SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMO

REPORT DATE:	October 1, 2020
TO:	San Juan County Council
CC:	Mike Thomas, County Manager Erika Shook, AICP, DCD Director
FROM:	Adam Zack, Planner III
BREIFING:	October 13, 2020
HEARING:	October 27, 2020
SUBJECT:	Periodic Review of the Shoreline Master Program (SMP)
PROJECT WEBPAGE:	https://www.sanjuanco.com/1643/Shoreline-Master-Program-Periodic-Update.
ATTACHMENTS:	A. Draft Ordinance B. Public hearing Notice C. Periodic Review Checklist Updated August 28, 2020 D. Public Comments and Summary of Responses E. Ecology's Determination of Initial Concurrence

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Hearing Purpose: To take public testimony regarding:

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

Official Comment Period: Wednesday, October 7, 2020 - Tuesday October 27, 2020. Comments will be forwarded to the County Council and available on the project webpage.

Methods of Commenting: The hearing will take place telephonically to comply with social distancing measures. Details for participating over the phone are provided below.

- **Via Mail:** Prior to the hearing date, mail written comments to **Adam Zack, Department of Community Development** PO Box 947, Friday Harbor, WA 98250.

- **Via Email:** Email comments to smpcomments@sanjuanco.com.
  Please title the email subject line: SMP Comments from (your last name or agency name).

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

Staff will copy comments submitted prior to noon on October 26, 2020, for the County Council and Ecology. Written comments will be posted on the project webpage and are preferred, especially under these socially distanced circumstances. If requested in your written submittal, staff will read your written comments into the record. Please:

- Reference the related page and line numbers of the draft ordinance in your comments.

- Include your full name and address in all correspondence including emails for the record.

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

Joint Review Process: The following summarizes the review process for this project. Completed steps are shown with a check mark:

- ✓ Hold a joint County-Ecology public hearing to take testimony;
- ✓ Within 30 days of the hearing, the County transmits to Ecology a response to public comments and identifies any proposed changes;
- ✓ Ecology issues an initial determination of completeness regarding the transmittal;
- ✓ When complete, Ecology provides an initial determination of consistency;
- o County adopts it and transmits it to Ecology;
- o Ecology issues final approval or additional work is completed;
- o The ordinance becomes effective 14 days after Ecology's approval.

Periodic Review Checklist: Staff completed the attached Ecology SMP Periodic Review Checklist (Attachment C). This document was used to review the County's SMP for any necessary changes. The checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may have triggered the need for local SMP amendments. It indicates where the proposed SMP ordinance addresses applicable amended laws or where no action is needed. The checklist also summarizes actions proposed in the draft ordinance prepared for the October 27, 2020 public hearing.

Summary of Ordinance Sections:

Section 1. Amends SJCC 18.20.020 "B" definition of "Barge landing site, temporary" to mean a location where a limited number of landings are allowed that will not result in permanent disturbance of the earth, development or permanent adverse impacts on shoreline ecological functions.

Section 2. Amends SJCC 18.20.140 "N" Definitions and Ordinance 1-2016 § 74 to update the definition of normal residential appurtenance. Proposed changes include moving the term "patio", clarifying the

allowance for the sequence of construction on stairways to beaches on residential property, deleting the words "wind power" before generators and deleting "other" normal residential appurtenances that could have been approved by the DCD director.

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

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

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

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

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

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

> 14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o) <u>including a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181</u>.
>
> 15. <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 <u>173-27-040</u>(2)(p) <u>and RCW 77.55.181</u>, when all of the following apply (excerpt).

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

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

Section 8. Amends SJCC 18.50.100 Archaeological and historic resources to require an application from the affected tribes for shoreline stabilization measures to protect exposed archaeological resources.

Section 9. Amends SJCC 18.50.450 Forest Practices and Ordinance 11-2017 § 20 in subsection (A)(2) to clarify that an additional shoreline permit is not required for the cutting of timber solely incidental to the preparation of land for other uses that:

- Is authorized by a shoreline permit or shoreline certificate of exemption, and
- Is not covered under the WA State Forest Practices Act

Section 10. Amends SJCC 18.50.540 Residential development and Ordinance 11-2017 § 24 in SJCC 18.50.540(D) to read as follows:

D. Regulations – Normal Residential Appurtenances <u>and Accessory Structures</u>.

1. <u>Normal residential appurtenant and accessory structures are not allowed in critical area buffers required by SJCC 18.50.120 except for:</u>

   <u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways, and</u>

   <u>b. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590.</u>

2. <u>Normal residential appurtenant and accessory structures are not allowed in the shoreline aesthetic buffer except for:</u>

   <u>a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and;</u>

   <u>b. Normal residential appurtenant structures and accessory structures less than thirty inches in height; and</u>

   <u>c. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590.</u>

3. <u>Accessory dwelling units must comply with SJCC 18.40.240.</u>

Section 11. Amends SJCC 18.50.550 Transportation facilities and parking and Ordinance 11-2017 § 25 to clarify the permitting requirements for existing nonconforming temporary barge landings. In response to

public comments, (H)(5) and (6) were added to create a notification process for existing nonconforming temporary barge landing sites. SJCC 18.50.550(H) is proposed to be amended as follows:

H. Regulations – Barge Landing Sites and Facilities.

1. New ~~T~~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.

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

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

b. An alternative access is not feasible; and

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

3. 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.

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

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.

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).

Section 12. Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and Ordinance 11-2017 § 27 to make institutional uses the same as those in the commercial category. A new footnote number 7 is added to public pedestrian trails and single-family residence to provide notice that the DCD director is the local decision-maker for substantial development permit

applications for public pedestrian trails and residential accessory structures that do not meet the exemption threshold.

Section 13. Amends SJCC 18.80.020 Project permit applications – Procedures and Ordinance 2-2014 §7 to ensure that Table 8.1 is consistent with other changes to Chapter 18.80 SJCC that make the DCD director the decision-maker on shoreline substantial development permits for public pedestrian pathways and residential accessory structures.

Section 14. Amends SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 § to comply with WAC 173-27-044. “Date of filing” replaces “date of receipt” for shoreline permits sent to Ecology.

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

Section 15. Amends SJCC 15.12.030 and Ordinance 13-2018 § 4 to include the one of the legislature’s options for defining "floodway" as the floodway criteria set in the SMA.

ORDINANCE NO. ____- 2020

AN ORDINANCE TO UPDATE THE SHORELINE MASTER PROGRAM REGULATIONS; AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140, 18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.020, 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).

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

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

18.20.020 "B" definitions.

"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.")

"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.

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

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

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

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

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

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

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

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

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

"Biodiesel" means biodiesel as defined by RCW 19.112.010.

"Biofiltration system" means a water filtration system using biological processes.

"Boat launch, ramp or retrieval system" means an area, structure, or equipment used to launch or retrieve boats.

"Boathouse" means an enclosed structure designed and used for the storage of boats and boat equipment.

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

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

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

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

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

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

"Building envelope" means:

1. A three-dimensional space in which a building or structure may be built;

2. A plat restriction for the purpose of defining lot coverage areas for individual lots, or for describing shoreline building setbacks.

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

"Bulk fuel storage (retail)" means the storage of fuel in structures or tanks for subsequent retail sale.

"Bulk fuel storage (wholesale)" means the storage of fuel in structures or tanks for subsequent wholesale distribution.

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

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

18.20.140 "N" Definitions.

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

"Native vegetation" means plant species which are indigenous to San Juan County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

substantial development permit requirements in accordance with WAC 173-27-040(g). Structures and activities considered normal residential appurtenances include accessory dwelling units ~~or other detached residential structures~~, garages, sheds, decks and patios attached to primary structures, private pedestrian pathways, stairways to access shorelines including those constructed prior to the construction of a residence on lots intended for single-family development, ramps, ~~patios~~, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, ~~wind power~~ generators serving a single structure, 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.

"Nursery" means lands or greenhouses used to raise flowers, shrubs, and plants for commercial purposes.

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

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

18.20.190 "S" definitions.

"Sale" means the transfer for consideration of legal or beneficial ownership.

"Salt water intrusion" means the underground flow of salt water into wells and aquifers.

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

"Seaward" means to or toward the sea.

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

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

"Sedimentation" means the process by which material is transported and deposited by water or wind.

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

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

"Service area" means an area identified by a public water system that includes existing and future service.

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

"Setback" means the distance a structure is placed behind a specified line or topographic feature.

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

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

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

"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 Chapter 90.58 RCW, the same to be designated as to location by the Department of Ecology.

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

1. Signposts;

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2. Benches and tables;

3. Parking areas;

4. Paths;

5. Public pedestrian trails;

6. Boat ramps without lifts;

7. Gates;

8. Staircases; or

9. Other shoreline access features.

"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. It does not include dismantling or removing structures if there is no other associated development or redevelopment (RCW 90.58.030; WAC 173-27-030).

"Shoreline jurisdiction (shorelands or shoreland areas)" means the proper term describing all of the geographic areas covered by the Shoreline Management Act, related rules, and the applicable master program. Those 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 subject to the SMA (RCW 90.58.030).

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

"Shoreline permit" means a substantial development, shoreline conditional use, or shoreline variance permit.

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

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

1. Shorelines of statewide significance;

2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and

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

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

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

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

"Sign, freestanding" means a sign not attached to a structure.

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

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

"Simple land division" means a division of property meeting the criteria in SJCC 18.70.040.

"Single-family residence" means a dwelling unit designed for and occupied by no more than one family.

"Siting" means the method and form of placement of a use or development on a specific area of a subject property.

"Slaughterhouses, small-scale" means places where animals are butchered and:

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

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

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

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

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

"Solid waste" means all putrescible and nonputrescible solid and semi-solid wastes, except wastes identified in WAC 173-304-015, such as junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic

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

"Solid waste disposal" means the act or process of disposing of rubbish and garbage.

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

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

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

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

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

"Stocking level" means a quantitative measure of the area occupied by trees. Also referred to as stand density.

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

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

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

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

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

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

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

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

"Subdivision, vacation of" means the removal of lots, boundaries, roads, dedications, restrictions, or easements of a recorded subdivision or short subdivision.

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

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

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

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

"Sustainable" means actions or activities which preserve and enhance resources for future generations.

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

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

18.50.020 General.

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

B. Short Title. The short title of this chapter and Element 3 of the Comprehensive Plan is the "SMP."

C. Authority.

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

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

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

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

D. Official Map.

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

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

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

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

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

E. Responsibilities of Department Director and Planning Commission.

1. Director.

a. The director:

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

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

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

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

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

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

iv. Collecting required fees;

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

vi. Making field inspections; and

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

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

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

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

b. Aerial and LIDAR photographs;

c. Other available data; and

d. Field observations.

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

18.50.030 General applicability.

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

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

C. Applicability to Federal Agencies.

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

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

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.

D. ~~Applicability to Developments, Uses, Structures, and Activities.~~ This SMP applies to all developments, uses, and structures, as well as 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.

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 SMA do not apply to the following:

1. 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 WDOE when it conducts a remedial action under Chapter 70.105D RCW;

2. 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;

3. 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;

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

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

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

18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements.

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

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

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

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

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~~ $7,047 in September 2017) 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.

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

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

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

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

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

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

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

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

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

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.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. <u>Habitat enhancement projects that conform to the provisions of RCW 77.55.181 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 is in accordance with WAC 173-27-040(2)(p) <u>and RCW 77.55.181</u>, when all of the following apply:

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

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

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

<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. §12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.</u>

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

18.50.050 Exemptions from substantial development permit requirements ~~— Normal residential appurtenances.~~

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

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

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

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

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

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

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

e. No other shoreline access exists or is feasible;

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

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

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B. Certificates of Exemption.

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

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

a. Dredging;

b. Flood hazard control structures;

c. Archaeological or historic site alteration;

d. Clearing, grading, fill, excavation and vegetation removal;

e. Dock construction, repair, replacement, or enlargement;

f. Structural shoreline stabilization, repair, replacement, or enlargement;

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

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

i. New ~~T~~temporary barge landing sites. 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; and

j. Private pedestrian pathways, stairways and ramps.

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

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

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

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

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

18.50.100 Archaeological and historic resources.

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

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

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

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

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

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

18.50.450 Forest practices.

A. General Regulations.

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

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

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

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

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

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

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

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

C. Regulations by Designation.

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

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

18.50.540 Residential development.

A. Regulations – Location and Design.

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

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

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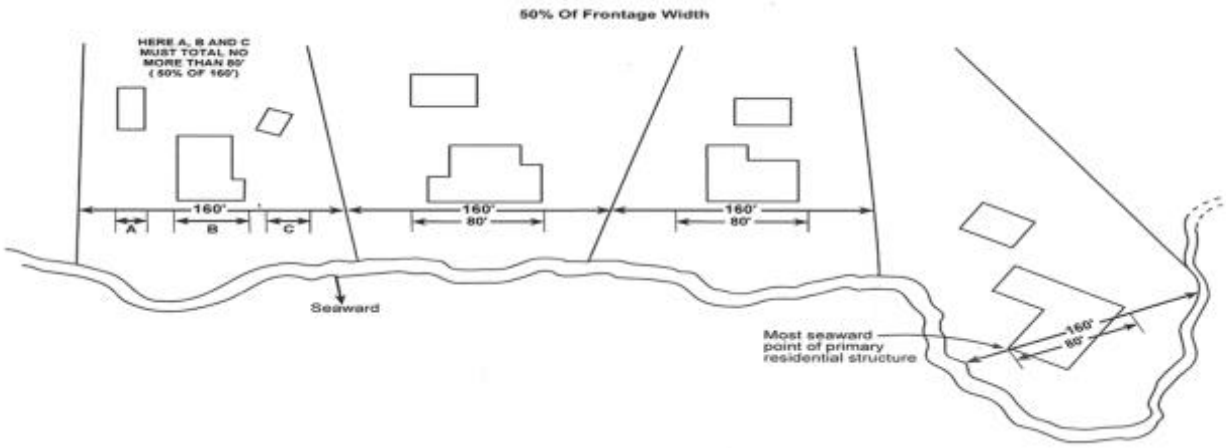
Figure
18.50.540



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

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

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

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

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

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

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

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

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

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

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

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

D. Regulations – Normal Residential Appurtenances <u>and Accessory Structures.</u>

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:~~

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

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

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

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

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

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

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

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

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

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

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.

E. Live Aboard Vessels.

1. Live aboard vessels are only allowed within marinas.

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

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

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

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

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

F. Regulations by Designation.

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

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

18.50.550 Transportation facilities and parking.

A. Regulations – General.

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

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

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

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

B. Regulations – Roads (Public and Private).

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

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

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

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

a. Outside of shoreline jurisdiction; or

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

5. Roadside vegetation shall be controlled.

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

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

C. Regulations – Parking.

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

a. Is an essential accessory to an allowed use;

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

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

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

a. Outside of the shoreline jurisdiction; or

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

3. Parking areas for shoreline access use are allowed.

4. Parking over-water is prohibited.

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

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

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

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

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

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

F. Regulations – County Docks.

1. Overnight moorage is prohibited at County docks.

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

G. Regulations – Float Plane Facilities.

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

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

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

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

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

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

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

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

H. Regulations – Barge Landing Sites and Facilities.

1. New ~~T~~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.

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

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

b. An alternative access is not feasible; and

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

3. 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.

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

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.

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).

I. Regulations – Public Pedestrian Trails.

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

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

J. Regulations by Designation.

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

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2. Conservancy and Rural Farm Forest.

a. Public pedestrian trails are allowed in these designations.

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

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

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

e. Other transportation facilities are prohibited.

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

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

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

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

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

1. Is allowed;

2. Is prohibited;

3. Requires a shoreline substantial development permit;

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4. Requires a shoreline conditional use permit; or

5. Is subject to other certificates or conditions.

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

C. Legend for Table 18.50.600, Shoreline development, uses, structures and activities by 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.

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

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

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
Over-Water Structures[1] Including Boating Facilities								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single-family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD
Breakwaters, Jetties and Groins[1]								
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
Commercial Development								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Non-water-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
Dredging and Dredge Material Disposal								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material 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
Clearing, Grading, Fill, and Excavation								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
Essential Public Facilities								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
Flood Hazard Reduction								
Dikes, levees, revet-ments, flood walls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
Forest Practices								
Commercial forestry[1, 3]	CUP*	SD	SD*	SD	CUP	CUP	No	No
Log transfer sites, facilities and storage[1, 3]	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
Industrial Development[1]								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP[1]	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
Institutional Development[1, 2]								
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
Mineral Extraction[1]								
Mineral extraction	No	No	SD*	No	No	SD	No	No
Recreational Development[1, 2]								
Water-oriented	SD*	SD/CUP*	SD/CUP if Commer-cial	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
Residential Development[2]								
Single-family[7]	No*	SD	SD	SD	SD	SD	SD	No*
Multifamily	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
Live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals[2]	No*	No	CUP*	SD	SD	SD	SD	No
Private Pedestrian Pathways, Stairways and Ramps								
Private pedestrian pathways, stairways and ramps	No	SD	SD	SD	SD	SD	SD	No
Shoreline Habitat and Natural Systems Enhancement Projects[4]								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
Structural Shoreline Stabilization[5]								
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*
Signs								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
Transportation and Parking								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary	No	*	*	*	*	*	*	*
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*
Float planes, commercial or regular use	No	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails[7]	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	No	SD	No	SD	SD	SD	NA
Utilities[6]								

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

Table 18.50.600 Notes.

1. Eastsound subarea plan prohibits:

a. New boating facilities, joint use and private docks;

b. Breakwaters, jetties and groins;

c. Log transfer sites and log storage areas;

d. Industrial development outside of the marina;

e. Mineral extraction;

f. Institutional uses;

g. Recreational development with commercial facilities for overnight camping; and

h. Fill in the conservancy shoreline designation.

2. Shaw Island subarea plan prohibits:

a. Recreational development with commercial facilities for overnight camping;

b. Residential vacation rentals by themselves or in combination with any commercial use;

c. Institutional uses; and

d. New commercial uses.

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

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

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

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

<u>7. The director shall make the final local decisions on administrative shoreline substantial development permit applications for public pedestrian trails and residential accessory structures (except shoreline stabilization, boathouses and overwater structures) that do not meet an exemption threshold in SJCC 18.50.050.</u>

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

18.80.020 Project permit applications – Procedures.

A. Nonbinding Preapplication Conferences and Site Inspections. Preapplication conferences and site inspections are optional, but strongly encouraged, and will be conducted on a time-available basis. Any fee assessed for such a preapplication conference and site inspection shall be refunded upon submission of a permit application.

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

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

B. Determination of Proper Type of Project Permit.

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

2. Consolidated Permit Processing. For a proposal that involves two or more shoreline permits and/or other project permits, such applications shall be consolidated under the "highest" procedure (i.e., the rightmost applicable column in Table 8.1) required for such permits or 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.090 and 36.70B.110. (See also SJCC 18.80.110(D), shoreline permits consolidated permit processing, and SJCC 18.80.140.)

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

1. A completed project permit application form;

2. If the applicant is not the owner of the subject property, a notarized statement by the owner(s) that (a) the application has been submitted with the consent of all owners of the subject property, and (b) identification of the owner's authorized agent or representative;

3. A legal description of the site and any other property description required by the applicable development regulations;

4. The applicable fee;

5. Evidence of available and adequate water supply as required by SJCC Title 8; see also SJCC 18.60.020;

6. Evidence of sewer availability or septic approval or suitability as required by SJCC Title 8;

7. A plot plan to scale at no smaller than one inch equals 40 feet for a plot larger than one acre, and no smaller than one inch equals 20 feet for a plot one acre or smaller;

8. Graphic depiction of the following:

a. Compass direction and graphic scale;

b. Corner grades and, if required by the director, existing contours of topography at five-foot contour intervals;

c. Proposed developments or use areas;

d. Existing structures and significant features on the subject property and on adjacent properties;

e. Property lines, adjoining streets, and immediately adjoining properties and their ownerships;

f. Location and dimensions of existing and proposed improvements on public rights-of-way, such as roads, sidewalks, and curbs;

g. Existing and proposed grades and volume and deposition of excavated material;

h. Natural drainage direction and storm drainage facilities and improvements;

i. Locations of all existing and proposed utility connections;

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j. Parking spaces and driveways;

k. Proposed landscaping;

l. Wetlands and other critical areas; and

m. All easements (recorded or unrecorded) must be shown. If recorded, the recording number must be shown;

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

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

11. Critical Areas (CAs).

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

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

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

c. Critical Area Reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. The application is complete; or

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

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

3. Additional Information.

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

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

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

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

4. Incomplete Applications.

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

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

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

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

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

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

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Table 8.1. Summary of Project Permit Notice, Hearing, Decision and Appeals Processes.[1]

Project Permit Application	**Boundary Line Modification; Simple Land Division**	**Provisional Use; Short Subdivisions; BSP to 4 Lots; Temporary Use Permits (Level II), <u>Administrative Substantial Development Permit</u>**	**Conditional Use and/or Variance**	**Shoreline Permits (Substantial Development, Conditional Use or Variance)**	**Subdivisions; BSP for More than 4 Lots**
	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~~ BSP: Binding Site Plan

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SECTION 14. SJCC 18.80.110 and Ordinance 11-2017 §2 are each amended to read as follows:

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

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

A. Purpose and Applicability.

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

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

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

a. Shoreline substantial development permits;

b. Shoreline conditional use permits; and

c. Shoreline variances.

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

B. Notice of Application for Shoreline Permit.

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

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

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

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.)

E. Decision-making Authority.

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

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

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

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

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

F. Shoreline Substantial Development Permit Exemptions.

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

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

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

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

G. Shoreline Permits – Administrative Actions.

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

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

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

4. Within eight days of the ~~hearing examiner~~ decision-maker's final decision, the director using return receipt requested mail 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 Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to

the ~~hearing examiner~~ decision-maker's 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. 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.

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

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

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

b. Terminate the permit.

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

H. Criteria for Approval of Shoreline Substantial Development Permits.

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

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

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

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

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

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

I. Shoreline Variances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. Shoreline Conditional Use Permits.

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

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

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

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

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

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

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

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

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

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

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

K. Procedures for Revisions to Shoreline Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

N. Vesting.

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

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

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

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

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

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

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

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

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

15.12.030 Definitions.

"Appeals" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

"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. 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.

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

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

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

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

"Market value" means current value for affected structures as determined by the County assessor's office.

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

"New construction" means structures for which the start of construction commenced on or after June 26, 2018.

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

"Recreational vehicle" means a vehicle:

1. Built on a single chassis;

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

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

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

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

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

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

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

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

1. Before the improvement or repair is started; or

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

The term can exclude:

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

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

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

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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

Draft

LEGAL ADVERTISEMENT

Attachment B

To: The Journal of the San Juan Islands and Islands Sounder
From: **Ingrid Gabriel, Clerk of the San Juan County Council**
Bill To: Department of Community Development
Publish: **1 Time(s) – Wednesday, October 7, 2020**

NOTICE OF A SAN JUAN COUNTY COUNCIL PUBLIC HEARING TO HEAR TESTIMONY ON PROPOSED AMENDMENTS REGARDING THE SHORELINE MASTER PROGRAM REGULATIONS; AMENDING SAN JUAN COUNTY CODE (SJCC) 18.20.020, 18.20.140, 18.20.190, 18.50.020, 18.50.030, 18.50.040, 18.50.050, 18.50.450, 18.50.540, 18.50.550, 18.50.600, 18.80.110 AND 15.12.030
AND
NOTICE OF A SHORELINE MASTER PROGRAM PERIODIC REVIEW PUBLIC COMMENT PERIOD

The hearing will begin at or after 9:15 a.m. Tuesday, October 27, 2020 at the Council Legislative Hearing Room, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to submit written or oral comments regarding the proposal. The hearing will take place telephonically to comply with social distancing measures. Details for participating over the phone are provided below.

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

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

Official Comment Period: Wednesday, October 7, 2020 - Tuesday October 27, 2020. Written comments will be forwarded to the County Council and posted on the project webpage.

Methods of Commenting:

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

Staff will copy comments submitted prior to noon on October 26, 2020, for the County Council. Written comments will be posted on the project webpage and are preferred, especially under these socially distanced circumstances. If requested in your written submittal, staff will read your written comments into the record. Please:

- Reference the related page and line numbers of the draft ordinance in your comments.

- Include your full name and address in all correspondence including emails for the record.

Project Contact: Adam Zack at (360) 370-7580 or adamz@sanjuanco.com.
Call in Contact: County Council Clerk at (360) 378-2898 or councilpc@sanjuanco.com.

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

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

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	materials at Dredged Material Manage-ment Program sites *(applies to 9 jurisdictions)*		**This is not applicable to San Juan County.** **No change is required.**
c.	The Legislature added **restoring native kelp, eelgrass beds and native oysters** as fish habitat enhancement projects. 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.		**Review consideration:** This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. For SMPs that include a full list of fish habitat enhancement projects types, add "kelp, eelgrass and native oyster restoration projects." For SMPs that include a full list of fish habitat enhancement project types, add kelp, eelgrass and native oyster restoration projects. RCW 90.58.147 Substantial development permit—Exemption for projects to improve fish or wildlife habitat or fish passage. **Action: Ordinance Section 6.** Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §6 in SJCC Subsection (15). (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: (a) The project has been approved by the department of fish and wildlife; (b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and (c) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. (2) Fish habitat enhancement projects that conform to the provisions of *RCW 77.55.290 are determined to be consistent with local shoreline master programs. Habitat enhancement projects that conform to the provisions of RCW 77.55.290 and RCW 90.58.147 are consistent with local shoreline master programs. A public or private project that is designed to improve fish or wildlife habitat or fish passage in accordance with WAC 173-27-040(2)(p) and RCW 77.55.181, when all of the following apply: a. The project has been approved by the Washington Department of Fish and Wildlife (WDFW); b. The project has received hydraulic project approval by the WDFW pursuant to Chapter 77.55 RCW; and c. The County has determined that the project is substantially consistent with this SMP.

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
2017			
a.	OFM adjusted the **cost threshold for substantial development** to $7,047.	**SJCC 18.50.040 and SJCC 18.50.050** D. The following developments, as defined in WAC 173-27-040, are not shoreline substantial developments and require a certificate of exemption when not considered as part of a larger project or development permit: 1. With the exception of docks, any development, use, structure or activity whose total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law ($6,416 as of October 2012) in accordance with WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment, or materials.	**Review Consideration: This threshold applies whether or not it is adopted in code.** **No change is required; however, the update is made in two code section to make them user-friendly:** **1. Ordinance Section 6.** Amend SJCC 18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements and Ordinance 11-2017 §6 in SJCC subsection (D)(1). 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~~ $7,047 in September 2017) 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. **2. Ordinance Section 7.** Amend SJCC 18.50.050 Exemptions from substantial development permit requirements – Normal residential appurtenances and Ordinance 11-2017 §7 in subsection(A)(1): 1. Construction or renovation of structures with fair market value of less than the maximum value allowed by WAC 173-27-040(2)(a) (~~$6,416 in October 2012~~ $7,047 in September 2017).
b.	Ecology permit rules clarified the **definition of "development"** 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 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).	**Action: Ordinance Section 3.** Amends SJCC 18.20.190 "S" definitions and Ordinance 21-2018 § 1 to update the definition of shoreline development by adding the following sentence: Shoreline development does not include dismantling or removing structures if there is no other associated development or re-development.
c.	Ecology adopted rules clarifying **exceptions to local review under the SMA.**		**Action: Ordinance Section 5.** Amend SJCC 18.50.030 General applicability and Ordinance 11-2017 §4 to add a new subsection E to identify the following permitting exemptions:

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
			E. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the *Shoreline Management Act* do not apply to the following: 1. 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. 2. 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. 3. 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. 4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. 5. Projects authorized through the Washington Energy Facility Site Evaluation Council process pursuant to Chapter 80.50 RCW.
d.	Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute.	**SJCC 18.80.110** 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.) 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	**Review considerations:** "Date of filing" replaces "date of receipt" for shoreline permits sent to Ecology. Requires concurrent filing of permits if there are separate Substantial Development, Conditional Use Permits, and/or Variances. Ecology will notify local government and the applicant of the date of filing by telephone or electronic means followed by written communication. **Action: Ordinance Section 14.** 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. 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. 4. Within eight days of the ~~hearing examiner's~~ decision-maker' final decision, the director using return receipt requested mail 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

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		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. M. Appeals. Aggrieved parties have 21 days from the date of filing to file appeals to the shoreline hearings board. **18.50.140** Judicial and State Board Appeals. The time limits, methods, procedures and criteria for review of land use decisions by the courts or by a quasi-judicial body created by state law, such as the Shorelines 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)	Chapter 43.21C or 90.58 RCW), the permit, and any other written evidence related to the ~~hearing examiner's~~ decision-maker' 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. 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.
e.	Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	**18.50.450 Forest practices.** A. General Regulations. 1. In any 10-year period, no more than 30 percent of marketable trees may be harvested on a parcel located within the shoreline jurisdiction in accordance with WAC 222-30-110. Other timber harvesting may be allowed in limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental. **2. The cutting of timber solely incidental to the preparation of land for other uses authorized by this chapter is allowed.** 3. If there is a likelihood of conversion to nonforest uses, forest practice conversions and other Class IV general forest practices shall: a. Result in no net loss of shoreline ecological functions; b. Maintain the ecological quality of the watershed's hydrologic system; c. Prevent significant adverse impacts to other shoreline uses, resources, and values; and	**Review considerations:** A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020. **No change is required; however, SJCC 18.50.450 Forest practices can be amended to be clear by adding a line in (A)(2).** **Action: Ordinance Section 9.** Amend SJCC 18.50.450 Forest Practices in Subsection (A)(2) and Ordinance 11-2017 §20 for clarification: 2. 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 ~~this chapter is allowed~~ when the activity is not covered under the Washington State Forest Practices Act, Chapter 76.09 RCW.

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		d. Provide a benefit with respect to the objectives of the SMA such as navigation, recreation and public access. B. Activities covered under the Washington State Forest Practices Act, Chapter 76.09 RCW, except for conversion to other uses, are exempt from the vegetation management standards in this section.	
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	**18.50.030 General applicability.** A. Relationship to Comprehensive Plan. This SMP provides land use regulations to implement the goals and policies of the Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of the County that fall under the jurisdiction of the SMA. These regulations do not apply to development and uses beyond the jurisdictional limits of the SMA unless a proposed development involves both jurisdictional and non-jurisdictional land and the upslope land development is likely to adversely affect shoreline ecological functions. B. Applicability to Persons. This SMP applies to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or manages lands, wetlands, or waters that fall under the jurisdiction of the SMA, except for the right of any person established by treaty to which the United States is a party. C. Applicability to Federal Agencies. 1. Federal agencies are subject to this SMP and the SMA, as provided by the Coastal Zone Management Act (16 U.S.C. 1451 et seq.; WAC 173-27-060(1)). 2. The shoreline permit system applies to nonfederal activities constituting developments or conditional uses undertaken on lands subject to nonfederal ownership, lease, or easement even though such lands may fall within the external boundaries of federally owned lands. 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. D. Applicability to Developments, Uses, Structures, and Activities. This SMP applies to all developments, uses, and structures, as well as	**Review consideration:** It is not necessary to amend local SMPs to reflect this clarification. However, it could be included if a jurisdiction faces questions about applicability of the SMP on lands with exclusive jurisdiction. 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. **Action: Ordinance Section 5.** Amend SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 for clarity: Amends SJCC 18.50.030 General applicability and Ordinance 11-2017 § 4 to delete subsection (2) (C) and replace it with the WAC language: "Those nonfederal lands lying within the exterior boundaries of federal lands and those federal lands leased to other persons, which fall within the definition of shorelands, shall be subject to the jurisdiction of Chapter 90.58 RCW. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW."

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

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	structure to comply with the **Americans with Disabilities Act**.		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: 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.
b.	Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.	**18.35.090 Wetlands – Rating.** San Juan County wetlands are rated according to the Washington State Wetland Rating System for Western Washington – Revised (Ecology Publication No. 04-06-025), as revised by Ecology. This rating system is designed to differentiate between wetlands based on their sensitivity to disturbance, rarity, irreplaceability, and the functions and values they provide. Wetland ratings must be determined by a qualified wetlands professional.	**No change is required. The 2014 Wetland Rating Guide is addressed in SJCC 18.35.090.**
2015			
a.	The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.		**Review considerations:** It is not necessary to include these provisions in SMPs. A reference could help ensure SMPs are implemented consistent with the statute. **No change is required or proposed.**
2014			
a.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.		**Review considerations:** Local governments without floating homes need not amend their SMP to address this statute. **No change is required. San Juan County does not have any floating homes.**

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
2012			
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.		**Review consideration:** These provisions are not about appeals of individual permits. They describe the appeal pathway after Ecology's approval of a Shoreline Master Program. If an SMP does describe the appeal steps for amendments to shoreline master programs, it should be reviewed for consistency with RCW 90.58.190. **No change is required or proposed because the County's SMP does not address the appeal steps.**
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.	**18.35.105 Wetlands – Determination of wetland boundary and requirements for wetland reports.** 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.	**No change is required because the federal wetland delineation manual is addressed in SJCC 18.35.105.**
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	**18.20.010 "A" definitions.** "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)).	**No change is required because the aquaculture definition addresses it in SJCC 18.20.010.**
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.		**Review consideration:** Local governments without floating homes need not amend their SMP to address this statute. **No change is required because the County does not have any floating homes.**
d.	The Legislature authorizing a new		**Review consideration:** This law is optional. It is one way local government can address existing development.

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

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		adaptive management plans to offset the adverse impacts must be developed by a qualified professional. 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. 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.	
c.	The Legislature added **moratoria authority** and procedures to the SMA.		**Review consideration:** The moratoria procedures may be included in an SMP but it is not necessary – local governments can simply rely on the statute or adopt these provisions into other ordinances. **No change is required or proposed.**
2007			
a.	The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	**15.12.030 Definitions.** "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. **18.20.190 "S" definitions.** "Shorelands" means lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of	**Review consideration: Option 1.** If a local government elects to use FEMA maps to define the floodway, Ecology recommends the SMP include the following definition: "Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The word "established" in this suggested definition is consistent with the SMA definition and "effective" indicates that the map is FEMA's approved FIRM – not a preliminary or draft map – and also takes into account potential future changes to the maps. Reference to a specific dated version of the FIRM is not required.

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
		Chapter 90.58 RCW, the same to be designated as to location by the Department of Ecology.	**Action: Ordinance Section 15.** Amend SJCC 15.12.030 and Ordinance 13-2018 §4and Ordinance 13-2018 §4 consistent with floodway criteria set in the SMA.-Amend the definition in SJCC 15.12.030 "F" definitions: "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance and Mitigation Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. "Flood Insurance Study (FIS)" means the official report provided by the Federal Insurance and Mitigation Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood. "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. 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.
b.	Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction.		**Review considerations:** If a jurisdiction has identified any new streams or lakes since the comprehensive update, the lists and maps should be updated. These rule amendments clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction. (The SMP list and map will then supersede the list in Ecology rules). The amendments also clarify that if a stream segment or lake is subsequently discovered to meet the SMA criteria, the SMP shall be amended within three years of the discovery. **No change is required or proposed.** No new lakes or streams have been identified since the Comprehensive SMP update. Shoreline Inventory and characterization- San Juan County Section 3.10 and Table 16 lists lakes and their shoreline management area. Also see Section 3.8. Section 3.92 addresses Streams and Nearshore Riparian Areas. There is no list of streams. Also see Chapter 4 SJC BAS Table 4.1.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include	18.50.040 Exemptions from shoreline substantial development permit requirements – General requirements. 14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o).	**No change is required or proposed because WAC 173-27-040(2)(p) is addressed in SJCC 18.50.040(15).**

Row	Summary of change	Review	Actions and Ecology's Guidance Notes
	fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	x) Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181.	

Section B. Local Amendments

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

Item	SMP Section	Summary of change	Discussion
1.	**Ordinance Section 1:** Amends SJCC 18.20.020 "B" Definitions to change the definition of "barge landing sitetemporary.	**Amends SJCC 18.20.020 "B" Definitions** Adds the word development to the definition. "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.	This change is proposed in response to a suggestion from Ecology. The intent is to make it clear that permanent development is not allowed at a temporary barge landing site. 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).
2	**Ordinance Section 2:** Amends SJCC 18.20.140 "N" Definitions and Ordinance 1-2016 §74 to update the definition of normal residential appurtenance.	**SJCC 18.20.140 "N" Definitions** "Normal residential appurtenance, shoreline" means a structure or development that is necessarily connected to the use and enjoyment of a single-family residence and which is expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption from shoreline substantial development permit requirements in accordance with WAC 173-27-040(g). Structures and activities considered normal residential appurtenances include accessory dwelling units ~~or other detached residential structures~~, garages, sheds, decks and patios attached to primary structures, private pedestrian pathways, stairways to access shorelines including those constructed prior to the construction of a residence on lots intended for single-family development, ramps, ~~patios~~, fences, driveways, utilities, on-site sewage disposal systems, antennas, solar arrays, ~~wind power~~ generators	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: ▪ Moving the term "patio" so it would mean those attached to a residence; ▪ Clarifying that the construction of stairways to beaches on residential propertycan come before the home construction; ▪ Deleting the words "wind power" before generators because there are other alternatives; and ▪ Deleting "other" normal residential appurtenances that could have been approved by the DCD director at Ecology's suggestion because this definition should be a defined list.

		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.	
3	**Ordinance Section 4: Amends SJCC 18.50.020 and Ordinance 21-2018 §2.**	**SJCC 18.50.020 General** The proposed change to subsection E would allow for more timely permitting for two types of shoreline substantial development permits. E. Responsibilities of Department Director and Planning Commission. 1. Director. a. The director: 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 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	Approximately 2 months of permitting time would be saved by authorizing the director to be the decision-maker instead of the hearing examiner.

4	Ordinance Section 8: SJCC 18.50.100 Archaeological and historic resources.	**SJCC 18.50.100(D) Archaeological and historic reources.** D. Structural shoreline stabilization measures may be allowed ~~with a shoreline substantial development permit~~ where wind, rain, storms, or waves expose verified archaeological and historic resources. The permit application for the stabilization measures must be submitted by the affected Native American tribe(s). Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with ~~the~~ all affected Native American nations.	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.
5	Ordinance Section 10: 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.	**SJCC 18.50.540 Residential development.** The changes: • Establish where normal residential appurtenances and accessory structures are allowed in critical area andshoreline aesthetic buffers. • Clarify that the fifty percent lot width requirement doesnot apply to normal residential appurtenances and accessory structures that are 30 inches or less in height because there is limited visaual impact at this height. • Provide a new exemption to allow temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590 in critical area and shoreline aesthetic buffers. • Delete subsection (D)(3) that required a conditional use permit for normal residential appurtenances not	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. **Action:** Proposed changes include: 1. The addition of a new sentence in subsection (A)(2): The lot width requirement does not apply to normal residential appurtenances and accessory structures thirty inches or less in height. 2. Revisions to subsections (D)(1)and (2) as shown below D. Regulations – Normal Residential Appurtenances and Accessory Structures.

		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.	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:~~ ~~a. Application of this regulation would result in greater adverse impacts on shoreline ecological functions; or~~ ~~b. The restriction conflicts with other applicable regulations of this SMP.~~ Normal residential appurtenant and accessory structures are not allowed in critical area buffers required by SJCC 18.50.120 except for: a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways, and b. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590. The critical area buffers required by SJCC 18.50.120, 18.50.130 and Chapter 18.35 SJCC must be met to achieve the no net loss standard in SJCC 18.50.120. A no net loss report may not be used to meet the critical area requirements because avoidance, the first step in the mitigation sequence analysis required by SJCC 18.50.120(B) and 18.50.140, cannot be met. 2. ~~Accessory dwelling units must comply with SJCC 18.40.240.~~ Normal residential appurtenant and accessory structures are not allowed in the shoreline aesthetic buffer except for: a. Private pedestrian pathways, stairways, ramps, and boathouses served by marine railways and normal residential appurtenances; b. Normal residential appurtenant structures and accessory structures less than thirty inches in height; and c. Temporary fencing for shoreline habitat and natural systems enhancement projects approved pursuant to SJCC 18.50.590 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.

			~~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).
6	**Ordinance Section 11:** 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.	**SJCC 18.50.550 Transportation facilities and** parking is clarified so that: • Only new temporary barge landing sites require a certificate of exemption, and • Nonconforming temporary barge landing sites do not require that certificate if they are to be used for the transport of the same cargo and at the same frequency as historic use. • Barge operators must notify the County if they propose using an existing nonconforming temporary barge landing site.	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. **Action:** Proposed changes include: 1. Amend SJCC 18.50.550 (H)(1) to read: H. Regulations – Barge Landing Sites and Facilities. 1. New ~~T~~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. 2. Add a new SJCC 18.50.550(H)(5) that reads: 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. 3. Add a new SJCC 18.50.550 (H)(6) that reads: 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).
7	**Ordinance Section 12:** Amends SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation and	**SJCC 18.50.600 Shoreline developments, uses, structures and activities by designation.** The shoreline land use table includes changes	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.

<table>
<tr>
<td></td>
<td>Ordinance 11-2017 § 27</td>
<td>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.

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.</td>
<td>
<table>
<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>
<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><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>
<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[7]</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>
</table>

Footnotes: 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.
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<tr>
<td>8</td>
<td>Ordinance Section 13: Amend SJCC 18.80.020 Project Permit Applications - Procedures and Ordinance 2-2014 § 7</td>
<td>SJCC 18.80.020 Project permit applications – procedures

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.</td>
<td>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.</td>
</tr>
</table>

9	**Ordinance Section 14:** Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §2	**SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting** 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.	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. 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.
10	**Ordinance Section 14.** Amend SJCC 18.80.110 Shoreline preapplication meetings, permit exemption procedures, and vesting and Ordinance 11-2017 §	**This amendment corrects a code reference in SJCC 18.80.110 (I)(3).**	6. Filing of variances with and review by the WDOE are described in subsection (G)(~~5~~) (4) of this section.

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	https://www.sanjuanco.com/DocumentCenter/View/19798/
Summary of Comment		**Response**
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.		
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.		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. 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.

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	https://www.sanjuanco.com/DocumentCenter/View/19798/
Summary of Comment		**Response**
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?		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: "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." 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.
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?		The temporary barge landing site provisions do not make changes to the property rights of either the property owner or the public.

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	https://www.sanjuanco.com/DocumentCenter/View/19798/
Summary of Comment		**Response**
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.		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.

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	https://www.sanjuanco.com/DocumentCenter/View/19798/
Summary of Comment		**Response**
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?		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). 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. 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.
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.		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.

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

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January 30, 2020	Miki Brostrom	https://www.sanjuanco.com/DocumentCenter/View/19798/
Summary of Comment		**Response**
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?		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: "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.") "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. 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.

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	https://www.sanjuanco.com/DocumentCenter/View/20797/
Summary of Comment		**Response**
Mr. Keithly suggests five actions to increase code enforcement: 1. Budget increases to afford at least 3 enforcement officers. 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. 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. 4. Make it easier and more secure for citizens to anonymously report possible code violations. 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.		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.

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	https://www.sanjuanco.com/DocumentCenter/View/20841/

Summary of Comment	Response
The Friends of the San Juans (Friends) raised 5 points in their comment letter. 1. The SMP update should be revised to continue to require information about barge landings and to provide suitable public notice and transparency.	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. 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.
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.	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.
1.b. Friends requests that the County update the inventory of barge landing sites.	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.
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."	Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.

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	https://www.sanjuanco.com/DocumentCenter/View/20841/
Summary of Comment		**Response**
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.		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. 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.

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

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	https://www.sanjuanco.com/DocumentCenter/View/20872/
Summary of Comment		**Response**
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.		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. 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.
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.		The referenced lines in Ordinance Section 7 only apply to temporary barge landings as defined in Ordinance Section 1 as: "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. This does not include log storage or transfer sites.
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.		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.

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	https://www.sanjuanco.com/DocumentCenter/View/20912/
Summary of Comment		**Response**
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	https://www.sanjuanco.com/DocumentCenter/View/20922/
Summary of Comment		**Response**
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.		The proposed amendment to SJCC 18.50.100(D) was updated to incorporate Mr. Edwards suggestion. It reads: D. Structural shoreline stabilization measures may be allowed ~~with a shoreline substantial development permit~~ where wind, rain, storms, or waves expose verified archaeological and historic resources. The permit application for the stabilization measures must be submitted by the affected Native American tribe(s). Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with the all affected Native American nations.

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	1. Supports deer fencing for shoreline re-vegetation projects. 2. Supports changes to SJCC 18.50.100(D) 3. Supports the County adoption of a barge landing list. Does not want temporary barge landings to occur without notice.	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.
Bill Potts	Questions how big a problem existing barge landing sites are. Barge landings are vital.	Thank you for your comment.
Kyle Loring, Friends of the San Juans	1. Supports the changes to SJCC 18.50.100(D). 2. Urges the council to confirm that public notice will continue for administrative SSDs. 3. More changes to Chapter 18.80 SJCC are needed for admin SSDs. 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. 5. Supports adopting a new barge landing list so that the public knows where they are. 6. Clarify that barge landing sites and log storage are different uses by de-coupling the definitions.	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. 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. 4. Ordinance Section 11 establishes a notification process for existing nonconforming temporary barge landings sites. 5. Ordinance Section 11 establishes a process to adopt and maintain a barge landing site list. 6. Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.

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	1. Supports notice of barge landings. Make sure that the form asks for site information. 2. Would like public notice for barge landings as notice forms are submitted. 3. During the drafting of the barge landing list, get further public comment before adoption. Would like a map of barge landings. 4. Make sure that log handling facilities are not being confused with barge landing sites. 5. Supports changes to SJCC 18.50.100(D)	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. 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. 4. Log handling facilities and barge landing sites are two separate uses listed in the shoreline tables in SJCC 18.50.600.

Adam Zack

From: Yunge, Chad (ECY) <CYUN461@ECY.WA.GOV>
Sent: Thursday, September 24, 2020 11:31 AM
To: Adam Zack
Cc: Erika Shook; Chandler, Jackie (ECY)
Subject: San Juan County SMP Periodic Review - Determination of Initial Concurrance

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

Date: September 24, 2020
Subject: Determination of initial concurrence
Sent via email to: [adamz@sanjuanco.com]

Good morning, Adam.

Thank you for your August 28, 2020 initial submittal of amendments to the San Juan County Shoreline Master Program (SMP). Ecology is required under WAC 173-26-104(3)(b) to make an initial determination of consistency with applicable laws and rules.

This serves as Ecology's formal written statement of initial concurrence of your proposed amendments.
As described under WAC 173-26-104(4), the next step in the approval process is for your jurisdiction to formally adopt the amendment through resolution or ordinance and send the final SMP submittal for formal agency approval as outlined in WAC 173-26-110.

Please let me know if you have questions or concerns.

Regards,
Chad

Chad Yunge | Senior Regional Shoreline Planner
Shorelands & Environmental Assistance Program | Bellingham Field Office
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This communication is a public record and may be subject to disclosure as per the Washington State Public Records Act (RCW 42.56)