Ordinance No. 13 - 2018

AN ORDINANCE REPEALING SECTIONS 15.12.010-15.12.200 OF CHAPTER 15.12 SJCC; ADOPTING NEW FLOOD HAZARD CONTROL REGULATIONS AND AMENDING CHAPTER 18.80.140 SJCC.

BACKGROUND

A. The Federal Emergency Management Agency (FEMA) adopted Flood Hazard Boundary Maps (FHBMs) for San Juan County in June, 1977. In order to participate in the National Flood Insurance Program (NFIP), San Juan County adopted flood hazard regulations in 1986.

B. On October 16, 2015, representatives of FEMA, the State of Washington, San Juan County and the Strategic Alliance for Risk Reduction (STARR-FEMA's consultants) met for a Flood Risk Review. The purpose of the meeting was to review FEMA's draft maps of the County's flood hazard areas, and the San Juan County Coastal Flood Study methodologies. At the meeting's close, San Juan County had thirty days to submit official comments to FEMA.

C. On February 3, 2017, the County adopted a policy to use the draft Flood Insurance Rate Maps (FIRMs) for the review of projects in the Special Flood Hazard Area's (SFHAs) due to the inaccuracy of the thirty year old FHBM's.

D. On March 6, 2017, the San Juan County Council was briefed on the process used to develop the draft FIRMs.

E. FEMA's map adoption process included a robust public comment and appeal period. A public open house was held to provide property owners an opportunity to review the County's preliminary FIRMs on May 10, 2017.

F. FEMA opened a ninety-day public comment/appeal period on May 17, 2017. The appeal/comment period closed on August 15, 2017. FEMA received no appeals or comments during that time.

G. San Juan County mailed postcards to all shoreline property owners informing them of the future changes to the flood hazard maps, where to find additional information and how to comment in April, 2017.

H. FEMA issued a Letter of Final Determination (LFD) on December 20, 2017. The LFD indicated that the County had six months from that date to officially adopt the updated FIRMs and to update the County flood hazard regulations to be consistent with current federal requirements.

I. The County is required to update the flood hazard regulations in order to continue participation in the National Flood Insurance Program (NFIP). The County's continued participation in the NFIP enables affected property owners to obtain flood insurance.

J. San Juan County Council's first briefing on the required regulation update occurred on March 27, 2018.

K. San Juan County Planning Commission was briefed on the required regulation update on April 20, 2018.

L. A sixty-day notice of the intent to amend Chapter 15.12 of the County code was sent to the Department of Commerce on March 30, 2018. The project received the material ID# 24772.

M. San Juan County Planning Commission held a public hearing on May18, 2018, to take public comments and to deliberate on the proposed regulation changes.

N. San Juan County Council held a public hearing on June 12, 2018, to take public comments and to deliberate on the proposed regulation changes.

0. San Juan County Council makes the following conclusions:

I. The flood hazard areas of San Juan County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

II. Participation in the National Flood Insurance Program is beneficial to the property owners and the County because the flood hazard areas are subject to periodic inundation which may result in loss of life and property, create health and safety hazards, disrupt commerce and governmental services, may require extraordinary public expenditures for future flood protection and relief, and ultimately impair the tax base, all of which adversely affect the public health, safety, and general welfare.

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

REPEALER. SECTION 1. The following sections of Chapter 15.12 SJCC and the following ordinances and resolutions or sections of each are repealed:

(1) SJCC 15.12.010 (Purpose of provisions) and Res. 172-1986 Exh. A § 1 are each repealed;
(2) SJCC 15.12.020 (Definitions) and Ord. 14-2000 § 7(KK), Res. 172-1986 Exh. A § 2;
(3) SJCC 15.12.030 (Applicability) and Ord. 6-1996, Res. 172-1986 Exh. A § 3;
(4) SJCC 18.12.040 (Development Compliance – Establishment of elevation certificate) Res. 172-1986 Exh. A § 4.1;
(5) SJCC 15.12.050 (Designation of local administrator) and Ord. 6-1996; Res. 172-1986 Exh. A § 4.2;
(6) SJCC 15.12.060 (Duties and responsibilities of local administrator) and Res. 172-1986 Exh. A § 4.3;
(7) SJCC 15.12.070 (Permit review) and Res. 172-1986 Exh. A § 4.3-1;

(8) SJCC 15.12.080 (Use of other base flood data) and Res. 172-1986 Exh. A § 4.3-1;
(9) SJCC 15.12.090 (Information to be obtained and maintained) and Res. 172-1986 Exh. A § 4.3-3;
(10) SJCC 18.50.100 (Interpretation of FHBM boundaries) and Res. 172-1986 Exh. A § 4.3-4;
(11) SJCC 15.12.110 (Provisions for flood hazard reduction – General standards) and Res. 172-1986 Exh. A § 5.1;
(12) SJCC 15.12.120 (Anchoring) and Res. 172-1986 Exh. A § 5.1;
(13) SJCC 15.12.130 (Construction materials and methods) and Res. 172-1986 Exh. A § 5.1-2;
(14) SJCC 15.12.140 (Utilities) and Res. 172-1986 Exh. A § 5.1-3;
(15) SJCC 15.12.150 (Landfill) and Res. 172-1986 Exh. A § 5.1-4;
(16) SJCC 15.12.160 (Subdivision proposals) and Res. 172-1986 Exh. A § 5.1-5;
(17) SJCC 15.12.170 (Specific standards) and Res. 172-1986 Exh. A § 5.2;
(18) SJCC 15.12.180 (A zones) and Res. 172-1986 Exh. A § 5.2-1;
(19) SJCC 15.12.190 (V zones) and Res. 172-1986 Exh. A § 5.2-2; and
(20) SJCC 15.12.200 (Violation-Penalty) and Res. 172-1986 Exh. A § 6;

NEW SECTION 2. A new section is added to Chapter 15.12 SJCC to read as follows:

Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;

2. To minimize expenditure of public money and costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and that are generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To ensure that potential buyers are notified that property is in an area of special flood hazard;

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

NEW SECTION 3. A new section is added to Chapter 15.12 SJCC to read as follows:

Methods of reducing flood losses.

In order to accomplish its purposes, this chapter establishes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

NEW SECTION 4. A new section is added to Chapter 15.12 SJCC to read as follows:

Definitions.

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

Areas of special flood hazard means the land in the flood plain 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.

- Areas of special flood hazard with the designation 'A' are areas subject to inundation by the 1-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.

- Areas of special flood hazard with the designation 'AE' are areas subject to inundation by the 1-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.
- Areas of special flood hazard with the designation 'VE' are areas subject to inundation by the 1-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 (1%) 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 sub-grade (below ground level) on all sides.

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 man-made 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.

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.

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.

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 the 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 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 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 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.

Increased cost of compliance (ICC) 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 a "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 this ordinance found at Section 9(A)(2) of this ordinance, (i.e. provided there are adequate flood ventilation openings).

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

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.

Mean sea level means the datum 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. 400 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 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 ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

NEW SECTION 5. A new section is added to Chapter 15.12 SJCC to read as follows:

General provisions.

A. Lands to which this ordinance applies.

This ordinance applies to all areas of special flood hazards within the jurisdiction of San Juan County.

B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for San Juan County, Washington and Incorporated Areas" dated June 20, 2018, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and the FIRM are on file at the Department of Community Development, San Juan County, 135 Rhone Street, Friday Harbor, WA 98250. The best available information for flood hazard area identification as outlined in Section 6(B)(3) of this ordinance shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 6(B)(3) of this ordinance.

C. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall be subject to the enforcement provisions of Chapter 18.100 SJCC.

NEW SECTION 6. A new section is added to Chapter 15.12 SJCC to read as follows:

Administration.

A. Designation of the floodplain administrator.

The Director of San Juan County Department of Community Development is hereby appointed as the County's floodplain administrator, whose role is to administer and implement this ordinance by granting or denying flood development permit applications in accordance with its provisions.

B. Duties and responsibilities of the floodplain administrator.

Duties of the floodplain administrator shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local government agencies from which prior approval is required;

3. When base flood elevation data has not been provided for A and V flood hazard zones, in accordance with Section 5(B) of this ordinance, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source in order to administer Section 9(A-E);

C. Interpretation of FIRM boundaries.

The floodplain administrator is responsible for making interpretations, where needed, as to the exact location of the boundaries of the mapped areas of special flood hazards.

D. Alteration of watercourses.

1. The floodplain administrator is responsible for notifying adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Insurance Administration; and

2. Requiring maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Information to be obtained and maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 6(B)(3) of this ordinance, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 6(B)(3) of this ordinance:

   a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and

   b. Maintain the floodproofing certifications as required in Section 6(E)(3) of this ordinance.

3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

4. In VE zones, obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-V30, VE and V on the San Juan County FIRM and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information.

NEW SECTION 7. A new section is added to Chapter 15.12 SJCC to read as follows:

Flood development permits, variances and appeals.

A. Flood development permit required.

A flood development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 5(B) of this ordinance. The permit shall be for all structures including manufactured homes and for all development, as defined in Section 4 (Definitions) of this ordinance.

B. Application for flood development permit.

Application for a flood development permit shall be made on forms furnished by San Juan County and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The

following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 086-0-33) with Section B completed by the floodplain administrator;

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 9(C) of this ordinance; and

4. Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development.

5. A habitat assessment demonstrating the project will have no adverse impacts to endangered species functions and values. The habitat assessment shall be compliant with Army Corps of Engineers and FEMA Region 10 floodplain assessment and mitigation guidance.

C. Appeals and variances.

1. Decisions of the floodplain administrator may be appealed to the hearing examiner. Appeals to the hearing examiner are subject to the provisions of SJCC 18.80.140.

2. Requests for variances are heard by the hearing examiner and subject to the provisions of SJCC 18.80.100(B)(C)(E).

D. Flood development permit variances.

1. Flood development permit applicants may request a variance from only:
   a. Elevation requirements for the lowest floor;
   b. Elevation requirements for floodproofing; and
   c. The type and extent of required floodproofing.

2. Applications for a variance from the development standards identified in Section 7(D)(1) are subject to the procedural requirements of SJCC 18.80.100 and the following criteria:

   a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases;

b. Flood development permit variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

c. Flood development permit variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

d. Flood development permit variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 7(D)(2)(a) of this ordinance, and otherwise complies with Sections 8(A), 8(C), and 8(D) of this ordinance.

e. Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk.

NEW SECTION 8. A new section is added to Chapter 15.12 SJCC to read as follows:

Provisions for flood hazard reduction.

In all areas of special flood hazard the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchors.

B. Construction materials and methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

3. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

E. Review of building permits.

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from Section 6(B)(3), applications for building permits shall be reviewed by the floodplain administrator to assure that proposed construction will be *reasonably safe from flooding*. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above the highest adjacent grade in these zones may result in higher insurance rates.

NEW SECTION 9. A new section is added to Chapter 15.12 SJCC to read as follows:

Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 5(B) of this ordinance or Section 6(B)(3) of this ordinance, the following standards are required:

A. Residential construction.

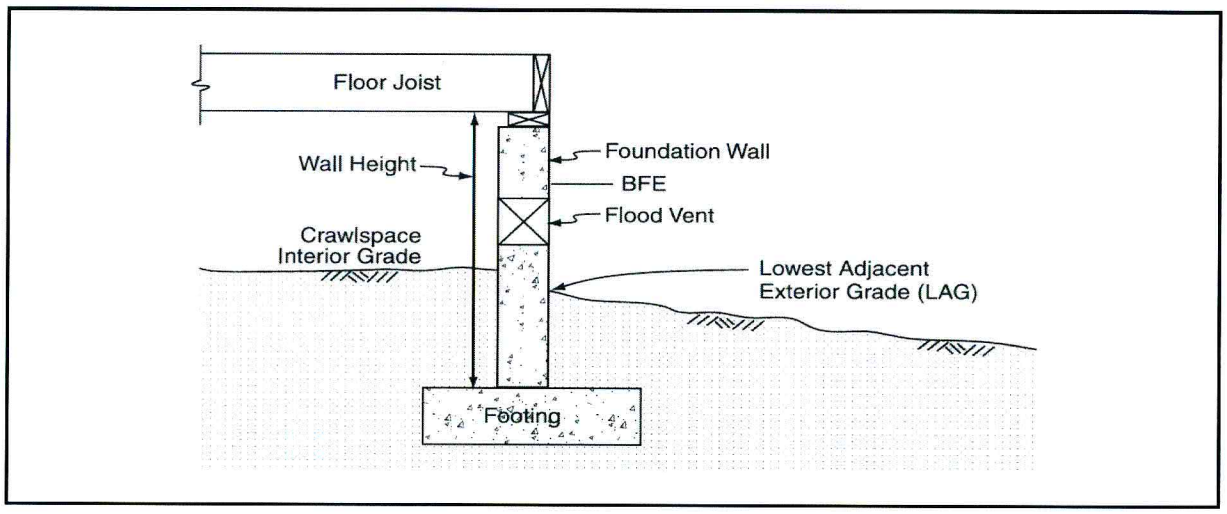
1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, one (1) foot or more or above the base flood elevation (BFE).

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and

b. The bottom of all openings shall be no higher than one (1) foot above grade.

Figure 1. Preferred residential construction standard



B. Subgrade crawlspaces.

1. The interior grade of a crawlspace below the BFE shall not be more than two (2) feet below the lowest adjacent exterior grade (LAG).

2. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall shall not exceed four (4) feet (shown as L in Figure 2) at any point.

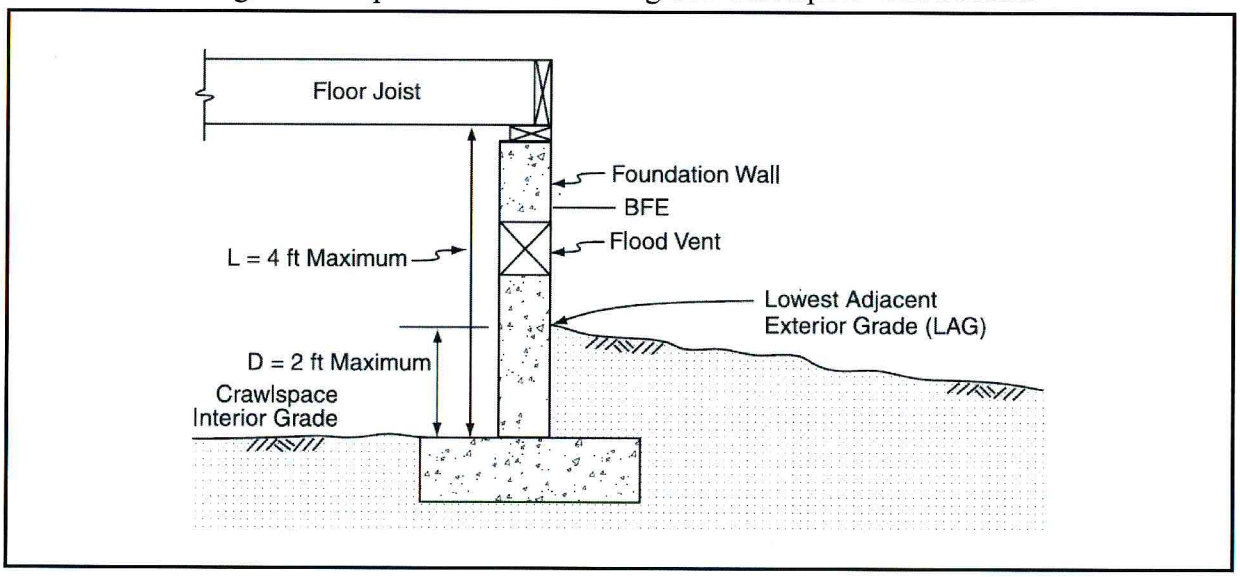
3. There must be an adequate drainage system removing floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

4. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types shall be used.

5. Below-grade crawlspace construction in accordance with requirements of Section 9(B)(1) through Section 9(B)(4) listed above will not be considered basements.

6. Buildings constructed with subgrade crawlspace in the area of special flood hazard may have a twenty (20%) percent increase in flood insurance premiums.

Figure 2. Requirements for below grade crawlspace construction.



C. Nonresidential construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one (1) feet or more above the base flood elevation (and if enclosed, the area must be consistent with the hydrostatic equalization provisions of Section 9(A)(2)); or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one (1) foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the floodplain administrator as set forth in Section 6(E)(2) of this ordinance.

D. Manufactured homes.

All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

E. Recreational vehicles.

Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 days; (or)

2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements of Section 9(D) of this ordinance and the elevation and anchoring requirements for manufactured homes.

NEW SECTION 10. A new section is added to Chapter 15.12 SJCC to read as follows:

AE zones with base flood elevations but no floodways.

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community

NEW SECTION 11. A new section is added to Chapter 15.12 SJCC to read as follows:

Coastal high hazard areas.

Section 5(B) of this ordinance identifies Coastal high hazard areas designated as zone VE. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance, the following requirements also apply:

1. All new construction and substantial improvements in the VE zone on the County's FIRM shall be elevated on pilings and columns so that:

    a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level;

    b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval);

2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Section 11(1)(a and b) of this ordinance.

3. All new construction within the VE zone on the adopted FIRM shall be located landward of the reach of mean high tide.

4. All new construction and substantial improvements within the VE zone on the County's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse,

displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot.

5. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the design proposed meets the following conditions:

a. Breakaway wall collapse shall from water load less than that which would occur during the base flood; and

b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

6. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

7. The use of fill for structural support of buildings within the VE zone on the County's FIRM is prohibited.

8. Man-made alteration of sand dunes within the VE zone on the County's FIRM which would increase potential flood damage is prohibited.

9. All manufactured manufactured homes to be placed or substantially improved within the VE zone on the County's FIRM on sites:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision, or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Shall meet the standards of Section 11(1) through (9) of this ordinance; and

e. Manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within the VE zone on the FIRM shall meet the requirements of Section 9(D) of this ordinance.

10. Recreational vehicles placed on sites within the VE zone on the county's FIRM either:

a. Be on the site for fewer than 180 consecutive days, or

b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, an have no permanently attached additions; or

c. Meet the requirements of Section 8(A)(2) of this ordinance and the provisions of Section 11(1) through (8).

NEW SECTION 12. A new section is added to Chapter 15.12 SJCC to read as follows:

Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

SECTION 13. San Juan County Code Section 18.80.140 (B) and Ord 9-2013 § (B) are each amended to read as follows:

18.80.140 Appeals.

A. Appeals – General. Appeals are open-record appeals (see definitions in Chapter 18.20 SJCC), and include:

1. Appeals to the hearing examiner of permits (development permits and/or project permits) granted or denied by the director (director is the decisionmaker);

2. Appeals to the hearing examiner of administrative determinations or interpretations made by the director (director is the decisionmaker);

3. SEPA appeals of project actions, as defined in WAC 197-11-704;

4. Appeals of consolidated matters (i.e., appeal of administrative determination consolidated with project permit application hearing);

5. A timely appeal of a code interpretation or decision made by the director or building official stays the effective date of such decision until the matter has been resolved at the County level. (See also SJCC 18.10.030 and RCW 36.70C.100.)

6. The appeal path for project permits is shown in Table 8.1. The appeal path for SEPA is shown in Table 8.3.

Table 8.3. SEPA Processing and Appeals.

	Threshold Determination		**EIS**	
	DNS/MDNS	**DS**	**DEIS**	**FEIS**
Comment Period Prior to Action (days)	14	21	30	N/A
Administrative Appeal Period (days)	21	21	N/A	21
Consolidated Hearings	yes	no	N/A	yes
Open-Record Appeal Hearing	yes	yes	N/A	yes
Decisionmaker for Administrative Appeal	Hearing Examiner	Hearing Examiner	N/A	Hearing Examiner
Further Appeals	Superior Court (21 days per Chapter 36.70C RCW) or	See RCW 43.21C.075;	N/A	Superior Court or

	SHB (21 days per Chapter 90.58 RCW)	Superior Court, SHB: 21 days		SHB: 21 days

B. Open-Record Appeals. The San Juan County hearing examiner has authority to conduct open-record appeal hearings of the following decisions by the director and/or responsible official, and to affirm, reverse, modify, or remand the decision that is on appeal:

1. Boundary line modifications;

2. Simple land divisions;

3. Provisional use permits;

4. Short subdivisions;

5. Binding site plans (up to four lots);

6. Temporary use permits (Level II);

7. Discretionary use permits;

8. Administrative determinations or interpretations (see SJCC 18.10.030);

9. SEPA threshold determinations (DNS and DS) of project actions (see WAC 197-11-704);

10. EIS adequacy for project actions;

11. Development permits issued or approved by the director; ~~and~~

12. Consolidated matters where the director was the decisionmaker; and

13. Flood development permits issued or approved by the director.

C. Standing to Appeal. Appeals to the hearing examiner may be initiated by:

1. The applicant;

2. Any recipient of the notice of application (see SJCC 18.80.030);

3. Any person who submitted written comments to the director concerning the application; and

4. Any aggrieved person.

D. Time Period and Procedure for Filing Appeals.

1. Appeals to the hearing examiner must be filed (and appeal fees paid) within 21 calendar days following the date of the written decision being appealed; and

2. Appeals of a SEPA threshold determination or an FEIS must be filed within 21 days following the date of the threshold determination or FEIS.

3. All appeals shall be delivered to the director by mail, personal delivery, or fax, and received before 4:30 p.m. on the due date of the appeal period. Applicable appeal fees must be paid at the time of delivery to the director for the appeal to be accepted.
4. For the purposes of computing the time for filing an appeal, the date of the decision being appealed shall not be included. If the last day of the appeal period is a Saturday, Sunday, or a day excluded by RCW 1.16.050 as a legal holiday for the County, the filing must be completed on the next business day (RCW 36A.21.080).

5. Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee, and contain the following information:

   a. Appellant's name, address and phone number;

   b. Appellant's statement describing standing to appeal (i.e., how he or she is affected by or interested in the decision);

   c. Identification of the decision which is the subject of the appeal, including date of the decision being appealed;

   d. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;

   e. The relief sought, including the specific nature and extent; and

   f. A statement that the appellant has read the appeal and believes the contents to be true, signed by the appellant.

E. Notice of Hearing. The director shall give notice of the appeal hearing as provided in SJCC 18.80.030(C).

F. Decision Time and Notice.

1. The hearing examiner shall consider and render a written decision on all appeals. Such decision shall be issued within 60 days from the date the appeal is filed; provided, that the appeal contains all of the information specified in this section.

2. The parties to an appeal may agree to extend these time periods.

G. Consolidated Appeal Hearings.

1. All appeals of development permit or project permit decisions shall be considered together in a consolidated appeal hearing.

2. Appeals of environmental determinations under SEPA, except for an appeal of a determination of significance (DS), shall be consolidated with any open-record hearing (open-record predecision hearing or open-record appeal hearing) before the hearing examiner. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC 18.80.110(D), Shorelines – Consolidated Permit Processing.)

H. Administrative SEPA Appeals of Project Actions.

1. The County establishes the following consolidated appeal procedures, under RCW 43.21C.075 and WAC 197-11-680, for administrative SEPA appeals of project actions as defined in WAC 197-11-704. The comment and appeal path is shown in Table 8.3.

a. Appeals of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) are not allowed;

b. An appeal to the hearing examiner on SEPA decisions is limited to review of a final threshold determination (determination of significance (DS) or nonsignificance (DNS/MDNS)) or the adequacy of a final environmental impact statement (FEIS);

c. As provided in WAC 197-11-680(3)(a)(iv), there shall be no more than one administrative appeal of a threshold determination or of the adequacy of an FEIS;

d. Except as provided in WAC 197-11-680(3)(a)(iv), administrative SEPA appeals authorized by this subsection shall be consolidated with the hearing or appeal on the underlying governmental action in a single simultaneous hearing before one hearing officer, in conformance with WAC 197-11-680(3)(a)(v);

e. An appeal of a DS shall be heard and decided at a separate, open record hearing to establish whether an applicant must provide an environmental impact statement. As provided in RCW 36.70B.060(6) and 43.21C.075, this open-record hearing shall not preclude a subsequent open-record hearing as provided by this code;

f. A timely appeal of a DS or other application identified in WAC 197-11-680(3)(a)(vi) shall stay the decision on a project permit application or development permit application until such time as the appeal has been resolved at the administrative level (i.e., decision by the hearing examiner) or the appeal has been withdrawn;

g. The determination of the responsible official shall carry substantial weight in any appeal proceeding;

h. The hearing examiner's decision on a SEPA appeal is final unless a timely judicial appeal is filed.

2. Notice of the date and place for commencing a judicial SEPA appeal.

a. Pursuant to WAC 197-11-680(5), notice of the date and place for commencing a SEPA judicial appeal shall be given if there is a time limit established by statute or ordinance for commencing an appeal of the permit decision. The notice shall include the time limit for commencing appeal of the underlying permit decision and SEPA issues, the statute or ordinance establishing the time limit, and where such a judicial appeal may be filed.

b. Notice is given by delivery of written notice to the applicant, all parties of record in any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal along with any additional notice required by County code, such as SJCC 18.80.130.

c. Written notice containing the required information may be appended to the permit, decision documents, or SEPA compliance documents or may be given separately.

d. Official notices required by this section shall not be given prior to the County's final decision on a proposal or appeal.

I. No Administrative SEPA Appeals of Nonproject Actions.

1. SEPA determinations for nonproject actions are not subject to administrative appeals; they may only be appealed in conjunction with the underlying action to superior court or state boards as provided by law. The comment and appeal path for nonproject actions is shown in Table 8.4.

2. Notice of the date and place for commencing a judicial SEPA appeal.

a. Pursuant to WAC 197-11-680(5), notice of the date and place for commencing a SEPA judicial appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the decision. The notice shall include the time limit for commencing appeal of the underlying permit decision and SEPA issues, and the statute or ordinance establishing the time limit; and where such a judicial appeal may be filed.

b. Such notice is given by delivery of written notice to the applicant, all parties of record in any administrative appeal, and all persons who have requested notice of decisions with

respect to the particular proposal along with any additional notice required by County code, such as SJCC 18.80.130.

c. Written notice containing the required information may be appended to the permit, decision documents, SEPA compliance documents, or may be given separately.

d. Official notices required by this section shall not be given prior to the County's final decision on a proposal or appeal.

Table 8.4. SEPA Processing and Appeals of Nonproject Actions.

	Threshold Determination		EIS	
	DNS/MDNS	**DS**	**DEIS**	**FEIS**
Comment Period Prior to Action (days)	14	21	30	N/A
Appeal Period	Superior Court (21 days per Chapter 36.70C RCW) GMHB (60 days per Chapters 36.70A and 90.58 RCW)	Superior Court (21 days per Chapter 36.70C RCW) GMHB (60 days per Chapters 36.70A and 90.58 RCW)	N/A	Superior Court (21 days per Chapter 36.70C RCW) GMHB (60 days per Chapters 36.70A and 90.58 RCW)

GMHB: Growth Management Hearings Board

J. 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). (Ord. 9-2013 § 32; Ord. 11-2011 § 10; Ord. 7-2005 §§ 19, 20; Ord. 15-2002 § 14; Ord. 14-2000 § 7(QQQ); Ord. 11-2000 § 7; Ord. 2-1998 Exh. B § 8.14)

SECTION 14. Interpretation:

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 15. Warning and disclaimer of liability:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of San Juan, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 16. Savings Clause:

This ordinance does 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 17. 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 18. Effective Date: This ordinance is effective on the 10th working day after adoption.

SECTION 19. Publication of Notice of Adoption: A notice of adoption of this ordinance will be published pursuant to RCW 36.70A.290(2)(b) promptly after its approval by San Juan County Council.

SECTION 20. Codification: Sections two (2) through fifteen (15) shall be codified as noted in Section 21 below after the effective date of this ordinance.

SECTION 21. **Notes to the Codifier:**

A. Change ordinance section references to the appropriate code numbers.

B. Sections 14 and 15 to be included in Chapter 15.12 SJCC.

ADOPTED this 12th day of June 2018.

ATTEST: Clerk of the Council

6 15. 2018
Ingrid Gabriel, Clerk Date

REVIEWED BY COUNTY MANAGER

6/18/18
Michael J. Thomas Date

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: 6-12-18
Date

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