



SAN JUAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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MEMORANDUM

REPORT DATE: March 2, 2022
TO: San Juan County Council
CC: Mike Thomas, County Manager
David Williams, DCD Director
FROM: Sophia Cassam, Planner II *sc*
SUBJECT: Planning Commission Vacation Rental Cap Findings and Recommendations
BRIEFING DATE: March 8, 2022
ATTACHMENTS: A. Draft Planning Commission Findings and Recommendations
B. Draft Ordinance Establishing a Cap on Permits for Vacation Rental of Residences or Accessory Dwelling Units (ADUs); Amending San Juan County Code (SJCC) 18.40.275

PURPOSE

To brief the County Council on the Planning Commission's findings and recommendations on an ordinance establishing a cap on permits for vacation rental of residences or accessory dwelling units (ADUs); amending San Juan County Code (SJCC) 18.40.275

PUBLIC COMMENTS

Please send all public comments to VRComments@sanjuanco.com. Please do not copy the County Council, Planning Commission members, or County Staff. Written public comments received by March 7 at 12:00 pm will be provided to the County Council prior to the meeting. Please focus public comments on the issues contemplated in this memo.

To view all public comments on this topic, please visit the 2021 Vacation Rental Code Amendment webpage: <https://www.sanjuanco.com/1826/2021-Vacation-Rental-Code-Amendment>

BACKGROUND

In January 2021, the County Council established a moratorium on vacation rental permits to allow for time to consider a cap on vacation rentals. The County Council modified the moratorium on March 9, 2021 to apply only to activity centers, hamlets, and urban growth areas. The County Council discussed vacation rental caps at their meetings on March 30, May 12, and June 29, 2021, before providing the following guidance to staff and the Planning Commission:

- The caps should be county-wide and by island;
- They should be a fixed number rather than floating;
- The cap on Orcas Island should be 500 permits, which is about the total number that exist today;

- Consider a cap on San Juan Island closer to 500 (similar to Orcas);
- Consider a cap on Lopez Island that is more than the current number (130) but not as many as San Juan and Orcas Island; and
- Move forward to consider vacation rental permit caps before considering other regulations that may take more time to complete.

The County Council direction was provided to the Planning Commission in a staff report dated July 1, 2021, posted online at: <https://www.sanjuanco.com/DocumentCenter/View/23420/>. The Planning Commission discussed the cap at their meetings on July 16, August 20, and September 17 and at the public hearings on October 15, 2021 and February 18, 2022.

PLANNING COMMISSION HEARINGS

On October 15, 2021, the Planning Commission held a public hearing regarding a cap on vacation rental permits. The staff report provided to the Planning Commission for the public hearing is available online at: <https://www.sanjuanco.com/DocumentCenter/View/24428/>. At the public hearing the Planning Commission made a recommendation on an ordinance establishing a cap on permits for vacation rental of residences or accessory dwelling units (ADUs); amending SJCC 18.40.275 (Attachment A). The Planning Commission did not make findings to accompany the recommendation at the October 15 public hearing.

Per SJCC 2.20.070 Role and function of the planning commission, the Planning Commission must include findings when making a recommendation at a public hearing. Because findings were not made on October 15, 2021, the Planning Commission held a hearing on February 18, 2022, to establish findings. The findings and recommendations made at the Planning Commission hearings are shown in Attachment A. They remain in draft form until the Planning Commission chair and vice-chair sign them. Once signed, the findings and recommendations will be official.

DRAFT ORDINANCE

Section 1 of the attached draft ordinance shows the amendments to San Juan County Code (SJCC) 18.40.275 as recommended by the Planning Commission (Attachment B). The ordinance proposes new subsections (N) and (O) of SJCC 18.40.275 and amendments to SJCC 18.40.275(L) for consistency with the proposed changes. New section 18.40.275(N) sets the Countywide total number of permits at 650 for the first five years following the adoption of the new regulations. It also states that new permits will be issued by lottery. New section 18.40.275(O) sets the per-island caps. The proposed new SJCC 18.40.275(N) and (O) would read as follows:

N. The number of vacation rental permits countywide outside of the Master Planned Resort (MPR) designation shall not exceed a total of six-hundred and fifty (650) for a period of five years following the adoption of the ordinance codified in this section. Vacation rental permits shall be issued by lottery procedures established by the administrator and approved by the County Council.

O. The number of vacation rental permits shall not exceed the following caps:

1. Three-hundred and thirty-four (334) on Orcas Island;
2. Two-hundred and twenty-nine (229) on San Juan Island;
3. Eighty-five (85) on Lopez Island;

4. Vacation rentals are prohibited on Shaw Island by SJCC 16.45.180(C);
5. Vacation rentals are prohibited on Waldron Island by SJCC 16.36.060(G); and
6. Two (2) on all other islands.

Subsection 18.40.275(L) establishes the requirement that permits vested under previous regulations must submit certificates of compliance. This subsection will be amended to exclude the sections that existing permits vested or approved prior to Ordinance 02-2018 cannot certify compliance with because they were issued under previous regulations. This includes the recently amended guest number limitations, recently amended parking requirements, and the permit expiration standard established for permits issued under the current regulations. The proposed text of SJCC 18.40.275(L) with ~~strikeout~~/underline formatting (~~Removal~~/Addition) states:

L. The owners of vacation rental permits vested or approved prior to the effective date of ~~the Ordinance 02-2018 codified in this section~~ are required to comply with all subsections of this section except subsections (B), (F) and (J) of this section by December 31, 2018, in addition to the conditions of their permit.

For reference, Ordinance 02-2018 became effective on March 27, 2018.

NEXT STEPS

The County Council must have a minimum of three touches on the draft ordinance and hold a public hearing prior to adoption. The legislative procedures for modifying Title 18 SJCC are established in SJCC 18.90.020 Legislative procedures. The minimum required steps are outlined below:

1. Staff briefing to the Council on the Planning Commission findings and recommendation and draft ordinance [First touch – March 8]
2. Staff briefing on any changes to or questions about the draft ordinance resulting from the previous discussion [Second touch]
3. Council reviews the draft ordinance a third time and sets a public hearing on the proposed vacation rental permit cap [Third touch]
4. Council holds a public hearing
5. Council adopts a code amendment ordinance

MORATORIUM

The current moratorium on vacation rentals of residences and accessory dwelling units in UGAs, hamlets and activity centers is set to expire on July 13, 2022. According to the revised work plan in Resolution 33-2021, this project is expected to be complete in May 2022. This project is currently on-schedule with the work plan. While the moratorium is in effect, no new applications for vacation rental permits in urban growth areas, hamlets, and activity centers are accepted by the County.



San Juan County Planning Commission

DRAFT FINDINGS AND RECOMMENDATIONS

HEARING DATE: October 15, 2021 and February 18, 2022

SUBJECT: An Ordinance Establishing A Cap on Permits for Vacation Rental of Residences or Accessory Dwelling Units (ADUs); Amending San Juan County Code (SJCC) 18.40.275

APPLICANT: San Juan County

LOCATION: San Juan County

COMMISSION MEMBERS PARTICIPATING: Camille Uhler, Michael Pickett, David Kane, Matt Ellingson, Sheila Gaquin, Steve Smith, and Nick Knoellinger

COMMUNITY DEVELOPMENT AND PLANNING

RECOMMENDATION: Approval

PLANNING COMMISSION

RECOMMENDATION: Approval

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

- A. San Juan County Code 18.04.275 regulates vacation rental of residences or accessory dwelling units (vacation rentals) but does not include regulations that address the impact of concentration of vacation rentals or the impacts of tourism.
- B. Vacation rentals consist of transient occupants who are not resident in the community long enough to establish relationships capable of building community. Concentration of vacation rentals negatively impacts the sense of neighborhood or community as transient occupants begin to outnumber residents.
- C. Vacation rentals are the primary source of growth of transient accommodations in the County. Other sources of transient accommodations such as hotels, campgrounds and resorts are significantly limited by existing land use regulations.
- D. Growth of transient accommodations is likely to result in additional tourist visits to the islands, which may result in negative impacts if not properly regulated.

E. It is appropriate to evaluate the impact of vacation rentals on the environment, neighborhoods, and the community.

F. It is necessary to explore local regulations of vacation rentals to ensure that the County adequately addresses potential land use compatibility issues and adverse impacts to rural character, natural resources and the public welfare.

G. Existing compliant vacation rental permits remain valid and are not affected by caps.

The San Juan County Planning Commission hereby recommends the following:

1. The County Council sets the limit on vacation rentals at 650 permits for a period of five years following the adoption of the proposed ordinance. This is the number of permits that were compliant as of July 31, 2021.

- 229 for San Juan Island
- 334 for Orcas
- 85 for Lopez
- 2 for Other Islands

RECOMMENDED this 15th day of October 2021, and the 22nd day of February 2022, which constitutes the dates of the Planning Commission’s action, per State law.

SAN JUAN COUNTY PLANNING COMMISSION

Chair or Vice-Chair

Date

Co-signor

Date

SAN JUAN COUNTY PLANNING COMMISSION

Camille White 10-20-21
Chair or Vice-Chair Date

[Signature] 10-20-21
Co-signor Date

ORDINANCE NO. ____ - 2022

ORDINANCE ESTABLISHING A CAP ON PERMITS FOR VACATION RENTAL OF RESIDENCES OR ACCESSORY DWELLING UNITS (ADUs); AMENDING SAN JUAN COUNTY CODE (SJCC) 18.40.275 AND ORDINANCE 2-2018.

BACKGROUND

- A. In 1998, the County Council adopted Ordinance 2-1998, establishing performance standards for vacation (short-term) rentals of residences and accessory dwelling units (ADUs) in San Juan County Code (SJCC) 18.40.270.
- B. SJCC 18.40.270 was amended three times by Ordinances 145-1998, 21-2002, and 7-2006.
- C. In 2018, the San Juan County Council adopted Ordinance 2-2018, repealing SJCC 18.40.270 and establishing SJCC 18.40.275, which regulates vacation rental of residences and ADUs.
- D. SJCC 18.40.275 does not specifically regulate the number of vacation rental permits.
- E. The County Council identified a need to adopt specific regulations to limit the number of vacation rental permits allowed countywide and on a per-island basis.
- F. The County Council met to develop legislative options for regulations related to the vacation rental moratorium on February 23, 2021; March 9, 2021; March 30, 2021; April 20, 2021 and May 12, 2021.
- G. At their May 12, 2021 meeting, the County Council provided guidance to the staff and the Planning Commission for development additional vacation rental regulations including an overall cap on the number of permits issued, caps on numbers of permits issued by island, measures to address emergency management, impacts to neighborhoods and impacts to community roads and water systems.
- H. The County Council specifically desires to:
 - 1. Establish a Countywide cap for vacation rentals in the Unified Development Code (UDC), Title 18 SJCC.
 - 2. Establish a per-island cap for vacation rentals in the UDC, Title 18 SJCC.
- I. County staff briefed the Planning Commission about the County Council direction and draft proposal on July 16, August 20, and September 17, 2021.

- 1 **J.** County staff completed the environmental and nonproject action checklist for the project
2 in compliance with the State Environmental Policy Act (SEPA) and determined that the
3 proposal would be unlikely to create significant adverse environmental impacts.
4
- 5 **K.** County staff issued a Determination of Non-significance (DNS) on September 29, 2021
6 and published it in the Journal of the San Juan Islands and The Island's Sounder. County
7 staff transmitted the environmental checklist and DNS to federal, state, and local agencies
8 in accordance with SJCC 18.80.050 and WAC 197-11-340.
9
- 10 **L.** The Washington State Department of Ecology published notice of the SEPA determination
11 on their SEPA Register under No. 202105252.
12
- 13 **M.** County staff submitted a sixty-day notice regarding the potential adoption of amendments
14 to the County's development regulations to the Washington State Department of
15 Commerce (Commerce) on September 28, 2021 in compliance with RCW 36.70A.106.
16
- 17 **N.** Commerce acknowledged receipt of the sixty-day notice and identified it as Submittal ID
18 No. 2021-S-3188 on September 28, 2021.
19
- 20 **O.** An October 15, 2021 Planning Commission public hearing was advertised in the Journal
21 of the San Juan Islands and The Island's Sounder on September 29, 2021.
22
- 23 **P.** The Planning Commission held a duly advertised public hearing on October 15, 2021,
24 deliberated and recommended that the County Council should adopt the ordinance with
25 modifications.
26
- 27 **Q.** The Planning Commission did not issue findings at the October 15, 2021 public hearing.
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- 29 **R.** Per SJCC 2.20.070 Role and function of the planning commission, the Planning
30 Commission must include findings when making a recommendation at a public hearing.
31
- 32 **S.** The Planning Commission held a duly advertised public hearing on February 18, 2022,
33 deliberated and agreed on findings to accompany the October 15, 2021, recommendation.
34
- 35 **T.** County staff briefed the County Council on the Planning Commission's recommendation
36 regarding the proposal on March 8, 2022.
37
- 38 **U.** A X, 2022 County Council public hearing was advertised in the Journal of the San Juan
39 islands and the Island's Sounder on X, 2022.
40
- 41 **V.** The County Council was briefed on the Planning Commission's recommendation on X,
42 2022.
43
- 44 **W.** The County Council held a duly advertised public hearing on X, 2022, and received public
45 testimony.
46

1 X. The County Council deliberated on the ordinance and made the following findings:

2
3 a. Placeholder: Council Findings.

4
5 **NOW, THEREFORE, BE IT ORDAINED** by the County Council of San Juan County,
6 State of Washington, as follows:

7
8 **Section 1. SJCC 18.40.275 and Ordinance 2-2018 § 2 are each amended to read**
9 **as follows:**

10 **18.40.275 Vacation rental of residences or accessory dwelling units (ADUs).**

11
12 When vacation rental of a residence or accessory dwelling unit, as defined by SJCC 18.20.220, is
13 allowed by this code, the following standards apply:

14
15 A. Outside of urban growth areas, one vacation rental is allowed on a property, either in
16 the principal residence or an accessory dwelling. Detached accessory dwelling units
17 permitted on or after June 29, 2007, are not allowed to be vacation rentals.

18
19 B. No more than two overnight guests per bedroom plus additional three overnight guests
20 shall be accommodated at any one time. The number of bedrooms is determined by the
21 approved building permit for the structure. A guest is a person over two years of age.

22
23 C. The vacation rental shall be operated according to rules of conduct approved by the
24 County that prevent the following disturbances to area residents:

- 25 1. Trespassing;
- 26 2. Noise that violates Chapter 9.06 SJCC (Noise Ordinance);
- 27 3. Off-site parking issues;
- 28 4. Vehicle speeds of higher than the posted speed limit, or 20 miles per hour (mph)
- 29 on private paved roads and 15 mph on private nonpaved roads; and
- 30 5. Outdoor burning that violates the requirements adopted pursuant to SJCC
- 31 15.04.070(F)(4)(c), including violations of a burn ban.

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33 D. Solid waste must be removed from the vacation rental to an approved solid waste facility
34 every two weeks. Solid waste shall be stored in completely enclosed and secured solid
35 waste receptacles or stored completely indoors.

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37 E. Guests shall be made aware of the importance of water conservation. Best practices to
38 conserve water shall be included in the rules of conduct.

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40 F. One on-site parking space shall be provided for each bedroom within the vacation rental.
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G. Meal service provided by the permit holder or their agents is not allowed.

H. All vacation rental permit holders are required to display the address of the residence so that it is clearly visible from the street or access road.

I. Vacation rental accommodations must meet all applicable local and state regulations, including those pertaining to business licenses and taxes such as Washington State sales, lodging and business and occupation taxes.

J. Vacation rental permits vested or approved after the effective date of the ordinance codified in this section shall expire two years after the date of approval unless the annual certificates of compliance meeting the requirements of subsection (K)(4) of this section are on file with the administrator.

K. All owners of property used for vacation rental shall comply with the following operational requirements:

1. Maintain an up-to-date property management plan on file with the administrator and property owners within 300 feet of the building within which the vacation rental is located. The property management plan must include the following:

- a. Rules of conduct approved by the County;
- b. Unified business identifier number, and the names and addresses of the property owner and agents authorized to act on the property owner’s behalf;
- c. A designated local property representative who lives on the island where the vacation rental is located and will respond to complaints and emergencies; and
- d. A valid telephone number where the local property representative can be reached 24 hours per day;

2. Prominently display in the rental the rules of conduct and a map clearly depicting the property boundaries of the vacation rental. The map shall indicate if there is an easement that provides access to the shoreline; if so, the boundaries of the easement shall be clearly defined; if there is no access, this shall be indicated together with a warning not to trespass;

3. Include the San Juan County permit number for the vacation rental in all advertisements and marketing materials such as brochures and websites;

4. Annually certify compliance with the conditions of permit approval and with the fire and life safety requirements of the International Fire Code (IFC) as identified

1 by the department on forms specified by the administrator. The annual certification
2 shall be prominently posted on site; and
3

4 5. Certify compliance with the conditions of permit approval within 90 days after
5 the closing date of the sale of the property. Written certification must be submitted
6 to the department on forms specified by the administrator.
7

8 L. The owners of vacation rental permits vested or approved prior to the effective date of
9 ~~the Ordinance 02-2018 codified in this section~~ are required to comply with all subsections
10 of this section except subsections (B), (F) and (J) of this section by December 31, 2018, in
11 addition to the conditions of their permit.
12

13 M. A vacation rental shall not operate or be advertised without a vacation rental permit.
14 Evidence of operation includes advertising, online calendars showing availability, guest
15 testimony, online reviews, rental agreements or receipts.
16

17 N. The number of vacation rental permits countywide outside of the Master Planned Resort
18 (MPR) designation shall not exceed a total of six-hundred and fifty (650) for a period of
19 five years following the adoption of the ordinance codified in this section. Vacation rental
20 permits shall be issued by lottery procedures established by the administrator and approved
21 by the County Council.
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23 O. The number of vacation rental permits shall not exceed the following caps:

- 24 1. Three-hundred and thirty-four (334) on Orcas Island;
- 25 2. Two-hundred and twenty-nine (229) on San Juan Island;
- 26 3. Eighty-five (85) on Lopez Island;
- 27 4. Vacation rentals are prohibited on Shaw Island by SJCC 16.45.180(C);
- 28 5. Vacation rentals are prohibited on Waldron Island by SJCC 16.36.060(G); and
- 29 6. Two (2) on all other islands.

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38 **Section 2. Effective Date.**

39 This Ordinance is effective on the 10th working day after adoption.
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42 **Section 3. Codification.**

43 Section 1 of this ordinance shall be codified.
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1 ADOPTED this ____ day of _____, 2022.

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ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel, Clerk Date

Jamie Stephens, Chair
District 3

REVIEWED BY COUNTY MANAGER

Michael J. Thomas Date

Christine Minney, Vice-Chair
District 1

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: _____
Date

Cindy Wolf, Member
District 3

