

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Mark McCauley, County Administrator
FROM: Phil Cecere, Building Official Fire Marshal
Brian Tracer, Deputy Fire Marshal
DATE: 6/17/2024
SUBJECT: **HEARING** re: Adoption of a Burn Regulation Ordinance Adopting a Fire Danger Risk and Restriction Model.

STATEMENT OF ISSUE:

The Board of County Commissioners held workshops on April 1, 2024 and May 6, 2024 to discuss a new ordinance regarding burn regulations across Jefferson County. A hearing notice was published regarding the proposed ordinance and called for written public comment beginning on June 3, 2024 and ending on June 17, 2024 at the end of the Public Hearing, unless extended by the Board of County Commissioners. Public testimony will be received at the hearing on June 17, 2024. Comment was received from the Jefferson County Undersheriff Andy Pernsteiner addressing a scrivener's error in the violations and penalties section under 8.72.050(2)(a) and it was revised accordingly. The Office of the Fire Marshal is requesting a Board of County Commissioners (BOCC) hearing to receive public comment and act to adopt a new ordinance regarding burn regulations across Jefferson County.

ANALYSIS:

In anticipation of the completion of the Community Wildfire Protection Plan (CWPP), the Fire Marshal proposes the revision of burn regulations for clear public understanding of burning and activity restrictions to ensure a safer, healthier community. The ordinance includes: burn restriction levels including a fire danger risk level model, recurring annual moderate burn restriction, prohibited devices and restricted activities. A portion of the draft ordinance consists of the authority to set a burn restriction level and seasonal burn restriction effective dates outside of the set annual restriction season period.

The Jefferson County Fire Chief's Association has been provided opportunities to comment and supports the drafting of these regulation revisions. The Jefferson County Prosecuting Attorney's Office has provided ongoing guidance and has confirmed compliance with state requirements and local ordinance for rules on adopting ordinances.

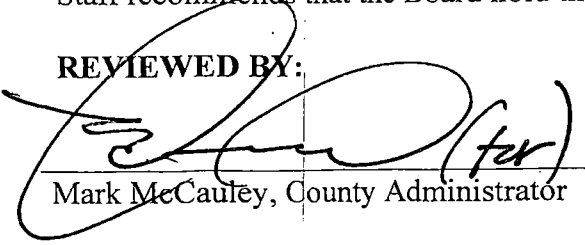
FISCAL IMPACT:

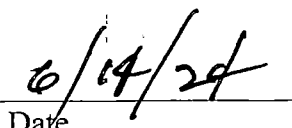
There are no direct fiscal impacts associated with this ordinance although efficiency would be improved.

RECOMMENDATION:

Staff recommends that the Board hold the requested hearing and take appropriate action.

REVIEWED BY:


Mark McCauley, County Administrator


Date

Clean version

STATE OF WASHINGTON
County of Jefferson

**In the Matter of Repealing and Replacing
Resolution No. 42-05 and Establishing
Updated Regulations for Outdoor Burning,
Bonfires and Recreational Fires in
Unincorporated Jefferson County**

ORDINANCE NO. _____

WHEREAS, Article XI, section 11 of the Washington Constitution, confers upon county legislative authorities the police power to adopt such local police, sanitary and other regulations as are not in conflict with general laws; and,

WHEREAS, Article XI, section 11 of the Washington Constitution is a direct delegation of the police power to cities and counties, and the power delegated is as extensive within their sphere as that possessed by the legislature; and,

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and,

WHEREAS, police power is that inherent and plenary power which enables prohibition of all things hurtful to the comfort, safety and welfare of society; and,

WHEREAS, the scope of police power is broad, encompassing all those measures which bear a reasonable and substantial relation to promotion of the general welfare of the people; and,

WHEREAS, RCW 36.32.120(10) provides that county legislative bodies have the power to declare a nuisance within the county; to abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it; and,

WHEREAS, RCW 70A.15.5020 states it is the policy of the State of Washington to reduce outdoor burning to the greatest extent practical; and,

WHEREAS, RCW 70A.15.5010(1) prohibits causing or allowing any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors; and,

WHEREAS, under JCC 15.05.030(3), Jefferson County adopted the International Fire Code (IFC), as adopted and modified in Chapter 51-54A WAC; and,

WHEREAS, Chapter 51-54A WAC adopts and modifies the 2021 version of IFC; and,

WHEREAS, IFC Section 307.1.1 (2021) states, “Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous;” and,

WHEREAS, IFC Section 307.3 (2021) states, “Where open burning creates or adds a hazardous situation, or a required permit for open burning has not been obtained, the fire code official is authorized to order the extinguishment of the open burning operation;” and,

WHEREAS, the Jefferson County Board of Commissioners (Board) wishes to promote the health, safety and welfare of its citizens under the statutory purposes of the Washington Clean Air Act, Chapter 70A.15 RCW and its implementing regulations in Chapter 173-425 WAC; and,

WHEREAS, the fire protection authority in Jefferson County has the authority vested under the Washington Clean Air Act regulations in WAC 173-425-050(3)(a)(iii) to declare a fire danger burn ban in unincorporated Jefferson County; and,

WHEREAS, limiting outdoor burning protects people when the air is unhealthy; and,

WHEREAS, limiting outdoor burning protects people and property when wildfire danger is high; and,

WHEREAS, fire precaution and safeguards against hazards to life safety and property from the dangerous conditions associated with wildfire; protect citizens, firefighters, emergency responders and private property; and,

WHEREAS, on June 28, 2005 Jefferson County adopted Resolution No. 42-05, a regulatory program to regulate outdoor burning; and,

WHEREAS, the Board has determined Resolution No. 42-05, should be updated; and,

WHEREAS, the Board has determined that more local control should exist in determining when atmospheric conditions or local circumstances make outdoor burning a hazardous fire danger in unincorporated Jefferson County; and,

WHEREAS, the Jefferson County Fire Marshal, in consultation with local fire officials, has developed a fire danger risk rating system based on the National Fire Danger Rating System developed by the United States Fish & Wildlife Service¹ and other scientifically based fire management tools; and,

WHEREAS, JCC 15.10 is an antiquated clause with no relevance to current public safety concerns and should be repealed without replacement and,

WHEREAS, the local fire officials in Jefferson County agree that Resolution No. 42-05, should be updated and concur with the Board adopting this ordinance; and,

¹ See https://gacc.nifc.gov/rmcc/predictive/nfdrs_gaining_understanding.pdf.

WHEREAS, the Jefferson County Fire Marshal agrees that Resolution No. 42-05, should be updated and concurs with the Board adopting this ordinance; and,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, STATE OF WASHINGTON as follows:

Section 1. Whereas Clauses are Findings of Fact. The Board adopts the above recitals (the "WHEREAS" statements) as its findings of fact supporting this ordinance.

Section 2. Repealing and Replacing Resolution No. 42-05. The Board repeals and replaces Resolution No. 42-05 with new Chapter 8.72 JCC, which is in Appendix A and which regulates outdoor burning, bonfires and recreational fires in unincorporated Jefferson County.

Section 3. Adoption of Chapter 8.72 JCC. Chapter 8.72 JCC, which attached in Appendix A and which regulates outdoor burning, bonfires and recreational fires in unincorporated Jefferson County, is hereby adopted.

Section 4. Adoption of Miscellaneous Amendments. The miscellaneous amendments to the Jefferson County Code, which are in Appendix B, are hereby adopted.

Section 5. Severability. The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, then the remainder of this ordinance or application of its provisions to other persons or circumstances shall remain valid and unaffected.

Section 6. SEPA Compliance. This ordinance is categorically exempt from the State Environmental Policy Act under WAC 197-11-800(19).

Section 7. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon adoption by the Board.

(SIGNATURES FOLLOW ON NEXT PAGE)

ADOPTED this ____ day of _____ 2024.

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

Kate Dean, Chair

Greg Brotherton, Member

Heidi Eisenhour, Member

APPROVED AS TO FORM:

ATTEST:

Carolyn Gallaway, Date
Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A – NEW CHAPTER 8.72 JCC

Title 8 - HEALTH AND SAFETY

Chapter 8.72 – REGULATIONS FOR OUTDOOR BURNING, BONFIRES AND RECREATIONAL FIRES IN UNINCORPORATED JEFFERSON COUNTY

Sections:

8.72.010 Purpose and Construction.

- (1) The purpose of this regulation of open burning, bonfires and recreational fires is protect people and property, especially when wildfire danger is high. Implementing a fire danger rating system that is widely recognized promotes transparency so that regulations that are easily understood and consistently applied across Jefferson County.
- (2) It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefited by the terms of this chapter.
- (3) This chapter supplements International Fire Code Section 3.07, adopted in JCC 15.05.030(6), and shall be construed in connection with that law and with Chapter 51-54 WAC, which modifies the IFC for application in the State of Washington.
- (4) This chapter shall be liberally construed to carry out its broad purposes, allowing the local fire official to determine permissible consumer fireworks within their region of responsibility within Jefferson County.
- (5) Reference to the Jefferson County Code (JCC) in this chapter is to the provision of the JCC as adopted or as amended.
- (6) Reference to the Revised Code of Washington (RCW) in this chapter is to the provision of the RCW as adopted or as amended.
- (7) Reference to the Washington Administrative Code (WAC) in this chapter is to the provision of the WAC as adopted or as amended.

8.72.020 Definitions.

In construing provisions of this chapter, unless otherwise plainly declared or clearly apparent from the context, words used in this chapter shall be given their common and ordinary meaning and in addition, these definitions shall apply:

- (1) “County fire marshal” means the fire marshal for Jefferson County designated in JCC 2.40.010.²
- (2) “Declaration of high fire hazard” means a declaration by the county fire marshal or their designee, or a local fire official or their designee, that a high fire hazard exists within their region of responsibility.³
- (3) “Fire hazard” means the accumulation of combustible materials in such a condition as to be readily ignited and in such a quantity as to create a hazard from fire to nearby structures, forest areas, life and property.⁴
- (4) “Fire danger risk rating system” means system in JCC 8.72.040, which the county fire marshal or the local fire official uses to match atmospheric conditions or local circumstances in a region of responsibility to the appropriate limitations for those atmospheric conditions or local circumstances.
- (5) “Fireworks” has the same meaning as in RCW 70.77.126.⁵
- (6) “High fire hazard” means a period of hot, dry weather accompanied by low fuel moistures, where fires start quickly, spread furiously, and burn intensely and are difficult to control unless they are successfully attacked when the fires are small. It is during this period that wildland fires can be expected, and fire growth will be accelerated.⁶
- (7) “Industrial Fire Precaution Levels” or “IFPLs” means the system developed by the Washington State Department of Natural Resources (WDNR) and published in WAC 332-24-301(3)(a).
- (8) “International Fire Code” or “IFC” means the International Fire Code adopted in JCC 15.05.030(3), as adopted and modified in Chapter 51-54 WAC.
- (9) “Local fire official” means a fire chief of a fire district wholly or partially within Jefferson County or their designee.⁷
- (10) “ORCAA” means the Olympic Regional Clean Air Authority.
- (11) “Outdoor burning” has the same definition as in WAC 173-425-030(16).⁸

² Same definition as in JCC 8.75.020.

³ Same definition as in JCC 8.75.020(4).

⁴ Same definition as in JCC 8.75.020(6).

⁵ Same definition as in JCC 8.75.020(7).

⁶ Same definition as in JCC 8.75.020(9).

⁷ Same definition as in JCC 8.75.020(10).

⁸ “**Outdoor burning**” means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purposes of this rule, ‘outdoor burning’ means all types of outdoor burning except agricultural burning and silvicultural burning.” (RCW 70A.15.5000). WAC 173-425-030(16). “**Agricultural burning**: Means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force

- (12) "Recreational fire" has the same meaning as in IFC Chapter 2-Definitions.
- (13) "Region of responsibility" means the fire district wholly or partially within Jefferson County for a local fire official, or the county as a whole for the county fire marshal.⁹
- (14) "Solid waste" has the same meaning as in JCC 8.10.100.
- (15) "WDNR" means the Washington State Department of Natural Resources.
- (16) "Wildland fire" means any non-structure fire that occurs in vegetation or natural fuels and includes fires originating from an unplanned ignition and unauthorized and accidental human caused fires.
- (17) "Wildfire risk areas" has the same meaning as in IFC Chapter 2-Definitions.¹⁰

8.72.030 Regulation of Outdoor burning, Bonfires and Recreational Fires in Unincorporated Jefferson County.

- (1) Outdoor burning. Bonfires, and Recreational Fires—Attendance Required at All Times. Under IFC Section 307.7, all outdoor burning, bonfires, and recreational fires shall be constantly attended until the fire is extinguished.
- (2) Limits on Recreational Fires. Consistent with WAC 51-54A-0307, recreational fires shall not be conducted within 25 feet of a structure or combustible material.
- (3) No Outdoor Burning of Solid Waste, including Garbage or Rubbish. Consistent with JCC 8.10.025(3)(f), any outdoor burning of solid waste, including garbage or rubbish is prohibited.
- (4) No Outdoor burning that Alters Existing Wetland Conditions. Consistent with JCC 18.22.720(1)(g), any intentional outdoor burning that alters existing wetland conditions is prohibited.
- (5) No Use of Devices Liable to Start or Cause a Fire in or on Wildfire Risk Areas. Consistent with IFC Section 308.1.6, torches and other devices, machines or processes liable to start or cause a fire shall not be operated or used in or on wildfire risk areas.
- (6) Outdoor Burning Prohibited According to the Fire Danger Risk Rating System.

established in RCW 70.94.6528(6) or other authoritative source on agricultural practices. Propane flaming for the purpose of vegetative debris removal is considered commercial agricultural burning." WAC 173-430-030(1). "Silvicultural burning: Means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.6534, 70.94.6540, and under chapter 76.04 RCW." WAC 173-425-030(13).

⁹ Same definition as in JCC 8.75.020(12).

¹⁰ The IFC Chapter 2-Definitions say: "WILDFIRE RISK AREA. Land that is covered with grass, grain, brush or forest, whether privately or publicly owned, which is so situated or of such inaccessible location that a fire origination upon it would present an abnormally difficult job of suppression or would result in great or unusual damage through fire or such areas designated by the *fire code official*."

- (a) Violations of Restrictions in Fire Danger Risk Rating System. Any violation of the restrictions designated the fire danger risk rating system is prohibited and shall be subject to enforcement under this chapter.
 - (b) Publication of Limitations on Outdoor Burning by County Fire Marshal and Local Fire Officials. The county fire marshal and each local fire official shall match the current atmospheric conditions or local circumstances to the appropriate limitations for those atmospheric conditions or local circumstances from the fire danger risk rating system, and shall publish on their website or otherwise provide to the public the current level of fire danger from the fire danger risk rating system. From July 1 to September 30 of each year, publication of current fire conditions shall be daily; otherwise, publication of the current fire conditions shall be whenever there is a change in fire conditions, but no less frequently than once per month.
- (7) Authority of County Fire Marshal and Local Fire Officials to Order Extinguishment of Hazardous Outdoor Burning. Consistent with IFC Section 307.3, where outdoor burning creates or adds a hazardous situation, the county fire marshal or a local fire official may order the extinguishment of the outdoor burning operation.
- (8) Outdoor Burning in Violation of RCW 70A.15.5010(1) Enforceable Under this Chapter. Consistent with RCW 70A.15.5010(1), causing or allowing any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors is prohibited and may be enforced as a violation of this chapter.
- (9) Outdoor Burning During Closures by ORCAA Enforceable Under this Chapter. Outdoor burning is prohibited during periods of closure as defined by ORCAA due to air quality degradation and may be enforced as a violation of this chapter.
- (10) Violations of Industrial Fire Precaution Levels Enforceable Under this Chapter. Violations of Industrial Fire Precaution Levels may be enforced as a violation of this chapter.

8.72.040 Fire Danger risk level burn restrictions.

- (1) Designation Authority. The fire marshal after consultation with local fire officials shall have the authority to designate the fire danger risk level in the fire danger risk rating system with corresponding restrictions. All burn restrictions shall remain in effect until withdrawn, escalated or otherwise modified. Following any change in fire danger risk level designation, the fire marshal shall report the change to the Jefferson County Board of Commissioners at the next regularly scheduled meeting.
- (2) Enforcement. Burn restrictions shall be enforced by the Jefferson County sheriff as conditions warrant, throughout those unincorporated areas of Jefferson County.
- (3) State and Federal Campgrounds. State and federal campgrounds located within the Jefferson County fire districts' region of responsibility are outside the scope and jurisdiction of these regulations, but are encouraged to follow these regulations.

(4) Fire Danger Risk Level Designation.

Burn restrictions shall be imposed according to the following progressive fire danger risk level designation:

- (a) Stage 1 Low fire hazard level burn restrictions categorized as green in color;
- (b) Stage 2 Moderate fire hazard level burn restrictions categorized as blue in color;
- (c) Stage 3 High hazard level burn restrictions categorized as yellow in color;
- (d) Stage 4 Very-high hazard level burn restrictions categorized as orange in color; and,
- (e) Stage 5 Extreme hazard level burn restrictions categorized as red in color.

(5) Fire Danger Risk Levels.

(a) Annual Moderate Risk Stage. Historical data demonstrates that between July 1 and September 30 of each year, least stage 2 moderate level risk will exist. Accordingly, at a minimum, stage 2 restrictions shall apply between July 1 and September 30 of each year, unless modified at the discretion of the fire marshal in consultation with the local fire officials, depending on the current atmospheric and field conditions.

(b) Stages Based on Measured Changes in Atmospheric Conditions or Local Circumstances. Burn restrictions imposed with each stage are progressive and shall include any and all lower stage restrictions, unless modified at the discretion of the fire marshal in consultation with the local fire officials.¹¹ The restrictions for each stage are:

- (i) Stage 1 low fire hazard:
 - (i) All burning allowed in compliance with existing State and federal law.
 - (ii) ORCCA guidance to be observed.
- (ii) Stage 2 moderate fire hazard:
 - (A) Outdoor burning restricted. No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for any purpose whatsoever, except:
 - (I) Outdoor burning is allowed on private residential premises or designated campsites where such fires are built, ignited, and maintained in a permanent barbecue, portable barbecue, outdoor fireplace, or grill; or,

¹¹ This section is almost word for word from Chelan County Code 7.52.030.

- (II) Portable fireplaces, pits, chimineas are approved where they are placed on noncombustible material, or all combustible material is removed to mineral soil with all combustible material one and one-half feet around the portable fireplace, pit, chiminea removed. Only natural wood materials shall be burned within the portable fireplace, pit, chiminea, and the fuel shall not extend outside the portable fireplace, pit, chiminea.
- (B) Open flame devices restricted. No person shall operate or use any device liable to start or cause fire in or upon any fire hazard area, except for those devices listed on the approved Open Flame Devices list maintained by the fire marshal and listed on the fire marshal's website. Commercial operators may obtain a permit from the fire marshal for certain devices not listed.
- (c) Stage 3 high fire hazard:
 - (i) Use of charcoal briquettes is prohibited, except for commercially made listed and labeled barbeque devices located and used at a residence.
 - (ii) Target shooting outside of gun ranges, and use of exploding targets or incendiary ammunition is prohibited. Hunting is allowed in open areas.
 - (iii) Following a declaration of high fire hazard, the manufacture, sale, transportation, discharge, storage or use of fireworks is regulated under Chapter 8.75 JCC.
- (d) Stage 4 very high fire hazard:
 - (i) Outdoor burning and outdoor open flame devices are prohibited without a permit, unless listed in subsection (ii) below, or approved in writing by the fire marshal.
 - (ii) Permits are not required for use of the following:
 - (A) Commercially made listed and labeled propane or pellet fed barbeque devices located and used at a residence; and,
 - (B) Stoves or fireplace fires completely contained within a residence.
- (e) Stage 5 extreme fire hazard: Outdoor burning, discharge, and fire related activity of any kind or type, including barbeque devices, are prohibited.

8.72.050 - Violations and penalties.

This chapter declares certain acts to be civil violations, establishes civil enforcement procedures and penalties under RCW 36.32.120(7) and declares certain acts to be misdemeanors.

(1) Misdemeanor. Any person, firm, corporation or association violating or failing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not exceeding one thousand dollars (\$1,000.00) dollars or by imprisonment in the jail for a period not to exceed ninety (90) days or by both such fine and jail.

(2) Civil Infraction.

(a) Any person who violates any provision of this chapter may be issued a notice of infraction. The penalty for an infraction issued to a person who violates any provision of this chapter shall be one thousand dollars (\$1,000.00) and two thousand dollars (\$2,000.00) for any subsequent violation of this chapter. For each continuing violation, each day shall constitute a separate infraction, subject to a daily penalty.

(b) A notice of infraction represents a determination that a violation has been committed. The determination will be final unless contested as provided in this chapter.

(c) The Infraction Rules for Courts of Limited Jurisdiction (IRLJ) as they exist now or may be amended, apply to the processing and adjudication of civil infractions under this chapter.

8.72.060 – Enforcement.

(1) For outdoor burning, bonfires or recreational fires in violation of this chapter, public awareness and voluntary compliance efforts should be used before enforcement under this chapter.

(2) The county sheriff or their designee has the discretion to enforce this chapter. This chapter does not create a duty on the part of the county, the county sheriff, the county fire marshal, or local fire officials to enforce violations of this chapter. Decisions about whether and how to enforce this chapter shall be made in conjunction with the county prosecuting attorney or their designee.

(3) The county sheriff or their designee may consult with the county fire marshal or a local fire official in enforcement of this chapter. The county sheriff or their designee are authorized to:

(a) Issue citations to or arrest without warrant persons violating this chapter;

(b) Serve and execute all warrants, citations and other process issued by the courts;

(c) Send by certified mail any warrant, citation or other process to the last known place of residence of the person alleged to have violated of this chapter, which shall be deemed as personal service upon the person alleged to have violated this chapter.

(4) This chapter and permits or decisions issued under it may be enforced through Title 19 JCC, Code Compliance.¹² The county fire marshal is the “director” for purposes of JCC 19.10.015(19). The county fire marshal shall coordinate with the code compliance coordinator on decisions to enforce this chapter under Title 19 JCC.

¹² Amendments to Title 19 JCC and the Chapter 2.30 (Hearing Examiner Code) are proposed in Appendix B.

(5) The expenses of responding to and/or fighting any fires as a result of violations of this chapter are a charge against the person whose violation of this chapter caused the fire. Expenses for suppressing and damages caused by such fire shall constitute a debt of such person and are collectable by Jefferson County in the same manner as the case of an obligation under contract, express or implied.

(6) Enforcement through this chapter is not exclusive and additional enforcement mechanisms may exist, which may include filing civil actions in courts of competent jurisdiction under other applicable laws.

(7) The county prosecuting attorney may at any time bring such additional injunctive, declaratory, criminal, or other actions as are necessary to enforce this chapter.

(8) Nothing in this title shall be interpreted to mean that civil and criminal remedies for the same violations may not be brought simultaneously.

8.72.070 Disclaimer of liability.

Nothing in this chapter is intended to be nor shall be construed to create or support any liability by the county, its officers, employees or agents, any fire district, or any local fire official, for any injury or damage resulting from the failure of anyone to comply with this chapter, or by reason or in consequence of the implementation or enforcement under this chapter, or for any action or inaction by the county related to the enforcement of this chapter by its officers, employees or agents.

APPENDIX B

**Miscellaneous Amendments to the Jefferson County Code
(Additions Are Underlined)**

Section 2.30.080 of the Jefferson County Code, last amended by Ordinance 12-1028-19 on October 28, 2019, is amended to read:

JCC 2.30.080 Examiner – Power and duties.

(1) The examiner shall have the power to appoint deputy examiners, subject to confirmation by the board of county commissioners. The deputy examiners shall assist the examiner in the performance of the duties conferred upon the examiner and shall have all the powers and duties of the examiner.

(2) The examiner shall receive and examine available relevant evidence, conduct hearings, cause preparation of the official record, prepare and enter findings of fact and conclusions of law, and issue final decisions for:

(a) Land Use Hearings.

- (i) Type III land use decisions pursuant to Chapter 18.40 JCC;
- (ii) Appeals of Type II land use decisions pursuant to Chapter 18.40 JCC;
- (i) Appeals of administrative interpretations made pursuant to Article VI of Chapter 18.40 JCC;
- (ii) Appeal of a SEPA threshold determination made pursuant to Article X of Chapter 18.40 JCC, except for determinations of significance;
- (iii) Hearings to suspend, revoke, or modify an issued examiner's decision, approval, or permit for land use matters under JCC 18.40.325; and,
- (vi) Any other land use hearing not prohibited by law assigned by the board of county commissioners through an ordinance.

(b) Non-Land-Use Hearings.

- (i) Operating permits for a new commercial shooting facility under Article III of Chapter 8.50 JCC (Commercial Shooting Facilities);
- (ii) Appeal of an administrative decision regarding operating permits for existing commercial shooting facilities under Article III of Chapter 8.50 JCC (Commercial Shooting Facilities);
- (iii) Administrative appeals under Chapter 19.40 JCC (Hearing Examiner Appeals for Nuisances);
- (iv) Hearings for vehicle nuisances under Chapter 19.25 JCC (Vehicle and Public Right-of-Way Nuisances);

- (v) Appeal of an administrative decision regarding sexually oriented business licenses under Chapter 5.10 JCC (Licensing and Operation of Sexually Oriented Business Facilities);
- (vi) Appeals assigned to the hearing examiner under Chapter 8.72 JCC;
- (vii) Appeals assigned to the hearing examiner under Chapter 8.75 JCC;
- (vii) Hearings to suspend, revoke, or modify an issued examiner's decision, approval, or permit for non-land-use matters under JCC 2.30.140; and,
- (viii) Any other non-land-use proceeding not prohibited by law assigned by the board of county commissioners through an ordinance.

(3) The examiner shall receive and examine available relevant information, including environmental documents, conduct hearings, cause preparation of the official record, prepare and enter findings of fact and conclusions of law, and issue recommendations to the board of county commissioners for road vacations under Chapter 12.10 JCC (non-land-use hearing).

(4) Subpoena Authority. The examiner shall have the authority to issue subpoenas compelling the appearance of witnesses, the production of documents or other physical evidence, and the inspection of physical evidence.

Section 19.10.010 of the Jefferson County Code, last amended by Ordinance 09-1210-20 on December 22, 2020, is amended to read:

JCC 19.10.010 Applicability.

This Title shall apply to enforcement actions under the following statutes, regulations, ordinances, or health officer directive, or health officer order(s) as they now exist, or as they may hereafter be amended:

- (1) Title 8 JCC, and any statute, regulation, or ordinance listed in JCC 8.01.030, except:
 - (a) Suspension or revocation for any permit, license, or certificate listed in JCC 8.01.030;
 - (b) Stop work orders for any permit listed in JCC 8.01.030; and,
 - (c) Notice to vacate issued under JCC 8.10.950.
- (2) JCC Title 12, Chapter 12.05 JCC, Approaches to County Roads.
- (3) JCC Chapters 13.01- 13.10, PHUGA Sewer Utility Code.
- (4) JCC Title 15, Chapter 15.05 JCC, Building Codes.
- (5) JCC Title 15, Chapter 15.15 JCC, Flood Damage Prevention.

(6) JCC Title 17, Master Planned Resorts – All Chapters.

(7) Title 18 JCC, Unified Development Code – All Chapters.

(8) Any other statutes, regulations, ordinances, health officer directive, or health officer order(s) defined as a civil code violation pursuant to JCC 19.10.015(14).



BURN REGULATION ORDINANCE PUBLIC HEARING

HELD WITH JEFFERSON COUNTY BOARD OF COUNTY COMMISSIONERS

JUNE 17, 2024

PRESENTED BY:

PHIL CECERE -JEFFERSON COUNTY FIRE MARSHAL-BUILDING OFFICIAL

BRIAN TRACER- JEFFERSON COUNTY DEPUTY FIRE MARSHAL

THE PURPOSE OF THIS REGULATION OF OPEN BURNING, BONFIRES AND RECREATIONAL FIRES IS TO PROTECT PEOPLE AND PROPERTY, ESPECIALLY WHEN WILDFIRE DANGER IS HIGH. IMPLEMENTING A FIRE DANGER RATING SYSTEM THAT IS WIDELY RECOGNIZED PROMOTES TRANSPARENCY SO THAT REGULATIONS THAT ARE EASILY UNDERSTOOD AND CONSISTENTLY APPLIED ACROSS JEFFERSON COUNTY.

THE BOCC HAS HELD TWO SUBJECT WORKSHOPS APRIL 1 AND MAY 6 2024

A HEARING NOTICE HAS BEEN PUBLISHED TWICE JUNE 5 & JUNE 12 2024

THIS DRAFT ORDINANCE IS RESULT OF AN ONGOING EFFORT SINCE AT LEAST 2022 TO ADVANCE AND FORMALIZE BURN REGULATIONS AND RESTRICTIONS

THE DRAFTING OF THIS ORDINANCE HAS BENEFITTED FROM COLLABORATION WITH:

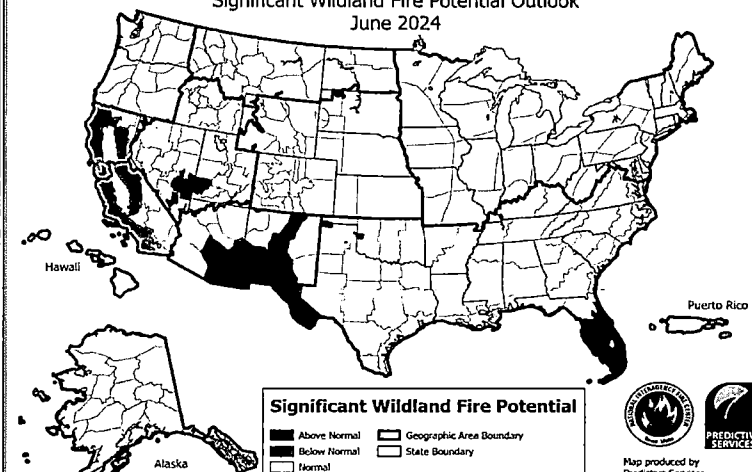
JEFFERSON COUNTY FIRE CHIEF'S ASSOCIATION

JEFFERSON COUNTY SHERIFF'S OFFICE

JEFFERSON COUNTY PROSECUTING ATTORNEYS OFFICE

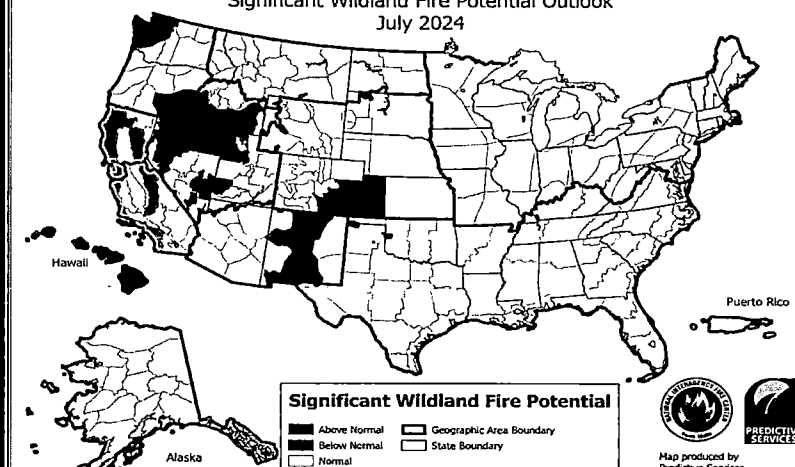
JEFFERSON COUNTY BOARD OF COUNTY COMMISSIONERS

Significant Wildland Fire Potential Outlook June 2024



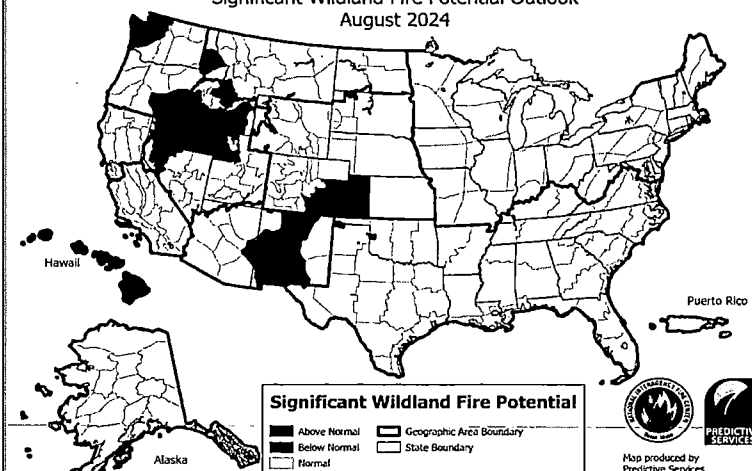
Above normal significant wildland fire potential indicates a greater than usual likelihood that significant wildland fires will occur. Significant wildland fires should be expected at typical times and intervals during normal significant wildland fire potential conditions. Significant wildland fires are still possible but less likely than usual during forecasted below normal periods.

Significant Wildland Fire Potential Outlook July 2024



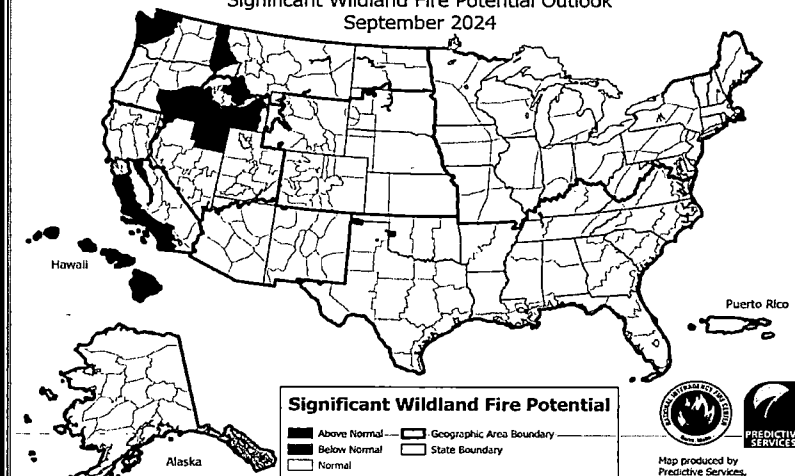
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Significant Wildland Fire Potential Outlook August 2024



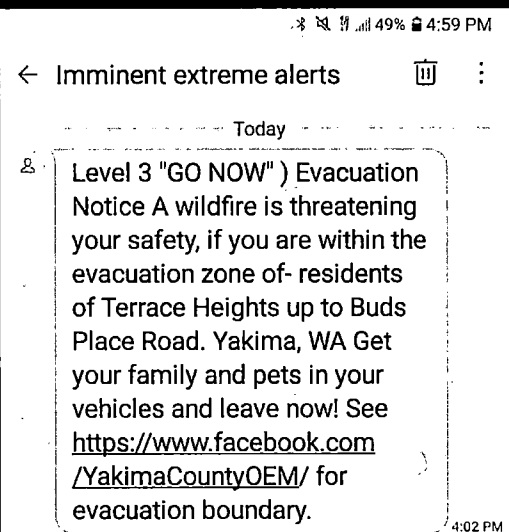
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Significant Wildland Fire Potential Outlook September 2024



Above normal significant wildland fire potential indicates a greater than usual likelihood that significant wildland fires will occur. Significant wildland fires should be expected at typical times and intervals during normal significant wildland fire potential conditions. Significant wildland fires are still possible but less likely than usual during forecasted below normal periods.

BURNING RESTRICTIONS PROTECT CITIZENS AND PROPERTY WHEN WILDFIRE RISK IS HIGH. THESE EFFORTS CONSERVE FIRES EQUIPMENT AND RESOURCES AND PROTECT OUR MOST VULNERABLE POPULATION WHEN AIR QUALITY HAS DEGRADED



Photos courtesy Chelsea Pronovost

DRAFT ORDINANCE KEY POINTS

- NO CHANGE TO FIREWORKS LANGUAGE OR JCC 8.75 NO REQUIREMENT TO DELAY IMPLEMENTATION OF THIS ORDINANCE - PATHWAY FOR PUBLIC DISPLAY IS UNAFFECTED
- ESTABLISHES NEW JCC CHAPTER 8.72 REGULATIONS FOR OUTDOOR BURNING, BONFIRES AND RECREATIONAL FIRES IN UNINCORPORATED JEFFERSON COUNTY
- ESTABLISHES NEW GRADUATED FIRE DANGER RISK LEVELS AND CORRESPONDING RESTRICTIONS
- RECURRING ANNUAL MODERATE RESTRICTION JULY 1- SEPTEMBER 30
- ENABLING AUTHORITY OF THE FIRE MARSHAL TO SET OR ALTER DANGER LEVELS AND RESTRICTIONS WITH CONSULTATION WITH FIRE CHIEF'S ASSOCIATION AND BOCC NOTIFICATION
- ENHANCED DEFINITIONS TO AID IN PUBLIC EDUCATION AND TRANSPARENCY
- ESTABLISHES AN ENFORCEMENT AND PENALTIES SECTION TO AID IN VIOLATION MITIGATION WITH A EMPHASIS ON EDUCATION AND AWARENESS
- PROVIDES A PUBLICATION REQUIREMENT TO ESTABLISH CURRENT DANGER AND RESTRICTION LEVELS
- ESTABLISHES AN APPEAL PROCESS THROUGH THE HEARING EXAMINER



THE NATIONAL FIRE DANGER RATING SYSTEM (NFDRS) IS A GRADUATED COLOR CODED SYSTEM THAT ALLOWS FIRE MANAGERS TO ESTIMATE TODAY'S OR TOMORROW'S FIRE DANGER FOR A GIVEN AREA.

ADOPTION OF THIS TYPE OF "SMOKEY BEAR" GRAPHIC MODEL TYPE IS WIDELY RECOGNIZED AND EASILY UNDERSTOOD

NEW WEBPAGE FOR THE OFFICE OF THE
FIRE MARSHAL AND A POTENTIAL
MESSAGING MEDIUM THROUGH
STRATEGIC SIGNAGE AND QR CODE
LINKS

(PENDING FUNDING SOURCES)



COUNTYWIDE BURN RESTRICTIONS IN EFFECT



FOR CURRENT FIRE DANGER
LEVELS AND RESTRICTIONS

Visit us
<https://co.jefferson.wa.us/1687>
or
Contact your local fire
district

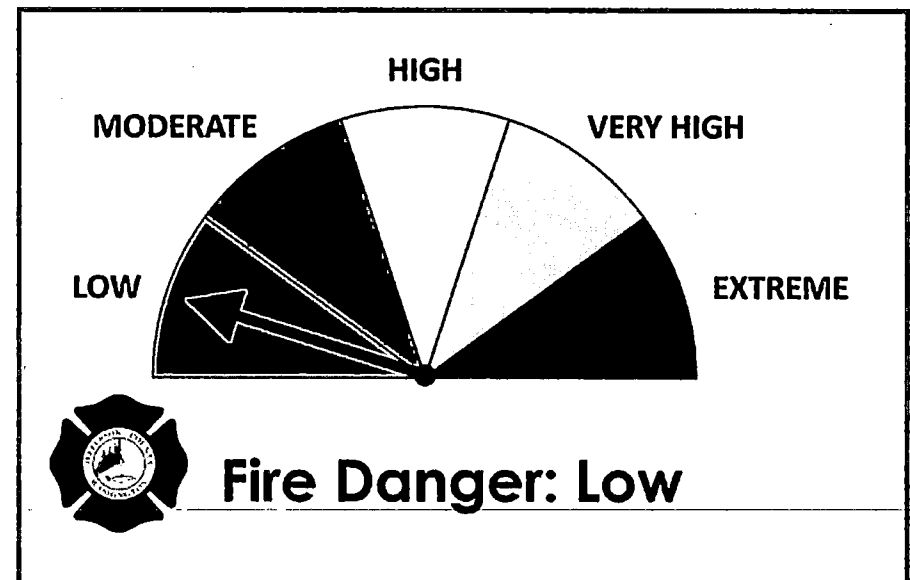
Office of the Fire Marshal



The Jefferson County Office of the Fire Marshal is the authority having jurisdiction pertaining to fire codes and fire safety within the county. The county is divided into five fire districts for EMS and Fire fighting services. The fire Chiefs and the Fire Marshal work together to inform and protect the public.

News

The Draft County Wildfire Protection Plan is available for public comments here: [Jefferson County CWPP \(arcgis.com\)](https://co.jefferson.wa.us/arcgis.com)
Please find the Press Release and Social Media announcements here: [04 - Outreach](#)



Questions



STATE OF WASHINGTON
County of Jefferson

**In the Matter of Repealing and Replacing
Resolution No. 42-05 and Establishing
Updated Regulations for Outdoor Burning,
Bonfires and Recreational Fires in
Unincorporated Jefferson County**

ORDINANCE NO. _____

WHEREAS, Article XI, section 11 of the Washington Constitution, confers upon county legislative authorities the police power to adopt such local police, sanitary and other regulations as are not in conflict with general laws; and,

WHEREAS, Article XI, section 11 of the Washington Constitution is a direct delegation of the police power to cities and counties, and the power delegated is as extensive within their sphere as that possessed by the legislature; and,

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and,

WHEREAS, police power is that inherent and plenary power which enables prohibition of all things hurtful to the comfort, safety and welfare of society; and,

WHEREAS, the scope of police power is broad, encompassing all those measures which bear a reasonable and substantial relation to promotion of the general welfare of the people; and,

WHEREAS, RCW 36.32.120(10) provides that county legislative bodies have the power to declare a nuisance within the county; to abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it; and,

WHEREAS, RCW 70A.15.5020 states it is the policy of the State of Washington to reduce outdoor burning to the greatest extent practical; and,

WHEREAS, RCW 70A.15.5010(1) prohibits causing or allowing any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors; and,

WHEREAS, under JCC 15.05.030(3), Jefferson County adopted the International Fire Code (IFC), as adopted and modified in Chapter 51-54A WAC; and,

WHEREAS, Chapter 51-54A WAC adopts and modifies the 2021 version of IFC; and,

WHEREAS, IFC Section 307.1.1 (2021) states, “Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous;” and,

WHEREAS, IFC Section 307.3 (2021) states, “Where open burning creates or adds a hazardous situation, or a required permit for open burning has not been obtained, the fire code official is authorized to order the extinguishment of the open burning operation;” and,

WHEREAS, the Jefferson County Board of Commissioners (Board) wishes to promote the health, safety and welfare of its citizens under the statutory purposes of the Washington Clean Air Act, Chapter 70A.15 RCW and its implementing regulations in Chapter 173-425 WAC; and,

WHEREAS, the fire protection authority in Jefferson County has the authority vested under the Washington Clean Air Act regulations in WAC 173-425-050(3)(a)(iii) to declare a fire danger burn ban in unincorporated Jefferson County; and,

WHEREAS, limiting outdoor burning protects people when the air is unhealthy; and,

WHEREAS, limiting outdoor burning protects people and property when wildfire danger is high; and,

WHEREAS, fire precaution and safeguards against hazards to life safety and property from the dangerous conditions associated with wildfire; protect citizens, firefighters, emergency responders and private property; and,

WHEREAS, on June 28, 2005 Jefferson County adopted Resolution No. 42-05, a regulatory program to regulate outdoor burning; and,

WHEREAS, the Board has determined Resolution No. 42-05, should be updated; and,

WHEREAS, the Board has determined that more local control should exist in determining when atmospheric conditions or local circumstances make outdoor burning a hazardous fire danger in unincorporated Jefferson County; and,

WHEREAS, the Jefferson County Fire Marshal, in consultation with local fire officials, has developed a fire danger risk rating system based on the National Fire Danger Rating System developed by the United States Fish & Wildlife Service¹ and other scientifically based fire management tools; and,

WHEREAS, JCC 15.10 is an antiquated clause with no relevance to current public safety concerns and should be repealed without replacement and,.

WHEREAS, the local fire officials in Jefferson County agree that Resolution No. 42-05, should be updated and concur with the Board adopting this ordinance; and,

¹ See https://gacc.nifc.gov/rmcc/predictive/nfdrs_gaining_understanding.pdf.

WHEREAS, the Jefferson County Fire Marshal agrees that Resolution No. 42-05, should be updated and concurs with the Board adopting this ordinance; and,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, STATE OF WASHINGTON as follows:

Section 1. Whereas Clauses are Findings of Fact. The Board adopts the above recitals (the “WHEREAS” statements) as its findings of fact supporting this ordinance.

Section 2. Repealing and Replacing Resolution No. 42-05. The Board repeals and replaces Resolution No. 42-05 with new Chapter 8.72 JCC, which is in Appendix A and which regulates outdoor burning, bonfires and recreational fires in unincorporated Jefferson County.

Section 3. Adoption of Chapter 8.72 JCC. Chapter 8.72 JCC, which attached in Appendix A and which regulates outdoor burning, bonfires and recreational fires in unincorporated Jefferson County, is hereby adopted.

Section 4. Adoption of Miscellaneous Amendments. The miscellaneous amendments to the Jefferson County Code, which are in Appendix B, are hereby adopted.

Section 5. Severability. The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, then the remainder of this ordinance or application of its provisions to other persons or circumstances shall remain valid and unaffected.

Section 6. SEPA Compliance. This ordinance is categorically exempt from the State Environmental Policy Act under WAC 197-11-800(19).

Section 7. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon adoption by the Board.

(SIGNATURES FOLLOW ON NEXT PAGE)

ADOPTED this _____ day of _____ 2024.

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

Kate Dean, Chair

Greg Brotherton, Member

Heidi Eisenhour, Member

APPROVED AS TO FORM:

ATTEST:

Carolyn Gallaway, Date
Deputy Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A – NEW CHAPTER 8.72 JCC

Title 8 - HEALTH AND SAFETY

Chapter 8.72 – REGULATIONS FOR OUTDOOR BURNING, BONFIRES AND RECREATIONAL FIRES IN UNINCORPORATED JEFFERSON COUNTY

Sections:

8.72.010 Purpose and Construction.

- (1) The purpose of this regulation of open burning, bonfires and recreational fires is protect people and property, especially when wildfire danger is high. Implementing a fire danger rating system that is widely recognized promotes transparency so that regulations that are easily understood and consistently applied across Jefferson County.
- (2) It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefited by the terms of this chapter.
- (3) This chapter supplements International Fire Code Section 3.07, adopted in JCC 15.05.030(6), and shall be construed in connection with that law and with Chapter 51-54 WAC, which modifies the IFC for application in the State of Washington.
- (4) This chapter shall be liberally construed to carry out its broad purposes, allowing the local fire official to determine permissible consumer fireworks within their region of responsibility within Jefferson County.
- (5) Reference to the Jefferson County Code (JCC) in this chapter is to the provision of the JCC as adopted or as amended.
- (6) Reference to the Revised Code of Washington (RCW) in this chapter is to the provision of the RCW as adopted or as amended.
- (7) Reference to the Washington Administrative Code (WAC) in this chapter is to the provision of the WAC as adopted or as amended.

8.72.020 Definitions.

In construing provisions of this chapter, unless otherwise plainly declared or clearly apparent from the context, words used in this chapter shall be given their common and ordinary meaning and in addition, these definitions shall apply:

- (1) “County fire marshal” means the fire marshal for Jefferson County designated in JCC 2.40.010.²
- (2) “Declaration of high fire hazard” means a declaration by the county fire marshal or their designee, or a local fire official or their designee, that a high fire hazard exists within their region of responsibility.³
- (3) “Fire hazard” means the accumulation of combustible materials in such a condition as to be readily ignited and in such a quantity as to create a hazard from fire to nearby structures, forest areas, life and property.⁴
- (4) “Fire danger risk rating system” means system in JCC 8.72.040, which the county fire marshal or the local fire official uses to match atmospheric conditions or local circumstances in a region of responsibility to the appropriate limitations for those atmospheric conditions or local circumstances.
- (5) “Fireworks” has the same meaning as in RCW 70.77.126.⁵
- (6) “High fire hazard” means a period of hot, dry weather accompanied by low fuel moistures, where fires start quickly, spread furiously, and burn intensely and are difficult to control unless they are successfully attacked when the fires are small. It is during this period that wildland fires can be expected, and fire growth will be accelerated.⁶
- (7) “Industrial Fire Precaution Levels” or “IFPLs” means the system developed by the Washington State Department of Natural Resources (WDNR) and published in WAC 332-24-301(3)(a).
- (8) “International Fire Code” or “IFC” means the International Fire Code adopted in JCC 15.05.030(3), as adopted and modified in Chapter 51-54 WAC.
- (9) “Local fire official” means a fire chief of a fire district wholly or partially within Jefferson County or their designee.⁷
- (10) “ORCAA” means the Olympic Regional Clean Air Authority.
- (11) “Outdoor burning” has the same definition as in WAC 173-425-030(16).⁸

² Same definition as in JCC 8.75.020.

³ Same definition as in JCC 8.75.020(4).

⁴ Same definition as in JCC 8.75.020(6).

⁵ Same definition as in JCC 8.75.020(7).

⁶ Same definition as in JCC 8.75.020(9).

⁷ Same definition as in JCC 8.75.020(10).

⁸ “**Outdoor burning**” means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purposes of this rule, ‘outdoor burning’ means all types of outdoor burning except agricultural burning and silvicultural burning.” (RCW 70A.15.5000). WAC 173-425-030(16). “**Agricultural burning**: Means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force

- (12) "Recreational fire" has the same meaning as in IFC Chapter 2-Definitions.
- (13) "Region of responsibility" means the fire district wholly or partially within Jefferson County for a local fire official, or the county as a whole for the county fire marshal.⁹
- (14) "Solid waste" has the same meaning as in JCC 8.10.100.
- (15) "WDNR" means the Washington State Department of Natural Resources.
- (16) "Wildland fire" means any non-structure fire that occurs in vegetation or natural fuels and includes fires originating from an unplanned ignition and unauthorized and accidental human caused fires.
- (17) "Wildfire risk areas" has the same meaning as in IFC Chapter 2-Definitions.¹⁰

8.72.030 Regulation of Outdoor burning, Bonfires and Recreational Fires in Unincorporated Jefferson County.

- (1) Outdoor burning, Bonfires, and Recreational Fires—Attendance Required at All Times. Under IFC Section 307.7, all outdoor burning, bonfires, and recreational fires shall be constantly attended until the fire is extinguished.
- (2) Limits on Recreational Fires. Consistent with WAC 51-54A-0307, recreational fires shall not be conducted within 25 feet of a structure or combustible material.
- (3) No Outdoor Burning of Solid Waste, including Garbage or Rubbish. Consistent with JCC 8.10.025(3)(f), any outdoor burning of solid waste, including garbage or rubbish is prohibited.
- (4) No Outdoor burning that Alters Existing Wetland Conditions. Consistent with JCC 18.22.720(1)(g), any intentional outdoor burning that alters existing wetland conditions is prohibited.
- (5) No Use of Devices Liable to Start or Cause a Fire in or on Wildfire Risk Areas. Consistent with IFC Section 308.1.6, torches and other devices, machines or processes liable to start or cause a fire shall not be operated or used in or on wildfire risk areas.
- (6) Outdoor Burning Prohibited According to the Fire Danger Risk Rating System.

established in RCW 70.94.6528(6) or other authoritative source on agricultural practices. Propane flaming for the purpose of vegetative debris removal is considered commercial agricultural burning." WAC 173-430-030(1). "Silvicultural burning: Means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.6534, 70.94.6540, and under chapter 76.04 RCW." WAC 173-425-030(13).

⁹ Same definition as in JCC 8.75.020(12).

¹⁰ The IFC Chapter 2-Definitions say: "WILDFIRE RISK AREA. Land that is covered with grass, grain, brush or forest, whether privately or publicly owned, which is so situated or of such inaccessible location that a fire origination upon it would present an abnormally difficult job of suppression or would result in great or unusual damage through fire or such areas designated by the *fire code official*."

- (a) Violations of Restrictions in Fire Danger Risk Rating System. Any violation of the restrictions designated the fire danger risk rating system is prohibited and shall be subject to enforcement under this chapter.
 - (b) Publication of Limitations on Outdoor Burning by County Fire Marshal and Local Fire Officials. The county fire marshal and each local fire official shall match the current atmospheric conditions or local circumstances to the appropriate limitations for those atmospheric conditions or local circumstances from the fire danger risk rating system, and shall publish on their website or otherwise provide to the public the current level of fire danger from the fire danger risk rating system. From July 1 to September 30 of each year, publication of current fire conditions shall be daily; otherwise, publication of the current fire conditions shall be whenever there is a change in fire conditions, but no less frequently than once per month.
- (7) Authority of County Fire Marshal and Local Fire Officials to Order Extinguishment of Hazardous Outdoor Burning. Consistent with IFC Section 307.3, where outdoor burning creates or adds a hazardous situation, the county fire marshal or a local fire official may order the extinguishment of the outdoor burning operation.
- (8) Outdoor Burning in Violation of RCW 70A.15.5010(1) Enforceable Under this Chapter. Consistent with RCW 70A.15.5010(1), causing or allowing any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors is prohibited and may be enforced as a violation of this chapter.
- (9) Outdoor Burning During Closures by ORCAA Enforceable Under this Chapter. Outdoor burning is prohibited during periods of closure as defined by ORCAA due to air quality degradation and may be enforced as a violation of this chapter.
- (10) Violations of Industrial Fire Precaution Levels Enforceable Under this Chapter. Violations of Industrial Fire Precaution Levels may be enforced as a violation of this chapter.

8.72.040 Fire Danger risk level burn restrictions.

- (1) Designation Authority. The fire marshal after consultation with local fire officials shall have the authority to designate the fire danger risk level in the fire danger risk rating system with corresponding restrictions. All burn restrictions shall remain in effect until withdrawn, escalated or otherwise modified. Following any change in fire danger risk level designation, the fire marshal shall report the change to the Jefferson County Board of Commissioners at the next regularly scheduled meeting.
- (2) Enforcement. Burn restrictions shall be enforced by the Jefferson County sheriff as conditions warrant, throughout those unincorporated areas of Jefferson County.
- (3) State and Federal Campgrounds. State and federal campgrounds located within the Jefferson County fire districts' region of responsibility are outside the scope and jurisdiction of these regulations, but are encouraged to follow these regulations.

(4) Fire Danger Risk Level Designation.

Burn restrictions shall be imposed according to the following progressive fire danger risk level designation:

- (a) Stage 1 Low fire hazard level burn restrictions categorized as green in color;
- (b) Stage 2 Moderate fire hazard level burn restrictions categorized as blue in color;
- (c) Stage 3 High hazard level burn restrictions categorized as yellow in color;
- (d) Stage 4 Very-high hazard level burn restrictions categorized as orange in color; and,
- (e) Stage 5 Extreme hazard level burn restrictions categorized as red in color.

(5) Fire Danger Risk Levels.

(a) Annual Moderate Risk Stage. Historical data demonstrates that between July 1 and September 30 of each year, least stage 2 moderate level risk will exist. Accordingly, at a minimum, stage 2 restrictions shall apply between July 1 and September 30 of each year, unless modified at the discretion of the fire marshal in consultation with the local fire officials, depending on the current atmospheric and field conditions.

(b) Stages Based on Measured Changes in Atmospheric Conditions or Local Circumstances. Burn restrictions imposed with each stage are progressive and shall include any and all lower stage restrictions, unless modified at the discretion of the fire marshal in consultation with the local fire officials.¹¹ The restrictions for each stage are:

- (i) Stage 1 low fire hazard:
 - (i) All burning allowed in compliance with existing State and federal law.
 - (ii) ORCCA guidance to be observed.
- (ii) Stage 2 moderate fire hazard:
 - (A) Outdoor burning restricted. No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for any purpose whatsoever, except:
 - (I) Outdoor burning is allowed on private residential premises or designated campsites where such fires are built, ignited, and maintained in a permanent barbecue, portable barbecue, outdoor fireplace, or grill; or,

¹¹ This section is almost word for word from Chelan County Code 7.52.030.

- (II) Portable fireplaces, pits, chimineas are approved where they are placed on noncombustible material, or all combustible material is removed to mineral soil with all combustible material one and one-half feet around the portable fireplace, pit, chiminea removed. Only natural wood materials shall be burned within the portable fireplace, pit, chiminea, and the fuel shall not extend outside the portable fireplace, pit, chiminea.
 - (B) Open flame devices restricted. No person shall operate or use any device liable to start or cause fire in or upon any fire hazard area, except for those devices listed on the approved Open Flame Devices list maintained by the fire marshal and listed on the fire marshal's website. Commercial operators may obtain a permit from the fire marshal for certain devices not listed.
- (c) Stage 3 high fire hazard:
- (i) Use of charcoal briquettes is prohibited, except for commercially made listed and labeled barbeque devices located and used at a residence.
 - (ii) Target shooting outside of gun ranges, and use of exploding targets or incendiary ammunition is prohibited. Hunting is allowed in open areas.
 - (iii) Following a declaration of high fire hazard, the manufacture, sale, transportation, discharge, storage or use of fireworks is regulated under Chapter 8.75 JCC.
- (d) Stage 4 very high fire hazard:
- (i) Outdoor burning and outdoor open flame devices are prohibited without a permit, unless listed in subsection (ii) below, or approved in writing by the fire marshal.
 - (ii) Permits are not required for use of the following:
 - (A) Commercially made listed and labeled propane or pellet fed barbeque devices located and used at a residence; and,
 - (B) Stoves or fireplace fires completely contained within a residence.
- (e) Stage 5 extreme fire hazard: Outdoor burning, discharge, and fire related activity of any kind or type, including barbeque devices, are prohibited.

8.72.050 - Violations and penalties.

This chapter declares certain acts to be civil violations, establishes civil enforcement procedures and penalties under RCW 36.32.120(7) and declares certain acts to be misdemeanors.

(1) Misdemeanor. Any person, firm, corporation or association violating or failing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not exceeding one thousand dollars (\$1,000.00) dollars or by imprisonment in the jail for a period not to exceed ninety (90) days or by both such fine and jail.

(2) Civil Infraction.

(a) Any person who violates any provision of this chapter may be issued a notice of infraction. The penalty for an infraction issued to a person who violates any provision of this chapter shall be one thousand dollars (\$1,000.00) and two thousand dollars (\$2,000.00) for any subsequent violation of this chapter. For each continuing violation, each day shall constitute a separate infraction, subject to a daily penalty.

(b) A notice of infraction represents a determination that a violation has been committed. The determination will be final unless contested as provided in this chapter.

(c) The Infraction Rules for Courts of Limited Jurisdiction (IRLJ) as they exist now or may be amended, apply to the processing and adjudication of civil infractions under this chapter.

8.72.060 – Enforcement.

(1) For outdoor burning, bonfires or recreational fires in violation of this chapter, public awareness and voluntary compliance efforts should be used before enforcement under this chapter.

(2) The county sheriff or their designee has the discretion to enforce this chapter. This chapter does not create a duty on the part of the county, the county sheriff, the county fire marshal, or local fire officials to enforce violations of this chapter. Decisions about whether and how to enforce this chapter shall be made in conjunction with the county prosecuting attorney or their designee.

(3) The county sheriff or their designee may consult with the county fire marshal or a local fire official in enforcement of this chapter. The county sheriff or their designee are authorized to:

(a) Issue citations to or arrest without warrant persons violating this chapter;

(b) Serve and execute all warrants, citations and other process issued by the courts;

(c) Send by certified mail any warrant, citation or other process to the last known place of residence of the person alleged to have violated of this chapter, which shall be deemed as personal service upon the person alleged to have violated this chapter.

(4) This chapter and permits or decisions issued under it may be enforced through Title 19 JCC, Code Compliance.¹² The county fire marshal is the “director” for purposes of JCC 19.10.015(19). The county fire marshal shall coordinate with the code compliance coordinator on decisions to enforce this chapter under Title 19 JCC.

¹² Amendments to Title 19 JCC and the Chapter 2.30 (Hearing Examiner Code) are proposed in Appendix B.

(5) The expenses of responding to and/or fighting any fires as a result of violations of this chapter are a charge against the person whose violation of this chapter caused the fire. Expenses for suppressing and damages caused by such fire shall constitute a debt of such person and are collectable by Jefferson County in the same manner as the case of an obligation under contract, express or implied.

(6) Enforcement through this chapter is not exclusive and additional enforcement mechanisms may exist, which may include filing civil actions in courts of competent jurisdiction under other applicable laws.

(7) The county prosecuting attorney may at any time bring such additional injunctive, declaratory, criminal, or other actions as are necessary to enforce this chapter.

(8) Nothing in this title shall be interpreted to mean that civil and criminal remedies for the same violations may not be brought simultaneously.

8.72.070 Disclaimer of liability.

Nothing in this chapter is intended to be nor shall be construed to create or support any liability by the county, its officers, employees or agents, any fire district, or any local fire official, for any injury or damage resulting from the failure of anyone to comply with this chapter, or by reason or in consequence of the implementation or enforcement under this chapter, or for any action or inaction by the county related to the enforcement of this chapter by its officers, employees or agents.

APPENDIX B

**Miscellaneous Amendments to the Jefferson County Code
(Additions Are Underlined)**

Section 2.30.080 of the Jefferson County Code, last amended by Ordinance 12-1028-19 on October 28, 2019, is amended to read:

JCC 2.30.080 Examiner – Power and duties.

(1) The examiner shall have the power to appoint deputy examiners, subject to confirmation by the board of county commissioners. The deputy examiners shall assist the examiner in the performance of the duties conferred upon the examiner and shall have all the powers and duties of the examiner.

(2) The examiner shall receive and examine available relevant evidence, conduct hearings, cause preparation of the official record, prepare and enter findings of fact and conclusions of law, and issue final decisions for:

(a) Land Use Hearings.

- (i) Type III land use decisions pursuant to Chapter 18.40 JCC;
- (ii) Appeals of Type II land use decisions pursuant to Chapter 18.40 JCC;
- (i) Appeals of administrative interpretations made pursuant to Article VI of Chapter 18.40 JCC;
- (ii) Appeal of a SEPA threshold determination made pursuant to Article X of Chapter 18.40 JCC, except for determinations of significance;
- (iii) Hearings to suspend, revoke, or modify an issued examiner's decision, approval, or permit for land use matters under JCC 18.40.325; and,
- (vi) Any other land use hearing not prohibited by law assigned by the board of county commissioners through an ordinance.

(b) Non-Land-Use Hearings.

- (i) Operating permits for a new commercial shooting facility under Article III of Chapter 8.50 JCC (Commercial Shooting Facilities);
- (ii) Appeal of an administrative decision regarding operating permits for existing commercial shooting facilities under Article III of Chapter 8.50 JCC (Commercial Shooting Facilities);
- (iii) Administrative appeals under Chapter 19.40 JCC (Hearing Examiner Appeals for Nuisances);
- (iv) Hearings for vehicle nuisances under Chapter 19.25 JCC (Vehicle and Public Right-of-Way Nuisances);

- (v) Appeal of an administrative decision regarding sexually oriented business licenses under Chapter 5.10 JCC (Licensing and Operation of Sexually Oriented Business Facilities);
- (vi) Appeals assigned to the hearing examiner under Chapter 8.72 JCC;
- (vii) Appeals assigned to the hearing examiner under Chapter 8.75 JCC;
- (vii) Hearings to suspend, revoke, or modify an issued examiner's decision, approval, or permit for non-land-use matters under JCC 2.30.140; and,
- (viii) Any other non-land-use proceeding not prohibited by law assigned by the board of county commissioners through an ordinance.

(3) The examiner shall receive and examine available relevant information, including environmental documents, conduct hearings, cause preparation of the official record, prepare and enter findings of fact and conclusions of law, and issue recommendations to the board of county commissioners for road vacations under Chapter 12.10 JCC (non-land-use hearing).

(4) Subpoena Authority. The examiner shall have the authority to issue subpoenas compelling the appearance of witnesses, the production of documents or other physical evidence, and the inspection of physical evidence.

Section 19.10.010 of the Jefferson County Code, last amended by Ordinance 09-1210-20 on December 22, 2020, is amended to read:

JCC 19.10.010 Applicability.

This Title shall apply to enforcement actions under the following statutes, regulations, ordinances, or health officer directive, or health officer order(s) as they now exist, or as they may hereafter be amended:

- (1) Title 8 JCC, and any statute, regulation, or ordinance listed in JCC 8.01.030, except:
 - (a) Suspension or revocation for any permit, license, or certificate listed in JCC 8.01.030;
 - (b) Stop work orders for any permit listed in JCC 8.01.030; and,
 - (c) Notice to vacate issued under JCC 8.10.950.
- (2) JCC Title 12, Chapter 12.05 JCC, Approaches to County Roads.
- (3) JCC Chapters 13.01- 13.10, PHUGA Sewer Utility Code.
- (4) JCC Title 15, Chapter 15.05 JCC, Building Codes.
- (5) JCC Title 15, Chapter 15.15 JCC, Flood Damage Prevention.

(6) JCC Title 17, Master Planned Resorts – All Chapters.

(7) Title 18 JCC, Unified Development Code – All Chapters.

(8) Any other statutes, regulations, ordinances, health officer directive, or health officer order(s) defined as a civil code violation pursuant to JCC 19.10.015(14).