



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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**MEMO**

**REPORT DATE:** December 2, 2019  
**TO:** San Juan County Planning Commission  
**FROM:** Linda Kuller, AICP, Planning Manager *LK*  
**PUBLIC HEARING:** Friday, December 20, 2019  
**SUBJECT:** Code Correction Ordinance  
**ATTACHMENTS:**  
A. Draft correction ordinance (Approved as to Form)  
B. SEPA Register, SEPA Environmental Checklist, DNS and Request for Review  
C. Public Hearing Notices  
D. 60-day notice of intent to amend development regulations  
E. WA State Department of Commerce confirmation  
F. March 16, 2010 Letter from Skagit Co. Superior Ct Judge Susan K. Cook  
G. SJCC 18.70.060 18.70.060 Subdivision and short subdivision design and development standards.

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**Purpose:** To brief you on the attached approved as to form code correction ordinance scheduled for a public hearing on December 20, 2019.

**Ordinance title:** An Ordinance Correcting Code Inconsistencies and Inaccuracies; Amending San Juan County Code 18.20.160, 18.30.055, 18.70.030, 18.70.060, and 18.80.140.

**Link to the project webpage:** <https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance>.

**Ordinances referenced in the proposed ordinance are available at:**  
<https://www.sanjuanco.com/DocumentCenter/Index/143>

**Background:** The proposal would amend San Juan County Code to correct five code issues. These issues resulted from changes in the law or discovery of irregularities in past code adoption processes. The corrections include:

1. Correcting the code regarding siting and permitting of Essential Public Facilities consistent with amendments made in Ordinance 10-2011;
2. Changing the definition of “personal wireless service facility or PWSF consistent with Ordinance 10-2012;
3. Updating boundary line modification regulations to be consistent with state law because SJCC 18.70.030(A)(1)(a) only includes a portion of the state requirement;
4. Making sure SJCC 18.70.060(B)(10)(a) complies with a court ruling which held that the provision violated state law. Skagit County Superior Court Judge Cook ruled that 18.70.060(B)(10)(a) violated RCW 82.02.020 as a tax on the subdivision of land. The provision has not been applied since the ruling; and

5. Fixing inconsistent language and references in SJCC 18.80.140(l)(1) that address SEPA appeals of nonproject actions. This subsection indicates that Table 8.4 depicts the appeal path for nonproject actions. However, Table 8.4 references Chapter 36.70C RCW, the Land Use Petition Act (LUPA). The LUPA addresses “project actions” and is not the correct reference for SEPA appeals of nonproject actions.

**State Environmental Policy Act (SEPA) Determination of Nonsignificance (Attachment B):** An environmental checklist was being prepared for this SEPA nonproject action. A SEPA Determination of Nonsignificance was issued on November 6, 2019 and transmitted to interested parties and state agencies for review. The Washington Department of Ecology gave it register number 2019060300. No comments on the DNS were submitted by the November 22, 2019 SEPA comment deadline.

**Public Hearing Notices (Attachment C):** Public hearing notices were published in The Journal of the San Juan Islands and Islands Sounder on November 6, 2019 and December 4, 2019.

**60 Day Notice of Intent to Adopt Development Regulations (Attachment D):** Staff notified the WA State Department of Commerce of the County’s intent to amend its development regulations on November 4, 2019. Receipt of this notice was acknowledged as submittal ID 2019-S-853 (Attachment E).

**Adoption Schedule:** The Planning Commission’s recommendation on the ordinance will be transmitted to the County Council in January. Council will schedule a public hearing in January or February 2020.

**Additional Background:** A Planning Commissioner asked questions regarding the code correction related to the invalidity of the 60 percent open space conservation design requirement. The Superior Court ruling (Attachment F) does not affect the other conservation design standards in SJCC 18.70.060 (Attachment G) which were not invalidated. It only applied to SJCC 18.70.060(B)(10)(a).

Legal review in 2014 indicated that the invalidated requirement for open space did not affect SJCC 18.70.060(B)(10)(b-g). Therefore, the density bonus for the San Juan Valley Heritage Overlay District remained in effect. The County found it okay to still reference the (10) (a) in carrying out the 75% requirement in (10)(g):

g. San Juan Valley Heritage Plan Overlay District Conservation Incentive Bonus. Division of parcels in the San Juan Valley heritage plan overlay district located within that portion of the agricultural resource land area designated on the official maps at densities of 10 acres per unit shall be eligible for a density of up to five acres per unit if the following standards are met in addition to the requirements of subsection (B)(10) of this section, Conservation Design Requirements.

- i. The required open space area shall include at least 75 percent of the parcel to be divided and in no case shall the required open space area be smaller than 10 acres.
- ii. The maximum lot size for residential use shall be 1.5 acres and the minimum lot size for residential use shall be one-half acre.
- iii. Building lots may be grouped on the parcel to be divided; provided, that no individual group of building lots shall include more than six lots and groups of lots shall be separated from each other by at least 100 feet.
- iv. Building lots shown on the plat shall be presumed to be residential building locations.
- v. Existing parcels may be recombined for redivision according to this subsection (B)(10)(g).

Subdivision regulations in the County’s Shoreline Mast Program which apply specifically within the shoreline were also unaffected by the order. The County has implemented all of SJCC 18.70.060(B)(10) except SJCC 18.70.060(B)(10)(a).

ORDINANCE NO. \_\_\_\_\_ - 2020

**ORDINANCE CORRECTING CODE INCONSISTENCIES AND INACCURACIES;  
AMENDING SJCC 18.20.160, 18.30.055, 18.70.030, 18.70.060, AND 18.80.140.**

**BACKGROUND**

A. Over the course of time, various inconsistencies and inaccuracies develop in the County code as a result of changes in the law or later discovery of irregularities in the adoption process;

B. The County Council specifically desires to correct the following issues:

1. Amend the regulations regarding siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011.

a. On March 22, 2011, the County Council adopted ordinance 10-2011 amending, among other things, the regulations regarding siting and permitting of Essential Public Facilities (formerly codified as 18.30.050(E)).

b. On November 20, 2012, the County Council adopted Ordinance 25-2012 which also amended, among other things, the regulations regarding siting and permitting of Essential Public Facilities. Ordinance 25-2012, however, inadvertently used an earlier version of 18.30.050(E) rather than then the regulations adopted in Ordinance 10-2011.

c. The County Council wishes to amend the regulations regarding siting and permitting of Essential Public Facilities to reflect the changes Council intended to adopt in Ordinance 10-2011.

2. The definition of “personal wireless service facility or PWSF”

a. On June 26, 2012, the County Council adopted Ordinance 10-2012 amending the regulations regarding wireless facilities.

b. The definition of “personal wireless service facility or PWSF” was amended to include towers and transmission cables and to exempt amateur radio towers and antennas.

c. When amending the definition, it appears the words “Telecommunications Act of 1996” were inadvertently stricken out, resulting in a portion of the definition appearing nonsensical.

- 1                   d. The County Council wishes to correct this definition to include the  
2                   inadvertently stricken words.
- 3
- 4                   3. Amend regulations regarding boundary line modifications so that they are  
5                   consistent with state law.
- 6
- 7                   a. RCW 58.17.040(6) states that, under certain circumstances, the  
8                   boundaries of platted lots can be modified without being subject to the  
9                   provisions of Chapter 58.17 RCW, the subdivision statute. In order to be  
10                  exempt, the lot, platted or unplatted, must not “create any additional lot,  
11                  tract, parcel, site, or division nor create any lot, tract, parcel, site or  
12                  division which contains insufficient area and dimension to meet minimum  
13                  requirements for width and area for a building site.”
- 14
- 15                  b. SJCC 18.70.030(A)(1)(a), however, only includes a portion of this state  
16                  requirement.
- 17
- 18                  c. The County Council wishes to amend SJCC 18.70.030(A)(1)(a) so that it  
19                  is consistent with the state requirements in RCW 58.17.040(6).
- 20
- 21                  4. Amend SJCC 18.70.060(B)(10)(a) to comply with a court ruling which held that  
22                  this provision is in violation of RCW 82.02.020.
- 23
- 24                  a. In 2008, property owners Pat and Stephanie O’Day sued the County  
25                  alleging that SJCC 18.70.060(B)(10)(a) violates RCW 82.02.020.
- 26
- 27                  b. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a)  
28                  violates RCW 82.02.020 as a tax on the subdivision of land and that this  
29                  section of the San Juan County Code is invalid and should not be applied.
- 30
- 31                  c. This provision has not been applied since the date of the court ruling.
- 32
- 33                  d. The County Council wishes to remove this provision from the county  
34                  code.
- 35
- 36                  5. Amend inconsistent language in SJCC 18.80.140(I)(1).
- 37
- 38                  a. SJCC 18.80.140(I)(1) addresses SEPA appeals of nonproject actions and  
39                  indicates that Table 8.4 shows the appeal path for nonproject actions.
- 40
- 41                  b. Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition  
42                  Act.
- 43
- 44                  c. The Land Use Petition Act addresses “project actions” and is therefore not  
45                  the correct reference for SEPA appeals of nonproject actions.
- 46

1 d. The County Council wishes to correct this inconsistency.  
2

3 C. In compliance with the State Environmental Policy Act (SEPA), the environmental and  
4 nonproject action SEPA checklists were completed for the project. It was determined  
5 that the proposals would be unlikely to create any significant adverse environmental  
6 impacts. A Determination of Non-significance (DNS) was issued on November 6, 2019.  
7 The DNS and notice of the December 20, 2019 Planning Commission public hearing  
8 advertised in the Journal of the San Juan Islands and The San Juan Islander on November  
9 6, 2019. The checklists and DNS were provided to federal, state and local agencies in  
10 accordance with SJCC 18.80.050 and WAC 197-11-340. The Washington State  
11 Department of Ecology published notice of the SEPA determination on their SEPA  
12 register under No. 20190603000.  
13

14 D. As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of  
15 amendments to the Comprehensive Plan was provided to the Washington State  
16 Department of Commerce on November 4, 2019. On the same day, Commerce  
17 acknowledged receipt of the notice that was processed by the State under Submittal No.  
18 2019-S-853.  
19

20 E. Planning Commission was briefed on the proposal on November 15, 2018.  
21

22 F. A second public hearing notice was published in The Journal of the San Juan Islands and  
23 Islands Sounder on December 4, 2019.  
24

25 G. Planning Commission held a duly advertised public hearing on December 20, 2019,  
26 deliberated and recommended that the County Council should **XXX** the ordinance.  
27

28 H. County Council was briefed on the Planning Commission's recommendation on January  
29 **XX, 2020**.  
30

31 I. County Council held a duly advertised public hearing on February **X, 2020**.  
32  
33

34 WHEREAS, the County conducted a duly advertised public hearing and has received public  
35 testimony.  
36

37 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,  
38 State of Washington, as follows:  
39

40 **Section 1. SJCC 18.20.160 and Ordinance 1-2016 § 75 are each amended to read**  
41 **as follows:**  
42

43 **18.20.160 "P" definitions.**  
44

45 "Parcel" means a lot or plot of land proposed or created in accordance with this code or prior  
46 subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or

1 future, of transfer of ownership. The external boundaries existing as of October 2, 1979, are used  
2 to establish what is a parcel for the purposes of this code. For parcels which have not been  
3 conveyed since that date, the legal description used in the conveyance closest to that date  
4 controls. The term “parcel” is synonymous with the terms “lot” and “tract.”

5  
6 “Park” means a tract of land that is specifically designated as a “park” and is used by the public  
7 for recreation.

8  
9 “Parking area” means a space where vehicles are left temporarily such as a road end. These areas  
10 are typically noncommercial and unpaved areas that may be in the County right-of-way and may  
11 provide visual or physical access to the shoreline.

12  
13 “Parking lot” means an off-street, ground level open area, usually improved, for the temporary  
14 storage of motor vehicles.

15  
16 “Parking structure” means a building or structure consisting of more than one level and used to  
17 store motor vehicles. Underground parking is considered a parking structure.

18  
19 “Party of record” means all persons, agencies, or organizations who have submitted written  
20 comments or notified San Juan County of their desire to receive a copy of the final decision on a  
21 permit (WAC 173-27-030).

22  
23 “Peak demand” means the highest demand associated with a particular interval, such as peak day  
24 or peak hour.

25  
26 “Performance standard” means a set of criteria or limits relating to certain characteristics that a  
27 particular use or process may not exceed.

28  
29 “Permanent moorage facility” means a facility which provides wet moorage or dry storage for  
30 pleasure craft or commercial craft for a fee for periods of six months or more.

31  
32 “Permanently affordable housing” means affordable housing, the affordability of which is  
33 assured for at least 99 years.

34  
35 Permit Center. See “department.”

36  
37 “Permit review” means the process of reviewing applications for project permits for consistency  
38 with the requirements of this code.

39  
40 “Permittee” means the entity to whom a permit is granted.

41  
42 “Person” means any individual, owner, contractor, tenant, partnership, corporation, association,  
43 organization, cooperative, public or municipal corporation, agency of a state or local  
44 governmental unit however designated, public or private institution, or an employee or agent of  
45 any of the foregoing entities.

1 “Personal and professional services” means, for the purposes of this code, establishments  
2 primarily engaged in providing assistance, as opposed to products, to individuals, business,  
3 industry, government, and other enterprises, not listed specifically in this code as a distinct use  
4 for regulatory purposes, such as laundry and dry cleaning services; barber shops and beauty  
5 salons; legal, engineering, architectural, design and accounting services; and the like.

6  
7 “Personal wireless service facility or PWSF” means a facility for the provision of personal  
8 wireless services, as defined by the Telecommunications act of 1996 and includes the property  
9 lease area and all towers, antennas, mounts, transmission cables, equipment shelters or cabinets,  
10 and any other installations for the operation of a personal wireless facility. Amateur radio towers  
11 and antennas are not PWSFs and are exempt from height requirements in accordance with SJCC  
12 18.60.050.

13  
14 “Personal wireless services” means any Federal Communications Commission (FCC) licensed  
15 commercial wireless telecommunications service defined in Section 704 of the Federal  
16 Telecommunications Act of 1996, including cellular, personal communications services (PCS),  
17 commercial mobile radio services, unlicensed wireless services, and common carrier wireless  
18 exchange access services. “Personal wireless services” does not include the operation of amateur  
19 radio.

20  
21 “Pervious surface” means a surface that absorbs water.

22  
23 “Pier” means a structure that abuts the shoreline and is generally used as a landing or moorage  
24 place for commercial and pleasure craft. A pier is a fixed platform above the water.

25  
26 “Planned unit development” means a development characterized by a unified site design,  
27 clustered residential units or commercial units, and areas of common open space.

28  
29 “Planning department,” “permit center,” and “building department” all mean the San Juan  
30 County community development and planning department.

31  
32 Planning Director. See “director.”

33  
34 “Plat” means a map or representation of a subdivision or short subdivision of land showing the  
35 division of a parcel of land into lots, roads, dedications, common areas, restrictions and  
36 easements, as regulated by Chapter 58.17 RCW and this code.

37  
38 Plat Alteration. See “subdivision, alteration of.”

39  
40 Plat, Long. See “subdivision (long).”

41  
42 Plat, Short. See “subdivision, short.”

43  
44 Plat Vacation. See “subdivision, vacation of.”

45

1 “Playing field” means a land area designed and used for outdoor games, such as baseball,  
2 football, soccer, track events and tennis. It includes public outdoor swimming pools.

3  
4 “Pocket beach” means a Class II or Class III beach which does not depend on littoral drift  
5 accretion. It depends on the erosion of immediately adjacent sources.

6  
7 “Point” means a low profile shoreline promontory of more or less triangular shape, the tip of  
8 which extends seaward.

9  
10 “Point-of-use demand management” means a set of policies, procedures, and facilities that  
11 provide for the maximum efficiency where they are actually used, as distinguished from  
12 efficiency practices in supply, transmission, and distribution systems.

13  
14 “Point-source discharge” means the release of waste or other flows which can be described as  
15 confined to a small area, such as discharges from a pipe or conduit. Releases occurring over a  
16 broad or undefined area are referred to as “nonpoint sources.” (See also “nonpoint source.”)

17  
18 “Ports and water-related port facilities” means shoreline modifications such as breakwaters,  
19 jetties, groins and over-water structures that are located within the jurisdiction of a port district.

20  
21 “Ports, marinas, and marine transportation designation” means the Shoreline Master Program  
22 designation intended to protect, maintain, and enhance port, marina and marine transportation  
23 uses and areas within the County’s shoreline. This designation is characterized by infrastructure  
24 for launching, docking, mooring, maintaining, repairing, and storing a variety of marine craft.

25  
26 “Potential critical aquifer recharge areas” means areas identified as significant due to their  
27 potential value in supplying groundwater and vulnerability to contamination. They are identified  
28 based upon the relative ability of the soil to accept water and allow it to flow to become  
29 groundwater.

30  
31 “Predecision hearing, open-record” means a hearing, conducted by the hearing examiner, that  
32 creates the County’s record through testimony and submittal of evidence and information, under  
33 procedures prescribed by the County by ordinance or resolution (RCW 36.70B.020).<sup>1</sup>

34  
35 “Preliminary plat” means a neat and approximate drawing of a proposed subdivision or short  
36 subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a  
37 subdivision consistent with the requirements of this code and Chapter 58.17 RCW.

38  
39 “Primary association” in the context of critical area regulations refers to those areas that provide  
40 fish and wildlife habitat, including physical and biological features, that are necessary for a  
41 species to survive over the long term. Examples include areas that are necessary for essential life  
42 cycle functions including areas used for feeding, nesting, breeding, and rearing.

43  
44 “Primary surface” means the FAA imaginary surface that is longitudinally centered on and  
45 encloses an aircraft runway.

1 “Primary use” means the principal use of a property.  
2

3 “Project permit” refers to a land use permit or license required from San Juan County for a  
4 project, such as land divisions, boundary line modifications, binding site plans, planned unit  
5 developments, conditional use permits, variances, shoreline substantial development permits  
6 (shoreline conditional use permits, shoreline variances), provisional use permits and temporary  
7 use permits. Concurrency findings, determinations of completeness, and other such  
8 administrative approvals are reviewed as part of the underlying project permit and are not project  
9 permits. SEPA threshold determinations are not project permits. Building, driveway, and other  
10 construction-type development permits and approvals are not project permits for this UDC  
11 (RCW 36.70B.020(4) and 36.70B.140). (See “development permit.”)  
12

13 “Proprietor-occupied” means the residential occupancy by the owner of a building or property.  
14

15 “Provision” means any written language contained in this code, including without limitation any  
16 definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.  
17

18 “Public access areas” means ways or means of approach to provide the general public with a  
19 physical entrance to a property.  
20

21 “Public facilities” means facilities which serve the general public including streets, roads, ferries,  
22 sidewalks, street and road lighting systems, traffic signals, community water systems,  
23 community sewage treatment systems, storm sewer systems, parks and recreational facilities, and  
24 public schools.  
25

26 “Public schools” means a building (and grounds) or part thereof designed, constructed, or used  
27 for publicly operated education or instruction.  
28

29 “Public services” means services available to and used by the general public. They may be, but  
30 are not necessarily, provided by a public agency for fire protection and suppression, law  
31 enforcement, public health, education, recreation, environmental protection, and other  
32 governmental services (RCW 36.70A.030(13)). Some public services are essential public  
33 facilities.  
34

35 “Public transportation systems” means public facilities for air, water, or land transportation.  
36

37 **Section 2. SJCC 18.30.055 and Ordinance 25-2012 §9 are each amended to read**  
38 **as follows:**  
39

40 **18.30.055 Siting and permitting of essential public facilities (EPFs).**  
41

42 The Growth Management Act directs that no comprehensive plan or development regulation may  
43 preclude the siting of essential public facilities (RCW 36.70A.200(2)). The identification,  
44 location, and permitting of essential public facilities shall be guided by the policies of the  
45 Comprehensive Plan, including Section B, Element 2 (Land Use), Element 3 (Shoreline Master

1 Program), and Appendix 2 (Joint Planning Policies), along with the requirements of SJCC Titles  
2 16 and 18.

3  
4 A. Proposed facilities that satisfy County development standards shall follow the standard  
5 permitting procedures. Facilities that do not meet one or more development standards may be  
6 permitted as provided in this section. General. Facilities that meet County development  
7 standards shall follow the standard permitting procedures. Facilities that cannot meet one or  
8 more requirements may be permitted as provided in this section.

9  
10 B. Determination of an Essential Public Facility. Many facilities serving the public are either  
11 listed under the definition of “essential public facility” or are identified in the Comprehensive  
12 Plan as an essential public facility. These facilities are predetermined to be EPFs and no  
13 additional review is required. Essential Public Facilities are identified in both the Comprehensive  
14 Plan and the definition section of this Title. Additional Essential Public Facilities may be  
15 identified by either amendment to the Comprehensive Plan and this Chapter or by submission of  
16 a request for EPF determination as follows:

17  
18 ~~The following process applies to facilities that have not been defined to be an EPF. These~~  
19 ~~facilities, which could be either publicly or privately owned, may submit a written request that~~  
20 ~~the County council make a determination that a facility is an EPF.~~

21  
22 1. ~~Requests for designation as~~ A request for determination that a facility is an EPF shall  
23 contain a conceptual description of the facility, an explanation of the need for the facility,  
24 a preliminary development schedule, identification of any sites that are under  
25 consideration, and required fees.

26  
27 2. After receiving such a request, the County council shall hold a public hearing to  
28 discuss the request. At least 45 days prior to the meeting, the department shall provide  
29 notice in the legal section of the official County newspaper, and if particular sites are  
30 under consideration, at least 45 days prior to the meeting, notice shall be mailed to all  
31 owners of property within 500 feet of the parcel boundaries of those sites.

32  
33 3. Following the public hearing, the County council shall adopt a resolution as to whether  
34 the proposed facility is an EPF.

35  
36 ~~C. Siting of New EPFs. When developed in conformance with the following requirements, a new~~  
37 ~~EPF may be located in land use designations where one or more uses which comprise the facility~~  
38 ~~are prohibited, where they are inconsistent with the Comprehensive Plan goals and policies for~~  
39 ~~the designation, or within frequently flooded or geologically hazardous areas. The following~~  
40 ~~procedures provide a method for siting essential public facilities when there is no suitable site~~  
41 ~~with a land use designation that allows the proposed use:~~

42  
43 1. Prior to initiating the following process the applicant shall pay the associated fees.

44  
45 2. The department and applicant shall identify potential sites for the proposed facility.  
46

1 3. ~~The department and applicant shall develop a methodology for selecting the site which~~  
2 ~~includes, at a minimum, consideration of:~~ The applicant shall analyze potential sites  
3 based on consideration of the following criteria along with any factors identified by the  
4 department which are specific to the proposed type of facility:  
5

6 a. ~~Potential impacts~~ Impacts on existing land uses, resource lands, open space,  
7 scenic resources, ~~critical areas,~~ and the natural and rural environment;  
8

9 b. The priority for the protection of resource lands;  
10

11 ~~b. c.~~ How the location will help maintain or enhance the quality or minimize the  
12 cost of the service;  
13

14 ~~e. d.~~ Economic, social and environmental impacts and benefits to the public;  
15

16 ~~d. Priority should be given to sites located in land use designations that are most~~  
17 ~~compatible with the facility; furthermore, sites in resource, natural, or~~  
18 ~~conservancy designations, and those where the facility would be located in~~  
19 ~~wetlands, fish and wildlife habitat conservation areas, geologically hazardous~~  
20 ~~areas or frequently flooded areas are disfavored;~~  
21

22 e. The siting criteria and recommendations provided by the joint County/town of  
23 Friday Harbor task force, if it is established (applicable only to facilities located  
24 on San Juan Island);  
25

26 f. Prevention of incompatible uses adjacent to general aviation airports; and  
27

28 g. The extent to which design features or operational conditions can eliminate or  
29 reduce unwanted project impacts; and  
30

31 h. Whether the site is capable of being redesignated to an appropriate land use  
32 designation, i.e., whether it is capable of meeting the Comprehensive Plan goals  
33 and policies for a designation that allows the proposed essential public facility.  
34

35 4. ~~The applicant shall prepare an analysis and comparison of the potential sites, using the~~  
36 ~~methodology developed as criteria described above.~~  
37

38 5. ~~The department and applicant shall hold a public meeting to discuss the analysis and~~  
39 ~~the potential sites. At least 45 days prior to the meeting, the department shall provide~~  
40 ~~notice in the legal section of the official County newspaper, and at least 45 days prior to~~  
41 ~~the meeting, notice shall be mailed to all owners of property within 500 feet of the parcel~~  
42 ~~boundaries of the sites under consideration.~~  
43

44 6. ~~Following this meeting the applicant shall select the site and prepare a written request~~  
45 ~~to the County council for approval of the site and authorization to apply for redesignation~~  
46 ~~of the site an essential public facility conditional use permit. This request shall include a~~

1 conceptual description of the facility, a conceptual site plan, an explanation of the need  
2 for the facility, an explanation of the methodology used to select the site, the analysis and  
3 comparison of sites that were considered, and an explanation of why the proposed site  
4 was selected.

5  
6 7. After receiving such a request, the County council shall conduct a public hearing to  
7 accept public input. At least 45 days prior to the hearing, the County shall provide notice  
8 in the legal section of the ~~official County newspaper of record~~, and at least 45 days prior  
9 to the hearing notice shall be mailed to all owners of property within 1,000 feet of the  
10 parcel boundaries of the proposed site.

11  
12 8. If the council finds that the proposal is appropriate and in the public interest based on  
13 the above selection ~~methodology criteria~~, analysis and testimony, ~~it they~~ shall approve the  
14 site and authorize application for redesignation. ~~an essential public facility conditional~~  
15 ~~use permit~~.

16  
17 ~~After council approval, the hearing examiner is vested with the authority to consider an~~  
18 ~~essential public facility conditional use permit application according to the procedures of~~  
19 ~~Chapter 18.80 SJCC~~. If the request is denied, the council shall state the reasons for  
20 denial, shall identify preferred alternative sites, and shall identify actions the applicant  
21 can take to gain approval of a site.

22  
23 D. Existing Nonconforming Essential Public Facilities. Where an existing essential public  
24 facility (EPF) or a proposed expansion of an existing facility is nonconforming, it may be  
25 expanded on site or in combination with an adjacent parcel or parcels provided the County  
26 council holds a public hearing and determines that any nonconformity with respect to County  
27 regulations regarding critical areas or resource lands will not be increased and that the public  
28 benefits of expanding the facility in the existing location outweigh the economic, social and  
29 environmental impacts associated with relocating the facility. After said determination, the  
30 hearing examiner is vested with the authority to consider an application for expansion according  
31 to the essential public facility conditional use permit procedures of Chapter 18.80 SJCC.

32  
33 E. Where a facility is located or proposed in an appropriate land use ~~or shoreline designation~~, but  
34 cannot meet one or more of the development standards included in SJCC Title 16 or 18, the  
35 proposal may be approved with an essential public facility conditional use permit as provided in  
36 Chapter 18.80 SJCC.

37  
38 **Section 3. SJCC 18.70.030 and Ordinance 12-2001 §7 are each amended to read**  
39 **as follows:**

40  
41 **18.70.030 Boundary line modifications.**

42  
43 A. Purpose and Procedures. To ensure compliance with RCW 58.17.040 and 58.17.060 and  
44 provide a procedure for the modification of property boundary lines common between lots.  
45 Boundary line modifications are reviewed according to the procedures in this section.  
46

1 Boundary line modifications may make substantive changes in the boundary line location, and  
2 boundaries may be modified for purposes other than rectifying an error. Boundary line  
3 adjustments may only be used in order to rectify errors; see SJCC 18.70.010(C)(7).

4  
5 1. A boundary line modification shall not:

- 6  
7 a. Create any additional lot, tract, parcel, site, or division nor create any lot, tract,  
8 parcel, site, or division which contains insufficient area and dimension to meet  
9 minimum requirements for width and area for a building site;  
10  
11 b. Affect access, easements or drainfields without the consent of the affected  
12 party;  
13  
14 c. Amend the conditions of approval for previously platted property;  
15  
16 d. Violate Uniform Fire Code or Uniform Building Code requirements on  
17 developed commercial and multifamily property;  
18  
19 e. Adversely affect the public health, safety, and general welfare; or  
20  
21 f. Establish a lot line that causes an existing structure to violate setback or other  
22 standards of this code.

23  
24 2. Multiple applications for boundary line modifications and simple land divisions or  
25 combinations of applications and exemptions shall not be used as a substitute for meeting  
26 the requirements for subdivisions or short subdivisions pursuant to this chapter.

27  
28 3. Boundary line modifications may include:

- 29  
30 a. Boundaries that involve unplatted land; or  
31  
32 b. The elimination of unplatted lot(s) where boundary lines are modified to such a  
33 degree that a lot is eliminated between lots being enlarged. Notice of such  
34 modifications shall be recorded on the deed(s) to state that the original separately  
35 described parcels shall not be separately conveyed or further modified without  
36 legal division.  
37  
38 c. The modification of parcels such that the resultant parcel(s) cross(es) the  
39 applicable land use designation boundaries.

40  
41 4. A boundary line modification that affects a platted lot line (i.e., that involves land  
42 which is included within a subdivision or short subdivision) shall be processed as a  
43 subdivision alteration, pursuant to the requirements of SJCC 18.70.080(A).

44  
45 5. The approval of a boundary line modification shall include a restriction prohibiting  
46 division for five years without a short or long subdivision, as follows:

1 Pursuant to RCW 58.17.060 the property subject to this authorization may not be divided  
2 in any manner within a period of five (5) years without the filing of an application for a  
3 short or long subdivision.  
4

5 B. Notice of Application and Public Hearing.  
6

7 1. SEPA-Exempt, and No Shoreline Permit Required. Where no SEPA review is  
8 required, and no shoreline permit is required, a notice of application is not required. No  
9 public hearing is required.  
10

11 2. SEPA Review or Shoreline Permit Required. A notice of application is required as per  
12 SJCC 18.80.030. No public hearing is required unless a shoreline permit is required.  
13

14 C. Application Requirements. Applications for approval of boundary line modifications shall be  
15 submitted to the permit center in a form approved by the administrator, and must include:  
16

17 1. A completed application page which includes property owner information for each lot,  
18 and existing legal descriptions for each affected lot;  
19

20 2. A completed acknowledgment page, with signatures of all affected property owners;  
21

22 3. A completed map page, certified by the property owner or surveyor, drawn to an  
23 engineering scale, with a north arrow, and including the following information where  
24 applicable:  
25

26 a. Dashed lines for current boundaries and solid lines for proposed new lot lines;  
27

28 b. Current legal descriptions for each new parcel;  
29

30 c. Adjacent street names, if any, and locations;  
31

32 d. Existing or proposed easements for access, drainage, utilities, or sensitive  
33 areas;  
34

35 e. Existing structures and approximate distances to property lines;  
36

37 f. Existing wells, septic tanks and/or drainfields and approximate distances to  
38 property lines; and  
39

40 g. Identifying parcels as Lot A, Lot B, and so on, unless otherwise approved by  
41 the administrator;  
42

43 4. Assessor's maps; and  
44

45 5. Documentation that each parcel affected is in compliance with any applicable usable  
46 construction area requirement (see SJCC 18.70.060 (B)).

1 D. Review Authority. Boundary line modifications are reviewed and approved by the County  
2 pursuant to the authority provided in RCW 58.17.060.

3  
4 1. The administrator shall determine whether or not the proposed boundary line  
5 modification complies with any applicable usable construction area requirement (see  
6 SJCC 18.70.060 (B)).

7  
8 2. When a boundary line modification is approved that allows parcels larger or smaller  
9 than the average density, the administrator shall require a deed restriction to be recorded  
10 to credit or debit the allowable density of the appropriate parcels for purposes of future  
11 division, according to the allowable density in effect at the date of approval. If the  
12 allowable density for the parcels is changed at a future date, further subdivision may be  
13 allowed depending upon the density in effect at that later date.

14  
15 3. The County engineer shall review all boundary line modifications to ensure that  
16 adequate future driveway access can be provided for parcels adjacent to County roads.

17  
18 4. The County engineer shall review and approve all legal descriptions.

19  
20 5. The County sanitarian shall review all boundary line modifications to ensure that they  
21 comply with the requirements of the San Juan County health and community services  
22 department for water and sewage disposal (SJCC Title 13).

23  
24 E. Decisionmaking Authority. The administrator is vested with authority to approve or deny  
25 proposed boundary line modifications. Within five business days of accepting a completed  
26 application the administrator shall approve, disapprove, or return it if incomplete, and shall  
27 notify the applicant of action taken on the application.

28  
29 F. Criteria for Approval. A boundary line modification shall only be approved if:

30  
31 1. The application meets the requirements in SJCC 18.70.020 and this section and the  
32 applicable standards in Chapters 18.50 and 18.60 SJCC, and complies with the policies  
33 and requirements of Chapter 58.17 RCW, the Shoreline Master Program (if applicable),  
34 the State Environmental Policy Act, and the Comprehensive Plan;

35  
36 2. The application satisfactorily addresses the comments of the reviewing authorities;

37  
38 3. Revisions. Requests for revisions which are not made in response to staff review may  
39 require a new application if the administrator finds the revisions to be substantial and  
40 material.

41  
42 G. Final Approval and Recording.

43  
44 1. Approvals of boundary line modifications shall expire if the authorized deeds  
45 transferring property ownership, together with a copy of the approved boundary line  
46 modification and map, are not recorded within six months of the approval, unless the

1 application identified the modification as subject to a pending development permit  
2 application as a documented contingency agreement between the prospective land seller  
3 and purchaser. In that event, the recordings required above shall be filed within 30 days  
4 of the effective date of the approved development permit or shall become void upon the  
5 denial of a development permit. Documentation authorizing the transfer of property  
6 ownership may be placed on the original boundary line map along with the legal  
7 descriptions of those portions of land being transferred.  
8

9 2. The final map page shall contain an approval block to be signed by the administrator.  
10 The County auditor shall insure that proposed boundary line modifications are first  
11 approved by the administrator prior to recording.  
12

13 H. Appeals. Decisions by the administrator may be appealed to the hearing examiner in  
14 accordance with procedures specified in SJCC 18.80.140.  
15

16 **Section 4. SJCC 18.70.060 and Ordinance 2-2002 are each amended to read as**  
17 **follows:**  
18

19 **18.70.060 Subdivision and short subdivision design and development standards.**  
20

21 A. General Standards. The standards contained in this section and other sections of the UDC  
22 shall apply to subdivisions and short subdivisions regulated by this section, unless otherwise  
23 stated in this code.  
24

25 B. Subdivision Design Standards.  
26

27 1. Access to Shorelines and Common Easements.  
28

29 a. Subdivisions and short subdivisions adjacent to water subject to the jurisdiction  
30 of the Shoreline Master Program shall provide dedication of access to such bodies  
31 of water as required by the Shoreline Master Program.  
32

33 b. Dedications to the lot owners for access shall be to the low water mark if the  
34 subdivider holds ownership or a lease of the tidelands.  
35

36 c. Subdivisions shall provide a common easement for a common water supply for  
37 individual lots of less than 15 acres.  
38

39 2. Clustering. The administrator shall encourage clustering of units and lots in land  
40 division proposals, and shall inform applicants of alternatives to standard land division.  
41 Clustering may not be used to create lots smaller than the allowed minimum lot sizes  
42 where established by SJCC 18.70.010(E) or in applicable subarea plans. The sanitarian  
43 shall consider an approved water system or a proven common well supply in lieu of  
44 individual wells on clustered lots.  
45

1 3. Conforming to Natural Features and Topography. To the greatest degree possible, all  
2 subdivisions shall be designed to conform to the natural features of the land. Problems  
3 such as eroding cliffs or other potentially hazardous conditions must be divided with the  
4 general welfare and safety of persons and property in mind.  
5

6 4. Usable Construction Area. All proposed lots shall provide a usable area for the  
7 construction of a dwelling unit, approved sewage system, and an approved water supply.  
8

9 5. Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-  
10 of-way. Where a pre-existing road divides a lot where there is no alternative to such a  
11 division the administrator may grant a discretionary exception.  
12

13 6. Buffers and Setbacks. All subdivisions shall meet the setback requirements and other  
14 density, dimension, and open space standards of SJCC 18.60.050, and the landscaping  
15 and screening requirements of SJCC 18.60.160.  
16

17 7. Number of Lots. Subdivisions may include any number of lots. Short subdivisions are  
18 limited to no more than four lots.  
19

20 8. Standards for Agricultural and Forest Resource Lands. On all agricultural or forest  
21 resource lands (AG and FOR) the maximum area of development which is not related to  
22 agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area,  
23 but not less than one acre, regardless of the assigned density. Further, in the division of a  
24 parcel by any means, the allowable area for conversion of the parent parcel to nonfarm  
25 and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than  
26 five acres.  
27

28 9. Standards for Rural Farm-Forest (RFF) Districts. In RFF land use districts, no more  
29 than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive  
30 of roads and driveways.  
31

32 10. Conservation Design Requirements. All land divisions in resource land, conservancy,  
33 and rural designations (outside of areas of more intensive rural development), and all  
34 shoreline areas shall protect open space and scenic resources as well as natural resources  
35 by meeting the following design and development requirements:  
36

37 ~~a. At a minimum, 60 percent of the area of the parcel to be divided shall be~~  
38 ~~maintained as open space area from which all construction related to residential~~  
39 ~~use (houses, residential outbuildings, parking and residential landscaping) shall be~~  
40 ~~excluded. Wells, septic systems, biofiltration, and ponds approved as pumper~~  
41 ~~supply points, may be placed within the nonbuilding area of a parcel.~~  
42

43 ab. The significance and sensitivity of open space resources shall be identified for  
44 the entire parcel to be divided using the landscape information in Parts III and IV  
45 (Open Space Atlas and Map Folio) of the San Juan County Open Space and

1 Conservation Plan (SJCC 18.30.190(F)) and the criteria and rating scales in Part  
2 III of that plan.

3  
4 be. The land division design shall adhere to the following principles to the extent  
5 practicable:

6  
7 i. Establish nonbuilding portions of new parcels to be contiguous with one  
8 another and to contain the most sensitive open space features of the site  
9 within them.

10  
11 ii. Establish the location of roads, individual driveways, houses and  
12 outbuildings, and utilities, to minimize intrusion on the most sensitive  
13 open space features of the site.

14  
15 iii. Maintain existing orchards, meadows and pasture areas.

16  
17 iv. Leave ridgelines and contrasting edges between landscape types  
18 unbroken by structures.

19  
20 v. On rolling open or steep open slopes, locate building areas so that  
21 buildings will be screened by existing vegetation or terrain.

22  
23 vi. Ensure that the protection of features such as wetlands and wildlife  
24 habitat.

25  
26 cd. Use and management provisions for the nonbuilding area of each parcel shall  
27 be specified on the face of the plat.

28  
29 de. Building and nonbuilding locations of each parcel shall be indicated on the  
30 face of the plat.

31  
32 ef. Alternative Design.

33  
34 i. At least 60 percent of the entire parcel to be divided may be retained  
35 within a single tract maintained as open space from which all construction  
36 related to residential use (houses, residential outbuildings, parking, and  
37 residential landscaping) shall be excluded. Wells, septic systems,  
38 biofiltration, and ponds approved as pumper supply points, may be placed  
39 within the conservation area. Individual building lots shall be clustered or  
40 otherwise located in a manner consistent with the principles in subsection  
41 (B)(10)(e b) of this section.

42  
43 ii. The open space area shall be owned and managed as a single entity. The  
44 open space tract or easement may be transferred as indivisible open space  
45 to a conservation organization, held in perpetuity as an indivisible portion  
46 of one of the lots, or held by the lot owners in common. Use and

1 management provisions for the conservation tract shall be specified on the  
2 face of the plat.

3  
4 iii. If the conservation tract is created as a lot separate from a residential  
5 lot it may be leased for agricultural or forest management uses.  
6 Outbuildings other than structures for human habitation may be provided  
7 for to support agricultural activity on land in agricultural use.

8  
9 iv. All other requirements of this subsection (B)(10) shall apply.

10  
11 ~~iv.~~ San Juan Valley Heritage Plan Overlay District Conservation Incentive Bonus.  
12 Division of parcels in the San Juan Valley heritage plan overlay district located  
13 within that portion of the agricultural resource land area designated on the official  
14 maps at densities of 10 acres per unit shall be eligible for a density of up to five  
15 acres per unit if the following standards are met in addition to the requirements of  
16 subsection (B)(10) of this section, Conservation Design Requirements.

17  
18 i. The required open space area shall include at least 75 percent of the  
19 parcel to be divided and in no case shall the required open space area be  
20 smaller than 10 acres.

21  
22 ii. The maximum lot size for residential use shall be 1.5 acres and the  
23 minimum lot size for residential use shall be one-half acre.

24  
25 iii. Building lots may be grouped on the parcel to be divided; provided,  
26 that no individual group of building lots shall include more than six lots  
27 and groups of lots shall be separated from each other by at least 100 feet.

28  
29 iv. Building lots shown on the plat shall be presumed to be residential  
30 building locations.

31  
32 v. Existing parcels may be recombined for redivision according to this  
33 subsection (B)(10)(~~g~~ f).

34  
35 C. Road and Drainage Standards.

36  
37 1. Design and Construction Standards.

38  
39 a. All roads serving two or more lots shall comply with the road design and  
40 construction standards specified in SJCC 18.60.080(A), (B) and (C).

41  
42 b. A drainage analysis shall be performed in conformance with SJCC 18.60.070,  
43 and drainage systems shall be designed to the standards in subsection (B) of this  
44 section and SJCC 18.60.070.  
45

1 2. Submittal of Final Plat. Information in drawing form shall be submitted to the  
2 administrator to meet the requirements of SJCC 18.60.100 (D).

3  
4 3. Responsibility for Road Improvements. The applicant bears the responsibility to make  
5 offsite private road improvements necessary to meet the road standards.

6  
7 D. Road Inspections. The following inspections are required:

8  
9 1. First inspection prior to preliminary approval;

10  
11 2. Second inspection prior to final approval and to establish bonding;

12  
13 3. Third inspection for release of road bond if necessary.

14  
15 E. Health Standards. The following health standards apply to all subdivisions and short  
16 subdivisions:

17  
18 1. Water. All land divisions shall comply with the requirements of the San Juan County  
19 health and community services department for water (SJCC Title 13).

20  
21 2. Sewer. All land divisions shall comply with the requirements of the San Juan County  
22 health and community services department for sewer (SJCC Title 13).

23  
24 3. Storm Drainage. Stormwater flows from the subdivision shall not adversely affect  
25 critical aquifer recharge areas. All subdivisions and short subdivisions must meet critical  
26 area regulations for aquifer recharge (see Chapter 18.30 SJCC).

27  
28 F. Fire and Utility Standards. All subdivisions and short subdivisions must meet the fire  
29 protection improvement standards contained in Chapter 13.08 SJCC.

30  
31 **Section 5. SJCC 18.80.140 and Ordinance 13-2018 §13 are each amended to read**  
32 **as follows:**

33  
34 **18.80.140 Appeals.**

35  
36 A. Appeals – General. Appeals are open-record appeals (see definitions in Chapter 18.20 SJCC),  
37 and include:

38  
39 1. Appeals to the hearing examiner of permits (development permits and/or project  
40 permits) granted or denied by the director (director is the decisionmaker);

41  
42 2. Appeals to the hearing examiner of administrative determinations or interpretations  
43 made by the director (director is the decisionmaker);

44  
45 3. SEPA appeals of project actions, as defined in WAC 197-11-704;

- 1 4. Appeals of consolidated matters (i.e., appeal of administrative determination  
 2 consolidated with project permit application hearing);  
 3  
 4 5. A timely appeal of a code interpretation or decision made by the director or building  
 5 official stays the effective date of such decision until the matter has been resolved at the  
 6 County level. (See also SJCC 18.10.030 and RCW 36.70C.100.)  
 7  
 8 6. The appeal path for project permits is shown in Table 8.1. The appeal path for SEPA is  
 9 shown in Table 8.3.

**Table 8.3. SEPA Processing and Appeals.**

	Threshold Determination		EIS	
	DNS/MDNS	DS	DEIS	FEIS
<b>Comment Period Prior to Action (days)</b>	14	21	30	N/A
<b>Administrative Appeal Period (days)</b>	21	21	N/A	21
<b>Consolidated Hearings</b>	yes	no	N/A	yes
<b>Open-Record Appeal Hearing</b>	yes	yes	N/A	yes
<b>Decisionmaker for Administrative Appeal</b>	Hearing Examiner	Hearing Examiner	N/A	Hearing Examiner
<b>Further Appeals</b>	Superior Court (21 days per Chapter 36.70C RCW) or SHB (21 days per Chapter 90.58 RCW)	See RCW 43.21C.075; Superior Court, SHB: 21 days	N/A	Superior Court or SHB: 21 days

10  
 11 B. Open-Record Appeals. The San Juan County hearing examiner has authority to conduct open-  
 12 record appeal hearings of the following decisions by the director and/or responsible official, and  
 13 to affirm, reverse, modify, or remand the decision that is on appeal:

- 14  
 15 1. Boundary line modifications;  
 16  
 17 2. Simple land divisions;  
 18  
 19 3. Provisional use permits;  
 20

- 1 4. Short subdivisions;
- 2
- 3 5. Binding site plans (up to four lots);
- 4
- 5 6. Temporary use permits (Level II);
- 6
- 7 7. Discretionary use permits;
- 8
- 9 8. Administrative determinations or interpretations (see SJCC 18.10.030);
- 10
- 11 9. SEPA threshold determinations (DNS and DS) of project actions (see WAC 197-11-
- 12 704);
- 13
- 14 10. EIS adequacy for project actions;
- 15
- 16 11. Development permits issued or approved by the director;
- 17
- 18 12. Consolidated matters where the director was the decisionmaker; and
- 19
- 20 13. Flood development permits issued or approved by the director.

21  
22 C. Standing to Appeal. Appeals to the hearing examiner may be initiated by:

- 23
- 24 1. The applicant;
- 25
- 26 2. Any recipient of the notice of application (see SJCC 18.80.030);
- 27
- 28 3. Any person who submitted written comments to the director concerning the
- 29 application; and
- 30
- 31 4. Any aggrieved person.

32  
33 D. Time Period and Procedure for Filing Appeals.

- 34
- 35 1. Appeals to the hearing examiner must be filed (and appeal fees paid) within 21
- 36 calendar days following the date of the written decision being appealed; and
- 37
- 38 2. Appeals of a SEPA threshold determination or an FEIS must be filed within 21 days
- 39 following the date of the threshold determination or FEIS.
- 40
- 41 3. All appeals shall be delivered to the director by mail, personal delivery, or fax, and
- 42 received before 4:30 p.m. on the due date of the appeal period. Applicable appeal fees
- 43 must be paid at the time of delivery to the director for the appeal to be accepted.
- 44
- 45 4. For the purposes of computing the time for filing an appeal, the date of the decision
- 46 being appealed shall not be included. If the last day of the appeal period is a Saturday,

1 Sunday, or a day excluded by RCW 1.16.050 as a legal holiday for the County, the filing  
2 must be completed on the next business day (RCW 36A.21.080).

3  
4 5. Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee, and  
5 contain the following information:

6  
7 a. Appellant's name, address and phone number;

8  
9 b. Appellant's statement describing standing to appeal (i.e., how he or she is  
10 affected by or interested in the decision);

11  
12 c. Identification of the decision which is the subject of the appeal, including date  
13 of the decision being appealed;

14  
15 d. Appellant's statement of grounds for appeal and the facts upon which the  
16 appeal is based;

17  
18 e. The relief sought, including the specific nature and extent; and

19  
20 f. A statement that the appellant has read the appeal and believes the contents to  
21 be true, signed by the appellant.

22  
23 E. Notice of Hearing. The director shall give notice of the appeal hearing as provided in SJCC  
24 18.80.030(C).

25  
26 F. Decision Time and Notice.

27  
28 1. The hearing examiner shall consider and render a written decision on all appeals. Such  
29 decision shall be issued within 60 days from the date the appeal is filed; provided, that  
30 the appeal contains all of the information specified in this section.

31  
32 2. The parties to an appeal may agree to extend these time periods.

33  
34 G. Consolidated Appeal Hearings.

35  
36 1. All appeals of development permit or project permit decisions shall be considered  
37 together in a consolidated appeal hearing.

38  
39 2. Appeals of environmental determinations under SEPA, except for an appeal of a  
40 determination of significance (DS), shall be consolidated with any open-record hearing  
41 (open-record predecision hearing or open-record appeal hearing) before the hearing  
42 examiner. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC  
43 18.80.110(D), Shorelines – Consolidated Permit Processing.)  
44  
45  
46

1 H. Administrative SEPA Appeals of Project Actions.  
2

3 1. The County establishes the following consolidated appeal procedures, under RCW  
4 43.21C.075 and WAC 197-11-680, for administrative SEPA appeals of project actions as  
5 defined in WAC 197-11-704. The comment and appeal path is shown in Table 8.3.  
6

7 a. Appeals of the intermediate steps under SEPA (e.g., lead agency determination,  
8 scoping, draft EIS adequacy) are not allowed;  
9

10 b. An appeal to the hearing examiner on SEPA decisions is limited to review of a  
11 final threshold determination (determination of significance (DS) or  
12 nonsignificance (DNS/MDNS)) or the adequacy of a final environmental impact  
13 statement (FEIS);  
14

15 c. As provided in WAC 197-11-680(3)(a)(iv), there shall be no more than one  
16 administrative appeal of a threshold determination or of the adequacy of an FEIS;  
17

18 d. Except as provided in WAC 197-11-680(3)(a)(iv), administrative SEPA  
19 appeals authorized by this subsection shall be consolidated with the hearing or  
20 appeal on the underlying governmental action in a single simultaneous hearing  
21 before one hearing officer, in conformance with WAC 197-11-680(3)(a)(v);  
22

23 e. An appeal of a DS shall be heard and decided at a separate, open-record hearing  
24 to establish whether an applicant must provide an environmental impact  
25 statement. As provided in RCW 36.70B.060(6) and 43.21C.075, this open-record  
26 hearing shall not preclude a subsequent open-record hearing as provided by this  
27 code;  
28

29 f. A timely appeal of a DS or other application identified in WAC 197-11-  
30 680(3)(a)(vi) shall stay the decision on a project permit application or  
31 development permit application until such time as the appeal has been resolved at  
32 the administrative level (i.e., decision by the hearing examiner) or the appeal has  
33 been withdrawn;  
34

35 g. The determination of the responsible official shall carry substantial weight in  
36 any appeal proceeding;  
37

38 h. The hearing examiner's decision on a SEPA appeal is final unless a timely  
39 judicial appeal is filed.  
40

41 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.  
42

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

1 and SEPA issues, the statute or ordinance establishing the time limit, and where  
2 such a judicial appeal may be filed.

3  
4 b. Notice is given by delivery of written notice to the applicant, all parties of  
5 record in any administrative appeal, and all persons who have requested notice of  
6 decisions with respect to the particular proposal along with any additional notice  
7 required by County code, such as SJCC 18.80.130.

8  
9 c. Written notice containing the required information may be appended to the  
10 permit, decision documents, or SEPA compliance documents or may be given  
11 separately.

12  
13 d. Official notices required by this section shall not be given prior to the County's  
14 final decision on a proposal or appeal.

15  
16 I. No Administrative SEPA Appeals of Nonproject Actions.

17  
18 1. SEPA determinations for nonproject actions are not subject to administrative appeals;  
19 they may only be appealed in conjunction with the underlying action to superior court or  
20 state boards as provided by law. ~~The comment and appeal path for nonproject actions is~~  
21 ~~shown in Table 8.4.~~

22  
23 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.

24  
25 a. Pursuant to WAC 197-11-680(5), notice of the date and place for commencing  
26 a SEPA judicial appeal must be given if there is a time limit established by statute  
27 or ordinance for commencing an appeal of the decision. The notice shall include  
28 the time limit for commencing appeal of the underlying permit decision and  
29 SEPA issues, and the statute or ordinance establishing the time limit; and where  
30 such a judicial appeal may be filed.

31  
32 b. Such notice is given by delivery of written notice to the applicant, all parties of  
33 record in any administrative appeal, and all persons who have requested notice of  
34 decisions with respect to the particular proposal along with any additional notice  
35 required by County code, such as SJCC 18.80.130.

36  
37 c. Written notice containing the required information may be appended to the  
38 permit, decision documents, SEPA compliance documents, or may be given  
39 separately.

40  
41 d. Official notices required by this section shall not be given prior to the County's  
42 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)

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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).

**Section 6. Effective Date.**

This Ordinance is effective on the 10<sup>th</sup> working day after adoption.

**Section 7. Codification.**

Sections 1-5 of this ordinance shall be codified.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
 SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
 Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
 Rick Hughes, Chair  
 District 2

1 REVIEWED BY COUNTY MANAGER  
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5 \_\_\_\_\_  
6 Michael J. Thomas Date  
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8 RANDALL K. GAYLORD  
9 APPROVED AS TO FORM ONLY  
10  
11 By: \_\_\_\_\_  
12 Date  
13

\_\_\_\_\_  
Bill Watson, Vice-Chair  
District 1

\_\_\_\_\_  
Jamie Stephens, Member  
District 3

**State Environmental Policy Act (SEPA) Register**

SEPA and NEPA documents posted by the Department of Ecology since 2000

Search (././) / 201906300 - San Juan County

**201906300 - San Juan County****Lead Agency**

San Juan County

**Website**<https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance> (<https://www.sanjuanco.com/1646/201...>)**Contact**

Linda Kuller

(360) 370-7572

[lindak@sanjuanco.com](mailto:lindak@sanjuanco.com) (<mailto:lindak@sanjuanco.com>)**County**

SAN JUAN

**Region**

NW

**SEPA #**

201906300

**Document Type**

DNS

**Date Issued**

11/06/2019

**Comments Due**

11/22/2019

**Proposal Description**

An Ordinance Correcting Code Inconsistencies and Inaccuracies - proposal would amend San Juan County Code through the adoption of an ordinance correcting five code inconsistencies and inaccuracies. The code issues proposed to be fixed are a result of changes in the law or later discovery of irregularities in past code adoption processes. 1.Siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011; 2.Changing the definition of personal wireless service facility or PWSF consistent with Ordinance 10-2012; 3.Ensuring that the boundary line modification regulations are consistent with state law because SJCC

18.70.030(A)(1)(a) includes a portion of the state requirement; 4. Making sure SJCC 18.70.060(8)(10)(a) complies with a court ruling which held that this provision is in violation of RCW 82.02.020, as a tax on the subdivision of land and that this section of the Code is invalid and should not have been applied since the court's ruling.

### **Related Record**

### **Notes**

5. Fixing inconsistent language in SJCC 18.80.140(1)(1) and references. SJCC 18.80.140(1)(1) addresses SEPA appeals of non-project actions and indicates that Table 8.4 shows the appeal path for non project actions. However, Table 8.4 references Chapter 36. 70C RCW which is the Land Use Petition Act. The Land Use Petition Act addresses 'project actions' and is therefore not the correct reference for SEPA appeals of non-project actions.

### **Location**

Address: unincorporated San Juan County

### **Applicant**

San Juan County Department of Community Development

### **Applicant Contact**

Linda Kuller

### **Documents**

 2019-11-05\_DCD\_Correction Ord\_Req for Rev\_Signed.pdf (Document/DocumentOpenHandler.ashx? DocumentId=78224) (5 MB)

Please email [SEPA Help \(mailto:sepa-help@ecy.wa.gov\)](mailto:sepa-help@ecy.wa.gov) with any updates, problems, or questions about SEPA Register.

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# San Juan County Community Development & Planning

135 Rhone Street, P.O. Box 947, Friday Harbor, WA 98250 | [cdp@sanjuanco.com](mailto:cdp@sanjuanco.com)  
 (360) 378-2354 | (360) 378-2116 | Fax (360) 378-3922 | [www.sanjuanco.com](http://www.sanjuanco.com)

## REQUEST FOR REVIEW

Applicant Name and File # **PCODES-19-0002 Correction Ordinance**

DATE: **November 5, 2019**

Please review the materials and return written comments to [LindaK@sanjuanco.com](mailto:LindaK@sanjuanco.com) by **November 22, 2019**.

Project website: <https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance>

State Agencies	
	Dept. of Archaeology
x	Dept. of Agriculture – Kelly McLain
x	Dept. of Commerce
x	Dept. of Ecology/SEPA
x	Dept. of Ecology/Shoreline – Chad Yunge
x	Dept. of Fish and Wildlife – Marcus Reaves
x	Dept. of Fish and Wildlife - SEPA
	Dept. of Health – Kelly Cooper
	Dept. of Health - Shellfish
x	Dept. of Natural Resources – SEPA
x	Dept. of Natural Resources – NW Region
x	Dept. of Social & Health Services –Terri Sinclair-Olson
x	Dept. of Transportation Env Svcs – Roland Storme
x	Dept. of Transportation – Ferries – Robert Price
	Energy Facility Site Evaluation Council–Stephen Posner
x	Interagency Committee on Outdoor Recreation
x	Parks and Recreation Commission
x	Puget Sound Partnership
x	UW-Friday Harbor Labs, Director
x	UW-Real Estate Office, Property Rights Manager
x	Washington State Parks NW Region
Tribal Agencies	
	Lummi Historic Preservation Office
x	Lummi Natural Resources – Shoreline
x	Lummi Natural Resources - Biologist
	Lummi Cultural Resources
x	Samish Indian Nation – Jackie Ferry
x	Swinomish Tribal Commission – Tim Hyatt
x	Tulalip, Natural Resources
County Agencies	
	San Juan County Council
	San Juan County Planning Commission
x	San Juan County Prosecutor – Amy Vira
x	San Juan County Assessor
	San Juan County Community Development & Planning
	Chief Building Official – Jason Hensel

County Agencies (Cont.)	
	San Juan Co PW County Engineer – Colin Huntermer
x	San Juan Co PW Project Engineer – Christine Coray
	San Juan County Health Dept – Kyle Dodd
	San Juan County Parks Dept – Dona Wuthnow
	San Juan County Dept of Emergency Management
	San Juan County Fire Marshal – Richard Meyers
	Fire Districts (Indicate: #2, #3, #4, or all)
Town, Utilities, & Utility Districts	
x	Town of Friday Harbor – Mike Bertrand
	Eastsound Sewer District
	Eastsound Water Users
	Fisherman Bay Sewer District
	Fisherman Bay Water Association
	Washington Water Service Company
x	OPALCO
x	CenturyLink
Schools and Libraries	
x	School District: Lopez Orcas San Juan Shaw
x	Libraries: Lopez Orcas San Juan Shaw
Other	
x	San Juan Conservation District
	SJC Noxious Weed Control Board
	San Juan County Parks Board – Dona Wuthnow
x	Eastsound Planning Review Committee
	Deer Harbor Plan Review Committee
	Lopez Village Plan Committee
	Agricultural Resource Committee
x	San Juan County Land Bank – Lincoln Bormann
x	DCD Julie Thomson

Distribution completed by: *Linda Guensey*

Date: 11/5/19



SAN JUAN COUNTY  
DEPARTMENT OF COMMUNITY DEVELOPMENT

135 Rhone Street, PO Box 947, Friday Harbor, WA 98250  
(360) 378-2354 (360) 378-2116 Fax (360) 378-3922  
dcd@sanjuanco.com www.sanjuanco.com

**STATE ENVIRONMENTAL POLICY ACT (SEPA)  
DETERMINATION OF NONSIGNIFICANCE (DNS)**

**Proposal:** A SEPA nonproject action is proposed. The proposal would amend San Juan County Code through the adoption of an ordinance correcting five code inconsistencies and inaccuracies. The code issues proposed to be fixed are a result of changes in the law or later discovery of irregularities in past code adoption processes. The proposed amendments are in San Juan County Code 18.20.160, 18.30.055, 18.70.030, 18.70.060, and 18.80.140. The five corrections address amendments of the regulations regarding:

1. Siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011;
2. Changing the definition of "personal wireless service facility or PWSF consistent with Ordinance 10-2012;
3. Ensuring that the boundary line modification regulations are consistent with state law because SJCC 18.70.030(A)(1)(a) includes a portion of the state requirement;
4. Making sure SJCC 18.70.060(B)(10)(a) complies with a court ruling which held that this provision is in violation of RCW 82.02.020. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land and that this section of the San Juan County Code is invalid and should not have been applied since the court's ruling. It has not been applied since the ruling; and
5. Fixing inconsistent language in SJCC 18.80.140(I)(1) and references. SJCC 18.80.140(I)(1) addresses SEPA appeals of nonproject actions and indicates that Table 8.4 shows the appeal path for nonproject actions. However, Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition Act. The Land Use Petition Act addresses "project actions" and is therefore not the correct reference for SEPA appeals of nonproject actions.

**Applicant:** San Juan County Department of Community Development

San Juan County, the lead agency for this proposal, determined that the proposal will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required. Under WAC 197-11-340(2), a Determination of Nonsignificance (DNS) was issued on November 6, 2019. The determination was made after a review of a completed environmental checklist.

Copies of the proposed changes to the San Juan County Code, SEPA DNS and associated documents are available on the San Juan County (SJC) Department of Community Development (DCD), project website: <https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance>. They may be viewed during business hours at the, SJC DCD 135 Rhone Street, in Friday Harbor.

Comments on this determination must be submitted by 4:30 p.m. **November 22, 2019** to Linda Kuller, AICP, San Juan County DCD, PO Box 947, Friday Harbor, WA, 98250 or [lindak@sanjuanco.com](mailto:lindak@sanjuanco.com). Email subject line: Comments on SJC Code Correction Ordinance. For more information, please contact Linda Kuller, SJC DCD Planning Manager at (360) 370-7572.

Following a final decision this determination may be appealed with the underlying action to Superior Court or State Boards as provided in RCW 36.70A, RCW 90.58, and RCW 36.70C. For appeals to the Growth Management Hearings Board the appeal period is 60 days.

**Responsible Official:**



Erika Shook, AICP, Director  
Department of Community Development  
(360) 378-2354

**Date:** November 6, 2019

# **SEPA ENVIRONMENTAL CHECKLIST**

## ***Purpose of checklist:***

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

## ***Instructions for applicants:***

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

## ***Instructions for Lead Agencies:***

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

The help links in this checklist are intended to assist users in accessing guidance on the checklist questions. Links are provided to the specific sections of the guidance applicable to the questions. However, the links may not work correctly on all devices. If the links do not work on your device, open the guidance at [www.ecy.wa.gov/programs/sea/sepa/apguide/EnvChecklistGuidance.html](http://www.ecy.wa.gov/programs/sea/sepa/apguide/EnvChecklistGuidance.html) and navigate to the appropriate section.

## ***Use of checklist for nonproject proposals:***

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

## A. Background

1. Name of proposed project, if applicable:

**An Ordinance Correcting Code Inconsistencies and Inaccuracies; Amending San Juan County Code 18.20.160, 18.30.055, 18.70.030, 18.70.060, and 18.80.140.**

**Project webpage:** <https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance>

2. Name of applicant:

**San Juan County**

3. Address and phone number of applicant and contact person:

**San Juan County Department of Community Development  
Attn: Linda Kuller, AICP  
PO Box 947  
Friday Harbor, WA 98250  
360-370-7572**

4. Date checklist prepared:

**October 29, 2019**

5. Agency requesting checklist:

**San Juan County**

6. Proposed timing or schedule (including phasing, if applicable):

**The proposed amendments are scheduled for a public hearing before the San Juan County Planning Commission on December 20, 2019. County Council is expected to take action in January or February 2020.**

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **No.**

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **None.**

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

**None known.**

10. List any government approvals or permits that will be needed for your proposal, if known.

**These amendments require review by the San Juan County Planning Commission and adoption by San Juan County Council.**

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11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

**This is a nonproject proposal to address various inconsistencies and inaccuracies in the County code that occurred as a result of changes in the law or later discovery of irregularities in the code adoption processes. Five issues are proposed to be corrected. They are summarized below.**

- 1. Amend the regulations regarding siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011.**
  - a. On March 22, 2011, the County Council adopted ordinance 10-2011 amending, among other things, the regulations regarding siting and permitting of Essential Public Facilities (formerly codified as 18.30.050(E)).**
  - b. On November 20, 2012, the County Council adopted Ordinance 25-2012 which also amended, among other things, the regulations regarding siting and permitting of Essential Public Facilities. Ordinance 25-2012, however, inadvertently used an earlier version of SJCC 18.30.050(E) rather than then the regulations adopted in Ordinance 10-2011.**
  - c. The County Council wishes to amend the regulations regarding siting and permitting of Essential Public Facilities to reflect the changes Council intended to adopt in Ordinance 10-2011.**
- 2. The definition of “personal wireless service facility or PWSF.”**
  - a. On June 26, 2012, the County Council adopted Ordinance 10-2012 amending the regulations regarding wireless facilities.**
  - b. The definition of “personal wireless service facility or PWSF” was amended to include towers and transmission cables and to exempt amateur radio towers and antennas.**
  - c. When amending the definition, it appears the words “Telecommunications Act of 1996” were inadvertently stricken out, resulting in a portion of the definition appearing nonsensical.**
  - d. The County Council wishes to correct this definition to include the inadvertently stricken words.**
- 3. Amend regulations regarding boundary line modifications so that they are consistent with state law.**
  - a. RCW 58.17.040(6) states that, under certain circumstances, the boundaries of platted lots can be modified without being subject to the provisions of Chapter 58.17 RCW, the subdivision statute. In order to be exempt, the lot, platted or unplatted, must not “create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.”**

- b. SJCC 18.70.030(A)(1)(a), however, only includes a portion of this state requirement.
  - c. The County Council wishes to amend SJCC 18.70.030(A)(1)(a) so that it is consistent with the state requirements in RCW 58.17.040(6).
4. Amend SJCC 18.70.060(B)(10)(a) to comply with a court ruling which held that this provision is in violation of RCW 82.02.020.
- a. In 2008, property owners Pat and Stephanie O'Day sued the County alleging that SJCC 18.70.060(B)(10)(a) violates RCW 82.02.020.
  - b. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land and that this section of the San Juan County Code is invalid and should not be applied.
  - c. This provision has not been applied since the date of the court ruling.
  - d. The County Council wishes to remove this provision from the county code.
5. Amend inconsistent language in SJCC 18.80.140(I)(1).
- a. SJCC 18.80.140(I)(1) addresses SEPA appeals of nonproject actions and indicates that Table 8.4 shows the appeal path for nonproject actions.
  - b. Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition Act.
  - c. The Land Use Petition Act addresses "project actions" and is therefore not the correct reference for SEPA appeals of nonproject actions.
  - d. The County Council wishes to correct this inconsistency.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The amendments would apply throughout the unincorporated County to applicable projects.

## **B. ENVIRONMENTAL ELEMENTS**

### **1. Earth**

- a. General description of the site:

**The lands of San Juan County are all islands and include a variety of terrain. There are flat and hilly lands, areas of steep slope, wetland areas, shorelines of statewide significance and unincorporated towns, villages and hamlets.**

b. What is the steepest slope on the site (approximate percent slope)?

**Various slopes are present in the unincorporated areas of San Juan County.**

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

**This question is not applicable to a nonproject action. The code amendment will not remove any soils.**

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

**This question is not applicable to a nonproject action. The nonproject action affects the entire County, there is no immediate vicinity.**

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

**This question is not applicable to a nonproject action. The nonproject action affects the entire County, there is no fill.**

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

**This question is not applicable to a nonproject action. The nonproject action affects the entire County. The nonproject code amendments will not generate any construction or clearing.**

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

**This question is not applicable to a nonproject action. The nonproject action does not have a site or specific location.**

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

**None. Amending the San Juan County Code does not have any impacts on the territory of San Juan County.**

## 2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

**This question is not applicable to a nonproject action. No physical construction, operation or maintenance is associated with these code amendments.**

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

**This question is not applicable to a nonproject action. No off-site odors and emissions are associated with this code amendment.**

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

None.

### 3. Water

a. Surface Water:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

**San Juan County has year round, seasonal streams, lakes, ponds, wetlands and saltwater bodies.**

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

**The amendments are nonproject actions and not specific project activities.**

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

**This question is not applicable to a nonproject action. No fill materials are associated with this proposal and nonproject action.**

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

**This question is not applicable to a nonproject action. No withdrawals are associated with this proposal and nonproject action.**

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

**This question is not applicable to a nonproject action.**

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

**No. This is a nonproject action that amends the regulations. The amendments will not involve the discharge of waste materials into surface waters.**

b. Ground Water:

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

**No. This is a nonproject action that amends development regulations. The amendments do not involve the creation of a well.**

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

**None will be discharged directly by this nonproject action.**

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

**The nonproject action will not create any sources of runoff.**

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

**No. There will be no sources of runoff produced by the nonproject action.**

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

**No. The ordinance will have no impact on any drainage pattern.**

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

**None are proposed for the nonproject action.**

#### 4. Plants

- a. Check the types of vegetation found on the site: **This is not applicable to a nonproject action.**

The types are underlined:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- Orchards, vineyards or other permanent crops.

\_\_\_\_\_ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other  
\_\_\_\_\_ water plants: water lily, eelgrass, milfoil, other  
\_\_\_\_\_ other types of vegetation: \_\_\_\_\_

b. What kind and amount of vegetation will be removed or altered?

**The question is not applicable to this nonproject action. No vegetation will be removed or altered.**

c. List threatened and endangered species known to be on or near the site.

**The question is not applicable to this nonproject action. There is no site.**

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

**The question is not applicable to this nonproject action. This is a project that effects the entire unincorporated County, there is no individual site.**

e. List all noxious weeds and invasive species known to be on or near the site.

**Not applicable to this nonproject action. There is no individual site.**

## 5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. **Not applicable.**

Examples include:

birds: hawk, heron, eagle, songbirds, other:  
mammals: deer, bear, elk, beaver, other:  
fish: bass, salmon, trout, herring, shellfish, other \_\_\_\_\_

**There is not a specific project site so this is not applicable.**

b. List any threatened and endangered species known to be on or near the site.

**There is not a specific project site so this is not applicable.**

c. Is the site part of a migration route? If so, explain.

**The San Juan Islands are part of the Pacific Coast Flyway.**

d. Proposed measures to preserve or enhance wildlife, if any:

**None. This is a project that effects the unincorporated County, there is no individual site.**

e. List any invasive animal species known to be on or near the site.

**There is not a specific project site so this is not applicable.**

## 6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

**There is not a specific project site so this is not applicable.**

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

**No. This is a project that effects the unincorporated County, there is no individual site and therefore no adjacent properties.**

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

**The proposed code amendments do not require energy conservation features. This is not applicable to a nonproject action.**

## 7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

**No there are no specific or general health hazards that could occur as a result of the amendments.**

- 1) Describe any known or possible contamination at the site from present or past uses.

**This question is not applicable to a nonproject action.**

- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

**There is no specific project or design.**

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

**There are none related to this nonproject action.**

Describe special emergency services that might be required.

**None. The nonproject action makes unrelated code corrections.**

- 4) Proposed measures to reduce or control environmental health hazards, if any:

**None. The nonproject action makes unrelated code corrections.**

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? **None. The nonproject action makes unrelated code corrections.**

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

**None. The nonproject action makes unrelated code corrections.**

3) Proposed measures to reduce or control noise impacts, if any:

**None. The nonproject action makes unrelated code corrections.**

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

**This question is not applicable to a nonproject action. The nonproject action makes unrelated code corrections. There is no single site.**

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

**This question is not applicable to a nonproject action. There is no single site.**

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

**This question is not applicable to a nonproject action.**

c. Describe any structures on the site.

**This question is not applicable to a nonproject action. There is no single site.**

d. Will any structures be demolished? If so, what?

**This question is not applicable to a nonproject action. The nonproject action makes unrelated code corrections. There is no single site.**

e. What is the current zoning classification of the site?

**This question is not applicable to a nonproject action. The nonproject action makes unrelated code corrections. There is no single site.**

f. What is the current comprehensive plan designation of the site?

**This question is not applicable to a nonproject action. There is no single site.**

g. If applicable, what is the current shoreline master program designation of the site?

**This question is not applicable to a nonproject action. There is no single site.**

i. Has any part of the site been classified as a critical area by the city or county? If so, specify.

**This question is not applicable to a nonproject action. There is no single site.**

j. Approximately how many people would reside or work in the completed project?

**Not applicable. There is no single site and no specific structure will be built.**

k. Approximately how many people would the completed project displace?

**Not applicable. There is no single site and no displacement.**

l. Proposed measures to avoid or reduce displacement impacts, if any:

**Not applicable.**

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

**This amendment would not change existing or projected land uses.**

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

**Not applicable.**

## 9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

**This proposal will not provide any housing.**

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

**None. This nonproject action will amend the regulations to address corrections.**

c. Proposed measures to reduce or control housing impacts, if any:

**None.**

## 10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

**This question is not applicable to a nonproject action.**

- b. What views in the immediate vicinity would be altered or obstructed?

**This question is not applicable to a nonproject action.**

- c. Proposed measures to reduce or control aesthetic impacts, if any:

**None.**

## 11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

**This question is not applicable to a nonproject action.**

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

**No. There is no single site.**

- c. What existing off-site sources of light or glare may affect your proposal?

**None. There is no single site.**

- d. Proposed measures to reduce or control light and glare impacts, if any:

**None. There is no single site.**

## 12. Recreation

- a. *What designated and informal recreational opportunities are in the immediate vicinity?*

**This question is not applicable to a nonproject action.**

- b. Would the proposed project displace any existing recreational uses? If so, describe.

**No. There is no single site.**

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

**This question is not applicable to a nonproject action. There is no single site.**

### 13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

**This question is not applicable to a nonproject action. There is no single site.**

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

**This question is not applicable to a nonproject action. There is no single site.**

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

**This question is not applicable to a nonproject action.**

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

**None. There is no single site.**

### 14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

**This question is not applicable to a nonproject action.**

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

**This question is not applicable to a nonproject action.**

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

**None.**

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

**This question is not applicable to a nonproject action.**

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

**This question is not applicable to a nonproject action.**

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

**This question is not applicable to a nonproject action.**

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

**This question is not applicable to a nonproject action.**

- h. Proposed measures to reduce or control transportation impacts, if any:

**This question is not applicable to a nonproject action.**

#### 15. Public Services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. **No.**
- b. Proposed measures to reduce or control direct impacts on public services, if any.

**None are needed.**

#### 16. Utilities

- a. Circle utilities currently available at the site:  
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,  
other \_\_\_\_\_

**This question is not applicable to a nonproject action. There is no single site.**

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. **This question is not applicable to a nonproject action. There is no single site.**

### C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Name of Signee: Linda Kuller, AICP

Position and Agency/Organization: Planning Manager, SJC Community Development

Date of Checklist: November 5, 2019 (DNS issued on November 6, 2019)

#### D. Supplemental sheet for nonproject actions

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

**There is no expected increase discharge to water; emission to air; production, storage, or release of toxic or hazardous substances; or production of noise beyond that which is allowed under the current code.**

Proposed measures to avoid or reduce such increases are:

**None. There are no expected increases in air emissions, discharge to water, production, storage or release of hazardous substances or noise related to the code amendments.**

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

**The proposed code amendments will not adversely affect plants, animals, fish, or marine life.**

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

**None. New construction projects must comply with local, state and federal environmental regulations. The San Juan County Comprehensive Plan and Unified Development Code contain policies and regulations the intent of which is to avoid, reduce and mitigate impacts to plants, animals, fish, or marine life, as well as to avoid, reduce and mitigate water pollution and stormwater runoff, air pollution, emission of toxic substances, and their impacts. Specific biological protection, pollution control and stormwater runoff measures are appropriate aspects of specific development permit applications. These concerns are addressed as part of the review of specific development project proposals.**

3. How would the proposal be likely to deplete energy or natural resources?

**The proposed amendments will not be likely to deplete energy or natural resources.**

Proposed measures to protect or conserve energy and natural resources are:

**None. The proposed amendments are not related to the protection or conservation of energy and natural resources.**

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

**They are not likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection.**

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

**The proposed amendments do not change the existing shoreline master program or land use designations that regulate the location of structures.**

Proposed measures to avoid or reduce shoreline and land use impacts are:

**They will not allow or encourage land and shoreline uses that are incompatible with existing plans.**

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

**The proposal is unlikely to increase demands on transportation or public services and utilities because the amendments do not change the location of those structures.**

Proposed measures to reduce or respond to such demand(s) are:

**Since the proposed amendments will not increase demands, no programmatic responses are necessary.**

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

**The proposed code amendments are necessary to make the code consistent with State law and court decisions, and for internal consistency.**

**ORDINANCE NO. \_\_\_\_\_ - 2020**

**ORDINANCE CORRECTING CODE INCONSISTENCIES AND INACCURACIES;  
AMENDING SJCC 18.20.160, 18.30.055, 18.70.030, 18.70.060, AND 18.80.140.**

**BACKGROUND**

- A. The course of time, various inconsistencies and inaccuracies develop in the County code as a result of changes in the law or later discovery of irregularities in the adoption process;
- B. The County Council specifically desires to correct the following issues:
1. Amend the regulations regarding siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011.
    - a. On March 22, 2011, the County Council adopted ordinance 10-2011 amending, among other things, the regulations regarding siting and permitting of Essential Public Facilities (formerly codified as 18.30.050(E)).
    - b. On November 20, 2012, the County Council adopted Ordinance 25-2012 which also amended, among other things, the regulations regarding siting and permitting of Essential Public Facilities. Ordinance 25-2012, however, inadvertently used an earlier version of 18.30.050(E) rather than then the regulations adopted in Ordinance 10-2011.
    - c. The County Council wishes to amend the regulations regarding siting and permitting of Essential Public Facilities to reflect the changes Council intended to adopt in Ordinance 10-2011.
  2. The definition of “personal wireless service facility or PWSF”
    - a. On June 26, 2012, the County Council adopted Ordinance 10-2012 amending the regulations regarding wireless facilities.
    - b. The definition of “personal wireless service facility or PWSF” was amended to include towers and transmission cables and to exempt amateur radio towers and antennas.
    - c. When amending the definition, it appears the words “Telecommunications Act of 1996” were inadvertently stricken out, resulting in a portion of the definition appearing nonsensical.

- 1                   d. The County Council wishes to correct this definition to include the  
2                   inadvertently stricken words.  
3
- 4                   3. Amend regulations regarding boundary line modifications so that they are  
5                   consistent with state law.  
6
- 7                   a. RCW 58.17.040(6) states that, under certain circumstances, the  
8                   boundaries of platted lots can be modified without being subject to the  
9                   provisions of Chapter 58.17 RCW, the subdivision statute. In order to be  
10                  exempt, the lot, platted or unplatted, must not “create any additional lot,  
11                  tract, parcel, site, or division nor create any lot, tract, parcel, site or  
12                  division which contains insufficient area and dimension to meet minimum  
13                  requirements for width and area for a building site.”  
14
- 15                  b. SJCC 18.70.030(A)(1)(a), however, only includes a portion of this state  
16                  requirement.  
17
- 18                  c. The County Council wishes to amend SJCC 18.70.030(A)(1)(a) so that it  
19                  is consistent with the state requirements in RCW 58.17.040(6).  
20
- 21                  4. Amend SJCC 18.70.060(B)(10)(a) to comply with a court ruling which held that  
22                  this provision is in violation of RCW 82.02.020.  
23
- 24                  a. In 2008, property owners Pat and Stephanie O’Day sued the County  
25                  alleging that SJCC 18.70.060(B)(10)(a) violates RCW 82.02.020.  
26
- 27                  b. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a)  
28                  violates RCW 82.02.020 as a tax on the subdivision of land and that this  
29                  section of the San Juan County Code is invalid and should not be applied.  
30
- 31                  c. This provision has not been applied since the date of the court ruling.  
32
- 33                  d. The County Council wishes to remove this provision from the county  
34                  code.  
35
- 36                  5. Amend inconsistent language in SJCC 18.80.140(I)(1).  
37
- 38                  a. SJCC 18.80.140(I)(1) addresses SEPA appeals of nonproject actions and  
39                  indicates that Table 8.4 shows the appeal path for nonproject actions.  
40
- 41                  b. Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition  
42                  Act.  
43
- 44                  c. The Land Use Petition Act addresses “project actions” and is therefore not  
45                  the correct reference for SEPA appeals of nonproject actions.  
46

1 d. The County Council wishes to correct this inconsistency.  
2

3 C. In compliance with the State Environmental Policy Act (SEPA), the environmental and  
4 nonproject action SEPA checklists were completed for the project. It was determined  
5 that the proposals would be unlikely to create any significant adverse environmental  
6 impacts. A Determination of Non-significance (DNS) was issued on November 6, 2019.  
7 The DNS and notice of the December 20, 2019 Planning Commission public hearing  
8 advertised in the Journal of the San Juan Islands and The San Juan Islander on November  
9 6, 2019. The checklists and DNS were provided to federal, state and local agencies in  
10 accordance with SJCC 18.80.050 and WAC 197-11-340. The Washington State  
11 Department of Ecology published notice of the SEPA determination on their SEPA  
12 register under No. XXXXXX.  
13

14 D. As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of  
15 amendments to the Comprehensive Plan was provided to the Washington State  
16 Department of Commerce on November 4, 2019. On the same day, Commerce  
17 acknowledged receipt of the notice that was processed by the State under Material ID No.  
18 XXXXX.  
19

20 E. Planning Commission was briefed on the proposal on November 15, 2018.  
21

22 F. Planning Commission held a duly advertised public hearing on December 20, 2019,  
23 deliberated and recommended that the County Council should XXX the ordinance.  
24

25 G. County Council was briefed on the Planning Commission's recommendation on January  
26 XX, 2020.  
27

28 H. County Council held a duly advertised public hearing on February X, 2020.  
29  
30

31 WHEREAS, the County conducted a duly advertised public hearing and has received public  
32 testimony.  
33

34 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,  
35 State of Washington, as follows:  
36

37 **Section 1. SJCC 18.20.160 and Ordinance 1-2016 § 75 are each amended to read**  
38 **as follows:**  
39

40 **18.20.160 "P" definitions.**  
41

42 "Parcel" means a lot or plot of land proposed or created in accordance with this code or prior  
43 subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or  
44 future, of transfer of ownership. The external boundaries existing as of October 2, 1979, are used  
45 to establish what is a parcel for the purposes of this code. For parcels which have not been

1 conveyed since that date, the legal description used in the conveyance closest to that date  
2 controls. The term “parcel” is synonymous with the terms “lot” and “tract.”  
3

4 “Park” means a tract of land that is specifically designated as a “park” and is used by the public  
5 for recreation.  
6

7 “Parking area” means a space where vehicles are left temporarily such as a road end. These areas  
8 are typically noncommercial and unpaved areas that may be in the County right-of-way and may  
9 provide visual or physical access to the shoreline.

10  
11 “Parking lot” means an off-street, ground level open area, usually improved, for the temporary  
12 storage of motor vehicles.  
13

14 “Parking structure” means a building or structure consisting of more than one level and used to  
15 store motor vehicles. Underground parking is considered a parking structure.  
16

17 “Party of record” means all persons, agencies, or organizations who have submitted written  
18 comments or notified San Juan County of their desire to receive a copy of the final decision on a  
19 permit (WAC 173-27-030).  
20

21 “Peak demand” means the highest demand associated with a particular interval, such as peak day  
22 or peak hour.  
23

24 “Performance standard” means a set of criteria or limits relating to certain characteristics that a  
25 particular use or process may not exceed.  
26

27 “Permanent moorage facility” means a facility which provides wet moorage or dry storage for  
28 pleasure craft or commercial craft for a fee for periods of six months or more.  
29

30 “Permanently affordable housing” means affordable housing, the affordability of which is  
31 assured for at least 99 years.  
32

33 Permit Center. See “department.”  
34

35 “Permit review” means the process of reviewing applications for project permits for consistency  
36 with the requirements of this code.  
37

38 “Permittee” means the entity to whom a permit is granted.  
39

40 “Person” means any individual, owner, contractor, tenant, partnership, corporation, association,  
41 organization, cooperative, public or municipal corporation, agency of a state or local  
42 governmental unit however designated, public or private institution, or an employee or agent of  
43 any of the foregoing entities.  
44

45 “Personal and professional services” means, for the purposes of this code, establishments  
46 primarily engaged in providing assistance, as opposed to products, to individuals, business,

1 industry, government, and other enterprises, not listed specifically in this code as a distinct use  
2 for regulatory purposes, such as laundry and dry cleaning services; barber shops and beauty  
3 salons; legal, engineering, architectural, design and accounting services; and the like.  
4

5 “Personal wireless service facility or PWSF” means a facility for the provision of personal  
6 wireless services, as defined by the Telecommunications act of 1996 and includes the property  
7 lease area and all towers, antennas, mounts, transmission cables, equipment shelters or cabinets,  
8 and any other installations for the operation of a personal wireless facility. Amateur radio towers  
9 and antennas are not PWSFs and are exempt from height requirements in accordance with SJCC  
10 18.60.050.  
11

12 “Personal wireless services” means any Federal Communications Commission (FCC) licensed  
13 commercial wireless telecommunications service defined in Section 704 of the Federal  
14 Telecommunications Act of 1996, including cellular, personal communications services (PCS),  
15 commercial mobile radio services, unlicensed wireless services, and common carrier wireless  
16 exchange access services. “Personal wireless services” does not include the operation of amateur  
17 radio.  
18

19 “Pervious surface” means a surface that absorbs water.  
20

21 “Pier” means a structure that abuts the shoreline and is generally used as a landing or moorage  
22 place for commercial and pleasure craft. A pier is a fixed platform above the water.  
23

24 “Planned unit development” means a development characterized by a unified site design,  
25 clustered residential units or commercial units, and areas of common open space.  
26

27 “Planning department,” “permit center,” and “building department” all mean the San Juan  
28 County community development and planning department.  
29

30 Planning Director. See “director.”  
31

32 “Plat” means a map or representation of a subdivision or short subdivision of land showing the  
33 division of a parcel of land into lots, roads, dedications, common areas, restrictions and  
34 easements, as regulated by Chapter 58.17 RCW and this code.  
35

36 Plat Alteration. See “subdivision, alteration of.”  
37

38 Plat, Long. See “subdivision (long).”  
39

40 Plat, Short. See “subdivision, short.”  
41

42 Plat Vacation. See “subdivision, vacation of.”  
43

44 “Playing field” means a land area designed and used for outdoor games, such as baseball,  
45 football, soccer, track events and tennis. It includes public outdoor swimming pools.  
46

1 “Pocket beach” means a Class II or Class III beach which does not depend on littoral drift  
2 accretion. It depends on the erosion of immediately adjacent sources.

3  
4 “Point” means a low profile shoreline promontory of more or less triangular shape, the tip of  
5 which extends seaward.

6  
7 “Point-of-use demand management” means a set of policies, procedures, and facilities that  
8 provide for the maximum efficiency where they are actually used, as distinguished from  
9 efficiency practices in supply, transmission, and distribution systems.

10  
11 “Point-source discharge” means the release of waste or other flows which can be described as  
12 confined to a small area, such as discharges from a pipe or conduit. Releases occurring over a  
13 broad or undefined area are referred to as “nonpoint sources.” (See also “nonpoint source.”)

14  
15 “Ports and water-related port facilities” means shoreline modifications such as breakwaters,  
16 jetties, groins and over-water structures that are located within the jurisdiction of a port district.

17  
18 “Ports, marinas, and marine transportation designation” means the Shoreline Master Program  
19 designation intended to protect, maintain, and enhance port, marina and marine transportation  
20 uses and areas within the County’s shoreline. This designation is characterized by infrastructure  
21 for launching, docking, mooring, maintaining, repairing, and storing a variety of marine craft.

22  
23 “Potential critical aquifer recharge areas” means areas identified as significant due to their  
24 potential value in supplying groundwater and vulnerability to contamination. They are identified  
25 based upon the relative ability of the soil to accept water and allow it to flow to become  
26 groundwater.

27  
28 “Predecision hearing, open-record” means a hearing, conducted by the hearing examiner, that  
29 creates the County’s record through testimony and submittal of evidence and information, under  
30 procedures prescribed by the County by ordinance or resolution (RCW 36.70B.020).<sup>1</sup>

31  
32 “Preliminary plat” means a neat and approximate drawing of a proposed subdivision or short  
33 subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a  
34 subdivision consistent with the requirements of this code and Chapter 58.17 RCW.

35  
36 “Primary association” in the context of critical area regulations refers to those areas that provide  
37 fish and wildlife habitat, including physical and biological features, that are necessary for a  
38 species to survive over the long term. Examples include areas that are necessary for essential life  
39 cycle functions including areas used for feeding, nesting, breeding, and rearing.

40  
41 “Primary surface” means the FAA imaginary surface that is longitudinally centered on and  
42 encloses an aircraft runway.

43  
44 “Primary use” means the principal use of a property.  
45

1 “Project permit” refers to a land use permit or license required from San Juan County for a  
2 project, such as land divisions, boundary line modifications, binding site plans, planned unit  
3 developments, conditional use permits, variances, shoreline substantial development permits  
4 (shoreline conditional use permits, shoreline variances), provisional use permits and temporary  
5 use permits. Concurrency findings, determinations of completeness, and other such  
6 administrative approvals are reviewed as part of the underlying project permit and are not project  
7 permits. SEPA threshold determinations are not project permits. Building, driveway, and other  
8 construction-type development permits and approvals are not project permits for this UDC  
9 (RCW 36.70B.020(4) and 36.70B.140). (See “development permit.”)

10  
11 “Proprietor-occupied” means the residential occupancy by the owner of a building or property.

12  
13 “Provision” means any written language contained in this code, including without limitation any  
14 definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

15  
16 “Public access areas” means ways or means of approach to provide the general public with a  
17 physical entrance to a property.

18  
19 “Public facilities” means facilities which serve the general public including streets, roads, ferries,  
20 sidewalks, street and road lighting systems, traffic signals, community water systems,  
21 community sewage treatment systems, storm sewer systems, parks and recreational facilities, and  
22 public schools.

23  
24 “Public schools” means a building (and grounds) or part thereof designed, constructed, or used  
25 for publicly operated education or instruction.

26  
27 “Public services” means services available to and used by the general public. They may be, but  
28 are not necessarily, provided by a public agency for fire protection and suppression, law  
29 enforcement, public health, education, recreation, environmental protection, and other  
30 governmental services (RCW 36.70A.030(13)). Some public services are essential public  
31 facilities.

32  
33 “Public transportation systems” means public facilities for air, water, or land transportation.

34  
35 **Section 2. SJCC 18.30.055 and Ordinance 25-2012 §9 are each amended to read**  
36 **as follows:**

37  
38 **18.30.055 Siting and permitting of essential public facilities (EPFs).**

39  
40 The Growth Management Act directs that no comprehensive plan or development regulation may  
41 preclude the siting of essential public facilities (RCW 36.70A.200(2)). The identification,  
42 location, and permitting of essential public facilities shall be guided by the policies of the  
43 Comprehensive Plan, including Section B, Element 2 (Land Use), Element 3 (Shoreline Master  
44 Program), and Appendix 2 (Joint Planning Policies), along with the requirements of SJCC Titles  
45 16 and 18.

1 A. Proposed facilities that satisfy County development standards shall follow the standard  
2 permitting procedures. Facilities that do not meet one or more development standards may be  
3 permitted as provided in this section. General. Facilities that meet County development  
4 standards shall follow the standard permitting procedures. Facilities that cannot meet one or  
5 more requirements may be permitted as provided in this section.  
6

7 B. Determination of an Essential Public Facility. ~~Many facilities serving the public are either~~  
8 ~~listed under the definition of "essential public facility" or are identified in the Comprehensive~~  
9 ~~Plan as an essential public facility. These facilities are predetermined to be EPFs and no~~  
10 ~~additional review is required. Essential Public Facilities are identified in both the Comprehensive~~  
11 ~~Plan and the definition section of this Title. Additional Essential Public Facilities may be~~  
12 ~~identified by either amendment to the Comprehensive Plan and this Chapter or by submission of~~  
13 ~~a request for EPF determination as follows:~~

14  
15 ~~The following process applies to facilities that have not been defined to be an EPF. These~~  
16 ~~facilities, which could be either publicly or privately owned, may submit a written request that~~  
17 ~~the County council make a determination that a facility is an EPF.~~  
18

19 1. ~~Requests for designation as~~ A request for determination that a facility is an EPF shall  
20 contain a conceptual description of the facility, an explanation of the need for the facility,  
21 a preliminary development schedule, identification of any sites that are under  
22 consideration, and required fees.  
23

24 2. After receiving such a request, the County council shall hold a public hearing to  
25 discuss the request. At least 45 days prior to the meeting, the department shall provide  
26 notice in the legal section of the official County newspaper, and if particular sites are  
27 under consideration, at least 45 days prior to the meeting, notice shall be mailed to all  
28 owners of property within 500 feet of the parcel boundaries of those sites.  
29

30 3. Following the public hearing, the County council shall adopt a resolution as to whether  
31 the proposed facility is an EPF.  
32

33 C. Siting of New EPFs. ~~When developed in conformance with the following requirements, a new~~  
34 ~~EPF may be located in land use designations where one or more uses which comprise the facility~~  
35 ~~are prohibited, where they are inconsistent with the Comprehensive Plan goals and policies for~~  
36 ~~the designation, or within frequently flooded or geologically hazardous areas. The following~~  
37 ~~procedures provide a method for siting essential public facilities when there is no suitable site~~  
38 ~~with a land use designation that allows the proposed use:~~  
39

40 1. Prior to initiating the following process the applicant shall pay the associated fees.  
41

42 2. The department and applicant shall identify potential sites for the proposed facility.  
43

44 3. ~~The department and applicant shall develop a methodology for selecting the site which~~  
45 ~~includes, at a minimum, consideration of:~~ The applicant shall analyze potential sites

1 based on consideration of the following criteria along with any factors identified by the  
2 department which are specific to the proposed type of facility:  
3

4 a. Potential impacts ~~Impaets~~ on existing land uses, resource lands, open space,  
5 scenic resources, critical areas, and the natural and rural environment;  
6

7 b. The priority for the protection of resource lands:  
8

9 ~~b. c.~~ How the location will help maintain or enhance the quality or minimize the  
10 cost of the service;  
11

12 ~~e. d.~~ Economic, social and environmental impacts and benefits to the public;  
13

14 ~~d. Priority should be given to sites located in land use designations that are most~~  
15 ~~compatible with the facility; furthermore, sites in resource, natural, or~~  
16 ~~conservancy designations, and those where the facility would be located in~~  
17 ~~wetlands, fish and wildlife habitat conservation areas, geologically hazardous~~  
18 ~~areas or frequently flooded areas are disfavored;~~  
19

20 e. The siting criteria and recommendations provided by the joint County/town of  
21 Friday Harbor task force, if it is established (applicable only to facilities located  
22 on San Juan Island);  
23

24 f. Prevention of incompatible uses adjacent to general aviation airports; and  
25

26 g. The extent to which design features or operational conditions can eliminate or  
27 reduce unwanted project impacts; and  
28

29 h. Whether the site is capable of being redesignated to an appropriate land use  
30 designation, i.e., whether it is capable of meeting the Comprehensive Plan goals  
31 and policies for a designation that allows the proposed essential public facility.  
32

33 4. The applicant shall prepare an analysis and comparison of the potential sites, using the  
34 ~~methodology developed as~~ criteria described above.  
35

36 5. The department and applicant shall hold a public meeting to discuss the analysis and  
37 the potential sites. At least 45 days prior to the meeting, the department shall provide  
38 notice in the legal section of the official County newspaper, and at least 45 days prior to  
39 the meeting, notice shall be mailed to all owners of property within 500 feet of the parcel  
40 boundaries of the sites under consideration.  
41

42 6. Following this meeting the applicant shall select the site and prepare a written request  
43 to the County council for approval of the site and authorization to apply for redesignation  
44 of the site an essential public facility conditional use permit. This request shall include a  
45 conceptual description of the facility, a conceptual site plan, an explanation of the need  
46 for the facility, an explanation of the methodology used to select the site, the analysis and

1 comparison of sites that were considered, and an explanation of why the proposed site  
2 was selected.  
3

4 7. After receiving such a request, the County council shall conduct a public hearing to  
5 accept public input. At least 45 days prior to the hearing, the County shall provide notice  
6 in the legal section of the ~~official County newspaper of record~~, and at least 45 days prior  
7 to the hearing notice shall be mailed to all owners of property within 1,000 feet of the  
8 parcel boundaries of the proposed site.  
9

10 8. If the council finds that the proposal is appropriate and in the public interest based on  
11 the above selection ~~methodology criteria~~, analysis and testimony, it they shall approve the  
12 site and authorize application for redesignation, ~~an essential public facility conditional~~  
13 ~~use permit~~.  
14

15 ~~After council approval, the hearing examiner is vested with the authority to consider an~~  
16 ~~essential public facility conditional use permit application according to the procedures of~~  
17 ~~Chapter 18.80 SJCC~~. If the request is denied, the council shall state the reasons for  
18 denial, shall identify preferred alternative sites, and shall identify actions the applicant  
19 can take to gain approval of a site.  
20

21 D. Existing Nonconforming Essential Public Facilities. Where an existing essential public  
22 facility (EPF) or a proposed expansion of an existing facility is nonconforming, it may be  
23 expanded on site or in combination with an adjacent parcel or parcels provided the County  
24 council holds a public hearing and determines that any nonconformity with respect to County  
25 regulations regarding critical areas or resource lands will not be increased and that the public  
26 benefits of expanding the facility in the existing location outweigh the economic, social and  
27 environmental impacts associated with relocating the facility. After said determination, the  
28 hearing examiner is vested with the authority to consider an application for expansion according  
29 to the essential public facility conditional use permit procedures of Chapter 18.80 SJCC.  
30

31 E. Where a facility is located or proposed in an appropriate land use ~~or shoreline designation~~, but  
32 cannot meet one or more of the development standards included in SJCC Title 16 or 18, the  
33 proposal may be approved with an essential public facility conditional use permit as provided in  
34 Chapter 18.80 SJCC.  
35

36 **Section 3. SJCC 18.70.030 and Ordinance 12-2001 § 7 are each amended to read**  
37 **as follows:**  
38

39 **18.70.030 Boundary line modifications.**  
40

41 A. Purpose and Procedures. To ensure compliance with RCW 58.17.040 and 58.17.060 and  
42 provide a procedure for the modification of property boundary lines common between lots.  
43 Boundary line modifications are reviewed according to the procedures in this section.  
44

1 Boundary line modifications may make substantive changes in the boundary line location, and  
2 boundaries may be modified for purposes other than rectifying an error. Boundary line  
3 adjustments may only be used in order to rectify errors; see SJCC 18.70.010(C)(7).  
4

5 1. A boundary line modification shall not:  
6

7 a. Create any additional lot, tract, parcel, site, or division nor create any lot, tract,  
8 parcel, site, or division which contains insufficient area and dimension to meet  
9 minimum requirements for width and area for a building site;  
10

11 b. Affect access, easements or drainfields without the consent of the affected  
12 party;

13 c. Amend the conditions of approval for previously platted property;

14 d. Violate Uniform Fire Code or Uniform Building Code requirements on  
15 developed commercial and multifamily property;

16 e. Adversely affect the public health, safety, and general welfare; or  
17

18 f. Establish a lot line that causes an existing structure to violate setback or other  
19 standards of this code.  
20

21 2. Multiple applications for boundary line modifications and simple land divisions or  
22 combinations of applications and exemptions shall not be used as a substitute for meeting  
23 the requirements for subdivisions or short subdivisions pursuant to this chapter.  
24

25 3. Boundary line modifications may include:  
26

27 a. Boundaries that involve unplatted land; or  
28

29 b. The elimination of unplatted lot(s) where boundary lines are modified to such a  
30 degree that a lot is eliminated between lots being enlarged. Notice of such  
31 modifications shall be recorded on the deed(s) to state that the original separately  
32 described parcels shall not be separately conveyed or further modified without  
33 legal division.  
34

35 c. The modification of parcels such that the resultant parcel(s) cross(es) the  
36 applicable land use designation boundaries.  
37

38 4. A boundary line modification that affects a platted lot line (i.e., that involves land  
39 which is included within a subdivision or short subdivision) shall be processed as a  
40 subdivision alteration, pursuant to the requirements of SJCC 18.70.080(A).  
41

42 5. The approval of a boundary line modification shall include a restriction prohibiting  
43 division for five years without a short or long subdivision, as follows:  
44  
45  
46

1 Pursuant to RCW 58.17.060 the property subject to this authorization may not be divided  
2 in any manner within a period of five (5) years without the filing of an application for a  
3 short or long subdivision.  
4

5 B. Notice of Application and Public Hearing.  
6

7 1. SEPA-Exempt, and No Shoreline Permit Required. Where no SEPA review is  
8 required, and no shoreline permit is required, a notice of application is not required. No  
9 public hearing is required.  
10

11 2. SEPA Review or Shoreline Permit Required. A notice of application is required as per  
12 SJCC 18.80.030. No public hearing is required unless a shoreline permit is required.  
13

14 C. Application Requirements. Applications for approval of boundary line modifications shall be  
15 submitted to the permit center in a form approved by the administrator, and must include:  
16

17 1. A completed application page which includes property owner information for each lot,  
18 and existing legal descriptions for each affected lot;  
19

20 2. A completed acknowledgment page, with signatures of all affected property owners;  
21

22 3. A completed map page, certified by the property owner or surveyor, drawn to an  
23 engineering scale, with a north arrow, and including the following information where  
24 applicable:  
25

26 a. Dashed lines for current boundaries and solid lines for proposed new lot lines;  
27

28 b. Current legal descriptions for each new parcel;  
29

30 c. Adjacent street names, if any, and locations;  
31

32 d. Existing or proposed easements for access, drainage, utilities, or sensitive  
33 areas;  
34

35 e. Existing structures and approximate distances to property lines;  
36

37 f. Existing wells, septic tanks and/or drainfields and approximate distances to  
38 property lines; and  
39

40 g. Identifying parcels as Lot A, Lot B, and so on, unless otherwise approved by  
41 the administrator;  
42

43 4. Assessor's maps; and  
44

45 5. Documentation that each parcel affected is in compliance with any applicable usable  
46 construction area requirement (see SJCC 18.70.060 (B)).

1 D. Review Authority. Boundary line modifications are reviewed and approved by the County  
2 pursuant to the authority provided in RCW 58.17.060.

3  
4 1. The administrator shall determine whether or not the proposed boundary line  
5 modification complies with any applicable usable construction area requirement (see  
6 SJCC 18.70.060 (B)).

7  
8 2. When a boundary line modification is approved that allows parcels larger or smaller  
9 than the average density, the administrator shall require a deed restriction to be recorded  
10 to credit or debit the allowable density of the appropriate parcels for purposes of future  
11 division, according to the allowable density in effect at the date of approval. If the  
12 allowable density for the parcels is changed at a future date, further subdivision may be  
13 allowed depending upon the density in effect at that later date.

14  
15 3. The County engineer shall review all boundary line modifications to ensure that  
16 adequate future driveway access can be provided for parcels adjacent to County roads.

17  
18 4. The County engineer shall review and approve all legal descriptions.

19  
20 5. The County sanitarian shall review all boundary line modifications to ensure that they  
21 comply with the requirements of the San Juan County health and community services  
22 department for water and sewage disposal (SJCC Title 13).

23  
24 E. Decisionmaking Authority. The administrator is vested with authority to approve or deny  
25 proposed boundary line modifications. Within five business days of accepting a completed  
26 application the administrator shall approve, disapprove, or return it if incomplete, and shall  
27 notify the applicant of action taken on the application.

28  
29 F. Criteria for Approval. A boundary line modification shall only be approved if:

30  
31 1. The application meets the requirements in SJCC 18.70.020 and this section and the  
32 applicable standards in Chapters 18.50 and 18.60 SJCC, and complies with the policies  
33 and requirements of Chapter 58.17 RCW, the Shoreline Master Program (if applicable),  
34 the State Environmental Policy Act, and the Comprehensive Plan;

35  
36 2. The application satisfactorily addresses the comments of the reviewing authorities;

37  
38 3. Revisions. Requests for revisions which are not made in response to staff review may  
39 require a new application if the administrator finds the revisions to be substantial and  
40 material.

41  
42 G. Final Approval and Recording.

43  
44 1. Approvals of boundary line modifications shall expire if the authorized deeds  
45 transferring property ownership, together with a copy of the approved boundary line  
46 modification and map, are not recorded within six months of the approval, unless the

1 application identified the modification as subject to a pending development permit  
2 application as a documented contingency agreement between the prospective land seller  
3 and purchaser. In that event, the recordings required above shall be filed within 30 days  
4 of the effective date of the approved development permit or shall become void upon the  
5 denial of a development permit. Documentation authorizing the transfer of property  
6 ownership may be placed on the original boundary line map along with the legal  
7 descriptions of those portions of land being transferred.  
8

9 2. The final map page shall contain an approval block to be signed by the administrator.  
10 The County auditor shall insure that proposed boundary line modifications are first  
11 approved by the administrator prior to recording.  
12

13 H. Appeals. Decisions by the administrator may be appealed to the hearing examiner in  
14 accordance with procedures specified in SJCC 18.80.140.  
15

16 **Section 4. SJCC 18.70.060 and Ordinance 2-2002 are each amended to read as**  
17 **follows:**  
18

19 **18.70.060 Subdivision and short subdivision design and development standards.**  
20

21 A. General Standards. The standards contained in this section and other sections of the UDC  
22 shall apply to subdivisions and short subdivisions regulated by this section, unless otherwise  
23 stated in this code.  
24

25 B. Subdivision Design Standards.  
26

27 1. Access to Shorelines and Common Easements.  
28

29 a. Subdivisions and short subdivisions adjacent to water subject to the jurisdiction  
30 of the Shoreline Master Program shall provide dedication of access to such bodies  
31 of water as required by the Shoreline Master Program.  
32

33 b. Dedications to the lot owners for access shall be to the low water mark if the  
34 subdivider holds ownership or a lease of the tidelands.  
35

36 c. Subdivisions shall provide a common easement for a common water supply for  
37 individual lots of less than 15 acres.  
38

39 2. Clustering. The administrator shall encourage clustering of units and lots in land  
40 division proposals, and shall inform applicants of alternatives to standard land division.  
41 Clustering may not be used to create lots smaller than the allowed minimum lot sizes  
42 where established by SJCC 18.70.010(E) or in applicable subarea plans. The sanitarian  
43 shall consider an approved water system or a proven common well supply in lieu of  
44 individual wells on clustered lots.  
45

1 3. Conforming to Natural Features and Topography. To the greatest degree possible, all  
2 subdivisions shall be designed to conform to the natural features of the land. Problems  
3 such as eroding cliffs or other potentially hazardous conditions must be divided with the  
4 general welfare and safety of persons and property in mind.  
5

6 4. Usable Construction Area. All proposed lots shall provide a usable area for the  
7 construction of a dwelling unit, approved sewage system, and an approved water supply.  
8

9 5. Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-  
10 of-way. Where a pre-existing road divides a lot where there is no alternative to such a  
11 division the administrator may grant a discretionary exception.  
12

13 6. Buffers and Setbacks. All subdivisions shall meet the setback requirements and other  
14 density, dimension, and open space standards of SJCC 18.60.050, and the landscaping  
15 and screening requirements of SJCC 18.60.160.  
16

17 7. Number of Lots. Subdivisions may include any number of lots. Short subdivisions are  
18 limited to no more than four lots.  
19

20 8. Standards for Agricultural and Forest Resource Lands. On all agricultural or forest  
21 resource lands (AG and FOR) the maximum area of development which is not related to  
22 agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area,  
23 but not less than one acre, regardless of the assigned density. Further, in the division of a  
24 parcel by any means, the allowable area for conversion of the parent parcel to nonfarm  
25 and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than  
26 five acres.  
27

28 9. Standards for Rural Farm-Forest (RFF) Districts. In RFF land use districts, no more  
29 than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive  
30 of roads and driveways.  
31

32 10. Conservation Design Requirements. All land divisions in resource land, conservancy,  
33 and rural designations (outside of areas of more intensive rural development), and all  
34 shoreline areas shall protect open space and scenic resources as well as natural resources  
35 by meeting the following design and development requirements:  
36

37 ~~a. At a minimum, 60 percent of the area of the parcel to be divided shall be~~  
38 ~~maintained as open space area from which all construction related to residential~~  
39 ~~use (houses, residential outbuildings, parking and residential landscaping) shall be~~  
40 ~~excluded. Wells, septic systems, biofiltration, and ponds approved as pumper~~  
41 ~~supply points, may be placed within the nonbuilding area of a parcel.~~  
42

43 ~~a~~b. The significance and sensitivity of open space resources shall be identified for  
44 the entire parcel to be divided using the landscape information in Parts III and IV  
45 (Open Space Atlas and Map Folio) of the San Juan County Open Space and

1 Conservation Plan (SJCC 18.30.190(F)) and the criteria and rating scales in Part  
2 III of that plan.

3  
4 be. The land division design shall adhere to the following principles to the extent  
5 practicable:

6  
7 i. Establish nonbuilding portions of new parcels to be contiguous with one  
8 another and to contain the most sensitive open space features of the site  
9 within them.

10  
11 ii. Establish the location of roads, individual driveways, houses and  
12 outbuildings, and utilities, to minimize intrusion on the most sensitive  
13 open space features of the site.

14  
15 iii. Maintain existing orchards, meadows and pasture areas.

16  
17 iv. Leave ridgelines and contrasting edges between landscape types  
18 unbroken by structures.

19  
20 v. On rolling open or steep open slopes, locate building areas so that  
21 buildings will be screened by existing vegetation or terrain.

22  
23 vi. Ensure that the protection of features such as wetlands and wildlife  
24 habitat.

25  
26 cd. Use and management provisions for the nonbuilding area of each parcel shall  
27 be specified on the face of the plat.

28  
29 de. Building and nonbuilding locations of each parcel shall be indicated on the  
30 face of the plat.

31  
32 ef. Alternative Design.

33  
34 i. At least 60 percent of the entire parcel to be divided may be retained  
35 within a single tract maintained as open space from which all construction  
36 related to residential use (houses, residential outbuildings, parking, and  
37 residential landscaping) shall be excluded. Wells, septic systems,  
38 biofiltration, and ponds approved as pumper supply points, may be placed  
39 within the conservation area. Individual building lots shall be clustered or  
40 otherwise located in a manner consistent with the principles in subsection  
41 (B)(10)(e b) of this section.

42  
43 ii. The open space area shall be owned and managed as a single entity. The  
44 open space tract or easement may be transferred as indivisible open space  
45 to a conservation organization, held in perpetuity as an indivisible portion  
46 of one of the lots, or held by the lot owners in common. Use and

1 management provisions for the conservation tract shall be specified on the  
2 face of the plat.

3  
4 iii. If the conservation tract is created as a lot separate from a residential  
5 lot it may be leased for agricultural or forest management uses.  
6 Outbuildings other than structures for human habitation may be provided  
7 for to support agricultural activity on land in agricultural use.

8  
9 iv. All other requirements of this subsection (B)(10) shall apply.

10  
11 fg. San Juan Valley Heritage Plan Overlay District Conservation Incentive Bonus.  
12 Division of parcels in the San Juan Valley heritage plan overlay district located  
13 within that portion of the agricultural resource land area designated on the official  
14 maps at densities of 10 acres per unit shall be eligible for a density of up to five  
15 acres per unit if the following standards are met in addition to the requirements of  
16 subsection (B)(10) of this section, Conservation Design Requirements.

17  
18 i. The required open space area shall include at least 75 percent of the  
19 parcel to be divided and in no case shall the required open space area be  
20 smaller than 10 acres.

21  
22 ii. The maximum lot size for residential use shall be 1.5 acres and the  
23 minimum lot size for residential use shall be one-half acre.

24  
25 iii. Building lots may be grouped on the parcel to be divided; provided,  
26 that no individual group of building lots shall include more than six lots  
27 and groups of lots shall be separated from each other by at least 100 feet.

28  
29 iv. Building lots shown on the plat shall be presumed to be residential  
30 building locations.

31  
32 v. Existing parcels may be recombined for redivision according to this  
33 subsection (B)(10)(g f).

34  
35 C. Road and Drainage Standards.

36  
37 1. Design and Construction Standards.

38  
39 a. All roads serving two or more lots shall comply with the road design and  
40 construction standards specified in SJCC 18.60.080(A), (B) and (C).

41  
42 b. A drainage analysis shall be performed in conformance with SJCC 18.60.070,  
43 and drainage systems shall be designed to the standards in subsection (B) of this  
44 section and SJCC 18.60.070.  
45

1 2. Submittal of Final Plat. Information in drawing form shall be submitted to the  
2 administrator to meet the requirements of SJCC 18.60.100 (D).  
3

4 3. Responsibility for Road Improvements. The applicant bears the responsibility to make  
5 offsite private road improvements necessary to meet the road standards.  
6

7 D. Road Inspections. The following inspections are required:  
8

9 1. First inspection prior to preliminary approval;  
10

11 2. Second inspection prior to final approval and to establish bonding;  
12

13 3. Third inspection for release of road bond if necessary.  
14

15 E. Health Standards. The following health standards apply to all subdivisions and short  
16 subdivisions:  
17

18 1. Water. All land divisions shall comply with the requirements of the San Juan County  
19 health and community services department for water (SJCC Title 13).  
20

21 2. Sewer. All land divisions shall comply with the requirements of the San Juan County  
22 health and community services department for sewer (SJCC Title 13).  
23

24 3. Storm Drainage. Stormwater flows from the subdivision shall not adversely affect  
25 critical aquifer recharge areas. All subdivisions and short subdivisions must meet critical  
26 area regulations for aquifer recharge (see Chapter 18.30 SJCC).  
27

28 F. Fire and Utility Standards. All subdivisions and short subdivisions must meet the fire  
29 protection improvement standards contained in Chapter 13.08 SJCC.  
30

31 **Section 5. SJCC 18.80.140 and Ordinance 13-2018 §13 are each amended to read**  
32 **as follows:**  
33

34 **18.80.140 Appeals.**  
35

36 A. Appeals – General. Appeals are open-record appeals (see definitions in Chapter 18.20 SJCC),  
37 and include:  
38

39 1. Appeals to the hearing examiner of permits (development permits and/or project  
40 permits) granted or denied by the director (director is the decisionmaker);  
41

42 2. Appeals to the hearing examiner of administrative determinations or interpretations  
43 made by the director (director is the decisionmaker);  
44

45 3. SEPA appeals of project actions, as defined in WAC 197-11-704;  
46

- 1 4. Appeals of consolidated matters (i.e., appeal of administrative determination  
 2 consolidated with project permit application hearing);  
 3  
 4 5. A timely appeal of a code interpretation or decision made by the director or building  
 5 official stays the effective date of such decision until the matter has been resolved at the  
 6 County level. (See also SJCC 18.10.030 and RCW 36.70C.100.)  
 7  
 8 6. The appeal path for project permits is shown in Table 8.1. The appeal path for SEPA is  
 9 shown in Table 8.3.

**Table 8.3. SEPA Processing and Appeals.**

	Threshold Determination		EIS	
	DNS/MDNS	DS	DEIS	FEIS
<b>Comment Period Prior to Action (days)</b>	14	21	30	N/A
<b>Administrative Appeal Period (days)</b>	21	21	N/A	21
<b>Consolidated Hearings</b>	yes	no	N/A	yes
<b>Open-Record Appeal Hearing</b>	yes	yes	N/A	yes
<b>Decisionmaker for Administrative Appeal</b>	Hearing Examiner	Hearing Examiner	N/A	Hearing Examiner
<b>Further Appeals</b>	Superior Court (21 days per Chapter 36.70C RCW) or SHB (21 days per Chapter 90.58 RCW)	See RCW 43.21C.075; Superior Court, SHB: 21 days	N/A	Superior Court or SHB: 21 days

10  
 11 B. Open-Record Appeals. The San Juan County hearing examiner has authority to conduct open-  
 12 record appeal hearings of the following decisions by the director and/or responsible official, and  
 13 to affirm, reverse, modify, or remand the decision that is on appeal:

- 14  
 15 1. Boundary line modifications;  
 16  
 17 2. Simple land divisions;  
 18  
 19 3. Provisional use permits;  
 20

- 1 4. Short subdivisions;
- 2
- 3 5. Binding site plans (up to four lots);
- 4
- 5 6. Temporary use permits (Level II);
- 6
- 7 7. Discretionary use permits;
- 8
- 9 8. Administrative determinations or interpretations (see SJCC 18.10.030);
- 10
- 11 9. SEPA threshold determinations (DNS and DS) of project actions (see WAC 197-11-
- 12 704);
- 13
- 14 10. EIS adequacy for project actions;
- 15
- 16 11. Development permits issued or approved by the director;
- 17
- 18 12. Consolidated matters where the director was the decisionmaker; and
- 19
- 20 13. Flood development permits issued or approved by the director.

21  
22 C. Standing to Appeal. Appeals to the hearing examiner may be initiated by:

- 23
- 24 1. The applicant;
- 25
- 26 2. Any recipient of the notice of application (see SJCC 18.80.030);
- 27
- 28 3. Any person who submitted written comments to the director concerning the
- 29 application; and
- 30
- 31 4. Any aggrieved person.

32  
33 D. Time Period and Procedure for Filing Appeals.

- 34
- 35 1. Appeals to the hearing examiner must be filed (and appeal fees paid) within 21
- 36 calendar days following the date of the written decision being appealed; and
- 37
- 38 2. Appeals of a SEPA threshold determination or an FEIS must be filed within 21 days
- 39 following the date of the threshold determination or FEIS.
- 40
- 41 3. All appeals shall be delivered to the director by mail, personal delivery, or fax, and
- 42 received before 4:30 p.m. on the due date of the appeal period. Applicable appeal fees
- 43 must be paid at the time of delivery to the director for the appeal to be accepted.
- 44
- 45 4. For the purposes of computing the time for filing an appeal, the date of the decision
- 46 being appealed shall not be included. If the last day of the appeal period is a Saturday,

1 Sunday, or a day excluded by RCW 1.16.050 as a legal holiday for the County, the filing  
2 must be completed on the next business day (RCW 36A.21.080).  
3

4 5. Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee, and  
5 contain the following information:  
6

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

8  
9 b. Appellant's statement describing standing to appeal (i.e., how he or she is  
10 affected by or interested in the decision);  
11

12 c. Identification of the decision which is the subject of the appeal, including date  
13 of the decision being appealed;  
14

15 d. Appellant's statement of grounds for appeal and the facts upon which the  
16 appeal is based;  
17

18 e. The relief sought, including the specific nature and extent; and  
19

20 f. A statement that the appellant has read the appeal and believes the contents to  
21 be true, signed by the appellant.  
22

23 E. Notice of Hearing. The director shall give notice of the appeal hearing as provided in SJCC  
24 18.80.030(C).  
25

26 F. Decision Time and Notice.  
27

28 1. The hearing examiner shall consider and render a written decision on all appeals. Such  
29 decision shall be issued within 60 days from the date the appeal is filed; provided, that  
30 the appeal contains all of the information specified in this section.  
31

32 2. The parties to an appeal may agree to extend these time periods.  
33

34 G. Consolidated Appeal Hearings.  
35

36 1. All appeals of development permit or project permit decisions shall be considered  
37 together in a consolidated appeal hearing.  
38

39 2. Appeals of environmental determinations under SEPA, except for an appeal of a  
40 determination of significance (DS), shall be consolidated with any open-record hearing  
41 (open-record predecision hearing or open-record appeal hearing) before the hearing  
42 examiner. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC  
43 18.80.110(D), Shorelines – Consolidated Permit Processing.)  
44  
45  
46

1 H. Administrative SEPA Appeals of Project Actions.  
2

3 1. The County establishes the following consolidated appeal procedures, under RCW  
4 43.21C.075 and WAC 197-11-680, for administrative SEPA appeals of project actions as  
5 defined in WAC 197-11-704. The comment and appeal path is shown in Table 8.3.  
6

7 a. Appeals of the intermediate steps under SEPA (e.g., lead agency determination,  
8 scoping, draft EIS adequacy) are not allowed;  
9

10 b. An appeal to the hearing examiner on SEPA decisions is limited to review of a  
11 final threshold determination (determination of significance (DS) or  
12 nonsignificance (DNS/MDNS)) or the adequacy of a final environmental impact  
13 statement (FEIS);  
14

15 c. As provided in WAC 197-11-680(3)(a)(iv), there shall be no more than one  
16 administrative appeal of a threshold determination or of the adequacy of an FEIS;  
17

18 d. Except as provided in WAC 197-11-680(3)(a)(iv), administrative SEPA  
19 appeals authorized by this subsection shall be consolidated with the hearing or  
20 appeal on the underlying governmental action in a single simultaneous hearing  
21 before one hearing officer, in conformance with WAC 197-11-680(3)(a)(v);  
22

23 e. An appeal of a DS shall be heard and decided at a separate, open-record hearing  
24 to establish whether an applicant must provide an environmental impact  
25 statement. As provided in RCW 36.70B.060(6) and 43.21C.075, this open-record  
26 hearing shall not preclude a subsequent open-record hearing as provided by this  
27 code;  
28

29 f. A timely appeal of a DS or other application identified in WAC 197-11-  
30 680(3)(a)(vi) shall stay the decision on a project permit application or  
31 development permit application until such time as the appeal has been resolved at  
32 the administrative level (i.e., decision by the hearing examiner) or the appeal has  
33 been withdrawn;  
34

35 g. The determination of the responsible official shall carry substantial weight in  
36 any appeal proceeding;  
37

38 h. The hearing examiner's decision on a SEPA appeal is final unless a timely  
39 judicial appeal is filed.  
40

41 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.  
42

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

1 and SEPA issues, the statute or ordinance establishing the time limit, and where  
2 such a judicial appeal may be filed.

3  
4 b. Notice is given by delivery of written notice to the applicant, all parties of  
5 record in any administrative appeal, and all persons who have requested notice of  
6 decisions with respect to the particular proposal along with any additional notice  
7 required by County code, such as SJCC 18.80.130.

8  
9 c. Written notice containing the required information may be appended to the  
10 permit, decision documents, or SEPA compliance documents or may be given  
11 separately.

12  
13 d. Official notices required by this section shall not be given prior to the County's  
14 final decision on a proposal or appeal.

15  
16 I. No Administrative SEPA Appeals of Nonproject Actions.

17  
18 1. SEPA determinations for nonproject actions are not subject to administrative appeals;  
19 they may only be appealed in conjunction with the underlying action to superior court or  
20 state boards as provided by law. ~~The comment and appeal path for nonproject actions is~~  
21 ~~shown in Table 8.4.~~

22  
23 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.

24  
25 a. Pursuant to WAC 197-11-680(5), notice of the date and place for commencing  
26 a SEPA judicial appeal must be given if there is a time limit established by statute  
27 or ordinance for commencing an appeal of the decision. The notice shall include  
28 the time limit for commencing appeal of the underlying permit decision and  
29 SEPA issues, and the statute or ordinance establishing the time limit; and where  
30 such a judicial appeal may be filed.

31  
32 b. Such notice is given by delivery of written notice to the applicant, all parties of  
33 record in any administrative appeal, and all persons who have requested notice of  
34 decisions with respect to the particular proposal along with any additional notice  
35 required by County code, such as SJCC 18.80.130.

36  
37 c. Written notice containing the required information may be appended to the  
38 permit, decision documents, SEPA compliance documents, or may be given  
39 separately.

40  
41 d. Official notices required by this section shall not be given prior to the County's  
42 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)

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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).

**Section 6. Effective Date.**

This Ordinance is effective on the 10<sup>th</sup> working day after adoption.

**Section 7. Codification.**

Sections 1-5 of this ordinance shall be codified.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
 SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
 Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
 Rick Hughes, Chair  
 District 2

1 REVIEWED BY COUNTY MANAGER

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\_\_\_\_\_  
Michael J. Thomas Date

\_\_\_\_\_  
Bill Watson, Vice-Chair  
District 1

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

By: \_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Stephens, Member  
District 3



# SAN JUAN COUNTY PUBLIC NOTICES

San Juan County, as an Equal Opportunity Employer, does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in the provision of services, in programs or activities or employment opportunities and benefits.

Direct Inquiries to Administrative Services at (360) 378-3870. TTD relay at 1-800-833-6386.

Comments on the ordinance may be made up until and at the Planning Commission public hearing on Friday, December 20, 2019. Written comments submitted prior to 12:00 p.m. on December 19, 2019 will be copied for the Planning Commission members unless they wish to review comments online. You may comment:

- Via Mail: Prior to the hearing date, mail written comments to Linda Kuller, Department of Community Development, P.O. Box 847, Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street, Friday Harbor during business hours.
- Via Email: Email comments to [cd@sanjuanco.com](mailto:cd@sanjuanco.com). Please include the Email subject line: Comments on the SJC Code Correction Ordinance from (your last name or agency name). For the record, include your full address in all correspondence.
- Via Oral Testimony: The public is invited to comment on the proposal at the public hearing.

Copies: Please provide fifteen (15) copies of written comments if you submit them to DCD after 12:00 p.m. on December 19, 2019 or if you distribute written comments at the hearing. For questions, please contact Linda Kuller at (360) 370-7872 or [lk@sanjuanco.com](mailto:lk@sanjuanco.com).  
Published: Islands Sounder  
November 5, 2019  
Legal #: ISJ879718

At the hearings, members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinances. After the public testimony portions of the hearing have ended, the Council will deliberate and consider modifications to the Ordinances that are proposed by members of the public, County employees, or the Council. The proposed Ordinances may then be adopted with or without modifications.

1. County Current Expense Fund Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for County Current Expense Fund at \$5,914,793.45 which is an increase of \$58,662.31 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

2. Land Conservation Futures Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for Land Conservation Futures at \$323,927.60 which is an increase of \$2,207.20 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

3. County Bonds Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for Bonds at \$4,753,621.77 which is an increase of \$47,085.59 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

day between the hours of 8:30 a.m. and 4:30 p.m. The Ordinances may also be viewed 24 hours a day at the County website at [www.sanjuanco.com](http://www.sanjuanco.com) 10 days prior to the hearing. A copy of the proposed Ordinances will be mailed without charge upon request. For more information, please contact the Clerk of the County Council (360) 370-7472 and/or the Auditor at (360) 378-8356 and/or the County Manager at (360) 378-2873.  
Published: Journal of the San Juan Islands, October 30 and November 5, 2019  
Legal #: ISJ879014

### Notice of Public Hearing to Adopt an Ordinance Cancelling Prior Years Unpaid Warrants Payable Warrants

NOTICE IS HEREBY GIVEN that the San Juan County Council will conduct a public hearing for the purpose of receiving testimony on an Ordinance. The public hearing will be held in the Council Hearing Room at 55 Second Street, Friday Harbor, Washington on Tuesday, November 12, 2019 beginning at 9:15 AM. The hearing may be continued from time to time and place to place as may be desired by the Council without additional written notice.

At the hearing, members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinance. After the public testimony portion of the hearing has ended, the Council will deliberate and consider modifications to the Ordinance that are proposed by members of the public, county employees, or the Council. The proposed Ordinance may then be adopted with or without modifications.

SUMMARY: The Ordinance Cancelling Prior Years Unpaid Warrants will cancel 35 Accounts Payable warrants totaling \$10,343.89 and 1 Payroll warrant totaling \$30.00 issued between July 1, 2016 and June 30, 2019.

All persons wishing to be heard on this matter are encouraged to attend. Written comments may be submitted in advance of the hearing by mail or at the hearing by delivery in person. Please deliver 5 copies of all written comments to the Clerk of the San Juan County Council at 55 Second Street, Friday Harbor or mail to 350 Court Street #1, Friday Harbor, WA 98250. The Ordinances and Resolu-

tions are filed at the Office of the County Council, 55 Second Street, Friday Harbor, WA and may be inspected and copies obtained at the Council offices during each business day between the hours of 8:30 a.m. and 4:30 p.m. 10 days prior to the hearing upon request. For more information, please contact the Clerk of the County Council at 360-370-7472 and/or the Chief Deputy Auditor at 360-378-3358.  
Published: Islands' Sounder  
October 30 and November 6, 2019  
Legal #: ISJ879110

### NOTICE OF PUBLIC HEARING TO CONSIDER AN ORDINANCE REGARDING LOCAL SALES AND USE TAXES; AUTHORIZING THE MAXIMUM CAPACITY OF THE TAX AUTHORIZED UNDER THE PROVISIONS OF SUBSTITUTE HOUSE BILL 1405 (CHAPTER 338, LAWS OF 2019) FOR AFFORDABLE AND SUPPORTIVE HOUSING AND ADOPTING A NEW CHAPTER TITLE 3 OF THE COUNTY CODE

NOTICE IS HEREBY GIVEN that the San Juan County Council will conduct a public hearing for the purpose of receiving testimony on an Ordinance regarding local sales and use taxes, authorizing the maximum capacity of the tax authorized under the provisions of substitute house bill 1405 (chapter 338, laws of 2019) for affordable and supportive housing and adopting a new chapter to Title 3 of the county code. The public hearing will be held in the Council Hearing Room at 55 Second Street, Friday Harbor, Washington on Tuesday, November 12, 2019 beginning at 9:15 A.M. The hearing may be continued from time to time and place to place as may be desired by the Council without additional written notice.

At the hearing, members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinance. After the public testimony portion of the hearing has ended, the Council will deliberate and consider modifications to the Ordinance that are proposed by mem-

bers of the public, county employees of the Council. The proposed Ordinance may then be adopted with or without modifications.

Summary: The Ordinance regarding local sales and use taxes accomplishes the following: authorizes, files, and imposes a sales and use tax as authorized by Chapter 338, Laws of 2019, upon every taxable event, as defined in RCW 82.14.020, occurring in unincorporated San Juan County and within the Town of Friday Harbor, which may be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue under Chapter 82.08 or 82.12 RCW. The ordinance further provides for the rate of tax imposed, describes the use of moneys collected from the imposition of the tax, and establishes the expiration of the tax.

All persons wishing to be heard on this matter are encouraged to attend. Written comments may be submitted in advance of the hearing by mail or at the hearing by delivery in person. Please deliver 5 copies of all written comments to the Clerk of the San Juan County Council at 55 Second Street, Friday Harbor or mail to 350 Court Street #1, Friday Harbor, WA 98250. The Ordinance is filed at the Office of the County Council, 55 Second Street, Friday Harbor, WA and may be inspected and copies obtained at the Council offices during each business day between the hours of 8:30 a.m. and 4:30 p.m. 10 days prior to the hearing upon request. For more information, please contact the Clerk of the County Council Ingrid Gabriel at 360-370-7472 or [ingrid@sanjuanco.com](mailto:ingrid@sanjuanco.com) and/or Ryan Page at 360-370-0560.  
Published: Journal of the San Juan Islands  
October 30 and November 5, 2019  
Legal #: ISJ879015

### NOTICE OF PUBLIC HEARINGS TO CONSIDER PROPOSED ORDINANCES OF SAN JUAN COUNTY, WASHINGTON, SETTING THE PROPERTY TAX LEVY FOR COUNTY ROADS, CURRENT EXPENSE, AND LAND CONSERVATION FUTURES FOR THE YEAR 2020

NOTICE IS HEREBY GIVEN that the San Juan County Council will conduct public hearings for the purpose of receiving testimony on:

- Proposed Ordinances Setting the Property Tax Levy for County Roads, Current Expense, and Land Conservation Futures; and
- The public hearings will be held in the Council Hearing Room at 55 Second Street, Friday Harbor, Washington on November 12, 2019 beginning at 9:15 AM. The hearings may be continued from time to time and place to place as may be desired by the Council without additional written notice.

## LEGALS

### IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF SAN JUAN

In Re: The Estate of John Marvin Liger, Deceased.  
Probate Case # 19-4-0506328  
**PROBATE NOTICE TO CREDITORS.**  
RCW 11.40.030  
The person named below has been appointed as personal representative of this estate. Any person having a claim against the decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070 by serving on or mailing to the personal representative or the personal representative's attorney at the address stated below a copy of the claim and filing the original of the claim with the Court in which the proceedings were commenced. The claim must be presented within the later of: (1) thirty days after the personal representative served or mailed the notice to the creditor as provided under RCW 11.40.020 (1)(c); or (2) four months

after date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.40.051 and 11.40.060. This bar is effective as to claims against both the decedent's probate and non-probate assets.  
Date of First Publication: November 5, 2019  
Personal Representative: Bradford M. Liger  
Attorney for the Personal Representative: Thomas J. Fiscus, Law Office of Thomas J. Fiscus  
Resident Agent for Personal Representative: Thomas J. Fiscus, Law Office of Thomas J. Fiscus  
Address for Mailing: P.O. Box 1167, Eastsound, WA 98245  
Address for Personal Service: 138 Fernch Tree Lane, Eastsound, WA 98245  
Thomas J. Fiscus, Attorney and Resident Agent for Personal Representative  
Published: Islands' Sounder  
November 5, 13 & 20, 2019  
Legal #: ISJ879435

### IN THE SUPERIOR COURT OF WASHINGTON FOR SAN JUAN COUNTY

In the Matter of the Estate of: HAZEL J. O'BRIEN, Deceased.  
Probate No. 19-4-05063-28  
**PROBATE NOTICE TO CREDITORS**  
RCW 11.40.030  
The Personal Representative named below has been appointed as Personal Representative of the estate. Any person having a claim against the decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070 by serving on or mailing to the Personal Representative or the Personal Representative's attorney of record at the address stated below, a copy of the claim and filing the original of the claim with the Court in which the probate proceedings were commenced. The claim must be presented within the later of: (1) Thirty (30) days after the Personal Representative served or mailed the notice to the creditor as provided under RCW 11.40.020(1)(c); or (2) four (4) months after the date of first publication of the Notice. If the claim is not presented within this time frame, the claim is for-

ever barred, except as otherwise provided in RCW 11.40.051 and RCW 11.40.060. This bar is effective as to claims against both the probate assets and non-probate assets of the decedent.  
**DATE OF FIRST PUBLICATION:** October 23, 2019.  
Kathleen Lunde, Personal Representative  
c/o Wagner Law Offices P.C.  
For U.S. Mail, P.O. Box 3019, Friday Harbor, WA 98250  
Attorney for Personal Representative  
Dr. /Mimi M. Wagner  
Mimi M. Wagner, WSBA #36377  
P.O. Box 3019  
Friday Harbor, WA 98250  
Court of Probate Proceedings and Cause No.: San Juan County Superior Court, No. 19-4-05068-28  
Published: Islands' Sounder  
October 23, 30 & November 6, 2019  
Legal #: ISJ87734

14, 2019 beginning at 4:00 PM at the Eastsound Firehall, 45 Laverette Lane, Eastsound, Washington, 98245  
Published: The Islands' Sounder  
October 30 and November 6 and 13, 2019  
Legal #: ISJ878604



The Port of Orcas will hold a Public Hearing to consider/adopt the general fund and capital projects (and budgets) for 2020 as part of their regular scheduled meeting on November 14, 2019 at 4:30pm in the terminal conference room at the Orcas Island Airport, 147 Schoen Ln, Eastsound, WA.  
Port of Orcas, Washington  
Published: Islands' Sounder  
October 30 and November 6, 2019  
Legal #: ISJ877390

Orcas Island Park and Recreation District Board of Commissioners will hold a public hearing meeting for the consideration of the proposed 2020 budget at the Regular Meeting to be held on Thursday, November

# SAN JUAN COUNTY LEGAL NOTICES

San Juan County, as an Equal Opportunity Employer, does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in the provision of services, in programs or activities or employment opportunities and benefits. Direct inquiries to Administrative Services at (360) 378-3870. TTD relay at 1-800-833-6388.



**CALL FOR BIDS**  
**SAN JUAN COUNTY**  
**PEAR POINT RD TO TURN POINT**  
**RD CONNECTOR**  
 County Road Project Number:  
 010801

**First Advertised October 30, 2019**

**Project Summary**

Description of Work: This Contract provides for the construction of approximately 0.4 miles of new county road to connect two existing county roads on San Juan Island. Work to build the new Connector Road includes clearing, grubbing, roadway excavation, embankment compaction, drainage, erosion control, traffic control, and other work, all in accordance with the Contract Plans, Contract Provisions, and the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction 2020 edition.

**Estimated Cost: \$350,000 to \$400,000**

**Working Days:** There are 45 working days in this contract. Work is to begin no later than December 31st, 2019. County holidays occur on November 28, 2019, November 29, 2019, December 25th, 2019, January 1st, 2020, January 20th, 2020, and February 17th, 2020. Those county holidays are all non-working days.

**Informational Items**

**State Taxes:** This contract is subject to WAC 458-20-171 Use Tax, Washington State Sales Tax Rule 171 and the bidder shall include for compensation the amount of any taxes to be paid in the various unit bid prices or other contract amounts (standard specification 1-07.2(1)).

**Yages:** This Contract is funded with local money. The Prevailing Wages on Public Works Act (Chapter 39.12 RCW) requires that employees of government contractors be paid Prevailing Wages for all public Work. There are no Federal funds.

**Disadvantaged Business Enterprise (DBE):** It has been determined that DBE and training goals are not appropriate for this contract (standard specification 1-02.6). Equal Employment Opportunity (EEO) and Title VI provisions are always required (Section 1-07.11).

**Permits:** All permits have been obtained for this project and any relevant provisions for the bidder have been included in the contract provisions and plans.

**Pre-Bid Conference:** The County is not holding a pre-bid conference for this project. The project site is open to bidders for inspection.

**Insurance Requirements:** Contractor will carry and maintain insurance requirements of standard specification 1-07.18 throughout the period of the contract.

**Bid Information**

**Contract Provisions and Plans:** Individual copies may be purchased for \$50 and by contacting the Public Works department. Payment must be received prior to delivery. Purchase of Contract Provisions and Plans are not required to submit a bid. The Contract Provisions and Plans are available for viewing in person at the San Juan County Public Works Department and online at: <http://www.sanjuanco.com/278/>

**Current Projects**

**Amendments (Addenda):** Any Addenda to the Contract Provisions and Plans will be posted online. Only Bidders who have purchased a copy of the Contract Provisions and Plans will be notified by the Public Works Department of Addenda. Notification will be made via email using the con-

tact information provided during purchasing.

**Bidder Questions:** In accordance with Standard Specification 1-02.4(1): Oral explanations, interpretations, or instructions given by anyone before the Award of a Contract will not be binding on the Contracting Agency. Any information given by a prospective Bidder concerning any of the Bid Documents will be furnished to all prospective Bidders as an Addendum if that information is deemed by the Contracting Agency to be necessary in submitting Bids or if the Contracting Agency concludes that the lack of the information would be prejudicial to other prospective Bidders.

**Bid Opening Time and Date:** Sealed Bids shall be marked (Bid Proposal: PEAR POINT Road to Turn Point Road Connector) and delivered in accordance with Section 1-02.9 of the Special Provisions. Sealed bids are to be received at the Office of the Clerk of the County Council prior to the time and date specified.

**Physical Address:** Clerk of the Council  
 55 Second Street 1st Floor  
 Friday Harbor, WA 98250

**Mailing Address:** Clerk of the Council  
 350 Court St. #1  
 Friday Harbor, WA 98250

The bid opening date for this Contract is: **3:00 P.M. Wednesday November 20, 2019**

The public bid opening will be held in conference room #119 at the above physical address.

Bidders are cautioned that delivery service to San Juan Island is subject to delays due to inclement weather and ferry service disruptions. Bidders who send their bids to San Juan County via USPS, Fed Ex, UPS or some other carrier shall place their bids in a sealed envelope, to ensure that a sealed bid is received by the County.

**Additional Information:** Contact the Public Works Department at (360) 370-0500.

**Notice U.S. DOT Title VI Assurances**

The San Juan County Public Works Department in accordance with Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 USC 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Published: Journal of San Juan  
 October 30 and November 6, 2019  
 Legal: JSJ878393

**NOTICE OF A PLANNING COMMISSION PUBLIC HEARING TO HEAR TESTIMONY ON A PROPOSED ORDINANCE REGARDING CORRECTIONS TO SAN JUAN COUNTY CODE AND A SEPA DETERMINATION OF NONSIGNIFICANCE (DNS)**

The Planning Commission will hold a public hearing at or after 9:00 a.m. on Friday December 20, 2019 for the purpose of receiving testimony on:

An Ordinance Correcting Code Inconsistencies and Inaccuracies; Amending San Juan County Code (SJCC) 18.20.160, 18.30.055, 18.70.030, 18.70.060, and 18.80.140.

San Juan County (SJC) issued a Determination of Nonsignificance on this SEPA nonproject action on November 6, 2019. Comments on the SEPA determination of Nonsignificance must be submitted by 4:30 p.m. November 22, 2019 to Linda Kuller, AICP, San Juan County DCD, PO Box 947, Friday Harbor, WA 98250, or [lrindak@sanjuanco.com](mailto:lrindak@sanjuanco.com). Email subject line: Comments on Code Correction Ordinance DNS. For more information, please see the

project webpage: <https://www.sanjuanco.com/1648/2019-Code-Correction-Ordinance> or contact Linda Kuller, SJC Department of Community Development at (360) 370-7572.

The proposal would amend San Juan County Code by correcting five code inconsistencies and inaccuracies. The code issues proposed to be fixed are a result of changes in the law or later discovery of irregularities in past code adoption processes. The five corrections address:

1. Siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011;

2. Changing the definition of "personal wireless service facility or PWSF" consistent with Ordinance 10-2012;

3. Ensuring that the boundary line modification regulations are consistent with state law because SJCC 18.70.030(A)(1)(e) only includes a portion of the state requirement;

4. Making sure SJCC 18.70.060(B)(10)(a) complies with a court ruling which held that this provision is in violation of RCW 82.02.020. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land and that this section of the San Juan County Code is invalid and should not be applied since the court's ruling (it has not been applied since the ruling); and

5. Making inconsistent language in SJCC 18.80.140(1)(1) and code references SJCC 18.80.140(1)(1) addresses SEPA appeals of nonproject actions and indicates that Table 8.4 shows the appeal path for nonproject actions. However, Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition Act. The Land Use Petition Act addresses "project actions" and is therefore not the correct reference for SEPA appeals of nonproject actions.

The Planning Commission public hearing will begin at or after 9 a.m. Friday, December 20, 2019 at the County Council Chambers, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to attend the hearing, and submit written or oral comments regarding the staff recommendations.

The proposed ordinance will be filed at the Department of Community Development (DCD), 135 Rhone Street, Friday Harbor, WA and posted on the DCD webpage ten days prior to the hearing. The staff report may be obtained from DCD on business days between 8:00 a.m. and 4:30 p.m. and will be mailed without charge upon request.

Comments on the ordinance may be made up until and at the Planning Commission public hearing on Friday, December 20, 2019. Written comments submitted prior to 12:00 p.m. on December 19, 2019 will be copied for the Planning Commission members unless they wish to review comments on-line. You may comment:

• Via Mail: Prior to the hearing date, mail written comments to Linda Kuller, Department of Community Development PO Box 947 Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street Friday Harbor during business hours.

• Via Email: Email comments to [dcd@sanjuanco.com](mailto:dcd@sanjuanco.com). Please title the email subject line: Comments on the SJC Code Correction Ordinance from (your last name or agency name). For the record, include your full address in all correspondence.

• Via Oral Testimony: The public is invited to comment on the proposal at the public hearing.

Copies: Please provide fifteen (15) copies of written comments if you submit them to DCD after 12:00 p.m. on December 19, 2019 or if you distribute written comments at the hearing.

For questions, please contact Linda Kuller at (360) 370-7572 or [lrindak@sanjuanco.com](mailto:lrindak@sanjuanco.com).

Published: Journal of the San Juan Islands  
 November 6, 2019  
 Legal #: JSJ87915

**NOTICE OF PUBLIC HEARINGS TO CONSIDER PROPOSED ORDINANCES OF SAN JUAN COUNTY, WASHINGTON, SETTING THE PROPERTY TAX LEVY FOR COUNTY ROADS, CURRENT EXPENSE, AND LAND CONSERVATION FUTURES FOR THE YEAR 2020.**

**NOTICE IS HEREBY GIVEN** that the San Juan County Council will conduct public hearings for the purpose of receiving testimony on:

• Proposed Ordinances Setting the Property Tax Levy for County Roads, Current Expense, and Land Conservation Futures; and

The public hearings will be held in the Council Hearing Room at 55 Second Street, Friday Harbor, Washington on November 12, 2019 beginning at 9:15 AM. The hearings may be continued from time to time and place to place as may be desired by the Council without additional written notice.

At the hearings, members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinances. After the public testimony portions of the hearings have ended, the Council will deliberate and consider modifications to the Ordinances that are proposed by members of the public, County employees, or the Council. The proposed Ordinances may then be adopted with or without modifications.

1. County Current Expense Fund Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for County Current Expense Fund at \$5,914,793.45 which is an increase of \$58,562.31 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

2. Land Conservation Futures Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for Land Conservation Futures at \$323,927.80 which is an increase of \$3,207.20 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

3. County Roads Levy Ordinance Summary: The proposed Ordinance sets the property tax levy for Roads at \$4,753,621.77 which is an increase of \$47,065.56 and is 1.0 percent over the previous year's actual levy. This increase is exclusive of additional revenue resulting from new construction, improvements to property, increases in the value of state-assessed property and refunds made.

All persons wishing to be heard on these matters are encouraged to attend. Written comments may be submitted in advance of the hearings by mail or at the hearing by delivery in person. Please deliver 5 copies of all written comments to the Office of the County Council, 55 Second Street, Friday Harbor, WA and may be inspected and copies obtained at the Council offices during each business day between the hours of 8:30 a.m. and 4:30 p.m. The Ordinances may also be viewed 24 hours a day at the County website at [www.sanjuanco.com](http://www.sanjuanco.com) 10 days prior to the hearing. A copy of the proposed Ordinances will be mailed without charge upon request. For more information, please contact the Clerk of the County Council at (360)-370-7472 and/or the Chief Deputy Auditor at (360)-378-3356.

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 October 30 and November 6, 2019  
 Legal #: JSJ879011

and/or the Auditor at (380) 378-3356 and/or the County Manager at 360-378-3670.

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 October 30 and November 6, 2019  
 Legal #: JSJ879012

**Notice of Public Hearing to Adopt an Ordinance Cancelling Prior Years Unclaimed Accounts Payable Warrants**

**NOTICE IS HEREBY GIVEN** that the San Juan County Council will conduct a public hearing for the purpose of receiving testimony on an Ordinance. The public hearing will be held in the Council Hearing Room at 55 Second Street, Friday Harbor, Washington on Tuesday, November 12, 2019 beginning at 9:15 AM. The hearing may be continued from time to time and place to place as may be desired by the Council without additional written notice.

At the hearing, members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinance. After the public testimony portion of the hearing has ended, the Council will deliberate and consider modifications to the Ordinance that are proposed by members of the public, county employees, or the Council. The proposed Ordinance may then be adopted with or without modifications.

**SUMMARY:** The Ordinance Cancelling Prior Years Unclaimed Warrants will cancel 35 Accounts Payable warrants totaling \$10,343.89 and 1 Payroll warrant totaling \$50.00 issued between July 1, 2016 and June 30, 2018.

All persons wishing to be heard on this matter are encouraged to attend. Written comments may be submitted in advance of the hearing by mail or at the hearing by delivery in person. Please deliver 5 copies of all written comments to the Clerk of the San Juan County Council at 55 Second Street, Friday Harbor or mail to 355 Court Street #1, Friday Harbor, WA 98250. The Ordinances and Resolutions are filed at the Office of the County Council, 55 Second Street, Friday Harbor, WA and may be inspected and copies obtained at the Council offices during each business day between the hours of 8:30 a.m. and 4:30 p.m. 10 days prior to the hearing.

The Ordinance may also be viewed 24 hours a day at the County website 10 days prior to the hearing at [www.sanjuanco.com](http://www.sanjuanco.com) under Pending Ordinances. A copy of the proposed Ordinance will be mailed without charge upon request. For more information, please contact the Clerk of the County Council at 360-370-7472 and/or the Chief Deputy Auditor at 360-378-3356.

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 October 30 and November 6, 2019  
 Legal #: JSJ879011

**NOTICE OF PUBLIC HEARING TO CONSIDER AN ORDINANCE REGARDING LOCAL SALES AND USE TAXES, AUTHORIZING THE MAXIMUM CAPACITY OF THE TAX AUTHORIZED UNDER THE PROVISIONS OF SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019) FOR AFFORDABLE AND SUPPORTIVE HOUSING AND ADOPTING A NEW CHAPTER TO TITLE 3 OF THE COUNTY CODE.**

**NOTICE IS HEREBY GIVEN** that the San Juan County Council will conduct a public hearing for the purpose of receiving testimony on an Ordinance regarding local sales and use taxes; authorizing the maximum capacity of the tax authorized under the provisions of substitute house bill 1406 (chapter 338, laws of 2019) for affordable and supportive housing and adopting a new chapter to Title 3 of the county code. The public hearing will be held in the Council Hearing Room at 55 Second Street, Fri-

## LEGAL ADVERTISEMENT

**To:** The Journal of the San Juan Islands and Islands Sounder  
**From:** Lynda Guernsey, Administrative Specialist III  
**Bill To:** Department of Community Development  
**Publish:** 1 Time – December 4, 2019

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### **NOTICE OF A PLANNING COMMISSION PUBLIC HEARING TO HEAR TESTIMONY ON A PROPOSED ORDINANCE REGARDING SAN JUAN COUNTY CODE CORRECTIONS**

The Planning Commission public hearing will begin at or after 9 a.m. Friday, December 20, 2019 at the County Council Chambers, 55 Second Street, Friday Harbor, WA. Interested parties are encouraged to attend the hearing to provide oral testimony or submit written comments on the following:

#### **An Ordinance Correcting Code Inconsistencies and Inaccuracies; Amending San Juan County Code (SJCC) 18.20.160, 18.30.055, 18.70.030, 18.70.060, and 18.80.140.**

The proposal would amend San Juan County Code by correcting five code issues resulting from changes in the law or the discovery of irregularities in past code adoption processes:

1. Siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011;
2. Changing the definition of “personal wireless service facility” consistent with Ordinance 10-2012;
3. Making boundary line modification regulations consistent with state law because SJCC 18.70.030(A)(1)(a) only includes a portion of the state’s requirements;
4. Correcting SJCC 18.70.060(B)(10)(a) to comply with a court ruling that it violated RCW 82.02.020 as a tax on a subdivision and was invalid; and
5. Fixing SJCC 18.80.140(I)(1) regarding SEPA appeals of nonproject actions. Table 8.4 shows the incorrect appeal path by referencing Chapter 36.70C RCW, the Land Use Petition Act, which applies to project actions.

Project information is posted at: <https://www.sanjuanco.com/1646/2019-Code-Correction-Ordinance>. The proposed ordinance is filed at the SJC Department of Community Development (DCD), 135 Rhone Street, Friday Harbor, WA. It may be obtained from DCD on business days between 8:00 a.m. and 4:30 p.m. and upon request will be mailed without charge.

**Comments may be made until and at the Planning Commission public hearing on Friday, December 20, 2019.** Written comments submitted to DCD prior to 12:00 p.m. on December 19, 2019, will be copied for the Planning Commission. If you submit comments after that time or if you plan to distribute them at the hearing please provide ten (10) copies. You may comment:

- **Via Mail:** Prior to the hearing date, mail written comments to **Linda Kuller, Department of Community Development** PO Box 947 Friday Harbor, WA 98250 or deliver them to the DCD office at 135 Rhone Street Friday Harbor during business hours.
- **Via Email:** Email comments to [dcd@sanjuanco.com](mailto:dcd@sanjuanco.com). Please title the Email subject line: **SJC Code Correction Ordinance Comments from (your last name or agency name)**. For the record, include your full address in all correspondence.
- **Via Oral Testimony:** At the public hearing.

For questions, please contact Linda Kuller at (360) 370-7572 or [lindak@sanjuanco.com](mailto:lindak@sanjuanco.com).

**Linda Ann Kuller**

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**From:** Linda Ann Kuller  
**Sent:** Monday, November 4, 2019 8:33 AM  
**To:** 'reviewteam@commerce.wa.gov'  
**Subject:** San Juan County 60\_day Notice Code Correction Ord  
**Attachments:** 2019-11-04\_DCD\_60-day\_Notice\_Commerce.pdf

Good morning,

I am having trouble with the SAW account so here is San Juan County's notice of 60 day review on a code correction ordinance.

Linda Kuller, AICP  
Planning Manager  
360-370-7572

NOTICE: All emails and attachments, sent to and from San Juan County are public records and may be subject to public disclosure pursuant to the Public Records Act, Chapter 42.56 RCW.



# Department of Commerce

## Notice of Intent to Adopt Amendment / Notice of Adoption Cover Sheet

Pursuant to RCW 36.70A.106, the following jurisdiction provides the following required state agency notice.

<b>1. Jurisdiction Name:</b>	San Juan County Department of Community Development
<b>2. Select Submittal Type:</b> Select the Type of Submittal listed. (Select One Only)	<input checked="" type="checkbox"/> <b>60-Day Notice</b> of Intent to Adopt Amendment. <input type="checkbox"/> <b>Request of Expedited Review</b> / Notice of Intent to Adopt Amendment. <input type="checkbox"/> <b>Supplemental Submittal</b> for existing Notice of Intent to Adopt Amendment. <input type="checkbox"/> <b>Notice of Final Adoption</b> of Amendment.
<b>3. Amendment Type:</b> Select Type of Amendment listed. (Select One Only)	<input type="checkbox"/> <b>Comprehensive Plan</b> Amendment. <input checked="" type="checkbox"/> <b>Development Regulation</b> Amendment. <input type="checkbox"/> <b>Critical Areas Ordinance</b> Amendment. <input type="checkbox"/> <b>Combined Comprehensive and Development Regulation</b> Amendments. <input type="checkbox"/> <b>Countywide Planning Policy</b> .



# Department of Commerce

<p><b>4. Description</b> Enter a brief description of the amendment.</p> <p>Begin your description with "Proposed" or "Adopted", based on the type of Amendment you are submitting.</p> <p>Examples: <i>"Proposed comprehensive plan amendment for the GMA periodic update."</i> or <i>"Adopted Ordinance 123, adoption amendment to the sign code."</i> <b>(Maximum 400 characters).</b></p>	<p><b>An Ordinance Correcting Code Inconsistencies and Inaccuracies.</b> The proposal corrects 5 code inconsistencies and inaccuracies resulting from changes in the law or discovery of irregularities in past code adoption processes:</p> <ol style="list-style-type: none"> <li>1. Siting/permitting of Essential Public Facilities consistent with Ordinance 10-2011.</li> <li>2. Changing the definition of "personal wireless service facility or PWSF consistent with Ordinance 10-2012;</li> <li>3. Ensuring that the boundary line modification regulations are consistent with state law.</li> <li>4. Making sure SJCC 18.70.060(B)(10)(a) complies with a court ruling which held that this provision is in violation of RCW 82.02.020.</li> <li>5. Fixing SJCC 18.80.140(I)(1) and code references related to addresses SEPA appeals of nonproject actions to comply with State law.</li> </ol>
<p><b>5. Is this action part of your 8-year periodic update required under RCW 36.70A.130 of the Growth Management Act (GMA)?</b></p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p><b>6. Proposed Dates:</b> Enter the anticipated public hearing date(s) for your Planning Commission/Planning Board or for your Council/Commission.</p>	<p><b>Planning Commission: December 20, 2019</b></p> <p><b>City Council: January or February 2020</b></p> <p><b>Proposed / Date of Adoption: February 11, 2020</b></p>
<p><b>7. Contact Information:</b></p>	
<p>A. Prefix/Salutation: <i>(Examples: "Mr.," "Ms.," or "The Honorable" (elected official))</i></p>	<p>Ms.</p>
<p>B. Name:</p>	<p>Linda Kuller, AICP </p>
<p>C. Title:</p>	<p>Planning Manager</p>
<p>D. Email:</p>	<p>LindaK@sanjuanco.com</p>
<p>E. Work Phone:</p>	<p>360-370-7572</p>
<p>F. Cell/Mobile Phone: <i>(optional)</i></p>	<p>NA</p>



## Department of Commerce

<b>Consultant Information:</b>	
G. Is this person a consultant?	<input type="checkbox"/> Yes X NO
H. Consulting Firm name?	
8. <b>Would you like Commerce to contact you for Technical Assistance regarding this submitted amendment?</b>	<input type="checkbox"/> Yes X NO

**REQUIRED:** Attach or include a copy of the proposed amendment text or document(s). We do not accept a website hyperlink requiring us to retrieve external documents. Jurisdictions must submit the actual document(s) to Commerce. If you experience difficulty, please email the [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov)

Questions? Call the review team at (509) 725-3066.

**ORDINANCE NO. \_\_\_\_\_ - 2020**

**ORDINANCE CORRECTING CODE INCONSISTENCIES AND INACCURACIES;  
AMENDING SJCC 18.20.160, 18.30.055, 18.70.030, 18.70.060, AND 18.80.140.**

**BACKGROUND**

- A. The course of time, various inconsistencies and inaccuracies develop in the County code as a result of changes in the law or later discovery of irregularities in the adoption process;
- B. The County Council specifically desires to correct the following issues:
1. Amend the regulations regarding siting and permitting of Essential Public Facilities consistent with Ordinance 10-2011.
    - a. On March 22, 2011, the County Council adopted ordinance 10-2011 amending, among other things, the regulations regarding siting and permitting of Essential Public Facilities (formerly codified as 18.30.050(E)).
    - b. On November 20, 2012, the County Council adopted Ordinance 25-2012 which also amended, among other things, the regulations regarding siting and permitting of Essential Public Facilities. Ordinance 25-2012, however, inadvertently used an earlier version of 18.30.050(E) rather than then the regulations adopted in Ordinance 10-2011.
    - c. The County Council wishes to amend the regulations regarding siting and permitting of Essential Public Facilities to reflect the changes Council intended to adopt in Ordinance 10-2011.
  2. The definition of “personal wireless service facility or PWSF”
    - a. On June 26, 2012, the County Council adopted Ordinance 10-2012 amending the regulations regarding wireless facilities.
    - b. The definition of “personal wireless service facility or PWSF” was amended to include towers and transmission cables and to exempt amateur radio towers and antennas.
    - c. When amending the definition, it appears the words “Telecommunications Act of 1996” were inadvertently stricken out, resulting in a portion of the definition appearing nonsensical.

- 1                   d. The County Council wishes to correct this definition to include the  
2                   inadvertently stricken words.  
3
- 4                   3. Amend regulations regarding boundary line modifications so that they are  
5                   consistent with state law.  
6
- 7                   a. RCW 58.17.040(6) states that, under certain circumstances, the  
8                   boundaries of platted lots can be modified without being subject to the  
9                   provisions of Chapter 58.17 RCW, the subdivision statute. In order to be  
10                  exempt, the lot, platted or unplatted, must not “create any additional lot,  
11                  tract, parcel, site, or division nor create any lot, tract, parcel, site or  
12                  division which contains insufficient area and dimension to meet minimum  
13                  requirements for width and area for a building site.”  
14
- 15                  b. SJCC 18.70.030(A)(1)(a), however, only includes a portion of this state  
16                  requirement.  
17
- 18                  c. The County Council wishes to amend SJCC 18.70.030(A)(1)(a) so that it  
19                  is consistent with the state requirements in RCW 58.17.040(6).  
20
- 21                  4. Amend SJCC 18.70.060(B)(10)(a) to comply with a court ruling which held that  
22                  this provision is in violation of RCW 82.02.020.  
23
- 24                  a. In 2008, property owners Pat and Stephanie O’Day sued the County  
25                  alleging that SJCC 18.70.060(B)(10)(a) violates RCW 82.02.020.  
26
- 27                  b. Skagit County Superior Court Judge Cook held that 18.70.060(B)(10)(a)  
28                  violates RCW 82.02.020 as a tax on the subdivision of land and that this  
29                  section of the San Juan County Code is invalid and should not be applied.  
30
- 31                  c. This provision has not been applied since the date of the court ruling.  
32
- 33                  d. The County Council wishes to remove this provision from the county  
34                  code.  
35
- 36                  5. Amend inconsistent language in SJCC 18.80.140(I)(1).  
37
- 38                  a. SJCC 18.80.140(I)(1) addresses SEPA appeals of nonproject actions and  
39                  indicates that Table 8.4 shows the appeal path for nonproject actions.  
40
- 41                  b. Table 8.4 references Chapter 36.70C RCW which is the Land Use Petition  
42                  Act.  
43
- 44                  c. The Land Use Petition Act addresses “project actions’ and is therefore not  
45                  the correct reference for SEPA appeals of nonproject actions.  
46

1 d. The County Council wishes to correct this inconsistency.  
2

3 C. In compliance with the State Environmental Policy Act (SEPA), the environmental and  
4 nonproject action SEPA checklists were completed for the project. It was determined  
5 that the proposals would be unlikely to create any significant adverse environmental  
6 impacts. A Determination of Non-significance (DNS) was issued on November 6, 2019.  
7 The DNS and notice of the December 20, 2019 Planning Commission public hearing  
8 advertised in the Journal of the San Juan Islands and The San Juan Islander on November  
9 6, 2019. The checklists and DNS were provided to federal, state and local agencies in  
10 accordance with SJCC 18.80.050 and WAC 197-11-340. The Washington State  
11 Department of Ecology published notice of the SEPA determination on their SEPA  
12 register under No. XXXXXX.  
13

14 D. As required by RCW 36.70A.106, a 60-day notice regarding the potential adoption of  
15 amendments to the Comprehensive Plan was provided to the Washington State  
16 Department of Commerce on November 4, 2019. On the same day, Commerce  
17 acknowledged receipt of the notice that was processed by the State under Material ID No.  
18 XXXXX.  
19

20 E. Planning Commission was briefed on the proposal on November 15, 2018.  
21

22 F. Planning Commission held a duly advertised public hearing on December 20, 2019,  
23 deliberated and recommended that the County Council should XXX the ordinance.  
24

25 G. County Council was briefed on the Planning Commission's recommendation on January  
26 XX, 2020.  
27

28 H. County Council held a duly advertised public hearing on February X, 2020.  
29  
30

31 WHEREAS, the County conducted a duly advertised public hearing and has received public  
32 testimony.  
33

34 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,  
35 State of Washington, as follows:  
36

37 **Section 1. SJCC 18.20.160 and Ordinance 1-2016 § 75 are each amended to read**  
38 **as follows:**  
39

40 **18.20.160 "P" definitions.**  
41

42 "Parcel" means a lot or plot of land proposed or created in accordance with this code or prior  
43 subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or  
44 future, of transfer of ownership. The external boundaries existing as of October 2, 1979, are used  
45 to establish what is a parcel for the purposes of this code. For parcels which have not been

1 conveyed since that date, the legal description used in the conveyance closest to that date  
2 controls. The term “parcel” is synonymous with the terms “lot” and “tract.”

3  
4 “Park” means a tract of land that is specifically designated as a “park” and is used by the public  
5 for recreation.

6  
7 “Parking area” means a space where vehicles are left temporarily such as a road end. These areas  
8 are typically noncommercial and unpaved areas that may be in the County right-of-way and may  
9 provide visual or physical access to the shoreline.

10  
11 “Parking lot” means an off-street, ground level open area, usually improved, for the temporary  
12 storage of motor vehicles.

13  
14 “Parking structure” means a building or structure consisting of more than one level and used to  
15 store motor vehicles. Underground parking is considered a parking structure.

16  
17 “Party of record” means all persons, agencies, or organizations who have submitted written  
18 comments or notified San Juan County of their desire to receive a copy of the final decision on a  
19 permit (WAC 173-27-030).

20  
21 “Peak demand” means the highest demand associated with a particular interval, such as peak day  
22 or peak hour.

23  
24 “Performance standard” means a set of criteria or limits relating to certain characteristics that a  
25 particular use or process may not exceed.

26  
27 “Permanent moorage facility” means a facility which provides wet moorage or dry storage for  
28 pleasure craft or commercial craft for a fee for periods of six months or more.

29  
30 “Permanently affordable housing” means affordable housing, the affordability of which is  
31 assured for at least 99 years.

32  
33 Permit Center. See “department.”

34  
35 “Permit review” means the process of reviewing applications for project permits for consistency  
36 with the requirements of this code.

37  
38 “Permittee” means the entity to whom a permit is granted.

39  
40 “Person” means any individual, owner, contractor, tenant, partnership, corporation, association,  
41 organization, cooperative, public or municipal corporation, agency of a state or local  
42 governmental unit however designated, public or private institution, or an employee or agent of  
43 any of the foregoing entities.

44  
45 “Personal and professional services” means, for the purposes of this code, establishments  
46 primarily engaged in providing assistance, as opposed to products, to individuals, business,

1 industry, government, and other enterprises, not listed specifically in this code as a distinct use  
2 for regulatory purposes, such as laundry and dry cleaning services; barber shops and beauty  
3 salons; legal, engineering, architectural, design and accounting services; and the like.  
4

5 “Personal wireless service facility or PWSF” means a facility for the provision of personal  
6 wireless services, as defined by the Telecommunications act of 1996 and includes the property  
7 lease area and all towers, antennas, mounts, transmission cables, equipment shelters or cabinets,  
8 and any other installations for the operation of a personal wireless facility. Amateur radio towers  
9 and antennas are not PWSFs and are exempt from height requirements in accordance with SJCC  
10 18.60.050.  
11

12 “Personal wireless services” means any Federal Communications Commission (FCC) licensed  
13 commercial wireless telecommunications service defined in Section 704 of the Federal  
14 Telecommunications Act of 1996, including cellular, personal communications services (PCS),  
15 commercial mobile radio services, unlicensed wireless services, and common carrier wireless  
16 exchange access services. “Personal wireless services” does not include the operation of amateur  
17 radio.  
18

19 “Pervious surface” means a surface that absorbs water.  
20

21 “Pier” means a structure that abuts the shoreline and is generally used as a landing or moorage  
22 place for commercial and pleasure craft. A pier is a fixed platform above the water.  
23

24 “Planned unit development” means a development characterized by a unified site design,  
25 clustered residential units or commercial units, and areas of common open space.  
26

27 “Planning department,” “permit center,” and “building department” all mean the San Juan  
28 County community development and planning department.  
29

30 Planning Director. See “director.”  
31

32 “Plat” means a map or representation of a subdivision or short subdivision of land showing the  
33 division of a parcel of land into lots, roads, dedications, common areas, restrictions and  
34 easements, as regulated by Chapter 58.17 RCW and this code.  
35

36 Plat Alteration. See “subdivision, alteration of.”  
37

38 Plat, Long. See “subdivision (long).”  
39

40 Plat, Short. See “subdivision, short.”  
41

42 Plat Vacation. See “subdivision, vacation of.”  
43

44 “Playing field” means a land area designed and used for outdoor games, such as baseball,  
45 football, soccer, track events and tennis. It includes public outdoor swimming pools.  
46

1 “Pocket beach” means a Class II or Class III beach which does not depend on littoral drift  
2 accretion. It depends on the erosion of immediately adjacent sources.

3  
4 “Point” means a low profile shoreline promontory of more or less triangular shape, the tip of  
5 which extends seaward.

6  
7 “Point-of-use demand management” means a set of policies, procedures, and facilities that  
8 provide for the maximum efficiency where they are actually used, as distinguished from  
9 efficiency practices in supply, transmission, and distribution systems.

10  
11 “Point-source discharge” means the release of waste or other flows which can be described as  
12 confined to a small area, such as discharges from a pipe or conduit. Releases occurring over a  
13 broad or undefined area are referred to as “nonpoint sources.” (See also “nonpoint source.”)

14  
15 “Ports and water-related port facilities” means shoreline modifications such as breakwaters,  
16 jetties, groins and over-water structures that are located within the jurisdiction of a port district.

17  
18 “Ports, marinas, and marine transportation designation” means the Shoreline Master Program  
19 designation intended to protect, maintain, and enhance port, marina and marine transportation  
20 uses and areas within the County’s shoreline. This designation is characterized by infrastructure  
21 for launching, docking, mooring, maintaining, repairing, and storing a variety of marine craft.

22  
23 “Potential critical aquifer recharge areas” means areas identified as significant due to their  
24 potential value in supplying groundwater and vulnerability to contamination. They are identified  
25 based upon the relative ability of the soil to accept water and allow it to flow to become  
26 groundwater.

27  
28 “Predecision hearing, open-record” means a hearing, conducted by the hearing examiner, that  
29 creates the County’s record through testimony and submittal of evidence and information, under  
30 procedures prescribed by the County by ordinance or resolution (RCW 36.70B.020).<sup>1</sup>

31  
32 “Preliminary plat” means a neat and approximate drawing of a proposed subdivision or short  
33 subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a  
34 subdivision consistent with the requirements of this code and Chapter 58.17 RCW.

35  
36 “Primary association” in the context of critical area regulations refers to those areas that provide  
37 fish and wildlife habitat, including physical and biological features, that are necessary for a  
38 species to survive over the long term. Examples include areas that are necessary for essential life  
39 cycle functions including areas used for feeding, nesting, breeding, and rearing.

40  
41 “Primary surface” means the FAA imaginary surface that is longitudinally centered on and  
42 encloses an aircraft runway.

43  
44 “Primary use” means the principal use of a property.  
45

1 “Project permit” refers to a land use permit or license required from San Juan County for a  
2 project, such as land divisions, boundary line modifications, binding site plans, planned unit  
3 developments, conditional use permits, variances, shoreline substantial development permits  
4 (shoreline conditional use permits, shoreline variances), provisional use permits and temporary  
5 use permits. Concurrency findings, determinations of completeness, and other such  
6 administrative approvals are reviewed as part of the underlying project permit and are not project  
7 permits. SEPA threshold determinations are not project permits. Building, driveway, and other  
8 construction-type development permits and approvals are not project permits for this UDC  
9 (RCW 36.70B.020(4) and 36.70B.140). (See “development permit.”)

10  
11 “Proprietor-occupied” means the residential occupancy by the owner of a building or property.

12  
13 “Provision” means any written language contained in this code, including without limitation any  
14 definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

15  
16 “Public access areas” means ways or means of approach to provide the general public with a  
17 physical entrance to a property.

18  
19 “Public facilities” means facilities which serve the general public including streets, roads, ferries,  
20 sidewalks, street and road lighting systems, traffic signals, community water systems,  
21 community sewage treatment systems, storm sewer systems, parks and recreational facilities, and  
22 public schools.

23  
24 “Public schools” means a building (and grounds) or part thereof designed, constructed, or used  
25 for publicly operated education or instruction.

26  
27 “Public services” means services available to and used by the general public. They may be, but  
28 are not necessarily, provided by a public agency for fire protection and suppression, law  
29 enforcement, public health, education, recreation, environmental protection, and other  
30 governmental services (RCW 36.70A.030(13)). Some public services are essential public  
31 facilities.

32  
33 “Public transportation systems” means public facilities for air, water, or land transportation.

34  
35 **Section 2. SJCC 18.30.055 and Ordinance 25-2012 §9 are each amended to read**  
36 **as follows:**

37  
38 **18.30.055 Siting and permitting of essential public facilities (EPFs).**

39  
40 The Growth Management Act directs that no comprehensive plan or development regulation may  
41 preclude the siting of essential public facilities (RCW 36.70A.200(2)). The identification,  
42 location, and permitting of essential public facilities shall be guided by the policies of the  
43 Comprehensive Plan, including Section B, Element 2 (Land Use), Element 3 (Shoreline Master  
44 Program), and Appendix 2 (Joint Planning Policies), along with the requirements of SJCC Titles  
45 16 and 18.

1 A. Proposed facilities that satisfy County development standards shall follow the standard  
2 permitting procedures. Facilities that do not meet one or more development standards may be  
3 permitted as provided in this section. General. Facilities that meet County development  
4 standards shall follow the standard permitting procedures. Facilities that cannot meet one or  
5 more requirements may be permitted as provided in this section.

6  
7 B. Determination of an Essential Public Facility. Many facilities serving the public are either  
8 listed under the definition of “essential public facility” or are identified in the Comprehensive  
9 Plan as an essential public facility. These facilities are predetermined to be EPFs and no  
10 additional review is required. Essential Public Facilities are identified in both the Comprehensive  
11 Plan and the definition section of this Title. Additional Essential Public Facilities may be  
12 identified by either amendment to the Comprehensive Plan and this Chapter or by submission of  
13 a request for EPF determination as follows:

14  
15 ~~The following process applies to facilities that have not been defined to be an EPF. These~~  
16 ~~facilities, which could be either publicly or privately owned, may submit a written request that~~  
17 ~~the County council make a determination that a facility is an EPF.~~

18  
19 1. ~~Requests for designation as~~ A request for determination that a facility is an EPF shall  
20 contain a conceptual description of the facility, an explanation of the need for the facility,  
21 a preliminary development schedule, identification of any sites that are under  
22 consideration, and required fees.

23  
24 2. After receiving such a request, the County council shall hold a public hearing to  
25 discuss the request. At least 45 days prior to the meeting, the department shall provide  
26 notice in the legal section of the official County newspaper, and if particular sites are  
27 under consideration, at least 45 days prior to the meeting, notice shall be mailed to all  
28 owners of property within 500 feet of the parcel boundaries of those sites.

29  
30 3. Following the public hearing, the County council shall adopt a resolution as to whether  
31 the proposed facility is an EPF.

32  
33 ~~C. Siting of New EPFs. When developed in conformance with the following requirements, a new~~  
34 ~~EPF may be located in land use designations where one or more uses which comprise the facility~~  
35 ~~are prohibited, where they are inconsistent with the Comprehensive Plan goals and policies for~~  
36 ~~the designation, or within frequently flooded or geologically hazardous areas. The following~~  
37 ~~procedures provide a method for siting essential public facilities when there is no suitable site~~  
38 ~~with a land use designation that allows the proposed use:~~

39  
40 1. Prior to initiating the following process the applicant shall pay the associated fees.

41  
42 2. The department and applicant shall identify potential sites for the proposed facility.

43  
44 3. ~~The department and applicant shall develop a methodology for selecting the site which~~  
45 ~~includes, at a minimum, consideration of:~~ The applicant shall analyze potential sites

1 based on consideration of the following criteria along with any factors identified by the  
2 department which are specific to the proposed type of facility:

3  
4 a. Potential impacts Impacts on existing land uses, resource lands, open space,  
5 scenic resources, critical areas, and the natural and rural environment;

6  
7 b. The priority for the protection of resource lands;

8  
9 ~~b. c.~~ How the location will help maintain or enhance the quality or minimize the  
10 cost of the service;

11  
12 e. d. Economic, social and environmental impacts and benefits to the public;

13  
14 ~~d. Priority should be given to sites located in land use designations that are most~~  
15 ~~compatible with the facility; furthermore, sites in resource, natural, or~~  
16 ~~conservancy designations, and those where the facility would be located in~~  
17 ~~wetlands, fish and wildlife habitat conservation areas, geologically hazardous~~  
18 ~~areas or frequently flooded areas are disfavored;~~

19  
20 e. The siting criteria and recommendations provided by the joint County/town of  
21 Friday Harbor task force, if it is established (applicable only to facilities located  
22 on San Juan Island);

23  
24 f. Prevention of incompatible uses adjacent to general aviation airports; ~~and~~

25  
26 g. The extent to which design features or operational conditions can eliminate or  
27 reduce unwanted project impacts; and

28  
29 h. Whether the site is capable of being redesignated to an appropriate land use  
30 designation, i.e., whether it is capable of meeting the Comprehensive Plan goals  
31 and policies for a designation that allows the proposed essential public facility.

32  
33 4. The applicant shall prepare an analysis and comparison of the potential sites; using the  
34 ~~methodology developed as~~ criteria described above.

35  
36 5. The department and applicant shall hold a public meeting to discuss the analysis and  
37 the potential sites. At least 45 days prior to the meeting, the department shall provide  
38 notice in the legal section of the official County newspaper, and at least 45 days prior to  
39 the meeting, notice shall be mailed to all owners of property within 500 feet of the parcel  
40 boundaries of the sites under consideration.

41  
42 6. Following this meeting the applicant shall select the site and prepare a written request  
43 to the County council for approval of the site and authorization to apply for redesignation  
44 of the site an essential public facility conditional use permit. This request shall include a  
45 conceptual description of the facility, a conceptual site plan, an explanation of the need  
46 for the facility, an explanation of the methodology used to select the site, the analysis and

1 comparison of sites that were considered, and an explanation of why the proposed site  
2 was selected.

3  
4 7. After receiving such a request, the County council shall conduct a public hearing to  
5 accept public input. At least 45 days prior to the hearing, the County shall provide notice  
6 in the legal section of the ~~official County newspaper of record~~, and at least 45 days prior  
7 to the hearing notice shall be mailed to all owners of property within 1,000 feet of the  
8 parcel boundaries of the proposed site.

9  
10 8. If the council finds that the proposal is appropriate and in the public interest based on  
11 the above selection ~~methodology criteria~~, analysis and testimony, ~~it they~~ shall approve the  
12 site and authorize application for redesignation. ~~an essential public facility conditional~~  
13 ~~use permit~~.

14  
15 ~~After council approval, the hearing examiner is vested with the authority to consider an~~  
16 ~~essential public facility conditional use permit application according to the procedures of~~  
17 ~~Chapter 18.80 SJCC~~. If the request is denied, the council shall state the reasons for  
18 denial, shall identify preferred alternative sites, and shall identify actions the applicant  
19 can take to gain approval of a site.

20  
21 D. Existing Nonconforming Essential Public Facilities. Where an existing essential public  
22 facility (EPF) or a proposed expansion of an existing facility is nonconforming, it may be  
23 expanded on site or in combination with an adjacent parcel or parcels provided the County  
24 council holds a public hearing and determines that any nonconformity with respect to County  
25 regulations regarding critical areas or resource lands will not be increased and that the public  
26 benefits of expanding the facility in the existing location outweigh the economic, social and  
27 environmental impacts associated with relocating the facility. After said determination, the  
28 hearing examiner is vested with the authority to consider an application for expansion according  
29 to the essential public facility conditional use permit procedures of Chapter 18.80 SJCC.

30  
31 E. Where a facility is located or proposed in an appropriate land use ~~or shoreline designation~~, but  
32 cannot meet one or more of the development standards included in SJCC Title 16 or 18, the  
33 proposal may be approved with an essential public facility conditional use permit as provided in  
34 Chapter 18.80 SJCC.

35  
36 **Section 3. SJCC 18.70.030 and Ordinance 12-2001 § 7 are each amended to read**  
37 **as follows:**

38  
39 **18.70.030 Boundary line modifications.**

40  
41 A. Purpose and Procedures. To ensure compliance with RCW 58.17.040 and 58.17.060 and  
42 provide a procedure for the modification of property boundary lines common between lots.  
43 Boundary line modifications are reviewed according to the procedures in this section.  
44

1 Boundary line modifications may make substantive changes in the boundary line location, and  
2 boundaries may be modified for purposes other than rectifying an error. Boundary line  
3 adjustments may only be used in order to rectify errors; see SJCC 18.70.010(C)(7).  
4

5 1. A boundary line modification shall not:  
6

7 a. Create any additional lot, tract, parcel, site, or division nor create any lot, tract,  
8 parcel, site, or division which contains insufficient area and dimension to meet  
9 minimum requirements for width and area for a building site;

10  
11 b. Affect access, easements or drainfields without the consent of the affected  
12 party;

13  
14 c. Amend the conditions of approval for previously platted property;

15  
16 d. Violate Uniform Fire Code or Uniform Building Code requirements on  
17 developed commercial and multifamily property;

18  
19 e. Adversely affect the public health, safety, and general welfare; or

20  
21 f. Establish a lot line that causes an existing structure to violate setback or other  
22 standards of this code.  
23

24 2. Multiple applications for boundary line modifications and simple land divisions or  
25 combinations of applications and exemptions shall not be used as a substitute for meeting  
26 the requirements for subdivisions or short subdivisions pursuant to this chapter.  
27

28 3. Boundary line modifications may include:  
29

30 a. Boundaries that involve unplatted land; or

31  
32 b. The elimination of unplatted lot(s) where boundary lines are modified to such a  
33 degree that a lot is eliminated between lots being enlarged. Notice of such  
34 modifications shall be recorded on the deed(s) to state that the original separately  
35 described parcels shall not be separately conveyed or further modified without  
36 legal division.  
37

38 c. The modification of parcels such that the resultant parcel(s) cross(es) the  
39 applicable land use designation boundaries.  
40

41 4. A boundary line modification that affects a platted lot line (i.e., that involves land  
42 which is included within a subdivision or short subdivision) shall be processed as a  
43 subdivision alteration, pursuant to the requirements of SJCC 18.70.080(A).  
44

45 5. The approval of a boundary line modification shall include a restriction prohibiting  
46 division for five years without a short or long subdivision, as follows:

1 Pursuant to RCW 58.17.060 the property subject to this authorization may not be divided  
2 in any manner within a period of five (5) years without the filing of an application for a  
3 short or long subdivision.  
4

5 B. Notice of Application and Public Hearing.  
6

7 1. SEPA-Exempt, and No Shoreline Permit Required. Where no SEPA review is  
8 required, and no shoreline permit is required, a notice of application is not required. No  
9 public hearing is required.  
10

11 2. SEPA Review or Shoreline Permit Required. A notice of application is required as per  
12 SJCC 18.80.030. No public hearing is required unless a shoreline permit is required.  
13

14 C. Application Requirements. Applications for approval of boundary line modifications shall be  
15 submitted to the permit center in a form approved by the administrator, and must include:  
16

17 1. A completed application page which includes property owner information for each lot,  
18 and existing legal descriptions for each affected lot;  
19

20 2. A completed acknowledgment page, with signatures of all affected property owners;  
21

22 3. A completed map page, certified by the property owner or surveyor, drawn to an  
23 engineering scale, with a north arrow, and including the following information where  
24 applicable:  
25

26 a. Dashed lines for current boundaries and solid lines for proposed new lot lines;  
27

28 b. Current legal descriptions for each new parcel;  
29

30 c. Adjacent street names, if any, and locations;  
31

32 d. Existing or proposed easements for access, drainage, utilities, or sensitive  
33 areas;  
34

35 e. Existing structures and approximate distances to property lines;  
36

37 f. Existing wells, septic tanks and/or drainfields and approximate distances to  
38 property lines; and  
39

40 g. Identifying parcels as Lot A, Lot B, and so on, unless otherwise approved by  
41 the administrator;  
42

43 4. Assessor's maps; and  
44

45 5. Documentation that each parcel affected is in compliance with any applicable usable  
46 construction area requirement (see SJCC 18.70.060 (B)).

1 D. Review Authority. Boundary line modifications are reviewed and approved by the County  
2 pursuant to the authority provided in RCW 58.17.060.

3  
4 1. The administrator shall determine whether or not the proposed boundary line  
5 modification complies with any applicable usable construction area requirement (see  
6 SJCC 18.70.060 (B)).

7  
8 2. When a boundary line modification is approved that allows parcels larger or smaller  
9 than the average density, the administrator shall require a deed restriction to be recorded  
10 to credit or debit the allowable density of the appropriate parcels for purposes of future  
11 division, according to the allowable density in effect at the date of approval. If the  
12 allowable density for the parcels is changed at a future date, further subdivision may be  
13 allowed depending upon the density in effect at that later date.

14  
15 3. The County engineer shall review all boundary line modifications to ensure that  
16 adequate future driveway access can be provided for parcels adjacent to County roads.

17  
18 4. The County engineer shall review and approve all legal descriptions.

19  
20 5. The County sanitarian shall review all boundary line modifications to ensure that they  
21 comply with the requirements of the San Juan County health and community services  
22 department for water and sewage disposal (SJCC Title 13).

23  
24 E. Decisionmaking Authority. The administrator is vested with authority to approve or deny  
25 proposed boundary line modifications. Within five business days of accepting a completed  
26 application the administrator shall approve, disapprove, or return it if incomplete, and shall  
27 notify the applicant of action taken on the application.

28  
29 F. Criteria for Approval. A boundary line modification shall only be approved if:

30  
31 1. The application meets the requirements in SJCC 18.70.020 and this section and the  
32 applicable standards in Chapters 18.50 and 18.60 SJCC, and complies with the policies  
33 and requirements of Chapter 58.17 RCW, the Shoreline Master Program (if applicable),  
34 the State Environmental Policy Act, and the Comprehensive Plan;

35  
36 2. The application satisfactorily addresses the comments of the reviewing authorities;

37  
38 3. Revisions. Requests for revisions which are not made in response to staff review may  
39 require a new application if the administrator finds the revisions to be substantial and  
40 material.

41  
42 G. Final Approval and Recording.

43  
44 1. Approvals of boundary line modifications shall expire if the authorized deeds  
45 transferring property ownership, together with a copy of the approved boundary line  
46 modification and map, are not recorded within six months of the approval, unless the

1 application identified the modification as subject to a pending development permit  
2 application as a documented contingency agreement between the prospective land seller  
3 and purchaser. In that event, the recordings required above shall be filed within 30 days  
4 of the effective date of the approved development permit or shall become void upon the  
5 denial of a development permit. Documentation authorizing the transfer of property  
6 ownership may be placed on the original boundary line map along with the legal  
7 descriptions of those portions of land being transferred.  
8

9 2. The final map page shall contain an approval block to be signed by the administrator.  
10 The County auditor shall insure that proposed boundary line modifications are first  
11 approved by the administrator prior to recording.  
12

13 H. Appeals. Decisions by the administrator may be appealed to the hearing examiner in  
14 accordance with procedures specified in SJCC 18.80.140.  
15

16 **Section 4. SJCC 18.70.060 and Ordinance 2-2002 are each amended to read as**  
17 **follows:**  
18

19 **18.70.060 Subdivision and short subdivision design and development standards.**  
20

21 A. General Standards. The standards contained in this section and other sections of the UDC  
22 shall apply to subdivisions and short subdivisions regulated by this section, unless otherwise  
23 stated in this code.  
24

25 B. Subdivision Design Standards.  
26

27 1. Access to Shorelines and Common Easements.  
28

29 a. Subdivisions and short subdivisions adjacent to water subject to the jurisdiction  
30 of the Shoreline Master Program shall provide dedication of access to such bodies  
31 of water as required by the Shoreline Master Program.  
32

33 b. Dedications to the lot owners for access shall be to the low water mark if the  
34 subdivider holds ownership or a lease of the tidelands.  
35

36 c. Subdivisions shall provide a common easement for a common water supply for  
37 individual lots of less than 15 acres.  
38

39 2. Clustering. The administrator shall encourage clustering of units and lots in land  
40 division proposals, and shall inform applicants of alternatives to standard land division.  
41 Clustering may not be used to create lots smaller than the allowed minimum lot sizes  
42 where established by SJCC 18.70.010(E) or in applicable subarea plans. The sanitarian  
43 shall consider an approved water system or a proven common well supply in lieu of  
44 individual wells on clustered lots.  
45

1 3. Conforming to Natural Features and Topography. To the greatest degree possible, all  
2 subdivisions shall be designed to conform to the natural features of the land. Problems  
3 such as eroding cliffs or other potentially hazardous conditions must be divided with the  
4 general welfare and safety of persons and property in mind.  
5

6 4. Usable Construction Area. All proposed lots shall provide a usable area for the  
7 construction of a dwelling unit, approved sewage system, and an approved water supply.  
8

9 5. Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-  
10 of-way. Where a pre-existing road divides a lot where there is no alternative to such a  
11 division the administrator may grant a discretionary exception.  
12

13 6. Buffers and Setbacks. All subdivisions shall meet the setback requirements and other  
14 density, dimension, and open space standards of SJCC 18.60.050, and the landscaping  
15 and screening requirements of SJCC 18.60.160.  
16

17 7. Number of Lots. Subdivisions may include any number of lots. Short subdivisions are  
18 limited to no more than four lots.  
19

20 8. Standards for Agricultural and Forest Resource Lands. On all agricultural or forest  
21 resource lands (AG and FOR) the maximum area of development which is not related to  
22 agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area,  
23 but not less than one acre, regardless of the assigned density. Further, in the division of a  
24 parcel by any means, the allowable area for conversion of the parent parcel to nonfarm  
25 and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than  
26 five acres.  
27

28 9. Standards for Rural Farm-Forest (RFF) Districts. In RFF land use districts, no more  
29 than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive  
30 of roads and driveways.  
31

32 10. Conservation Design Requirements. All land divisions in resource land, conservancy,  
33 and rural designations (outside of areas of more intensive rural development), and all  
34 shoreline areas shall protect open space and scenic resources as well as natural resources  
35 by meeting the following design and development requirements:  
36

37 ~~a. At a minimum, 60 percent of the area of the parcel to be divided shall be~~  
38 ~~maintained as open space area from which all construction related to residential~~  
39 ~~use (houses, residential outbuildings, parking and residential landscaping) shall be~~  
40 ~~excluded. Wells, septic systems, biofiltration, and ponds approved as pumper~~  
41 ~~supply points, may be placed within the nonbuilding area of a parcel.~~  
42

43 ab. The significance and sensitivity of open space resources shall be identified for  
44 the entire parcel to be divided using the landscape information in Parts III and IV  
45 (Open Space Atlas and Map Folio) of the San Juan County Open Space and

1 Conservation Plan (SJCC 18.30.190(F)) and the criteria and rating scales in Part  
2 III of that plan.

3  
4 be. The land division design shall adhere to the following principles to the extent  
5 practicable:

6  
7 i. Establish nonbuilding portions of new parcels to be contiguous with one  
8 another and to contain the most sensitive open space features of the site  
9 within them.

10  
11 ii. Establish the location of roads, individual driveways, houses and  
12 outbuildings, and utilities, to minimize intrusion on the most sensitive  
13 open space features of the site.

14  
15 iii. Maintain existing orchards, meadows and pasture areas.

16  
17 iv. Leave ridgelines and contrasting edges between landscape types  
18 unbroken by structures.

19  
20 v. On rolling open or steep open slopes, locate building areas so that  
21 buildings will be screened by existing vegetation or terrain.

22  
23 vi. Ensure that the protection of features such as wetlands and wildlife  
24 habitat.

25  
26 cd. Use and management provisions for the nonbuilding area of each parcel shall  
27 be specified on the face of the plat.

28  
29 de. Building and nonbuilding locations of each parcel shall be indicated on the  
30 face of the plat.

31  
32 ef. Alternative Design.

33  
34 i. At least 60 percent of the entire parcel to be divided may be retained  
35 within a single tract maintained as open space from which all construction  
36 related to residential use (houses, residential outbuildings, parking, and  
37 residential landscaping) shall be excluded. Wells, septic systems,  
38 biofiltration, and ponds approved as pumper supply points, may be placed  
39 within the conservation area. Individual building lots shall be clustered or  
40 otherwise located in a manner consistent with the principles in subsection  
41 (B)(10)(e b) of this section.

42  
43 ii. The open space area shall be owned and managed as a single entity. The  
44 open space tract or easement may be transferred as indivisible open space  
45 to a conservation organization, held in perpetuity as an indivisible portion  
46 of one of the lots, or held by the lot owners in common. Use and

1 management provisions for the conservation tract shall be specified on the  
2 face of the plat.

3  
4 iii. If the conservation tract is created as a lot separate from a residential  
5 lot it may be leased for agricultural or forest management uses.  
6 Outbuildings other than structures for human habitation may be provided  
7 for to support agricultural activity on land in agricultural use.

8  
9 iv. All other requirements of this subsection (B)(10) shall apply.

10  
11 fg. San Juan Valley Heritage Plan Overlay District Conservation Incentive Bonus.  
12 Division of parcels in the San Juan Valley heritage plan overlay district located  
13 within that portion of the agricultural resource land area designated on the official  
14 maps at densities of 10 acres per unit shall be eligible for a density of up to five  
15 acres per unit if the following standards are met in addition to the requirements of  
16 subsection (B)(10) of this section, Conservation Design Requirements.

17  
18 i. The required open space area shall include at least 75 percent of the  
19 parcel to be divided and in no case shall the required open space area be  
20 smaller than 10 acres.

21  
22 ii. The maximum lot size for residential use shall be 1.5 acres and the  
23 minimum lot size for residential use shall be one-half acre.

24  
25 iii. Building lots may be grouped on the parcel to be divided; provided,  
26 that no individual group of building lots shall include more than six lots  
27 and groups of lots shall be separated from each other by at least 100 feet.

28  
29 iv. Building lots shown on the plat shall be presumed to be residential  
30 building locations.

31  
32 v. Existing parcels may be recombined for redivision according to this  
33 subsection (B)(10)(~~g~~ f).

34  
35 C. Road and Drainage Standards.

36  
37 1. Design and Construction Standards.

38  
39 a. All roads serving two or more lots shall comply with the road design and  
40 construction standards specified in SJCC 18.60.080(A), (B) and (C).

41  
42 b. A drainage analysis shall be performed in conformance with SJCC 18.60.070,  
43 and drainage systems shall be designed to the standards in subsection (B) of this  
44 section and SJCC 18.60.070.  
45

1 2. Submittal of Final Plat. Information in drawing form shall be submitted to the  
2 administrator to meet the requirements of SJCC 18.60.100 (D).

3  
4 3. Responsibility for Road Improvements. The applicant bears the responsibility to make  
5 offsite private road improvements necessary to meet the road standards.  
6

7 D. Road Inspections. The following inspections are required:

8  
9 1. First inspection prior to preliminary approval;

10  
11 2. Second inspection prior to final approval and to establish bonding;

12  
13 3. Third inspection for release of road bond if necessary.  
14

15 E. Health Standards. The following health standards apply to all subdivisions and short  
16 subdivisions:

17  
18 1. Water. All land divisions shall comply with the requirements of the San Juan County  
19 health and community services department for water (SJCC Title 13).

20  
21 2. Sewer. All land divisions shall comply with the requirements of the San Juan County  
22 health and community services department for sewer (SJCC Title 13).

23  
24 3. Storm Drainage. Stormwater flows from the subdivision shall not adversely affect  
25 critical aquifer recharge areas. All subdivisions and short subdivisions must meet critical  
26 area regulations for aquifer recharge (see Chapter 18.30 SJCC).  
27

28 F. Fire and Utility Standards. All subdivisions and short subdivisions must meet the fire  
29 protection improvement standards contained in Chapter 13.08 SJCC.  
30

31 **Section 5. SJCC 18.80.140 and Ordinance 13-2018 §13 are each amended to read**  
32 **as follows:**

33  
34 **18.80.140 Appeals.**

35  
36 A. Appeals – General. Appeals are open-record appeals (see definitions in Chapter 18.20 SJCC),  
37 and include:

38  
39 1. Appeals to the hearing examiner of permits (development permits and/or project  
40 permits) granted or denied by the director (director is the decisionmaker);

41  
42 2. Appeals to the hearing examiner of administrative determinations or interpretations  
43 made by the director (director is the decisionmaker);

44  
45 3. SEPA appeals of project actions, as defined in WAC 197-11-704;  
46

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
<b>Comment Period Prior to Action (days)</b>	14	21	30	N/A
<b>Administrative Appeal Period (days)</b>	21	21	N/A	21
<b>Consolidated Hearings</b>	yes	no	N/A	yes
<b>Open-Record Appeal Hearing</b>	yes	yes	N/A	yes
<b>Decisionmaker for Administrative Appeal</b>	Hearing Examiner	Hearing Examiner	N/A	Hearing Examiner
<b>Further Appeals</b>	Superior Court (21 days per Chapter 36.70C RCW) or SHB (21 days per Chapter 90.58 RCW)	See RCW 43.21C.075; Superior Court, SHB: 21 days	N/A	Superior Court or 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;

- 1 4. Short subdivisions;
- 2
- 3 5. Binding site plans (up to four lots);
- 4
- 5 6. Temporary use permits (Level II);
- 6
- 7 7. Discretionary use permits;
- 8
- 9 8. Administrative determinations or interpretations (see SJCC 18.10.030);
- 10
- 11 9. SEPA threshold determinations (DNS and DS) of project actions (see WAC 197-11-
- 12 704);
- 13
- 14 10. EIS adequacy for project actions;
- 15
- 16 11. Development permits issued or approved by the director;
- 17
- 18 12. Consolidated matters where the director was the decisionmaker; and
- 19
- 20 13. Flood development permits issued or approved by the director.
- 21

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

- 23
- 24 1. The applicant;
- 25
- 26 2. Any recipient of the notice of application (see SJCC 18.80.030);
- 27
- 28 3. Any person who submitted written comments to the director concerning the
- 29 application; and
- 30
- 31 4. Any aggrieved person.
- 32

33 D. Time Period and Procedure for Filing Appeals.

- 34
- 35 1. Appeals to the hearing examiner must be filed (and appeal fees paid) within 21
- 36 calendar days following the date of the written decision being appealed; and
- 37
- 38 2. Appeals of a SEPA threshold determination or an FEIS must be filed within 21 days
- 39 following the date of the threshold determination or FEIS.
- 40
- 41 3. All appeals shall be delivered to the director by mail, personal delivery, or fax, and
- 42 received before 4:30 p.m. on the due date of the appeal period. Applicable appeal fees
- 43 must be paid at the time of delivery to the director for the appeal to be accepted.
- 44
- 45 4. For the purposes of computing the time for filing an appeal, the date of the decision
- 46 being appealed shall not be included. If the last day of the appeal period is a Saturday,

1 Sunday, or a day excluded by RCW 1.16.050 as a legal holiday for the County, the filing  
2 must be completed on the next business day (RCW 36A.21.080).  
3

4 5. Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee, and  
5 contain the following information:  
6

7 a. Appellant's name, address and phone number;  
8

9 b. Appellant's statement describing standing to appeal (i.e., how he or she is  
10 affected by or interested in the decision);  
11

12 c. Identification of the decision which is the subject of the appeal, including date  
13 of the decision being appealed;  
14

15 d. Appellant's statement of grounds for appeal and the facts upon which the  
16 appeal is based;  
17

18 e. The relief sought, including the specific nature and extent; and  
19

20 f. A statement that the appellant has read the appeal and believes the contents to  
21 be true, signed by the appellant.  
22

23 E. Notice of Hearing. The director shall give notice of the appeal hearing as provided in SJCC  
24 18.80.030(C).  
25

26 F. Decision Time and Notice.  
27

28 1. The hearing examiner shall consider and render a written decision on all appeals. Such  
29 decision shall be issued within 60 days from the date the appeal is filed; provided, that  
30 the appeal contains all of the information specified in this section.  
31

32 2. The parties to an appeal may agree to extend these time periods.  
33

34 G. Consolidated Appeal Hearings.  
35

36 1. All appeals of development permit or project permit decisions shall be considered  
37 together in a consolidated appeal hearing.  
38

39 2. Appeals of environmental determinations under SEPA, except for an appeal of a  
40 determination of significance (DS), shall be consolidated with any open-record hearing  
41 (open-record predecision hearing or open-record appeal hearing) before the hearing  
42 examiner. (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC  
43 18.80.110(D), Shorelines – Consolidated Permit Processing.)  
44  
45  
46

1 H. Administrative SEPA Appeals of Project Actions.  
2

3 1. The County establishes the following consolidated appeal procedures, under RCW  
4 43.21C.075 and WAC 197-11-680, for administrative SEPA appeals of project actions as  
5 defined in WAC 197-11-704. The comment and appeal path is shown in Table 8.3.  
6

7 a. Appeals of the intermediate steps under SEPA (e.g., lead agency determination,  
8 scoping, draft EIS adequacy) are not allowed;  
9

10 b. An appeal to the hearing examiner on SEPA decisions is limited to review of a  
11 final threshold determination (determination of significance (DS) or  
12 nonsignificance (DNS/MDNS)) or the adequacy of a final environmental impact  
13 statement (FEIS);  
14

15 c. As provided in WAC 197-11-680(3)(a)(iv), there shall be no more than one  
16 administrative appeal of a threshold determination or of the adequacy of an FEIS;  
17

18 d. Except as provided in WAC 197-11-680(3)(a)(iv), administrative SEPA  
19 appeals authorized by this subsection shall be consolidated with the hearing or  
20 appeal on the underlying governmental action in a single simultaneous hearing  
21 before one hearing officer, in conformance with WAC 197-11-680(3)(a)(v);  
22

23 e. An appeal of a DS shall be heard and decided at a separate, open-record hearing  
24 to establish whether an applicant must provide an environmental impact  
25 statement. As provided in RCW 36.70B.060(6) and 43.21C.075, this open-record  
26 hearing shall not preclude a subsequent open-record hearing as provided by this  
27 code;  
28

29 f. A timely appeal of a DS or other application identified in WAC 197-11-  
30 680(3)(a)(vi) shall stay the decision on a project permit application or  
31 development permit application until such time as the appeal has been resolved at  
32 the administrative level (i.e., decision by the hearing examiner) or the appeal has  
33 been withdrawn;  
34

35 g. The determination of the responsible official shall carry substantial weight in  
36 any appeal proceeding;  
37

38 h. The hearing examiner's decision on a SEPA appeal is final unless a timely  
39 judicial appeal is filed.  
40

41 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.  
42

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

1 and SEPA issues, the statute or ordinance establishing the time limit, and where  
2 such a judicial appeal may be filed.  
3

4 b. Notice is given by delivery of written notice to the applicant, all parties of  
5 record in any administrative appeal, and all persons who have requested notice of  
6 decisions with respect to the particular proposal along with any additional notice  
7 required by County code, such as SJCC 18.80.130.  
8

9 c. Written notice containing the required information may be appended to the  
10 permit, decision documents, or SEPA compliance documents or may be given  
11 separately.  
12

13 d. Official notices required by this section shall not be given prior to the County's  
14 final decision on a proposal or appeal.  
15

16 I. No Administrative SEPA Appeals of Nonproject Actions.  
17

18 1. SEPA determinations for nonproject actions are not subject to administrative appeals;  
19 they may only be appealed in conjunction with the underlying action to superior court or  
20 state boards as provided by law. ~~The comment and appeal path for nonproject actions is~~  
21 ~~shown in Table 8.4.~~  
22

23 2. Notice of the Date and Place for Commencing a Judicial SEPA Appeal.  
24

25 a. Pursuant to WAC 197-11-680(5), notice of the date and place for commencing  
26 a SEPA judicial appeal must be given if there is a time limit established by statute  
27 or ordinance for commencing an appeal of the decision. The notice shall include  
28 the time limit for commencing appeal of the underlying permit decision and  
29 SEPA issues, and the statute or ordinance establishing the time limit; and where  
30 such a judicial appeal may be filed.  
31

32 b. Such notice is given by delivery of written notice to the applicant, all parties of  
33 record in any administrative appeal, and all persons who have requested notice of  
34 decisions with respect to the particular proposal along with any additional notice  
35 required by County code, such as SJCC 18.80.130.  
36

37 c. Written notice containing the required information may be appended to the  
38 permit, decision documents, SEPA compliance documents, or may be given  
39 separately.  
40

41 d. Official notices required by this section shall not be given prior to the County's  
42 final decision on a proposal or appeal.  
43  
44  
45

**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).

**Section 6. Effective Date.**

This Ordinance is effective on the 10<sup>th</sup> working day after adoption.

**Section 7. Codification.**

Sections 1-5 of this ordinance shall be codified.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST: Clerk of the Council

**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

\_\_\_\_\_  
Ingrid Gabriel, Clerk Date

\_\_\_\_\_  
Rick Hughes, Chair  
District 2

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5  
6  
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8  
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11  
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13

REVIEWED BY COUNTY MANAGER

\_\_\_\_\_  
Michael J. Thomas Date

\_\_\_\_\_  
Bill Watson, Vice-Chair  
District 1

RANDALL K. GAYLORD  
APPROVED AS TO FORM ONLY

By: \_\_\_\_\_  
Date

\_\_\_\_\_  
Jamie Stephens, Member  
District 3



STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000  
[www.commerce.wa.gov](http://www.commerce.wa.gov)

ATTACHMENT E

11/04/2019

Ms. Linda Kuller  
Planner IV  
San Juan County  
135 Rhone Street  
Friday Harbor, WA 98250

Sent Via Electronic Mail

Re: San Juan County--2019-S-853--60-day Notice of Intent to Adopt Amendment

Dear Ms. Kuller:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under RCW 36.70A.106. We received your submittal with the following description.

**Proposed ordinance correcting code inconsistencies and inaccuracies.**

We received your submittal on 11/04/2019 and processed it with the Submittal ID 2019-S-853. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 01/03/2020.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov), or call Valerie Smith, (360) 725-3062.

Sincerely,

Review Team  
Growth Management Services



# THANK YOU

We have received your amendment submission. Please allow 1-3 business days for review. Please keep the Submittal ID as your receipt and for any future questions. We will also send an email receipt to all contacts listed in the submittal.

## Submittal ID: 2019-S-853

### Submittal Date Time: 11/04/2019

#### Submittal Information

Jurisdiction	San Juan County
Submittal Type	60-day Notice of Intent to Adopt Amendment
Amendment Type	Development Regulation Amendment

#### Amendment Information

**Brief Description**  
Proposed ordinance correcting code inconsistencies and inaccuracies.

Yes, this is a part of the 8-year periodic update schedule, required under RCW 36.70A.130.

Planning Commissions Date 12/20/2019

Anticipated/Proposed Date of Adoption 02/11/2020

#### Attachments

Attachment Type	File Name	Upload Date
Correspondence	San Juan County 60_day Notice Code Correction Ord.msg	11/04/2019 08:41 AM
Development Regulation Amendment - Draft	2019-11-04_DCD_60-day_Notice_Commerce.pdf	11/04/2019 08:41 AM

#### Contact Information

Prefix	Ms.
Last Name	Linda
First Name	Kuller
Title	Planner IV
Work	(360) 370-7572
Cell	
Email	lindak@sanjuanco.com

Yes, I would like to be contacted for Technical Assistance.

## certification

---

Entered by Linda Weyl on 11/4/2019 8:42:21 AM

Take Received Date	11/04/2019
Bill Name	Linda Kuller
mail	<a href="mailto:lindak@sanjuanco.com">lindak@sanjuanco.com</a>



Skagit County Superior Court

Skagit County Courthouse  
205 West Kincaid Street, Room 202  
Mount Vernon, WA 98273

Phone: (360)336-9320  
Fax: (360)336-9340  
E-mail: superiorcourt@co.skagit.wa.us

JOHN M. MEYER  
JUDGE, DEPARTMENT NO. 1

MICHAEL E. RICKERT  
JUDGE, DEPARTMENT NO. 2

SUSAN K. COOK  
JUDGE, DEPARTMENT NO. 3

DAVE NEEDY  
JUDGE, DEPARTMENT NO. 4

C. BRIAN PAXTON  
COURT COMMISSIONER

DELILAH M. GEORGE  
COURT ADMINISTRATOR

March 16, 2010

Ms. Stephanie Johnson O'Day  
Attorney at Law  
540 Guard Street, Suite 160  
P.O. Box 2112  
Friday Harbor, WA 98250

Mr. Jonathan W. Cain  
Deputy Prosecuting Attorney  
San Juan County  
350 Court Street  
P.O. Box 760  
Friday Harbor, WA 98250

Re: Pat O'Day and Stephanie O'Day v. San Juan County  
San Juan County Case No.: 8-2-05243-6

Dear Counsel,

I have now reviewed the materials submitted by the parties in connection with the Plaintiff's motion for summary judgment. I conclude that San Juan County Code 18.70.060 (B)(10)(a) violates RCW 82.02.020 as a tax on the subdivision of land. That section of the San Juan County Code is therefore invalid and should not be applied to the O'Day's proposal.

This case comes before the Court as a result of San Juan County's refusal to process the O'Day's application to sub divide their 10.54 acre parcel on San Juan Island into two 5.27 acre parcels. The San Juan County planning department based its refusal on the fact that the O'Day's application lacked an Open Space Conservation Design as required by SJCC 18.70.060 (B)(10). The O'Day's asserted both to the planning department and to this court that the open space requirements were an illegal tax under RCW 82.02.020 and CAPR v. King Co. 145 Wn.App. 649 (2008).

The O'Day property is located in the Rural Farm Forest land use district with a permissible residential density of one unit per five acres. If left undivided, the property would be required to have a minimum of 30% of its area set aside as open space or landscaped area. When divided, however, the land becomes subject to SJCC 18.70.060 (B)(10)(a) and is required to maintain 60 percent of its area as open space "from which all construction related to residential use is excluded."

Although San Juan County attempts to characterize its ordinance as a zoning regulation enacted pursuant to the authority of GMA, there is no getting around the fact that when

March 16, 2010  
Ms. Stephanie Johnson O'Day  
Mr. Jonathan W. Cain

the O'Day property is divided the percentage of that property limited to open space uses doubles. And Washington law is clear that RCW 82.02.020 prohibits local ordinances that require developers to set aside land as a condition of development.

The County also argues that its 60% requirement is not a "set-aside" because the property owner can make agricultural or forestry uses of the 60% area even if it cannot be used for residential construction. This overlooks the fact that the amount of land so limited increased from 30% to 60% as a result of the land division.

SJCC 18.70.060 (B)(10) imposes a "fee, tax or charge" on land divisions and therefore violates RCW 82.02.020. The ordinance is invalid.

Sincerely,



SUSAN K. COOK  
Superior Court Judge

SKC/hs

## **18.70.060 Subdivision and short subdivision design and development standards.** SHARE

A. General Standards. The standards contained in this section and other sections of the UDC shall apply to subdivisions and short subdivisions regulated by this section, unless otherwise stated in this code.

### B. Subdivision Design Standards.

#### 1. Access to Shorelines and Common Easements.

a. Subdivisions and short subdivisions adjacent to water subject to the jurisdiction of the Shoreline Master Program shall provide dedication of access to such bodies of water as required by the Shoreline Master Program.

b. Dedications to the lot owners for access shall be to the low water mark if the subdivider holds ownership or a lease of the tidelands.

c. Subdivisions shall provide a common easement for a common water supply for individual lots of less than 15 acres.

2. Clustering. The administrator shall encourage clustering of units and lots in land division proposals, and shall inform applicants of alternatives to standard land division. Clustering may not be used to create lots smaller than the allowed minimum lot sizes where established by SJCC 18.70.010(E) or in applicable subarea plans. The sanitarian shall consider an approved water system or a proven common well supply in lieu of individual wells on clustered lots.

3. Conforming to Natural Features and Topography. To the greatest degree possible, all subdivisions shall be designed to conform to the natural features of the land. Problems such as eroding cliffs or other potentially hazardous conditions must be divided with the general welfare and safety of persons and property in mind.

4. Usable Construction Area. All proposed lots shall provide a usable area for the construction of a dwelling unit, approved sewage system, and an approved water supply.

5. Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-of-way. Where a pre-existing road divides a lot where there is no alternative to such a division the administrator may grant a discretionary exception.

6. **Buffers and Setbacks.** All subdivisions shall meet the setback requirements and other density, dimension, and open space standards of SJCC 18.60.050, and the landscaping and screening requirements of SJCC 18.60.160.

7. **Number of Lots.** Subdivisions may include any number of lots. Short subdivisions are limited to no more than four lots.

8. **Standards for Agricultural and Forest Resource Lands.** On all agricultural or forest resource lands (AG and FOR) the maximum area of development which is not related to agricultural or forestry uses and activities shall be limited to 20 percent of the parcel area, but not less than one acre, regardless of the assigned density. Further, in the division of a parcel by any means, the allowable area for conversion of the parent parcel to nonfarm and/or nonforestry use shall not be exceeded. This shall not apply to parcels smaller than five acres.

9. **Standards for Rural Farm-Forest (RFF) Districts.** In RFF land use districts, no more than 30 percent of the area of a parcel shall be covered by impervious surfaces, exclusive of roads and driveways.

10. **Conservation Design Requirements.** All land divisions in resource land, conservancy, and rural designations (outside of areas of more intensive rural development), and all shoreline areas shall protect open space and scenic resources as well as natural resources by meeting the following design and development requirements:

a. At a minimum, 60 percent of the area of the parcel to be divided shall be maintained as open space area from which all construction related to residential use (houses, residential outbuildings, parking and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and ponds approved as pumper supply points, may be placed within the nonbuilding area of a parcel.

b. The significance and sensitivity of open space resources shall be identified for the entire parcel to be divided using the landscape information in Parts III and IV (Open Space Atlas and Map Folio) of the San Juan County Open Space and Conservation Plan (SJCC 18.30.190(F)) and the criteria and rating scales in Part III of that plan.

c. The land division design shall adhere to the following principles to the extent practicable:

i. Establish nonbuilding portions of new parcels to be contiguous with one another and to contain the most sensitive open space features of the site within them.

- ii. Establish the location of roads, individual driveways, houses and outbuildings, and utilities, to minimize intrusion on the most sensitive open space features of the site.
  - iii. Maintain existing orchards, meadows and pasture areas.
  - iv. Leave ridgelines and contrasting edges between landscape types unbroken by structures.
  - v. On rolling open or steep open slopes, locate building areas so that buildings will be screened by existing vegetation or terrain.
  - vi. Ensure that the protection of features such as wetlands and wildlife habitat.
- d. Use and management provisions for the nonbuilding area of each parcel shall be specified on the face of the plat.
- e. Building and nonbuilding locations of each parcel shall be indicated on the face of the plat.
- f. Alternative Design.
- i. At least 60 percent of the entire parcel to be divided may be retained within a single tract maintained as open space from which all construction related to residential use (houses, residential outbuildings, parking, and residential landscaping) shall be excluded. Wells, septic systems, biofiltration, and ponds approved as pumper supply points, may be placed within the conservation area. Individual building lots shall be clustered or otherwise located in a manner consistent with the principles in subsection (B)(10)(c) of this section.
  - ii. The open space area shall be owned and managed as a single entity. The open space tract or easement may be transferred as indivisible open space to a conservation organization, held in perpetuity as an indivisible portion of one of the lots, or held by the lot owners in common. Use and management provisions for the conservation tract shall be specified on the face of the plat.
  - iii. If the conservation tract is created as a lot separate from a residential lot it may be leased for agricultural or forest management uses. Outbuildings other than structures for human habitation may be provided for to support agricultural activity on land in agricultural use.

iv. All other requirements of this subsection (B)(10) shall apply.

g. San Juan Valley Heritage Plan Overlay District Conservation Incentive Bonus. Division of parcels in the San Juan Valley heritage plan overlay district located within that portion of the agricultural resource land area designated on the official maps at densities of 10 acres per unit shall be eligible for a density of up to five acres per unit if the following standards are met in addition to the requirements of subsection (B)(10) of this section, Conservation Design Requirements.

i. The required open space area shall include at least 75 percent of the parcel to be divided and in no case shall the required open space area be smaller than 10 acres.

ii. The maximum lot size for residential use shall be 1.5 acres and the minimum lot size for residential use shall be one-half acre.

iii. Building lots may be grouped on the parcel to be divided; provided, that no individual group of building lots shall include more than six lots and groups of lots shall be separated from each other by at least 100 feet.

iv. Building lots shown on the plat shall be presumed to be residential building locations.

v. Existing parcels may be recombined for redivision according to this subsection (B)(10)(g).

#### C. Road and Drainage Standards.

##### 1. Design and Construction Standards.

a. All roads serving two or more lots shall comply with the road design and construction standards specified in SJCC 18.60.080(A), (B) and (C).

b. A drainage analysis shall be performed in conformance with SJCC 18.60.070, and drainage systems shall be designed to the standards in subsection (B) of this section and SJCC 18.60.070.

2. Submittal of Final Plat. Information in drawing form shall be submitted to the administrator to meet the requirements of SJCC 18.60.100 (D).

3. Responsibility for Road Improvements. The applicant bears the responsibility to make offsite private road improvements necessary to meet the road standards.

D. Road Inspections. The following inspections are required:

1. First inspection prior to preliminary approval;
2. Second inspection prior to final approval and to establish bonding;
3. Third inspection for release of road bond if necessary.

E. Health Standards. The following health standards apply to all subdivisions and short subdivisions:

1. Water. All land divisions shall comply with the requirements of the San Juan County health and community services department for water (SJCC Title 13).
2. Sewer. All land divisions shall comply with the requirements of the San Juan County health and community services department for sewer (SJCC Title 13).
3. Storm Drainage. Stormwater flows from the subdivision shall not adversely affect critical aquifer recharge areas. All subdivisions and short subdivisions must meet critical area regulations for aquifer recharge (see Chapter 18.30 SJCC).

F. Fire and Utility Standards. All subdivisions and short subdivisions must meet the fire protection improvement standards contained in Chapter 13.08 SJCC. (Ord. 2-2002; Ord. 11-2000 § 6; Ord. 2-1998 Exh. B § 7.6)