

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Mark McCauley, County Administrator

FROM: Brent A. Butler, AICP, Director, Community Development
Josh D. Peters, AICP, Planning Manager, Community Development
Bryan Benjamin, Assistant Planner, Community Development

DATE: September 26, 2022

RE: Agenda Request for Public Hearing re: Lot of Record
re: ORDINANCE NO. _____
Determination of the Legal Status of Lots, Site Development Review,
Boundary Line Adjustment; Amending Chapter 18.10 and 18.35 in the Jefferson
County Code (JCC); Adopting a New Chapter 18.12; Adopting a New Article
VII in Chapter 18.40; and Miscellaneous Other Amendments to Chapter 18.40
JCC

STATEMENT OF ISSUE:

The Department of Community Development (DCD) submits this agenda request to provide the Planning Commission Recommendation (*Attachment 1 – Recommendation 1a and Ordinance 1b*) and Staff Recommendation (*Attachment 2*) for the legal lot of record ordinance as a part of the record prior to the public hearing on September 26, 2022 duly noticed on September 14, 2022. The ordinance establishes standards by which DCD will determine the legal status of lots and processes for legal status determination of lots that do not conform to zoning standards. As a part of legal status determination, the ordinance proposes standards for site development review as a part of assessing eligibility for development, and makes corresponding changes to boundary line adjustment processes and select definitions of terms within Title 18 (a.k.a., the Unified Development Code) of the Jefferson County Code (JCC). The ordinance amends JCC Chapters 18.10 and 18.35; adopts a new JCC Chapter 18.12; adopts a new article VII in JCC Chapter 18.40; and miscellaneous other amendments to JCC Chapter 18.40.

ANALYSIS:

The Planning Commission reached a recommendation to approve the proposed ordinance with modifications on September 15, 2022 at a special meeting continued from the September 7, 2022 public hearing.

The modifications recommended by the Planning Commission include:

1. Change in language for the proposed “Lot, buildable” definition of JCC 18.10.120;
2. Replacement of a mistake reference to the site plan approval advance determination application with the correct reference to site development review processes in JCC 18.40.460(4); and
3. Public outreach for this ordinance continue through the adoption and implementation processes to ensure that affected parties are aware of the proposed regulatory change.

DCD’s Staff Recommendation is aligned with the Planning Commission’s recommendation and directly incorporates the two text changes identified for the “Lot, buildable” definition of JCC 18.10.120 and the site development review reference in JCC 18.40.460(4). The Staff Recommendation also includes additional changes to the ordinance intended to address implementation issues identified by the Department’s partner agencies, i.e. the Department of Environmental Public Health and the Department of Public Works, and DCD’s Building division.

Difference between the Staff Recommendation and the Planning Commission Recommendation does not indicate disagreement but ongoing considerations necessary for effective implementation of policy, including: provisions exempting permit applications necessary for emergency repair and public safety from initial legal lot of record determination and site development review; exclusion of certain permits, like mechanical permits and cellular tower additions or modifications, from legal lot of record determination and site development review; and consideration of permitting history and legal nonconforming status as a part of applicability of reasonable economic use provisions of JCC 18.12.080.

In addition, DCD requests the Board of County Commissioners’ input to improve the clarity of language defining reasonable economic use and the reasonable economic use process proposed in Chapter 18.12 JCC. DCD proposes to draft proposed language for addition to Chapter 18.10 JCC and present these as additional recommendations during the public hearing.

The Department of Community Development prepared an environmental checklist detailing the proposed ordinance and its compliance with the State Environmental Policy Act (“SEPA”). After a review of the environmental checklist, proposal, available information, and applicable regulations Jefferson County’s SEPA Responsible Official issued a Determination of Non-Significance (“DNS”) on August 24, 2022 under WAC [197-11-340\(2\)](#). The staff report detailing SEPA and GMA findings can be accessed at the following link:

<https://test.co.jefferson.wa.us/WeblinkExternal/Browse.aspx?id=3998907&dbid=0&repo=Jefferson>

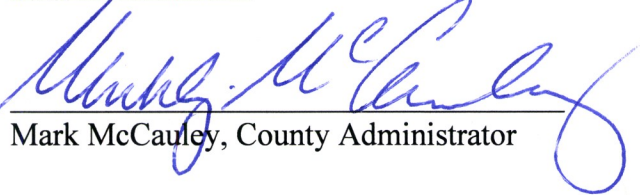
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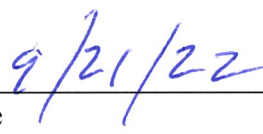
There is no expected fiscal impact resulting from the public hearing.

RECOMMENDATION:

DCD requests that after receiving the Planning Commission and Staff Recommendations as a part of a presentation, open the public hearing on the Legal Lot of Record regulations, accept public testimony and either close the hearing for deliberations or continue the public hearing to October 3, 2022 for further deliberations.

REVIEWED BY:


Mark McCauley, County Administrator


Date

Planning Commission Recommendations for Legal Lot of Record Ordinance

Adopted September 15, 2022.

Criteria for Evaluation of Proposed Amendment—Required Findings

1.1. JCC 18.45.090 Findings for Board-Initiated UDC Amendment

(1) Initiation. The text of the county's adopted Comprehensive Plan implementing regulations (also referred to within this code as "development regulations") may be amended at any time, provided the amendment is consistent with the Jefferson County Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary plan amendments using the process and timelines for plan amendments set forth in this chapter. "Implementing regulations" means the controls placed on development or land use activities by the county, including, but not limited to, this Unified Development Code, the Jefferson County Shoreline Master Program, or any other official controls required to implement the plan (see RCW 36.70A.030). Proposed amendments, changes, or modifications may be initiated as follows:

(a) When consistent with the plan, at any time at the direction of the board of county commissioners or by the planning commission pursuant to RCW 36.70.550;

(b) When inconsistent with the plan, under the process and time lines for Comprehensive Plan amendments by any interested person consistent with this chapter; or

(c) Immediately following or concurrent with an amendment or amendments to the Jefferson County Comprehensive Plan, the implementing regulations shall be amended to be consistent with the plan and Land Use Map.

1.2. Planning Commission and Board of County Commissioners Review of Growth Management Indicators and Required Findings

JCC 18.45.090 requires the following: (3) Planning Commission Review. The planning commission shall hold a public hearing on any amendment(s) to the implementing regulations and shall make a recommendation to the board of county commissioners using the site-specific criteria set forth in JCC 18.45.080(1)(b) and (1)(c), as applicable.

1.2.1. Required Findings for All Proposed Amendments—JCC 18.45.080(1)(b)

JCC 18.45.080(1)(b) requires specific findings by the Planning Commission when reviewing development regulation amendments. The following lays out the review requirements and the staff findings responding to these requirements:

(b) Required Findings – Generally. For all proposed amendments, the planning commission shall develop findings and conclusions and a recommendation which consider the growth management indicators set forth in JCC 18.45.050(4)(b)(i) through (4)(b)(vii), as well as the following:

(i) Whether circumstances related to the proposed amendment and/or the area in which it is located have substantially changed since the adoption of the Jefferson County Comprehensive Plan;

Staff Finding: No new circumstances related to the proposed amendment have substantially changed since the adoption of the Jefferson County Comprehensive Plan. The affordable housing crisis is a concern for members of the public and for the County, but legal status determination of lots throughout the County is required for establishing development eligibility. The ordinance balances conformance with GMA and the Comprehensive Plan with reasonable economic use of property for development of a residence. No affordability impacts are expected given the County's surplus in land available for residential development.

(ii) Whether the assumptions upon which the Jefferson County Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the Jefferson County Comprehensive Plan; and

Staff Finding: There is no indication that assumptions upon which the Comprehensive Plan is based are no longer valid. The Comprehensive Plan documents housing goals and policies that support the amendment proposal.

(iii) Whether the proposed amendment reflects current widely held values of the residents of Jefferson County.

Staff Finding: Public comment has indicated the need to recognize a particularized and sensitive analysis of when lots should be restricted from future development and when a lot or plat should be able to continue developing. The proposed amendment reflects the results of such analysis and responds to a widely held value of the County's residents.

1.2.2. Criteria Governing Planning Commission Assessment—JCC 18.45.050(4)(b)(i) through (4)(b)(vii)

Relevant to the adoption is the periodic assessment requirements of JCC 18.45.050(b). The following lays out the review requirements and the staff findings responding to these requirements:

(b) Criteria Governing Planning Commission Assessment. The planning commission's periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

(i) Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;

Staff Finding: Annual compounded Countywide total growth rate envisioned in the 2004 Comprehensive Plan was 1.78%. However, current population planning projections per the 2018 Comprehensive Plan for 2010-2036 is 0.97% (Growth Management Planning Population Projections, Resolution 38-15). Even with a slower growth rate, there is a shortage of housing and a lack of affordable, attainable housing.

(ii) Whether the capacity of the county to provide adequate services has diminished or increased;

Staff Finding: Levels of service in the 2018 Comprehensive Plan can generally be maintained at the same level to accommodate the next 20-year population projection.

(iii) Whether sufficient urban land is designated and zoned to meet projected demand and need;

Staff Finding: There is a surplus of residential parcels in the county. See: Proposed Irondale/Port Hadlock UGA: DWELLING UNIT & POPULATION HOLDING CAPACITY ANALYSIS, January 21, 2009

(iv) Whether any of the assumptions upon which the plan is based are no longer found to be valid;

Staff Finding: The Comprehensive Plan accurately represents the current analysis of legal lot of record determination processes in the County.

(v) Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan Vision Statement;

Staff Finding: Changes in county-wide attitudes are not evident.

(vi) Whether changes in circumstances dictate a need for amendments;

Staff Finding: The emergency moratorium (ordinance no. 06-1011-21 and ordinance no. 09-1210-21) responded to three development permit applications affecting pre-1971 plats in the rural county, raising residential density in rural areas without public process. These amendments respond to the GMA requirements for public participation in projects creating increased densities and to the state requirements of determining legal eligibility for development prior to approval of development permits.

(vii) Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and the County-wide Planning Policy for Jefferson County. [Ord. 2-06 § 1]

Staff Finding: There are no inconsistencies between the proposed amendment and the Comprehensive Plan or GMA.

1.3. Findings on The Record

1.3.1. In addition to the guidance provided by GMA, the County-Wide Planning Policies, the Jefferson County Code, and the Comprehensive Plan, what else is in the record with respect to this proposal?

- AGLO 1974 No. 7 - Jan 17 1974: APPLICABILITY OF CHAPTER 271, LAWS OF 1969, 1st EX. SESS., TO CERTAIN PREVIOUSLY PLATTED AREAS
- AGO 1996 No. 5 - Feb 29 1996: Effect of 1969 Platting Act on land platted before enactment
- AGO 1998 No. 4 - Mar 3 1998: Effect of Growth Management Act on option of counties to require resubdivision of lands platted before 1937
- Geospatial analysis of potential impacts to land use and environmentally critical areas, conducted by the Department of Community Development as presented in the Legal Lot of Record project StoryMap:

<https://www.co.jefferson.wa.us/1601/StoryMap>

2. Planning Commission Recommendations

The Planning Commission's findings and conclusions shall include a recommendation to the BoCC that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

The Planning Commission approved the draft ordinance with the following comments, conditions, or modifications.

- The Planning Commission proposed change to language of the ordinance in the definitions section, changing the definition of Lot, buildable in JCC 18.10.120 to include the following language: "‘Lot, buildable,’ means: (1) a lot that is a legal lot of record, as determined by the director pursuant to Chapter 18.12 JCC and applicable law, and (2) has site development review approval pursuant to JCC 18.40.440 et seq. A guaranteed right to development of a lot can only be established once a development permit application or building permit application vests pursuant to JCC 18.40.320."
- The Planning Commission noted a section of the ordinance, JCC 18.40.460(4), that included a reference to site plan approval advance determination application. This was an error and should have instead referred to a site development review application. The Planning Commission recommended removal of the reference to the site plan approval advance determination and replacing it with the corrected reference to the site development review application.
- The Planning Commission recommended that the Board of County Commissioners continue outreach and engagement for these proposed regulations. The planning commission is concerned that all affected property owners have not been fully informed.

STATE OF WASHINGTON
COUNTY OF JEFFERSON

An Ordinance Related to Determination of the Legal Status of Lots, Standards for Nonconforming Lots, Site Development Review, Boundary Line Adjustments; Amending Chapter 18.10 and 18.35 of the Jefferson County Code; Adopting a New Chapter 18.12 of the Jefferson County Code; Adopting a New Article VII in Chapter 18.40 JCC; and Miscellaneous Other Amendments to Chapter 18.40 JCC

ORDINANCE NO.

WHEREAS, RCW [58.17.210](#) prohibits the County from issuing a building permit, septic permit, or other development permit for any lot, tract, or parcel of land divided in violation of Chapter [58.17](#) RCW, unless the landowner is an innocent purchaser for value; and

WHEREAS, RCW [58.17.300](#) states that any person or entity that leases, sells, or transfers any lot that does not comply with Chapter [58.17](#) RCW and local regulation is guilty of a gross misdemeanor; and

WHEREAS, Jefferson County has a large number of plats that were created prior to August 11, 1969, the date that Chapter [58.17](#) RCW went into effect; and

WHEREAS, the Jefferson County Comprehensive Plan recognizes the following at page 1-28: Some areas zoned for residential uses have smaller lots platted prior to 1998 than would be allowed with new plats. Residential uses may be permitted on existing lots of record as legal lots. However, in terms of development, some of the smaller lot sizes could require consolidation with other lots to meet current Health Department standards for wells or septic areas, or to meet other regulations, such as critical areas; and

WHEREAS, the amendments adopted as part of this Ordinance will implement the intent of the Comprehensive Plan; and

WHEREAS, the Jefferson Board of County Commissioners (“BoCC”) recognizes the need to adopt an administrative process to determine whether a lot was legally created to address potential violations of RCW [58.17.300](#); and

WHEREAS, the BoCC wishes to balance the desire to protect the character and quality of residential communities as envisioned by the Jefferson County Comprehensive Plan and current zoning code with the desire to allow residential development on legally existing lots that were created before the current zoning was in place; and

WHEREAS, JCC [18.05.020](#) requires that land be subdivided or developed in conformance with the Comprehensive Plan and Title [18](#) JCC; and

WHEREAS, old plats that were recorded prior to August 11, 1969 had few, if any, land use controls or health and safety provisions applied; and

WHEREAS, in some cases, undeveloped land in old plats can be developed according to current zoning and subdivision requirements; and

WHEREAS, in some cases, parcelization and development has already occurred in a manner that makes it impossible for vacant land to be developed in compliance with current zoning requirements, but other requirements, such as critical areas review, shoreline regulations, and other modern land use and health regulations, must still apply; and

WHEREAS, in some circumstances substandard lots should be consolidated to allow for creation of a lot that meets minimum public health standards and land use regulations; and

WHEREAS, in adopting this ordinance, the BoCC balances the need to protect the public health and important environmental resources within the county as well as rural character with the need to allow a property owner of reasonable economic use of their property; and

WHEREAS, public participation in the development of the legal lot of record ordinance has indicated that many members of the community wish the county to include site development review as a component of the legal lot of record determination process; and

WHEREAS, a site development review process will provide owners or developers of land an assessment of site requirements for development of a parcel without applying for a development permit; and

WHEREAS, the legal lot of record and site development review process will streamline development review processes and coordinate permitting between the Departments of Community Development, Public Health, and Public Works.

NOW THEREFORE, be it ordained by the BoCC as follows:

Section 1. Findings. The BoCC hereby adopt the above recitals (the “WHEREAS” statements) as its findings of fact in support of this Ordinance.

Section 2. Amending JCC 18.10.040 and 18.10.120. Jefferson County Code Sections 18.10.040 (last amended by Ord. 4-19 § 1 (Exh. A)) and 18.10.120 (last amended by Ord. 5-20 § 3 (Appx. A)), are amended to read as set out in Appendix A.

Section 3. Adding New Chapter 18.12 JCC. A new chapter 18.12 is added to the Jefferson County Code to read as set out in Appendix B.

Section 4. Amending JCC 18.35.060 through JCC 18.35.080. Sections 18.35.060, 18.35.070, and 18.35.080 of the Jefferson County Code, last amended by Ordinance 14-18 § 4 (Exh. B), are amended to read as set out in Appendix C.

Section 5. Adding New Article VII to Chapter 18.40 JCC. A new Article VII to Chapter 18.40 JCC is added to read as set out in Appendix D and amendments to JCC 18.40.040 and JCC 18.40.320.

Section 6. Establishment Fees. Fees set forth in Chapter 18.12 JCC and to Article VII to Chapter 18.40 JCC shall be established. These fees shall be added to the Appendix Fee Schedule or to the fee resolution, if adopted by the Board of County Commissioners.

Section 6. 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. The Department of Community Development prepared an environmental checklist detailing the proposed ordinance and its compliance with the State Environmental Policy Act (SEPA). After a review of the environmental checklist, proposal, available information, and applicable regulations Jefferson County's SEPA Responsible Official issued a Determination of Non-Significance (DNS) on August 24, 2022 under WAC 197-11-340(2). The DNS was posted to the statewide SEPA Register managed by the Washington Department of Ecology.

Section 7. Effective Date. This ordinance is effective immediately upon adoption. Any onsite septic application, well construction inspection application, or other review related to development and land disturbance that was submitted and determined complete by the Department of Public Health, Environmental Public Health prior to the effective date of this ordinance are not subject to this ordinance.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

APPROVED and ADOPTED this _____ day of _____, 2022.

SEAL:

JEFFERSON COUNTY BOARD OF
COMMISSIONERS

Heidi Eisenhour, Chair

Kate Dean, Member

ATTEST:

Greg Brotherton, Member

Carolyn Gallaway
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A

Section JCC 18.10.040 of the Jefferson County Code, last amended by Ord. 4-19 § 1 (Exh. A), is amended to read:

JCC 18.10.040 D definitions.

“Day care, commercial” means a person or agency that provides care for 13 or more children during part of the 24-hour day (RCW [74.15.020](#)).

(1) “Home day care provider” means a state-licensed day care provider who regularly provides day care for not more than 12 children in the provider’s home in the family living quarters (RCW [74.15.020](#)).

(2) “Child day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed (RCW [35.63.170](#)).

“Days, calendar” means so many days computed according to the course of the calendar. In computing comment and appeal periods under this code, if the last day so computed is a Saturday, Sunday or legal holiday, the comment or appeal period shall run to the next business day.

“DCD” means the Jefferson County department of community development.

“Dedicate” means to set aside a piece of real property, a structure, or a facility for public or private use or ownership.

“Dedication” means a deliberate appropriation of land by its owners for any general and public uses, reserving to the owner/dedicator no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

“Degrade” means to scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function, in terms of Jefferson County standards and environment.

“Density” means the quantity per unit area, such as the number of dwelling units per acre.

“Design capacity” means the theoretical or calculated maximum ability of a system or device to handle the duty for which it is to be used.

“Developable area” means the area of land which is not constrained from development by land use restrictions.

“Development” means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any grading, excavation, mining, landfill; or any extension of the use of land, dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, forest practice activities that are being conducted as a part of a conversion from forestry to non-

forestry use, storage of materials or equipment in a designated floodway, or other site disturbance, which either requires a permit, approval, review, or authorization from the county or is proposed by a public agency.

“Development application” means an application for a development permit.

“Development envelope” means the portion of a lot which may be used for development. A development envelope must include space for utilities, driveways, and any other improvements necessary to complete development. As applied to a buildable lot for residential purposes, the portion of a lot which may contain a dwelling(s) and accessory structures.

“Development permit” means any permit issued by Jefferson County allowing development the physical alteration of real property including, but not limited to, building construction, road construction, grading, filling or excavating. Approval of a short subdivision, long subdivision, or boundary line adjustment is not considered a “development permit” for the purposes of Chapter 18.35 JCC. (See “Project permit.”).

“Development regulation or regulations” means the controls placed on development or land use activities, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto. A development regulation does not include a decision to approve a project permit or project permit application, as defined in RCW [36.70B.020](#), even though the decision may be expressed in a resolution or ordinance of the legislative body of the county (RCW [36.70A.030](#)(7)). However, for the avoidance of doubt, a development regulation does not include ordinances or regulations that address administrative processes and procedures related to land use planning, interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law.

“Development right” means the right to develop property subject to federal, state, and local restrictions and regulations.

“Director” means, unless otherwise specified, the director of the county’s department of community development (DCD) or the director’s designee.

“Discretionary use” means all unnamed and certain named uses in Table 3-1 in JCC [18.15.040](#) which, subject to the administrative review and classification criteria set out in Chapter [18.15](#) JCC, may be classified by the administrator as an allowed outright “Yes” use, a conditional “C” use or a prohibited “No” use in the applicable district for which the use is proposed.

“District” means a part, zone, or geographic area within Jefferson County within which certain development regulations apply.

“Disturbed area” means any place where activities clearly in preparation for, or during, surface mining have physically disrupted, covered, compacted, moved, or otherwise altered the characteristics of soil, bedrock, vegetation, or topography that existed prior to such activity. Disturbed areas may include but are not limited to: working faces, water bodies created by mine-related excavation, pit floors, the land beneath processing plant and stock pile sites, spoil pile sites, and equipment staging areas. Disturbed areas shall also include aboveground waste rock sites and

tailing facilities, and other surface manifestations of underground mines. Disturbed areas do not include surface mine access roads in mineral resource land designations unless these have characteristics of topography, drainage, slope stability, or ownership that, in the opinion of the department of natural resources, make reclamation necessary, lands that have been reclaimed to all standards outlined in this chapter, rules of the department of natural resources, any applicable SEPA document, and the approved reclamation plan, and subsurface aspects of underground mines, such as portals, tunnels, shafts, pillars, and stopes.

“Division of land” means the creation of any new lot or lots for the purpose of sale, lease, or transfer of ownership (see Chapter [18.35](#) JCC).

DOT. (See “WADOT” or “WSDOT.”)

“Drainage” means surface water runoff; the removal of surface water or groundwater from land by drains, grading, or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

“Drainageway” means any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.

“Dredging” means the removal of earth from the bottom of a stream, river, lake, bay, or other water body.

“Drinking establishment (lounge)” means a business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises. A restaurant operated as part of a lounge is considered to be accessory to the lounge.

“Drive-thru window service” means businesses where patrons may carry on business on the premises while in a motor vehicle (see also “Mobile food unit”).

“Driveway” means a strip of land which provides vehicular access to one or two lots.

Duplex. (See “Dwelling unit, two-family.”)

“Dwelling unit” means one or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling’s occupants.

“Dwelling unit, multiple-family” means one or more structures containing three or more dwelling units.

“Dwelling unit, two-family” (duplex) means a single structure containing two dwelling units.

Section JCC 18.10.120 of the Jefferson County Code, last amended by Ord. 5-20 § 3 (Appx. A), is amended to read:

JCC 18.10.120 L definitions.

“Land disturbing activity” means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

Land Division. (See “Division of land.”)

“Land use decision” means a final determination by the county’s hearing body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:

(a) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;

(b) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(c) The enforcement by the county of regulations governing the improvement, development, modification, maintenance, or use of real property.

“Landslide hazard areas” has the same meaning as in WAC [365-190-030](#)(10).

“Landward” means to or toward the land.

“Legal lot of record” means any lot that is determined to be a legal lot of record pursuant to chapter 18.12 JCC and is the same as “legal lot of record” referred to in WAC 246-272A-0320(5)(e)(i).

“Level of service (LOS)” means the number of units of capacity per unit of demand (e.g., trips, population, school-age residents) or other appropriate measure of need sufficient to meet the standards for adequate service set forth in the Comprehensive Plan. (See also “Adequate capacity (adequate capital or public facilities),” “Available capital facilities (available capacity),” and “Concurrency.”)

“Light industrial” means a use involving: (1) basic processing and manufacturing of materials or products predominantly from previously prepared materials; or (2) finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials except food products.

“Livestock” means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. Livestock does not mean free-ranging wildlife as defined in Title [77](#) RCW.

“Livestock management” includes breeding, birthing, feeding, care, processing and sales of animals and animal products, birds, honey bees, fish and shellfish.

“Logging” means activities related to and conducted for purposes of harvesting or processing timber.

“Long-term commercial significance” has the same meaning as in WAC [365-190-030](#)(11).

“Lot” means a ~~designated tract, parcel or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, and utilized~~ contiguous quantity of land in possession of, owned by or recorded as the property of a person or entity. A lot shall also include any individually numbered or separately designated parcels of property in an approved subdivision or development.

“Lot, buildable,” means a lot of sufficient size and location to:

(a) ~~Comply with all the standards and requirements of this code, with the exception of the density provisions contained herein; and~~

(b) ~~Support an on-site wastewater disposal (i.e., septic) system or connect to a public sewerage system and support an individual water system (i.e., well) or connect to a community water system that is consistent with the policies, standards and requirements of the Jefferson County health department and the Washington State Department of Health as they now exist or may hereafter be amended, and any other applicable policies, standards or regulations of the Washington State Department of Ecology.~~

~~As an aid to developers, the county notes that a lot of two acres in size or greater will typically be adequate to meet the health standards referenced above. Given suitable soil conditions and alternative treatment methods, it may be possible for an area smaller than two acres in size to meet health standards. However, for purposes of septic system approval, an area smaller than 12,500 square feet shall not be recognized as a buildable lot unless a waiver is authorized pursuant to Chapter [8.15](#) JCC. With the exception of the 12,500-square-foot minimum permissible land area referenced above, the dimensional numbers cited above should be viewed only as a general guide and shall not be construed as binding upon the county in any specific fact scenario.~~

~~This definition is intended to apply only to lots of record as defined herein. With the exception of the density provisions contained in Chapter [18.30](#) JCC, nothing in this definition shall be construed to excuse compliance with any other provisions of this code or any provision of local, state or federal law, including, but not limited to: critical areas set forth in Chapter [18.22](#) JCC; the use, setback, height and impervious surface limitations of Chapters [18.15](#), [18.20](#) and [18.30](#) JCC; and any requirements imposed under the authority of the State Environmental Policy Act (SEPA), Chapter [43.21C](#) RCW; or any other applicable regulations governing the provision of infrastructure~~

means: (1) a lot that is a legal lot of record, as determined by the director pursuant to Chapter 18.12 JCC and applicable law, and (2) has site development review approval pursuant to JCC 18.40.440 et

seq. A guaranteed right to development of a lot can only be established once a development permit application or building permit application vests pursuant to JCC 18.40.320.

“Lot, corner” means a lot situated at the intersection of two roads, by which the interior angle does not exceed 135 degrees.

“Lot coverage” means the surface area of a lot or lots within a single development which is occupied by buildings, excluding roof overhangs and covered porches not used for sales, storage, or service.

“Lot, frontage” means the boundary of a lot that is along an existing or dedicated public road, or where no public road exists, along a private road, easement or access way. On an interior lot, it is the lot line abutting a road; or, on a pipestem (i.e., flag) lot it is the interior lot line most parallel to the nearest road from which access is obtained.

“Lot of record” means ~~an undeveloped lot, tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot. The term “lot of record” does not imply that the lot was created in conformity with the legal regulatory requirements for subdivision of property in accordance with Chapter 58.17 RCW or Chapter 18.35 JCC. a lot or parcel of land that was created by a metes and bounds description or through platting or other means, and met all applicable zoning and subdivision requirements in effect at the time of lot creation. A lot of record is not necessarily developable or buildable, but may be conveyed pursuant to chapter 58.17 RCW.~~

“Lot, pipestem” means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow private right-of-way or driveway. The term is synonymous with “flag lot.”

“Lot, substandard” means a lot or parcel of land that has less than the required minimum area or width as established by the land use district in which it is located.; ~~and provided, that such lot or parcel was of record as a legally created lot on the effective date of the Jefferson County Unified Development Code. A substandard lot is a legal lot of record. “Substandard” should not be equated with unbuildable. (See “Lot, buildable.”)~~

“Lot, through” means a lot that has both ends fronting on a road or street; both ends shall be deemed front.

“Lumber mill, portable” means portable equipment to mill, split, or otherwise process forest products.

“Lumber mill, stationary” means a permanently located facility or equipment used to process forest products.

APPENDIX B

Chapter 18.12

Legal Lot of Record Determination and Lot Consolidation

- 18.12.010. Purpose and applicability.**
- 18.12.020. Effect of legal lot of record determination.**
- 18.12.030. Process for determination of legal lot of record.**
- 18.12.040. Application and submittal contents.**
- 18.12.050. Legal lot of record determination - approval standards.**
- 18.12.060. Lots or parcels of land that are not considered legal lots of record.**
- 18.12.070. Development of lots of record that do not meet minimum lot size or underlying density of the zoning district.**
- 18.12.080. Reasonable economic use criteria.**
- 18.12.090. Lots created by testamentary provision or the laws of descent.**
- 18.12.100. Violation of subdivision code and innocent purchaser for value.**
- 18.12.110. Application fee.**

18.12.010. Purpose and applicability.

- (1) This chapter addresses the processes and standards for determining whether a lot or parcel is a legal lot of record, consistent with applicable state and local law. This chapter is intended to comply with RCW 58.17.210.
- (2) A lot is a lot of record if it meets the definition of JCC 18.10.040. A lot of record may be conveyed without violating the provisions of Chapter 58.17 RCW. To be eligible for a development permit, a lot of record must be determined to be a legal lot of record.
- (3) This chapter provides for a legal lot of record determination process, which is an administrative process for determination of whether a lot or parcel is eligible for development. To determine whether the lot is a buildable lot, the applicant must also apply for site development review approval pursuant to JCC 18.40.440 et seq.
- (4) A legal lot of record determination is required prior to submittal of any development application, including an application for an onsite septic permit pursuant to chapter 8.15 JCC.

18.12.020. Effect of legal lot of record determination.

- (1) If the department determines a lot to be a legal lot of record under this chapter, a copy of the director's determination will be recorded with the county auditor. Failure to record determination of legal lot of record status may result in loss of approval status, and may require additional review of the lot for legal lot of record status under this chapter.
- (2) A determination by the director that a lot, tract, or parcel of land does not meet the requirements for a legal lot of record, lot of record, or innocent purchaser for value exception pursuant to JCC 18.12.100 shall also be recorded by the director for purposes of innocent purchaser notification. The director shall collect sufficient fees as part of the application process

for determination of legal lot of record to cover this expense.

(3) In certain cases, the director may require the applicant or owner to provide a professional survey of the legal lot of record with a legal description, and to record the survey with the county auditor. The director shall determine by administrative rule when it is necessary to require a professional survey of the legal lot of record.

(4) Once issued and recorded, a determination of legal lot of record shall constitute a final determination for the specified legal description. Any future development permit requests on the same legal description may rely on the existing determination. Determinations issued administratively by the county prior to the effective date of Chapter 18.12 JCC shall be entitled to the same finality as a legal lot of record determination issued pursuant to this chapter.

(5) Issuance of a legal lot of record determination finding that a lot is eligible to be considered for development permits under this chapter shall not constitute a determination that the lot of record has met all other applicable requirements of the Jefferson County Code or any other applicable local, state, or federal law. A legal lot of record determination does not create vesting for any permit application; vesting of permit applications is governed by JCC [18.40.320](#). Nothing in this section shall be interpreted to replace or supersede any requirements of any applicable public or private water purveyor.

(6) For a legal lot of record determination to include buildability, a site development review is required pursuant to JCC 18.40.440 et seq.

18.12.030. Process for determination of legal lot of record.

(1) A legal lot of record determination is a Type I application. A property owner or their representative may apply for a legal lot of record determination with submittal of an application on a form developed by the department and applicable fees.

(2) A legal lot of record determination shall be required prior to ~~land disturbance or submittal of any development activity; submittal of any permit application, septic application, land use permit application, or land division permit application, or prior to any other processes~~ to adjust property boundaries, including condominimization.

(3) A legal lot of record determination shall not require a letter of completeness (JCC 18.40.110), a Notice of Development Application and public comment period (JCC 18.40.160 and 18.40.220), or a Notice of Decision (JCC chapter 18.40).

(4) The land owner bears the burden of proof to demonstrate that the lot or parcel of land is a legal lot of record by a preponderance of the evidence, supported by appropriate written documentation per JCC 18.12.040.

(5) A lot or parcel of land that has been previously recognized by the county as a legal lot of record and recorded with the county auditor shall remain a legal lot of record unless changed by the action of the owner.

18.12.040. Application submittal and contents.

(1) Information required. The application for a legal lot of record determination shall be submitted on department forms, along with the required fees established under JCC 18.12.110. The application shall include a written description of the proposed use of the property and all materials required pursuant to JCC [18.40.100](#) (3).

(2) The permit application must include sufficient documentation to evidence that a lot or parcel is a legal lot of record. The administrator in their sole discretion may require one or more of the following types of documentation for review:

- a. Recorded plat or associated AFN.
- b. Approved unrecorded subdivision.
- c. Deed prior to August 11, 1969.
- d. Prior recognition of legal lot status by the county.
- e. Title report.
- f. Deed history.
- g. Tax history.

18.12.050. Legal lot of record determination - approval standards.

(1) To be considered a legal lot of record and eligible for a development permit, the applicant must demonstrate all of the following standards apply:

- (a) The lot was legally created, or is a lot owned by an innocent purchaser for value who meets the requirements of JCC 18.12.070 and RCW 58.17.210; and
- (b) The lot of record qualifies under one of the following:
 - (i) It, is equivalent in size to the density of the zoning district in which it is located; or
 - (ii) The lot meets one or more of the provisions identified in JCC 18.12.070(4) or JCC 18.12.080.

(2) Lots restricted from development by prior county decision (i.e., plat notes, open space designation, or other means) shall not be considered buildable regardless of lot size, unless the restriction is removed through a codified process allowing removal of the restriction and the lot meets all current requirements of county code.

(3) A lot of record may be legally conveyed without violating the provisions of RCW 58.17.210, but may not be a legal lot of record.

(4) Any contiguous group of parcels of land in a plat created prior to August 11, 1969 that is equivalent in size or larger to the density of the zone in which it is located, and in single ownership as of the effective date of this ordinance, can only be developed as single-family residences under current zoning and subdivision requirements.

18.12.060. Lots, tracts, or parcels of land that are not considered legal lots of record.

(1) The following types of lots or parcels of land are not legal lots of record and will not be considered eligible for development under this chapter:

- (a) Vacated rights-of-way;
- (b) Tidelands;
- (c) Parcels designated solely for access purposes; and
- (d) Parcels created for tax segregation purposes.

(2) A separate assessor's parcel number shall not be sufficient evidence that a lot meets the definition of lot of record or legal lot of record.

(3) Any contiguous group of parcels of land in a plat created prior to August 11, 1969 that is equivalent in size or larger to the density of the zone in which it is located, and in single ownership as of the effective date of this ordinance, can only be developed as single-family residences under current zoning and subdivision requirements.

18.12.070. Development of lots of record that do not meet the underlying density of the zoning district.

(1) Lots of record that do not meet the underlying density of the zoning district in which they are located (hereafter "substandard lots") shall only be considered for development permits if they are not restricted from development by prior county decision or action, are not the types of parcels listed in JCC 18.12.060(1) or (2), and meet one or more of the exceptions described in this section.

(2) A landowner must aggregate adjacent lots to the extent possible to bring the lot to conforming status. An owner of contiguous, substandard lots as of the effective date of this ordinance shall aggregate (combine) lots to meet the requirements of this chapter; and aggregation of lots shall meet the underlying density if possible and be recorded as a boundary line adjustment pursuant to JCC 18.35.060 through 18.35.080. If the resulting aggregation of lots does not meet the zoning minimum lot size or underlying density, the lot must meet an exception in JCC 18.12.070(3), or the owner must apply for and receive a reasonable use exception pursuant to JCC 18.12.080 to be considered eligible for development.

~~(2) If an individual has sold adjacent lots, the remainder lot(s) may be considered to be subject to the limitation in JCC 18.12.080(1)(c) and not eligible for a reasonable economic use exception, if it would otherwise apply.~~

(3) If more than one of the exceptions in JCC 18.12.070(4) applies, the director shall approve the exception that is the most consistent with the purposes of the land use district in which it is located, as described in Chapter 18.15 JCC. The lot approved must be of the least nonconforming size possible with respect to current zoning requirements to meet the requirements of this section. If a landowner could aggregate lots to make a more conforming lot, the director shall require the landowner to do so to satisfy the requirements of this section.

(4) A substandard lot may be considered a legal lot of record and eligible for a development permit if it meets Department of Public Health Policy 97-02 minimum land area requirements for septic as determined by the department of public health through meeting and one of the following provisions:

- (a) The lot of record was properly platted and approved by the county on or after August 11, 1969; provided, that it complies with JCC 18.12.050(2);
- (b) The configuration of the lot has been previously approved by the county through an administrative procedure prior to the effective date of this chapter;
- (c) The lot of record is part of an adopted “Limited Area of More Intensive Rural Development (LAMIRD)” pursuant to the comprehensive plan, can satisfy the requirements for siting an on- site sewage system and water supply, and the density proposed allows for infill development at densities comparable to the surrounding area;
- (d) The lot of record or aggregation of lots is located in the Irondale and Port Hadlock Urban Growth Area Overlay District, and can satisfy the requirements of the Jefferson County Code for water (either private or connection to a public water system) and for wastewater (either on-site or connection to a public sewer system);
- (e) The lot contains an existing dwelling unit for which the owner obtained a permit for its construction and approval to occupy from the county;
- (f) by the county for a residential septic, accessory dwelling unit or primary residence, or any land use permit for the purpose of siting a primary residence, and the approval has not expired;
- (g) The lot of record was legally created prior to August 11, 1969, or if created after August 11, 1969, was exempt from subdivision requirements at the time it was created, and meets one of the following requirements:
 - (i) The lot of record is five acres or larger and is located in any rural land use district; or
 - (ii) The lot of record is 10 acres or larger and is located in any resource lands land use district;
- (h) The lot of record is not within a flood hazard area or channel migration zone expected to impact the property within 100 years, the department of health has determined it can meet drinking water and wastewater requirements, and the director determines that development of the lot is necessary for emergency purposes, and the benefits of recognizing the lot as a legal lot of record outweigh the potential detriments;
- (i) The lot of record is not within a flood hazard area or channel migration zone expected to impact the property within 100 years and the director in their sole discretion determines that development of the substandard lot:
 - A. consists of a nonresidential use that is consistent with the applicable land use district,
 - B. would further one or more policies of the comprehensive plan, and
 - C. the department of health has determined it can meet drinking water and wastewater requirements.

- (5) Any lot of record that is recognized as eligible for development under JCC 18.12.070 shall be considered a legal lot of record.

18.12.080. Reasonable economic use of substandard lots – approval criteria.

(1) Reasonable economic use of a substandard lot. The director will consider a reasonable economic use exception only if none of the provisions of JCC 18.12.070 apply to allow for development on a substandard lot. A reasonable economic use exception for a single lot determination is a Type II application pursuant to chapter [18.40](#) JCC. The director may grant the exception if the applicant demonstrates that the application for a reasonable economic use exception meets all of the following criteria:

- (a) The health department has reviewed the substandard lot and determined that the proposed means of sewage disposal and water supply on and to the lot, tract or parcel is adequate and will likely not cause degradation to groundwater or surface water quality;
- (b) The director has determined that the lot, tract or parcel is served with an adequately designed means of ingress and egress, and with adequate drainage facilities, none of which interfere with or impair existing or planned public roads and drainage facilities in the vicinity;
- (c) The existence of the substandard lot is not the result of the property owner segregating or dividing the property or otherwise creating the condition that results in the need for a reasonable economic use exception;
- (d) The property owner cannot consolidate an adjacent lot(s) pursuant to JCC 18.12.070(4);
- (e) The lot, tract, or parcel is directly adjacent to existing lot, tract, or parcel with existing residential development;
- (f) The proposed activity on the lot will not adversely affect the public safety and welfare of persons occupying the property, adjacent or nearby property owners, or the general public;
- (g) The proposed activity on the lot will not cause or increase flooding, degradation of critical areas or species, degradation to natural resources such as shellfish beds, or degradation of areas preserved for public enjoyment such as parks, beaches, and other natural areas;

- (h) The proposed activity on the lot will not adversely affect adjacent or nearby property owners, or interfere with their enjoyment of their property;
- (i) The activity proposed is the minimum necessary to allow for reasonable economic use of the property, including agricultural, forestry, or recreational activities by meeting the minimization standards of JCC 18.22.640, JCC 18.22.660, and JCC 18.22.740.; and
- (j) The director determines that issuance of the permit will not adversely affect the public interest, as required by RCW 58.17.210.

(2) Determination of reasonable economic use for all or part of a plat pre-August 11, 1969.

Certain plats may substantially meet the of Title 18 JCC and chapter 58.17 RCW. If a substandard lot cannot be developed under the provisions of JCC 18.12.070(3) or JCC 18.12.080(1), a lot owner or representative may apply for an evaluation of the entire plat. The reasonable economic use determination for all or part of a plat is a Type II C(d) application pursuant to chapter [18.40](#) JCC. The director may determine that lots within all or part of a plat can be recognized as legal lots of record if they meet the following requirements:

- (a) The plat was legally created between June 9, 1937 and August 11, 1969;
- (b) Further development of the plat would not substantively alter rural character based on existing location and patterns of development within the plat;
- (c) Recognition of lots within the plat would not impact forestry resources according to the following provisions:
 - (i) Lots are not zoned for forestry use;
 - (ii) Lots that are vacant or not developed with residential uses and are more than 250 feet from any CF-80 parcel;
 - (iii) Lots that are vacant or not developed with residential uses and are more than 100 feet from any RF-40 parcel.
- (d) Development of each lot within the plat can comply with chapter 18.22 JCC;
- (e) Every lot proposed for development within the plat can satisfy the water availability requirements of RCW 19.27.097 and any applicable water resource inventory area (WRIA) administrative rule adopted by the Washington State Department of Ecology;
- (f) Development of the plat will not harm environmental resources such as shorelines, shellfish areas, and salmonid habitat, nor will it impact water quality or quantity; and
- (g) The director receives a report from the director of public works that concludes that further of the development of the plat will not create significant adverse environmental impacts to the transportation system, after evaluating the following:

- A. Levels of service of existing roadways and possible effects caused by development of the plat;
- B. Ingress and egress to the plat;
- C. Road engineering;
- D. Management of stormwater runoff from roads;
- E. Whether the developed plat can meet current stormwater regulations;
- F. Any existing community stormwater drainage system; and,
- G. Utility access and maintenance easements for county maintenance; and

(h) The director receives a report from the director of environmental public health that concludes that further of the development of the plat will not create significant adverse environmental impacts to public health, after reviewing the following:

- A. Water availability and potential impacts to water and other environmental resources that may be affected by development of the plat; and
- B. Proposed methods for sewage disposal.

18.12.090 Lots created by testamentary provision or the laws of descent.

Lots created through testamentary provisions or the laws of descent shall be governed by the following requirements:

- (1) Lots that meet the current lot size or underlying density requirements of the zoning district in which they are located shall be treated the same as a legally subdivided lot and shall be considered a legal lot of record;
- (2) Lots that do not meet the current lot size or underlying density requirements of the zoning district in which they are located, but which did meet the requirements in effect at the time they were created will be treated the same as substandard lots of record under JCC 18.12.070(1);
- (3) Lots that do not meet the current minimum lot size or underlying density of the zoning district in which they are located, and did not meet the standards in effect at the time they were created shall be treated as lots of record for purposes of conveyance, but will not be considered to be buildable lots that can receive development permits.

18.12.100 Violation of subdivision code and innocent purchaser for value.

(1) Knowingly transferring or selling a lot in violation of land division regulations is a gross misdemeanor pursuant to RCW [58.17.300](#). Development of any lot, tract or parcel of land divided in violation of state law or this title is prohibited. No building permit, on-site sewage system permit or other development permit shall be issued for any lot, tract or parcel, divided in violation of JCC Title [18](#) or chapter [58.17](#) RCW. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.

(2) Innocent purchaser for value exception. The director may approve the creation of a lot, parcel or tract that otherwise violates JCC Title [18](#) or Chapter [58.17](#) RCW under the limitations contained in this section. Any lot that qualifies for an innocent purchaser for value exception must still satisfy the requirements of JCC 18.12.050 to become a legal lot of record.

- (a) To qualify for an innocent purchaser for value exception, the applicant must demonstrate the following:
 - (i) The applicant purchased the lot, tract or parcel for value; and
 - (ii) The applicant did not have actual notice that the lot, tract or parcel had been part of a larger lot, tract or parcel that was subdivided.
- (b) All contiguous lots created in violation of chapter [58.17](#) RCW that are under the same ownership at the time of application for innocent purchaser status shall be recognized only as a single lot and shall be combined through a boundary line adjustment.
- (c) A determination under this section shall be a Type II decision. The applicant for an innocent purchaser for value exception under this section bears the burden of proof to demonstrate that the application meets the applicable requirements by a preponderance of the evidence, supported by adequate documentation.

APPENDIX C

Amendments to the Boundary Line Adjustments Code

Section 18.35.060 of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.060 Purpose, scope, and limitations.

(1) Purpose and Scope. The purpose of this article is to provide procedures and criteria for the review and approval of adjustments to boundary lines between platted or unplatted lots, tracts or parcels, or both in order to:

- (a) Allow the enlargement or merging of lots, tracts or parcels to improve or qualify as a buildable lot or for any other lawful purpose;
- (b) Rectify defects in legal descriptions;
- (c) Achieve increased setbacks from property lines or critical areas;
- (d) Correct situations wherein an established use is located across a lot line; or
- (e) For other similar purposes.

This article is also intended to ensure compliance with the Survey Recording Act, Chapter [58.09](#) RCW and Chapter [332-130](#) WAC.

(2) Prohibited Boundary Changes. This article shall not apply to boundary changes that would:

- (a) Result in the creation of an additional lot, tract, parcel, site within a binding site plan or division as defined in Chapter [18.10](#) JCC;
- (b) Result in a lot, tract or parcel or site within a binding site plan that does not qualify as a buildable lot as defined in Chapter [18.10](#) JCC;
- ~~(c) Relocate an entire lot, tract or parcel from one parent parcel into another parent parcel;~~
- ~~(d c)~~ An adjustment that crosses zoning district boundaries. Adjustments may be allowed across different rural residential densities;
- ~~(e d)~~ Be inconsistent with any restrictions or conditions of approval for a recorded short plat or long plat; or circumvent the short subdivision or long subdivision procedures set forth in this chapter; ~~or~~.

~~(e) Separate an accessory dwelling unit from the primary use of the property.~~

(3) Lot Consolidation. The consolidation of two or more lots, tracts or parcels for the purpose of creating a single lot, tract or parcel that meets the requirements for a buildable lot shall in all cases be considered a minor adjustment of boundary lines and shall not be subject to the short subdivision or long subdivision provisions of this chapter. Lot consolidations shall not require a survey or soil evaluation.

(4) Adjustments to Binding Site Plans. Recognized lots in an approved binding site plan shall be considered a single site and no lot lines on the site may be altered by a boundary line adjustment to separate lots to another property not included in the original site plan of the subject development.

(5) Rectifying legal defects, such as an established use located across a lot line, and the adjustment of boundary lines to match water bodies, roads, or fence lines, shall be considered minor adjustments and shall not require a soil evaluation. ~~and may be allowed regardless of the size of resultant parcels.~~

(6) Time Limitations. If more than two lots, tracts or parcels have been subject to a boundary line adjustment process, those lots shall not be permitted to use the boundary line adjustment process again for five years with the exception of lot consolidations, testamentary divisions, civil cases, court orders, rectifying legal defects, or the adjustment of one line between two or more property owners for the purpose of settling a dispute.

Section 18.35.070 of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.070 Application submittal and contents.

To be considered complete, applications for boundary line adjustments shall include the following:

(1) Applications for boundary line adjustments shall be made on forms provided by the Jefferson County department of community development and shall be submitted to the department of community development, along with the appropriate fees established under the Jefferson County fee ordinance.

(a) A single application may be submitted for multiple BLAs for adjacent parcels, lots, tracts or sites within a binding site plan. However, standard application fee(s) shall apply to each BLA after the first two per additional parcel, lot, tract or site.

(b) In instances of lot consolidation, standard application fee(s) shall apply based on the number of resulting parcels or lots;

(2) A completed land use permit application form, including all materials required pursuant to Chapter [18.40](#) JCC;

(3) Three copies of a clean and legible drawing suitable for recording showing the following:

- (a) The proposed lines for all affected lots, tracts or parcels, indicated by bold solid lines;
- (b) The existing lot, tract or parcel lines proposed to be changed, indicated by light broken lines;
- (c) The location and dimensions of all structures/improvements existing upon the affected lots, tracts or parcels and the distance between each such structure/improvement and the proposed boundary lines, with structures proposed to be removed from the site depicted with broken lines and structures to remain on the site depicted with solid lines;
- (d) A north arrow indication and scale;
- (e) All assessor's tax parcel numbers for the affected lots, tracts or parcels;
- (f) The location of the property as to quarter/quarter section;
- (g) The location and dimensions of any easements within or adjacent to any affected lots, tracts or parcels;
- (h) The location, right-of-way widths, pavement widths and names of all existing or platted streets or roads, whether public or private, and other public ways within or adjacent to the affected lots, tracts or parcels;
- (i) The area and dimensions of each lot prior to and following the proposed adjustment;
- (j) The existing on-site sewage system components and reserve areas and the proposed location for on-site sewage systems and soil test pits for all affected lots that are not currently served by an on-site sewage system or other approved wastewater treatment system;
- (k) The location of all existing and proposed water and storm drainage facilities; and
- (l) The approximate location and extent of any critical areas identified in Chapter [18.22](#) JCC. The following notice will be recorded on the drawing when the parcels that are part of the boundary line adjustment include, or are adjacent to, critical areas:

Notice to Public: Current Jefferson County geographic information systems (GIS) maps identify the presence of a critical area such as stream, wetland, flood, landslide hazard, erosion, aquifer recharge area, fish and wildlife habitat, shoreline, etc., lying

within and/or adjacent to the revised parcels encompassed by this Boundary Line Adjustment. Prior to any land disturbing activity or construction activity, applicant/owner shall contact the Jefferson County department of community development regarding compliance for such critical areas. Approval of this Boundary Line Adjustment does not guarantee a buildable site within said parcel(s). Such determination is dependent on approvals of water, septic, bulk and dimensional setbacks, and critical area requirements.

(4) The original legal description of the entire property together with new separate legal descriptions for each lot, tract or parcel, labeling them each as existing parcel A, existing parcel B, revised parcel A, revised parcel B, etc. The drawing shall be attached to or include on the face a formal legal declaration of the boundary line adjustment, signed and notarized by all legal owners of the subject properties. In cases where the property has not been surveyed, the following disclaimer shall be recorded on the drawing:

DISCLAIMER LANGUAGE FOR BLA STATEMENT OF INTENT: Your request for a Boundary Line Adjustment (BLA) has been approved. Since no survey was submitted as part of your BLA application, the County accepts no liability for what facts a survey might have revealed. A survey might have revealed that a structure or improvement believed to be on the applicant's property is, in fact, located wholly or partially upon someone else's property or upon property that is not the subject of this BLA. But in the absence of a survey, the applicant bears sole responsibility if such a problem arises.

(5) A copy of any covenants, conditions and restrictions (CC&Rs), deed restrictions, or planned rural residential development (PRRD) agreements pertaining to or affecting the property; and

(6) ~~If an individual septic system is proposed (i.e., as opposed to connection to either a community drainfield or municipal sewer system) applicable,~~ the applicant shall provide written verification from the Jefferson County department of environmental health that the lots, tracts, parcels or sites, as each would exist after the boundary line adjustment, are adequate to accommodate an on-site sewage disposal system. The location of soil logs must be shown on the drawing to show land area sufficient to meet environmental health requirements for each resultant lot, tract, or parcel that does not contain a dwelling. ~~In cases where the requirement to provide written verification that the resultant lots can accommodate on-site sewage system from the Jefferson County department of environmental health has been waived, the following notice shall be recorded on the drawing:~~

~~Notice to Public: Approval of this Boundary Line Adjustment does not guarantee a buildable site within said parcel(s). Such determination is dependent on approvals of water, septic, bulk and dimensional setbacks, and ESA requirements.~~

This requirement shall be waived for resultant parcels that:

~~(a) Are larger than 2.5 acres; Have existing residential structures; or~~

~~(e-b)~~ Have have limited the use of the resultant parcel to agriculture, forestry, or open space through conservation easements, restrictive covenant, or similar legal arrangement. The open space tax program shall not be used to fulfill this requirement;

(7) The application shall be accompanied by a current (i.e., within 30 days) title company certification of the following:

- (a) The legal description of the total parcels sought to be adjusted;
- (b) Those individuals or corporations holding an ownership interest and any security interest (such as deeds or trust or mortgages) or any other encumbrances affecting the title of said parcels. Such individuals or corporations shall sign and approve the final survey prior to final approval;
- (c) Any lands to be dedicated shall be confirmed as being owned in fee title by the owner(s) signing the dedication certificate;
- (d) Any easements or restrictions affecting the properties to be adjusted with a description of purpose and referenced by the auditor's file number and/or recording number; and
- (e) If lands are to be dedicated or conveyed to the county as part of the subdivision, an American Land Title Association (A.L.T.A.) policy may be required by the director of the department of public works.

Section 18.35.080 of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.080 Review process and criteria.

(1) Prior to approval, a proposed boundary line adjustment shall be reviewed by the Jefferson County assessor.

(2) Based on any comments solicited and received from the department of public works, the department of environmental health or other applicable departments and agencies, the administrator shall approve the proposed boundary line adjustment only upon finding that the adjustment would not:

- (a) Create any additional lot, tract, parcel, site within a binding site plan or division or relocate any lot, tract, parcel, or site within a binding site plan or division to another parent parcel;
- (b) Result in the creation of a lot which is not a buildable lot, unless such lot is restricted by recorded instrument acknowledging the lot is for the purpose of conservation, open space, or other similar purpose;

(b c) Result in a lot, tract, parcel, site within a binding site plan or division that ~~contains~~
~~increased density or~~ results in insufficient area or dimension to meet water availability and

the minimum requirements for area and dimension as set forth in chapter [8.15](#) JCC and state and local health codes and regulations;

(~~e~~ d) Diminish or impair drainage, water supply, existing sewage disposal, and access or easement for vehicles or pedestrians, utilities, and fire protection for any lot, tract, parcel, site (i.e., within an approved binding site plan), or division;

(~~d~~ e) Diminish or impair any public or private utility easement or deprive any parcel of access or utilities;

(~~e~~ f) Diminish or impair the functions and values of critical areas designated under Chapter [18.22](#) JCC, or create an unsafe or hazardous environmental condition;

(~~f~~ g) Create unreasonably restrictive or hazardous access to the property;

(~~g~~-h) Create a nonconforming lot, tract, or parcel or increase the nonconforming aspects of an existing lot, tract or parcel relative to Chapter [18.15](#) JCC;

(~~h~~ i) Replat or vacate a short plat or long plat, or revise, amend, or violate any of the conditions of approval for any short or long subdivision; or

(~~I~~ j) Create a lot, tract, or parcel that crosses zoning district boundaries, with the exception an adjustment across rural residential densities.

(3) Following approval by the administrator, a final record of survey document shall be prepared by a licensed land surveyor in accordance with Chapter [58.09](#) RCW and Chapter [332-130](#) WAC. The document shall contain a land surveyor's certificate and a recording certificate. The final page of the record of survey document shall contain the following signature blocks:

(a) The Jefferson County assessor's office, to be signed by the Jefferson County assessor or his/her designee; and

(b) The department of community development, to be signed by the administrator.

(4) Upon approval the following statement of intent shall be recorded by the auditor and referenced by auditor file number on the final survey:

THIS RECORDING IS FOR THE PURPOSE OF ASSISTING WITH A BOUNDARY LINE ADJUSTMENT PURSUANT TO RCW [58.17.040](#)(6). IT DOES NOT CREATE ANY ADDITIONAL LOTS, TRACTS, PARCELS, OR A DIVISION AS THE LAND DESCRIBED HEREON SHALL MERGE OR BE INTEGRATED INTO ABUTTING PROPERTY PRESENTLY OWNED BY THE PROPONENTS. NOR DOES THE BOUNDARY LINE ADJUSTMENT RESULT IN ANY LOTS, TRACTS, PARCELS OR DIVISION WHICH CONTAIN

INSUFFICIENT AREA AND DIMENSION TO MEET MINIMUM COUNTY AND
SANITATION REQUIREMENTS FOR WIDTH AND AREA FOR A BUILDING
SITE.

(5) Pursuant to RCW [84.56.345](#), current year and any delinquent taxes shall be paid before approval of any boundary line adjustment.

(6) Applications for boundary line adjustments shall be processed according to the procedures for Type I land use decisions established in Chapter [18.40](#) JCC.

APPENDIX D

A new Article VII shall be added to chapter 18.40 JCC to read:

Article VII. Site Development Review Process

- 18.40.440 Purpose.
- 18.40.450 Applicability.
- 18.40.460 Application requirements.
- 18.40.470 Application review.
- 18.40.480 Approval criteria.
- 18.40.490 Limitations on approval.
- 18.40.500 Modifications to an approved site plan.

18.40.440 Purpose.

The purpose of this article is to provide owners or developers of land a means to obtain an assessment of site requirements for development of a parcel without applying for a development permit. It is intended to work in conjunction with the legal lot of record determination process pursuant to chapter 18.12 JCC. Site development review is an assessment of the physical aspects and constraints of the site for the purpose of development. While it will not vest a property to development regulations, it provides for a professional analysis of the site according to current development regulations. Vesting for development purposes may only occur in the manner outlined in JCC 18.40.320. Site development review is intended to reduce the cost of development and aid in the facilitation of predevelopment financing for applicants.

18.40.450 Applicability.

(1) Any land or owner or their representative who wishes to make application for development may use the site plan review process to determine whether their site is buildable. No development application may vest until the site plan review is completed.

(2) Properties that meet base density per JCC 18.12.050(1)(b)(i) or the provisions of JCC 18.12.070(4) shall be required to submit a site development review permit application prior to submittal of any development permit application in accordance with JCC 18.12.070(5). The site development review process will evaluate the potential siting for development consistent all applicable requirements of the UDC.

18.40.460 Application requirements.

(1) Each application for site development review shall include:

- (a) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the

- application with the written consent of all owners of the affected property, and proof of ownership of the property;
- (b) Identification of a single contact person or entity to receive determinations and notices required by this code;
 - (c) A legal description of the site, including the Jefferson County assessor's parcel number;
 - (d) The Legal Lot of Record determination issued per Chapter 18.12 JCC.
 - (e) Payment of the applicable fee as set forth in the Jefferson County fee ordinance;
 - (f) A written description of the specific proposed use of the property for which the application is being submitted.
- (2) Any commercial, industrial, small-scale recreational and tourist use, or multifamily residential use listed as a "Yes" use in Table 3-1 in JCC 18.15.040, or classified as such by the administrator, that seeks site development review under this article may require additional information subject to the specific submittal requirements of JCC 18.40.100(1-4), where determined by the administrator to be necessary for the site development review application.
- (3) For the purposes of meeting the requirements of this article, the application requirements of JCC 18.40.100(1)(g) shall be interpreted to require the submittal of a water availability statement and of soil logs and other applicable information pursuant to Chapter 246-272A WAC and the Jefferson County Code necessary to determine compliance with the Jefferson County health department regulations regarding on-site septic disposal.
- (4) The administrator may waive specific submittal requirements determined to be unnecessary for review of a ~~site plan approval advance determination application~~ site development review application.

18.40.470 Application review.

Review of applications for site development review shall be as follows:

- (1) Review Procedures. When the administrator determines that an application is technically complete, as defined in JCC 18.40.110, the application shall be processed as a Type I permit under procedures specified in Article IV of this chapter.
- (2) Referral and Review of Application. The administrator shall transmit a copy of the application, or appropriate parts of the application, to affected agencies and county departments for review and comment.

18.40.480 Approval criteria.

- (1) Site development review permits shall be approved upon showing that all of the following have been satisfied:
 - (a) The proposed development conforms to all applicable county, state and federal, land use, environmental and health regulations and plans, including, but not limited to the following:
 - (i) The Jefferson County Comprehensive Plan; and

- (ii) The provisions of the Unified Development Code, including any incorporated standards.
- (2) Adequate provisions for utilities and other public services necessary to serve the needs of the proposed site plan have been demonstrated, including open spaces, drainage ways, roads, and other public ways, drinking water, sewage disposal, fire flow and other improvements;
- (3) The site contains one or more development envelopes large enough to accommodate the use proposed;
- (4) The probable significant adverse environmental impacts of the proposed development, together with any practical means of mitigating adverse impacts, have been considered such that the proposal will not have an unacceptable adverse effect upon the quality of the environment, in accordance with the State Environmental Policy Act (SEPA) implementing provisions contained within this chapter and Chapter 43.21C RCW;
- (5) The proposed development will serve the public use and interest and adequate provision has been made for the public health, safety and general welfare.

18.40.490 Limitations on approval.

- (1) An approved site development review shall not constitute vesting of development regulations or specific site features or improvements (e.g., wells, septic systems, stormwater drainage facilities, etc.). Any site with an approved site development review shall not be immune from changes in county, state, or federal laws which are enacted or have an effective date after the date of approval affecting the performance and implementation of the associated use or development.
- (2) Any land division or boundary line adjustment of a parcel or lot which has received site development review approval under this article shall void such approval and require a new site development review permit application.
- (3) Approval under this section does not constitute authority to commence any development or building activity until such time as final authorizing permits are issued. Approval of a site development review permit application does not vest the proposed use or development. The approval certifies the suitability of a site for the proposed use or development at the time of application processing only.

18.40.500 Modifications to an approved site plan.

- (1) Minor modifications to a previously approved site development review under this article may be requested by the applicant and approved by the administrator subject to the provisions for Type I decisions; provided, that the modification does not involve any of the following:
 - (a) A change of proposed land use to one other than that approved for the original site plan;

- (b) The location or relocation of a road or street (excluding driveways, internal parking or accessways);
 - (c) An adjustment that crosses land use district boundaries where the administrator reasonably believes that the adjustment is intended to serve as a rationale for a future site- specific land use district redesignation application;
 - (d) The creation of an additional lot, tract or parcel;
 - (e) Would create a site plan for a parcel that does not qualify as a building site pursuant to this code;
 - (f) Would make the site plan inconsistent with any restrictions or conditions of approval for a recorded short plat, long plat, boundary line adjustment, plat amendment or binding site plan.
- (2) Before approving such an amendment, the administrator shall make written findings and conclusions documenting the following conditions:
- (a) The modification will not be inconsistent with the previously approved site development review; and
 - (b) The modification will not cause the site development review to violate any applicable county policy or regulation.
- (3) Modifications that involve the circumstances described in subsection (1) of this section, or exceed the criteria set forth in subsection (2) of this section, shall be processed as a new site development review application.

OTHER CHANGES TO CHAPTER 18.40 JCC

JCC 18.40.040, last amended by Ordinance 05-0613-22 on June 13, 2022, is amended to read:

18.40.040 Project permit application framework.

Table 8-1. Permits – Decisions

Type I'	Type II	Type III	Type IV	Type V
Septic permits	Classification of unnamed and discretionary uses under Article II of Chapter 18.15 JCC	Reasonable economic use variances under JCC 18.22.250	Final plats under Chapter 18.35 JCC	Special use permits, such as for siting essential public facilities under JCC 18.15.110

Table 8-1. Permits – Decisions

Type I'	Type II	Type III	Type IV	Type V
Allowed uses not requiring notice of application (e.g., "Yes" uses listed in Table 3-1 in JCC 18.15.040 , building permits, etc.)	Release of six-year FPA moratorium for an individual single-family residence under JCC 18.20.160	PRRDs under Article VI-M of Chapter 18.15 JCC and major amendments to PRRDs under JCC 18.15.545 (3)	Final PRRDs under Article VI-M of Chapter 18.15 JCC	Jefferson County Comprehensive Plan amendments under Chapter 18.45 JCC
Minor amendments to planned rural residential developments (PRRDs) under JCC 18.15.545	Cottage industries under JCC 18.20.170 Temporary housing facilities under JCC 18.20.385	Shoreline substantial development permits, conditional use permits, and variance permits under the Jefferson County shoreline master program (SMP)		Amendments to development regulations
Home businesses approved under JCC 18.20.200	Short subdivisions under Article III of Chapter 18.35 JCC	Plat alterations and vacations under JCC 18.35.030 (3)		Amendments to the Jefferson County SMP
Temporary outdoor use permits under JCC 18.20.380	Binding site plans under Article V of Chapter 18.35 JCC	Long subdivisions under Article IV of Chapter 18.35 JCC		Subarea and utility plans and amendments thereto
Stormwater management permits under JCC 18.30.070	Administrative conditional use permits under JCC 18.40.520 (1) and listed in Table 3-1 in JCC 18.15.040 as "C(a)"	Discretionary conditional use permits under JCC 18.40.520 (2) [i.e., listed in Table 3-1 in JCC 18.15.040 as "C(d)"] where required by administrator		Development agreements and amendments thereto under Article XI of this chapter
Road access permits under JCC 18.30.080	Discretionary conditional use permits under JCC 18.40.520 (2) listed in Table 3-1 in JCC 18.15.040 as "C(d)" unless Type III process required by administrator	Conditional use permits under JCC 18.40.520 (3) [i.e., uses listed in Table 3-1 in JCC 18.15.040 as "C"]		Master plans for master planned resorts
Sign permits under JCC 18.30.150	Minor variances under JCC 18.40.640 (2)	Major variances under JCC 18.40.640 (3)		Amendments to the Unified Development Code
Boundary line adjustments under Article II of Chapter 18.35 JCC	Administrative conditional use permits, under Jefferson County SMP, JCC 18.25.620 (3) listed in JCC 18.25.220 , Table 18.25.220 as "C(a)" Discretionary conditional use permits under Jefferson County SMP, JCC 18.25.620 (4) listed in JCC 18.25.220 , Table 18.25.220 as "C(d)," unless Type III process required by administrator	Wireless telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC		
Minor adjustments to approved preliminary short plats under	Wireless telecommunications permits under	Major industrial development conditional use approval under		

Table 8-1. Permits – Decisions

Type I ¹	Type II	Type III	Type IV	Type V
JCC 18.35.150	JCC 18.20.130 and Chapter 18.42 JCC	Article VIII of Chapter 18.15 JCC		
Minor amendments to approved preliminary long plats under JCC 18.35.340	Small-scale recreation and tourist (SRT) uses in SRT overlay district under JCC 18.15.572 .	Forest practices release of a moratorium under Chapter 18.20 JCC		
Site plan approval advance determinations development review under Article VII of this chapter and boundary line agreements under Article VIII of Chapter 18.35 JCC	Plat alterations under JCC 18.35.670 .			
Exemptions under the Jefferson County SMP				
Revisions to permits issued under the Jefferson County SMP				
<u>Legal lot of record determinations pursuant to chapter 18.12 JCC</u>	Reasonable economic use exception pursuant to JCC 18.12.080 Innocent purchasers for value determinations pursuant to JCC 18.12.100			

¹If not categorically exempt pursuant to SEPA, Type I projects shall be subject to the notice requirements of JCC [18.40.150](#) through [18.40.220](#) and Article X of this chapter (the SEPA integration section).

Table 8-2. Action Types – Process

	Project Permit Application Procedures (Types I – IV)				Legislative
	Type I	Type II	Type III	Type IV	Type V
Recommendation made by:	Project planner	Project planner	Project planner	N/A	Planning commission ¹
Final decision made by:	Administrator	Administrator	Hearing examiner	Board of county commissioners	Board of county commissioners
Notice of application:	No	Yes	Yes	No	N/A
Open record public hearing:	No	Only if administrator's decision is appealed, open record hearing before hearing examiner	Yes, before hearing examiner, prior to permit decision by the hearing examiner	No	Yes, before planning commission to make recommendation to board of county commissioners ¹
Closed record appeal/final decision:	No	No	No	N/A	Yes, or board of county commissioners could hold its own hearing
Judicial appeal:	Yes	Yes	Yes	Yes	Yes ²

¹Type V land use actions are subject to review and recommendation by the planning commission, except for utility plans, ordinances or regulations that address procedural issues related to land use planning,

Table 8-2. Action Types – Process

Project Permit Application Procedures (Types I – IV)				Legislative
Type I	Type II	Type III	Type IV	Type V

interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law.

²Pursuant to RCW [36.70A.250](#) and [36.70A.280](#), the Western Washington Growth Management Hearings Board (WWGMHB) is authorized to hear and determine petitions alleging that the county is not in compliance with the requirements of Chapter [36.70A](#) RCW, Chapter [90.58](#) RCW as it relates to the adoption of the Shoreline Master Program, or Chapter [43.21C](#) RCW as it relates to plans, development regulations, or amendments, adopted under RCW [36.70A.040](#) or Chapter [90.58](#) RCW. Direct judicial review may also be obtained pursuant to RCW [36.70A.295](#).

If not categorically exempt pursuant to SEPA, Type I projects shall be subject to the notice requirements of JCC [18.40.150](#) through [18.40.220](#) and Article X of this chapter (the SEPA integration section).

SUMMARY OF DECISION-MAKING

- Type I: In most cases, administrative without notice. However, if a Type I permit is not categorically exempt under SEPA, then, administrative with notice.
- Type II: Administrative with notice. Final decision by administrator unless appealed. If appealed, open record hearing and final decision by hearing examiner.
- Type III: Notice and open record public hearing before the hearing examiner. Final decision by hearing examiner. Appeal to superior court.
- Type IV: Closed record decision by board of commissioners during a regular public meeting. Type IV decisions are purely ministerial in nature (see Article IV of Chapter [18.35](#) JCC).
- Type V: Notice and public hearing before planning commission, with planning commission recommendation to board of county commissioners, except for utility plans, ordinances or regulations that address procedural issues related to land use planning, interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law. Notice and public hearing before board of county commissioners with final legislative action by the board of county commissioners (see Chapter [18.45](#) JCC).

JCC 18.40.320, last amended by Ordinance 12-1028-19 on October 28, 2019, is amended to read:

18.40.320 Vesting of applications.

(1) Purpose. The purpose of this section is to provide for vesting of land use applications and permits under this title, consistent with state law. A complete application, under JCC [18.40.110](#), is vested pursuant to this section to the regulations applicable to the application until the permit is issued or the application is abandoned, expired, withdrawn, or denied.

(2) Applicability.

(a) This section applies to complete land use applications under this title, complete applications for building permits (RCW [19.27.095](#)(1)), complete applications for the proposed division of land (RCW [58.17.033](#)(1)), complete applications for development agreements (RCW [36.70B.180](#)), and any other complete applications for a project type determined to be subject to the vested rights doctrine by the Washington legislature or in a

published decision after 1987 by a Washington Court of Appeals or the Washington Supreme Court.

(b) This section does not vest applications to development regulations required by federal or state law that are subject to final approval by a federal or state agency, including but not limited to applications for permits under the Shoreline Master Program, Chapter [18.25](#) JCC, or Flood Damage Prevention, Chapter [15.15](#) JCC.

(c) This section does not apply to issued permits or approvals.

(d) This section does not apply to legal lot of record determinations pursuant to chapter 18.12 JCC or to site plan review pursuant to Article VII of this chapter (JCC 18.40.410 et seq.)

(3) Vesting of Applications.

(a) A complete application under JCC [18.40.110](#) shall vest consistent with applicability of this section and state law.

(b) A complete application subject to vesting pursuant to this section shall be subject to all development regulations in effect on the vesting date.

(c) A complete application is vested for the specific use, density, and physical development that is identified in the application submittal, consistent with state law.

(d) The applicant is responsible for monitoring the time limitations and review deadlines for the application. The county shall not be responsible for maintaining a valid application. If the application expires, a new application may be filed with the department, but shall be subject to the development regulations in effect on the date of the new application is complete.

(e) Substantial revisions to applications which increase the specific uses, density, or physical development are subject to vesting at the time of the major or substantial revision. Substantial revisions shall be considered a new application consistent with JCC [18.40.110](#)(7).

(4) Waiver of Vesting. An applicant may voluntarily waive vested rights at any time during the processing of an application by delivering a written and signed waiver to the administrator stating that the applicant agrees to comply with all development regulations in effect on the date of delivery of the waiver and any subsequent modifications to development regulations until permit issuance or approval.

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

An Ordinance Related to Determination of the Legal Status of Lots, Standards for Nonconforming Lots, Site Development Review, Boundary Line Adjustments; Amending Chapter 18.10 and 18.35 of the Jefferson County Code; Adopting a New Chapter 18.12 of the Jefferson County Code; Adopting a New Article VII in Chapter 18.40 JCC; and Miscellaneous Other Amendments to Chapter 18.40 JCC

ORDINANCE NO.

WHEREAS, RCW [58.17.210](#) prohibits the County from issuing a building permit, septic permit, or other development permit for any lot, tract, or parcel of land divided in violation of Chapter [58.17](#) RCW, unless the landowner is an innocent purchaser for value; and

WHEREAS, RCW [58.17.300](#) states that any person or entity that leases, sells, or transfers any lot that does not comply with Chapter [58.17](#) RCW and local regulation is guilty of a gross misdemeanor; and

WHEREAS, Jefferson County has a large number of plats that were created prior to August 11, 1969 (“Old Plats”), the date that Chapter [58.17](#) RCW went into effect; and

WHEREAS, the Jefferson County Comprehensive Plan recognizes the following at page 1-28: Some areas zoned for residential uses have smaller lots platted prior to 1998 than would be allowed with new plats. Residential uses may be permitted on existing lots of record as legal lots. However, in terms of development, some of the smaller lot sizes could require consolidation with other lots to meet current ~~Health Department~~ department of public health standards for wells or septic areas, or to meet other regulations, such as critical areas; and

WHEREAS, the amendments adopted as part of this Ordinance will implement the intent of the Jefferson County Comprehensive Plan (“Comprehensive Plan”); and

WHEREAS, the Jefferson Board of County Commissioners (“BoCC”) recognizes the need to adopt an administrative process to determine whether a lot was legally created to address potential violations of RCW [58.17.300](#); and

WHEREAS, the BoCC wishes to balance the desire to protect the character and quality of residential communities as envisioned by the ~~Jefferson County~~ Comprehensive Plan and current zoning code with the desire to allow residential development on legally existing lots that were created before the current zoning was in place; and

WHEREAS, JCC [18.05.020](#) requires that land be subdivided or developed in conformance with the Comprehensive Plan and Title [18](#) JCC; and

WHEREAS, Old Plats that were recorded prior to August 11, 1969 had few, if any, land use controls or health and safety provisions applied; and

WHEREAS, in some cases, undeveloped land in Old Plats can be developed according to current zoning and subdivision requirements; and

WHEREAS, in some cases, parcelization and development has already occurred in a manner that makes it impossible for vacant land to be developed in compliance with current zoning requirements, but other requirements, such as critical areas review, shoreline regulations, and other modern land use and health regulations, must still apply; and

WHEREAS, in some circumstances, substandard lots should be consolidated to allow for creation of a lot that meets minimum public health standards and land use regulations; and

WHEREAS, in adopting this ordinance, the BoCC balances the need to protect the public health and important environmental resources within the county as well as rural character with the need to allow a property owner of reasonable economic use of their property; and

WHEREAS, public participation in the development of ~~the legal lot of record~~ this ordinance has indicated that many members of the community wish the county to include site development review as a component of the legal lot of record determination process; and

WHEREAS, a site development review process will provide owners or developers of land an assessment of site requirements for development of a parcel without applying for a development permit; and

WHEREAS, the legal lot of record and site development review process will streamline development review processes and coordinate permitting between the Departments of Community Development, Public Health, and Public Works.

NOW THEREFORE, be it ordained by the BoCC as follows:

Section 1. Findings. The BoCC hereby adopt the above recitals (the “WHEREAS” statements) as its findings of fact in support of this Ordinance.

Section 2. Amending JCC [18.10.040](#) and [18.10.120](#). Jefferson County Code Sections [18.10.040](#) (last amended by Ord. 4-19 § 1 (Exh. A)) and [18.10.120](#) (last amended by Ord. 5-20 § 3 (Appx. A)), are amended to read as set out in Appendix A.

Section 3. Adding New Chapter 18.12 JCC. A new chapter 18.12 is added to the Jefferson County Code to read as set out in Appendix B.

Section 4. Amending JCC [18.35.060](#) through JCC [18.35.080](#). Sections [18.35.060](#), [18.35.070](#), and [18.35.080](#) of the Jefferson County Code, last amended by Ordinance 14-18 § 4 (Exh. B), are amended to read as set out in Appendix C.

Section 5. Adding New Article VII to Chapter [18.40](#) JCC. A new Article VII to Chapter [18.40](#) JCC is added to read as set out in Appendix D and amendments to JCC 18.40.040 and JCC 18.40.320 also are made.

Section 6. Establishment Fees. Fees set forth in Chapter 18.12 JCC and to Article VII to Chapter [18.40](#) JCC shall be established. These fees shall be added to the Appendix Fee Schedule or to the fee resolution, if adopted by the Board of County Commissioners.

Section 6. 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. The Department of Community Development prepared an environmental checklist detailing the proposed ordinance and its compliance with the State Environmental Policy Act (“SEPA”). After a review of the environmental checklist, proposal, available information, and applicable regulations Jefferson County’s SEPA Responsible Official issued a Determination of Non-Significance (“DNS”) on August 24, 2022 under WAC [197-11-340\(2\)](#). The DNS was posted to the statewide SEPA Register managed by the Washington Department of Ecology.

Section 7. Effective Date. This ordinance is effective immediately upon adoption. Any onsite septic application, well construction inspection application, or other review related to development and land disturbance that was submitted and determined complete by the Department of Public Health, prior to the effective date of this ordinance are not subject to this ordinance.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

APPROVED and ADOPTED this _____ day of _____, 2022.

SEAL:

JEFFERSON COUNTY BOARD OF
COMMISSIONERS

Heidi Eisenhour, Chair

Kate Dean, Member

ATTEST:

Greg Brotherton, Member

Carolyn Gallaway
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A

Section JCC [18.10.040](#) of the Jefferson County Code, last amended by Ord. 4-19 § 1 (Exh. A), is amended to read:

JCC 18.10.040 D definitions.

“Day care, commercial” means a person or agency that provides care for 13 or more children during part of the 24-hour day (RCW [74.15.020](#)).

(1) “Home day care provider” means a state-licensed day care provider who regularly provides day care for not more than 12 children in the provider’s home in the family living quarters (RCW [74.15.020](#)).

(2) “Child day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed (RCW [35.63.170](#)).

“Days, calendar” means so many days computed according to the course of the calendar. In computing comment and appeal periods under this code, if the last day so computed is a Saturday, Sunday or legal holiday, the comment or appeal period shall run to the next business day.

“DCD” means the Jefferson County department of community development.

“Dedicate” means to set aside a piece of real property, a structure, or a facility for public or private use or ownership.

“Dedication” means a deliberate appropriation of land by its owners for any general and public uses, reserving to the owner/dedicator no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

“Degrade” means to scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function, in terms of Jefferson County standards and environment.

“Density” means the quantity per unit area, such as the number of dwelling units per acre.

“Design capacity” means the theoretical or calculated maximum ability of a system or device to handle the duty for which it is to be used.

“Developable area” means the area of land which is not constrained from development by land use restrictions.

“Development” means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any grading, excavation, mining, landfill; or any extension of the use of land, dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, forest practice activities that are being conducted as a part of a conversion from forestry to non-

forestry use, storage of materials or equipment in a designated floodway, or other site disturbance, which either requires a permit, approval, review, or authorization from the county or is proposed by a public agency.

“Development application” means an application for a development permit.

“Development envelope” means the portion of a lot which may be used for development. A development envelope must include space for utilities, driveways, and any other improvements necessary to complete development. As applied to a buildable lot for residential purposes, the development envelope is the portion of a lot which that may contain a dwelling(s) and accessory structures.

“Development permit” means any permit issued by Jefferson County allowing development the physical alteration of real property including, but not limited to, building construction, road construction, grading, filling or excavating. Approval of a short subdivision, long subdivision, or boundary line adjustment is not considered a “development permit” for the purposes of Chapter [18.35](#) JCC. (See “Project permit.”).

“Development regulation or regulations” means the controls placed on development or land use activities, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances, together with any amendments thereto. A development regulation does not include a decision to approve a project permit or project permit application, as defined in RCW [36.70B.020](#), even though the decision may be expressed in a resolution or ordinance of the legislative body of the county (RCW [36.70A.030](#)(7)). However, for the avoidance of doubt, a development regulation does not include ordinances or regulations that address administrative processes and procedures related to land use planning, interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law.

“Development right” means the right to develop property subject to federal, state, and local restrictions and regulations.

“Director” means, unless otherwise specified, the director of the county’s department of community development (DCD) or the director’s designee.

“Discretionary use” means all unnamed and certain named uses in Table 3-1 in JCC [18.15.040](#) which, subject to the administrative review and classification criteria set out in Chapter [18.15](#) JCC, may be classified by the administrator as an allowed outright “Yes” use, a conditional “C” use or a prohibited “No” use in the applicable district for which the use is proposed.

“District” means a part, zone, or geographic area within Jefferson County within which certain development regulations apply.

“Disturbed area” means any place where activities clearly in preparation for, or during, surface mining have physically disrupted, covered, compacted, moved, or otherwise altered the characteristics of soil, bedrock, vegetation, or topography that existed prior to such activity. Disturbed areas may include but are not limited to: working faces, water bodies created by mine-related excavation, pit floors, the land beneath processing plant and stock pile sites, spoil pile sites,

and equipment staging areas. Disturbed areas shall also include aboveground waste rock sites and tailing facilities, and other surface manifestations of underground mines. Disturbed areas do not include surface mine access roads in mineral resource land designations unless these have characteristics of topography, drainage, slope stability, or ownership that, in the opinion of the department of natural resources, make reclamation necessary, lands that have been reclaimed to all standards outlined in this chapter, rules of the department of natural resources, any applicable SEPA document, and the approved reclamation plan, and subsurface aspects of underground mines, such as portals, tunnels, shafts, pillars, and stopes.

“Division of land” means the creation of any new lot or lots for the purpose of sale, lease, or transfer of ownership (see Chapter [18.35](#) JCC).

DOT. (See “WADOT” or “WSDOT.”)

“Drainage” means surface water runoff; the removal of surface water or groundwater from land by drains, grading, or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

“Drainageway” means any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.

“Dredging” means the removal of earth from the bottom of a stream, river, lake, bay, or other water body.

“Drinking establishment (lounge)” means a business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises. A restaurant operated as part of a lounge is considered to be accessory to the lounge.

“Drive-thru window service” means businesses where patrons may carry on business on the premises while in a motor vehicle (see also “Mobile food unit”).

“Driveway” means a strip of land which provides vehicular access to one or two lots.

Duplex. (See “Dwelling unit, two-family.”)

“Dwelling unit” means one or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling’s occupants.

“Dwelling unit, multiple-family” means one or more structures containing three or more dwelling units.

“Dwelling unit, two-family” (duplex) means a single structure containing two dwelling units.

Section JCC [18.10.120](#) of the Jefferson County Code, last amended by Ord. 5-20 § 3 (Appx. A), is amended to read:

JCC 18.10.120 L definitions.

“Land disturbing activity” means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

Land Division. (See “Division of land.”)

“Land use decision” means a final determination by the county’s hearing body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:

(a) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;

(b) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(c) The enforcement by the county of regulations governing the improvement, development, modification, maintenance, or use of real property.

“Landslide hazard areas” has the same meaning as in WAC [365-190-030\(10\)](#).

“Landward” means to or toward the land.

“Legal lot of record” means any lot that is determined to be a legal lot of record pursuant to chapter 18.12 JCC and ~~is the same as~~ satisfies the “legal lot of record” ~~referred to~~ requirement in WAC [246-272A-0320\(5\)\(e\)\(i\)](#).

“Level of service (LOS)” means the number of units of capacity per unit of demand (e.g., trips, population, school-age residents) or other appropriate measure of need sufficient to meet the standards for adequate service set forth in the Comprehensive Plan. (See also “Adequate capacity (adequate capital or public facilities),” “Available capital facilities (available capacity),” and “Concurrency.”)

“Light industrial” means a use involving: (1) basic processing and manufacturing of materials or products predominantly from previously prepared materials; or (2) finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials except food products.

“Livestock” means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. Livestock does not mean free-ranging wildlife as defined in Title [77](#) RCW.

“Livestock management” includes breeding, birthing, feeding, care, processing and sales of animals and animal products, birds, honey bees, fish and shellfish.

“Logging” means activities related to and conducted for purposes of harvesting or processing timber.

“Long-term commercial significance” has the same meaning as in WAC [365-190-030](#)(11).

“Lot” means a designated tract, parcel or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, and utilized contiguous quantity of land in possession of, owned by or recorded as the property of a person or entity. A lot also shall also include any individually numbered or separately designated parcels of property in an approved subdivision or development.

“Lot, buildable,” means a lot of sufficient size and location to:

(a) ~~Comply with all the standards and requirements of this code, with the exception of the density provisions contained herein; and~~

(b) ~~Support an on-site wastewater disposal (i.e., septic) system or connect to a public sewerage system and support an individual water system (i.e., well) or connect to a community water system that is consistent with the policies, standards and requirements of the Jefferson County health department and the Washington State Department of Health as they now exist or may hereafter be amended, and any other applicable policies, standards or regulations of the Washington State Department of Ecology.~~

~~As an aid to developers, the county notes that a lot of two acres in size or greater will typically be adequate to meet the health standards referenced above. Given suitable soil conditions and alternative treatment methods, it may be possible for an area smaller than two acres in size to meet health standards. However, for purposes of septic system approval, an area smaller than 12,500 square feet shall not be recognized as a buildable lot unless a waiver is authorized pursuant to Chapter [8.15](#) JCC. With the exception of the 12,500-square-foot minimum permissible land area referenced above, the dimensional numbers cited above should be viewed only as a general guide and shall not be construed as binding upon the county in any specific fact scenario.~~

~~This definition is intended to apply only to lots of record as defined herein. With the exception of the density provisions contained in Chapter [18.30](#) JCC, nothing in this definition shall be construed to excuse compliance with any other provisions of this code or any provision of local, state or federal law, including, but not limited to: critical areas set forth in Chapter [18.22](#) JCC; the use, setback, height and impervious surface limitations of Chapters [18.15](#), [18.20](#) and [18.30](#) JCC; and any requirements imposed under the authority of the State Environmental Policy Act (SEPA), Chapter [43.21C](#) RCW; or any other applicable regulations governing the provision of infrastructure~~

means: (1) a lot that is a legal lot of record, as determined by the director pursuant to Chapter 18.12 JCC and applicable law, and (2) has site development review approval pursuant to JCC 18.40.440 et seq. A guaranteed right to development of a lot can only be established once a development permit application or building permit application vests pursuant to JCC 18.40.320.

“Lot, corner” means a lot situated at the intersection of two roads, by which the interior angle does not exceed 135 degrees.

“Lot coverage” means the surface area of a lot or lots within a single development which is occupied by buildings, excluding roof overhangs and covered porches not used for sales, storage, or service.

“Lot, frontage” means the boundary of a lot that is along an existing or dedicated public road, or where no public road exists, along a private road, easement or access way. On an interior lot, it is the lot line abutting a road; or, on a pipestem (i.e., flag) lot it is the interior lot line most parallel to the nearest road from which access is obtained.

~~“Lot of record” means an undeveloped lot, tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot. The term “lot of record” does not imply that the lot was created in conformity with the legal regulatory requirements for subdivision of property in accordance with Chapter 58.17 RCW or Chapter 18.35 JCC; a lot or parcel of land that was created by a metes and bounds description or through platting or other means, and met all applicable zoning and subdivision requirements in effect at the time of lot creation. A lot of record is not necessarily developable or buildable, but may be conveyed pursuant to chapter 58.17 RCW.~~

“Lot, pipestem” means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow private right-of-way or driveway. The term is synonymous with “flag lot.”

~~“Lot, substandard” means a lot or parcel of land that has less than the required minimum area or width as established by the land use district in which it is located or as defined in any other section of the code; and provided, that such lot or parcel was of record as a legally created lot on the effective date of the Jefferson County Unified Development Code. A substandard lot is a legal lot of record. “Substandard” should not be equated with unbuildable. (See “Lot, buildable.”)~~

“Lot, through” means a lot that has both ends fronting on a road or street; both ends shall be deemed front.

“Lumber mill, portable” means portable equipment to mill, split, or otherwise process forest products.

“Lumber mill, stationary” means a permanently located facility or equipment used to process forest products.

APPENDIX B

Chapter 18.12

Legal Lot of Record Determination and Lot Consolidation

- 18.12.010. Purpose and applicability.**
- 18.12.020. Effect of legal lot of record determination.**
- 18.12.030. Process for determination of legal lot of record.**
- 18.12.040. Application and submittal contents.**
- 18.12.050. Legal lot of record determination - approval standards.**
- 18.12.060. Lots or parcels of land that are not considered legal lots of record.**
- 18.12.070. Development of lots of record that do not meet minimum lot size or underlying density of the zoning district.**
- 18.12.080. Reasonable economic use criteria.**
- 18.12.090. Lots created by testamentary provision or the laws of descent.**
- 18.12.100. Violation of subdivision code and innocent purchaser for value.**
- 18.12.110. Application fee.**

18.12.010. Purpose and applicability.

- (1) This chapter addresses the processes and standards for determining whether a lot or parcel is a legal lot of record, consistent with applicable state and local law. This chapter is intended to comply with RCW [58.17.210](#).
- (2) A lot is a lot of record if it meets the definition of lot of record at JCC [18.10.040120](#). A lot of record may be conveyed without violating the provisions of Chapter [58.17](#) RCW. To be eligible for a development permit, a lot of record also must be determined to be a legal lot of record as defined in JCC [18.10.120](#).
- (3) This chapter provides for a legal lot of record determination process, which is an administrative process for determination of whether a lot or parcel is eligible for development. To determine whether the lot is a buildable lot, the applicant must also apply for site development review approval pursuant to JCC 18.40.440 et seq.
- (4) A legal lot of record determination is required prior to submittal of any development application, including an application for an onsite septic permit pursuant to chapter [8.15](#) JCC.
- (5) A legal lot of record determination is not required for the following:
 - (a) mechanical, plumbing replacement, hot water, propane, re-roofing, and window replacement permits;
 - (b) permits for cell tower alteration and modification; and
 - (c) interior remodels that do not increase the building's footprint or include land disturbing activity, or are not substantial improvements pursuant to chapter 15.15 JCC.
- (6) Any repair requiring an emergency permit under Title [15](#), Title [18](#), or Title [8](#) JCC in

circumstances that qualify as an emergency constituting an immediate public health and safety hazard, in the opinion of the director, does not require a legal lot of record determination prior to executing the repair to alleviate the hazard. The director at their discretion may require the applicant to apply for legal lot of record determination after the fact.

18.12.020. Effect of legal lot of record determination.

- (1) If the department determines a lot to be a legal lot of record under this chapter, a copy of the director's determination ~~will~~ shall be recorded with the county auditor. Failure to record determination of legal lot of record status may result in loss of approval status, and may require additional review of the lot for legal lot of record status under this chapter.
- (2) A determination by the director that a lot, tract, or parcel of land does not meet the requirements for a legal lot of record, lot of record, or innocent purchaser for value exception pursuant to JCC 18.12.100 shall also be recorded by the director for purposes of innocent purchaser notification. The director shall collect sufficient fees as part of the application process for determination of legal lot of record to cover this expense.
- (3) In certain cases, the director may require the applicant or owner to provide a professional survey of the legal lot of record with a legal description, and to record the survey with the county auditor. The director shall determine by administrative rule when it is necessary to require a professional survey of the legal lot of record.
- (4) Once issued and recorded, a determination of legal lot of record shall constitute a final determination for the specified legal description. Any future development permit requests on the same legal description may rely on the existing determination. Determinations issued administratively by the county prior to the effective date of Chapter 18.12 JCC shall be entitled to the same finality as a legal lot of record determination issued pursuant to this chapter. For purposes of this subsection, the director shall create a list of the county administrative determinations that qualify as a legal lot of record determination.
- (5) Issuance of a legal lot of record determination finding that a lot is eligible to be considered for development permits under this chapter shall not constitute a determination that the lot of record has met all other applicable requirements of the Jefferson County Code or any other applicable local, state, or federal law. A legal lot of record determination does not create vesting for any permit application; vesting of permit applications is governed by JCC [18.40.320](#). Nothing in this section shall be interpreted to replace or supersede any requirements of any applicable public or private water purveyor.
- (6) For a legal lot of record determination to include buildability, a site development review is required pursuant to JCC 18.40.440 et seq.

18.12.030. Process for determination of legal lot of record.

- (1) A legal lot of record determination is a Type I application. A property owner or their representative may apply for a legal lot of record determination with submittal of an application on a form developed by the department and payment of all applicable fees.
- (2) A legal lot of record determination shall be required prior to land disturbance or submittal of any development activity; submittal of any permit application, septic application, land use permit application, or land division permit application, or prior to any other processes to adjust property boundaries, including condominimization.

(3) A legal lot of record determination shall not require a letter of completeness (JCC [18.40.110](#)), a Notice of Development Application and public comment period (JCC [18.40.160](#) and [18.40.220](#)), or a Notice of Decision (JCC chapter [18.40](#) JCC).

(4) The land owner bears the burden of proof to demonstrate that the lot or parcel of land is a legal lot of record by a preponderance of the evidence, supported by appropriate written documentation per JCC 18.12.040.

(5) A lot or parcel of land that has been previously recognized by the county as a legal lot of record and recorded with the county auditor shall remain a legal lot of record, unless changed by the action of the owner.

18.12.040. Application submittal and contents.

(1) Information required. The application for a legal lot of record determination shall be submitted on department forms, along with the required fees established under JCC 18.12.110. The application shall include a written description of the proposed use of the property and all materials required pursuant to JCC [18.40.100](#) (3).

(2) The permit application must include sufficient documentation to evidence that a lot or parcel is a legal lot of record. The administrator in their sole discretion may require one or more of the following types of documentation for review:

- a. Recorded plat or associated AFN.
- b. Approved unrecorded subdivision.
- c. Deed prior to August 11, 1969.
- d. Prior recognition of legal lot status by the county.
- e. Title report.
- f. Deed history.
- g. Tax history.

18.12.050. Legal lot of record determination - approval standards- general requirements and limitations.

(1) To be considered a legal lot of record and eligible for a development permit, the applicant must demonstrate all of the following standards apply:

- (a) The lot was legally created, or is a lot owned by an innocent purchaser for value who meets the requirements of JCC 18.12.070 and RCW [58.17.210](#); and
- (b) The lot of record qualifies under one of the following:
 - (i) It, is equivalent in size to the density of the zoning district in which it is located; or
 - (ii) The lot meets one or more of the provisions identified in JCC 18.12.070(4) or JCC 18.12.080.

(2) Lots restricted from development by prior county decision (i.e., plat notes, open space designation, or other means) shall not be considered buildable regardless of lot size, unless the restriction is removed through a codified process allowing removal of the restriction and the lot meets all current requirements of Jefferson County Code.

(3) A lot of record may be legally conveyed without violating the provisions of RCW [58.17.210](#), but may not be a legal lot of record.

(4) Any contiguous group of parcels of land in a plat created prior to August 11, 1969 that is equivalent in size or larger to the density of the zone in which it is located, and in single ownership as of the effective date of this ordinance, can only be developed as single-family residences under current zoning and subdivision requirements.

(5) Any permit exempted from the requirements of this chapter under JCC 18.12.010(5) or (6) shall not be considered as a permit that satisfies any of the exception criteria in JCC 18.12.070.

18.12.060. Lots, tracts, or parcels of land that are not considered legal lots of record.

(1) The following types of lots or parcels of land are not legal lots of record and will not be considered eligible for development under this chapter:

- (a) Vacated rights-of-way;
- (b) Tidelands;
- (c) Parcels designated solely for access purposes; and
- (d) Parcels created for tax segregation purposes.

(2) A separate assessor's parcel number shall not be sufficient evidence that a lot meets the definition of lot of record or legal lot of record.

(3) Any contiguous group of parcels of land in a plat created prior to August 11, 1969 that is equivalent in size or larger to the density of the zone in which it is located, and in single ownership as of the effective date of this ordinance, can only be developed as legal lots of record for single-family residences under provided the lot meets current zoning and subdivision requirements.

18.12.070. Development of lots of record that do not meet the underlying density of the zoning district.

(1) Lots of record that do not meet the underlying density of the zoning district in which they are located (hereafter "substandard lots") shall only be considered for development permits if they are not restricted from development by prior county decision or action as described in JCC 18.12.050(2), are not the types of parcels listed in JCC 18.12.060(1) or (2), and meet one or more of the exceptions described in this section.

(2) A landowner must aggregate adjacent lots to the extent possible to bring the substandard lot to conforming status. An owner of contiguous, substandard lots as of the effective date of this ordinance shall aggregate (combine) lots to meet the requirements of this chapter; and aggregation of substandard lots shall meet the underlying density if possible and be recorded as a boundary line adjustment pursuant to JCC [18.35.060](#) through [18.35.080](#). If the resulting aggregation of lots does not meet the zoning minimum lot size or underlying density, the lot must meet an exception in JCC 18.12.070(3), or the owner must apply for and receive a reasonable use exception pursuant to JCC 18.12.080 to be considered eligible for development.

(2) ~~If an individual has sold adjacent lots, the remainder lot(s) may be considered to be subject to the limitation in JCC 18.12.080(1)(c) and not eligible for a reasonable economic use~~

~~exception, if it would otherwise apply.~~

(3) If more than one of the exceptions in JCC 18.12.070(4) applies, the director shall approve the exception that is the most consistent with the purposes of the land use district in which it is located, as described in chapter [18.15](#).JCC. The lot approved must be of the least nonconforming size possible with respect to current zoning requirements to meet the requirements of this section. If a landowner could aggregate lots to make a more conforming lot, the director shall require the landowner to do so to satisfy the requirements of this section.

(4) A substandard lot may be considered a legal lot of record and eligible for a development permit if it meets Department of Public Health Policy 97-02 minimum land area requirements for septic as determined by the department of public health through meeting and one of the following provisions:

- (a) The lot of record was properly platted and approved by the county on or after August 11, 1969; provided, that it complies with JCC 18.12.050(2);
- (b) The configuration of the lot has been previously approved by the county through an administrative procedure prior to the effective date of this chapter;
- (c) The lot of record is part of an adopted “Limited Area of More Intensive Rural Development (LAMIRD)” pursuant to the comprehensive plan, can satisfy the requirements for siting an on-site sewage system and water supply, and the density proposed allows for infill development at densities comparable to the surrounding area;
- (d) The lot of record or aggregation of lots is located in the Irondale and Port Hadlock Urban Growth Area Overlay District, and can satisfy the requirements of the Jefferson County Code for water (either private or connection to a public water system) and for wastewater (either on-site or connection to a public sewer system);
- (e) The lot contains an existing dwelling unit for which the owner obtained a permit for its construction and approval to occupy from the county;
- (f) The lot was approved by the county for a residential septic, accessory dwelling unit or primary residence, or any land use permit for the purpose of siting a primary residence, and the approval has not expired;
- (g) The lot of record was legally created prior to August 11, 1969, or if created after August 11, 1969, was exempt from subdivision requirements at the time it was created, and meets one of the following requirements:
 - (i) The lot of record is five acres or larger and is located in any rural land use district; or
 - (ii) The lot of record is 10 acres or larger and is located in any resource lands land use district;
- (h) The lot of record is not within a special flood hazard area, or channel migration zone expected to impact the property within 100 years, the department of health has determined it can meet drinking water and wastewater requirements, and the director determines that development of the lot is necessary for emergency purposes, and the benefits of recognizing

the lot as a legal lot of record outweigh the potential detriments;

- (i) The lot of record is not within a special flood hazard area, or channel migration zone expected to impact the property within 100 years and the director in their sole discretion determines that development of the substandard lot:
 - A. consists of a nonresidential use that is consistent with the applicable land use district,
 - B. would further one or more policies of the Comprehensive Plan, and
 - C. the county department of public health has determined it can meet drinking water and wastewater requirements.

(5) Any lot of record that is recognized as eligible for development under JCC 18.12.070 shall be considered a legal lot of record.

18.12.080. Reasonable economic use of substandard lots – approval criteria.

(1) Reasonable economic use of a substandard lot. The director will consider a reasonable economic use exception only if none of the provisions of JCC 18.12.070 apply to allow for development on a substandard lot. A reasonable economic use exception for a single lot determination is a Type II application pursuant to chapter [18.40](#) JCC. The director may grant the exception if the applicant demonstrates that the application for a reasonable economic use exception meets all of the following criteria:

- (a) The ~~health~~ department of public health has reviewed the substandard lot and determined that the proposed means of sewage disposal and water supply on and to the substandard lot, ~~tract or parcel~~ is adequate and will likely not cause degradation to groundwater or surface water quality;
- (b) The director has determined that the substandard lot, ~~tract or parcel~~ is served with an adequately designed means of ingress and egress, and with adequate drainage facilities, none of which interfere with or impair existing or planned public roads and drainage facilities in the vicinity;
- (c) The existence of the substandard lot is not the result of the property owner segregating or dividing the property or otherwise creating the condition that results in the need for a reasonable economic use exception;
- (d) The property owner cannot consolidate an adjacent lot(s) pursuant to JCC 18.12.070(4);
- (e) The substandard lot, ~~tract, or parcel~~ is directly adjacent to existing lot, tract, or parcel with existing permitted or legally nonconforming residential development, or at the director's discretion the plat has already been substantially developed at the time of determination.
- (f) The proposed activity on the substandard lot will not adversely affect the public safety and welfare of persons occupying the property, adjacent or nearby property owners, or the general public;
- (g) The proposed activity on the substandard lot will not cause or increase flooding, degradation of critical areas or species, degradation to natural resources such as shellfish beds, or degradation of areas preserved for public enjoyment such as parks, beaches, and other natural areas;

- (h) The proposed activity on the substandard lot will not adversely affect adjacent or nearby property owners, or interfere with their enjoyment of their property;
- (i) The activity proposed on the substandard lot is the minimum necessary to allow for reasonable economic use of the property, including agricultural, forestry, or recreational activities by meeting the minimization standards of JCC 18.22.640, JCC 18.22.660, and JCC 18.22.740.; and
- (j) The director determines that issuance of the permit will not adversely affect the public interest, as required by RCW [58.17.210](#).

(2) Determination of reasonable economic use for all or part of a plat pre-August 11, 1969. Certain plats may substantially meet the of Title 18 JCC and chapter [58.17](#) RCW. If a substandard lot cannot be developed under the provisions of JCC 18.12.070(3) or JCC 18.12.080(1), a lot owner or representative may apply for an evaluation of the entire plat. The reasonable economic use determination for all or part of a plat is a Type II C(d) application pursuant to chapter [18.40](#) JCC. The director may determine that lots within all or part of a plat can be recognized as legal lots of record, if they meet the following requirements:

- (a) The plat was legally created between June 9, 1937 and August 11, 1969;
- (b) Further development of the plat would not substantively alter rural character as defined in JCC 18.10.180 based on existing location and patterns of development within the plat;
- (c) Recognition of lots within the plat would not impact forestry resources according to the following provisions:
 - (i) Lots are not zoned for forestry use;
 - (ii) Lots that are vacant or not developed with residential uses and are more than 250 feet from any CF-80 parcel;
 - (iii) Lots that are vacant or not developed with residential uses and are more than 100 feet from any RF-40 parcel.
- (d) Development of each lot within the plat can comply with chapter 18.22 JCC;
- (e) Every lot proposed for development within the plat can satisfy the water availability requirements of RCW 19.27.097 and any applicable water resource inventory area (WRIA) administrative rule adopted by the Washington State Department of Ecology;
- (f) Development of the plat will not harm environmental resources such as shorelines, shellfish areas, and salmonid habitat, nor will it impact water quality or quantity; and
- (g) The director receives a report from the director of public works that concludes that further of the development of the plat will not create significant adverse environmental impacts to the transportation system, after evaluating the following:

- A. Levels of service of existing roadways and possible effects caused by development of the plat;
- B. Ingress and egress to the plat;
- C. Road engineering;
- D. Management of stormwater runoff from roads;
- E. Whether the developed plat can meet current stormwater regulations;
- F. Any existing community stormwater drainage system; and,
- G. Utility access and maintenance easements for county maintenance; and

(h) The director receives a report from the director of environmental public health that concludes that further of the development of the plat will not create significant adverse environmental impacts to public health, after reviewing the following:

- A. Water availability and potential impacts to water and other environmental resources that may be affected by development of the plat; and
- B. Proposed methods for sewage disposal.

18.12.090 Lots created by testamentary provision or the laws of descent.

Lots created through testamentary provisions or the laws of descent shall be governed by the following requirements:

- (1) Lots that meet the current lot size or underlying density requirements of the zoning district in which they are located shall be treated the same as a legally subdivided lot and shall be considered a legal lot of record;
- (2) Lots that do not meet the current lot size or underlying density requirements of the zoning district in which they are located, but which did meet the requirements in effect at the time they were created will be treated the same as substandard lots of record under JCC 18.12.070(1);
- (3) Lots that do not meet the current minimum lot size or underlying density of the zoning district in which they are located, and did not meet the standards in effect at the time they were created shall be treated as lots of record for purposes of conveyance, but will not be considered to be buildable lots that can receive development permits.

18.12.100 Violation of subdivision code and innocent purchaser for value.

(1) Knowingly transferring or selling a lot in violation of land division regulations is a gross misdemeanor pursuant to RCW [58.17.300](#). Development of any lot, tract or parcel of land divided in violation of state law or this title is prohibited. No building permit, on-site sewage system permit or other development permit shall be issued for any lot, tract or parcel, divided in violation of ~~JCC~~ Title [18 JCC](#) or chapter [58.17](#) RCW. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.

(2) Innocent purchaser for value exception. The director may approve the creation of a lot, parcel or tract that otherwise violates JCC Title [18](#) or Chapter [58.17](#) RCW under the limitations contained in this section. Any lot that qualifies for an innocent purchaser for value exception must still satisfy the requirements of JCC 18.12.050 to become a legal lot of record.

- (a) To qualify for an innocent purchaser for value exception, the applicant must ~~demonstrate~~ prove the following:
 - (i) The applicant purchased the lot, tract or parcel for value; and
 - (ii) The applicant did not have actual notice that the lot, tract or parcel had been part of a larger lot, tract or parcel that was subdivided.
- (b) All contiguous lots created in violation of chapter [58.17](#) RCW that are under the same ownership at the time of application for innocent purchaser status shall be recognized only as a single lot and shall be combined through a boundary line adjustment.
- (c) A determination under this section shall be a Type II decision. The applicant for an innocent purchaser for value exception under this section bears the burden of proof to demonstrate that the application meets the applicable requirements by a preponderance of the evidence, supported by adequate documentation.

APPENDIX C

Amendments to the Boundary Line Adjustments Code

Section [18.35.060](#) of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.060 Purpose, scope, and limitations.

(1) Purpose and Scope. The purpose of this article is to provide procedures and criteria for the review and approval of adjustments to boundary lines between platted or unplatted lots, tracts or parcels, or both in order to:

- (a) Allow the enlargement or merging of lots, tracts or parcels to improve or qualify as a buildable lot or for any other lawful purpose;
- (b) Rectify defects in legal descriptions;
- (c) Achieve increased setbacks from property lines or critical areas;
- (d) Correct situations wherein an established use is located across a lot line; or
- (e) For other similar purposes.

This article is also intended to ensure compliance with the Survey Recording Act, Chapter [58.09](#) RCW and Chapter [332-130](#) WAC.

(2) Prohibited Boundary Changes. This article shall not apply to boundary changes that would:

- (a) Result in the creation of an additional lot, tract, parcel, site within a binding site plan or division as defined in Chapter [18.10](#) JCC;
- (b) Result in a lot, tract or parcel or site within a binding site plan that does not qualify as a buildable lot as defined in Chapter [18.10](#) JCC;
- ~~(c) Relocate an entire lot, tract or parcel from one parent parcel into another parent parcel;~~
- ~~(d c)~~ An adjustment that crosses zoning district boundaries. Adjustments may be allowed across different rural residential densities;
- ~~(e d)~~ Be inconsistent with any restrictions or conditions of approval for a recorded short plat or long plat; or circumvent the short subdivision or long subdivision procedures set forth in this chapter; ~~or.~~

~~(e) Separate an accessory dwelling unit from the primary use of the property.~~

(3) Lot Consolidation. The consolidation of two or more lots, tracts or parcels for the purpose of creating a single lot, tract or parcel that meets the requirements for a buildable lot shall in all cases be considered a minor adjustment of boundary lines and shall not be subject to the short subdivision or long subdivision provisions of this chapter. Lot consolidations shall not require a survey or soil evaluation.

(4) Adjustments to Binding Site Plans. Recognized lots in an approved binding site plan shall be considered a single site and no lot lines on the site may be altered by a boundary line adjustment to separate lots to another property not included in the original site plan of the subject development.

(5) Rectifying legal defects, such as an established use located across a lot line, and the adjustment of boundary lines to match water bodies, roads, or fence lines, shall be considered minor adjustments and shall not require a soil evaluation, ~~and may be allowed regardless of the size of resultant parcels.~~

(6) Time Limitations. If more than two lots, tracts or parcels have been subject to a boundary line adjustment process, those lots shall not be permitted to use the boundary line adjustment process again for five years with the exception of lot consolidations, testamentary divisions, civil cases, court orders, rectifying legal defects, or the adjustment of one line between two or more property owners for the purpose of settling a dispute.

Section [18.35.070](#) of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.070 Application submittal and contents.

To be considered complete, applications for boundary line adjustments shall include the following:

(1) Applications for boundary line adjustments shall be made on forms provided by the Jefferson County department of community development and shall be submitted to the department of community development, along with the appropriate fees established under the Jefferson County fee ordinance.

(a) A single application may be submitted for multiple BLAs for adjacent parcels, lots, tracts or sites within a binding site plan. However, standard application fee(s) shall apply to each BLA after the first two per additional parcel, lot, tract or site.

(b) In instances of lot consolidation, standard application fee(s) shall apply based on the number of resulting parcels or lots;

(2) A completed land use permit application form, including all materials required pursuant to Chapter [18.40](#) JCC;

(3) ~~Three copies~~ A digital copy of a clean and legible drawing suitable for recording showing the following:

- (a) The proposed lines for all affected lots, tracts or parcels, indicated by bold solid lines;
- (b) The existing lot, tract or parcel lines proposed to be changed, indicated by light broken lines;
- (c) The location and dimensions of all structures/improvements existing upon the affected lots, tracts or parcels and the distance between each such structure/improvement and the proposed boundary lines, with structures proposed to be removed from the site depicted with broken lines and structures to remain on the site depicted with solid lines;
- (d) A north arrow indication and scale;
- (e) All assessor's tax parcel numbers for the affected lots, tracts or parcels;
- (f) The location of the property as to quarter/quarter section;
- (g) The location and dimensions of any easements within or adjacent to any affected lots, tracts or parcels;
- (h) The location, right-of-way widths, pavement widths and names of all existing or platted streets or roads, whether public or private, and other public ways within or adjacent to the affected lots, tracts or parcels;
- (i) The area and dimensions of each lot prior to and following the proposed adjustment;
- (j) The existing on-site sewage system components and reserve areas and the proposed location for on-site sewage systems and soil test pits for all affected lots that are not currently served by an on-site sewage system or other approved wastewater treatment system;
- (k) The location of all existing and proposed water and storm drainage facilities; and
- (l) The approximate location and extent of any critical areas identified in Chapter [18.22](#) JCC. The following notice will be recorded on the drawing when the parcels that are part of the boundary line adjustment include, or are adjacent to, critical areas:

Notice to Public: Current Jefferson County geographic information systems (GIS) maps identify the presence of a critical area such as stream, wetland, flood, landslide

hazard, erosion, aquifer recharge area, fish and wildlife habitat, shoreline, etc., lying within and/or adjacent to the revised parcels encompassed by this Boundary Line Adjustment. Prior to any land disturbing activity or construction activity, applicant/owner shall contact the Jefferson County department of community development regarding compliance for such critical areas. Approval of this Boundary Line Adjustment does not guarantee a buildable site within said parcel(s). Such determination is dependent on approvals of water, septic, bulk and dimensional setbacks, and critical area requirements.

- (4) The original legal description of the entire property together with new separate legal descriptions for each lot, tract or parcel, labeling them each as existing parcel A, existing parcel B, revised parcel A, revised parcel B, etc. The drawing shall be attached to or include on the face a formal legal declaration of the boundary line adjustment, signed and notarized by all legal owners of the subject properties. In cases where the property has not been surveyed, the following disclaimer shall be recorded on the drawing:

DISCLAIMER LANGUAGE FOR BLA STATEMENT OF INTENT: Your request for a Boundary Line Adjustment (BLA) has been approved. Since no survey was submitted as part of your BLA application, the County accepts no liability for what facts a survey might have revealed. A survey might have revealed that a structure or improvement believed to be on the applicant's property is, in fact, located wholly or partially upon someone else's property or upon property that is not the subject of this BLA. But in the absence of a survey, the applicant bears sole responsibility if such a problem arises.

- (5) A copy of any covenants, conditions and restrictions (CC&Rs), deed restrictions, or planned rural residential development (PRRD) agreements pertaining to or affecting the property; and

- (6) ~~If an individual septic system is proposed (i.e., as opposed to connection to either a community drainfield or municipal sewer system)~~ applicable, the applicant shall provide written verification from the Jefferson County department of environmental health that the lots, tracts, parcels or sites, as each would exist after the boundary line adjustment, are adequate to accommodate an on-site sewage disposal system. The location of soil logs must be shown on the drawing to show land area sufficient to meet environmental health requirements for each resultant lot, tract, or parcel that does not contain a dwelling. ~~In cases where the requirement to provide written verification that the resultant lots can accommodate on-site sewage system from the Jefferson County department of environmental health has been waived, the following notice shall be recorded on the drawing:~~

~~Notice to Public: Approval of this Boundary Line Adjustment does not guarantee a buildable site within said parcel(s). Such determination is dependent on approvals of water, septic, bulk and dimensional setbacks, and ESA requirements.~~

This requirement shall be waived for resultant parcels that:

~~(a) Are larger than 2.5 acres; Have existing residential structures; or~~

~~(e-b) Have limited the use of the resultant parcel to agriculture, forestry, or open space through conservation easements, restrictive covenant, or similar legal arrangement. The open space tax program shall not be used to fulfill this requirement;~~

(7) The application shall be accompanied by a current (i.e., within 30 days) title company certification of the following:

(a) The legal description of the total parcels sought to be adjusted;

(b) Those individuals or corporations holding an ownership interest and any security interest (such as deeds of trust or mortgages) or any other encumbrances affecting the title of said parcels. Such individuals or corporations shall sign and approve the final survey prior to final approval;

(c) Any lands to be dedicated shall be confirmed as being owned in fee title by the owner(s) signing the dedication certificate;

(d) Any easements or restrictions affecting the properties to be adjusted with a description of purpose and referenced by the auditor's file number and/or recording number; and

(e) If lands are to be dedicated or conveyed to the county as part of the subdivision, an American Land Title Association (A.L.T.A.) policy may be required by the director of the department of public works.

Section [18.35.080](#) of the Jefferson County Code, last amended by Ord. 14-18 § 4 (Exh. B), is amended to read:

18.35.080 Review process and criteria.

(1) Prior to approval, a proposed boundary line adjustment shall be reviewed by the Jefferson County assessor.

(2) Based on any comments solicited and received from the department of public works, the department of environmental health or other applicable departments and agencies, the administrator shall approve the proposed boundary line adjustment only upon finding that the adjustment would not:

(a) Create any additional lot, tract, parcel, site within a binding site plan or division or relocate any lot, tract, parcel, or site within a binding site plan or division to another parent parcel;

(b) Result in the creation of a lot which is not a buildable lot, unless such lot is restricted by recorded instrument acknowledging the lot is for the purpose of conservation, open space, or other similar purpose;

(b c) Result in a lot, tract, parcel, site within a binding site plan or division that ~~contains~~ increased density or results in insufficient area or dimension to meet water availability and

the minimum requirements for area and dimension as set forth in chapter [8.15](#) JCC and state and local health codes and regulations;

(e d) Diminish or impair drainage, water supply, existing sewage disposal, and access or easement for vehicles or pedestrians, utilities, and fire protection for any lot, tract, parcel, site (i.e., within an approved binding site plan), or division;

(d e) Diminish or impair any public or private utility easement or deprive any parcel of access or utilities;

(e f) Diminish or impair the functions and values of critical areas designated under Chapter [18.22](#) JCC, or create an unsafe or hazardous environmental condition;

(f g) Create unreasonably restrictive or hazardous access to the property;

(g h) Create a nonconforming lot, tract, or parcel or increase the nonconforming aspects of an existing lot, tract or parcel relative to Chapter [18.15](#) JCC;

(h i) Replat or vacate a short plat or long plat, or revise, amend, or violate any of the conditions of approval for any short or long subdivision; or

(I j) Create a lot, tract, or parcel that crosses zoning district boundaries, with the exception an adjustment across rural residential densities.

(3) Following approval by the administrator, a final record of survey document shall be prepared by a licensed land surveyor in accordance with Chapter [58.09](#) RCW and Chapter [332-130](#) WAC. The document shall contain a land surveyor's certificate and a recording certificate. The final page of the record of survey document shall contain the following signature blocks:

(a) The Jefferson County assessor's office, to be signed by the Jefferson County assessor or his/her designee; and

(b) The department of community development, to be signed by the administrator.

(4) Upon approval the following statement of intent shall be recorded by the auditor and referenced by auditor file number on the final survey:

THIS RECORDING IS FOR THE PURPOSE OF ASSISTING WITH A BOUNDARY LINE ADJUSTMENT PURSUANT TO RCW [58.17.040](#)(6). IT DOES NOT CREATE ANY ADDITIONAL LOTS, TRACTS, PARCELS, OR A DIVISION AS THE LAND DESCRIBED HEREON SHALL MERGE OR BE INTEGRATED INTO ABUTTING PROPERTY PRESENTLY OWNED BY THE PROPONENTS. NOR DOES THE BOUNDARY LINE ADJUSTMENT RESULT IN ANY LOTS, TRACTS, PARCELS OR DIVISION WHICH CONTAIN

INSUFFICIENT AREA AND DIMENSION TO MEET MINIMUM COUNTY AND
SANITATION REQUIREMENTS FOR WIDTH AND AREA FOR A BUILDING
SITE.

- (5) Pursuant to RCW [84.56.345](#), current year and any delinquent taxes shall be paid before approval of any boundary line adjustment.
- (6) Applications for boundary line adjustments shall be processed according to the procedures for Type I land use decisions established in Chapter [18.40](#) JCC.

APPENDIX D

A new Article VII shall be added to chapter 18.40 JCC to read:

Article VII. Site Development Review Process

- 18.40.440 Purpose.
- 18.40.450 Applicability.
- 18.40.460 Application requirements.
- 18.40.470 Application review.
- 18.40.480 Approval criteria.
- 18.40.490 Limitations on approval.
- 18.40.500 Modifications to an approved site plan.

18.40.440 Purpose.

The purpose of this article is to provide owners or developers of land a means to obtain an assessment of site requirements for development of a parcel without applying for a development permit. It is intended to work in conjunction with the legal lot of record determination process pursuant to chapter 18.12 JCC. Site development review is an assessment of the physical aspects and constraints of the site for the purpose of development. While it will not vest a property to development regulations, it provides for a professional analysis of the site according to current development regulations. Vesting for development purposes may only occur in the manner outlined in JCC 18.40.320. Site development review is intended to reduce the cost of development and aid in the facilitation of predevelopment financing for applicants.

18.40.450 Applicability.

(1) Any land or owner or their representative who wishes to make application for development may use the site plan review process to determine whether their site is buildable. No development application may vest until the site plan review is completed.

(2) Properties that meet base density per JCC 18.12.050(1)(b)(i) or the provisions of JCC 18.12.070(4) shall be required to submit a site development review permit application prior to submittal of any development permit application in accordance with JCC 18.12.070(5). The site development review process will evaluate the potential siting for development consistent all applicable requirements of the UDC.

(3) Site development review is not required for the following:

- (a) mechanical, plumbing replacement, hot water, propane, re-roofing, and window replacement permits;
- (b) permits for cell tower alteration and modification; and
- (c) interior remodels that do not increase the building's footprint or include land

disturbing activity, or are not substantial improvements pursuant to chapter 15.15 JCC.

(6) Any repair requiring an emergency permit under Title 15, Title 18, or Title 8 JCC in circumstances that qualify as an emergency constituting an immediate public health and safety hazard, in the opinion of the director, does not require site development review prior to executing the repair to alleviate the hazard. The director at their discretion may require the applicant to apply for site development review after the fact.

18.40.460 Application requirements.

(1) Each application for site development review shall include:

- (a) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the affected property, and proof of ownership of the property;
- (b) Identification of a single contact person or entity to receive determinations and notices required by this code;
- (c) A legal description of the site, including the Jefferson County assessor's parcel number;
- (d) The Legal Lot of Record determination issued per Chapter 18.12 JCC.
- (e) Payment of the applicable fee as set forth in the Jefferson County fee ordinance;
- (f) A written description of the specific proposed use of the property for which the application is being submitted.

(2) Any commercial, industrial, small-scale recreational and tourist use, or multifamily residential use listed as a "Yes" use in Table 3-1 in JCC [18.15.040](#), or classified as such by the administrator, that seeks site development review under this article may require additional information subject to the specific submittal requirements of JCC 18.40.100(1-4), where determined by the administrator to be necessary for the site development review application.

(3) For the purposes of meeting the requirements of this article, the application requirements of JCC 18.40.100(1)(g) shall be interpreted to require the submittal of a water availability statement and of soil logs and other applicable information pursuant to Chapter [246-272A](#) WAC and the Jefferson County Code necessary to determine compliance with the Jefferson County department of public health department regulations regarding on-site septic disposal.

(4) The administrator may waive specific submittal requirements determined to be unnecessary for site development review.

18.40.470 Application review.

Review of applications for site development review shall be as follows:

(1) Review Procedures. When the administrator determines that an application is technically complete, as defined in JCC 18.40.110, the application shall be processed as a Type I permit under procedures specified in Article IV of this chapter.

(2) Referral and Review of Application. The administrator shall transmit a copy of the application, or appropriate parts of the application, to affected agencies and county departments for review and comment.

18.40.480 Approval criteria.

(1) Site development review permits shall be approved upon showing that all of the following have been satisfied:

(a) The proposed development conforms to all applicable county, state and federal, land use, environmental and health regulations and plans, including, but not limited to the following:

(i) The Jefferson County Comprehensive Plan; and

(ii) The provisions of the Unified Development Code, including any incorporated standards.

(2) Adequate provisions for utilities and other public services necessary to serve the needs of the proposed site plan have been demonstrated, including open spaces, drainage ways, roads, and other public ways, drinking water, sewage disposal, fire flow and other improvements;

(3) The site contains one or more development envelopes large enough to accommodate the use proposed;

(4) The probable significant adverse environmental impacts of the proposed development, together with any practical means of mitigating adverse impacts, have been considered such that the proposal will not have an unacceptable adverse effect upon the quality of the environment, in accordance with the State Environmental Policy Act (SEPA) implementing provisions contained within this chapter and Chapter 43.21C RCW;

(5) The proposed development will serve the public use and interest and adequate provision has been made for the public health, safety and general welfare.

18.40.490 Limitations on approval.

(1) An approved site development review shall not constitute vesting of development regulations or specific site features or improvements (e.g., wells, septic systems, stormwater drainage facilities, etc.). Any site with an approved site development review shall not be immune from changes in county, state, or federal laws which are enacted or have an effective date after the date of approval affecting the performance and implementation of the associated use or development.

(2) Any land division or boundary line adjustment of a parcel or lot which has received site development review approval under this article shall void such approval and require a new site development review permit application.

(3) Approval under this section does not constitute authority to commence any development or building activity until such time as final authorizing permits are issued. Approval of a site development review permit application does not vest the proposed use or development. The approval certifies the suitability of a site for the proposed use or development at the time of application processing only.

18.40.500 Modifications to an approved site plan.

(1) Minor modifications to a previously approved site development review under this article may be requested by the applicant and approved by the administrator subject to the provisions for Type I decisions; provided, that the modification does not involve any of the following:

- (a) A change of proposed land use to one other than that approved for the original site plan;
- (b) The location or relocation of a road or street (excluding driveways, internal parking or accessways);
- (c) An adjustment that crosses land use district boundaries where the administrator reasonably believes that the adjustment is intended to serve as a rationale for a future site- specific land use district redesignation application;
- (d) The creation of an additional lot, tract or parcel;
- (e) Would create a site plan for a parcel that does not qualify as a building site pursuant to this code;
- (f) Would make the site plan inconsistent with any restrictions or conditions of approval for a recorded short plat, long plat, boundary line adjustment, plat amendment or binding site plan.

(2) Before approving such an amendment, the administrator shall make written findings and conclusions documenting the following conditions:

- (a) The modification will not be inconsistent with the previously approved site development review; and
- (b) The modification will not cause the site development review to violate any applicable county policy or regulation.

(3) Modifications that involve the circumstances described in subsection (1) of this section, or exceed the criteria set forth in subsection (2) of this section, shall be processed as a new site development review application.

OTHER CHANGES TO CHAPTER 18.40 JCC

JCC 18.40.040, last amended by Ordinance 05-0613-22 on June 13, 2022, is amended to read:

18.40.040 Project permit application framework.

Table 8-1. Permits – Decisions

Type I'	Type II	Type III	Type IV	Type V
Septic permits	Classification of unnamed and discretionary uses under Article II of Chapter 18.15 JCC	Reasonable economic use variances under JCC 18.22.250	Final plats under Chapter 18.35 JCC	Special use permits, such as for siting essential public facilities under JCC 18.15.110
Allowed uses not requiring notice of application (e.g., “Yes” uses listed in Table 3-1 in JCC 18.15.040 , building permits, etc.)	Release of six-year FPA moratorium for an individual single-family residence under JCC 18.20.160	PRRDs under Article VI-M of Chapter 18.15 JCC and major amendments to PRRDs under JCC 18.15.545 (3)	Final PRRDs under Article VI-M of Chapter 18.15 JCC	Jefferson County Comprehensive Plan amendments under Chapter 18.45 JCC
Minor amendments to planned rural residential developments (PRRDs) under JCC 18.15.545	Cottage industries under JCC 18.20.170 Temporary housing facilities under JCC 18.20.385	Shoreline substantial development permits, conditional use permits, and variance permits under the Jefferson County shoreline master program (SMP)		Amendments to development regulations
Home businesses approved under JCC 18.20.200	Short subdivisions under Article III of Chapter 18.35 JCC	Plat alterations and vacations under JCC 18.35.030 (3)		Amendments to the Jefferson County SMP
Temporary outdoor use permits under JCC 18.20.380	Binding site plans under Article V of Chapter 18.35 JCC	Long subdivisions under Article IV of Chapter 18.35 JCC		Subarea and utility plans and amendments thereto
Stormwater management permits under JCC 18.30.070	Administrative conditional use permits under JCC 18.40.520 (1) and listed in Table 3-1 in JCC 18.15.040 as “C(a)”	Discretionary conditional use permits under JCC 18.40.520 (2) [i.e., listed in Table 3-1 in JCC 18.15.040 as “C(d)”] where required by administrator		Development agreements and amendments thereto under Article XI of this chapter
Road access permits under JCC 18.30.080	Discretionary conditional use permits under JCC 18.40.520 (2) listed in Table 3-1 in JCC 18.15.040 as “C(d)” unless Type III process required by administrator	Conditional use permits under JCC 18.40.520 (3) [i.e., uses listed in Table 3-1 in JCC 18.15.040 as “C”]		Master plans for master planned resorts
Sign permits under JCC 18.30.150	Minor variances under JCC 18.40.640 (2)	Major variances under JCC 18.40.640 (3)		Amendments to the Unified Development Code
Boundary line	Administrative conditional	Wireless		

Table 8-1. Permits – Decisions

Type I ¹	Type II	Type III	Type IV	Type V
adjustments under Article II of Chapter 18.35 JCC	use permits, under Jefferson County SMP, JCC 18.25.620 (3) listed in JCC 18.25.220 , Table 18.25.220 as “C(a)” Discretionary conditional use permits under Jefferson County SMP, JCC 18.25.620 (4) listed in JCC 18.25.220 , Table 18.25.220 as “C(d),” unless Type III process required by administrator	telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC		
Minor adjustments to approved preliminary short plats under JCC 18.35.150	Wireless telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC	Major industrial development conditional use approval under Article VIII of Chapter 18.15 JCC		
Minor amendments to approved preliminary long plats under JCC 18.35.340	Small-scale recreation and tourist (SRT) uses in SRT overlay district under JCC 18.15.572 .	Forest practices release of a moratorium under Chapter 18.20 JCC		
Site plan approval advance determinations development review under Article VII of this chapter and boundary line agreements under Article VIII of Chapter 18.35 JCC	Plat alterations under JCC 18.35.670 .			
Exemptions under the Jefferson County SMP				
Revisions to permits issued under the Jefferson County SMP				
<u>Legal lot of record determinations pursuant to chapter 18.12 JCC</u>	Reasonable economic use exception pursuant to JCC 18.12.080 Innocent purchasers for value determinations pursuant to JCC 18.12.100			

¹ If not categorically exempt pursuant to SEPA, Type I projects shall be subject to the notice requirements of JCC [18.40.150](#) through [18.40.220](#) and Article X of this chapter (the SEPA integration section).

Table 8-2. Action Types – Process

	Project Permit Application Procedures (Types I – IV)				Legislative
	Type I	Type II	Type III	Type IV	Type V
	Project planner	Project planner	Project planner	N/A	Planning commission ¹

Recommendation made by:

Table 8-2. Action Types – Process

	Project Permit Application Procedures (Types I – IV)				Legislative
	Type I	Type II	Type III	Type IV	Type V
Final decision made by:	Administrator	Administrator	Hearing examiner	Board of county commissioners	Board of county commissioners
Notice of application:	No	Yes	Yes	No	N/A
Open record public hearing:	No	Only if administrator's decision is appealed, open record hearing before hearing examiner	Yes, before hearing examiner, prior to permit decision by the hearing examiner	No	Yes, before planning commission to make recommendation to board of county commissioners ¹
Closed record appeal/final decision:	No	No	No	N/A	Yes, or board of county commissioners could hold its own hearing
Judicial appeal:	Yes	Yes	Yes	Yes	Yes ²

¹Type V land use actions are subject to review and recommendation by the planning commission, except for utility plans, ordinances or regulations that address procedural issues related to land use planning, interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law.

²Pursuant to RCW [36.70A.250](#) and [36.70A.280](#), the Western Washington Growth Management Hearings Board (WWGMHB) is authorized to hear and determine petitions alleging that the county is not in compliance with the requirements of Chapter [36.70A](#) RCW, Chapter [90.58](#) RCW as it relates to the adoption of the Shoreline Master Program, or Chapter [43.21C](#) RCW as it relates to plans, development regulations, or amendments, adopted under RCW [36.70A.040](#) or Chapter [90.58](#) RCW. Direct judicial review may also be obtained pursuant to RCW [36.70A.295](#).

If not categorically exempt pursuant to SEPA, Type I projects shall be subject to the notice requirements of JCC [18.40.150](#) through [18.40.220](#) and Article X of this chapter (the SEPA integration section).

SUMMARY OF DECISION-MAKING

- Type I: In most cases, administrative without notice. However, if a Type I permit is not categorically exempt under SEPA, then, administrative with notice.
- Type II: Administrative with notice. Final decision by administrator unless appealed. If appealed, open record hearing and final decision by hearing examiner.
- Type III: Notice and open record public hearing before the hearing examiner. Final decision by hearing examiner. Appeal to superior court.
- Type IV: Closed record decision by board of commissioners during a regular public meeting. Type IV decisions are purely ministerial in nature (see Article IV of Chapter [18.35](#) JCC).
- Type V: Notice and public hearing before planning commission, with planning commission recommendation to board of county commissioners, except for utility plans, ordinances or regulations that address procedural issues related to land use planning, interim or emergency ordinances, moratorium ordinances, or remand actions from state administrative boards or courts of law. Notice and public hearing before board of county commissioners with final legislative action by the board of county commissioners (see Chapter [18.45](#) JCC).

JCC 18.40.320, last amended by Ordinance 12-1028-19 on October 28, 2019, is amended to read:

18.40.320 Vesting of applications.

(1) Purpose. The purpose of this section is to provide for vesting of land use applications and permits under this title, consistent with state law. A complete application, under JCC [18.40.110](#), is vested pursuant to this section to the regulations applicable to the application until the permit is issued or the application is abandoned, expired, withdrawn, or denied.

(2) Applicability.

(a) This section applies to complete land use applications under this title, complete applications for building permits (RCW [19.27.095](#)(1)), complete applications for the proposed division of land (RCW [58.17.033](#)(1)), complete applications for development agreements (RCW [36.70B.180](#)), and any other complete applications for a project type determined to be subject to the vested rights doctrine by the Washington legislature or in a published decision after 1987 by a Washington Court of Appeals or the Washington Supreme Court.

(b) This section does not vest applications to development regulations required by federal or state law that are subject to final approval by a federal or state agency, including but not limited to applications for permits under the Shoreline Master Program, Chapter [18.25](#) JCC, or Flood Damage Prevention, Chapter [15.15](#) JCC.

(c) This section does not apply to issued permits or approvals.

(d) This section does not apply to legal lot of record determinations pursuant to chapter 18.12 JCC or to site plan development review pursuant to Article VII of this chapter (JCC 18.40.41440 et seq.)

(3) Vesting of Applications.

(a) A complete application under JCC [18.40.110](#) shall vest consistent with applicability of this section and state law.

(b) A complete application subject to vesting pursuant to this section shall be subject to all development regulations in effect on the vesting date.

(c) A complete application is vested for the specific use, density, and physical development that is identified in the application submittal, consistent with state law.

(d) The applicant is responsible for monitoring the time limitations and review deadlines for the application. The county shall not be responsible for maintaining a valid application. If the application expires, a new application may be filed with the department, but shall be subject to the development regulations in effect on the date of the new application is complete.

(e) Substantial revisions to applications which increase the specific uses, density, or physical development are subject to vesting at the time of the major or substantial revision. Substantial revisions shall be considered a new application consistent with JCC [18.40.110](#)(7).

(4) Waiver of Vesting. An applicant may voluntarily waive vested rights at any time during the processing of an application by delivering a written and signed waiver to the administrator stating that the applicant agrees to comply with all development regulations in effect on the date of delivery of the waiver and any subsequent modifications to development regulations until permit issuance or approval.