking compliance with the provisions of the SMP and the SMA and with  
13                  conditions attached to a shoreline permit issued by the County.

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

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

- 19                  a. Permit applications, decisions, environmental reports, and other data from  
20                  authorized shoreline exemptions and permits and GIS maps;
- 21                  b. Aerial and LIDAR photographs;
- 22                  c. Other available data; and
- 23                  d. Field observations.

24  
25

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

3 **18.50.030 General applicability.**  
4

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

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

16 C. Applicability to Federal Agencies.

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

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

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

30 ~~D. Applicability to Developments, Uses, Structures, and Activities.~~ This SMP applies to all  
31 developments, uses, and structures, as well as activities regulated by SJCC 18.50.130. Unless  
32 otherwise authorized, shoreline development without a project permit, shoreline substantial

1 development permit, shoreline conditional use permit, shoreline variance, or certificate of  
2 exemption is prohibited.

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

6 1. Remedial actions pursuant to RCW 90.58.355. Remedial actions conducted by any  
7 person at a facility pursuant to a consent decree, order, or agreed order issued pursuant to  
8 Chapter 70.105D RCW, or the WDOE when it conducts a remedial action under Chapter  
9 70.105D RCW;

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

14 3. WSDOT facility maintenance and safety improvements pursuant to RCW 90.58.356.  
15 Washington State Department of Transportation projects and activities meeting the  
16 conditions of RCW 90.58.356;

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

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

21  
22 **SECTION 6. SJCC 18.50.040 and Ordinance 11-2017 §5 are each amended to read**  
23 **as follows:**

24 **18.50.040 Exemptions from shoreline substantial development permit requirements –**  
25 **General requirements.**  
26

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

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

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

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

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

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

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

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

25 5. Construction and practices necessary for farming, irrigation, and ranching activities,  
26 including agricultural service roads and utilities on shorelands, construction and maintenance  
27 of a barn or similar agricultural structure and the construction and maintenance of irrigation  
28 structures such as head gates, pumping facilities, and irrigation channels in accordance with  
29 WAC 173-27-040(2)(e); provided, that a feedlot of any size, all processing plants, other  
30 activities of a commercial nature, and alteration of the contour of the shorelands by leveling

1 or filling (other than that which results from normal cultivation) are not considered normal  
2 or necessary farming or ranching activities.

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

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

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

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

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

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

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

28 If subsequent construction occurs within five years of completion of prior construction, and  
29 the combined fair market value of the subsequent and prior construction exceeds the amount  
30 specified above, the subsequent construction is considered a substantial development.

1 9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other  
2 facilities that now exist or are hereafter created or developed as part of an irrigation system  
3 for the primary purpose of making use of the system waters, including return flow and  
4 artificially stored groundwater from the irrigation of lands in accordance with WAC 173-27-  
5 040(2)(i).

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

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

12 12. Site exploration and investigation activities that are prerequisite to preparation of an  
13 application for development authorization under this SMP in accordance with WAC 173-27-  
14 040(2)(m) if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **18.50.050 Exemptions from substantial development permit requirements —~~Normal~~**  
4 **~~residential appurtenances.~~**  
5

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

11           1. Construction or renovation of structures with fair market value of less than the maximum  
12 value allowed by WAC 173-27-040(2)(a) (~~\$6,416 in October 2012~~ \$7,047 in September  
13 2017).

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

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

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

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

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

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

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

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

1 B. Certificates of Exemption.

2 1. The director may approve or deny applications for an exemption from a shoreline  
3 substantial development permit for uses and developments listed in SJCC 18.50.040 and  
4 subsection (A) of this section. Approved certificates must describe the specific exemption  
5 that is being applied to the development and indicate that a proposal is consistent with the  
6 SMP and the SMA. The certificate of exemption may contain conditions or mitigation  
7 measures required for consistency with the SMP and SMA. The denial of an exemption must  
8 include written findings. The director’s approval or denial of a certificate of exemption may  
9 be appealed under SJCC 18.80.140.

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

- 12 a. Dredging;
- 13 b. Flood hazard control structures;
- 14 c. Archaeological or historic site alteration;
- 15 d. Clearing, grading, fill, excavation and vegetation removal;
- 16 e. Dock construction, repair, replacement, or enlargement;
- 17 f. Structural shoreline stabilization, repair, replacement, or enlargement;
- 18 g. Any residential, commercial or industrial development project within the natural and  
19 aquatic designations;
- 20 h. Small scale shellfish aquaculture consistent with the provisions of  
21 SJCC 18.50.230(B);
- 22 i. New Temporary barge landing sites. Existing nonconforming temporary barge  
23 landing sites do not require a certificate of exemption if the proposed use is consistent  
24 with the historic transport of cargo at the site and frequency of the historic use; and
- 25 j. Private pedestrian pathways, stairways and ramps.

26 3. Whenever an exempt activity also requires an ACOE Section 10 permit under the Rivers  
27 and Harbors Act of 1899, or a Section 404 permit under the Federal Water Pollution Control

1 Act of 1972, a copy of the certificate of exemption is sent to the applicant and the WDOE in  
2 accordance with WAC 173-27-050.

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

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

11  
12 **SECTION 8. SJCC 18.50.100 and Ordinance 1-2016 § 15 are each amended to read**  
13 **as follows:**

14 **18.50.100 Archaeological and historic resources.**

15 A. When an application for a development permit is received for an area known to be  
16 archaeologically significant, the applicant must submit a cultural resources report with the permit  
17 application. The department will forward this report to the Native American nations and  
18 Washington State Department of Archaeology and Historic Preservation (DAHP) with a request  
19 for comments within 10 working days. The County will not take final action on the application  
20 until the comment period has ended. If the application is approved by the County, conditions may  
21 be attached reflecting the recommendations of the archaeologist regarding preservation or  
22 protection of the site.

23 B. All development permits will contain a provision advising the permit holder that if during  
24 excavation or development of the site an area of potential archaeological significance is uncovered,  
25 all activity in the immediate vicinity of the find must be halted immediately, and the director, the  
26 DAHP and affected Native American nations must be notified at once.

27 C. Additional regulations to protect archaeological and historic resources are established in SJCC  
28 18.60.210.

29 D. Structural shoreline stabilization measures may be allowed ~~with a shoreline substantial~~  
30 ~~development permit~~ where wind, rain, storms, or waves expose verified archaeological and historic

1 resources. The permit application for the stabilization measures must be submitted by the affected  
2 Native American tribe(s). Prior to issuing the permit, the authenticity of the cultural and historic  
3 resources must be verified by the DAHP in coordination with ~~the~~ all affected Native American  
4 nations.

5  
6 **SECTION 9. SJCC 18.50.450 and Ordinance 11-2017 §20 are each amended to read**  
7 **as follows:**

8 **18.50.450 Forest practices.**

9  
10 A. General Regulations.

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

16 2. This section does not apply to the cutting of timber solely incidental to the preparation  
17 of land for other uses authorized by a shoreline permit or shoreline certificate of exemption  
18 by this chapter is allowed. if the activity is not covered under the Washington State Forest  
19 Practices Act, Chapter 76.09 RCW.

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

- 22 a. Result in no net loss of shoreline ecological functions;
- 23 b. Maintain the ecological quality of the watershed's hydrologic system;
- 24 c. Prevent significant adverse impacts to other shoreline uses, resources, and values;
- 25 and
- 26 d. Provide a benefit with respect to the objectives of the SMA such as navigation,  
27 recreation and public access.

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

1 C. Regulations by Designation.

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

7  
8 **SECTION 10. SJCC 18.50.540 and Ordinance 11-2017 §24 are each amended to read**  
9 **as follows:**

10 **18.50.540 Residential development.**

11 A. Regulations – Location and Design.

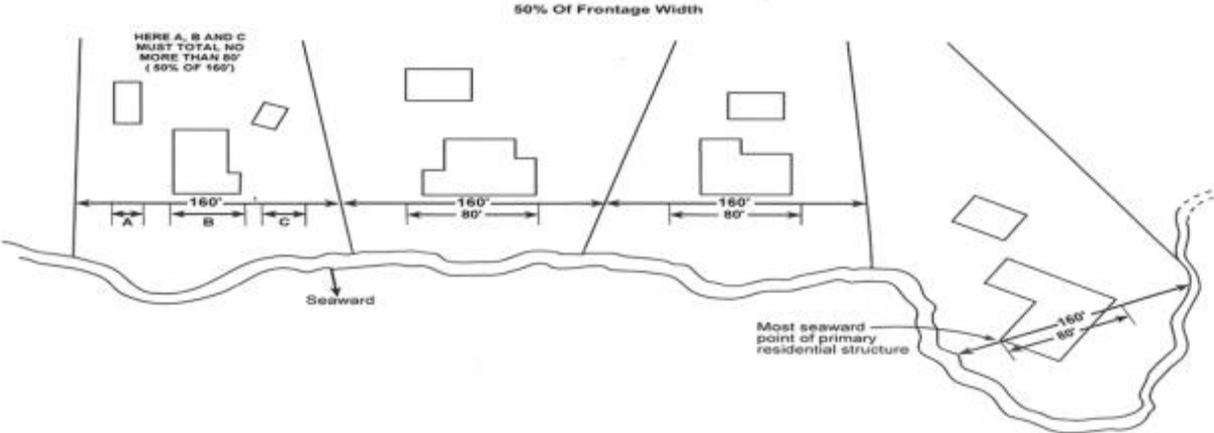
12 1. Residential development is only allowed landward of the OHWM, except as specifically  
13 allowed for live aboard vessels in subsection (E) of this section.

14 2. Developments on waterfront lots may not cover more than 50 percent of the width of  
15 the lot as measured by the shortest straight line distance from lot line to lot line through  
16 the most seaward point of the primary residential structure. Developments with multiple  
17 structures shall ensure that the combined width of all the structures does not exceed 50  
18 percent of the width of the single lot. However, on lots less than 80 feet wide at the most  
19 seaward point of the proposed residential structure, the structure may cover an area up to  
20 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is  
21 maintained. With the exception of patios, pedestrian pathways, stairways and ramps, all  
22 appurtenant structures must be placed landward of the primary residential structure. See  
23 Figure 18.50.540 below. The lot width requirement does not apply to normal residential  
24 appurtenances and accessory structures thirty inches or less in height.

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**Figure  
18.50.540**



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

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

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

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

C. Regulations – Buffers and Setback Standards.

1. On all nonbedrock shorelines, coastal geologic buffers consistent with SJCC 18.35.130 are required. The required geotechnical report must demonstrate that the

1 proposed buffer will be sufficient to avoid the need for new protective structural shoreline  
2 stabilization measures for the life of the structure (75 years).

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

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

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

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

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

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

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

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

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

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

21  
22 **D. Regulations – Normal Residential Appurtenances and Accessory Structures.**

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

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

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

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

6           a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine  
7           railways, and

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

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

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

13          a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine  
14          railways and;

15          b. Normal residential appurtenant structures and accessory structures less than thirty  
16          inches in height; and

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

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

22          E. Live Aboard Vessels.

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

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

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

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

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

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

10 F. Regulations by Designation.

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

17  
18 **SECTION 11. SJCC 18.50.550 and Ordinance 11-2017 §25 are each amended to read**  
19 **as follows:**

20 **18.50.550 Transportation facilities and parking.**

21  
22 A. Regulations – General.

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

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

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

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

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

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

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

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

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

12 a. Outside of shoreline jurisdiction; or

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

15 5. Roadside vegetation shall be controlled.

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

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

20 C. Regulations – Parking.

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

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

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

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

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

- 5 a. Outside of the shoreline jurisdiction; or
- 6 b. Landward of water-oriented uses unless it can be shown that such facilities are shoreline  
7 dependent.

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

9 4. Parking over-water is prohibited.

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

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

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

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

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

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

20 F. Regulations – County Docks.

21 1. Overnight moorage is prohibited at County docks.

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

24 G. Regulations – Float Plane Facilities.

- 1 1. Use of docks for scheduled commercial float plane service, meaning five or more round  
2 trips per week according to a published schedule, is only allowed in public or private marinas,  
3 or established port areas, with a shoreline conditional use permit.
  
- 4 2. Regular use of docks for float plane access or moorage is allowed only at public or private  
5 marinas, port areas, or private and community docks with a shoreline conditional use permit.
  
- 6 3. Use of docks and marinas for irregular float plane service is allowed.
  
- 7 4. Shoreline conditional use permit applications for float plane use will include the following  
8 conditions:
  - 9 a. Taxiing patterns must minimize noise impacts on area residents and wildlife, and  
10 interference with navigation and moorage;
  - 11 b. Fuel and oil spill clean-up plans and materials, and fire-fighting equipment are required  
12 on site. Spill response equipment must be commensurate with the size of the facility and  
13 float plane use; and
  - 14 c. Specific hours of the day in which float plane access is allowed.
  
- 15 5. Float plane access is prohibited at County road ends and parks, and freshwater shorelines  
16 where public shoreline access exists.

17 H. Regulations – Barge Landing Sites and Facilities.

- 18 1. ~~New~~ Temporary barge landing sites require a certificate of exemption but are exempt  
19 from a shoreline substantial development permit. These sites shall not exceed 12 landings in  
20 any 24-month period and must be operated in a manner that will result in no net loss of  
21 shoreline ecological functions. Existing nonconforming temporary barge landing sites do not  
22 require a certificate of exemption if the proposed use is consistent with the historic transport  
23 of cargo at the site and frequency of the historic use.
  
- 24 2. New permanent barge landing sites and facilities require a shoreline conditional use  
25 permit. The shoreline conditional use permit will not be approved unless the applicant can  
26 demonstrate that:
  - 27 a. The use of barge landing sites and facilities existing on the date of application is not  
28 feasible;

1           b. An alternative access is not feasible; and

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

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

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

13          5. Notice of Barge Landing. Prior to landing a barge at an existing nonconforming  
14          temporary barge landing site, the operator must submit a Notice of Barge Landing to the  
15          Department on forms specified by the Director. The notice must be submitted at least 10  
16          business days prior to the landing.

17  
18          6. The Department shall maintain a list of existing nonconforming barge landing sites. The  
19          list shall be updated and published annually. Additions or deletions from the list shall be by  
20          Director’s Administrative Determination pursuant to SJCC 18.10.030(B).

21          I. Regulations – Public Pedestrian Trails.

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

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

26          J. Regulations by Designation.

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

1           2. Conservancy and Rural Farm Forest.

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

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

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

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

13          e. Other transportation facilities are prohibited.

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

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

19  
20          **SECTION 12. SJCC 18.50.600 and Ordinance 11-2017 §27 are each amended to read**  
21          **as follows:**

22          **18.50.600 Shoreline developments, uses, structures and activities by designation.**  
23

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

27                  1. Is allowed;

28                  2. Is prohibited;

29                  3. Requires a shoreline substantial development permit;

1           4. Requires a shoreline conditional use permit; or

2           5. Is subject to other certificates or conditions.

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

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

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

CUP = Conditional use permit.

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

NA   = Not applicable.

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

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Agriculture	CUP*	SD	SD	SD	SD	SD	No	NA
<b>Aquaculture</b>								
General aquaculture	SD*	SD*	SD	SD	SD*	SD	No	SD*
Small scale shellfish aquaculture	*	*	*	*	*	CUP	No	*

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Noncommercial freshwater hatcheries	SD*	SD*	SD*	SD*	No	SD*	No	NA
Finfish net pens	No	No	No	No	No	No	No	No
Commercial geoduck aquaculture	CUP	CUP	CUP	CUP	CUP	CUP	No	CUP
<b>Over-Water Structures<sup>1</sup> Including Boating Facilities</b>								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single-family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
<b>Breakwaters, Jetties and Groins<sup>1</sup></b>								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	CUP	CUP	CUP	CUP	CUP	NA

**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
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
Breakwaters, jetties and groins for shoreline restoration projects	SD	SD	SD	SD	SD	SD	SD	SD
<b>Commercial Development</b>								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Non-water-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
<b>Dredging and Dredge Material Disposal</b>								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material disposal, in-water	No	No*	SD*	SD*	SD*	SD	SD	No
Dredge material disposal, upland	No	No	SD*	SD*	SD*	SD	SD	NA
Dredging or dredge material disposal associated with restoration	No	No	SD*	SD*	SD*	SD	SD	SD*

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

	Natural	Conservancy	Rural	Rural Farm Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
<b>Clearing, Grading, Fill, and Excavation</b>								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
<b>Essential Public Facilities</b>								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
<b>Flood Hazard Reduction</b>								
Dikes, levees, revetments, flood walls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
<b>Forest Practices</b>								
Commercial forestry <sup>1, 3</sup>	CUP*	SD	SD*	SD	CUP	CUP	No	No
Log transfer sites, facilities and storage <sup>1, 3</sup>	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
<b>Industrial Development<sup>1</sup></b>								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP <sup>1</sup>	No*	No	SD	No	No

**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
Processing aquacultural products	No	CUP	CUP	CUP	CUP	No	CUP	NA
Non-water-oriented uses	No	No	No	No	No	No	No	No
<b>Institutional Development<sup>1,2</sup></b>								
<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>No*</u>	<u>No*</u>	<u>No SD*</u>	No	<u>No CUP</u>
<b>Mineral Extraction<sup>1</sup></b>								
Mineral extraction	No	No	SD*	No	No	SD	No	No
<b>Recreational Development<sup>1,2</sup></b>								
Water-oriented	SD*	SD/CUP*	SD/CUP if Commercial	SD*	SD*	SD	SD	SD*
Public park without camping facilities	SD	SD	SD	SD	SD	SD	SD	SD
Public park with camping facilities	SD	SD*	SD	No	No	SD	SD	SD

**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
Private campground	SD*	SD/CUP*	SD	No	No	SD	SD	No
<b>Residential Development<sup>2</sup></b>								
Single-family <sup>7</sup>	No*	SD	SD	SD	SD	SD	SD	No*
Multifamily	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
Live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals <sup>2</sup>	No*	No	CUP*	SD	SD	SD	SD	No
<b>Private Pedestrian Pathways, Stairways and Ramps</b>								
Private pedestrian pathways, stairways and ramps	No	SD	SD	SD	SD	SD	SD	No
<b>Shoreline Habitat and Natural Systems Enhancement Projects<sup>4</sup></b>								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
<b>Structural Shoreline Stabilization<sup>5</sup></b>								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*

**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
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
<b>Signs</b>								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
<b>Transportation and Parking</b>								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary	No	*	*	*	*	*	*	*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	No	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails <sup>7</sup>	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
<b>Utilities<sup>6</sup></b>								

**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
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;
  - 5 c. Log transfer sites and log storage areas;
  - 6 d. Industrial development outside of the marina;
  - 7 e. Mineral extraction;
  - 8 f. Institutional uses;
  - 9 g. Recreational development with commercial facilities for overnight camping; and

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

20  
21           **SECTION 13. SJCC 18.80.020 and Ordinance 2-2014 §7 are each amended to read**  
22   **as follows:**

23   **18.80.020 Project permit applications – Procedures.**

24   A. Nonbinding Preapplication Conferences and Site Inspections. Preapplication conferences and

25   site inspections are optional, but strongly encouraged, and will be conducted on a time-available

26   basis. Any fee assessed for such a preapplication conference and site inspection shall be refunded

27   upon submission of a permit application.

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

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

12 B. Determination of Proper Type of Project Permit.

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

15 2. Consolidated Permit Processing. For a proposal that involves two or more shoreline  
16 permits and/or other project permits, such applications shall be consolidated under the  
17 "highest" procedure (i.e., the rightmost applicable column in Table 8.1) required for such  
18 permits or processed individually under each of the procedures identified by this code. The  
19 applicant may request the consolidation of hearings with other local, state, regional, federal,  
20 or other agencies in accordance with RCW 36.70B.090 and 36.70B.110. (See also  
21 SJCC 18.80.110(D), shoreline permits consolidated permit processing, and  
22 SJCC 18.80.140.)

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

29 1. A completed project permit application form;

- 1        2. If the applicant is not the owner of the subject property, a notarized statement by the  
2        owner(s) that (a) the application has been submitted with the consent of all owners of the  
3        subject property, and (b) identification of the owner’s authorized agent or representative;
  
- 4        3. A legal description of the site and any other property description required by the applicable  
5        development regulations;
  
- 6        4. The applicable fee;
  
- 7        5. Evidence of available and adequate water supply as required by SJCC Title 8; see also  
8        SJCC 18.60.020;
  
- 9        6. Evidence of sewer availability or septic approval or suitability as required by SJCC Title 8;
  
- 10       7. A plot plan to scale at no smaller than one inch equals 40 feet for a plot larger than one  
11       acre, and no smaller than one inch equals 20 feet for a plot one acre or smaller;
  
- 12       8. Graphic depiction of the following:
  - 13           a. Compass direction and graphic scale;
  - 14           b. Corner grades and, if required by the director, existing contours of topography at  
15           five-foot contour intervals;
  - 16           c. Proposed developments or use areas;
  - 17           d. Existing structures and significant features on the subject property and on adjacent  
18           properties;
  - 19           e. Property lines, adjoining streets, and immediately adjoining properties and their  
20           ownerships;
  - 21           f. Location and dimensions of existing and proposed improvements on public rights-of-  
22           way, such as roads, sidewalks, and curbs;
  - 23           g. Existing and proposed grades and volume and deposition of excavated material;
  - 24           h. Natural drainage direction and storm drainage facilities and improvements;
  - 25           i. Locations of all existing and proposed utility connections;

- 1           j. Parking spaces and driveways;
- 2           k. Proposed landscaping;
- 3           l. Wetlands and other critical areas; and
- 4           m. All easements (recorded or unrecorded) must be shown. If recorded, the recording
- 5           number must be shown;

6           9. The applicant shall provide a list showing the name and addresses of the owners of  
 7           property within 300 feet of the boundaries of the property subject to the project permit  
 8           application. For purposes of this chapter, the owners of property within 300 feet of the  
 9           boundaries of the subject property are those whose names are shown on the tax assessment  
 10          rolls on the date the project permit application is submitted;

11          10. Photographs of the site depicting existing and proposed development areas and areas  
 12          where vegetation is proposed to be removed.

13          11. Critical Areas (CAs).

14           a. All project permit applications shall include sufficient information about the site and  
 15           the proposed project to demonstrate consistency with  
 16           SJCC 18.35.020 through 18.35.140.

17           b. Critical Area Review Process. All plans for development of commercial, industrial,  
 18           institutional and public facilities must undergo review for compliance with groundwater  
 19           protection requirements for critical aquifer recharge areas (SJCC 18.35.080). The  
 20           department shall review the application, available maps, and information and if  
 21           requested by the property owner, shall conduct a site inspection prior to determining  
 22           whether the proposed project may affect or be affected by a wetland, fish and wildlife  
 23           habitat conservation area, frequently flooded area, or geologically hazardous area. If the  
 24           area proposed for development or vegetation removal is not in a frequently flooded area;  
 25           is more than 200 feet from a geologically hazardous area; is more than 300 feet from a  
 26           wetland; is more than 200 feet from a fish and wildlife habitat conservation area; is  
 27           more than 1,000 ft. from any golden eagle nests; and is more than one-quarter mile from  
 28           any peregrine falcon or great blue heron nests, the department shall rule that the critical  
 29           area review is complete with regard to those types of critical areas. Otherwise, the  
 30           department will notify the applicant and provide them with a list of any report(s) or

1 application materials required by SJCC 18.35.020 through 18.35.140. If required, these  
2 reports and materials must be received before an application will be deemed complete.

3 c. Critical Area Reports.

4 i. Detailed requirements for critical area reports are identified in  
5 SJCC 18.35.020 through 18.35.140.

6 ii. If the director finds that a report does not accurately reflect site conditions, is  
7 inadequate to determine compliance, or does not meet the requirements of this title,  
8 the director shall contact the qualified professional who prepared the report to  
9 discuss the issues and, if necessary, shall have the report reviewed by a third party  
10 qualified professional.

11 12. Frequently Flooded Areas. Project permit applications shall include the location of any  
12 frequently flooded areas or special flood hazard area on the subject property, and an elevation  
13 certificate if required by the director. No use or development shall be undertaken or approved  
14 within any area of special flood hazard except in compliance with the provisions of SJCC  
15 Titles 15 and 18. Elevation certificates shall include certification by a land surveyor, licensed  
16 civil engineer or architect authorized by law to certify elevation information. Elevation  
17 certificate forms shall be provided by the director;

18 13. Additional Application Information for Divisions of Land and Boundary Line  
19 Modifications. The application for a division of land shall meet the requirements of this  
20 subsection and the requirements in Chapter 18.70 SJCC;

21 14. Additional Application Information for Binding Site Plans. The application for a binding  
22 site plan shall meet the requirements of this subsection, SJCC 18.70.090, and the  
23 requirements in SJCC 18.80.170;

24 15. Additional Application Information for Planned Unit Developments. A planned unit  
25 development application is part of the application for a subdivision or a binding site plan;  
26 additional information requirements are summarized in SJCC 18.80.160. The application for  
27 a planned unit development shall meet the requirements of this subsection and the  
28 requirements in SJCC 18.80.160;

1 16. Additional Application Information for Rural Residential Cluster Development. The  
2 application for a rural residential cluster development shall meet the requirements of this  
3 subsection, SJCC 18.60.230 and 18.80.180, and shall also include the following:

4 a. The floor plan and elevations for each proposed residential structure, at a scale of not  
5 less than one-quarter inch equals one foot;

6 b. A list, diagram and samples showing exterior materials and finishes for all structures,  
7 fences, and other constructed features of the project;

8 c. The plot plan prepared under this subsection shall also show the location and species  
9 of any existing trees greater than six inches in diameter at breast height on the property,  
10 except in areas proposed for open space preservation or forest resource management;

11 d. A list showing the floor area and use of each structure to be constructed on the site,  
12 and the total floor area of structures, and the area of the site devoted to residences,  
13 residential yards, circulation spaces, other uses, and open space; and

14 e. A narrative description indicating how the project responds to the requirements of  
15 SJCC 18.60.230, including the minimum standards of SJCC 18.60.230(C), the  
16 separation requirements of SJCC 18.60.230(F), and the design guidelines of  
17 SJCC 18.60.230(G);

18 17. Additional Information. The director may require additional information necessary for  
19 review and evaluation or demonstration of project consistency with this code;

20 18. Director's Waiver. The director may waive specific submittal requirements determined  
21 to be unnecessary for review of a project permit application required by this code; and

22 19. Temporary Use Permit Applications. All project permit applications for a temporary use  
23 shall be submitted to the director in writing and contain sufficient information for the director  
24 to make a decision (see SJCC 18.80.060). The director shall determine what information is  
25 necessary for review of such applications.

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

1 1. Determination of Completeness. Within 28 days after receiving a project permit  
2 application, the director shall determine if a project permit application is complete and notify  
3 the applicant in writing that either:

4 a. The application is complete; or

5 b. The application is incomplete. If such application is incomplete, the director shall  
6 specify what information is necessary to make the application complete.

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

9 3. Additional Information.

10 a. A project permit application is complete for purposes of this chapter when it meets  
11 the submittal requirements in this section and any submittal requirements contained in  
12 applicable development regulations.

13 b. If the submittal requirements have not been met, the director may determine that the  
14 application is complete and, at the same time, require that additional information or  
15 studies be provided within a time specified.

16 c. Nothing in this section precludes the director from requesting additional information  
17 or studies at any time if new information is determined to be necessary due to the  
18 complexity of the plans, apparent errors, or where there are substantial changes in the  
19 proposal.

20 d. If the applicant fails to submit the requested information or studies within the time  
21 specified, or within a longer period if agreed to by the director, the application shall  
22 lapse and the applicant shall forfeit the application fee.

23 4. Incomplete Applications.

24 a. If the director notifies the applicant that an application is incomplete, the applicant  
25 shall have 90 days to submit the necessary information to the director. Within 14 days  
26 after an applicant has submitted the additional information, the director shall again  
27 make the determination described in subsection (D)(1) of this section, and notify the  
28 applicant. If the applicant submits the required information to the director within the  
29 90-day period and the director determines that the application is now complete, the

1 project permit application will be considered complete as of the date the project permit  
2 application was originally submitted; however, the 120-day processing period in  
3 SJCC 18.80.130 will be tolled during the 90-day resubmittal period.

4 b. If the applicant fails to submit additional information, or does not within such 90-day  
5 period request additional time to submit the required information, the application shall  
6 lapse and the applicant shall forfeit the application fee.

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

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

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

**Table 8.1. Summary of Project Permit Notice, Hearing, Decision and Appeals Processes.<sup>(1)</sup>**

<b>Project Permit Application</b>	<b>Boundary Line Modification; Simple Land Division</b>	<b>Provisional Use; Short Subdivisions; BSP to 4 Lots; Temporary Use Permits (Level II), <u>Administrative Substantial Development Permit</u></b>	<b>Conditional Use and/or Variance</b>	<b>Shoreline Permits (Substantial Development, Conditional Use or Variance)</b>	<b>Subdivisions; BSP for More than 4 Lots</b>
	Administrative		Quasi-Judicial		
Public Notice of Application	no	yes	yes	yes	yes
Notice of Public Hearing	no	no	yes	yes	yes
Public Comment Period	no (yes if BLM and SLD and SEPA required)	yes	yes	yes	yes
Open-Record Predecision Hearing	no	no	yes	yes	yes
Decisionmaker	Director	Director	Hearing Examiner	Hearing Examiner	Hearing Examiner
Open-Record Appeal Hearing (Hearing Examiner)	yes	yes	no	no	no
Appeal Period (days) for Appeal to the Hearing Examiner	21	21	N/A	N/A	N/A
Judicial Appeal	yes (of Hearing Examiner decision)	yes (of Hearing Examiner decision)	yes	yes (of SHB decision)	yes
Other Appeal	no	no	no	yes (to SHB)	no

1. Abbreviations: ~~SHB: Shorelines Hearings Board~~ SHB: Shorelines Hearings Board BSP: Binding Site Plan

1           **SECTION 14. SJCC 18.80.110 and Ordinance 11-2017 §2 are each amended to read**  
2 **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 meeting.  
10 Failure to submit the documents will result in postponement of the preapplication meeting. The  
11 director may waive this requirement for demonstrated cause.

12  
13 **A. Purpose and Applicability.**

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

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

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

22                   a. Shoreline substantial development permits;

23                   b. Shoreline conditional use permits; and

24                   c. Shoreline variances.

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

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

28           1. A notice of application is required for shoreline permit applications as provided in  
29 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 Table  
8           8.1, SJCC 18.80.020) required for such permits, or the applications may be processed individually  
9           under each of the procedures identified by this code. The applicant may request the consolidation  
10          of hearings with other local, state, regional, federal or other agencies in accordance with  
11          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. Decision-making Authority.

14           1. The Washington Department of Ecology (WDOE) may approve, approve with conditions,  
15           or deny a shoreline variance or conditional use permit application approved by the hearing  
16           examiner.

17           2. The hearing examiner has authority to take the following actions:

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

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

25           3. The director shall be the final decision-maker for administrative shoreline substantial  
26           development permit applications for public pedestrian trails and residential accessory  
27           structures (excluding shoreline stabilization, boathouses and overwater structures) that do  
28           not meet the exemption threshold in SJCC 18.50.050. The hearing examiner shall be the  
29           final decision-maker for all other shoreline substantial development permit applications.

30          F. Shoreline Substantial Development Permit Exemptions.

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

4 2. Developments that are exempt from a shoreline substantial development permit are  
5 established in SJCC 18.50.040 and 18.50.050. In making this determination, the director will  
6 consider the ultimate scope of a proposal and its consistency with the regulations of the SMP.  
7 The director may request additional information from the applicant and may make site  
8 inspections.

9 3. If a proposal is exempt from a shoreline substantial development permit, the director will  
10 prepare and issue a certificate of exemption when required by WAC 173-27-040, WAC 173-  
11 27-050 and SJCC 18.50.050(B).

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

14 G. Shoreline Permits – Administrative Actions.

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

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

23 3. When approving a shoreline permit, the ~~hearing examiner~~ decision-maker may attach  
24 conditions to ensure consistency with the SMA, SMP and applicable provisions of this code.  
25 The ~~hearing examiner~~ decision-maker shall also prepare findings of fact and conclusions of  
26 law.

27 4. Within eight days of the ~~hearing examiner~~ decision-maker's final decision, the director  
28 using return receipt requested mail will send WDOE and the office of the Attorney General  
29 copies of the permit application, ~~and other~~ pertinent materials used to make the final decision  
30 (see Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to

1 the ~~hearing-examiner~~ decision-maker's final decision. The date of filing a shoreline  
2 substantial development permit decision is the date WDOE receives the County's decision.  
3 WDOE shall issue and transmit their decisions on conditional use and variance permits to  
4 the department and applicant within 30 days of department's submittal to them. The date of  
5 filing for shoreline conditional use permits or shoreline variances is the date that WDOE  
6 transmits their permit decision to the department and applicant. The date of filing for  
7 shoreline substantial development permits simultaneously mailed to Ecology with a  
8 shoreline conditional use permit or shoreline variance is the date that Ecology's decision on  
9 the shoreline conditional use permit or shoreline variance is transmitted to the applicant and  
10 the department.

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

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

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

25 b. Terminate the permit.

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

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

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

- 1 a. Consistent with the policies of the SMA, Chapter 90.58 RCW and Chapters 173-  
2 26 and 173-27 WAC, as amended;
- 3 b. Consistent with the policies and regulations of this SMP;
- 4 c. Consistent with other applicable sections of this code; and
- 5 d. Consistent with the goals and policies of the Comprehensive Plan.

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

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 be  
16 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 met:

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

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

26 ii. That the hardship is specifically related to the property, is the result of unique  
27 conditions such as irregular lot shape, size, or natural features, is not, for example,

1 from deed restrictions or the applicant’s own actions and results from the  
2 application of specific provisions of the SMP;

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

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

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

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

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

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

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

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

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

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

1 7. Shoreline variance applications must include adequate information to demonstrate  
2 compliance with the variance criteria. Applications must include at least the following  
3 information as applicable:

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

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

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

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

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

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

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

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

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

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

27 f. If necessary, mitigation, monitoring and adaptive management plans meeting the  
28 requirements of SJCC 18.50.140, 18.50.150 and 18.50.160 for mitigating any adverse

1 impacts or harm, and demonstrating how the proposal results in no net loss of shoreline  
2 ecological functions;

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

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

8 J. Shoreline Conditional Use Permits.

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

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

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

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

23 a. The proposed use is consistent with the policies of RCW 90.58.020 and the SMP;

24 b. The proposed use will not interfere with the normal public use of public shorelines;

25 c. The proposed use of the site and project design are compatible with other allowed  
26 uses within the area;

27 d. The proposed use will result in no net loss of shoreline ecological functions;

1 e. The cumulative impacts of additional requests for like actions in the area, or for other  
2 locations where similar circumstances exist, will result in no net loss of shoreline  
3 ecological functions (e.g., the total of conditional uses shall remain consistent with  
4 RCW 90.58.020 and the SMP); and

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

6 5. Uses that are not classified in this SMP may be authorized by conditional use permit;  
7 provided, that the applicant demonstrates consistency with the criteria in WAC 173-27-  
8 160(1), and the SMP.

9 K. Procedures for Revisions to Shoreline Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 N. Vesting.

- 1           1. Complete applications for a development or project permit, to be processed under SJCC  
2           Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that were filed prior to October 30,  
3           2017, vest to the laws and regulations in effect when the complete application was filed with  
4           the department and all required permit fees were paid except as provided in subsections  
5           (N)(6), (7) and (8) of this section.
  
- 6           2. An application for a development or project permit, to be processed under SJCC  
7           Titles 15, 16 and 18 and subject to Chapter 18.50 SJCC, that is filed after October 30, 2017,  
8           vests to the laws and regulations in effect when the complete application was filed with the  
9           department and all required permit fees were paid except as provided in subsections (N)(6),  
10          (7) and (8) of this section.
  
- 11          3. If a vested permit application contemplates one or more future uses or structures and the  
12          application contains a detailed description of the uses and improvements and a detailed site  
13          plan consistent with all laws and regulations in effect at the time the original application  
14          vested, then subsequent permit applications filed for those future use(s) are vested to the laws  
15          and regulations in effect at the time original permit application vested.
  
- 16          4. A detailed description means a detailed site plan drawn to scale, specifying the location of  
17          all buildings and improvements to be constructed in conjunction with the use(s). The detailed  
18          description must address density, building setbacks, critical area buffers, lot coverage, lot  
19          width requirements, and bulk (length, height and width), driveways, stormwater features,  
20          water and sewer infrastructure and other improvements necessary for the development.
  
- 21          5. If the development approval does not contain the information in subsections (N)(3) and  
22          (4) of this section, applications for future use(s) are subject to all later enacted laws and  
23          regulations in effect at the time the complete application for the future use(s) vests.
  
- 24          6. The County may impose conditions on development and project permits pursuant to the  
25          State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and  
26          SJCC 18.80.050 to mitigate potentially adverse environmental impacts.
  
- 27          7. The County may impose new regulations such as requirements of the building, health, and  
28          fire codes on vested development permits when necessary to protect the public health and  
29          safety.
  
- 30          8. Applications for Comprehensive Plan amendments processed under Chapter 18.90 SJCC  
31          are not subject to the vesting rules in this section.

1           **SECTION 15. SJCC 15.12.030 and Ordinance 13-2018 §4 are each amended to read**  
2 **as follows:**

3  
4 **15.12.030 Definitions.**  
5

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

8 “Areas of special flood hazard” means the land in the floodplain within a community subject to a  
9 one percent or greater chance of flooding in any given year. Designation on Flood Rate Insurance  
10 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 National  
16 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,” and  
19 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,” with  
23 additional hazards due to storm-induced velocity wave action. Base flood elevations derived  
24 from detailed hydraulic analyses are shown on the map. Properties in VE designation are  
25 considered to be at very high risk of flooding and flood related damage under the National  
26 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 Zone  
7 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 and  
10 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 but  
13 not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation  
14 or drilling operations or storage of equipment or materials located within the area of special flood  
15 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) form  
20 (Form 086-0-33, or as may be subsequently revised or superseded), used to track development,  
21 provide elevation information necessary to ensure compliance with community floodplain  
22 management ordinances, and determine the proper insurance premium rate with Section B  
23 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 manufactured  
26 homes are to be affixed (including, at a minimum, the installation of utilities, the construction of  
27 streets, and either final site grading or the pouring of concrete pads) is completed before June 26,  
28 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 either  
2 final site grading or the pouring of concrete pads).

3 “Flood” or “flooding” means a general and temporary condition of partial or complete inundation  
4 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 and  
8 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; provided,  
27 that such enclosure is not built so as to render the structure in violation of the applicable non-  
28 elevation design requirements of SJCC 15.12.080(A)(2), (i.e., provided there are adequate flood  
29 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 attached  
3 to the required utilities. The term “manufactured home” does not include a recreational vehicle.

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

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

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

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

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

16 “Recreational vehicle” means a vehicle:

- 17 1. Built on a single chassis;
- 18 2. Four hundred square feet or less when measured at the largest horizontal projection;
- 19 3. Designed to be self-propelled or permanently towable by a light duty truck; and
- 20 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters  
21 for recreational, camping, travel, or seasonal use.

22 “Start of construction” includes substantial improvement, and means the date the building permit  
23 was issued, provided the actual start of construction, repair, reconstruction, placement or other  
24 improvement was within 180 days of the permit date. The actual start means either the first  
25 placement of permanent construction of a structure on a site, such as the pouring of slab or footings,  
26 the installation of piles, the construction of columns, or any work beyond the stage of excavation;  
27 or the placement of a manufactured home on a foundation. Permanent construction does not  
28 include land preparation, such as clearing, grading and filling; nor does it include the installation

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

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

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

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

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

19 The term can exclude:

- 20 1. Any project for improvement of a structure to correct pre-cited existing violations of state  
21 or local health, sanitary, or safety code specifications which have been previously identified  
22 by the local code enforcement official and which are the minimum necessary to assure safe  
23 living conditions; or
- 24 2. Any alteration of a structure listed on the National Register of Historic Places or a state  
25 inventory of historic places.

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

28  
29  
30

**SECTION 16. Effective Date.**

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

**SECTION 17. Codification.**

Sections 1-15 of this ordinance shall be codified.

Subsections A through N in Section 14 shall each be codified in their own sections.

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

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

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

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

REVIEWED BY COUNTY MANAGER

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

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

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

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

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

# Attachment B



## SHORELINE MASTER PROGRAM PERIODIC REVIEW

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### 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 and Adam Zack, SJC Dept. of Community Development	San Juan County	August 28, 2020

**Attachment B**



Row	Summary of change	Review	Actions and Ecology's Guidance Notes
<b>2019</b>			
a.	OFM adjusted the <b>cost threshold for building freshwater docks</b>	<p><b>18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements.</b></p> <p>D. The following developments, as defined in WAC <a href="#">173-27-040</a>, 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 <a href="#">173-27-040(2)(a)</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 <a href="#">173-27-040(2)(h)</a>. 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><b>Review consideration:</b> 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</p> <p>(II) \$11,200 for all other docks constructed in fresh waters.</p> <p><b>Action: Ordinance Section 6.</b> 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 <del>\$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.</del></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 <b>disposal of dredged</b>		<p><b>RCW 90.58.140 Review consideration:</b> 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>

## Attachment B

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	<p><b>materials at Dredged Material Management Program sites</b> (<i>applies to 9 jurisdictions</i>)</p>		<p><b>This is not applicable to San Juan County. No change is required.</b></p>
<p><b>c.</b></p>	<p>The Legislature added <b>restoring native kelp, eelgrass beds and native oysters</b> 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><b>Review consideration:</b> 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 <a href="#">90.58.147</a> Substantial development permit—Exemption for projects to improve fish or wildlife habitat or fish passage.</p> <p><b>Action: Ordinance Section 6.</b> 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"> <li>(a) The project has been approved by the department of fish and wildlife;</li> <li>(b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter <a href="#">77.55</a> RCW; and</li> <li>(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.</li> </ul> <p>(2) Fish habitat enhancement projects that conform to the provisions of *RCW <a href="#">77.55.290</a> 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"> <li>a. The project has been approved by the Washington Department of Fish and Wildlife (WDFW);</li> <li>b. The project has received hydraulic project approval by the WDFW pursuant to Chapter 77.55 RCW; and</li> <li>c. The County has determined that the project is substantially consistent with this SMP.</li> </ul>

## Attachment B



Row	Summary of change	Review	Actions and Ecology's Guidance Notes
<b>2017</b>			
a.	OFM adjusted the <b>cost threshold for substantial development</b> to \$7,047.	<p><b>SJCC 18.50.040 and SJCC 18.50.050</b></p> <p>D. The following developments, as defined in WAC <a href="#">173-27-040</a>, 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"> <li>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 <a href="#">173-27-040</a>(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.</li> </ol>	<p><b>Review Consideration: This threshold applies whether or not it is adopted in code.</b></p> <p><b>No change is required; however, the update is made in two code section to make them user-friendly:</b></p> <p><b>1. Ordinance Section 6.</b> 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"> <li>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 (<del>\$6,416 as of October 2012</del> <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.</li> </ol> <p><b>2. Ordinance Section 7.</b> 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"> <li>1. Construction or renovation of structures with fair market value of less than the maximum value allowed by WAC <a href="#">173-27-040</a>(2)(a) (<del>\$6,416 in October 2012</del> <u>\$7,047 in September 2017</u>).</li> </ol>
b.	Ecology permit rules clarified the <b>definition of “development”</b> does not include dismantling or removing structures.	“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 <a href="#">90.58</a> RCW at any stage of water level (RCW <a href="#">90.58.030</a> ; WAC <a href="#">173-27-030</a> ).	<p><b>Action: Ordinance Section 3.</b> Amends 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 <b>exceptions to local review under the SMA.</b>		<p><b>Action: Ordinance Section 5.</b> 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>

## Attachment B



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"> <li>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></li> <li>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></li> <li>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></li> <li>4. <u>Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.</u></li> <li>5. <u>Projects authorized through the Washington Energy Facility Site Evaluation Council process pursuant to Chapter 80.50 RCW.</u></li> </ol>
d.	<p>Ecology amended rules clarifying <b>permit filing procedures</b> consistent with a 2011 statute.</p>	<p><b>SJCC 18.80.110</b></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><b>Review considerations:</b> “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><b>Action: Ordinance Section 14.</b> 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 <del>hearing examiner’s</del> <b>decision-maker’s</b> 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>

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		<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><b>18.50.140</b> 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 <del>hearing examiner's decision-maker</del> 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 <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.</p>	<p><b>18.50.450 Forest practices.</b></p> <p>A. General Regulations.</p> <p>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 <a href="#">222-30-110</a>. 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.</p> <p><b>2. The cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is allowed.</b></p> <p>3. If there is a likelihood of conversion to nonforest uses, forest practice conversions and other Class IV general forest practices shall:</p> <ol style="list-style-type: none"> <li>Result in no net loss of shoreline ecological functions;</li> <li>Maintain the ecological quality of the watershed's hydrologic system;</li> <li>Prevent significant adverse impacts to other shoreline uses, resources, and values; and</li> </ol>	<p><b>Review considerations:</b> 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><b>No change is required; however, SJCC 18.50.450 Forest practices can be amended to be clear by adding a line in (A)(2).</b></p> <p><b>Action: Ordinance Section 9.</b> Amend SJCC 18.50.450 Forest Practices in Subsection (A)(2) and Ordinance 11-2017 §20 for clarification:</p> <p>2. <u>This section does not apply to the cutting of timber solely incidental to the preparation of land for other uses authorized by a shoreline permit or shoreline certificate of exemption</u><del>this chapter is allowed when the activity is not covered under the Washington State Forest Practices Act, Chapter 76.09 RCW.</del></p>

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		<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 <a href="#">76.09</a> 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 <b>exclusive federal jurisdiction</b></p>	<p><b>18.50.030 General applicability.</b></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"> <li>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)).</li> <li>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.</li> <li>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.</li> </ol> <p>D. Applicability to Developments, Uses, Structures, and Activities. This SMP applies to all developments, uses, and structures, as well as</p>	<p><b>Review consideration:</b> 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><b>Action: Ordinance Section 5.</b> 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>

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		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 <b>nonconforming uses and development</b> .		<p><b>Review consideration:</b> 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><b>No change is required or proposed. San Juan County adopted specific nonconforming use provisions in SJCC 18.50.090.</b></p>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews</b> .	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><b>Review consideration:</b> 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><b>No change is required or proposed.</b></p>
i.	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.		<p><b>Review consideration:</b></p> <p><b>No change is required or proposed. SJC does not address the amendment process in code.</b></p>
j.	<b>Submittal</b> to Ecology of proposed SMP amendments.		<p><b>Review considerations:</b></p> <p><b>No change is required. SJC has not adopted the submittal process in code.</b></p>
<b>2016</b>			
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><b>Action: Amend SJCC 18.50.040.</b> Only 18.50.040 needs to be updated because the general regulations apply to all.</p>

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	structure to comply with the <b>Americans with Disabilities Act</b> .		<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>b.</b> Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	<p><b>18.35.090 Wetlands – Rating.</b> 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>	<b>No change is required. The 2014 Wetland Rating Guide is addressed in SJCC 18.35.090.</b>
<b>2015</b>			
	<b>a.</b> The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of Transportation (WSDOT) projects.		<p><b>Review considerations:</b> It is not necessary to include these provisions in SMPs. A reference could help ensure SMPs are implemented consistent with the statute.</p> <p><b>No change is required or proposed.</b></p>
<b>2014</b>			
	<b>a.</b> The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.		<p><b>Review considerations:</b> Local governments without floating homes need not amend their SMP to address this statute.</p> <p><b>No change is required. San Juan County does not have any floating homes.</b></p>

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<b>2012</b>			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .		<p><b>Review consideration:</b> 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><b>No change is required or proposed because the County's SMP does not address the appeal steps.</b></p>
<b>2011</b>			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .	<p><b>18.35.105 Wetlands – Determination of wetland boundary and requirements for wetland reports.</b></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>	<p><b>No change is required because the federal wetland delineation manual is addressed in SJCC 18.35.105.</b></p>
b.	Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .	<p><b>18.20.010 "A" definitions.</b></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>	<p><b>No change is required because the aquaculture definition addresses it in SJCC 18.20.010.</b></p>
c.	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.		<p><b>Review consideration:</b> Local governments without floating homes need not amend their SMP to address this statute.</p> <p><b>No change is required because the County does not have any floating homes.</b></p>
d.	The Legislature authorizing a new		<p><b>Review consideration:</b> This law is optional. It is one way local government can address existing development.</p>

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	option to classify existing structures as conforming.		<p><b>No change is required or proposed.</b>  <b>San Juan County addressed nonconforming structures in its recent SMP update (SJCC 18.50.090).</b></p>
<b>2010</b>			
	<p>a. The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications.</b></p>		<p><b>Review consideration:</b> 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><b>No change is required or proposed because the code does not include this information.</b></p>
<b>2009</b>			
	<p>a. The Legislature created new “relief” procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a shift in Ordinary High Water Mark.</p>		<p><b>Review consideration:</b> 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><b>Option 1.</b> 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><b>Option 2.</b> Incorporate Ecology’s rule into an SMP. A more elaborate option is to incorporate the rule provisions into their SMP.</p> <p><b>No change is required or proposed.</b></p>
	<p>b. Ecology adopted a rule for certifying <b>wetland mitigation banks.</b></p>	<p><b>18.50.150 Mitigation plans.</b>  A. If a mitigation sequence analysis demonstrates that adverse impacts on shoreline ecological functions are unavoidable, mitigation, monitoring and</p>	<p><b>Review Consideration:</b> Ecology recommends local governments include SMP provision authorizing use of mitigation banks.</p> <p><b>No change is required or proposed because certified mitigation banks are addressed in SJCC 18.50.150(C).</b></p>

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		<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 <b>moratoria authority</b> and procedures to the SMA.		<p><b>Review consideration:</b> 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><b>No change is required or proposed.</b></p>
<b>2007</b>			
a.	The Legislature clarified <b>options for defining "floodway"</b> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	<p><b>15.12.030 Definitions.</b> "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><b>18.20.190 "S" definitions.</b> "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><b>Review consideration: Option 1.</b> 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>

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		<p>Chapter 90.58 RCW, the same to be designated as to location by the Department of Ecology.</p>	<p><b>Action: Ordinance Section 15.</b> 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 <u>and Mitigation</u> 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 <u>and Mitigation</u> 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 <b>comprehensively updated SMPs shall include a list and map of streams and lakes</b> that are in shoreline jurisdiction.</p>		<p><b>Review considerations:</b> 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><b>No change is required or proposed.</b> 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><b>No change is required or proposed because WAC 173-27-040(2)(p) is addressed in SJCC 18.50.040(15).</b></p>

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	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.	

## 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.	<b>Ordinance Section 1:</b> Amends SJCC 18.20.020 “B” Definitions to change the definition of “barge landing site temporary.”	<p><b>Amends SJCC 18.20.020 “B” Definitions</b></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	<b>Ordinance Section 2:</b> Amends SJCC 18.20.140 “N” Definitions and Ordinance 1-2016 §74 to update the definition of normal residential appurtenance.	<p><b>SJCC 18.20.140 “N” Definitions</b></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 <a href="#">173-27-040</a> and in Chapter <a href="#">18.50</a> SJCC, for purposes of exemption from shoreline substantial development permit</p> <p>requirements in accordance with WAC <a href="#">173-27-040</a>(g). Structures and activities considered normal residential appurtenances include accessory dwelling units <del>or other detached residential structures</del>, garages, sheds, decks and <u>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, <del>patios</del>, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, <del>wind power</del> generators</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"> <li>▪ Moving the term “patio” so it would mean those attached to a residence;</li> <li>▪ Clarifying that the construction of stairways to beaches on residential property can come before the home construction;</li> <li>▪ Deleting the words “wind power” before generators because there are other alternatives; and</li> <li>▪ 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.</li> </ul>

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		<p>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>	
<p>3</p>	<p><b>Ordinance Section 4: Amends SJCC 18.50.020 and Ordinance 21-2018 §2.</b></p>	<p><b>SJCC 18.50.020 General</b></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><u>ii. is the local decision-maker on shoreline substantial development permit applications for public pedestrian trails and residential accessory structures (excluding shoreline stabilization, boathouses, and overwater 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>

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4	<p><b>Ordinance Section 8:</b> SJCC 18.50.100 Archaeological and historic resources.</p>	<p><b>SJCC 18.50.100(D) Archaeological and historic resources.</b></p> <p>D. Structural shoreline stabilization measures may be allowed <del>with a shoreline substantial development permit</del> where wind, rain, storms, or waves expose verified archaeological and historic resources. <u>The permit application for the stabilization measures must be submitted by the affected Native American tribe(s).</u> Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with <del>the</del> <u>all</u> affected Native American nations.</p>	<p>Amendments to SJCC 18.50.100 Archaeological and historic resources require application from the affected tribes for shoreline stabilization measures to protect exposed archaeological resources. Without the requirement that the affected Native American tribes submit the application, any property owner could apply for shoreline stabilization measures to protect archaeological resources. This amendment would continue to allow the affected Native American tribes to request preservation of important archaeological or historical resources but prevent other, possibly unnecessary, shoreline stabilization.</p>
5	<p><b>Ordinance Section 10:</b> 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><b>SJCC 18.50.540 Residential development.</b> The changes:</p> <ul style="list-style-type: none"> <li>• Establish where normal residential appurtenances and accessory structures are allowed in critical area and shoreline aesthetic buffers.</li> <li>• 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.</li> <li>• 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.</li> <li>• Delete subsection (D)(3) that required a conditional use permit for normal residential appurtenances not</li> </ul>	<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><b>Action:</b> Proposed changes include:</p> <ol style="list-style-type: none"> <li>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></li> <li>2. Revisions to subsections (D)(1) and (2) as shown below</li> </ol> <p>D. Regulations – Normal Residential Appurtenances <u>and Accessory Structures.</u></p>

## Attachment B

		<p>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>	<p><del>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:</del></p> <p><del>a. Application of this regulation would result in greater adverse impacts on shoreline ecological functions; or</del></p> <p><del>b. The restriction conflicts with other applicable regulations of this SMP.</del></p> <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> <p style="margin-left: 40px;"><u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways, and</u></p> <p style="margin-left: 40px;"><u>b. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590.</u></p> <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><del>2. Accessory dwelling units must comply with SJCC 18.40.240.</del></p> <p><u>Normal residential appurtenant and accessory structures are not allowed in the shoreline aesthetic buffer except for:</u></p> <p style="margin-left: 40px;"><u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and normal residential appurtenances;</u></p> <p style="margin-left: 40px;"><u>b. Normal residential appurtenant structures and accessory structures less than thirty inches in height; and</u></p> <p style="margin-left: 40px;"><u>c. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590</u></p> <p><del>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.</del></p>
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## Attachment B

			<p><del>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).</del></p>
6	<p><b>Ordinance Section 11:</b> 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><b>SJCC 18.50.550 Transportation facilities and parking</b> is clarified so that:</p> <ul style="list-style-type: none"> <li>• Only new temporary barge landing sites require a certificate of exemption, and</li> <li>• 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.</li> <li>• Barge operators must notify the County if they propose using an existing nonconforming temporary barge landing site.</li> </ul>	<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><b>Action:</b> Proposed changes include:</p> <ol style="list-style-type: none"> <li>1. Amend SJCC 18.50.550 (H)(1) to read: H. Regulations – Barge Landing Sites and Facilities.</li> <li>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></li> <li>2. Add a new SJCC 18.50.550(H)(5) that reads:  <u>5. Notice of Barge Landing. Prior to landing a barge at an existing nonconforming temporary barge landing site, the operator must submit a Notice of Barge Landing to the Department on forms specified by the Director. The notice must be submitted at least 10 business days prior to the landing.</u></li> <li>3. Add a new SJCC 18.50.550 (H)(6) that reads:  <u>6. The Department shall maintain a list of existing nonconforming barge landing sites. The list shall be updated and published annually. Additions or deletions from the list shall be by Director’s Administrative Determination pursuant to SJCC 18.10.030(B).</u></li> </ol>
7	<p><b>Ordinance Section 12:</b> Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and</p>	<p><b>SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation.</b></p> <p>The shoreline land use table includes changes</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>

Attachment B

	<p>Ordinance 11-2017 § 27</p>	<p>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>	<table border="1"> <thead> <tr> <th colspan="9">Table 18.50.600. Shoreline development, uses, structures and activities by designation</th> </tr> <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<sup>7</sup></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> <p>Footnotes: <u>7. The director shall make the decisions on administrative shoreline substantial development permit applications for public pedestrian trails and accessory structures (except shoreline stabilization, overwater structures and boathouses) that do not meet an exemption threshold in SJCC 18.50.050.</u></p>	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	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 <sup>7</sup>	SD	NA												
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8	<p><b>Ordinance Section 13:</b> Amend SJCC 18.80.020 Project Permit Applications - Procedures and Ordinance 2-2014 § 7</p>	<p><b>SJCC 18.80.020 Project permit applications – procedures</b></p> <p>Amended Table 8.1 Summary of Project Permit Notice, Hearing, Decision and Appeals Processes to clarify the required process for administrative Shoreline Substantial Development permits.</p>	<p>This change clarifies the process for shoreline substantial development (SSD) permits when the administrator is the decision-maker. The change is required for consistency with other amendments naming the administrator as the decision-maker for public pedestrian pathway and residential accessory structure SSDs.</p>																																																																								

## Attachment B



9	<p><b>Ordinance Section 14:</b> Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §2</p>	<p><b>SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting</b></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 and accessory structures (except for shoreline stabilization, overwater structures and boathouses). The hearing examiner shall be the decision-maker for all other shoreline substantial development permit applications.</u></p>
10	<p><b>Ordinance Section 14.</b> Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §</p>	<p><b>This amendment corrects a code reference in SJCC 18.80.110 (I)(3).</b></p>	<p>6. Filing of variances with and review by the WDOE are described in subsection (G)(5) <u>(4)</u> of this section.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
January 30, 2020	Miki Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/19798/">https://www.sanjuanco.com/DocumentCenter/View/19798/</a>
Summary of Comment		Response
<p>Ms. Brostrom has several questions regarding changes to SJCC 18.50.550(H) that allows existing nonconforming barge landing sites without 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.</p>		
<p>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.</p>		<p>Exempting existing nonconforming temporary barge landing sites from getting a certificate of exemption is intended to eliminate the need for legally established existing temporary barge landing sites to get approval to continue historic operations. This is a locally initiated amendment. Most other legally established nonconforming uses, structures and activities are allowed to continue without requiring a certificate of exemption.</p> <p>Temporary barge landing sites are not allowed to have more than 12 landings in any 24-month period. This is a rolling period that allows the site to be used for an average of one landing per two months.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
January 30, 2020	Miki Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/19798/">https://www.sanjuanco.com/DocumentCenter/View/19798/</a>
Summary of Comment		Response
<p>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?</p>		<p>The proposed change still requires all barge landings, even existing nonconforming ones, to meet the requirements of the Shoreline Master Program (SMP), including no net loss requirements. Specifically, SJCC 18.50.550(H)(3) requires that:</p> <p style="text-align: center;">“All barge landing sites and facilities shall be located, designed, constructed, and maintained in a manner that results in no net loss of shoreline ecological functions and maximizes the opportunity to serve multiple users on an island.”</p> <p>The burden of proving that a temporary barge landing site is legally existing, conforms to the SMP, and does not exceed the limited number of landings falls to the operator. In a situation where the County is investigating a possible violation of the provisions of the SMP, the operator must demonstrate that the landing conforms to the SMP.</p>
<p>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?</p>		<p>The temporary barge landing site provisions do not make changes to the property rights of either the property owner or the public.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
January 30, 2020	Miki Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/19798/">https://www.sanjuanco.com/DocumentCenter/View/19798/</a>
<b>Summary of Comment</b>		<b>Response</b>
<p>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.</p>		<p>The proposal would not affect any applications submitted prior to the effective date of the ordinance. Permit applications vest to the regulations that are effective at the time the application is received unless the new regulations have specific provisions that affect vesting. The proposed amendments do not include any provisions that would affect vesting of applications.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

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January 30, 2020	Miki Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/19798/">https://www.sanjuanco.com/DocumentCenter/View/19798/</a>
<b>Summary of Comment</b>		<b>Response</b>
<p>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?</p>		<p>The determination of whether a development is exempt from the requirement to obtain a substantial development permit is made by evaluating the proposed development against the regulations found in SJCC 18.50.040 and WAC 173-27-040. Many exemptions do not require a “certificate of exemption”, and the Shoreline Management Act does not require that the County issue any “certificates of exemption” at all. The existing SMP lists specific instances when a “certificate of exemption” will be required in SJCC 18.50.050(B).</p> <p>The proposed change would exempt existing nonconforming temporary barge landing sites from applying for a certificate of exemption. If an existing nonconforming temporary barge landing site were investigated for a possible code violation, the operator would be required to demonstrate that the existing nonconforming use was legally established and that it conforms to Title 18 San Juan County Code.</p> <p>A proposed change in Ordinance Section 11 would require barge operators to notify the County at least ten business days before the proposed landing. The notice would be submitted on a standardized form. This will allow the County to track these barge landings as they occur.</p>
<p>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.</p>		<p>Changes in Ordinance Section 11 would require DCD to maintain a list of existing nonconforming barge landings. The list would be updated and published annually. Additions or deletions from the list would be determined by the Director of DCD as an administrative action.</p>

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January 30, 2020	Miki Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/19798/">https://www.sanjuanco.com/DocumentCenter/View/19798/</a>
<b>Summary of Comment</b>		<b>Response</b>
<p>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?</p>		<p>The County has not adopted a definition of “Barge” in SJCC 18.20.020 “B” definitions. That section does include a definition of permanent and temporary barge landing sites. SJCC 18.20.020 “B” definitions states:</p> <p style="padding-left: 40px;">“Barge landing site, permanent” means any location established for the purpose of landing a barge (including powered landing craft) for more than a temporary use. (See also “log storage or transfer site.”)</p> <p style="padding-left: 40px;">“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 or permanent adverse impacts on shoreline ecological functions.</p> <p>These definitions do not differentiate between the types of vessels allowed to use the landing. Any of the vessels Ms. Brostrom describes would be able to land at a temporary barge landing site.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
July 10, 2020	Bruce Keithly	<a href="https://www.sanjuanco.com/DocumentCenter/View/20797/">https://www.sanjuanco.com/DocumentCenter/View/20797/</a>
Summary of Comment		Response
<p>Mr. Keithly suggests five actions to increase code enforcement:</p> <ol style="list-style-type: none"> <li>1. Budget increases to afford at least 3 enforcement officers.</li> <li>2. Make transportation of code enforcement officers to outer islands available either via the Sheriff's boats or by a boat for the use of the Dept. of Community Development.</li> <li>3. Increase the fines set out in the code for code violations. Current fines are so small that risking a fine would often be cheaper than obtaining the required permits.</li> <li>4. Make it easier and more secure for citizens to anonymously report possible code violations.</li> <li>5. Greatly increase fines for contractors who do work on projects that are unpermitted and violate the Shoreline Master Program. Publicize the identity of contractors that facilitate code violations.</li> </ol>		<p>Code enforcement regulations are codified in Chapter 18.100 SJCC. The proposed Ordinance does not amend Chapter 18.100 SJCC. If the County Council would like to make changes to the code enforcement regulations, including fines, they can do so in a separate code amendment process.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
July 21, 2020	Kyle Loring on behalf of Friends of the San Juans	<a href="https://www.sanjuanco.com/DocumentCenter/View/20841/">https://www.sanjuanco.com/DocumentCenter/View/20841/</a>
<b>Summary of Comment</b>		<b>Response</b>
<p>The Friends of the San Juans (Friends) raised 5 points in their comment letter.</p> <p>1. The SMP update should be revised to continue to require information about barge landings and to provide suitable public notice and transparency.</p>		<p>Changes in Ordinance Section 11 would require DCD to maintain a list of existing nonconforming barge landings. The list would be updated and published annually. Additions or deletions from the list would be determined by the Director of DCD as an administrative action.</p> <p>A proposed change in Ordinance Section 11 would require barge operators to notify the County at least ten business days before the proposed landing. The notice would be submitted on a standardized form. This will allow the County to track these barge landings as they occur.</p>
<p>1.a. Remove the proposed language on draft ordinance page 34, exempting existing nonconforming barge landing sites from obtaining a certificate of exemption. These uses must be tracked through a permitting process to allow the County to meet the obligation to address cumulative impacts of the use.</p>		<p>The proposed change in Ordinance Section 11 would require barge operators to submit a notice before landing at a site. This will allow the County to track the cumulative impacts of the use.</p>
<p>1.b. Friends requests that the County update the inventory of barge landing sites.</p>		<p>Changes in Ordinance Section 11 would require DCD to maintain a list of existing nonconforming barge landings. The list would be updated and published annually. Additions or deletions from the list would be determined by the Director of DCD as an administrative action.</p>
<p>1.c. Clarify that logging activities that require transport via marine shorelines are addressed by the SMP's log storage and transfer site provisions rather than barge landing regulations. Remove the cross-references between the definitions for "Log storage or transfer site" and "barge landing site, permanent."</p>		<p>Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
July 21, 2020	Kyle Loring on behalf of Friends of the San Juans	<a href="https://www.sanjuanco.com/DocumentCenter/View/20841/">https://www.sanjuanco.com/DocumentCenter/View/20841/</a>
Summary of Comment		Response
<p>2. Remove the proposed changes to make the administrator the decision maker for public pedestrian pathways, trails, and accessory residential structures, or revise the notice and hearing procedures to ensure that members of the public receive notice of applications for shoreline substantial development permits for these developments that do not meet exemption thresholds.</p>		<p>Draft Ordinance Sections 4, 13, and 14 propose amendments to make the director the decision-maker for Shoreline Substantial Development permits (SSD) for public pedestrian trails and residential accessory structures that do not meet an exemption threshold in SJCC 18.50.050. Most other SSDs require a Hearing Examiner decision, which requires a public hearing. This is a local choice intended to reduce permit review time for public trails and residential accessory structures.</p> <p>The process for SSDs is established in SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting. Draft Ordinance Section 14 amends this section of SJCC. Notice of application is required for all shoreline permits by SJCC 18.80.110(B)(1). Under the proposed changes, the public will continue to receive notice of all SSD applications.</p>

Date Received	Commenter Name	Link to Comment on Website
July 26, 2020	Micaela Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/20872/">https://www.sanjuanco.com/DocumentCenter/View/20872/</a>
Summary of Comment		Response
<p>Definitions of “Barge landing site, permanent” and “Barge landing site, temporary” should exclude reference to log storage facilities.</p>		<p>Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
July 26, 2020	Micaela Brostrom	<a href="https://www.sanjuanco.com/DocumentCenter/View/20872/">https://www.sanjuanco.com/DocumentCenter/View/20872/</a>
<b>Summary of Comment</b>		<b>Response</b>
<p>Increasing opportunity for administrative approvals and determination of mitigating conditions with no procedure for enforcement and without public knowledge and participation is antithetical to the purpose and intent of the SMP and SMA. If the intent is to eliminate the Hearing Examiner, public notification and participation must be retained.</p>		<p>Draft Ordinance Sections 4, 13, and 14 propose amendments to make the director the decision-maker for Shoreline Substantial Development permits (SSD) for public pedestrian trails and residential accessory structures that do not meet an exemption threshold in SJCC 18.50.050. Most other SSDs require a Hearing Examiner decision, which requires a public hearing. This is a local choice intended to reduce permit review time for public trails and residential accessory structures.</p> <p>The process for SSDs is established in SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting. Draft Ordinance Section 14 amends this section of SJCC. Notice of application is required for all shoreline permits by SJCC 18.80.110(B)(1). Under the proposed changes, the public will continue to receive notice of all SSD applications.</p>
<p>Section 7, pg. 26, lines 1-3 should specifically exclude log transport sites. Logging is not a temporary activity, but periodic, and log barge site is defined elsewhere in the county code. Per the above, log barging is significantly different from any other type of barge activity adversely affecting tidelands, shorelands and neighbors.</p>		<p>The referenced lines in Ordinance Section 7 only apply to temporary barge landings as defined in Ordinance Section 1 as:</p> <p style="padding-left: 40px;">“Barge landing site, temporary” means a location where a limited number of landings are allowed that will not result in permanent disturbance of the earth, development or permanent adverse impacts on shoreline ecological functions.</p> <p>This does not include log storage or transfer sites.</p>
<p>The proposed language in SJCC 18.550. Section 10.H.1 should not be adopted until there is a codified list of existing nonconforming barge sites together with a definitive description of type and frequency of use for each site. Additionally, the limitation of 12 landings in any 24-month period means allowing landings averaging every 2 months, ad infinitum. The time limit should be reworded so that perpetual open-ended unregulated approval is not allowed.</p>		<p>Changes in Ordinance Section 11 would require DCD to maintain a list of existing nonconforming barge landings. The list would be updated and published annually. Additions or deletions from the list would be determined by the Director of DCD as an administrative action.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Date Received	Commenter Name	Link to Comment on Website
July 28, 2020	Lisa Lawrence	<a href="https://www.sanjuanco.com/DocumentCenter/View/20912/">https://www.sanjuanco.com/DocumentCenter/View/20912/</a>
<b>Summary of Comment</b>		<b>Response</b>
Ms. Lawrence supports the use of the shorelines for horseback riding. She would like to make sure that changes to the SMP would not prohibit horseback riding in the shoreline.		The proposed changes do not amend the regulations for horseback riding in the shoreline.

Date Received	Commenter Name	Link to Comment on Website
August 4, 2020	Steve Edwards, Swinomish Indian Tribal Community Chairman	<a href="https://www.sanjuanco.com/DocumentCenter/View/20922/">https://www.sanjuanco.com/DocumentCenter/View/20922/</a>
<b>Summary of Comment</b>		<b>Response</b>
Mr. Edwards writes in support of the proposed changes to SJCC 18.50.100(D) in Ordinance Section 8. He suggests a change to ensure that all affected tribes are consulted for shoreline stabilization proposed to protect archaeological or historic resources.		<p>The proposed amendment to SJCC 18.50.100(D) was updated to incorporate Mr. Edwards suggestion. It reads:</p> <p style="padding-left: 40px;">D. Structural shoreline stabilization measures may be allowed <del>with a shoreline substantial development permit</del> where wind, rain, storms, or waves expose verified archaeological and historic resources. <u>The permit application for the stabilization measures must be submitted by the affected Native American tribe(s).</u> Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with the <u>all</u> affected Native American nations.</p>

## Documentation and Response to All Public Comments Received During the Comment Period

Oral Testimony at the July 28 Joint Public Hearing		
Commenter	Summary of Comment	Response
Tina Whitman, Friends of the San Juans	<ol style="list-style-type: none"> <li>1. Supports deer fencing for shoreline re-vegetation projects.</li> <li>2. Supports changes to SJCC 18.50.100(D)</li> <li>3. Supports the County adoption of a barge landing list. Does not want temporary barge landings to occur without notice.</li> </ol>	<p>3. Notice of barge landings will be posted on the online permit portal. This will allow the public to see the notices of temporary barge landings as they are submitted.</p>
Bill Potts	<p>Questions how big a problem existing barge landing sites are. Barge landings are vital.</p>	<p>Thank you for your comment.</p>
Kyle Loring, Friends of the San Juans	<ol style="list-style-type: none"> <li>1. Supports the changes to SJCC 18.50.100(D).</li> <li>2. Urges the council to confirm that public notice will continue for administrative SSDs.</li> <li>3. More changes to Chapter 18.80 SJCC are needed for admin SSDs.</li> <li>4. Make sure that the County is gathering information about temporary barge landing sites. Expedited path is okay. This information will help with cumulative impact review.</li> <li>5. Supports adopting a new barge landing list so that the public knows where they are.</li> <li>6. Clarify that barge landing sites and log storage are different uses by de-coupling the definitions.</li> </ol>	<ol style="list-style-type: none"> <li>2. The changes in Ordinance Sections 13 and 14 that make the administrator the decision-maker for SSDs does not change the notice requirements in SJCC 18.80.030. There is still a public notice and 30-day comment period required for SSDs.</li> <li>3. Upon further review, Ordinance Section 13 was added to amend SJCC 18.80.020 to be consistent with the other changes to Chapter 18.80 SJCC naming the administrator as the decision-maker for certain SSDs.</li> <li>4. Ordinance Section 11 establishes a notification process for existing nonconforming temporary barge landings sites.</li> <li>5. Ordinance Section 11 establishes a process to adopt and maintain a barge landing site list.</li> <li>6. Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.</li> </ol>

## Documentation and Response to All Public Comments Received During the Comment Period

Oral Testimony at the August 11 Joint Public Hearing		
Commenter	Summary of Comment	Response
Tina Whitman, Friends of the San Juans	<ol style="list-style-type: none"> <li>1. Supports notice of barge landings. Make sure that the form asks for site information.</li> <li>2. Would like public notice for barge landings as notice forms are submitted.</li> <li>3. During the drafting of the barge landing list, get further public comment before adoption. Would like a map of barge landings.</li> <li>4. Make sure that log handling facilities are not being confused with barge landing sites.</li> <li>5. Supports changes to SJCC 18.50.100(D)</li> </ol>	<ol style="list-style-type: none"> <li>2. Notice of barge landings will be posted on the online permit portal. This will allow the public to see the notices of temporary barge landings as they are submitted.</li> <li>3. The barge landing list will be established as an administrative action and posted to the website. The initial creation of the list will be publicly available through the County website. Interested members of the public can submit written requests for additions and subtractions from the list.</li> <li>4. Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.</li> </ol>