

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST

TO: Board of County Commissioners

FROM: Josh D. Peters, AICP, Community Development Director
Greg Ballard, Development Code Administrator
Mo-chi Lindblad, Principal Planner
Erin Martin, Permit Center Coordinator

DATE: December 16, 2024

SUBJECT: PUBLIC HEARING and POTENTIAL ACTION: Ordinance Adoption to enact Amendments to Jefferson County Code Chapter 18.40 Permit Application and Review Procedures; and
POTENTIAL ACTION: Resolution Adoption for Compliance with Senate Bill 5290

STATEMENT OF ISSUE:

On November 12, 2024 the Board of County Commissioners (Board) held a workshop with the Department of Community Development (DCD) on compliance with Senate Bill (SB) 5290, concerning consolidating local permit review processes, which was signed into law with the 2023 legislative session. SB 5290 modifies parts of RCW 36.70B Local Project Review, with new permit time period requirements going into effect on January 1, 2025. In that workshop, the Board approved a notice of public hearing for December 16, 2024, 11:00 AM. Notice was published in the December 4 and 11 editions of *The Leader* newspaper. Directly after the hearing, the Board may deliberate and take action on a proposed Ordinance that amends Chapter 18.40 of the Unified Development Code (UDC, Title 18 of the Jefferson County Code)—the part of the code that addresses Permit Application and Review Procedures/SEPA Implementation—and on a proposed Resolution that addresses aspects of SB 5290 related to permit timelines and fees.

Attached to this agenda request are the following:

- Proposed adopting ordinance with attached code amendments to Chapter 18.40 JCC in line-in/line-out format
- Alternative version of proposed changes to 18.40.430 (p. 36 of Ordinance Attachment A) representing a modified DCD recommendation based on input from Environmental Public Health (EPH)
- Proposed Resolution for Compliance with Senate Bill 5290, entitled, “**A RESOLUTION RELATING TO IMPLEMENTATION OF 2SSB 5290, ADOPTING OPTIONS WITHIN RCW 36.70B.160(1)(a) THROUGH (j) TO AVOID THE PENALTY OF PERMIT FEE REFUNDS IF THE REQUIRED TIME FRAMES ARE MISSED**”

ANALYSIS:

The county’s response to SB 5290 entails code changes, a Board Resolution addressing compliance, and adjustments to permit review processes and tracking. Following is information posted on the Washington State Department of Commerce webpage (linked below):

Local jurisdictions are responsible for implementing several new requirements.

- **RCW 36.70B.070**
 - Clarify determination of completeness procedural requirements.
 - The determination must be based on the procedural requirements as outlined on the project permit application.
- **RCW 36.70B.080**
 - Apply new default timelines for processing permits, effective January 1, 2025.
 - 65 days if no notice is required for the permit type
 - 100 days if public notice is required for the permit type
 - 170 days if public notice and hearings are required for the permit type
 - Refund application review fees up to 20% if new time periods are not met, unless additional measures have been adopted.
 - Report annual permit review data, including data on compliance with the new permit time periods – only for counties and cities subject to the requirements of the Review and Evaluation Program, **RCW 36.70A.215** (often referred to the Buildable Lands Program) and cities greater than 20,000 population within those counties.
- **RCW 36.70B.160**
 - Adopt some of 10 listed measures to expedite permit review by the next comprehensive plan update, under certain circumstances.
 - Adopt additional measures to expedite permit review if the local government had adopted at least three project review and code measures more than five years earlier, and the local government is not meeting the permit deadlines at least 50% of the time since its most recent comprehensive plan update.

More information:

- www.commerce.wa.gov/growth-management/gma-topics/local-project-review/
- app.leg.wa.gov/billsummary?BillNumber=5290&Initiative=false&Year=2023

Additionally, the measures that DCD is taking to achieve compliance with SB 5290 are consistent with Resolution 17-19 that the Board adopted in 2019, “Establishing a Joint Program of Regulatory Reform,” and with Comprehensive Plan policies related to permit processing efficiency, such as LU-P-14.1, 14.2, and 14.3, and ED-P-8.1 and 8.2.

Finally, DCD recommends a relatively minor change from the proposed ordinance posted with the hearing notice. See the attached alternate p. 36 of Attachment A to the adopting ordinance. The intention of the language initially proposed was to describe typical scenarios for certain types of developed property in which a “Limited SDR” is performed in lieu of a complete Site Development Review (SDR) that is standard for vacant parcels. In dialog with EPH, DCD has determined that the additional language is unnecessary. Additional changes to the Legal Lot of Record and/or SDR process may be proposed at a later date, as needed and following consultation with EPH and other parties.

FISCAL IMPACT:

The fiscal impact of implementing SB 5290 has yet to be determined. DCD would have more information on fiscal impact at the end of 2025. The fiscal notes prepared by the Office of Financial Management during the 2023 legislative session for SB 5290 are available here:

fnspublic.ofm.wa.gov/FNSPublicSearch/Search/bill/5290/68

RECOMMENDATION:

Conduct the public hearing, deliberate, and take final action on the proposed Ordinance and Resolution.

REVIEWED BY:



Mark McCauley, County Administrator

12/12/24
Date

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. [Ord. 9-22 § 5 (Appx. D)]

18.40.430 Applicability.

(1) Site development review shall be required prior to land disturbing activity or any development activity; submittal of any development permit application, on-site sewage system permit application pursuant to Chapter 8.15 JCC, land use permit application, or land division permit application, or prior to any process to adjust property boundaries, including condominiumization.

(2) Any landowner or their representative who wishes to make application for development shall use the site development review process to determine whether their site is a legal lot of record and buildable. No development application may vest until the site development review is completed.

(3) 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 with all applicable requirements of this title.

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

(a) Mechanical, plumbing replacement, hot water, propane, reroofing, 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 Chapterchapter 15.15 JCC.

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

**A RESOLUTION RELATING TO
IMPLEMENTATION OF 2SSB 5290,
ADOPTING OPTIONS WITHIN RCW
36.70B.160(1)(a) THROUGH (j) TO
AVOID THE PENALTY OF PERMIT
FEE REFUNDS IF THE REQUIRED
TIME FRAMES ARE MISSED**

RESOLUTION NO. _____

WHEREAS, Jefferson County adopted Joint Resolution No. 17-19 establishing a program of regulatory reform directing County departments to accomplish reform goals such as streamlining and simplifying the Jefferson County Code (“JCC”); and

WHEREAS, The Department of Community Development participates in on-going regulatory reform work program, by completing code amendments when required by an update to the applicable chapters of JCC Title 18, Unified Development Code, and timely engages in associated review procedures to streamline the permitting process; and

WHEREAS, 2SSB 5290 creates a requirement for local governments to provide permitting fee refunds if the time frames specified in code are missed; and

WHEREAS, 2SSB 5290 includes options within RCW 36.70B.160(1)(a) through (j) that local governments can implement to avoid penalties; and

WHEREAS, RCW 36.70B.160(1)(a) through (j) included measures for each local government to adopt to provide prompt, coordinated review and ensure accountability to applicants and the public, and these measures include:

- (a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;*
- (b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;*
- (c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;*
- (d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;*

- (e) *Having new positions budgeted that are contingent on increased permit revenue;*
- (f) *Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;*
- (g) *Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;*
- (h) *Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;*
- (i) *Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or*
- (j) *Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections; and*

WHEREAS, Jefferson County complies with RCW [36.70B.160](#)(1)(a), (b), (d),(f), (g),and (j), as further described below:

- i. JCC Chapter [18.40.260](#) includes provision for expedited review process. Such process is available for Type I permit applications if the projects are categorically exempt under SEPA and are consistent with adopted development regulations. Type I permit applications that are not subject to public notice and are submitted as complete applications shall take priority over other projects;
- ii. Jefferson County imposes reasonable fees that are consistent with RCW [82.02.020](#) within JCC Chapter [3.80.020](#). The fees imposed on applicants do not automatically include a fee to process the cost of an administrative appeal;
- iii. Jefferson County has six consultants under contract for on-call planning services as well as on-call building review and inspection; and fire marshal services. At the time of adoption of this ordinance, those consultants are Atwell, LLC; BERK Consultants, Inc.; BHC Consultants, LLC; Cross Sound Consulting, LLC; Townzen and Associates, Inc.; and SCJ Alliance.
- iv. Jefferson County is in the process of completing the update of several development code regulations, including but not limited to the Shoreline Master Program, and Critical Areas Ordinance. Proposed amendments include provisions that would require public hearings only for permit applications that are required to have public hearings by statute, *see e.g.*, shoreline substantial development permit application will become a Type II process (i.e., no public hearing);
- v. JCC Chapter [18.40.090](#) states pre-application conferences are optional, and are not a requirement of permit application submittal; and
- vi. JCC Chapter [18.40.110](#)(4) includes provisions for meeting with the applicant to attempt to resolve outstanding issues during the review process; and

WHEREAS, Jefferson County Board of County Commissioners determines Jefferson County is not required to impose permit fee refunds because Jefferson County complies with RCW [36.70B.080\(1\)\(I\)\(ii\)](#); and

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, WASHINGTON, HEREBY RESOLVE AS FOLLOWS:

Section 1. Whereas Clauses are Findings of Fact. The Jefferson County Board of Commissioners hereby adopts the above “Whereas” clauses as Findings of Fact.

Section 2. Purpose. The purpose of this resolution is that Jefferson County Board of County Commissioners has determined Jefferson County is not required to impose permit fee refunds because Jefferson County complies with RCW [36.70B.080\(1\)\(I\)\(ii\)](#).

Section 3. Severability. If any section, subsection, sentence, clause, phrase or section of this Resolution or its application to any person or circumstance is held invalid, the remainder of this Resolution or its application to other persons or circumstances shall be fully valid and shall not be affected.

Section 4. SEPA Categorical Exemption. This resolution is categorically exempt from the State Environmental Policy Act under WAC [197-11-800 \(19\)](#).

Section 5. Effective Date. This resolution shall take effect and be in full force immediately upon passage by the Board of County Commissioners.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

ADOPTED and APPROVED this _____ day of December, 2024.

SEAL:

JEFFERSON COUNTY BOARD OF
COUNTY COMMISSIONERS

Kate Dean, Chair

Greg Brotherton, Member

Heidi Eisenhour, Member

ATTEST:

APPROVED AS TO FORM:

Carolyn Gallaway, CMC Date

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

Please publish 2 times: December 4 and December 11, 2024

Contact Person: Chelsea Pronovost

Bill to: Community Development

621 Sheridan St

Port Townsend, WA 98368

NOTICE OF PUBLIC HEARING

Amendments to Jefferson County Code Chapter 18.40 Permit Application and Review Procedures

NOTICE IS HEREBY GIVEN that a public hearing is scheduled by the Jefferson County Board of Commissioners for **MONDAY, December 16, 2024 at 11:00 a.m.** in the Commissioners' Chambers, County Courthouse, 1820 Jefferson Street, Port Townsend, WA 98368 (HYBRID). Notice of said hearing is to be published in the official newspaper of Jefferson County.

The Washington State Legislature passed Senate Bill (SB) 5290, concerning consolidating local permit review processes, during the 2023 legislative session. The governor signed the bill into law on May 8, 2023, modifying parts of RCW 36.70B Local Project Review, effective July 23, 2023 (Chapter 338, Laws of 2023). New permit time period requirements go into effect on January 1, 2025. Jefferson County proposes adoption of an ordinance that amends the Unified Development Code (UDC, Title 18 of the Jefferson County Code) by adjusting permit review procedures in JCC 18.40.

The information is available for viewing on the County website by visiting: www.co.jefferson.wa.us and follow this pathway – Services – Laserfiche Web Portal (username and password is: public) - Board of Commissioners – BOCC Agenda Packets – 2024 Weekly Agenda Items – 12 December 2024—121624—HEARING re UDC to implement SB5290

You are welcome to participate in this hearing. You will need to join the meeting by 11:00 a.m. using the following methods: **VIRTUALLY:** Via the following Zoom, link: <https://zoom.us/j/93777841705>, **PHONE:** Dial 1-253-215-8782 and enter access code: 937-7784-1705# and press *9 to “raise your hand” to be called upon. Access for the hearing impaired can be accommodated using Washington Relay Service at 1-800-833-6384, or **IN-PERSON**

In addition, written testimony is also invited beginning on December 4, 2024 and ending on December 16, 2024 at the end of the Public Hearing, unless extended by the Board of County Commissioners. Written public testimony may be submitted by **Email to:** jeffbocc@co.jefferson.wa.us You may view documents and testimony received by visiting: www.co.jefferson.wa.us and following this pathway – Services – Laserfiche Web Portal (username and password is: public) – Board of Commissioners – BOCC Agenda Packets – 2024 Weekly Agenda Items – 12 December 2024 – 121624

You can also **Mail** your testimony to: Jefferson County Commissioners' Office; PO Box 1220, Port Townsend, WA 98368. Written testimony must be received by the Board of County Commissioners by the end of the hearing testimony period.

Signed this 25th day of November 2024.

JEFFERSON COUNTY

BOARD OF COMMISSIONERS

/S/Kate Dean, Chair

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

An Ordinance Adopting Amendments to Chapters 18.40 of the Jefferson County Code Regarding Permit Application and Review Procedures/SEPA Implementation; to Facilitate a More Streamlined Review Process for All Project Applications; Adopting Findings of Facts; and Setting an Effective Date

ORDINANCE NO. _____

WHEREAS, Jefferson County adopted Joint Resolution No. 17-19 establishing a program of regulatory reform directing County departments to accomplish reform goals such as streamlining and simplifying the Jefferson County Code (“JCC”);

WHEREAS, Goal 7 of the Growth Management Act (RCW 36.70A.020) provides that local government permit applications should be processed in a timely and fair manner to ensure predictability;

WHEREAS, RCW 36.70B, Local Project Review, provides the state rules governing permit procedures and has been updated by state legislation, including 2SSB 5290 in 2023;

WHEREAS, 2SSB 5290 is intended to modernize and streamline local project review and permitting procedure;

WHEREAS, the County’s Unified Development Code (UDC) was originally adopted on December 18, 2000, and was amended and incorporated into the Jefferson County Code in 2006. The permit procedures have not been comprehensively revised since 2006;

WHEREAS, County permit procedures should be written in plain language, well-organized, and easy to use, and ensure an appropriate amount of public comment opportunity is provided for an application based on the complexity and amount of discretion in the type of application;

WHEREAS, JCC Chapter 18.40, Table 8-1, addresses the procedure of Type V action, ordinances or regulations that address procedural issues related to land use planning are not subject to review and recommendation by the planning commission;

WHEREAS, the proposed code amendments are to the application review procedures and regulations and contain no substantive changes respecting to the environment, land use or the procedures of the State Environmental Policy Act (SEPA); and therefore, are exempt from SEPA pursuant to WAC 197-11-800(19);

WHEREAS, on November 15, 2024, a notice of intent to adopt and request for expedited review were submitted to the Washington State Department of Commerce pursuant to RCW 36.70A.106;

WHEREAS, the Jefferson County Board of County Commissioners conducted a hearing on December 16, 2024 to review the proposed code amendments and receive public testimony;

WHEREAS, adoption of these amendments is a non-project action designed to improve and update existing code provisions, would streamline the permitting process, and is consistent with the Jefferson County Comprehensive Plan;

WHEREAS, the BoCC has considered the proposed amendments to the Jefferson County Code and finds them to be consistent with state law, it is deemed to be in the public interest to adopt the proposed revisions, as set forth in *Attachment A*; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Jefferson County, Washington as follows:

Section 1. Findings of Fact. The BoCC adopts the recitals above (WHEREAS clauses) as their own findings of fact for this ordinance.

Section 2. Purpose. The purpose of this ordinance is to comply with RCW 36.70B, Local Project Review. The objective of the proposal is to improve the efficiency of the permitting process and improve code clarity.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any portion of this ordinance shall not affect the validity of the remainder of the ordinance.

Section 4. This Ordinance is categorically exempt from the State Environmental Policy Act under WAC 197-11-800(19).

Section 5 Effective Date: This ordinance shall take effect January 1, 2025.

(SIGNATURES FOLLOW ON NEXT PAGE)

ADOPTED this ____ day of December, 2024.

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

SEAL:

Kate Dean, Chair

Heidi Eisenhour, Member

ATTEST:

Greg Brotherton, Member

APPROVED AS TO FORM:

Carolyn Gallaway, CMC Date
Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

Attachment A

Chapter 18.40

PERMIT APPLICATION AND REVIEW PROCEDURES/SEPA IMPLEMENTATION

Sections:

Article I. Types of Project Permits

- 18.40.010 Purpose.
- 18.40.020 Procedures for processing project development permit applications.
- 18.40.030 Determination of proper type of procedure.
- 18.40.040 Project permit application framework.
- 18.40.050 Joint public hearings (other public agency hearings).
- 18.40.060 Legislative enactments.
- 18.40.070 Legislative enactments not restricted.
- 18.40.080 Exemptions from project permit processing.

Article II. Project Permit Applications (Type I – IV)

- 18.40.090 Preapplication conference.
- 18.40.100 Development permit application.
- 18.40.110 Determination of complete application – Additional information and project revision.
- 18.40.120 Referral and review of development permit applications.
- 18.40.130 Scope of project review.
- 18.40.140 Project consistency.

Article III. Public Notice Requirements

- 18.40.150 Public notice – Generally.
- 18.40.160 Notice of application – When required.
- 18.40.170 Notice of application – Time of issuance.
- 18.40.180 Notice of application – SEPA exempt projects.
- 18.40.190 Notice of application – Contents.
- 18.40.200 Notice of application – SEPA integration.
- 18.40.210 Notice of application – Mailing, publication, and posting requirements.
- 18.40.220 Notice of application – Public comment.
- 18.40.230 Notice of public hearing.
- 18.40.240 Additional public notice requirements – Type III preliminary plat actions.
- 18.40.250 Optional additional public notice.

Article IV. Project Review and Approval Processes

- 18.40.260 Administrative approvals without notice (Type I).
- 18.40.270 Administrative approval subject to notice (Type II).
- 18.40.280 Hearing examiner review and decision (Type III decisions and appeals of Type II decisions).
- 18.40.290 Board of county commissioners action (Type IV decisions).
- 18.40.300 Final decision.

- 18.40.310 Expiration of applications.
- 18.40.320 Vesting of applications.
- 18.40.325 Suspension, revocation, or modification of permits.

Article V. Appeals

- 18.40.330 Administrative appeals.
- 18.40.340 Judicial appeals.

Article VI. Unified Development Code Interpretation

- 18.40.350 Purpose.
- 18.40.360 Submission requirements.
- 18.40.370 Administrator's decision.
- 18.40.380 Time limitation and enforcement.
- 18.40.390 Appeals of administrator's interpretations.
- 18.40.400 Judicial appeal.

Article VII. Site Development Review Process

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

Article VIII. Conditional Uses

- 18.40.490 Purpose.
- 18.40.500 Scope.
- 18.40.510 Application submittal and contents.
- 18.40.520 Conditional use permit types – Review processes.
- 18.40.530 Approval criteria for all conditional uses.
- 18.40.540 Additional conditions.
- 18.40.550 Use of property before final decision.
- 18.40.560 Effective period – Expiration.
- 18.40.570 Modification of a conditional use permit.
- 18.40.580 Conditional use permit to run with the land.
- 18.40.590 Permit suspension or revocation.
- 18.40.600 Assurance device.

Article IX. Variances (Minor and Major)

- 18.40.610 Purpose.
- 18.40.620 Scope.
- 18.40.630 Application submittal and contents.
- 18.40.640 Variance types – Review processes.
- 18.40.650 Approval criteria.

- 18.40.660 Additional conditions.
- 18.40.670 Limitation on authority.
- 18.40.680 Effective period – Expiration.
- 18.40.690 Assurance device.

Article X. State Environmental Policy Act (SEPA) Implementation

- 18.40.700 Authority.
- 18.40.705 Adoption by Reference
- 18.40.710 Purpose.
- 18.40.720 Responsible official – Decision-making authority.
- 18.40.730 Lead agency determination and responsibilities.
- 18.40.740 Initiation of SEPA review – Limitations on actions during review.
- 18.40.750 Categorically exempt actions – Use of existing documents and analyses.
- 18.40.760 Analysis of nonexempt project and nonproject actions.
- 18.40.770 Substantive authority.
- 18.40.780 Public notice and comment.
- 18.40.790 Public hearings and meetings.
- 18.40.800 Critical areas.
- 18.40.810 Appeals.

Article XI. Development Agreements

- 18.40.820 Purpose.
- 18.40.830 General requirements.
- 18.40.840 Development standards to be addressed.
- 18.40.850 Procedures.
- 18.40.860 Effect.

Article I. Types of Project Permits

18.40.010 Purpose.

Articles I through VI of this ~~Unified Development Code~~chapter are a mechanism for implementing the provisions of ~~Chapter~~chapter 36.70B RCW (the Local Project Review Act) regarding compliance, conformity, and consistency of proposed projects with the Jefferson County Comprehensive Plan and development regulations.

(1) Given the extensive investment that public agencies and a broad spectrum of the public have made and ~~will~~shall continue to make in Jefferson County's Comprehensive Plan and development regulations, it is essential that project review start from the fundamental land use planning choices made in the Comprehensive Plan and regulations. If the Comprehensive Plan or regulations identify the type of land use, specify density and identify and provide for the provision of public facilities needed to review the proposed development and site, these decisions, at a minimum, provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under ~~Chapter~~chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision, unless the county finds that the Comprehensive Plan and regulations do not fully foresee site-specific issues and impacts identified through land use project application review.

(2) Comprehensive plans and development regulations adopted by the county under [Chapterchapter](#) 36.70A RCW (the Growth Management Act), sub-area plans, and environmental policies, laws and rules adopted by the county, the state, and the federal government address a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development (e.g., building size and location, drainage, transportation requirements, and protection of environmentally sensitive areas). When the county applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts may be avoided or otherwise mitigated. Through the integrated project review process described in Articles I through V of this chapter, the administrator ~~will~~[shall](#) determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. Project review generally should not require additional studies and mitigation under [Chapterchapter](#) 43.21C RCW where existing regulations adequately address a proposed project's probable significant adverse environmental impacts. Development regulations enable project review through the application of established scientific standards, required studies and standard mitigation measures. [Ord. 8-06 § 1]

18.40.020 Procedures for processing project development permit applications.

For the purpose of project permit processing under this code, all development permit applications shall be classified as one of the following: Type I, Type II, Type III, or Type IV. Legislative decisions are classified as Type V actions and are addressed in [Chapterchapter](#) 18.45 JCC. Exemptions from the requirements of project permit application processing are set forth in JCC 18.40.080. [Ord. 8-06 § 1]

18.40.030 Determination of proper type of procedure.

(1) Determination by the Administrator. The administrator shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the administrator shall resolve it in favor of the higher numbered procedure type, except as specifically authorized for discretionary conditional use permits under JCC 18.40.520(2).

(2) Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by this code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.

(3) Decision-maker(s). The board of county commissioners is the highest decision-maker, followed by the hearing examiner and the administrator. Joint public hearings with other agencies shall be processed in accordance with JCC 18.40.050.

(4) Administrator. Upon issuance of a determination of completeness as described in JCC 18.40.110, the administrator shall assign a project planner to the project who will coordinate and be responsible for all phases of development application administration.

(5) SEPA Review. Project review conducted pursuant to the State Environmental Policy Act (SEPA), [Chapterchapter](#) 43.21C RCW, shall occur concurrently with project review. The SEPA review process, including all public comment procedures, is set forth in Article X of this chapter.

Nothing contained in Articles I through V of this chapter shall be construed as restricting the need for full environmental review in accordance with Articles VI-C through VI-K of [Chapterchapter](#) 18.15 JCC, and Article X of this chapter. [Ord. 8-06 § 1]

18.40.040 Project permit application framework.

Table 8-1. Permits – Decisions¹

Type I ¹ I ²	Type II	Type III	Type IV	Type V
Septic permits	Classification of unnamed and discretionary uses under Article II of Chapterchapter 18.15 JCC	Variances under JCC 18.22.250	Final plats under Chapterchapter 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 Chapterchapter 18.15 JCC and major amendments to PRRDs under JCC 18.15.545(3)	Final PRRDs under Article VI-M of Chapterchapter 18.15 JCC	Jefferson County Comprehensive Plan amendments under Chapterchapter 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, Shoreline conditional use permits, and variance permits under the Jefferson County shoreline master program (SMP)		Amendments to <u>title 18 JCC or other sections that qualify as</u> development regulations
Home businesses approved under JCC 18.20.200	Short subdivisions under Article III of Chapterchapter 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 Chapterchapter 18.35 JCC <u>creating four or</u>	Long subdivisions under Article IV of Chapterchapter 18.35 JCC		Subarea and utility plans and amendments thereto

Type I^{1,2}	Type II	Type III	Type IV	Type V
	<u>fewer lots or leased areas.</u> <u>Plat alterations and vacations under Article VII of chapter 18.35 JCC</u>	<u>Binding site plans creating 5 or more lots or leased areas.</u>		
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 Tree Removal Permit	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 chapter 18.35 JCC	<u>Shoreline substantial development permits,</u> 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	Wireless telecommunications permits under JCC 18.20.130 and Chapter chapter 18.42 JCC		

Type I^{1,2}	Type II	Type III	Type IV	Type V
	18.25.220 as "C(d)," unless Type III process required by administrator			
Minor adjustments to approved preliminary short plats under JCC 18.35.150	Wireless telecommunications permits under JCC 18.20.130 and Chapterchapter 18.42 JCC	Major industrial development conditional use approval under Article VIII of Chapterchapter 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. Plat alterations under JCC 18.35.670	Forest practices release of a moratorium under Chapterchapter 18.20 JCC		
Site development review under Article VII of this chapter				
Exemptions under the Jefferson County SMP				
Revisions to permits issued under the Jefferson County SMP	Unit lot subdivisions creating four or fewer lots under Article IX of chapter 18.35 JCC	Unit lot subdivisions creating five or more lots under Article IX of chapter 18.35 JCC—		
Boundary line agreements under Article VIII of Chapter 18.35 JCC Hospitality permit	Residential development exception pursuant to JCC 18.12.080 Innocent purchasers for value determinations pursuant to JCC 18.12.100			

Type I ^{1,2}	Type II	Type III	Type IV	Type V
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¹ If the process within Table 8-1 conflicts with process specified in other applicable sections in title 18 JCC, the administrator shall exercise discretion to determine the final process framework.

²If not categorically exempt pursuant to from SEPA review, 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, interim or emergency ordinances, moratorium ordinances, development agreements and amendment thereto, 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

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

determine petitions alleging that the county is not in compliance with the requirements of [Chapterchapter](#) 36.70A RCW, [Chapterchapter](#) 90.58 RCW as it relates to the adoption of the Shoreline Master Program, or [Chapterchapter](#) 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or [Chapterchapter](#) 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 [Chapterchapter](#) 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, development agreements and amendment thereto, 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 [Chapterchapter](#) 18.45 JCC).

[Ord. 9-22 § 5 (Appx. D); Ord. 5-22 § 3 (Appx. A(7)); Ord. 9-20 § 2 (Appx. B); Ord. 12-19 § 4 (Appx. C); Ord. 4-19 § 1 (Exh. A); Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.050 Joint public hearings (other public agency hearings).

(1) Administrator's Decision to Hold Joint Public Hearings. The administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency on the proposed action, as long as the hearing is held within the county and the requirements of subsection (3) of this section are met.

(2) Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

(3) Prerequisites to a Joint Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the county, as long as:

(a) The other agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing. [Ord. 8-06 § 1]

18.40.060 Legislative enactments.

(1) Decision. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

(a) Unified Development Code text, and land use district amendments (i.e., Land Use Map amendments);

(b) Area-wide rezones to implement county policies contained within the Jefferson County Comprehensive Plan and amendments thereto;

(c) Adoption of the Jefferson County Comprehensive Plan and any plan amendments;

(d) Shoreline master program adoption and amendments; and

(e) All other master land use, subarea, functional and/or utility plans and amendments thereto.

(2) Procedures. Except as otherwise provided in this chapter, the procedures for the legislative decisions specified in this chapter are set forth in Chapterchapter 18.45 JCC. [Ord. 8-06 § 1]

18.40.070 Legislative enactments not restricted.

Nothing in this chapter shall limit the authority of the county to make changes to the Jefferson County Comprehensive Plan as part of an annual revision process, this Unified Development Code or any of the county's other development regulations, or to undertake any other legislative actions. [Ord. 8-06 § 1]

18.40.080 Exemptions from project permit processing.

(1) Applicability. Whenever a permit or approval in the Jefferson County Unified Development Code has been designated as a Type I, II, III or IV permit, the procedures set forth in Articles I

through IV of this chapter shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this chapter:

(a) Landmark designations;

(b) County road vacations; ~~and~~

(c) As authorized under RCW 43.21C.031 (2)(a), public works projects identified as planned actions in the Jefferson County Comprehensive Plan or any amendments thereto. Planned actions are those public or private projects specifically identified by county ordinance or resolution adopted after environmental review conducted in conjunction with the adoption or annual amendment of the Comprehensive Plan; ~~and~~

(d) Site Development Review.

(2) Exemptions. If categorically exempt under SEPA, ~~Chapter~~chapter 43.21C RCW, Type I permits shall not be subject to the following provisions contained in this chapter¹:

(a) The notice of application requirements of JCC 18.40.150 through 18.40.220;

(b) Except as provided in RCW 36.70B.140, optional consolidated project permit review processing under JCC 18.40.030(2);

(c) Joint public hearings under JCC 18.40.050; and

(d) A single report stating that all decisions and recommendations made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record hearing and any recommendations on project permits that do not require an open record hearing, as further set forth in RCW 36.70B.060(5).

~~(3) Notice of Decision. Unless the applicant waives the time deadlines in writing, all Type I permits should be processed within 120 calendar days after the applicant files a complete application, subject to JCC 18.40.110. [Ord. 12-19 § 4 (Appx. C); Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]~~

Article II. Project Permit Applications (Type I – IV)

18.40.090 ~~Optional Preapplication~~ preapplication conference.

(1) Purpose. Preapplication conferences provide a prospective applicant and the county the opportunity to determine if and how the regulations (e.g., ~~environmentally sensitive~~critical areas and SEPA) may apply, an opportunity to acquaint the applicant with the requirements of the Jefferson County Unified Development Code, and to discuss, if applicable, how the applicant may modify the scope and design of the project to reduce or avoid restrictions which may be imposed by the county.

(2) When Required. Preapplication conferences are optional. ~~However, preapplication conferences are encouraged~~ required for all Type II, Type III, Type IV and Type V project applications and Type I project applications proposing impervious surfaces of 10,000 square feet or more and/or non-single-family structures of 5,000 square feet or more. Additionally, preapplication conferences are required ~~encouraged~~ for industrial, commercial, and critical area stewardship plan applications. ~~The administrator may exercise discretion not to require a preapplication conference if the administrator determines that the conference information is~~

~~self-evident, already transmitted, or would not add value to the subsequent application. Preapplication conferences for all other types of applications are optional, and requests for conferences will be considered by the administrator on a time-available basis.~~

(3) Scheduling and Conceptual Design Review. The conference ~~should~~ be held within ~~1521~~ calendar days of the request and payment of the fee set forth in the ~~Jefferson County most recently adopted DCD~~ fee ~~schedule ordinance~~. The preapplication conference for a new personal wireless facility shall be scheduled at such time the applicant demonstrates that the required notice in JCC 18.42.070(2) was mailed to all other wireless providers licensed to provide services within Jefferson County. Upon payment of the fee, the applicant shall submit to DCD a preliminary sketch or conceptual design that illustrates the applicant's generalized ideas of the proposal. This should include approximate lot lines, general topography of the site, suggested vehicle access to the site, and provision of utilities. Final drawings are discouraged at this preapplication stage. Additionally, the applicant shall identify all land uses on adjacent properties and all platted and opened roads serving the site.

(4) Information Provided to Applicant. At the conference, the administrator shall provide the applicant with:

- (a) A list of the requirements for a completed application;
- (b) A general summary of the procedures to be used to process the application;
- (c) The references to the relevant code provisions or development standards that may apply to the approval of the application; and
- (d) A list of any applicable hourly review fees that may be charged by one or more county agencies upon the filing of a project permit application with the county.

(5) Assurances Unavailable. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference or the information provided by the administrator shall not bind or prohibit the county's future application or enforcement of all applicable laws and regulations. No statements or assurances made by county representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of county, state and federal codes, laws, regulations and land use plans. [Ord. 14-18 § 4 (Exh. B); Ord. 3-13 § 1]

18.40.100 Development permit application.

(1) Information Required for All Applications. Applications for project permit decisions shall be submitted upon forms provided by the administrator. A project permit application is complete when it meets the submission requirements of this section. An application shall consist of all materials required by the relevant section of this code or other applicable county ordinance or regulation, and shall also include the following general information:

- (a) A completed Site Development Review (SDR) under article VII of chapter 18.40 JCC.
- (b) A completed project permit application form, including a SEPA checklist unless categorically exempt from SEPA;
- (c) 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;

(ed) Identification of a single contact person or entity to receive determinations and notices required by this code;

(de) A legal description of the site, including the Jefferson County assessor's parcel number;

(fe) Payment of the applicable fee as set forth in the ~~Jefferson County most recently adopted DCD~~ fee ~~schedule ordinance~~;

(fg) For each ~~building permit~~ development or proposed use necessitating potable water, evidence of available and adequate water supply and, if applicable, compliance with the requirements established by the Jefferson County department of health for the provision of water; evidence may be in the form of a water right permit from the Department of Ecology, or another form sufficient to verify the existence of an adequate water supply;

(gh) Evidence of septic approval, a valid pending septic application, or sewer availability and, if applicable, compliance with the requirements established by the Jefferson County department of health for wastewater disposal;

~~(hi) A site plan, showing the location of all proposed lots and points of access and identifying all easements, deeds, restrictions or other encumbrances restricting the use of the property, if applicable. All information should be accurate, legible and generally should be drawn to a scale no smaller than one inch equals 50 feet for a plot larger than one acre and no smaller than one inch equals 25 feet for a plot one acre or smaller; and~~

(i) Site Plan requirements for Permits. The following shall be depicted either in required narrative above and/or on the site plan detailing the following (as applicable unless waived by the administrator):

- (i) Compass direction and graphic scale;
- (ii) Parcel boundaries and dimensions;
- (iii) Location of existing and proposed roads and access points;
- (iv) Driveways and parking areas;
- (v) Easement and rights-of-way located on the property within the proposed developed/use area;
- (vi) The location of septic, wells, and water lines within the developed areas;
- (vii) The general description of the topography of the entire site (including slope direction and 5 foot contours);
- (viii) The location of existing & proposed structures including setbacks;
- (ix) All proposed or existing uses;
- (x) The location of existing and proposed landscaping if required for development/use;
- (xi) The areas to be graded and cleared (including source and volumes if over 500 cubic yards.);
- (xii) The location of significant geographic features (including slopes exceeding 40% slope) on the site and immediately adjoining properties;
- (xiii) Location and type of water bodies, drainage ways, or wetlands;
- (xiv) Location and type of Shorelines and Critical Areas;

- (xv) Shoreline and Critical Area Buffers where trees/vegetation shall be retained, and if applicable, associated special reports; and
- (xvi) Preliminary drainage plan including measures to address stormwater management for development & land disturbing activity.

(j) Identification of other local, state and federal permits required for the proposal, to the extent known by the applicant.

(k) All permit applications shall include the information specified in the chapter of the County Code pertaining to the specific type of development permit being applied for. In addition to this chapter, where applicable, with the following chapters in the Unified Development Code:

- 18.15 Land Use Districts
- 18.18 Irondale and Port Hadlock
UGA development regulation
implementation
- 18.19 Transitional Rural
Development Standards of
the Irondale/Port Hadlock
Urban Growth Area
- 18.20 Performance and Use-
Specific Standards
- 18.22 Critical Areas
- 18.25 Shoreline Master Program
- 18.30 Development Standards
- 18.35 Land Divisions

The County may require such additional information as reasonably necessary to fulfill and properly evaluate the proposal.

(l) At every stage of the permit application process, the burden of demonstrating that any proposed development is consistent with this chapter and other applicable, adopted regulations, is upon the applicant.

(2) Commercial, Industrial, Multifamily and Small-Scale Recreational and Tourist Uses – Additional Application Requirements. In addition to the general information required under subsection (1) of this section, all building permit development or proposed uses applications involving commercial, industrial, multifamily, and small-scale recreational and tourist uses listed in Table 3-1 in JCC 18.15.040 shall include a site plan prepared by a civil engineer, architect or landscape architect licensed in the state of Washington that includes or graphically depicts the following information:

- (a) A site plan prepared by a licensed civil engineer, architect, or landscape architect unless waived by the DCD administrator (i.e., for low-intensity small-scale recreation and tourist uses);

(b) Engineered drainage plan;

(c) Parking Plan (including ADA requirements);

(d) Lighting Plan;

(e) Landscaping Plan;

(f) Signage Plan;

(g) Fire Protection Requirements (water lines, hydrants, fire suppression systems, uses within structure, etc);

(h) Compliance with DCD land Use authorization requirements if not a "yes" use per Table 3-1; and

(i) Other requirements required by DCD for the review of the proposal.

~~-(a) Compass direction and graphic scale;~~

~~(b) Total gross acreage;~~

~~(c) Proposed and existing structures including building envelopes and building setback lines;~~

~~(d) Distances between all proposed and existing buildings;~~

~~(e) All proposed or existing uses;~~

~~(f) The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles and roadway widths, and additional right of way if required on substandard roads;~~

~~(g) The location of significant geographic features on the site and immediately adjoining properties;~~

~~(h) Corner grades and existing contours of topography at five foot contour intervals;~~

~~(i) Proposed development or use areas;~~

~~(j) Property lines, adjoining streets, and immediately adjoining properties and their ownership;~~

~~(k) Existing and proposed grades and volume and deposition of excavated material;~~

~~(l) A preliminary drainage plan;~~

~~(m) Locations of all existing and proposed utility connections;~~

~~(n) Parking spaces and driveways;~~

~~(o) Proposed landscaping; and~~

~~(p) The location and extent of wetlands, floodplains and other environmentally sensitive areas.~~

(3) Additional Application Requirements. In addition to the information required under subsections (1) and (2) of this section, the administrator may require additional information or studies in order for the application to be considered complete. Such information may include, but is not necessarily limited to, the following:

- (a) A phasing plan, acreage of phases, and time schedule, if the site is intended to be developed in phases;
- (b) Enumeration of the number of persons that will reside in a dwelling(s);
- (c) Documentation of the date and method of segregation for the subject property verifying that the lot or lots were not created in violation of the subdivision (i.e., either short or long) laws in effect at the time of creation, or identifying whether the lots were created prior to the advent of [Chapterchapter](#) 58.16 RCW in 1937 (now codified in [Chapterchapter](#) 58.17 RCW);
- (d) A recorded survey of the subject property in order to verify property boundaries and setback measurements;

(e) Special Reports pursuant to JCC 18.22 Article IX or as required by the administrator.

(4) Application Requirements in Other Applicable Regulations. Applications for the following land use permits must satisfy JCC 18.40.100(1), (2) and, if required, (3), and the following provisions of this Unified Development Code and applicable county ordinances and regulations:

- (a) Building permits under the Jefferson County building code, [Chapterchapter](#) 15.05 JCC, or its successor ordinance;
- (b) On-site septic systems pursuant to [Chapterchapter](#) 8.15 JCC;
- (c) Critical areas variance under JCC 18.22.250;
- (d) Reasonable economic use exception variance permits under JCC 18.2215.2260;
- (de) Planned rural residential developments (PRRDs) under Article VI-M of Chapterchapter 18.15 JCC;
- (ef) Cottage industries under JCC 18.20.170;
- (fg) Home businesses under JCC 18.20.200;
- (gh) Temporary outdoor use permits under JCC 18.20.380;
- (hi) Stormwater management permits under JCC 18.30.070;
- (ij) Sign permits under JCC 18.30.150;
- (jk) Boundary line adjustments under Article II of Chapterchapter 18.35 JCC;
- (kl) Short plats under Article III of Chapterchapter 18.35 JCC;
- (lm) Long plats under Article IV of Chapterchapter 18.35 JCC;

(~~mn~~) Binding site plans under Article V of ~~Chapter~~chapter 18.35 JCC;

(~~no~~) Written exemptions, shoreline substantial development permits for primary and secondary uses, and shoreline conditional use and variance permits under the Jefferson County Shoreline Master Program;

(~~op~~) Wireless telecommunications permits under JCC 18.20.130 and ~~Chapter~~chapter 18.42 JCC; and

(~~pq~~) Plat alterations under Article VII of ~~Chapter~~chapter 18.35 JCC.

(r) Unit lot subdivisions under Article IX of chapter 18.35 JCC.

All application requirements identified in other code sections that supplement or supersede the requirements of this chapter shall be met before an application is deemed complete.

(5) Waivers. The administrator may waive any specific submittal requirements determined to be unnecessary for review of any application. In such event, the administrator shall document the waiver in the project file or project log. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.110 Determination of complete application – Additional information and project revision.

(1) Determination of Completeness. Within 28 calendar days after receiving a project permit application the administrator shall mail a determination to the applicant that states either that:

(a) The application is complete; or

(b) The application is incomplete and information necessary to make the application complete.

(2) Identification of Other Agencies ~~With~~-with Jurisdiction. To the extent known by the county, other agencies with jurisdiction over the project permit application shall be identified in the county's determination of completeness.

(3) Incomplete Application Procedure.

(a) Application Fee. The applicant shall have 28 days from the invoice date to remit the required fee to DCD. –If applicable fee is not received ~~on~~by the 29th day, the application shall be considered abandoned.

(b) If the applicant receives a determination that the application is incomplete or that additional information is required, the applicant shall have 90 calendar days to submit the necessary information to the administrator. Within 14 calendar days after the applicant has submitted the additional information, the administrator shall again make the determination described in subsection (2) of this section.

(4b) Additional Information Request:

(a) The applicant shall have 90 calendar days to submit the necessary information from the date of written notification. If the applicant refuses to submit additional information, or does

not request additional time to submit the required information within the 90-calendar-day period, a second request shall be issued for an additional 60 calendar days.

(b) DCD shall invite the applicant to a meeting in an attempt to resolve outstanding issues during the review process. The meeting should be scheduled within 14 days of a second additional information request. If the meeting cannot resolve the issues and DCD proceeds with a third request for additional information or corrections, then DCD must approve or deny the application upon receiving the additional information or corrections.

(c) If an applicant is not responsive for more than 30 consecutive calendar days after the third written request was sent, the application ~~will~~shall be considered abandoned and therefore withdrawn and the applicant shall forfeit the application fee. For the purposes of this subsection, "non-responsiveness" means that the applicant is not making demonstrable progress on providing additional requested information to the county, or that there is no ongoing communication from the applicant to the county on the applicant's ability or willingness to provide the additional information.

(d) DCD shall not be responsible for notifying the applicant of an impending expiration.

(4) County's Failure to Provide a Determination of Completeness. A project permit application shall be deemed complete under this section if the administrator does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1) of this section. Notwithstanding a failure to provide a determination of completeness, the administrator may request additional information as provided in subsection (6) of this section.

(5) Date of Acceptance of Application. A project permit application is complete for purposes of this section when it meets the submission requirements in JCC 18.40.100, as well as any additional submission requirements contained in other applicable provisions of this code. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken after submittal. When the project permit application is determined to be complete, the administrator shall accept it and note the date of acceptance in the project file. Upon providing a determination of completeness, the administrator shall assign the project to a project planner.

(6) Additional Information. The administrator's determination of completeness shall not preclude the administrator from requiring additional information, that the applicant correct plans or perform studies at any time if new information is required for project review, or if there are substantial changes in the proposed action.

(a) Any period during which the administrator has requested the applicant to correct plans, perform required studies, or provide additional information shall be excluded from the ~~120-day required processing~~ time period or other applicable time period set forth in JCC 18.40.300.

(b) The time period for requiring additional information shall be calculated from the date the administrator notifies the applicant of the need for additional information until the earlier of:

(i) The date the administrator determines whether the information satisfies the request for information; or

(ii) Fourteen calendar days after the date the information has been provided to the administrator.

(7) Effect of Project Permit Application Revisions – Substantial Revisions. If, in the judgment of the administrator, the content of an application is so substantially revised by an applicant, either voluntarily or to conform to applicable standards and requirements, that such revised proposal constitutes a substantially different proposal than that originally submitted, the administrator shall deem the revised proposal to be a new application.

(a) In reaching a decision whether a revision is substantial, the administrator shall consider the relative (to the application in its initial form) and absolute magnitude of the revision, the environmental sensitivity of the site, any changes in location of significant elements of the project and their relation to public facilities, surrounding lands and land uses and the stage of review of the proposal.

(b) Lesser revisions that would not constitute substantial revisions during early stages of review may be substantial during later stages due to the reduced time and opportunity remaining for interested parties to review and comment upon such changes.

(c) Written notice of such determination of substantial revision shall be provided to the applicant and all parties of record, including the reasons for the administrator's decision.

(d) A determination that any revision is substantial shall result in the time periods mandated by this chapter starting from the date at which the revised project application is determined to be complete. The revised project application shall be subject to all laws, regulations and standards in effect on the date of the determination of completeness of the substantial revision. [Ord. 11-23 § 8 (Att. A); Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.120 Referral and review of development permit applications.

Upon acceptance of a complete application, the administrator shall do the following:

(1) Transmit a copy of the application, or appropriate parts of the application, to each affected agency and county department for review and comment, including those agencies responsible for determining compliance with state and federal requirements. The affected agencies and county departments shall have 14 calendar days to comment, ~~except that state agencies shall have 28 days to comment on special reports per Article VI-D, Environmentally Sensitive Areas District (ESA), of Chapter 18.15 JCC et al., including habitat management plans and wetland mitigation plans.~~ Affected agencies and county departments are presumed not to have comments if not submitted within the 14-calendar-day period, ~~or 28-calendar-day period, as above;~~ provided, that the administrator may grant an extension of time if needed. Additionally, in the event that the state agency or agencies involved communicate verbally or in writing intention to waive the opportunity to submit comments, the corresponding state agency comment period shall terminate and be so noted in the case file.

(2) Applications for developments and planned actions subject to the State Environmental Policy Act (SEPA), ~~Chapter~~ 43.21C RCW, shall be reviewed in accordance with the policies and procedures contained in Article X of this chapter. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

- (a) Projects categorically exempt from SEPA; and
 - (b) Components of planned actions previously reviewed and approved in the Jefferson County Comprehensive Plan or amendments thereto to the extent permitted by law and consistent with the SEPA determination for the planned action.
- (3) If a Type II or III procedure is required, DCD shall provide for notice and/or hearing as set forth in Article III of this chapter. [Ord. 8-06 § 1]

18.40.130 Scope of project review.

- (1) Fundamental land use planning choices made in the Jefferson County Comprehensive Plan, subarea plans, this Unified Development Code and any other applicable development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with this Unified Development Code under JCC 18.40.140, other applicable development regulations, or in the absence of applicable regulations, the adopted Jefferson County Comprehensive Plan or subarea plan(s), shall incorporate the data collected under this section.
- (2) During project review, the administrator or any subsequent reviewing body (e.g., the hearing examiner) shall determine whether the items listed in this subsection are defined in this Unified Development Code or any other applicable development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted Jefferson County Comprehensive Plan or subarea plan(s). At a minimum, such regulations or plans shall be determinative of the:
- (a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned rural residential developments and conditional uses, if the criteria for their approval have been satisfied;
 - (b) Density of residential development; and
 - (c) Availability and adequacy of public facilities identified in the Jefferson County Comprehensive Plan, if the plan provides funding of these facilities.
- (3) During project review, the administrator shall not re-examine alternatives to or hear appeals on the items identified in subsection (2) of this section.
- (4) The administrator may determine that the requirements for environmental analysis and mitigation measures in this Unified Development Code and other applicable regulations provide adequate mitigation for some or all of the project's specific probable significant adverse environmental impacts to which the requirements apply. In making this determination the administrator shall:
- (a) Determine if the applicable regulations require measures that are sufficient to adequately address site-specific, probable significant adverse environmental impacts identified through project application review; and
 - (b) Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures.

(5) Nothing in this section shall be construed as limiting the authority of the county to approve, condition, or deny a project as provided in this Unified Development Code or any other development regulations adopted under the authority of [Chapterchapter](#) 36.70A and/or 43.21C RCW, including project review under Articles VI-D through VI-I of [Chapterchapter](#) 18.15 JCC, and Article X of this chapter. [Ord. 8-06 § 1]

18.40.140 Project consistency.

(1) A proposed project's consistency with this Unified Development Code or other development regulations adopted under [Chapterchapter](#) 36.70A RCW or, in the absence of applicable development regulations, the appropriate elements of the Jefferson County Comprehensive Plan or subarea plan adopted under [Chapterchapter](#) 36.70A RCW shall be determined by consideration of:

- (a) The type of land use;
- (b) The level of development such as units per acre or other measures of density;
- (c) Infrastructure, including public facilities and services needed to serve the development; and
- (d) The character of the development.

(2) In determining consistency, the determinations made pursuant to JCC 18.40.130 shall be controlling.

(3) For purposes of this section, the term "consistency" shall include all terms used in this chapter and [Chapterchapter](#) 36.70A RCW to refer to performance in accordance with this chapter and [Chapterchapter](#) 36.70A RCW, including, but not limited to, compliance, conformity, and consistency.

(4) Nothing in this section requires documentation, dictates procedures for considering consistency, or limits the administrator from asking more specific or related questions with respect to any of the four main categories listed in subsections (1)(a) through (1)(d) of this section.

(5) For purposes of assisting in determining consistency with the UDC for a particular project permit, the administrator shall also utilize review of the site plan submittal required by JCC 18.40.100-(1)(~~hi~~) to ensure compliance with the requirements of [Chapterchapter](#) 18.20 and 18.30 JCC. [Ord. 8-06 § 1]

Article III. Public Notice Requirements

18.40.150 Public notice – Generally.

(1) Public notice is not required for Type I projects that are categorically exempt from SEPA. If not SEPA exempt, Type I projects are subject to the notice of application and SEPA notice requirements set forth in JCC 18.40.160 through 18.40.220 and Article X of this chapter.

(2) Public notice of the notice of application and of the open record public hearing, if any, is required for all Type II and Type III actions. Published notice is not required for closed record public meetings before the county commissioners (i.e., Type IV approvals of ~~final plats, long-plats~~ and PRRDs), because no new testimony or evidence is allowed at such meetings or

hearings. Mailed notice of closed record public hearings shall be provided to all parties of record.

(3) Public notice is not required for other Type IV actions because no public hearing is held.

(4) Public notice of Type V legislative actions must be published as described in [Chapterchapter](#) 18.45 JCC and as required by state law.

(5) The applicant shall be responsible for all costs of public notice. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.160 Notice of application – When required.

The administrator shall issue a notice of application on projects requiring SEPA review and all Type II and Type III project permit applications. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.170 Notice of application – Time of issuance.

The administrator shall issue the notice of application within 14 calendar days of issuing the determination of completeness. If an open record public hearing is required for the requested project permit(s), the notice of application shall be issued at least 15 calendar days prior to the public hearing. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.180 Notice of application – SEPA exempt projects.

A notice of application shall not be required for project permits that are categorically exempt under SEPA unless a public comment period or an open record hearing is required. A notice of application shall be required for all Type II and Type III projects, regardless of whether such projects are exempt from SEPA. [Ord. 11-23 § 8 (Att. A); Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.190 Notice of application – Contents.

The notice of application shall include the following:

- (1) The name and address of the applicant or the applicant's representative;
- (2) The date of application, the date of the notice of completion for the application, and the date of the notice of application;
- (3) The street address location of the project or, if unavailable, a description of the subject property reasonably sufficient to inform the public of its location, which may include a vicinity location (map), the location in reference to roadway intersections, or a written description (rural route box or subdivision lot and block alone are not sufficient);
- (4) A description of the proposed project action, use or development and a list of project permits included in the application and, if applicable, a list of any additional studies requested under JCC 18.40.110(6);
- (5) The identification of state, federal or other permits required by other agencies with jurisdiction not included in the application, to the extent known by the county;
- (6) The identification of existing environmental documents that evaluate the proposed project, and the location of where the application and any studies [canmay](#) be reviewed;
- (7) The name and phone number of the contact project planner;

(8) A statement of the limits of the public comment period, which shall be 14 calendar days following the date of the notice of application (or 20 or 30 calendar days if the application involves a permit under the Jefferson County Shoreline Master Program, as further set forth in JCC 18.40.220);

(9) Statements of the right of any person to comment on the application, become a party of record, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

(10) A statement of the preliminary determination, if one has been made at the time of the notice of application, of the proposed project's consistency with applicable development regulations and of those development regulations that will be used for project mitigation, as provided in RCW 36.70B.040 and JCC 18.40.140;

(11) The SEPA responsible official shall ensure that SEPA requirements are address for all permits issue. This may include a determination that a project is exempt from SEPA or – issuance of a SEPA threshold determination. For Type I and II permits, the SEPA responsible official has discretion to utilize the Determination of Non-Significance (DNS) process outlined in WAC 197-11-340, or the Optional DNSSEPA process as outlined in WAC 197-11-355. All notices shall specify if the DNS (WAC 197-11-340) or Optional DNS (WAC 197-11-355) process is being utilized.

For Type III permits, DNS process pursuant to WAC 197-11-340 should be utilized and the final SEPA threshold determination should be combined with the notice of public hearing. This would allow the appeal of the SEPA to be consolidated with the underlying permit before the Hearing Examiner.

Pursuant to WAC 197-11-355, if the Optional DNS process is being used, a statement on the first page of the notice of application that:

(a) The optional DNS process of WAC 197-11-355 is being used;

(b) This may be the only opportunity to comment on the environmental impacts of the proposal;

(c) The proposal may include mitigation measures under applicable development regulations, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and

(d) A copy of the subsequent threshold determination may be obtained upon request, and will be mailed to any person commenting upon the notice of application. In addition, the notice of application shall list the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected. All notice shall specify if the DNS (WAC 197-11-340) or Optional DNS (WAC 197-11-355) process is being utilized;

(12) The date, time, place and type of hearing, if applicable, and if scheduled prior to the date of the notice of application;

(13) A statement of when and where a copy of the application, all supporting documentation and evidence relied upon by the applicant, and applicable development regulations may be available for public inspection; and

(14) Any other information the administrator determines appropriate. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.200 Notice of application – SEPA integration.

~~Except for a determination of significance (DS), the county may not issue its threshold determination until the expiration of the public comment period on the notice of application.~~ If the county has made a determination of significance under ~~Chapter~~ chapter 43.21C RCW concurrently with the notice of application, the notice of application may be combined with the threshold determination and the scoping notice for a draft environmental impact statement (DEIS). However, nothing in this chapter prevents a DS and scoping notice from being issued prior to the notice of application. [Ord. 8-06 § 1]

18.40.210 Notice of application – Mailing, publication, and posting requirements.

(1) Published Notice. For all Type III permit applications, ~~t~~The administrator shall publish notice in the official county newspaper at least once. The administrator has the discretion to publish Type II permits, when the proposal could impact the general public. Published notice shall include the project's road or street address or location, project description, type(s) of permit(s) required, comment period dates, and location where the complete application and notice of application may be reviewed. DCD also shall allow the general public to review permits on-line that are subject to public notice.

(2) Posting. For all Type II and III Permits, ~~T~~the applicant shall post a notice of application on the property as follows:

(a) A single notice board shall be placed at the midpoint of the site road frontage or as otherwise directed by the county for maximum visibility, where it is completely visible to vehicle traffic and pedestrians.

(b) Additional notice boards may be required where the site does not abut a public road, for a large site that abuts more than one public road, or the administrator determines that additional notice boards are necessary to provide adequate public notice.

(c) Notice boards shall be constructed and installed in accordance with any specifications promulgated by the county.

(d) Notice boards shall be maintained in good and legible condition by the applicant during the notice period, be in place at least 15 calendar days prior to the date of the hearing, and be removed within 15 calendar days after the end of the notice period.

(e) The applicant prior to the hearing or final comment date shall submit an affidavit of posting to the administrator. If the affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application ~~will~~shall be postponed in order to allow compliance with this notice requirement.

(3) Mailing.

(a) For all Type II and III permits, ~~T~~the administrator shall send a notice of application by mail to the applicant, the owners of the subject property (if different from the applicant), and to all owners of property within 300 feet of any portion of the exterior boundaries of the subject property. The DCD shall be responsible for preparation of the list of adjacent property owners; provided, that the administrator retains the authority to require the

applicant to supply and certify the list of adjacent property owners in circumstances where the information is not readily available to the county. DCD shall obtain addresses for mailed notice ~~shall~~ from the county's geographic information system (GIS) or real property tax records. The administrator shall make a notation in the file affirming mailing of notice to all persons entitled to notice under this chapter. DCD ~~can~~may also send notices by email instead of by mail when doing so is determined to be sufficient for reaching necessary parties.

(b) All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to send notice by mail shall not invalidate such proceedings where the owner appears at the hearing or receives actual notice. [Ord. 8-06 § 1]

18.40.220 Notice of application – Public comment.

(1) Length of Comment Period. The comment period shall be not less than 14 calendar days, nor more than 30 days from the date of the notice of application (RCW 36.70B.110(2)(e)), except as may otherwise be provided for: a 15-day comment period for an open record predecision hearing pursuant to RCW 36.70B.110(3), commenting on preliminary plat applications (i.e., 20 days pursuant to RCW 58.17.095(2)), for commenting on scoping and draft and final environmental impact statements pursuant to WAC 197-11-408 and 197-11-500 and Article X of this chapter, and for commenting on permits under the Jefferson County Shoreline Master Program (SMP) (see subsection (2) of this section).

(2) Comment Periods for Permits Under the Jefferson County Shoreline Master Program (SMP). The content of notice under the SMP shall be identical to the notice set forth in JCC 18.40.190 except that:

(a) The public may provide comments on a shoreline development permit application for 30 calendar days after the notice of application (notice for shoreline permits is longer than the comment period for other Type II and III permits pursuant to RCW 90.58.140(4)); and

(b) The public comment period shall be 20 calendar days for a shoreline permit for limited utility extensions or for construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion (see RCW 90.58.140(11)); and

(c) A notice of application for a shoreline substantial development permit shall notify the public of the 20-day or 30-day comment period.

(3) Comments may be mailed, emailed, personally delivered or sent by facsimile. Comments shall be as specific as possible.

(4) The administrator ~~will~~shall receive public comments during regular business hours any time up to and during the open record hearing, if any, or if there is no predecision hearing, prior to the decision on the project permit.

(5) The county may not issue a decision or recommendation on the project permit(s) until the expiration of the public comment period on the notice of application. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.230 Notice of public hearing.

Notice of public hearing shall be provided not less than 10 calendar days prior to the hearing. If the notice of application does not specify a hearing date, a separate notice of public hearing shall be provided. For Type III projects, the DNS process pursuant to WAC 197-11-340 should be utilized and the SEPA threshold determination should be combined with the notice of public hearing. This would allow an appeal of the SEPA threshold determination to be consolidated with the Type III Permit at the hearing before the Hearing Examiner. Notice under this section shall be accomplished as follows:

- (1) Published Notice. The administrator shall publish a notice of public hearing in the official county newspaper at least one time. This notice shall include (and republish if necessary) the appropriate information from JCC 18.40.190.
- (2) Mailed Notice. The administrator shall send a notice of public hearing to all of the persons entitled to notice, as described in JCC 18.40.210(3), including any person who submits written or oral comments on the notice of application.
- (3) Posted Notice. Posted notice of the public hearing is required for all Type III project permit applications, which shall be posted as set forth in JCC 18.40.210(2). In addition, notice of Type III preliminary plat actions and proposed subdivisions must be given as set forth in JCC 18.40.240. [Ord. 8-06 § 1]

18.40.240 Additional public notice requirements – Type III preliminary plat actions.

In addition to the notice for Type III actions above, pursuant to Chapterchapter 58.17 RCW, additional notice for preliminary plats and proposed subdivisions shall be provided as follows:

- (1) Notice of the filing of a preliminary plat application of a proposed subdivision located adjacent to or within one mile of the municipal boundaries of a city or town utilities shall be given to the appropriate city or town officials, pursuant to RCW 58.17.080 and 58.17.090.
- (2) Notice of the filing of a preliminary plat application for a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the Washington State Secretary of Transportation, who must respond as to the effect of the proposed subdivision on the state highway or airport within 15 calendar days of such notice.
- (3) Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the county deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, mailed notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcel(s). [Ord. 8-06 § 1]

18.40.250 Optional additional public notice.

- (1) As optional methods of providing public notice of any project permits, the county may:
 - (a) Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;

- (b) Notify the news media;
- (c) Place notices in appropriate regional or neighborhood newspapers or trade journals;
- (d) Place public notice in agency newsletters or send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas;
- (e) Mail to neighboring property owners; or
- (f) Place notices on the Internet.

(2) The county's failure to provide the optional notice as described in this section shall not be grounds for invalidation of any permit decision. [Ord. 8-06 § 1]

Article IV. Project Review and Approval Processes

18.40.260 Administrative approvals without notice (Type I).

(1) The administrator may approve, approve with conditions, or deny (with or without prejudice) all Type I permit applications which are categorically exempt from SEPA without notice (see Tables 8-1 and 8-2 in JCC 18.40.040, and JCC 18.40.080(2)). Expedited review process is available for Type I permit applications if the projects are categorically exempt under SEPA and are consistent with adopted development regulations. Type I permit applications that are not subject to public notice and are submitted as complete applications may take priority over other projects.

(2) Type I projects that are not categorically exempt under SEPA shall be subject to the notice of application and comment period provisions of JCC 18.40.150 through 18.40.220, and the SEPA notice requirements of Article X of this chapter. The administrator's decision under this section shall be final on the date issued, and may not be appealed to the hearing examiner. [Ord. 8-06 § 1]

18.40.270 Administrative approval subject to notice (Type II).

(1) The administrator may approve, grant preliminary approval, approve with conditions, or deny (with or without prejudice) all Type II permit applications, subject to the notice and appeal requirements of this article and Article III of this chapter. The administrator shall issue written findings and conclusions supporting all Type II decisions.

(2) Type II administrative decisions shall become final subject to the following: an applicant or party of record may appeal the decision to the hearing examiner for an open record hearing, as further set forth in Article V of this chapter. [Ord. 8-06 § 1]

18.40.280 Hearing examiner review and decision (Type III decisions and appeals of Type II decisions).

(1) The hearing examiner shall review and make findings, conclusions and a decision on all Type III permit applications and appeals listed under subsection (3)(b) of this section.

(2) For Type III actions, the administrator shall prepare a staff report on the proposed development or action summarizing and considering timely public comments, summarizing and considering recommendations of county departments and affected agencies or special districts, and evaluating the development's consistency with this Unified Development Code, adopted

plans, and regulations. The staff report shall include proposed findings, conclusions, and recommendations for disposition of the development application.

(3) Upon receiving a recommendation from the administrator or notice of any other matter requiring the hearing examiner's attention (e.g., an appeal of a Type II administrative decision), the hearing examiner shall perform the following actions as appropriate:

(a) Hold an open record hearing on a Type III permit application and make a decision after reviewing the recommendation of the administrator; or

(b) Hold an open record appeal hearing and make a decision on the following matters:

(i) Appeals of Type II administrative decisions;

(ii) Appeals of administrative interpretations made under Article VI of this chapter;

(iii) Appeals of SEPA threshold determinations made pursuant to Article X of this chapter (other than determinations of significance); and

(iv) Other matters not prohibited by law.

(4) The hearing examiner shall conduct a public hearing on all Type III development proposals and appeals listed under subsection (3)(b) of this section. Notice of the hearing examiner hearing shall be in accordance with JCC 18.40.230.

(5) *Repealed by Ord. 12-19.*

(6) In the hearing examiner's decision regarding Type III actions and appeals of Type II administrative decisions, the hearing examiner shall make written findings and conclusions. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.290 Board of county commissioners action (Type IV decisions).

(1) The board of county commissioners shall make a decision after reviewing Type IV actions during a regularly scheduled meeting.

(2) In its decision, the board of county commissioners shall make its decision by motion, resolution or ordinance, as appropriate. [Ord. 8-06 § 1]

18.40.300 Final decision.

(1) Finality. All administrative interpretations made pursuant to Article VI of this chapter and Type II and III project permit decisions under this code shall be final unless appealed pursuant to Article V of this chapter.

(2) Finding and Conclusions. Each final decision of the hearing examiner and, in the case of certain Type V decisions, as more fully set forth in [Chapterchapter](#) 18.45 JCC, the board of county commissioners shall be in writing and shall include findings and conclusions based on the record.

(3) Notice of Final Decision.

(a) Except for those permits exempted under JCC 18.40.080, upon issuance of the final decision, the administrator shall provide a notice of decision that includes a statement of all

determinations made under SEPA and the procedures for administrative appeal, if any, of the permit decision. The notice of decision may be a copy of the report or decision on the project permit application. It shall also state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation fully set forth in RCW 36.70B.130. The administrator shall post a copy of the decision on the County on-line permit system, DCD website, and provide the notice of decision to the county assessor's office.

(b) A copy of the notice of decision shall be mailed, emailed, or hand delivered to the applicant, any person who, prior to the rendering of the decision, requested notice of the decision, and to all persons who submitted substantive written comments on the application. The notice of decision shall be provided to the Jefferson County assessor.

(4) Timing of Notice of Final Decision. ~~The final decision on a development proposal should be made within 120 calendar days from the date of the determination of completeness~~ In order to meet the following time periods outlined in RCW 36.70B, as amended, applicants are required to submit more detailed and thorough applications, obtains discretionary approvals for their projects, and have received approvals from other department or agencies besides DCD. The permit applications as classified in Table 8-1 should be processed within the following time periods after the applicant files a complete application, subject to JCC 18.40.100:

(a) Type I permits not listed in JCC 18.40.080(1) should be processed and a notice of decision issued within 65 calendar days.

(b) All Type II permits should be processed and a notice of decision or preliminary approval issued within 100 calendar days.

(c) All Type III permits should be processed and a notice of decision or preliminary approval issued within 170 calendar days.

~~(a) The above time deadlines may be amended if: unless:~~

(d)

(ia) Certain days are excluded from the time calculation pursuant to subsection (5) of this section;

(iib) The application involves a shoreline permit application for limited utility extensions (RCW 90.58.140(13)(b)) or construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion. In those cases, the decision to grant or deny the permit shall be issued within 21 calendar days of the last day of the comment period specified in JCC 18.40.220(2);

(iiid) The application involves a final short plat application under Article III of ~~Chapter~~ chapter 18.35 JCC, or a final long plat application under Article IV of ~~Chapter~~ chapter 18.35 JCC. In such cases, the application shall be approved, disapproved or returned to the applicant within 30 days from the date of the determination of completeness; ~~or~~

(ive) The administrator makes written findings that a specific amount of additional time is needed to process the project permit or application, consistent with JCC 18.40.310 (Expiration of applications); ~~or~~

(v) The applicant and DCD mutually agree to an extension of time deadlines in writing.

(5) Calculation of Time Periods for Issuance of Notice of Final Decision. In determining the number of calendar days that have elapsed since the determination of completeness, the following periods shall be excluded:

(a) Any period during which the applicant has been requested by the county to correct plans, perform studies, or provide additional information. The period shall be calculated as set forth in JCC 18.40.110(6)(b).

(b) If substantial project revisions are made or requested by an applicant, the ~~120~~ calendar days will/shall be calculated from the time the county determines the revised application is complete and issues a new determination of completeness.

(c) All time required for the preparation of an environmental impact statement (EIS) following a determination of significance (DS) pursuant to ~~Chapter~~chapter 43.21C RCW.

(d) Any period for open record appeals of project permits under JCC 18.40.330; ~~provided, however, that the time period for the hearing and decision shall not exceed a total of 90 calendar days.~~

(e) Any extension of time mutually agreed upon by the county and the applicant.

(f) Any time required for the preparation of an administrator's code interpretation pursuant to Article VI of this chapter.

(g) Any time required for the hearing examiner to enter findings of fact and conclusions of law, and issue a decision after the public hearing is closed.

(6) The time limits established in this chapter do not apply if a project permit application:

(a) Requires an amendment of the Jefferson County Comprehensive Plan or this Unified Development Code; or

(b) Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200.

~~(7) Notice to Applicant. If the county is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.~~

~~(8)~~ Effective Date. The final decision of the administrator, hearing examiner, or board of county commissioners shall be effective on the date stated in the decision, motion, resolution or ordinance; provided, however, that the appeal periods shall be calculated from the date of the decision, as further provided in JCC 18.40.330 and 18.40.340. [Ord. 12-19 § 4 (Appx. C); Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1. Formerly 18.40.320]

18.40.310 Expiration of applications.

(1) A land use application shall be null and void if the applicant fails to submit the requested additional information under JCC 18.40.110, within 180 calendar days from the department's request or within a time period as specified by the hearing examiner. ~~Applications pending as of~~

~~October 1, 2019, shall have 180 days to provide the requested additional information prior to expiring under this section, unless the administrator grants an extension under subsection (2) of this section.~~ Land use applications expired under this section shall forfeit all application fees.

(2) The administrator may grant one or more 180-day extension(s) of time for land use application(s) that:

- (a) Have made substantial progress in obtaining required approvals and have minor approvals remaining;
- (b) Have submitted written proof demonstrating a path for obtaining all remaining approvals within the 180-day extension; or
- (c) Demonstrate other written justifiable cause to the administrator.

(3) The administrator may review a land use application(s) and make any necessary corrections to the application(s) expiration date caused by inaccurate and/or missed data entries. Documentation of such corrections shall be made part of the file's written record. [Ord. 12-19 § 4 (Appx. C)]

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)~~), ~~and~~ complete applications under 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, Chapterchapter 18.25 JCC, or Flood Damage Prevention, Chapterchapter 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 Chapterchapter 18.12 JCC or to site development review pursuant to Article VII of this chapter (JCC 18.40.420 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.~~

(eb) A complete application is vested for the specific use, density, and physical development that is identified in the application submittal, provided the permit is not required by state or federal law, including any applicable statute or regulation 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. [Ord. 9-22 § 5 (Appx. D); Ord. 12-19 § 4 (Appx. C)]~~

18.40.325 Suspension, revocation, or modification of permits.

(1) The hearing examiner may suspend, revoke, or modify a Type I, II, or III land use permit or approval after a notice of noncompliance to the affected parties, a recommendation from the administrator, a public hearing consistent with the Hearing Examiner Rules of Procedure, and with written findings when:

(a) Decision, approval, or permit was obtained by fraud, misrepresentation, or clear inadvertent error;

(b) Use for which such decision, approval, or permit was granted is not being exercised within three years of approval, unless the decision, approval, or permit provides for a greater period of time or the administrator has authorized an allowable extension of time;

(c) Use for which decision, approval, or permit was granted ceased to exist or has been suspended for three years or more unless the administrator has authorized an allowable extension of time;

(d) Decision, approval, or permit is being, or recently has been exercised contrary to the terms or conditions of such decision, approval, or permit or is in violation of any local or state law or regulation; or

(e) Use for which decision, approval, or permit was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a public nuisance. [Ord. 12-19 § 4 (Appx. C)]

Article V. Appeals

18.40.330 Administrative appeals.

In the absence of a specific right of appeal authorized under this UDC, there shall be no right to administrative appeals.

(1) Type I Permits. Decisions of the Administrator on Type I permits and decisions regarding the appropriate permit process to be used for discretionary conditional use permit applications (i.e., "C(d)" uses listed in Table 3-1 in JCC 18.15.040) under JCC 18.40.520, are not appealable to the hearing examiner. ~~However, administrative code interpretations may be appealed as set forth in Article VI of this chapter.~~

(2) Type II Permits.

(a) The administrator's final decision on a Type II permit application may be appealed by a party of record to the hearing examiner for an open record appeal hearing as further set forth in JCC 18.40.280. The responsible official's SEPA determination of nonsignificance (DNS) or mitigated determination of nonsignificance (MDNS) may also be appealed by a party of record to the hearing examiner for an open record appeal hearing. Administrative appeals of a DS or draft or final EIS are not allowed.

(b) All appeals of Type II permit decisions must be in writing, conform with the procedures for appeal set forth in ~~Chapter~~ [chapter](#) 2.30 JCC and the Hearing Examiner Rules of Procedure and shall be filed within 14 calendar days after the notice of decision is issued. Appeals of ~~threshold~~ [environmental](#) determinations under SEPA, except for a determination of significance (DS), shall be consolidated with any open record hearing on the project permit. (See RCW 36.70B.110(6)(d).)

(3) SEPA Decisions.

(a) The responsible official's DNS or MDNS may be appealed to the hearing examiner by the applicant or anyone commenting on the environmental impacts of the proposal (as further set forth in JCC 18.40.780). The appeal must be in writing, in conformance with ~~Chapter~~ [chapter](#) 2.30 JCC and the Hearing Examiner Rules of Procedure, and be filed within 14 calendar days after the threshold determination is issued as set forth in subsection (3)(b) of this section. Appeals of environmental determinations under SEPA shall be consolidated with any open record hearing on the project permit. (See RCW 36.70B.110(6)(d).) Administrative appeals of a DS or draft or final EIS are not allowed.

(b) The SEPA appeal period shall be calculated from the date the decision is issued pursuant to WAC 197-11-340(2)(d). [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.340 Judicial appeals.

(1) Time to File Judicial Appeal. The applicant or any aggrieved party may appeal from the final decision of the administrator or hearing examiner to a court of competent jurisdiction in a manner consistent with state law. All appellants must timely exhaust all administrative remedies prior to filing a judicial appeal.

(2) Service of Appeal. Notice of appeal and any other pleadings required to be filed with the court shall be served by delivery to the county auditor (see RCW 4.28.080), and all persons identified in RCW 36.70C.040, within the applicable time period.

(3) Cost of Appeal. The appellant shall be responsible for the cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for the appeal. Prior to the preparation of any records, the appellant shall post an advance fee deposit in an amount specified by the county auditor with the county auditor. Any overage ~~will~~shall be promptly returned to the appellant. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

Article VI. Unified Development Code Interpretation

18.40.350 Purpose.

An interpretation of the provisions of this Unified Development Code is intended to clarify conflicting or ambiguous wording, interpret proper classification of a use, or interpret the scope or intent of the provisions of this code; provided, however, that interpretations of the provisions adopted under the Jefferson County building code, ~~Chapter~~chapter 15.05 JCC, or its successor ordinance, may not be requested under this article. An interpretation of the provisions of this code may not be used to amend the code. Further, code interpretations are not considered a project permit action subject to "typing" and the public notice requirements contained in Articles I through V of this chapter. [Ord. 8-06 § 1]

18.40.360 Submission requirements.

(1) Who May Request Interpretation. Any person may request a written interpretation of the provisions of this code. Additionally, the administrator may issue an interpretation on the administrator's own initiative.

(2) The administrator may require that any request that seeks interpretation of more than four UDC sections be broken down into smaller requests, each requiring the standard fee. The administrator may limit the code interpretation to what is deemed necessary to clarify the section and may decline responding to requests that are deemed excessive or onerous or those that ask hypothetical questions.

(3) Submittal Requirements. Any person requesting an interpretation of this code shall submit a written request specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or materials in support of a proposed interpretation. The applicant shall pay the fee set forth in the ~~Jefferson County~~most recently adopted DCD fee ~~schedule ordinance~~ or an administrator's interpretation.

(4) Factors for Consideration. In making an interpretation of the provisions of this code, the administrator should consider the following, as applicable:

- (a) The applicable provisions of this code, including its purpose and context;
- (b) The implications of the interpretation for development within the county as a whole, including the precedent the interpretation ~~will~~shall set for other applicants; and
- (c) Consistency with the Jefferson County Comprehensive Plan and other relevant ordinances and policies.

(5) Conflicts with Other Regulations. Where conflicts occur between the provisions of this code and the Jefferson County building code, ~~Chapter~~chapter 15.05 JCC, or its successor ordinance, or other regulations of the county, the more restrictive shall apply. If any conflict between the

land use districts map and the text of this code ensue, the text of this code shall prevail. [Ord. 8-06 § 1]

18.40.370 Administrator's decision.

(1) The DCD administrator's decision on a request for an interpretation shall include the name of the applicant, the description of the subject proposal, the language of the provisions of this code subject to interpretation, the explanation of the DCD administrator's interpretation, and any other necessary information reasonably related to the proposal.

(2) Response to Written Request. The ~~DCD~~-administrator shall mail a written response to any person filing a written request to interpret the provisions of this code within ~~28-calendar~~90 days of having received the request or as soon as reasonably practicable; provided, however, that when a request is made by a permit applicant while a project is pending and after a determination of completeness has been issued, the permit applicant must agree to waive the time frame required under Article IV of this chapter to allow for preparation of the interpretation, and any changes to the project that the interpretation might require. [Ord. 8-06 § 1]

18.40.380 Time limitation and enforcement.

(1) Time Limitation. An interpretation of this code remains in effect unless and until rescinded in writing by the administrator, or superseded by a formal amendment under JCC 18.45.090.

(2) Enforcement. An interpretation of this code issued in accordance with this article may be enforced in the same manner that any provision of this code is enforced (see ~~JCC~~-Title 19 JCC). All written interpretations of this code, with a current index of such interpretations shall be maintained by DCD and made available for public inspection. [Ord. 8-06 § 1]

18.40.390 Appeals of administrator's interpretations.

When an interpretation is made in response to a written request pursuant to the provisions of this article, the person filing the written request may appeal the decision of the administrator to the hearing examiner within 14 calendar days of the decision using the process for appeals of Type II permit decisions as set forth in JCC 18.40.330, ~~Chapter~~chapter 2.30 JCC, and the Hearing Examiner Rules of Procedure. The fee for such appeal shall be as set forth in the ~~Jefferson County fee ordinance~~ most recently adopted DCD fee schedule and must be paid by the appellant at the time of filing the appeal. [Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

18.40.400 Judicial appeal.

Appeals from the final decision of the hearing examiner shall be made to the Jefferson County superior court within 21 calendar days of the date the decision or action becomes final, as set forth in JCC 18.40.340. All appeals must conform to the provisions of JCC 18.40.340, and are subject to the requirements set forth in that section. [Ord. 8-06 § 1]

Article VII. Site Development Review Process²

18.40.420 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-prior to~~ applying for a development permit. Site development review is an assessment of the physical aspects and constraints of the site for the purpose of development. While a site development review~~it~~ will not vest a property to development regulations, it-a site development review 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. [Ord. 9-22 § 5 (Appx. D)]

18.40.430 Applicability.

(1) Site development review shall be required prior to land disturbing activity or any development activity; submittal of any development permit application, on-site sewage system permit application pursuant to Chapter 8.15 JCC, land use permit application, or land division permit application, or prior to any process to adjust property boundaries, including condominiumization.

(2) Any landowner or their representative who wishes to make application for development shall use the site development review process to determine whether their site is a legal lot of record and buildable. No development application may vest until the site development review is completed.

~~(3) 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 with all applicable requirements of this title.~~

~~(4)~~ Site development review is not required for the following:

(a) Mechanical, plumbing replacement, hot water, propane, reroofing, 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 [Chapterchapter](#) 15.15 JCC.

(d) The administrator may waive or modify the SDR requirements for Legal Lots of Record that contain existing legally established development (met criteria in place when established) through a limited site development review, provided the proposals meet the following criteria:

- i. Residential Development only. The proposal is for residential structures, including common appurtenant structures such as garages, workshops, addition to existing legal structure, installation and/or replacement of septic system; and
- ii. Sited within Developed and/or Disturbed Areas. The proposed development is located within previously authorized or properly permitted disturbed areas; and
- iii. Complies with Jefferson County Unified Development Code (UDC). The proposed development complies with current shoreline, critical areas, zoning, and other UDC requirements.

(5) Any repair requiring an emergency permit under ~~JCC Title~~ 8 or 15 ~~JCC~~, or this title, or 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. [Ord. 9-22 § 5 (Appx. D)]

18.40.440 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) Payment of the applicable fee as set forth in the ~~Jefferson County~~ most recently adopted DCD fee ordinanceschedule;
- (e) A written description of the specific proposed use of the property for which the application is being submitted; and
- (f) 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:
 - (i) Recorded plat or associated AFN.
 - (ii) Approved unrecorded subdivision.
 - (iii) Deed prior to August 11, 1969.
 - (iv) Prior recognition of legal lot status by the county.
 - (v) Title report.
 - (vi) Deed history.
 - (vii) Tax history.

(2) Any landowner or representative who applies for site development review under this article and is proposing a 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), may be required to submit information in addition to the specific submittal requirements of JCC 18.40.100(1) through (4), where determined by the administrator to be necessary for the site development review application.

(3) The administrator may waive specific submittal requirements determined to be unnecessary for site development review. [Ord. 9-22 § 5 (Appx. D)]

18.40.450 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. [Ord. 9-22 § 5 (Appx. D)]

18.40.460 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 this title, including any incorporated standards;

(b) All lots in the proposed development must be legal lots of record in compliance with the requirements of ~~Chapter~~chapter 18.12 JCC;

(c) 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;

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

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

(2) The submittal of additional information may be required by the department to determine whether site development review ~~can~~may be approved, or as a condition of approval. Additional information includes, but is not limited to the following: a critical areas study, special flood hazard area information, stormwater review, roads and utility review, a water availability statement, and soil logs and other applicable information necessary to determine compliance with the Jefferson County department of public health regulations regarding on-site septic disposal. [Ord. 9-22 § 5 (Appx. D)]

18.40.470 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. [Ord. 9-22 § 5 (Appx. D)]

18.40.480 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~~ shall be inconsistent with the previously approved site development review; and
- (b) The modification ~~will~~ shall 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. [Ord. 9-22 § 5 (Appx. D)]

Article VIII. Conditional Uses

18.40.490 Purpose.

The purpose of the conditional use permit process is to provide flexibility in the application of the use regulations contained in this code in order to accommodate uses that may be appropriate in an established district under certain circumstances, but inappropriate in the same district under others. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to the goals and policies established in the Jefferson County Comprehensive Plan and to adopted development standards. This review shall determine whether the proposed use should be permitted by weighing the public need or the benefit to be derived from the use against the impact that it may cause. [Ord. 8-06 § 1]

18.40.500 Scope.

This article shall apply to each application for a conditional use permit. Only those uses indicated by a "C(a)," "C(d)" or "C" opposite the use in Table 3-1 in JCC 18.15.040 will be considered for a conditional use permit. [Ord. 8-06 § 1]

18.40.510 Application submittal and contents.

(1) The application for a conditional use permit shall be submitted to DCD on forms provided by the department, along with the appropriate fees established under the Jefferson County most recently adopted DCD fee schedule. ordinance. The application shall include all materials required pursuant to JCC 18.40.100.

(2) The administrator may waive specific submittal requirements determined to be unnecessary for review of an application. [Ord. 8-06 § 1]

18.40.520 Conditional use permit types – Review processes.

(1) Applications for uses listed as an administrative conditional use permit (i.e., "C(a)") in Table 3-1 in JCC 18.15.040 shall be processed according to the procedures for Type II land use decisions established in Article IV of this chapter.

(2) Applications for uses listed as discretionary conditional use permits (i.e., "C(d)") in Table 3-1 in JCC 18.15.040 shall, at a minimum, be processed according to the procedures for Type II land use decisions established in Article IV of this chapter. However, in accordance with this subsection, the administrator may on a case-by-case basis refer a discretionary conditional use permit application to the hearing examiner to be processed according to the procedures for Type III land use decisions established in Article IV of this chapter.

(a) Required Findings. Prior to referring an application for a use listed as "C(d)" in Table 3-1 in JCC 18.15.040 to the hearing examiner, the administrator shall make one or both of the following findings:

(i) In the discretion exclusive, discretionary judgment of the administrator, the application involves potentially significant issues relating to location, design, configuration, and potential impacts to surrounding properties and the community that can may be more appropriately considered and addressed through an open public record pre-decision hearing before the Jefferson County hearing examiner; or

(ii) In the ~~discretion exclusive, discretionary judgment~~ of the administrator, the application seeks approval of a use involving complex legal issues necessitating special expertise in the decision-maker.

(b) Timing. The administrator may determine whether or not to refer an application to the hearing examiner for a public hearing, concurrent with the determination of completeness required under JCC 18.40.110(1), or after the public comment period has expired.

(c) Discretion of the Administrator. The administrator's decision to refer an application to the hearing examiner under this subsection to be processed as a Type III application shall be for the purpose of affording maximum fairness in decision-making and procedural due process protection, and shall not affect the substantive applicability of local, state or federal policies or law applicable to any permit application. The decision to refer any application to the hearing examiner to be processed as a Type III application rests exclusively within the discretion of the administrator.

(d) No Notice or Hearing Required. Because the administrator's decision to refer (or not to refer) an application for a use listed as "C(d)" in Table 3-1 in JCC 18.15.040 to the hearing examiner for a public hearing rests solely in the administrator's discretion, the county is not required to provide prior notice of the administrator's decision. The administrator shall not be required to hold a public hearing on such a decision. The decision of the administrator made pursuant to this subsection (2) shall not constitute an appealable administrative decision.

(3) Applications for uses listed as a "C" in Table 3-1 in JCC 18.15.040 shall be processed according to the procedures for Type III land use decision established in Article IV of this chapter. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.530 Approval criteria for all conditional uses.

(1) The county may approve or approve with modifications an application for a conditional use permit (i.e., uses listed in Table 3-1 in JCC 18.15.040 as "C(a)," "C(d)" or "C") if all of the following criteria are satisfied:

(a) The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property;

(b) The conditional use ~~will~~shall be served by adequate infrastructure including roads, fire protection, water, wastewater disposal, and stormwater control;

(c) The conditional use ~~will~~shall not be materially detrimental to uses or property in the vicinity of the subject parcel;

(d) The conditional use ~~will~~shall not introduce noise, smoke, dust, fumes, vibrations, odors, or other conditions or which unreasonably impact existing uses in the vicinity of the subject parcel;

(e) The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the conditional use ~~will~~shall not unreasonably interfere with allowable development or use of neighboring properties;

(f) The pedestrian and vehicular traffic associated with the conditional use willshall not be hazardous to existing and anticipated traffic in the vicinity of the subject parcel;

(g) The conditional use complies with all other applicable criteria and standards of this title and any other applicable provisions of the Jefferson County Code or state law; and more specifically, conforms to the standards contained in Chapterchapters 18.20 and 18.30 JCC;

(h) The proposed conditional use willshall not result in the siting of an incompatible use adjacent to an airport or airfield;

(i) The conditional use willshall not cause significant adverse impacts on the human or natural environments that cannot be mitigated through conditions of approval;

(j) The conditional use has merit and value for the community as a whole;

(k) The conditional use is consistent with all relevant goals and policies of the Jefferson County Comprehensive Plan; and

(l) The public interest suffers no substantial detrimental effect. Consideration shall be given to the cumulative effect of similar actions in the area.

(2) In instances where all of the above findings cannot be made, the application shall be denied.

(3) The administrator may consider applications for modifications of lawfully established conditional uses and developments approved under this code and conditional uses in existence on December 18, 2000, when the application proposes to bring the existing use substantially closer to compliance with the standards of this code. The administrator may approve, conditionally approve, or deny the modification application. A site plan conforming to the provisions of this chapter and Article II, Project Permit Applications (Type I – IV), of this chapter shall accompany the application showing the location, size and type of modification proposed by the applicant.

(4) Modifications may be approved by the administrator under Type I review procedures; provided, that the cumulative modifications of the approved use willshall not exceed the following limitations:

(a) The modification willshall not increase residential use by more than one unit, if allowed by the land use district;

(b) The modification willshall not increase the required amount of parking by more than 20 percent or 20 spaces (whichever is less);

(c) The proposed modification willshall not expand the total square footage of all structures and/or outdoor use areas, excluding parking, by more than 20 percent. In addition, the proposed expansion of the structure shall not result in total size of the structure exceeding the maximum building size limits in Chapterchapter 18.30 JCC;

(d) The modification willshall not change or modify any special condition imposed under any previous official review;

- (e) The modification will/shall not significantly reduce the amount or location of required site screening;
- (f) The modification will/shall not expand an existing nonconforming use or structure, or render a conforming use or structure nonconforming;
- (g) The modification will/shall not establish a new use;
- (h) The modification will/shall not expand a mining/site operation, mineral processing or mineral batching activity;
- (i) In the determination of the administrator, the modification will/shall not create or materially increase any adverse impacts or undesirable effects of the project, or cause the use or structure to become inconsistent with the Comprehensive Plan or the purpose of the land use class and district.

(5) All proposed uses, structures and site improvements (and modifications thereof) shall comply with the development standards of this code.

(6) Any proposed modification that does not meet all the requirements of this subsection shall not be approved through this process, but shall be reviewed through the current review procedures as outlined by this chapter.

(7) Decisions to administratively approve modifications shall be administered through a consistency review of development permits in accordance with this code and any previous conditions of approval. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.540 Additional conditions.

The county may impose additional conditions on a particular use if it is deemed necessary for the protection of the surrounding properties, the neighborhood, or the general welfare of the public. The conditions may:

- (1) Increase requirements in the standards, criteria or policies established by this code;
- (2) Stipulate an exact location for the conditional use on the subject property as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;
- (3) Require structural features or equipment as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic; or
- (4) Contain restrictions or provisions deemed necessary to establish parity with uses permitted in the same zone with respect to avoiding nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic and physical hazards. [Ord. 8-06 § 1]

18.40.550 Use of property before final decision.

No building permit shall be issued for any use involved in an application for approval for a conditional use permit until the conditional use permit is approved and becomes effective. [Ord. 8-06 § 1]

18.40.560 Effective period – Expiration.

- (1) A conditional use permit automatically expires and becomes void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective

date (the date of the decision granting the permit) of the permit unless the permit approval provides for a greater period of time.

(2) Extensions to the duration of the original permit approval are prohibited.

(3) The department of community development shall not be responsible for notifying the applicant of an impending expiration. [Ord. 8-06 § 1]

18.40.570 Modification of a conditional use permit.

The county may modify an approved conditional use permit as follows: the county may delete, modify or impose additional conditions upon finding that the use for which the approval was granted has been intensified, changed or modified by the property owner or by person(s) who control the property without approval so as to significantly impact surrounding land uses. A modification ~~will~~shall be processed as a Type II ~~land use~~ decision pursuant to JCC 18.40.270. [Ord. 8-06 § 1]

18.40.580 Conditional use permit to run with the land.

A conditional use permit granted under this article shall continue to be valid upon a change of ownership of the site, business, service, use or structure that was the subject of the permit application. No other use is allowed without approval of an additional conditional use permit. [Ord. 8-06 § 1]

18.40.590 Permit suspension or revocation.

The county may suspend or revoke an approved conditional use permit pursuant to ~~JCC~~ Title 19 JCC upon finding that:

(1) The use for which the approval was granted has been abandoned for a period of at least one year;

(2) Approval of the permit was obtained by misrepresentation of material fact; or

(3) The permit is being exercised contrary to the terms of approval. [Ord. 8-06 § 1]

18.40.600 Assurance device.

In appropriate circumstances, the administrator may require a reasonable performance or maintenance assurance device, in a form acceptable to the county prosecutor, to assure compliance with the provisions of this code and the conditional use permit as approved. [Ord. 8-06 § 1]

Article IX. Variances (Minor and Major)

18.40.610 Purpose.

The purpose of this article is to ensure that all persons and their property are guaranteed equal rights and opportunities under similar circumstances. A variance is never to be used to endow certain persons or property with special privileges denied to all others under similar circumstances. Variances may only be granted for dimensional, area and bulk requirements (e.g., height, setbacks, yard size, lot coverage, frontage, floor area and the like) specified by this code. [Ord. 8-06 § 1]

18.40.620 Scope.

This article shall apply to all applications for variances from the provisions of this code, except for reasonable economic use variances and environmentally sensitive area buffer width reductions, which shall be governed by the provisions of Article VI-D of ~~Chapter~~chapter 18.15 JCC. [Ord. 8-06 § 1]

18.40.630 Application submittal and contents.

(1) The application for a variance shall be submitted to DCD on forms provided by the department, along with the appropriate fees established under the ~~Jefferson County most recently adopted DCD fee schedule~~ fee ordinance. The application shall include all materials required pursuant to JCC 18.40.100.

(2) The administrator may waive specific submittal requirements determined to be unnecessary for review of an application. [Ord. 8-06 § 1]

18.40.640 Variance types – Review processes.

The following are subject to this permit review process:

(1) Minor and Major Variances Distinguished.

(a) Minor variances include variances that would permit minor deviation from expansion of an existing building, or a new development ~~which would by extend~~ no more than 10 percent beyond the dimensional, area, ~~and~~ bulk requirements, setback or lot coverage requirements specified by this code. ~~Minor variances also include variances to allow expansion of an existing building that is nonconforming as to setback or lot coverage requirements when~~ The applicant shall demonstrate the proposed expansion proposed deviation ~~–would not:~~

(i) Constitute a threat to the public health, safety and general welfare;

(ii) Increase the nonconformity of the existing building; and

(ii) Result in any portion of the existing building ~~or expansion~~ being located closer to an abutting property line than does the existing building at its nearest point to the property line.

(b) Major variances include all other variances (i.e., all variances not described in subsection (1)(a) of this section).

(2) Minor Variances. Applications for minor variances shall be processed according to the procedures for Type II land use decisions established in JCC 18.40.270.

(3) Major Variances. Applications for major variances shall be processed according to the procedures for Type III land use decisions established in Article IV of this chapter. [Ord. 8-06 § 1]

18.40.650 Approval criteria.

A variance may be granted only if the applicant demonstrates all of the following:

(1) The variance ~~will~~shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district in which the subject property is located;

(2) The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district in which the subject property is located;

(3) The granting of the variance ~~will~~shall not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and land use district in which the subject property is located;

(4) The special circumstances of the subject property make the strict enforcement of the provisions of this code an unnecessary hardship to the property owner;-

(5) The special circumstances are not the result of the actions of the applicant; and

(6) The variance is consistent with the purposes and intent of this Unified Development Code. [Ord. 8-06 § 1]

18.40.660 Additional conditions.

In granting any variance, the decision-maker may prescribe appropriate conditions and safeguards to assure that the purpose and intent of this code will not be violated. [Ord. 8-06 § 1]

18.40.670 Limitation on authority.

The administrator or hearing examiner (as applicable) may not grant a variance under this article for the following:

(1) The provisions of this code establishing allowed, conditional, discretionary and prohibited uses within the various land use districts (i.e., Table 3-1 in JCC 18.15.040);

(2) The density provisions of this code;

(3) The procedural or administrative provisions of this code; or

(4) Any provision of this code which, by its terms, is not subject to a variance. [Ord. 8-06 § 1]

18.40.680 Effective period – Expiration.

(1) A variance approval automatically expires and becomes void if the applicant fails to file for a building permit or other necessary development permit within three years of the date of the decision granting the variance unless the variance approval provides for a greater period of time.

(2) Extensions to the duration of the original variance approval are prohibited.

(3) The department of community development shall not be responsible for notifying the applicant of an impending expiration. [Ord. 8-06 § 1]

18.40.690 Assurance device.

In appropriate circumstances, the administrator or hearing examiner (as applicable) may require a reasonable performance or maintenance assurance device, in a form acceptable to the prosecuting attorney, to assure compliance with the provisions of this title and the variance as approved. [Ord. 8-06 § 1]

Article X. State Environmental Policy Act (SEPA) Implementation

18.40.700 Authority.

(1) This section contains county procedures and policies implementing the State Environmental Policy Act (SEPA) (~~Chapter~~[chapter](#) 43.21C RCW). Jefferson County adopts this article under RCW 43.21C.120, as amended, and WAC 197-11-904.

18.40.705 Adoption by reference.

(~~12~~) SEPA Rules – Adoption by Reference. The county hereby adopts by reference the SEPA rules, ~~Chapter~~[chapter](#) 197-11 WAC. The SEPA rules must be used in conjunction with this article. This article contains uniform usage and definitions of terms under SEPA and the SEPA rules.

(~~32~~) The county adopts by reference the definitions in WAC 197-11-700 et seq., as supplemented by ~~Chapter~~[chapter](#) 18.10 JCC. [Ord. 8-06 § 1]

18.40.710 Purpose.

The purpose of this article is to adopt regulations that implement SEPA, consistent with the SEPA rules. This is accomplished by ensuring that:

- (1) Environmental values are considered in making land use and agency decisions, and reasonable alternatives and conditions are identified and implemented to mitigate (as provided in this article) the adverse environmental impacts of proposed actions on the environment;
- (2) Adequate and timely environmental information is gathered and provided to decision-makers, and procedural delay and duplication is avoided; and
- (3) Opportunity for public involvement is included in the decision-making process. [Ord. 8-06 § 1]

18.40.720 Responsible official – Decision-making authority.

(1) The responsible official shall be the administrator.

(2) For those proposals for which the county is the lead agency, the responsible official is vested with authority to and shall make the threshold determination, determine an exemption (if any), supervise scoping and preparation of any required environmental impact statement (EIS), administer the SEPA rules and this article, and perform any other functions assigned to the "lead agency" or "responsible official" by the SEPA rules.

(3) The responsible official shall be responsible for the written comments of the county in response to a consultation request:

- (a) Prior to issuance of a threshold determination;
- (b) For participation in scoping; or
- (c) For review of a draft environmental impact statement (DEIS).

(4) The department of community development (DCD) shall maintain all documents required by ~~chapter 40.14 RCW (Preservation and Destruction of Public Records)~~[SEPA rules](#) and make them available in accordance with ~~Chapter~~[chapter](#) 42.56 RCW (Public Records Act). ~~42.17 RCW (the Disclosure Campaign Finances Lobbying Records Act).~~ [Ord. 8-06 § 1]

18.40.730 Lead agency determination and responsibilities.

- (1) The county department receiving application for or initiating a proposal that includes a non-exempt action shall determine the lead agency for the proposal under WAC 197-11-050 and WAC 197-11-922 through 197-11-940, unless lead agency has been previously established.
- (2) When the county is lead agency, the responsible official shall supervise compliance with threshold determination requirements. If an EIS is required, that official shall supervise preparation of the EIS.
- (3) When the county is not lead agency, the county shall use and consider the determination of nonsignificance (DNS), mitigated determination of nonsignificance (MDNS), or final environmental impact statement (FEIS) of the lead agency in making decisions on the proposal. Unless required under WAC 197-11-600 no DNS or EIS in addition to that issued by the lead agency shall be prepared. The county may, however, conduct supplemental environmental review under WAC 197-11-600.
- (4) If the county receives a lead agency determination that appears inconsistent with criteria contained in WAC 197-11-922 through 197-11-940, it may object to the determination. Objection must be made to the agency that made the determination and must be resolved within 15 calendar days of receipt of the determination, or the county must petition the Department of Ecology for lead agency determination under WAC 197-11-946 within the 15-calendar-day period. The responsible official may initiate any such petition on behalf of the county.
- (5) Any county department making lead agency determination for a private proposal shall require sufficient information to identify all other agencies with jurisdiction over the proposal. [Ord. 8-06 § 1]

18.40.740 Initiation of SEPA review – Limitations on actions during review.

- (1) Initiation of Review. The county's SEPA process begins when a permit application is submitted to the county, or when the county proposes to take an official action as defined in WAC 197-11-704.
- (2) Limitations on Actions during SEPA Process. Until the responsible official issues a final DNS or FEIS and the SEPA appeal period has lapsed, the county shall not take any project action (issuing permits, approvals, etc.) on a nonexempt project, or take any nonproject action (decisions on policies, plans, programs, etc.), that would have an adverse environmental impact or would limit the choice of reasonable alternatives. [Ord. 8-06 § 1]

18.40.750 Categorically exempt actions – Use of existing documents and analyses.

- (1) Categorically Exempt Levels.
 - (a) Except with the adoption of flexible threshold limits as set forth in subsections (1)(b) through (e) of this section, Jefferson County adopts and incorporates by reference the categorical exemption levels set forth in WAC 197-11-800.
 - (b) Pursuant to WAC 197-11-800(1)(c)(v), the maximum exempt level for any landfill or excavation activity in Jefferson County shall be 500 cubic yards.

(c) Pursuant to WAC 197-11-800(1)(c)(ii), the maximum exempt level for the construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(d) Pursuant to WAC 197-11-800(1)(c)(iii), the maximum exempt level for the construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet of gross floor area, and with associated parking facilities designed for up to 40 automobiles.

(e) Pursuant to WAC 197-11-800(1)(c)(iv), the construction of a parking lot designed for 40 automobiles shall be exempt.

(2) Categorically Exempt Actions. Actions categorically exempt under subsection (1) of this section do not require review under this article or the preparation of an environmental impact statement, and may not be conditioned or denied under SEPA, except as provided in WAC 197-11-305 and subsection (3) of this section.

(3) Use of Exemptions.

(a) The responsible official ~~will~~shall determine the applicability of a categorical exemption. The determination by the responsible official that a proposal is exempt from SEPA is final. None of the procedural requirements of this article (except as provided in WAC 197-11-305 and this subsection) apply to an exempt proposal.

(b) If a proposal includes exempt and non-exempt actions, the responsible official shall determine the lead agency pursuant to WAC 197-11-050.

(c) If a proposal includes exempt and non-exempt actions, the county may authorize exempt actions prior to compliance with procedural requirements of this article, except as provided in subsections (3)(d) through (3)(g) of this section.

(d) Consistent with WAC 197-11-070, 197-11-305 and 197-11-800, the county may not authorize the use of exemptions for:

(i) Actions that are not exempt;

(ii) Any action that would have a probable significant adverse environmental impact;

(iii) A series of exempt actions that are physically or functionally related which together would result in a probable significant adverse environmental impact for the overall project; or

(iv) Any action that would limit choice of alternatives.

(e) The county may withhold approval of an exempt action that would lead to modification of the physical environment when such modification would serve no purpose if nonexempt action(s) were not approved (see WAC 197-11-305(1) (b)(i)).

(f) The county may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if the non-exempt action(s) were not approved ~~(see WAC 173-806-060)~~.

(g) Actions identified as categorically exempt from SEPA under WAC 197-11-800 shall remain exempt under SEPA even when located in one or more of the environmentally sensitive areas (ESAs) classified, designated and mapped under Article VI-D of ~~Chapter~~chapter 18.15 JCC. However, the categorical exemptions listed in WAC 197-11-800 shall not apply when undertaken wholly or partly on lands covered by water, regardless of whether or not such lands are mapped as ESAs. Proposals in areas subject to this subsection (3)(g) shall require environmental review and a threshold determination, and may be conditioned or denied under this article (see WAC 197-11-756, 197-11-800, and 197-11-908).

(4) Use of Existing Documents and Analyses. Procedures for the use, adoption, or incorporation of existing documents and analyses are provided in WAC 197-11-600, 197-11-610, 197-11-630, and 197-11-635.

(5) Planned Actions.

(a) The county may, as part of its planning processes, elect to perform or have performed for it in advance of any development proposal, the environmental review and analysis for certain actions and their probable impacts. These "planned actions" must be so designated by ordinance or resolution adopted by the county after the analysis of the actions and their impacts has been completed.

(b) Planned actions must be located in an urban growth area, a master planned resort (MPR), or a fully contained community, and meet the additional requirements contained in RCW 43.21C.031(2).

(c) The analysis must be sufficient to identify and analyze all probable significant impacts and most nonsignificant impacts of the actions, and to identify (and, optionally, provide) to a great extent the mitigation necessary (i.e., the significant impacts must be "adequately addressed" in an environmental impact statement).

(d) As a result of the analysis in subsections (5)(a) and (5)(c) of this section, a development proposal being prepared under a planned action does not require a threshold determination or the preparation of an environmental impact statement, but is subject to a full environmental review of its impacts and full requirements for mitigation as identified and specified by the review for the planned action in subsection (5)(c) of this section.

(e) If the environmental review identifies additional impacts not addressed by the planned action, a checklist and threshold determination shall be required. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.760 Analysis of nonexempt project and nonproject actions.

The procedures and requirements in this article apply equally to project and nonproject actions.

(1) Submittal of Environmental Checklist.

(a) A completed environmental checklist shall be submitted with any application for a permit or approval not specifically exempted as per JCC 18.40.750(1). However, a checklist is not required if the county and applicant agree that an EIS is required, if SEPA compliance has been completed, or if SEPA compliance has been initiated by another agency. The county shall use the checklist to determine lead agency and to make the threshold determination if the county is lead agency.

(b) Applicants for private proposals shall complete the checklist, and the county shall provide assistance as appropriate. For county proposals, the department initiating the proposal shall complete the checklist.

(2) Review of Project Impacts. The responsible official shall review the checklist, other information about a project, and the applicable regulations to review the environmental impacts of the project and make a threshold determination. In making this review the responsible official may determine:

(a) All of the project's probable significant adverse environmental impacts have been adequately identified and analyzed. If not, additional studies and analyses may be required;

(b) Some or all of the probable significant adverse environmental impacts have been adequately addressed and mitigated in this UDC and other development regulations adopted by Jefferson County, the Comprehensive Plan, or in other applicable local, state, or federal laws and rules by:

(i) Avoiding or otherwise mitigating the impacts; or

(ii) The county has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by the Growth Management Act ([Chapterchapter 36.70A RCW](#)).

Where probable significant adverse environmental impacts have not been adequately mitigated, the responsible official may condition the project with additional mitigation measures or deny the permit;

(c) To determine if the probable significant adverse environmental impacts have been addressed by an existing rule or law of another agency with jurisdiction, the county shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county shall base or condition its project approval on compliance with that agency's rules or laws;

(d) If the county bases or conditions its SEPA approval of the project wholly or in part on compliance with the requirements or mitigation measures identified in subsections (2)(b)(i) and (2)(b)(ii), during project review the county shall not impose additional mitigation under SEPA for those impacts so conditioned;

(e) Nothing in this subsection limits the authority of the county in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by SEPA.

(3) Threshold Determination. The "threshold determination" is the decision regarding whether there is a reasonable likelihood that the project ~~will~~[shall](#) have a probable significant adverse

environmental impact on an element of the environment. A threshold determination is required for any proposal that meets the definition of an "action" under WAC 197-11-704 and is not categorically exempt, a planned action, or subject to WAC 197-11-600(3). The responsible official shall make and publish the threshold determination for public comment as provided in JCC 18.40.780:

(a) Determination of Significance (DS). If a project may have a probable significant adverse environmental impact, a DS shall be issued, and an EIS shall be required. In determining an impact's significance, the responsible official shall take into account the guidance in WAC 197-11-330 and 197-11-794, including:

(i) Locational, quantitative, and cumulative effects, severity and likelihood of the effects, and effects on environmentally sensitive or special areas; and

(ii) Mitigation measures that will be implemented. The responsible official shall not balance whether beneficial aspects of a proposal outweigh its adverse environmental impacts in determining significance.

(b) Determination of Nonsignificance (DNS). If a project will not have a significant adverse environmental impact, a DNS shall be issued.

(c) Request for Early Indication of DS. Pursuant to WAC 197-11-350(2) and (6), submission of an environmental checklist and prior to the responsible official's threshold determination on a proposal, an applicant may ask the responsible official to indicate whether it is considering a DS. If the responsible official indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts that led the responsible official to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The responsible official shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have one or more probable significant adverse environmental impacts, even with mitigation measures, an EIS shall be prepared. The county's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or changes to a proposal shall not bind the county to a mitigated DNS.

(4) Mitigated Determination of Nonsignificance (MDNS). The responsible official may issue a MDNS as provided in this subsection and in WAC 197-11-350, based on conditions attached to the proposal by the responsible official or on changes to or clarifications of the proposal made by the applicant.

(a) Mitigation measures that justify issuance of a MDNS shall be incorporated in the DNS shall be deemed conditions of approval of the permit decision, and may be enforced in the same manner as any term or condition of the permit. The county may incorporate implementation or enforcement provisions in the MDNS and require performance guarantees.

(b) If the tentative county decision on a permit or approval does not include mitigation measures that were incorporated in a MDNS, the county shall evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (i.e., withdrawal of a DNS).

(5) The responsible official shall provide for prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific probable significant adverse impacts arising from the project that have not been considered and addressed at the plan or development regulation level. The county may clarify or change features in their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning (see WAC 197-11-350).

(6) Durations of comment periods are as provided in JCC 18.40.780. At the end of the comment period the threshold determination becomes final unless retained, modified, or withdrawn, and the appeal period begins.

(7) Preparation of EIS.

(a) Preparation of the draft environmental impact statement (DEIS) and final environmental impact statement (FEIS) and supplemental environmental impact statement (SEIS) are the responsibility of the county under the direction of the responsible official. Before the county issues an EIS the responsible official must be satisfied that it complies with this article and with [Chapterchapter](#) 197-11 WAC. When a DS is issued, an opportunity [willshall](#) be provided to comment on the scope of the EIS that [willshall](#) be developed.

(b) The DEIS, FEIS or SEIS [willshall](#) be prepared by the county or by a consultant in accordance with county procedures established for consultant selection. If the county requires an EIS for a proposal and the responsible official determines that a consultant [willshall](#) prepare the EIS, the applicant shall be so notified immediately after completion of the threshold determination.

(c) The county may require an applicant to conduct specific investigations and to provide information the county does not possess. The applicant is not required to supply information for the purpose of EIS preparation if such information is not required under this article.

(d) If a consultant is preparing an EIS, the responsible official shall assure that the EIS is prepared in a responsible manner. The county shall:

(i) Initiate and coordinate scoping and ensure that the consultant receives all substantive information submitted through the scoping process;

(ii) Assist the consultant in obtaining information from applicants; and

(iii) Direct the content and organization of the EIS.

(e) The responsible official shall maintain procedures for preparation of EISs in accordance with the above.

(8) The DNS and checklist, or FEIS, for non-exempt proposals shall accompany county staff recommendations to any appropriate decision-making body (e.g., the hearing examiner).

(9) The county shall not take any action on the project permit application until the SEPA appeal period has lapsed.

(10) Any appeal of the final SEPA determination shall be heard as provided in JCC 18.40.810.
[Ord. 8-06 § 1]

18.40.770 Substantive authority.

(1) The county may attach conditions to a permit or approval for nonexempt actions pursuant to WAC 197-11-660; provided, that:

(a) The conditions are necessary to mitigate probable significant adverse environmental impacts identified in environmental documents prepared pursuant to this code and [Chapterchapter](#) 197-11 WAC;

(b) Such conditions are in writing;

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished;

(d) The responsibility to implement the mitigation measures are imposed only to the extent attributable to the identified adverse environmental impacts of the applicant's proposal, although voluntary additional mitigation may occur;

(e) The county has considered whether the requirements of the Jefferson County Comprehensive Plan and development regulations adopted to implement the Plan, as well as other local, state, and federal laws or rules, provide adequate analysis of and mitigation for probable significant adverse environmental impacts of the project proposal; and

(f) Such conditions are based on one or more policies in subsection (3) of this section.

(2) The county may deny a permit or approval for nonexempt actions pursuant to WAC 197-11-660; provided, that:

(a) A finding is made that approving the proposal would be likely to result in probable significant adverse environmental impacts that are identified in an FEIS or final SEIS prepared pursuant to this code and [Chapterchapter](#) 197-11 WAC;

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact;

(c) The denial is based on one or more policies set forth in subsection (3) of this section.

(3) The county designates and adopts by reference the following county plans, ordinances and policies as the basis for exercise of county authority pursuant to this article:

(a) The county adopts by reference the policies in the following Jefferson County plans and ordinances:

(i) The Jefferson County Comprehensive Plan, as now exists or may hereafter be amended;

(ii) The Jefferson County Shoreline Master Program, as now exists or may hereafter be amended;

(iii) This Unified Development Code, as now exists or may hereafter be amended;

- (iv) The Jefferson County building code, ~~Chapter~~chapter 15.05 JCC, as now exists or may hereafter be amended;
- (v) The Jefferson County flood damage protection ordinance, ~~Chapter~~chapter 15.15 JCC, as now exists or may hereafter be amended;
- (vi) The Jefferson County stormwater management ordinance, JCC 18.30.070, as now exists or may hereafter be amended;
- (vii) The Jefferson County Road, Traffic and Circulation Standards, as they now exist or may hereafter be amended;
- (viii) The Secretary of the Interior's Standards for Rehabilitating Historic Buildings; and
- (ix) All other county plans, ordinances, regulations and guidelines adopted after the effective date of this Unified Development Code.

(b) The policies enumerated in RCW 43.21C.020.

(c) The county further designates and adopts the following policies as the basis for its exercise of authority pursuant to this article. The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

- (i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (ii) Assure for all people of the state of Washington and Jefferson County a safe, healthful, productive and aesthetically and culturally pleasing surrounding;
- (iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (iv) Preserve important historic, cultural and natural aspects of our national heritage;
- (v) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources; and
- (vi) Achieve a balance between population and resource use, which ~~will~~shall permit a high quality of life for all residents of Jefferson County. [Ord. 8-06 § 1]

18.40.780 Public notice and comment.

(1) When the responsible official makes a threshold determination and issues a DNS or MDNS under WAC 197-11-340(2), the lead agency shall not act upon a proposal for ~~fourteen~~ 14 days after the date of issuance. The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice as set forth in JCC 18.40.210.

As an alternative, the responsible official ~~shall may utilize~~use the "optional DNS process" pursuant to WAC 197-11-355. Under this process, where the county is the lead agency for a project and the responsible official has a reasonable basis for determining significant adverse

environmental impacts are unlikely, it shall use a single integrated 14-day comment period to obtain comments on the notice of application and the likely threshold determination for the proposal. When the "optional DNR process" is used, There there will beis no second comment period when following issuance of the DNS or MDNS is issued.

(a) The notice of application shall contain the information regarding the optional DNS process as set forth in JCC 18.40.190(11), and shall be noticed as set forth in JCC 18.40.210. The notice of application and environmental checklist shall be sent to agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of the implementation of the proposal, as well as anyone requesting a copy of the environmental checklist for the specific proposal.

(b) For Type II projects, the threshold determination shall be issued concurrently with the notice of the administrator's decision on the underlying project, as further set forth in JCC 18.40.300(3).

(c) For Type III projects, the notice of the threshold determination shall be issued concurrently with the notice of public hearing on the underlying project before the hearing examiner.

(d) If the county indicates on the notice of application that a DNS or MDNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application pursuant to WAC 197-11-355(3) and 197-11-948.

(e) Type I projects that are not categorically exempt from SEPA shall be subject to notice of application and comment period provisions of JCC 18.40.150 through 18.40.220, as well as the notice requirements of this section.

(f) If a DS is made concurrent with the notice of application, the DS and scoping notice shall be combined with the notice of application; provided, however, that the DS/scoping notice may be issued before the notice of application (RCW 36.70B.110). If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process (WAC 197-11-310(6)). If the responsible official issues a DS under WAC 197-11-360(3), the responsible official shall state the scoping procedure for the proposal in the DS, as required by WAC 197-11-408, by publishing notice in the official county newspaper.

(2) If the county issues a DEIS under WAC 197-11-455(5), FEIS under WAC 197-11-~~54~~60, or SEIS under WAC 197-11-620, notice of availability of the documents shall be given by publishing notice in the official county newspaper; by notifying groups which have expressed interest in a certain proposal being considered; by notifying the news media; by sending notice to agency mailing lists; and by other means deemed appropriate by the responsible official.

(3) The applicant shall be responsible for all costs of the public notice requirements under this article.

(4) Comment periods begin with the publication of notice as provided in this section. Comments must be received within:

(a) Fourteen calendar days for a DNS or MDNS;

(b) Twenty-one calendar days for a DS and scoping notice. Pursuant to WAC 197-11-408(2)(a)(iii), the date of issuance for purposes of computing this comment period shall be the date the DS is sent to the Department of Ecology and other agencies with jurisdiction and is made publicly available; and

(c) Thirty calendar days for a DEIS.

(5) (A) If the DNS process is utilized per WAC 197-11-340, the SEPA notice shall state the following:

(a) This shall be the only opportunity to comment on the environmental impacts of the proposal.

(b) Unless the Responsible Official withdraws the threshold determination pursuant to WAC 197-11-340(3)(a), the threshold determination shall be final at the end of the comment period.

(c) Agencies and interested parties shall be notified if the threshold determination is withdrawn". The responsible official shall consider timely comments

(B) If the optional DNS process is utilized per WAC 197-11-355, on the notice of application and the responsible official shall either issue a DNS or MDNS after the comment period with no additional comment period using the procedures set forth in Article IV of this chapter and this article; or issue a DS; or require additional information or studies prior to making a threshold determination. A copy of the DNS, ~~or~~ mitigated DNS or modified DNS shall be sent to agencies with jurisdiction, the Department of Ecology, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

(6) A DNS or MDNS becomes final at the end of the comment period unless the determination is modified or withdrawn by the responsible official. Appeals of a SEPA threshold determination shall follow procedures in JCC 18.40.810.

~~(a) When a DS is withdrawn and a DNS issued, a new notice must be published as provided in this section, and a 14-calendar-day comment period provided on the new threshold determination.~~

~~(b) When a DNS is withdrawn and a DS issued, a new notice must be published as provided in this section, and a 21-calendar-day comment period provided on the new threshold determination and scoping notice.~~

~~(c) If modified, the threshold determination becomes final upon publication of notice as provided in this section by the responsible official. A new appeal period shall then commence.~~

(7) Notice for public hearings shall be given consistent with this section and JCC 18.40.230, and may be combined with other notice(s). [Ord. 8-06 § 1]

18.40.790 Public hearings and meetings.

(1) If a public hearing on the proposal is held under some other requirement of law, the hearing shall be open to consideration of the environmental impact of the proposal, together with any environmental document that is available. This does not require extension of the comment periods for environmental documents.

(2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:

- (a) The county determines that a public hearing would assist it in meeting its responsibility to implement the purposes and policies of SEPA and its implementing rules;
- (b) When 100 or more persons who reside within the county, or who would be adversely affected by the environmental impact of the proposal, make written request to the lead agency within 30 calendar days of issuance of the DEIS; or
- (c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within 30 calendar days of the issuance of the DEIS.

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no earlier than 15 calendar days from the date the DEIS is issued, and not later than 50 calendar days from its issuance. Notice shall be given as set forth in JCC 18.40.780(6).

(4) Whenever a public hearing is held under subsection (2) of this section, it shall be open to discussion of all environmental documents and any written comments that have been received by the county prior to the hearing. A copy of the environmental document shall be available at the public hearing.

(5) Comments at public hearings should be as specific as possible (see WAC 197-11-550).

(6) The county may hold informal public meetings or workshops. Such gatherings may be more flexible than public hearings and are not subject to the above notice and similar requirements for public hearings.

(7) Public meetings held under [Chapterchapter](#) 36.70B RCW may be used to meet SEPA public hearing requirements so long as the requirements of this section are met. A public hearing under this section need not be an open record hearing as defined in RCW 36.70B.020(3). [Ord. 8-06 § 1]

18.40.800 Critical areas.

(1) Actions identified as categorically exempt from SEPA under JCC 18.40.750(1) shall remain exempt under SEPA even when located in one or more of the critical areas classified, designated and mapped under [Chapterchapter](#) 18.22 JCC. A threshold determination shall not be required for actions identified as categorically exempt.

(2) Actions located in one or more critical areas that are categorically exempt from review under this article, and which require issuance of a permit or approval under this code or any other applicable county ordinance or regulation, shall be reviewed, and as necessary, conditioned or denied to assure consistency with the protection standards contained in [Chapterchapter](#) 18.22 JCC. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.810 Appeals.

(1) Appeal of a Threshold Determination for a Type I Permit Decision. Threshold determinations on Type I permit decisions may not be appealed administratively to the hearing examiner.

(2) Appeal of a Threshold Determination for Type II Permits – Open Record Hearing. The decision of the responsible official on Type II permits making a threshold determination of a

DNS or MDNS, approving a proposal subject to conditions, or denying a proposal under SEPA's substantive authority may be appealed to the hearing examiner pursuant to JCC 18.40.280, [Chapterchapter](#) 2.30 JCC, and the Hearing Examiner Rules of Procedure for an open record appeal hearing. Any such appeal must be filed within the time limits of JCC 18.40.330(2)(b), and must be consolidated with any appeal on the underlying Type II permit decision.

(3) Appeal of a Threshold Determination for Type III Permits – Open Record Hearing. The decision of the responsible official on Type III permits making a threshold determination of a DNS, approving a proposal subject to conditions, or denying a project under SEPA's substantive authority may be appealed to the hearing examiner pursuant to JCC 18.40.280, [Chapterchapter](#) 2.30 JCC, and the Hearing Examiner Rules of Procedure. The open record public hearing on the SEPA appeal shall be before the hearing examiner, who shall consider the appeal together with the decision on the project application in a single, consolidated hearing as further set forth in Article IV of this chapter.

(4) Appeals of Threshold Determinations for Type V Actions. Threshold determinations of the responsible official on Type V decisions (other than a DS) may not be appealed to the hearing examiner.

(5) Limitations on Appeals for All Types of Permits. When a threshold determination results in a DS it shall not be appealable. In addition, issues relating to the adequacy of the EIS and other procedural issues may not be appealed under this article.

(6) Who May Appeal. An applicant or other party of record, as defined in [Chapterchapter](#) 18.10 JCC, may file a SEPA appeal as provided in this article.

(7) Time to Appeal Administrative Decisions. A written statement appealing the threshold determination must be filed within 14 calendar days after the notice of decision is issued.

(8) Form of Appeal. A person or group appealing the decision of the responsible official shall submit a written appeal in the form and manner set forth in [Chapterchapter](#) 2.30 JCC and the Hearing Examiner Rules of Procedure.

(9) Scope of Review. The hearing examiner shall affirm, modify or reverse the responsible official's decision, and shall enter findings and/or conclusions into the record to support the decision. In making the decision, the hearing examiner shall give deference to and afford substantial weight to the decision of the responsible official.

(10) Judicial Appeals. Pursuant to RCW 43.21C.075, if there is a time period for appealing the underlying permit decision, appeals under this article shall be commenced within such time period. The county shall give official notice stating the date and place for commencing an appeal.

(a) Optional Limitation Period. If there is no time period for appealing the underlying government action, the county, applicant for or proponent of an action may use a notice of action pursuant to RCW 43.21C.075 and 43.21C.080. The notice shall describe the action and state time limitations for commencing a challenge to that action, in a form substantially similar to that provided in WAC 197-11-990. The notice shall be published by DCD, applicant or proponent pursuant to RCW 43.21C.080, and any action to set aside, enjoin, review or otherwise challenge any such governmental action shall be commenced within 21

days from the date of the last newspaper publication of the notice of action, as further set forth in RCW 43.21C.080.

(b) Exemption. This article does not apply to decisions made pursuant to ~~Chapter~~chapter 90.58 RCW, the Shoreline Management Act. Appeals of SEPA mitigation measures pertaining to projects subject to ~~Chapter~~chapter 90.58 RCW shall be made to the Shoreline Hearings Board along with the appeal of the county's shoreline decision, as further set forth in ~~Chapter~~chapter 90.58 RCW. In addition, as an alternative dispute resolution process, any SEPA appeal, whether involving a shoreline issue or not, may be made to the Shoreline Hearings Board upon the consent of the parties to the action, as further set forth in RCW 43.21C.075(7).

(11) Violations and Penalties. The administrator is authorized to enforce the provisions of this article whenever he or she determines that a condition exists in violation of this article or permit issued hereunder. All violations of any provisions of this article, incorporated standard or permit issued pursuant to this article are made subject to the provisions of ~~JCC~~Title 19 JCC, which provides for voluntary correction, notice and orders to correct the violation, stop work, and assessment of civil penalties.

(12) Public Nuisance. All violations of this article are determined to be detrimental to the public health, safety and welfare and are public nuisances, and may be corrected by any reasonable and lawful means, as further set forth in ~~JCC~~Title ~~title~~ 19 JCC.

(13) Alternative Remedies. As an alternative to any other judicial or administrative remedy provided in this article or by law or ordinance, any person who willfully or knowingly violates or fails to comply with any stop work order issued pursuant to ~~JCC~~Title 19 JCC is guilty of a misdemeanor and upon conviction shall be punished as set forth in JCC 19.10.020(2). Each day such violation or failure to comply continues shall be considered an additional misdemeanor offense. [Ord. 11-23 § 8 (Att. A); Ord. 9-20 § 2 (Appx. B); Ord. 12-19 § 4 (Appx. C); Ord. 8-06 § 1]

Article XI. Development Agreements

18.40.820 Purpose.

This article establishes the mechanism under which Jefferson County may enter into development agreements as authorized by RCW 36.70B.170. A decision to enter into a development agreement shall be made on a case-by-case basis. A development agreement may be appropriate for large, complex or phased projects, or projects which were not contemplated by existing development regulations or existing application procedures. [Ord. 8-06 § 1]

18.40.830 General requirements.

(1) Discretion to Enter Development Agreement. A development agreement is an optional device that may be used at the sole discretion of the county, except a development agreement shall be required for applications for master planned resorts in accordance with JCC 18.15.126 and major industrial developments in accordance with JCC 18.15.605.

(2) Who May Enter. The property owner(s) and the county shall be parties to a development agreement; provided, that if a proposed development is within an adopted municipal UGA, the applicable town or city shall also be a party to the agreement. The following may be considered

for inclusion as additional parties in a development agreement: contract purchasers, lenders, third-party beneficiaries and utility service providers.

(3) Content of Development Agreements. A development agreement shall be prepared by the applicant and shall set forth the development standards and other conditions that shall apply to and govern the development, use and mitigation of the property subject to the agreement.

(4) When Development Agreements May Be Approved. A development agreement may be entered into prior to, concurrent with or following approval of project permits for development of the property.

(5) Consistency with Unified Development Code. The development standards and conditions set forth in a development agreement shall be consistent with the applicable development regulations set forth in the Unified Development Code, except in the case of a master planned resort (which requires a site-specific Comprehensive Plan amendment), where adopted standards may be modified by the development standards contained in the agreement, so long as all project impacts have been adequately mitigated. However, the minimum requirements related to the protection of critical areas in [Chapterchapter](#) 18.22 JCC may not be varied by adoption of any development agreement. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.840 Development standards to be addressed.

(1) A development agreement shall include, but need not be limited to, one or more of any of the following types of development controls and conditions:

(a) Project elements such as permitted uses, residential and nonresidential densities, scale and intensity of uses and/or building sizes;

(b) Mitigation measures, development conditions and other requirements pursuant to environmental review under [Chapterchapter](#) 43.21C RCW;

(c) Design standards such as maximum heights, setbacks, drainage and water quality requirements, screening and landscaping and other development features;

(d) Roads, water, sewer, storm drainage and other infrastructure requirements;

(e) Affordable housing;

(f) Recreational uses and open space preservation;

(g) Phasing;

(h) Development review procedures, processes and standards for implementing decisions, including methods of reimbursement to the county for review processes;

(i) Other appropriate development requirements or procedures.

(2) A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. Project applicants and governmental entities may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities.

(3) Development agreements shall:

- (a) Establish a process for amending the agreement;
- (b) Specify a termination date upon which the agreement expires;
- (c) Establish a vesting period for applicable standards; and
- (d) Reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety. [Ord. 8-06 § 1]

18.40.850 Procedures.

(1) A development agreement shall be initiated by a written request from the property owner to the administrator of the department of community development. The request should describe the project and the specific reasons why the project is suitable for a development agreement. The request should identify the development standards set forth in JCC 18.40.840 that the applicant is requesting to be included in the development agreement and any other reasonable information requested by the county.

(2) If the administrator determines in his or her discretion that a development agreement should be considered by the county, the property owner shall be so informed, except that development agreements shall be required for the approval of master planned resorts in accordance with JCC 18.15.126 and for the approval of major industrial developments in accordance with JCC 18.15.605.

(3) When a development agreement is being considered prior to project permit approvals, the property owner shall provide the county with the same information that would be required for a complete application for such project permits in order for the county to determine the development standards and conditions to be included in the development agreement.

(4) When a development agreement is being considered following approval of project permits, the development standards and other conditions set forth in such project permits shall be used in the development agreement without modification.

(5) The county shall only approve a development agreement by ordinance or resolution after a public hearing and after notice of the hearing has been given by publication in a newspaper of general circulation. The board of county commissioners, as the legislative authority for the unincorporated area of Jefferson County, acts upon the recommendation of the administrator and the Jefferson County Prosecuting Attorney's Office. The board of county commissioners may, in its sole discretion, approve the development agreement (see Table 8-1-2 above). If the development agreement relates to a project permit application, the provisions of Chapterchapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

(6) An approved and fully executed development agreement shall be recorded with the county auditor. [Ord. 14-18 § 4 (Exh. B); Ord. 8-06 § 1]

18.40.860 Effect.

(1) A development agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property subject to the development agreement.

(2) A development agreement shall be enforceable during its term by a party to the agreement.

(3) A development agreement shall govern during the term of the agreement all or that part of the development specified in the agreement and may not, unless otherwise agreed to in the development agreement, be subject to an amendment to a local government land use ordinance or development standard or regulation or a new local government land use ordinance or development standard or regulation adopted after the effective date of the agreement.

(4) Permits issued by the county after the execution of the development agreement shall be consistent with the agreement.

(5) Nothing in RCW 36.70B.170 through 36.70B.200 and [Sectionsection](#) 501, [Chapterchapter](#) 374, Laws of 1995, or this chapter is intended to authorize the county to impose impact fees, inspection fees, or dedications or to require any other financial contributions or mitigation measures except as expressly authorized by other applicable provisions of state law. [Ord. 8-06 § 1]

¹ Pursuant to RCW 36.70B.140(2), boundary line adjustments, building and other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA (i.e., [Chapterchapter](#) 43.21C RCW), or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the provisions of RCW 36.70B.060, and 36.70B.110 through 36.70B.130.

² Code reviser's note: Ord. 9-22 adds this article as [Sectionsections](#) 18.40.440 through 18.40.500. They have been editorially renumbered to avoid duplication of numbering.