

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Mark McCauley, County Administrator

FROM: Brent Alfred Butler, AICP, Director, Community Development
Phil Cecere, Plans Examiner II, Community Development

DATE: May 8, 2023

SUBJECT: 3-year Adoption Cycle
2021 Building Codes to replace 2018 Building Codes

STATEMENT OF ISSUE:

On July 1, 2023, Jefferson County and all other 38 Washington counties are required to enforce building code updates as adopted by the Washington State Building Code Council (Council) pursuant to provisions in the State Building Code Act (see, Revised Code of Washington (RCW) 19.27.050). Through adoption by reference of additions, deletions and exceptions, Jefferson County amends the Jefferson County Code (JCC) every three-years. Currently, Jefferson County enforces the 2018 family of building codes despite language in the JCC 15.05.030 referring to the 2009 Edition of the International Codes. Adoption by reference occurred in 2009, 2012, 2015, and 2018. Jefferson County is now poised to adopt the 2021 family of codes July 1st.

Unless an extraordinary event interrupts the three-year cycle, the Council adopts new or updated building codes, with the assistance of Technical Advisory Groups (TAGs). In the most recent departure from this three-year cycle, Governor Inslee adopted [proclamation 20-40](#) prohibiting the implementation of those orders enacted by the Council adopting amendments to the State Building Code with an effective date of July 1, 2020, until November 1, 2020 due to COVID-19, an extraordinary event. Had there been no pandemic, counties would have adopted these codes by reference or by law on July 1, 2020.

The Washington State Building Code is comprised of several different codes as identified in the Washington Administrative Code (WAC) Title 51, specifically the Council's adopted International Codes and the plumbing code as adopted by the International Association of Plumbing and Mechanical Officials. Most, such as the International and Uniform codes, are national model codes adopted by reference and amended at the state level. Others, such as the Washington State Energy Code, are state-written state-specific codes. In the event that a county does not have a building department or equivalent responsible department or division, they are required to contract with another county, city or inspection agency for this purpose.

BACKGROUND:

Collectively, the International and Uniform Codes adopted by the Council are enforced by the Building Division. The applicable regulations are based on the occupancy classification, which is the formal designation of the primary purpose of the building, structure or portion thereof. A brief description of the Council adopted codes follows. Please be aware that in the event of a conflict in the first six bulleted topics below, the earlier referenced code is controlling.

In Jefferson County, the Building Division enforces codes, as follows:

- International Building Code
 - International Existing Building Code
- International Residential Code
- International Mechanical Code
 - National Fire Protection Association 58 – Liquefied Petroleum Gas Code
 - National Fire Protection Association 54 – National Fuel Gas Code
 - International Fuel and Gas Code
- International Fire Code
- International Wildland-Urban Interface Code
- Uniform Plumbing Code (UPC) and UPC Standards
- Accessibility for individuals with Disabilities or elderly persons per RCW 70.92.100 and 160
- Washington State Energy Code pursuant to the Council's evaluation and adoption
 - International Energy Conservation Code for Residential Structures
 - International Energy Conservation Code for Commercial Structures

A more expansive explanation of each section follows:

- International Building Code
 - Codified in Chapter 51-50 WAC applies to all occupancies, including one- and two-family dwellings and townhouses that are not within the scope of the International Residential Code (IRC). Its purposes are outlined in RCW 19.27.020. A component of this chapter includes the International Existing Building Code (IEBC). The IEBC is intended to provide requirements for repair and alternative approaches for alterations and additions to existing buildings. According to the 2018 version, "a large number of existing buildings and structures do not comply with the current building code requirements for new construction. Although many of these buildings are potentially salvageable, rehabilitation is often cost-prohibitive because compliance with all the requirements for new construction could require extensive changes that go well beyond the value of the building or the original scope of the alteration." This ensures that at a minimum, rehabilitated structures are maintained to their current level of compliance or are improved as required to meet basic safety levels.
- International Residential Code
 - Codified in Chapter 51.51 WAC, these regulatory provisions serve as a complete, comprehensive code regulating the construction of single-family houses, two-family

houses (duplexes) and buildings such as townhouses not more than three stories above grade.

- International Mechanical Code (IMC)
 - Codified as Chapter 51-52 WAC, the IMC regulates the design and installation of mechanical systems, appliances, appliance venting, duct and ventilation systems, combustion air provisions, hydronic systems and solar systems.
- International Fire Code (IFC)
 - Codified as Chapter 51-54A WAC, the IFC addresses fire prevention, fire protection, life safety and safe storage and use of hazardous materials in new and existing buildings, facilities and processes. The IFC provides a total approach of controlling hazards in all buildings and sites, regardless of the hazard being indoors or outdoors.
- International Wildland-Urban Interface Code
 - Codified as Chapter WAC 51-54A-8200, this code shall supplement the jurisdiction's building and fire codes, to provide for special regulations to mitigate the fire- and life-safety hazards of the wildland-urban interface areas.
- Uniform Plumbing Code.
 - Codified as Chapter 51-56 WAC, the UPC was developed by the International Association of Plumbing and Mechanical Officials (IAPMO) to govern the installation and inspection of plumbing systems.
- Accessibility for individuals with disabilities or elderly persons per RCW 70.92.100 and 160
 - Plans and specifications shall make special provisions for elderly (*Age Friendly communities prefers the term older adults and person-centered terms*) or persons with physical disabilities. Any jurisdiction may waive compliance if it determines that compliance with the particular standard is impractical. Other special provisions apply (see RCW 70.92.160)
- The Washington State Energy Code is adopted as either as amendments of, or variations of the following codes.
 - International Energy Conservation Code for Residential Structures is codified in Chapter 51-11R WAC. This code shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective.
 - International Energy Conservation Code for Commercial structures is codified in Chapter 51-11C WAC. Commercial in the context of this code refers to anything that is not “detached one- and two-family dwellings and multiple single-family dwellings (townhouses) as well as Group R-2 and R-3 buildings three stories or less in height above grade plane.”

ANALYSIS:

This 3-year building code update includes several recently litigated codes including the Wildland Urban Interface Code which the Homebuilders Association of Washington has challenged. Several topics for the Board to consider during this update include: 1) transparency and ease of use for community members, 2) issues such as the Public Duty Doctrine that may arise by delaying implementation or enforcement, 3) optional codes, and 4) explanation of the new code provisions or sections. Amendments could include, among others, the adoption of the following:

Transparency and Ease of Use

- 1) Adoption by reference is permissible by state law pursuant to RCW 35A.12.140. Nonetheless, the language currently codified in the Jefferson County Code (JCC) references the 2009 Edition of the International Codes with additions, deletions, and exceptions noted in the WAC. This general language is confusing; for some, it appears that Jefferson County still enforces the 2009 codes, which sunset more than three cycles ago, as 2012, 2015, and 2018 were implemented between then and now. Consequently, DCD recommends eliminating reference to the 2009 version of JCC 15.05.030, as set forth below. To clarify which section prevails upon conflict, DCD also recommends reordering the sections to reflect supremacy, as illustrated in the background section of this agenda request (*Strike-through for words to be eliminated, and underline for new text*)

15.05.030 Adoption of national and state codes by reference.

The following codes, regulations, and statutes are hereby adopted by reference in their current form, or as hereafter may be amended, subject to the modifications and/or amendments set forth herein below:

- (1) Chapter 51-50 WAC – International Building Code. ~~The 2009 Edition of the International Building Code~~ as published by the International Conference of Building Officials is hereby adopted by reference with the additions, deletions, and exceptions noted in the Washington Administrative Code;
- (2) Chapter 51-52 WAC – International Mechanical Code. ~~The 2009 Edition of the International Mechanical Code~~ as published by the International Conference of Building Officials is hereby adopted by reference with the exceptions noted in the Washington Administrative Code;
- (3) Chapter 51-54 WAC – International Fire Code. ~~The 2009 Edition of the International Fire Code as published by the International Fire Code Institute~~ is hereby adopted by reference with the additions, deletions, and exceptions noted in the Washington Administrative Code;
- (4) Chapter 51-56 WAC – Uniform Plumbing Code and Uniform Plumbing Code Standards. ~~The 2009 Edition of the Uniform Plumbing Code~~, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference with the additions, deletions, and exceptions noted in the Washington Administrative Code;
- (5) Chapter 51-51 WAC – International Residential Code. ~~The 2009 Edition of the International Residential Code~~ as published by the International Code Council is hereby adopted by reference with the exceptions noted in the Washington Administrative Code; provided, that Appendices R and S are not adopted;
- (6) Chapter 51-11 WAC – Washington State Energy Code and Amendments. The Washington State Energy Code and Amendments, adopted by the Washington State Building Code

Council, are hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code.

Public Duty Doctrine Issues that Arise by Delaying Enforcement

- 2) Several counties are considering delaying enforcement of the Wildland Urban Interface (WUI) Code. As part of today's workshop, DCD will review the new provisions. At the same time, the State of Washington's Office of the Attorney General is defending a challenge to the July 1st enforcement of specific code provisions eliminating natural gas and propane choice, and also requiring heat pumps as part of the Council's amendments (see <https://www.biaaw.com/costly-new-codes/>)

Arguments for a delay reference increased cost to builders, homeowners, and others. According to the Building Industry Association of Washington (BIAW), "Members reported the heat pump mandate would increase the cost of a newly constructed home by a minimum of \$9,200, assuming builders take the lowest cost path to WSEC-R compliance and receive the tax rebate from the Inflation Reduction Act." This raises another question; for example, the City of Seattle is delaying implementation of the State Building Code to accommodate their own version, known as the Seattle Building Code, which will be effective no sooner than October 2, 2023, more than three months after the July 1, 2023 effective date of the new codes.

Argument against delaying enforcement originates in the Public Duty Doctrine. According to the Washington Law Review, "the public duty doctrine states that in order for a person to recover tort damages from a governmental entity, the individual must prove that the governmental entity breached a duty owed to him or her particularly, and not just a breach of a duty owed to the public." Recent legal analysis by the Municipal Research Service Center suggest that this doctrine only applies in cases involving breaches of special government obligations imposed by statute or ordinance. (see, <https://mrsc.org/stay-informed/mrsc-insight/march-2023/understanding-the-public-duty-doctrine>)

Optional Codes

Jurisdictions with significantly greater resources regularly amend their building codes in ways that do not diminish standards or objectives by inserting optional codes.

- 3) Pursuant to RCW 19.27.040, Jefferson County is similarly authorized to amend the State Building Code as it applies within the unincorporated areas provided that the county adheres to the minimum performance standards of the codes and the objectives enumerated in RCW 19.27.020. Several areas where amendments should be considered include the following:

A) International Property Maintenance Code (IPMC)

Optionally adopted by local jurisdictions and codified as WAC 51-11R-50100, the IPMC governs all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators and

occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

B) Sprinklers – enactment of new provisions

- a. City of Port Angeles requires automatic in all buildings where the floor area exceeds 6,250 square feet on all floors; whereas,
- b. Clallam County requires sprinklers in commercial buildings.
Jefferson County has the option of requiring sprinklers based on square footage or location. Comments received suggest that might be wise to require sprinklers on the West End in new places of assembly such as schools. However, this would be costly and perhaps only recommended for those areas where fire response is subpar or uneven. As this agenda request is being published, DCD has reached out for comment to the President of the East Jefferson County Fire Chiefs Association, Chief Manly; the Clallam County Fire Marshal, George Bailey; and Fire District #7, Chief Dave Atkinson and others local fire district bordering Jefferson County.

C) 1997 Abatement of Dangerous Buildings.

Published by the International Conference of Building Officials, this code is for the repair, vacation, or demolition of any buildings or structures which from any cause endangers the health, property, safety or welfare of the general public or their occupants

D) Uniform Sign Code (USC).

Jefferson County regulates signs through Jefferson County Code 18.30.150 Signs, but could alternatively adopt the current edition of the Uniform Building Code as published by the International Conference of Building Officials.

Explanation of the new code provisions, sections or ratings

Jefferson County hasn't sufficient resources, competency, or budget to review, and publicly amend the State Building Code. County staff, however, have reviewed the 2021 amendments through attendance at the Washington Association of State Building Officials (WABO) annual training offered March each year. Summarized and explained in the next pages are changes to the county's ratings and the family of building codes moving forward to enactment July 1, 2023.

Significant Change 1 - Building Division Rating

For the first time since 2005, the rating agency improved the score of the Jefferson County Building Division. When coupled with the protection classification rating, this may translate into lower property and casualty insurance premiums for some county residents. See Table 1 below.

Washington Surveying and Rating Bureau (WSRB) rates the competency of building divisions across the state through its Building Code Effectiveness Grading Schedule (BCEGS). Another common metric is protection classification (PC). DCD impacts the protection class through its responsibility in convening the Water Utility Coordinating Committee (WUCC), which maintains the Jefferson County Coordinated Water System Plan (CWSP). A WSRB Protection Class is a score from 1 to 10 that represents the community-provided fire protection capabilities at a specific property. A PC of 10 indicates that the fire protection capabilities, if any, are not sufficient to receive credit for insurance. A PC of 1 indicates exemplary fire protection capabilities. BCEGS along with a community's protection class identify a community's overall preparation to administer building related reviews and

inspections and to address fire safety. The WSRB looks at the community's fire departments and/or fire districts, water supply, emergency communications system, and fire safety control in calculating the community's protection class.

TABLE 1: BUILDING CODE EFFECTIVENESS GRADING SCHEDULE (BECEGS)	
Jefferson County Review Year	Rating
2000 to 2005	03
2006 to 2016	02
2017 to 2021	04
2022	03
Each community's score is converted to a 1-to-10 classification with 1 the best overall rating, and 10 the worst. The score is based on the administration of building codes, plans review, and inspection services.	

As an independent, not-for-profit, public service organization serving Washington state, WSRB uses industry standards as performance metrics. These standards include, among others, building division training budget, professional certifications achieved by staff, and plan examiner/inspector experience.

Training & Budget - To ensure that Jefferson County's building team continually meets these industry standards, the DCD Director working with the County Administrator increased the Building Division training budget to 2% of the division's overall budget. The Insurance Service Office (ISO), a larger ratings agency, recommends allocating 2% of the division's budget on training annually as the minimum necessary to ensure adequate competency in the administration of building codes. Additionally, the ratings agency identifies that it is a 'best practice' to provide building code training for elected officials which this workshop embraces.

Experience & Competency - Recognizing the need to demonstrate that the county's building inspectors and plan reviewers have significant experience, DCD revised the listed inspectors and plan reviewers to ensure it is a comprehensive list. Now, all of those who reviewed plans and conducted inspections during 2022. By doing this, DCD includes the experience of its consultants, namely Code Pros and Aumock Designworks led by retired Assistant Fire Chief, Tom Amuck; collectively they support DCD's enforcement and review function and have more than 50 years of plan review and inspection background.

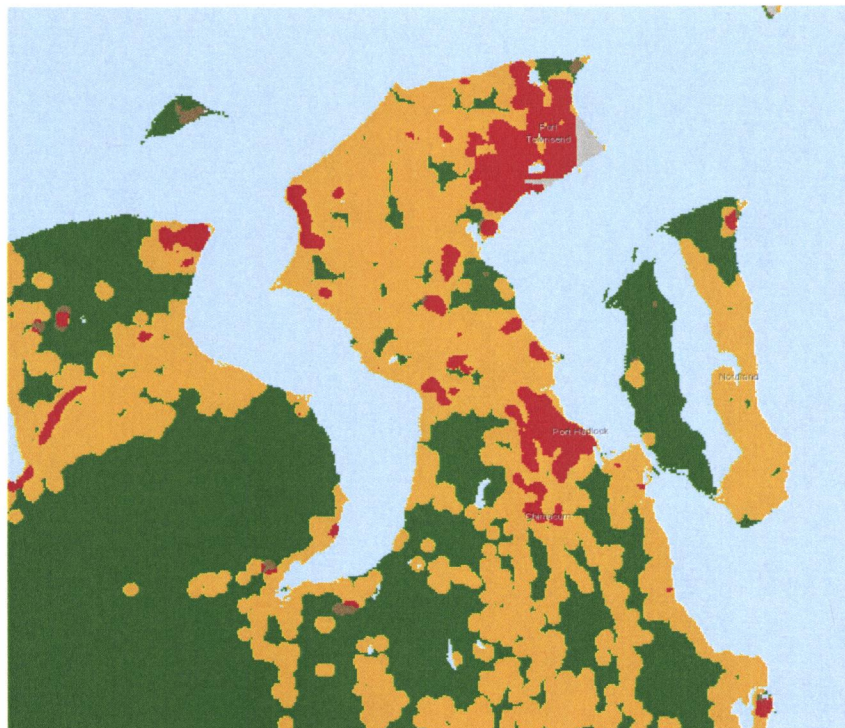
Certifications & Testing— A building division's competency is partly based on the number of certifications possessed by department staff. Staff obtain a certification upon passing a standardized test on the subject matter. There are 37 certifications available through the ICC, and additional certifications through International Association of Plumbing and Mechanical Officials. Jefferson County's Building Division, excluding consultants, has a total of 18 certifications, with one member possessing 16.

Significant Change 2 – Wildland Urban Interface

Engrossed Substitute Senate Bill 6109, the International Wildland Urban Interface Code, sponsored by Representative Van De Wege, among others, became effective June 7, 2018. In the current three-year building code cycle as amended by the Governor, July 1, 2020 to July 1, 2023, the Council adopted the state's first Wildland Urban Interface Code whose official implementation has been triggered by the Department of Natural Resources (DNR) February 2022 wildland map adoption. These maps delineate fire risk associated with wildland fires, which refers to any non-structure fire that occurs in vegetation or natural fuels and includes wildfires and prescribed fires according to the 2009 Guidance for Implementation Federal Wildland Fire Management Policy.

In the period since the maps were available, DCD has yet to receive the accompanying booklet or online information to aide in its implementation and enforcement. With this anticipated to change soon, DCD anticipates that this workshop will explain provisions, and areas of concern. Wildland Urban Interface (WUI) maps identify risk using seven color coded features, including 1) LIGHT GREEN = Long -term Non-Buildable Areas, 2) RED = WUI (Interface), 3) ORANGE = WUI – (Intermix); 4) GREY = Non-Vegetated Inhabited; 5) BROWN = Non-Vegetated Uninhabited, 6) DARK GREEN = Vegetated Uninhabited, 7) BLUE = Water. Jefferson County similar to other Washington counties, must start enforcement of the WUI Code, which identifies new measures to protect structures in the event of a wildland fire this summer, and this workshop provides a framework to inform our community.

MAP 1 - WILDLAND URBAN INTERFACE



Findings of FACT - As a first step, county staff must make a findings of fact determination, which looks specifically at five core questions.

- 1) Is the structure density category uninhabited, very low, low, medium, or high?
- 2) Is the area around the home vegetated greater or less than 50%?

- 3) Is the nearest high density vegetated zone less than or greater than one and a half miles away?
- 4) Using the findings above, 1 thru 3, does the WUI apply?
- 5) If you determine it applies, the site shall newly be identified as either an Intermix or Interface zone, requiring fire resistant construction.

What is fire resistance construction - Heavy timber may be required for posts, beams, and joists; this is one of the anticipated changes within the Intermix or Interface zones. Additionally, East Jefferson Fire Rescue Chief Bret Black shared the State of California's product handbook that identifies how one may use WUI listed products to build firesafe structures. (See, [2022 WUI Listed Products Handbook \(ca.gov\)](#)). At this point, we are uncertain as to whether these listed products will receive Washington state approval.

Water Supply & Access - An accompanying analysis will look at access and water supply as set forth in WUI Chapter 4. This code section requires a more extensive understanding and potentially update of the Coordinated Water System,

<http://weblink.cityofpt.us/WebLink/0/edoc/202765/1997.06.00%20%20Jefferson%20County%20Coordinated%20Water%20System%20Plan.pdf>

Prior to completing this report, DCD learned that the Department of Ecology is conducting a search to replace their team member responsible for reviewing Jefferson County's water plan and is unable to provide substantive comments about amendments necessary to accommodate the provisions in Chapter 4 of the WUI code.

FISCAL IMPACT/COST-BENEFIT ANALYSIS:

DCD recognizes that these proposed code amendments will impact staff capacity as set forth below.

Table 2: Cost Impact of Different Approaches	Cost
Proposal 1 – Implement transparency and ease	Limited cost (public hearing and 10 hours of staff time)
Proposal 2 – Delaying Enforcement	Liability exposure otherwise revenue neutral
Proposal 3 – Optional Codes	Research (20 hours) and Implementation costs depends upon selected optional codes

RECOMMENDATION:

After considering the workshop discussion, DCD recommends authorizing proposal 1 to facilitate transparency thereby improving the public's understanding of which codes are currently enforced.

REVIEWED BY:

 5/4/23
 Mark McCauley, County Administrator Date