



**SAN JUAN COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT**

135 RHONE STREET, P.O. BOX 947 FRIDAY HARBOR, WA. 98250
(360) 378-2354 (360) 378-2116 FAX (360) 378-3922
CDP@SANJUANCO.COM | WWW.SANJUANCO.COM

POLICY

400 FT² EXEMPT STRUCTURES

JOHN GENIUCH
BUILDING OFFICIAL

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ISSUE:

The adopted SJC Building codes have been amended locally to include additional “*work exempt from a permit*” provisions. The code text reads:

A one story detached accessory building, used for tool, wood and other storage, miscellaneous small agricultural buildings, playhouses, or similar uses, provided:

- 1) *The projected roof area does not exceed 400 square feet; and*
- 2) *This exemption does not apply to signs; and*
- 3) *The building is not used for sleeping purposes or human habitation (living, sleeping, eating or cooking); and*
- 4) *The building meets the property line and yard setback requirements of the San Juan County Code.*

Is a permit required for accessory use structures, under 400 ft² (projected roof area), when the proposed use is other than one of the listed examples above? More specifically, would uses such as “office”, “studio”, “art studio”, “reading room”, “meditation room”, and similar activity oriented spaces require a permit for a structure less than 400 ft² (of projected roof area)?

RELEVANT CODE CITATIONS:

When discussing allowable unpermitted structures, their uses, and permitting considerations, the code sections and definitions presented below would be relevant:

From the 2012 International Residential Code (IRC):

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above *grade plane* in height with a separate means of egress and their *accessory structures*.

R101.3 Intent. The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

From the 2012 IRC/IBC Definitions:

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. (IRC)

ACCESSORY STRUCTURE. A structure not greater than 3,000 square feet in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same *lot*. (IRC)

ANALYSIS:

Reviewing the code language in context, combined with the intent of the codes, accessory uses are typically considered “non-habitable”, although this term is not specifically defined in the codes. While the overriding intent of the codes is to protect occupants and the public from hazards in the built environment, typically through the permitting and inspection process, several exceptions to permitting requirements have been made.

The current language provides an exemption from permitting for “...*playhouses or similar uses...*” This is recognition that some accessory uses, with a limited expected time of occupancy, don’t require permits.

Hypothetically, a property owner could build a small structure (less than 400 ft² of projected roof area), label its use as “storage”, and a permit would not be required. An identical structure with a label of “art studio”, has raised questions whether or not a permit is required, with the crux of the argument in favor of permitting being that it is “habitable space”, and therefore would require a permit.

The IRC does not specifically state that a habitable space requires a permit, nor does it categorically exempt them under the “work exempt from a permit” section. In the absence of unambiguous language, the Building Official is empowered to render interpretations to the code.

The code currently provides permit exemptions for small accessory structures. Structures such as this and their anticipated use represent a significantly lower hazard for occupants due to the smaller size and the limited duration of use. Our rural island community, with larger parcels, offers more opportunity for property owners to construct smaller accessory buildings for a variety of uses. Consistent with the letter and intent of the code, accessory structures having less than 400 ft² of projected roof area, are allowed to be constructed without a permit. Requirements for these structures are provided below.

POLICY: The “*work exempt from a permit*” allowing a 400 ft² (of projected roof area) accessory structure exemption from permitting, shall be allowed for the construction of accessory uses not specifically named in the ordinance, provided **all** of the following conditions are met:

- 1) The structure **may not** be used for sleeping, a bunkhouse, guest house, guest sleeping quarters, or any other lodging type use, without first applying for a permit to convert said structure.
- 2) The structure must comply with all land use requirements for setbacks and critical area regulations.
- 3) An owner seeking to build one in the shoreline (within 200 feet of OHWM) must contact SJC Planning department for review of the proposed location.
- 4) Any electrical installation requires a permit from the Washington State Labor and Industries Electrical Division.
- 5) The structure must have a 3’0” x 6’8” door for ingress and egress.
- 6) Any addition of a heat source requires a mechanical permit and compliance with the Washington State Energy Code.
- 7) Any addition of plumbing requires a plumbing permit and demonstration of a non-failing septic system (or adequate connection to a sewage provider).
- 8) The exit door shall have a legal landing (minimum width of the door it serves, extending out a minimum of 3 feet in the direction of travel, located no more than 7.75” below the door threshold for in swing doors and 1.5” below if the door swings over the landing).
- 9) Enclosed spaces, not used exclusively for storage, shall be equipped with a smoke alarm and a carbon monoxide alarm. Battery powered devices are acceptable.
- 10) Any windows that are adjacent to “hazardous areas”, as defined by the IRC, shall be tempered glass (or approved equivalent safety glass).

The Building Official may make modifications to this policy at any time.