

ORDINANCE 7 - 2006

AN ORDINANCE REGARDING ACCESSORY DWELLING UNITS AMENDING ORDINANCE 21-2002 AND OTHER ORDINANCES

WHEREAS, this ordinance is adopted to amend Ordinance 21-2002 and related provisions of the San Juan County Code for the purpose of bringing San Juan County into compliance with the Compliance Order of the Western Washington Growth Management Hearings Board (Growth Board) regarding accessory dwelling units (ADU's), a copy of which is found as Exhibit S-2 to the Planning Commission; and

WHEREAS, the Growth Board's April 17, 2003, Corrected Final Decision and Order found that the County's regulations regarding freestanding ADU's in Rural and Resource lands did not comply with RCW 36.70A.020(2) and (8) and RCW 36.70A.110(1) because they did not count a freestanding ADU as a unit of density for the purpose of calculating the underlying density; and

WHEREAS, the Growth Board's April 17, 2003 Corrected Final Decision and Order found that Ordinance 21-2002 as it pertains to internal and attached ADU's in Rural Residential designations is consistent with the Growth Management Act and fulfills the County's obligation to provide for ADU's in rural, single-family neighborhoods pursuant to RCW 43.63A.215; and

WHEREAS, in September 2005, the Board of County Commissioners submitted to the San Juan County Community Development and Planning Department (CD&P) an ordinance intended to comply with the orders of the Growth Board regarding ADU's; and

WHEREAS, the CD&P developed and published a public participation plan for consideration of the Commissioner's Ordinance that called for two or more workshops with the Planning Commission, a public hearing before the Planning Commission, and a public hearing before the County Council; and

WHEREAS, the Planning Commission conducted three workshops, conducted a public hearing, and considered testimony and reports, a copy of which have been provided to the County Council; and

WHEREAS, the San Juan County Council finds that the following purposes for allowing ADU's are listed in the January 1994 Washington State Dept. of Community, Trade and Economic Development *Model Accessory Dwelling Unit Ordinance Recommendations* (Planning Commission Exhibit PC-5):

1. Provide homeowners with a means of obtaining, through tenants in either the ADU or the principal unit, rental income, companionship, security and services.
2. Add affordable units to existing housing.
3. Make housing units available to moderate income people who might otherwise have difficulty finding homes within the city/county.
4. Develop housing units in single-family neighborhoods that are appropriate for people in a variety of stages in the life cycle.
5. Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADU's are installed under the conditions of this ordinance; and

WHEREAS, at the first Planning Commission workshop, the testimony covered wide ranging topics that were included in the ordinance suggested by the Board of County Commissioners; and

WHEREAS, the San Juan County Council desires to address the subject of freestanding accessory dwelling units in a manner consistent with the decisions of the Growth Board, including their decision dated April 17, 2003 regarding San Juan County; and

WHEREAS, the Planning Commission and County Council have been informed of the previous Growth Board decisions addressing accessory dwelling units in San Juan County, Pierce County, Snohomish County and Lewis County and excerpts of the Island County Code; and

WHEREAS, the decisions of the Growth Board have determined that San Juan County may allow attached and detached ADU's in the unincorporated urban growth areas of Eastsound and Lopez Village and in the limited areas of more intensive rural development (LAMIRDs); and

WHEREAS, the San Juan County Council finds it is appropriate to continue to allow attached and detached ADU's in the unincorporated urban growth areas of Eastsound and Lopez Village and in certain activity centers; and

WHEREAS the responsible official issued a determination of non-significance pursuant to the State Environmental Policy Act on the Planning Commission's proposal and notice of such action was duly published on April 5, 2006; and

WHEREAS, the Planning Commission's proposal was put in ordinance form and in conformance with RCW 36.32.120(7) a summary of the Planning Commission's proposal was published on April 12, 2006; and

WHEREAS, the County Council conducted a public hearing on April 25, 2006 and, thereafter, deliberated and proposed a revision to the Planning Commission's proposal that will allow a limited number of detached accessory dwelling units in certain rural and resource lands; and

WHEREAS, the total number of building permits for new single-family residences issued for calendar year 2005 outside the boundaries of activity centers and urban growth areas was 126, and

WHEREAS notice of the Council's proposal was published in the official newspapers on May 24, 2006; and

WHEREAS a public hearing was held on the Council's proposal on June 6, 2006, and, thereafter, the Council voted to adopt the following ordinance.

NOW, THEREFORE, be it ordained by the County Council of San Juan County, state of Washington:

Section 1. San Juan County Code Section 18.20.010 and Ordinance 21-2002 shall be amended as follows:

18.20.010 "A" definitions.

~~"Accessory dwelling unit" (ADU) means a second structure or living unit that is accessory to the~~

~~principal single family residential living unit and provides the basic requirements of sleeping quarters, heating, kitchen facilities, and sanitation, and which shares a lot with a principal residence. Types of ADU's include "internal ADU"; "attached ADU"; "free-standing ADU"; and "guest house."~~

"Accessory Dwelling Unit" (ADU) means a living area that is accessory to the principal residence, located on the same lot, and that provides for sleeping quarters, kitchen, and sanitation facilities. An ADU may be internal, attached or detached.

~~"Attached ADU" means an accessory dwelling unit that is physically connected to the principal residence. To be connected, the ADU and principal residential unit must be connected by at least one common wall or be structurally interdependent in some other way.~~

"Attached Accessory Dwelling Unit" (AADU) means an ADU which is internal to or attached to the principal residence by (a) a common wall, or (b) a continuous roof and exterior wall enclosures, or (c) a continuous roof no less than six feet in width, the area of which is included in the living area of the ADU.

Section 2. San Juan County Code Section 18.20.040 and Ordinance 21-2002 shall be amended to read as follows:

18.20.040 "D" definitions.

~~"Dwelling unit" means one or more rooms or structures designed for occupancy by an individual or family, which contain kitchen facilities, sleeping quarters and sanitary facilities, for use solely by the dwelling's occupants. A main residence and an accessory dwelling unit that meets the requirements of Section 18.40.240(A) of this Code constitute a single dwelling unit.~~

"Dwelling Unit" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A principal residence and an ADU that meets the requirements of Section 18.40.240 of this code constitute a single dwelling unit. Recreational vehicles are not dwelling units.

"Detached ADU" means an accessory dwelling unit that is physically distinct from the principal residence. To be detached, the ADU and principal residence may not be connected or must be structurally independent per the International Residential Code.

Section 3. San Juan County Code Section 18.20.060 and Ordinance 21-2002 shall be amended to read as follows:

18.20.060 "F" definitions.

~~"Freestanding ADU" means an accessory dwelling unit that is physically distinct from the principal residence. To be free-standing, the ADU and principal residential unit may not be connected or must be structurally independent per the uniform building code.~~

Section 4. San Juan County Code Section 18.20.070 and Ordinance 21-2002 shall be amended to read as follows:

18.20.070 “G” definitions.

~~“Guest house” means an accessory dwelling unit that is not rented, but is designed and most commonly used for irregular residential occupancy by family members, guests, and persons providing health care or property maintenance for the owner. (Ord. 21-2002 § 3; Ord 12-2002 § 3; Ord. 5-2002 § 2; Ord. 2-1998 Exh. B § 2.3)~~

Section 5. San Juan County Code Section 18.20.090 and Ordinance 21-2002 shall be amended to read as follows:

18.20.090 “I” definitions.

~~“Internal ADU” (sometimes also known as an accessory apartment) means an accessory dwelling unit that is wholly or mostly contained within the principal residential unit. An internal ADU may occupy a floor or a portion of a floor or floors within the principal residential unit.~~

~~“Internal Accessory Dwelling Unit” (IADU) means an ADU that is part of the principal residence and provides for egress and ingress between the IADU and principal residence, or that shares a common wall with the principal residence, but has separate egress and ingress.~~

Section 6. San Juan County Code Section 18.40.240 and Ordinance 21-2002 § 5; and Ordinance 2-1998 Exh. B § 4.18 shall be amended to read as follows:

18.40.240 Accessory dwelling units (ADUs).

~~The following standards apply to all accessory dwelling units:~~

- ~~A. Where not otherwise prohibited by this code, one internal, attached or freestanding accessory dwelling unit is permitted on any lot having a single family residence as the principal use of the lot. This ADU shall not be counted in density calculations and shall not require a density unit in addition to that for the principal residence.~~
- ~~B. An accessory dwelling unit shall not exceed 1,000 square feet in living area.~~
- ~~C. An accessory dwelling unit shall be served by the same driveway as the principal residence unless site conditions warrant a separate access.~~
- ~~D. A freestanding accessory dwelling unit that is permitted after December 3, 2002, shall meet the following siting location standards:
 - ~~1. Locate new freestanding ADUs outside of the most sensitive open space features of the site;~~
 - ~~2. Locate new freestanding ADUs and their utilities and driveways in order to minimize intrusion on the most sensitive open space features of the site. Use the same water system and driveway to serve the principal residence and freestanding ADU unless separate systems or driveway would have fewer impacts to the environment;~~
 - ~~3. Maintain existing orchards, meadows and pasture areas;~~
 - ~~4. Leave ridgelines and contrasting edges between landscape types unbroken by structures;~~
 - ~~5. On rolling open or steep open slopes, locate new freestanding ADUs so that the buildings will be screened by existing vegetation or terrain; and~~
 - ~~6. Ensure the protection of features such as wetlands and wildlife habitat.~~~~
- ~~E. At least one additional off-street parking space shall be provided for the accessory dwelling unit in addition to the parking required for the principal residence.~~
- ~~F. Accessory dwelling units must be owned by the owner of the single family residence.~~
- ~~G. Accessory dwelling units existing as of the date of adoption of this code will be excepted from the standards in subsection (B) of this section.~~

- H. No more than one structure shall be designated as an accessory dwelling unit on any residential lot unless the applicable density for that lot allows for additional residences.
- I. Vacation (short term) rentals of an accessory dwelling unit for periods less than 30 days shall also be subject to the requirements in SJCC 18.40.270.
- A. Accessory Dwelling Unit. Where not otherwise prohibited by this code, only one attached or detached accessory dwelling unit is permitted on any lot for which this code allows a principal residence as the principal use of the lot, provided that all of the requirements of this section are met, except where the applicable density for that lot allows for additional residences. Each detached accessory dwelling unit shall be counted as a separate dwelling unit for density calculations, except when allowed pursuant to an ADU permit.
- B. A detached ADU is permitted in the Eastsound Urban Growth Area, the Lopez Village Urban Growth Area and in all Activity Center Land Use District, except Island Center District, on any lot that allows a principal residence as the principal use of the lot. Each ADU in these areas shall not be counted in density calculations.
- C. Subject to the provisions of this section, a detached ADU is permitted in the following land use districts: RFE, RR, RGU, AG, and FOR.
- D. An accessory dwelling unit is prohibited in the Rural Industrial, Rural Commercial, Natural, and Conservancy land use districts.
- E. An accessory dwelling unit is prohibited on parcels in the Island Centers District per SJCC 18.30.030 Table 3.1, footnote 13.
- F. The following standards apply to all accessory dwelling units:
1. Size. An accessory dwelling unit permitted subsequent to the adoption of this ordinance shall not exceed 1,000 square feet in living area as defined in SJCC 18.20.120.
 2. Parking. At least one additional off-street parking space shall be provided for the accessory dwelling unit in addition to the parking required for the principal residence.
 3. Driveway and Utilities. An accessory dwelling unit shall use the same driveway, septic/sewer system, and water system as the principal residence.
 4. Ownership. An accessory dwelling unit must be owned by the owner of the principal residence.
 5. Permits. Every new accessory dwelling unit will require a building permit. Every conversion of an existing structure to an accessory dwelling unit must meet all the requirements of this section and will require a building permit. Any additions to an existing building shall not exceed the allowable lot coverage or encroach onto setbacks. The size and design of the ADU shall conform to applicable standards in the building, plumbing, electrical mechanical, fire, health and any other applicable codes.

G. The following standards apply to all detached accessory dwelling units:

1. ADU Permit. Every new detached accessory dwelling unit and every conversion of an existing structure to a detached accessory dwelling unit that does not meet the density requirement of the parcel on which it will be located shall require an "ADU permit." No more than one ADU permit shall be issued to a property owner in any calendar year. The fee for an ADU permit shall be the same as that for stormwater review. Prior to issuing any ADU permit, the applicant must submit for approval a site plan showing that the accessory dwelling unit and principal residence will meet the requirements of this Section 18.40.240.
 - a. Within land use districts located inside of the boundaries of activity centers and urban growth areas, there is no restriction on the number of permits for detached accessory dwelling units.
 - b. Outside of the boundaries of activity centers and urban growth areas, the number of detached ADU permits in any calendar year shall not exceed 12 percent of the total number of building permits for new principal residences issued for the previous calendar year outside the boundaries of activity centers and urban growth areas. Two of that 12 percent (10 percent new, 2 percent conversions) of the permits released in any one year shall be restricted for the conversion of existing accessory structures that have legally existed for no less than five years. ADU permits shall be issued on a first come/first served basis under procedures established by the administrator. No unassigned ADU permits shall carry forward to the next year.
2. Distance. The maximum distance between the closest vertical walls of the main house and any detached accessory dwelling unit shall be no more than 100 feet. If the 100 feet dimension would result in a greater impact, the administrator may allow up to 150 feet separation.
3. Location. Locate every new detached ADU and its utilities and driveways to avoid or minimize intrusion on the most sensitive open-space features of the site, including but not limited to:
 - a. Existing orchards, meadows and pasture areas;
 - b. Ridgelines and contrasting edges between landscape types unbroken by structures;
 - c. Rolling open or steep open slopes, and
 - d. Critical Areas.
4. Parcel Size.
 - a. A detached ADU is not permitted on parcels less than one acre in size except in urban growth areas and activity centers.
 - b. A detached ADU on parcels larger than one acre and smaller than 5 acres, except in urban growth areas and activity centers, is

permitted with the following restrictions:

- i. One garage building and/or one accessory dwelling unit, each of which covers no more than 1,000 square feet of land area and each of which is no taller than 24 feet above existing grade as measured along a plumb line at any point.
- ii. A combination of these uses in a single story structure no larger than 2,000 feet of land area and no taller than 16 feet above existing grade as measured along a plumb line at any point where either the garage building and/or accessory building unit do not exceed 1,000 square feet.
- iii. A combination of these uses in a two-story structure no larger than 2,000 feet of total gross floor area, and no taller than 24 feet above existing grade as measured along a plumb line at any point where either the garage building and/or accessory building unit do not exceed 1,000 square feet.

c. The minimum parcel size for the construction of a detached accessory dwelling unit is five acres for any parcel with waterfront, 10 acres for parcels located in the agricultural district, and 20 acres for parcels located in the forest district and one acre for all parcels located in a rural land use district. This restriction does not apply to parcels located in urban growth areas or activity centers.

5. Sequence of Construction. Either the accessory dwelling unit or the principal residence may be built first. Regardless of the sequence of construction, every detached accessory dwelling unit must comply with the requirements of Section 18.40.240. When the principal residence is constructed after the ADU, the applicant must show that the structure indicated as the accessory dwelling unit was constructed according to all applicable requirements in effect at the time the building permit was issued for the accessory dwelling and the accessory dwelling unit does not exceed 1,000 square feet of living area.

Section 8. SJCC Section 18.40.270 and Ord. 21-2002 § 5; Res. 145-1998; Ord. 2-1998 Exh. B § 4.19.3 are hereby amended to read as follows:

18.40.270 Vacation (short-term) rentals of residences or accessory dwelling units (ADUs). The following standards apply to all vacation (short-term; less than 30 days) rentals of single-family residential units and accessory dwelling units or portions thereof:

- A. No more than three guests per bedroom shall be accommodated at any one time.
- B. The vacation rental of a principal residence or accessory dwelling unit shall be operated in a way that will prevent unreasonable disturbances to area residents.
- C. At least one additional off-street parking space shall be provided for the vacation-rental use in addition to the parking required for the residence or accessory dwelling unit.

- D. If any food service is to be provided the requirements for a bed and breakfast residence must be met.
- E. No outdoor advertising signs are allowed.
- F. The owner or a long-term lessee may rent either the principal residence or the accessory dwelling unit on a short-term basis (vacation rental), but not both.
- G. Where there are both a principal residence and an accessory dwelling unit, the owner or long-term lessee must reside on the premises, or one of the living units must remain unrented.
- H. In all activity center land use districts, rural residential, and conservancy land use districts, the vacation rental of a residence or accessory dwelling unit may be allowed by provisional (“Prov”) permit only if the owner or lessee demonstrates that the residence or accessory dwelling unit in question was used for vacation rental on or before June 1, 1997. When internal land use district boundaries are adopted for an activity center this provision will apply to VR and HR districts but not to the activity center in general.
- I. Vacation rental accommodations must meet all local and state regulations, including those pertaining to business licenses and taxes.
- J. Owners of vacation rentals must file with the administrator a 24-hour contact phone number.
- K. The owner or lessee of the vacation rental shall provide notice to the tenants regarding rules of conduct and their responsibility not to trespass on private property or to create disturbances. If there is an easement that provides access to the shoreline, this shall be indicated on a map or the easement shall be marked; if there is no access, this shall be indicated together with a warning not to trespass.
- L. Detached Accessory Dwelling Units established under SJCC Section 18.40.240 cannot be separately leased or rented for less than 30 days.

Section 9. San Juan County Code Section 8.06.070 and Ordinance 21-2002 are amended to read as follows:

“Adequacy” means a sufficient amount of water for the intended use taking into consideration both average and peak demand, and source capacity.

“Adjacent property” means neighboring property that is within the sanitary setback of a well or spring.

“Adjacent community water system” means a system whose service area is within one-fourth mile of a proposed new well or proposed new water system boundary.

“Alternative water source” means any source of water for an individual single-family use other than a legally constructed well that produces more than 200 gallons per day per residence or an approved community water system that can provide adequate water for the intended use of the structure. These include but are not limited to: rainwater catchment, hauled water, seawater treatment, wells producing 200 gallons or less per day per residence, and well water requiring treatment or monitoring.

“Applicant” means the developer, purveyor, property owner or their representative applying for a permit.

“Average demand or daily use” means the average daily water use per day per residence. For San Juan County average daily demand is 100 to 300 gallons per day per residence.

“Community (or public) water system” means any system serving water for human consumption other than one single-family residential connection except four or fewer connections on the same parcel.

“Connection” means a house, unless specifically stated otherwise in a water system’s ownership agreement. An attached accessory dwelling unit will constitute one-third to one-half of a connection in addition to the house. The attached accessory dwelling will be rated at one-half of a connection unless the owner can demonstrate that the use will be less than one-half, but in no case will it be rated at less than one-third of a connection. A detached accessory dwelling unit shall include evidence of the availability on site of one equivalent residential unit of water in addition to the water required for the principal residence.

“Conservation” means a reduction in the amount of water necessary to carry out a beneficial water use. Maximum efficiency of water use that results in a reduction of water that is wasted.

“Consolidated formation” means any geologic formation in which the earth materials have become firm and coherent through natural rock forming processes. An uncased well drill hole will normally remain open in these formations.

“Contaminant” means anything that impairs the quality of ground water to a degree that creates a potential hazard to the environment, public health, or interferes with a beneficial use.

“Critical water resource area” means selected watersheds and critical aquifers where resources potentially are threatened by seawater intrusion or primary contaminants, or limited due to poor recharge. These areas may be designated by resolution by the San Juan County board of health in response to recommendations by the department of health and community services based on studies conducted by the County or state, or by petition from community groups and community water systems.

“Cross-connection” means a physical arrangement connecting a potable water supply, directly or indirectly, with an unsafe water supply or other contaminating material, and capable of contaminating the potable water system.

“gpm” means gallons per minute.

“Group A public water system” means a public water system serving 15 or more connections or an average of 25 or more people per day for 60 or more days within a calendar year.

“Group B public water system” means a public water system with (a) less than 15 connections; (b) an average of less than 25 people per day for 60 or more days within a calendar year; or (c) any number of people for less than 60 days within a calendar year.

“GWI” means ground water under the influence of surface water. Any water beneath the surface of the ground where natural conditions cannot prevent the introduction of surface water pathogens into the source at the point of withdrawal.

“Health officer” means the duly appointed San Juan County health officer, or a representative authorized and under the direct supervision of the health officer.

“Individual water system” means a water system serving a single-family residence and no more than one accessory dwelling unit, or meeting the definition in WAC 246-290-010 for same farm.

“New construction” means any change of use or new structure that includes plumbing for both kitchen and bathroom facilities.

“Owner” means owner of the proposed or existing well or water system.

“Peak demand” means the amount of water needed to supply maximum demand or meet extreme conditions. Maximum demand typically occurs when a water system experiences high water use during summer months when irrigation and visitors impact the system. For San Juan County this amount is 540 gallons per day per residential connection. See “Average demand.”

“Potable” means water suitable for drinking by public.

“ppm” means parts per million. Equal to milligrams per liter (mg/l).

“Sanitary easement” means a restrictive covenant recorded on the title of the property for a 50- to 200-foot radius (sanitary setback) around a well or spring.

“Sanitary setback” means a 50- to 200-foot radius around a well or spring where it is prohibited to construct or maintain sources of contamination. These include, but are not limited to, septic tanks and drainfields, sewer lines, underground storage tanks, vehicles, structures that include the use or storage of toxic materials, enclosures for maintaining livestock or garbage of any kind or description.

“Seawater intrusion” means replacement of pumped fresh water by seawater in an aquifer. Potential seawater intrusion is indicated by well water samples showing values of 100 ppm or greater of chlorides.

“Service area” means an area identified by a public water system that includes existing and future service areas that will be served by that water system.

“Shallow well” means a well completed in unconsolidated material with less than six feet of impervious material between the water table and the surface, or any well less than 25 feet deep. Under state regulations any community well less than 50 feet deep is considered ground water potentially under the influence of surface water. See GWI.

“Spring” means a shallow source of water that emerges from the ground naturally. Generally this water flows just under the surface over clay or bedrock and may be seasonal.

“Standard design” means a design meeting department requirements for treatment, filtration, or storage.

“Unconsolidated formation” means any naturally occurring, loosely cemented or poorly indurated earth material such as uncompacted gravel, sand, silt, and clay.

“Vulnerability assessment” means evaluation of potential contamination for a specific area that could affect water quality in a well. This involves an inventory of activities such as underground storage tanks, animal feedlots, landfills, septic tanks and drainfields, and urban runoff.

“Water well report (well log)” means the well record completed by the well contractor on the construction or alteration of a well.

“Well” means any excavation that is drilled, bored, driven, dug, or otherwise constructed when the intended use is the withdrawal of ground water. (Ord. 21-2002 § 8; Ord. 10-2001 § 2; Ord. 14-2000 § 4; Ord. 4-1998; Ord. 14-1996. Formerly 13.06.070)

Section 11. Savings Clause. This ordinance shall not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and affect.

Section 12. Effective Date. Notice of adoption of this ordinance shall be published in the official County newspaper as required by the County Charter and RCW 36.70A.290(2)(b). Promptly upon adoption, the County will apply to the Growth Board for an Order of Compliance and a determination that the Order of Invalidation issued on April 17, 2003 shall be lifted, canceled or removed. This ordinance shall take effect upon the effective date of an Order of the Western Washington Growth Board which has the effect of lifting, canceling or removing the Order of Invalidation entered on April 17, 2003 as it pertains to the San Juan County Ordinance regarding freestanding accessory dwelling units.

Section 13. Severability. If any provision of this ordinance or its application to any person is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected.

Dated this ___ 8th ___ day of ___ June ___, 2006

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

ATTEST: Si A. Stephens, Auditor
and Ex-Officio Clerk of the Council

Signed 6/8/2006
Alan Lichter, Chair
District 4

By: _____ Signed _____
Carolyn Morrison - Interim Clerk
Date

Signed 6/8/2006
Bob Myhr, Vice Chair
District 6

REVIEWED BY COUNTY
ADMINISTRATOR PRO-TEM

Signed 6/8/2006
Kevin M. M. Ranker, Member
District 1

Signed _____
Date

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

By: _____ Signed _____
Date