

ORDINANCE NO. __ – 2008

AN ORDINANCE ESTABLISHING THE CITIZENS' STORM WATER ADVISORY COMMITTEE AND AMENDING SECTION 13.04 OF THE SAN JUAN COUNTY CODE REGARDING PURPOSE, DEFINITIONS AND FEES FOR THE COUNTY STORM WATER UTILITY

LEGISLATIVE FINDINGS

Background

1. Population growth in San Juan County has resulted in the construction of roads, driveways and buildings, all of which are impervious surfaces.
2. Large areas of land that were once covered with vegetation which served a purpose of filtering, slowing and allowing for the gradual infiltration of storm water, now have impervious surfaces that allow the storm water to run and gather on lands that are sometimes far from the source of run off.
3. Water running off roads, driveways, parking lots may pick up contaminants including oil and heavy metals.
4. Unlike other western Washington counties which receive water from snow melt in reservoirs, most of San Juan County's drinking water comes from underground or from lakes and reservoirs.

Statement of the Problem

5. Uncontrolled storm water will jeopardize the quality of the ground water and surface water and may damage the marine environment, which is the most pristine in the state of Washington.
6. Uncontrolled storm water has overwhelmed ditches, undermined road beds, damaged roadways and has caused localized flooding problems.
7. Current County building regulations require new construction to control the rate water run off, and thereby improve quality of storm water run off, often at considerable expense to the owner, but even with the best construction practices and technology, the amount of storm water run off will continue to grow and become more contaminated.

Growth Management Act Requirements

8. Planning for capital facilities to control storm water run off is required for all urban growth areas of the County including the unincorporated urban growth areas in Eastsound, Lopez Village and Friday Harbor.

9. The Western Washington Growth Management Hearings Board has found San Juan County not in compliance with the Growth Management Act, RCW 36.70A.070(3)(d) for its failure to develop a capital facilities financing plan to assure that all capital facilities required to address storm water for the Eastsound are completed within the planning period.

Objectives

10. The County Council finds that for the health safety and public welfare, the County Council should address storm water run off in a comprehensive way that is fair to all residents of the County and, in doing so, will provide a general benefit to all of the residents of the County.

11. The County Council finds that the construction of storm water drainage facilities, in a manner consistent with the capital facilities element of the comprehensive plan, will protect the quality of drinking water, protect the marine habitat, minimize unexpected damage to private property and public roadways and, in so doing, affect the prosperity, interests and welfare of all residents of the County and is in the best interest of this and future generations.

Procedure

12. In 2005 the San Juan County Council adopted Ordinance 14-2005 (codified at SJCC 13.04) and thereby established a storm water utility under the authority of RCW 36.84.

13. At the time the storm water utility was established, the utility was not funded by any tax or fee.

14. During 2006 a citizen's steering committee, composed of diverse interests, guided the San Juan County Public Works Department and the County Council on identifying the problem of storm water in San Juan County in rural lands, urban lands, and activity centers and made recommendations on the implementation of the storm water utility and the funding options.

15. In December 2006 after receiving the recommendation of the storm water steering committee, the San Juan County Council adopted Ordinance 20-2006, which and thereby amended Ordinance 14-2005 to re-write the purposes section and add definitions and provide for the a fee of \$46.20 for single family residences; a graduated fee for commercial, industrial, and multifamily properties; a fee for County roads; but no fee for undeveloped land.

16. The fee established in Ordinance 20-2006 was charged and collected in 2007 according to its terms, and thereby provided the first monies to be used to study storm water issues.

17. Ordinance 20-2006 was the subject of the first local referendum in San Juan County and, at the 2007 General Election; the ordinance was rejected in its entirety.

18. After the referendum on Ordinance 20-2006, the San Juan County Council established a subcommittee of Council members to meet and hear from citizens on their concerns with Ordinance 20 -2006 and to propose a new ordinance, which subcommittee conducted workshops with the public on San Juan Island and Orcas Island on [**insert dates**].

19. On January 8, 2008, the Western Washington Growth Management Hearings Board granted San Juan County an extension until June 4, 2008, to obtain compliance with its Final Decision and Order/Compliance Order dated June 20, 2006, which Final Order required San Juan County to provide a plan for funding capital facilities including the storm water capital facilities.

20. Whereas, the County Council desires that this ordinance be adopted to satisfy the requirement of the Growth Board to demonstrate that the County is providing a mechanism for funding of storm water capital facilities as required by the Growth Management Act.

21. The San Juan County Council held a duly noticed public hearing on _____, 2008; and

Authority

22. This ordinance is adopted pursuant to the authority granted to the San Juan County Council as the legislative authority in the Growth Management Act, RCW 36.70A, and RCW 36.89.080.

NOW, THEREFORE, it is hereby ordained by the San Juan County Council as follows:

Section 1. SJCC 13.04.040 and Ordinance 14-2005 Section 4 are hereby amended to read as follows:

- A. "County" means San Juan County, Washington.
- B. "County Road" means public rights-of-way shown on the Official County Road Log maintained by the County Engineer and adopted into the County Road System by the County Council.
- C. "Director" means the Director of the San Juan County Department of Public Works or his or her designee.
- D. "Equivalent Service Unit" (ESU) means 4,400 square feet of impervious surface area.
- E. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which is documented for real property purposes, and a tax lot number assigned by the San Juan County Assessor.
- F. "Service Charge" means the basic fee which is the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this ordinance.

G. "Single-family residence" means a dwelling unit designed for and occupied by no more than one family, as defined in Title 18 of the Unified Development Code for San Juan County.

H. "Undeveloped land" means any parcel or real property which has not been altered by grading or filling of the ground surface, removal of natural vegetation, or by construction of any improvement or other impervious surface area which affects the hydraulic properties of the parcel.

Section 2. NEW SECTION. Citizens' Storm Water Advisory Committee. A new section shall be added to the San Juan County Code to read as follows:

A. Establishment. There is hereby created a citizens' storm water advisory committee.

B. Purpose. The purpose of the storm water advisory committee is to provide advice to the County Council and make recommendations on matters pertaining to storm water including capital facilities, projects, priorities of projects, fees and charges consistent with the guidelines provided by the County Council, provisions for the appeal, adjustment or remission of fees, and all other policy matters related to the establishment of an effective storm water utility.

C. Membership. The storm water advisory committee shall be composed of seven members, one from each council member district and one member at large. Each member shall be appointed for a term of four years, the dates of which shall coincide with the full term of the respective council member district. The term of the at large member shall coincide with the term of the council member in District 1.

D. Rules. In conducting its business, the citizens' storm water advisory committee shall follow the Uniform Business Rules, including the Rules of Procedure, unless other rules have been duly adopted by the County Council.

Section 3. NEW SECTION. Guidelines for Storm Water Fees. A new section shall be added to the San Juan County Code to read as follows:

A. After January 1, 2009, all new storm water fees for the storm water utility shall be established by the County Council by ordinance after first considering the written recommendations of the citizens' storm water advisory committee and testimony from the public at a public hearing. The fee structure shall may have one or more tiers, shall consider the factors set out in RCW 36.89.080, and may include the following:

1. A Basic Fee, which recognizes the benefit to every property owner from protection against flooding on county roads, protecting the quality of groundwater recharge, protection of the near shore marine environment and compliance with state law;
2. An amount for areas located inside of unincorporated urban growth areas;
3. An amount determined to be roughly proportionate to the benefit received;
4. An amount determined to be roughly proportionate to the amount of impervious surfaces on the property relative to other property owners;
5. An amount determined to be roughly proportionate to the presumed benefit based upon projected costs of projects/improvements on an island-by-island basis;
6. The contribution to be made by the County Road Fund to reflect the run off by county roads and right of ways;

7. Consider reduction in the fee when a property owner shows that they have adopted measures to reduce water run off and improve water quality;
8. Consider the nonprofit public benefit status, as defined in RCW 24.03.490 of the land user; and/or
9. Income level of persons served or provided benefits under this chapter, including senior citizens and disabled person.

B. In accordance with RCW 36.89.080, the rate charged and adopted shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The fee structure shall consider rate reductions in excess of ten percent depending upon the amount of rainwater harvested.

Section 4. NEW SECTION. Storm Water Fee. A new section shall be added to SJCC Chapter 13.04 to read as follows:

A. **Basic Fee.** Each parcel in San Juan County, except for parcels taxed as forest land under chapter 84.33 RCW or as timber land under chapter 84.34, that exists on October 1 of each year shall be assessed annually, and the owner shall pay a Storm Water Fee, known as the “Basic Storm Water Fee.”

B. **Additional Fee.** In addition to the Basic Storm Water Fee, each parcel in San Juan County, except for parcels taxed as forest land under chapter 84.33 RCW or as timber land under chapter 84.34, that exists on October 1 of each year and which parcel is located inside the exterior boundaries of Eastsound and Lopez Village unincorporated urban growth areas shall be assessed annually, and the owners shall pay an additional fee, known as the “Additional Storm Water Fee.”

C. The Basic Storm Water Fee and the Additional Storm Water Fee, when applicable, shall be included with the first half San Juan County property tax statements. Properties that do not receive a property tax statement will receive a separate service charge billing statement.

D. Basic Storm Water Fee and the Additional Storm Water Fee shall be due and payable on or before the 30th day of April, and shall be delinquent after that date; however, if one-half of such service charge is paid on or before the said 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date, in the same manner as regular property taxes.. Any delinquent amount shall be a lien on the property which lien may be foreclosed on the same manner as regular property tax levy.

Section 5. NEW SECTION. Amount of Storm Water Fee/Charge. A new section shall be added to the San Juan County Code Chapter 13.04 to read as follows:

The amount of the Storm Water Fees beginning January 1, 2009 is as follows:

Basic Storm Water Fee:	\$6.00 per parcel
Additional Storm Water Fee:	\$3.00 per parcel

Section 6. NEW SECTION. Storm Water Fund Appropriation. A new section shall be added to the San Juan County Code Chapter 13.04 to read as follows:

A. The appropriation of revenues collected from the Basic Storm Water Fee and Additional Storm Water Fee will be made in the 2009 budget process, commencing in the summer 2008 and occur each year thereafter. The County Council will request a written proposal for use of the funds from the County Administrator after appropriate consideration by the Citizens' Advisory Storm Water Committee.

B. The fee collected shall be deposited in a special fund or funds in the county treasury to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities or any part of the cost or expense planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities.

C. Such funds may be used for watershed basin planning, water quality monitoring, gathering data and measuring actual impermeable surface area for commercial, institutional and industrial properties, capital facilities, operations and staff time and materials, or such other items as proposed and approved by the County Council.

Section 7. NEW SECTION. Adjustment and Appeals of Charges. A new section shall be added to SJCC Chapter 13.04 regarding Service Charge Adjustments and Appeals to read as follows:

A. Any person billed for storm water fees may file a "Request for Service Charge Adjustment" with the County Auditor within thirty (30) days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the Auditor only when the County Auditor finds that the fee has been applied in a manner inconsistent with the ordinance adopting the fee.

C. Service charge adjustments will only apply to the bill then due and payable, and bills subsequently issued. In the event that the County replaces estimated impervious surface area with measured impervious surface area, in the absence of an appeal, such actual impervious surface area will be used for future bills.

D. The property owner shall have the burden of proving that the service charge adjustment should be granted.

E. Decisions on requests for service charge adjustment shall be made by the County Auditor based on information submitted by the applicant and by the public works department within thirty (30) days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the County Auditor's decision. If an adjustment is granted which reduces the service charge for the current year, the applicant shall be refunded the amount overpaid in the current year.

Section 8. Severability.

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

Section 9. Effective Date.

This ordinance will become effective on the 10th working day after adoption.

Section 10. Expiration.

On December 31, 2014, the amount of the Basic Storm Water Fee and the Additional Storm Water Fee shall expire and be reduced to zero, unless action is taken by the County Council to readopt such fee. In the event additional funding of storm water capital projects and studies is needed after December 31, 2014, the County Council will need to readopt the fee or provide an alternative method of funding.

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Adopted this _____ day of _____ 2008.

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

ATTEST: Clerk of the Council

Howard Rosenfeld, Chair
District 3, Friday Harbor

By: _____
Laura Tuttle - Clerk
Date:

Gene Knapp, Vice-Chair
District 5, Orcas East

REVIEWED BY COUNTY
ADMINISTRATOR

Kevin M. M. Ranker, Member
District 1, San Juan South

Pete Rose Date:

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

Rich Peterson, Member
District 2, San Juan North

By: _____
Date

Alan Lichter, Member
District 4, Orcas West

Bob Myhr, Member
District 6, Lopez/Shaw