

1 ~~required.~~

2 **AB.** All existing shoreline uses and activities, including those that do not require a shoreline  
3 substantial development permit, must conform to the SMA and the general and use-specific  
4 regulations of this SMP.

5 **BC.** All shoreline modification activities, developments and vegetation removal are prohibited  
6 unless they support an allowable shoreline use that conforms to the provisions of this SMP.

7 **CD.** Prohibited shoreline uses and modification activities are not eligible for shoreline variances  
8 or ~~shoreline~~ conditional use permits.

9 **NEW SECTION 14. A new section is added to Chapter 18.50 SJCC to read as follows:**

10 **Non-conforming structures, uses, and activities.** *Planning Commission clean version now edited by staff for*  
11 *clarity (Note: Staff proposal follows this version)*

12 **A.** A non-conforming structure, use or activity is one that was legally established and  
13 complied with the applicable codes in effect on the date it was created or vested, but that no  
14 longer complies with the code due to subsequent code changes.

15  
16 **B.** ~~With the exception of non-conforming structures, a~~ Uses and activities existing or vested  
17 before the effective date of this ordinance may continue in perpetuity. Due to the risk they pose  
18 to shoreline ecological functions, this provision does not apply to structural shoreline  
19 stabilization measures.

20  
21 **C.** With the exception of the replacement of structural shoreline stabilization measures, non-  
22 conforming structures, uses and activities may be changed, maintained, modified, expanded,  
23 replaced or relocated on the same property, provided that the degree of non-conformity,  
24 magnitude of adverse impacts to critical areas, and shoreline ecological functions are not  
25 increased.

26 **D.** Complete application(s) for any required project or development permits for replacement  
27 structures shall be submitted within forty-eight (48) months of their removal or destruction of the  
28 original structure, unless the director approves an extension for good cause, or the property  
29 owner provides a letter declaring their intent to rebuild the structure in the future. To retain the  
30 right to rebuild, a letter of intent must be submitted to the director every forty-eight (48) months.

31 **E.** Structures that do not meet the requirements for critical area buffer, tree protection zones or  
32 shoreline setbacks may not be expanded laterally or waterward of the existing structure.  
33 Expansions landward or vertically may be allowed subject to the provisions of this section.

34  
35 **F.** Factors that shall be considered in evaluating increased adverse impacts to critical areas,  
36 critical salt water habitats and shoreline ecological functions include but are not limited to:

- 37  
38 1. Increases in the quantity of surface runoff from the site;  
39  
40 2. Increases in the quantity of pollutants from the site;

41

- 1 3. Decreases in trees and other vegetation within buffers and tree protection zones;
- 2
- 3 4. Decreases in the stability of the site and other properties; and
- 4
- 5 5. Changes to the transport of sediment to and within nearshore areas.
- 6

7 **G.** Where development will have an adverse impact on shoreline critical areas, mitigation  
8 consistent with Sections 19, 20, and 21 of this ordinance is required. If mitigation is proposed to  
9 offset unavoidable adverse impacts to critical areas, critical salt water habitats or shoreline  
10 ecological functions, a mitigation plan must be reviewed and approved in conformance with  
11 Sections 19, 20, and 21 of this ordinance.

12 **H.** A structure for which a variance has been issued in accordance with chapter 18.80 SJCC is  
13 considered a legal non-conforming structure.

14  
15 **I.** For structures that are to be replaced, relocated or expanded, complete applications for any  
16 required project or development permits must be submitted. Applicants reconstructing no longer  
17 existing structures shall document the dimensions and location of the structure being replaced to  
18 the satisfaction of the director.

19 **STAFF VERSION**  
20

21 **NEW SECTION 14. A new section is added to Chapter 18.50 SJCC to read as follows:**  
22

23 **Non-conforming structures, uses, and activities.**  
24

25 **A.** Except for structural shoreline stabilization measures and overwater structures, any use or  
26 structure legally located within shoreline jurisdiction that was established before the effective  
27 date of this ordinance may be moved, replaced, redeveloped, expanded, or otherwise modified  
28 provided this work is consistent with the provisions of this section.  
29

30 **B.** Movement, replacement, redevelopment, expansion or modification of structures may be  
31 allowed if the applicant demonstrates that the proposed action will not:  
32

- 33 1. Result in a net loss of shoreline ecological functions;
- 34
- 35 2. Increase adverse impacts on shoreline critical areas; and
- 36
- 37 3. Increase the degree of inconsistency with the provisions of this SMP.
- 38

39 **C.** The applicant must demonstrate no net loss of shoreline ecological functions based upon an  
40 analysis that may ~~include~~ address any:  
41

- 42 1. Increase in the quantity of pollutants from the site;
- 43
- 44 2. Increase in the quantity of ~~pollutants~~ surface runoff from the site;