

ORDINANCE NO. _____ - 2013

**ORDINANCE REGARDING ON-SITE SEWAGE OPERATION AND MAINTENANCE
PROGRAM CHARGE FOR MANAGEMENT OF ON-SITE SEWAGE DISPOSAL
SYSTEMS**

BACKGROUND

- A. San Juan County Board of Health has been granted specific powers and duties by the legislature, including without limitation powers and duties under RCW 70.05 relating to the enforcement of rules promulgated by the state board of health which include WAC 246-272A, On-site Sewage Systems. RCW 70.05 further requires local Boards of Health to enact local rules and regulations in order to preserve, promote and improve the public health and provide for enforcement thereof.
- B. WAC 246-272A, On-site Sewage Systems (OSS), required the San Juan County Health Officer to develop and implement an on-site sewage system operation and maintenance program management plan to progressively develop and maintain an inventory of all known OSS in operation, identify areas where OSS could pose an increase public health risk, identify operation, maintenance and monitoring requirements commensurate with risks posed by OSS, facilitate education of homeowners and remind them regarding their responsibilities, maintain records of all operation and maintenance activities, and enforce OSS operation, maintenance, monitoring and repair requirements.
- C. To fulfill its responsibility to regulate on-site sewage treatment and disposal systems, and consistent with RCW 70.05 and WAC 246-272A, San Juan County has adopted various provisions of the San Juan County Code and Program Management Plans to assure that on-site sewage treatment and disposal systems are operated, maintained and monitored to ensure proper treatment and disposal of raw sewage. See SJCC 8.16.160.
- D. The San Juan County Board of Health takes notice that improperly functioning OSS constitute a threat to the public health and welfare of the people in the County and confirms its intention to establish an equitable system of regulation of on-site sewage treatment and disposal systems. The Board of Health further desires a program that reasonably allocates charges to all OSS owners to implement the on-site sewage system operation and maintenance program management plan. This ordinance is intended to resolve inequities in the current fee collection system and enable the County to perform its function in guarding the public health of the people who live in the County.
- E. The Board of Health has been granted specific powers by the legislature including without limitation RCW 70.05.190 relating to the collection of reasonable rates or charges in an amount sufficient to pay for the actual costs of administration and operation of the on-site sewage program management plan.

- F. The Board of Health finds that the current method of cost collection related to the administration and operation of the on-site sewage program management plan is inequitable and has placed the burden on those individuals that are complying with the regulations and program.
- G. The Board of Health desires that all revenues collected in connection with the OSS operation and maintenance charge be deposited in a special fund separate from the general fund and from any other fund of the County, and used solely for the purpose of implementing the on-site sewage operation and maintenance program management plan.
- H. The Board of Health desires that each property owner of an on-site sewage treatment and disposal system pay the County for the on-site sewage operation and maintenance program management plan in an amount that bears a reasonable relationship to their respective burdens on the entire system and recognizes that mathematical precision is neither possible nor required by law.
- I. In order to avoid inequities or unjust allocation of costs, the Board of Health intends to provide in this ordinance, to the extent that a landowner can prove that his/her property does not have an OSS or is under the jurisdiction of another entity so as to not impose a burden on the on-site sewage operation and maintenance program management plan, a process that no such landowner will be obligated to pay for the service fee set forth in this ordinance.
- J. The Board of Health has conducted a duly advertised public hearing and has received public testimony regarding the proposed ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Health of San Juan County, state of Washington, as follows:

Section 1. Statement of Intent.

A. The County's management and oversight of on-site sewage treatment and disposal systems is intended to result in an effective means of regulating sewage disposal and necessary to protect the public health, by promoting a comprehensive approach to sewage treatment and disposal. All improved parcels of real property within the County that are served by OSS contribute to the need for and create burdens on the County's on-site sewage operation and maintenance program. The owners of those properties also benefit from the system and, therefore, should share in a fair and equitable funding program. The proper cost-effective management and regulation of sewage treatment and disposal will protect the County's land and water, protect against disease, and promote public health.

B. The charge established by the Board of Health, including the OSS operation and maintenance user charge, is intended to be uniform for all OSS property owners and comply with the applicable laws. Taken together, all fees and charges are directly related to the on-site sewage system operation and maintenance management program provided to the persons charged. The Board of Health anticipates that the OSS operation

and maintenance user charge imposed upon the owners of real property in unincorporated San Juan County are intended to fund actual costs of administration and operation of the on-site sewage program management plan.

Section 2. Findings.

The San Juan County Board of Health determines and finds that:

- A. State laws and regulations have placed increased responsibility on local governments to manage on-site sewage system operation and maintenance in a manner that protects public health and safety;
- B. Properly operated and maintained on-site sewage systems are essential to protect the public health;
- C. A stable funding program is required to provide a broad and sound financial basis to provide a viable on-site sewage operation and maintenance program;
- D. The statements in the background section shall be treated as findings and considered in the construction or interpretation of this Ordinance.

Section 3. On-site Sewage Operation & Maintenance Program Charge on Real Property.

Commencing upon January 1, 2014, and thereafter at the intervals set forth below there shall be imposed an On-site Sewage Operation and Maintenance Program Charge upon every parcel of property within the unincorporated areas of San Juan County, upon parcels existing as a matter of record as of January 1 of each year, except for those parcels categorically determined to be exempt as set forth below. The On-site Sewage Operation and Maintenance Program Charge shall be calculated at a Rate in the amount defined below. Under no circumstances shall the On-site Sewage Operation and Maintenance Program Charge be calculated or assessed on an ad valorem basis.

Section 4. Rate

The Rate Charge shall be \$10.00 per parcel for 2014. The Rate shall be adjusted as needed in future years as described in Section 7 of this ordinance.

Section 5. Parcels Categorically Exempt from On-site Sewage Operation and Maintenance Charge.

The San Juan County Board of Health declares that certain properties as a class do not contribute to the burden on the OSS operation and maintenance program and shall therefore be exempt from an On-site Sewage Operation and Maintenance Program Charge. The Environmental Health Manager shall utilize the Assessor Use Codes, improvement value and other records to identify parcels that are not developed or not served by an on-site sewage treatment and disposal system. Parcels that are not developed or not served by an on-site sewage treatment and disposal

system are categorically exempt from the on-site sewage operation and maintenance program charge.

In addition to the above parcels, properties that are served by sewage treatment and disposal systems that are regulated only by the Washington State Department of Ecology or the Washington State Department of Health and not by San Juan County are categorically exempt from the On-site Sewage Operation and Maintenance Program Charge. This exemption is limited to properties served by sewer systems regulated by the State Department Ecology (e.g. Eastsound Sewer District, Fisherman Bay Sewer District, Roche Harbor Sewer System, and Rosario Sewer System) and properties served by a Larger On-site Sewage System regulated by the State Department of Health (e.g. The Oaks, West Beach Resort, Snug Harbor Resort, Decatur Northwest Drainfield D, San Juan Community Home Trust, Cascade Community System, The Resort at Deer Harbor, Camp Nor'westor, Camp Orkila, Eagle Lake II System A&B, Lakedale Resort Bathhouse, Mitchell Point Owners Association, Doe Bay Resort and Four Winds Main Sewer System).

Each year, no later than December 31, the Health and Community Services department shall provide the Treasurer and Assessor a list of those parcels that are not exempt under this section.

Section 6. Non-Categorical Exemption.

There is a presumption that every property that is assessed an On-site Sewage Operation and Maintenance Program Charge contributes to the burden of the OSS operation and maintenance program. Between March 15 and April 15 of each year, a property owner may submit information to the Environmental Health Manager to show by a preponderance of the evidence that the property which has been assessed an On-site Sewage Operation and Maintenance Program Charge is not developed or not served by an on-site sewage treatment and disposal system. If the property owner meets that burden the On-site Sewage Operation and Maintenance Program Charge shall be declared exempt and no On-site Sewage Operation and Maintenance Program Charge shall be owed for that period. This non-categorical exemption shall not be used for partial reductions of the On-site Sewage Operation and Maintenance Program Charge.

Section 7. Annual Calculation and Billing of On-site Sewage Operation and Maintenance Charge.

On or before the last day of December of each year, beginning in 2014, the Environmental Health Manager shall calculate the Rate Charge in a total amount not to exceed the estimate actual costs of administration and operation of the on-site sewage program management plan for the coming year and deliver the information to the San Juan County Treasurer in the form needed for inclusion in County tax statement.

Section 8. Deposit and Use of Charges.

All payments received from the On-site Sewage Operation and Maintenance Program Charge shall be deposited into the On-site Sewage Operation and Maintenance Fund (Fund No. ____) and

shall be appropriated solely for the administration and operation of the On-site Sewage Operation and Maintenance Program Management Plan.

Section 9. Administration of On-site Sewage Operation and Maintenance Program Charge.

- A. Beginning January 1, 2014, the on-site sewage operation and maintenance charge shall be assessed annually and for convenience and cost savings will be consolidated with the first half of the San Juan County property tax statements and collected by the county treasurer. Property owners who do not receive a property tax statement will receive a separate billing statement.
- B. The on-site sewage operation and maintenance charge is due and payable on or before the thirtieth day of April, and shall be delinquent after that date. However, if one-half of such charge is paid on or before the said thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October and shall be delinquent after that date, in the same manner as regular property taxes. Any delinquent amount shall be charged interest at the rate of 12 percent per annum.

Section 10. Adjustment and Appeals of On-site Sewage Operation and Maintenance Program Charge.

- A. Any person billed for the On-site Sewage Operation and Maintenance Program Charge may contest the charge and the parcel classification or applicability of an exemption by filing an appeal with San Juan County Health & Community Services within 30 days of the date of the bill. Submittal of such an appeal does not extend the date the service charge becomes due and payable.
- B. A request for service charge adjustment may be granted by the Health & Community Services Director only when the Health & Community Services Director finds that the parcel has been improperly classified or that an exemption applies.
- C. Service charge adjustments will only apply to the bill then due and payable after the date of the request for adjustment.
- D. The property owner shall have the burden of proving by a preponderance of the evidence that the service charge adjustment should be approved.
- E. Decisions on requests for service charge adjustments shall be made by the Health & Community Services Director based on information submitted by the applicant and by the environmental health manager within 30 days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the Health & Community Services Director'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 together with interest thereon at 12 percent per annum on the

amount overpaid from the date of payment to the date of refund.

- F. The final decision of the Health & Community Services Director is subject to review in the Superior Court for San Juan County using the procedure for statutory writ of review.

Section 11. Severability.

In the event any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances is not affected, and shall remain in full force and effect.

Section 12. Codification.

Sections 1 through 10 of this ordinance will be codified.

ADOPTED this _____ day of _____, 201__.

WASHINGTON

ATTEST: Clerk of the Council

By: _____
Ingrid Gabriel Date:

**REVIEWED BY COUNTY
MANAGER**

Michael J. Thomas Date:

**APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD**

By: _____
Date

**BOARD OF HEALTH
SAN JUAN COUNTY,**

Dr. David Perera, Chair

Jamie Stephens, Member

Bob Jarman, Member

Rick Hughes, Member

Dr. John Geyman, Member

Dr. Dale Heisinger, Member

Barbara Starr, Member