

FOR DISCUSSION ONLY:

DRAFT ORDINANCE NO.

ORDINANCE NO. ____ - 2021

**AN ORDINANCE TO PROHIBIT THE USE OF NEONICOTINOIDS AND PROTECT THE ENVIRONMENT IN
SAN JUAN COUNTY**

WHEREAS, the European Food Safety Authority has determined neonicotinoids pose a health risk to wild bees and honey bees; and

WHEREAS, the European Union has instituted a total ban on neonicotinoids for all outdoor uses; and

WHEREAS, a growing number of countries around the world and American cities and counties are banning or restricting the use of neonicotinoid-based insecticides; and

WHEREAS, increasing research is finding that neonicotinoid-based insecticides could pose significant risks to bee colonies;

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

NEW SECTION. Sec. 1. Purpose. A new section is added to the San Juan County Code to read as follows:

San Juan County, recognizing its essential role in protecting the environment, deems it advisable and appropriate to restrict the use of neonicotinoid-based insecticides in San Juan County.

NEW SECTION. Sec. 2. Application of neonicotinoid-based insecticides unlawful. A new section is added to the San Juan County Code to read as follows:

- The application of neonicotinoid-based insecticides on public or private land by any person or entity is unlawful. Neonicotinoid-based insecticides are any products that contain neonicotinoid-based formulations, a class of neuro-active insecticides chemically related to nicotine. This ordinance addresses eight commercially-available neonicotinods:
 - Acetamiprid
 - Clothianidin
 - Dinotefuran
 - Imidacloprid
 - Nitenpyram
 - Thiocloprid

- Thiamethoxam
- Sulfoxaflor

NEW SECTION. Sec. 3. Intent and Education. A new section is added to the San Juan County Code to read as follows:

The primary intent of this ordinance is to educate the public and to encourage the voluntary correction of violations. Civil and criminal penalties will be used only when necessary to ensure compliance with the provisions of this ordinance. Criminal charges will be brought only when civil remedies have failed to ensure compliance. In addition, County staff designated by the Director of County and Health Services shall provide education and outreach activities to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter. Education and outreach will be designed to effectively convey the policies underlying this chapter, describe the actions necessary to gain compliance with its provisions, and minimize the need for formal enforcement action.

NEW SECTION. Sec. 4. Violation – Abatement. A new section is added to the San Juan County Code to read as follows:

Any violation of Section 2 above is declared to be a public nuisance and shall be enforced as follows:

(a) The prosecuting attorney or his or her designee (including, but not limited to the county sheriff) is hereby designated to enforce this ordinance and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this ordinance.

(b) The prosecuting attorney shall notify any person, corporation, association, partnership, limited liability company or other entity that may be in violation of this ordinance, that any use of neonicotinoid-based insecticides constitutes a public nuisance, and such insecticides are subject to confiscation or destruction and to applicable enforcement actions including nuisance abatement orders and penalties.

(c) Any person, corporation, association, partnership, limited liability company or other entity that receives notification under subparagraph (b) shall have fifteen (15) days to respond to such notification with evidence that such insecticides are not in violation of this ordinance, or have been destroyed, or have been entirely removed from San Juan County.

(d) Upon receipt of any evidence under subparagraph (c), the prosecuting attorney shall consider such evidence and any other evidence that is presented by the recipient of notification under subparagraph (b) or which is relevant to a determination of such

violation. Within fifteen (15) days of receipt of such evidence, the prosecuting attorney shall determine if the insecticides are in violation of this ordinance or have been destroyed or removed from San Juan County.

(e) Upon making a determination that a violation of this ordinance exists, or if no evidence has been submitted pursuant to subparagraph (c), upon reasonable notice, the prosecuting attorney shall thereafter promptly take all actions necessary to ensure that such insecticides do not cause public harm, including but not limited to the following: confiscation or destruction. Such action shall be undertaken during daylight hours.

(f) Any person or persons knowingly and willfully responsible for a violation of this ordinance may be held responsible for all administrative and abatement costs incurred by San Juan County. Costs of enforcement shall not be imposed upon any person whose violation is not knowing and willful, nor shall costs be imposed for enforcement actions relating to herbicides used in San Juan County prior to the effective date of this ordinance.

NEW SECTION. Sec. 5. Penalties. A new section is added to the San Juan County Code to read as follows:

A. Punishment for Violations.

1. The first violation of any provision of this ordinance shall be a Class 1 civil infraction carrying a monetary penalty of \$250.00 plus statutory assessments.
2. The second violation of any provision of this ordinance shall constitute a criminal misdemeanor punishable by a fine of up to \$1000.00, 90 days in jail, or both.
3. A third or subsequent violation of any provision of this chapter shall constitute a gross misdemeanor punishable by a fine of up to \$5,000, 365 days in jail, or both.

B. Right to Hearing. The recipient of an infraction notice under this ordinance is entitled to a hearing in district court to contest the infraction notice and civil penalty in accordance with Chapter [7.80](#) RCW.

Sec. 6. Severability.

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

Section 7. Effective Date.

This ordinance shall be effective on the 30th day following its adoption.

Section 8. Codification. This ordinance shall be codified at Chapter 8.32 of the San Juan County Code.

ADOPTED this _____ day of _____ 2021.

ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel, Clerk Date

Jamie Stephens
District 3

REVIEWED BY COUNTY MANAGER

Michael J. Thomas Date

Cindy Wolfe
District 2

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: _____
Date

Christine Gabler-Minney
District 1