

Ordinance No. 12- 2007

Ordinance to Amend Ordinance 7-2006 Regarding Detached Accessory Dwelling Units on Rural Parcels Smaller than Five Acres in Size to Comply with Orders of the Growth Management Hearings Board

WHEREAS, on June 8, 2006, Ordinance 7-2006 was adopted to amend San Juan County Code sections pertaining to accessory dwelling units (ADUs) with the purpose of bringing San Juan County into compliance with an order of the Western Washington Growth Management Hearings Board (Growth Board); and

WHEREAS, on February 12, 2007, the Growth Board ruled in its Compliance Order and Final Decision and Order that “The only provision of the amendments that the Board has found noncompliant is SJCC 18.40.240(G)(4)”; and

WHEREAS, the Growth Board’s February 12, 2007 Compliance Order and Final Decision and Order states that:

The regulations that permit a detached ADU to be constructed or converted in a nonconforming rural lot of less than 5 acres (SJCC 18.40.240(G)(4)) fail to comply with RCW 36.70A.070(5) by expanding the structural intensity in rural zones beyond that which is set out in the County comprehensive plan and/or is inconsistent with the GMA....SJCC 18.40.240(G)(4) also creates urban growth in rural zones and promotes sprawl, thus not complying with RCW 36.70A.110(1) and RCW 36.70A.020(2)

; and

WHEREAS, the County Council desires to take a narrow approach to the Growth Board’s Order and bring SJCC 18.40.240(G)(4) into compliance with the Growth Management Act; and

WHEREAS, on May 18, 2007, the Planning Commission held a public hearing on the proposed ordinance; and

WHEREAS, on May 30, 2007, notice of a Council public hearing was published in the official newspapers; and

WHEREAS, on June 19, 2007, the Council held a public hearing on this matter.

NOW, THEREFORE, IT IS ORDAINED AS FOLLOWS:

Section 1. San Juan County Code §18.40.240 and Ordinance 7-2006 are hereby amended to read as follows:

18.40.240 Accessory dwelling units (ADUs).

The following standards apply to all accessory dwelling units:

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 districts, 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: RFF, 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 section 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, septage/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.
 - 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, two 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 foot 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 driveway 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. There is no minimum parcel size for a detached ADU in urban growth areas and activity centers. 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 is not permitted on parcels less than: (1) five acres in size in any rural district, (2) ten acres in size in the agricultural district, and (3) twenty acres in size in the forest district. A detached ADU on parcels larger than one acre and smaller than five 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, 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 this section. 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 2. 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 effect.

Section 3. 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. Remaining sections of the ordinance shall be interpreted to give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

Section 4. Effective Date.

This ordinance shall take effect and be in full force and effect ten days after adoption by the County Council.

