

Staff Report #1: Regulatory Changes Necessary to Implement SJI Recommendations

2/24/09 - Draft

Policy Questions:

1. Are the proposed changes to inspections and code enforcement ordinances adequate to meet the intent of our final report recommendation: discourage actions that are damaging or non-compliant?
2. What are our recommendations to the County regarding proposed inspection and code enforcement ordinances?
3. What additional issues should staff research and gather community and science input on to improve the United Development Code regulatory standards?

Background:

The San Juan Initiative's recommendations to improve protection of shoreline vegetation and erosion and beach forming processes include several regulatory changes. The update of the County's Critical Areas Ordinance and the update of the Shoreline Master Program are the tools for implementing these changes. The regulatory changes tailor our management efforts to the sensitivity of the shoreline as recommended in the SJI Final Report. The regulatory changes include:

1. Requiring before and after inspections of new shoreline structures such as bulkheads or structures that require the removal of shoreline vegetation.
2. Creating financial penalties for illegal removal of trees or placement of bulkheads. Penalties should be sufficient to deter activity.
3. Allowing the placement of shoreline armoring on beaches and bluffs only when the main structure is threatened.
4. Requiring homes built along beaches or bluffs to be built back far enough to reduce the necessity for future armoring.
5. Along beaches and bluffs, change the regulations for clearing and grading to focus on ecological function in addition to aesthetics. Allow a specified amount of tree limbing and clearing for a filtered view and access to the shoreline. Maintain overhanging vegetation where it is critical.
6. When repairs are needed to bulkheads, require them to be accomplished in a way that minimizes ecological impacts.
7. Allowing homes to be moved back some distance without requiring them to move all to the standard setback.

Inspections and Enforcement:

The San Juan County Council will be reviewing an inspection and code enforcement ordinance in the coming months. Council Members have asked the San Juan Initiative to provide input into the ordinances. In light of that, staff recommends that the Policy Group identify issues and reach consensus about the adequacy of the proposed ordinances to improve protection and reduce actions that are non-compliant.

Proposed ordinance changes include:

1. The San Juan Initiative asked the County to create an inspection fee for all shoreline substantial development and exemption permits. Based on the 2/24/09 staff report prepared by CDPD staff, the cost of inspection would result in fees being raised by \$100.00. Conditions listed in the permit would require the property owners to request an inspection once the work is complete.
2. The Council is also considering changes to the code enforcement section of the United Development Code (UDC). The proposed new ordinance has the following key changes:
 1. Changes the purpose of enforcement from “educate and encourage voluntary correction of violations” to “assure compliance with regulations and permit requirements.”
 2. Creates a stop work order process.
 3. Creates the following civil monetary penalties:

Guidelines for assessment of civil penalties are as follows:

<u>Code Violation</u>	<u>First Violation</u>	<u>Second Violation</u>	<u>Subsequent Violation</u>	<u>Correction Deadline</u>	<u>Assessed By</u>
<u>Shorelines</u> <u>UDC 18.50</u>	<u>\$500</u>	<u>\$750</u>	<u>\$1000</u>	<u>30-120</u> <u>days</u>	<u>Director</u>
<u>Critical Areas</u> <u>UDC 18.30.110 -</u> <u>.160</u>	<u>\$350</u>	<u>\$750</u>	<u>\$1000</u>	<u>30-120</u> <u>days</u>	<u>Director</u>

4. A “second violation” or “subsequent violation” refers to a separate and distinct violation by the same person for which a notice of violations, stop work order or emergency order has been issued within San Juan County within 5 years.
5. In addition, if an activity is undertaken without a permit, the resulting permit fee is increased by a factor of 5.

Unified Development Code Changes:

In addition to the ordinance changes discussed above, the SJI staff is developing detailed proposed changes to County regulations, the UDC. At the Policy Group meeting the staff will provide a short briefing on the approach to developing the specific regulatory requirements for setback of structures, retention of vegetation and shoreline armoring. These changes need additional policy analysis, community input and science review. In the coming weeks, we will discuss the proposed code changes with the Trade Work Group, County staff and others in the community. The code changes would be made through the Critical Areas Ordinance update currently underway if the legislature allows shoreline policies to be addressed through the CAO process (is this being decided in this legislative session?). If not, then they would be addressed through incremental changes

to the Shoreline Master Program which may be allowed under newly promulgated Department of Ecology emergency guidelines.