

Chapter 18.40

PERMIT APPLICATION AND REVIEW PROCEDURES/SEPA IMPLEMENTATION

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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 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 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 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 Chapter 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 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 Chapter 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. 11-00 § 8.1(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 Chapter 18.45 JCC. Exemptions from the requirements of project permit application processing are set forth in JCC 18.40.080. [Ord. 11-00 § 8.1(2)]

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) Decisionmaker(s). The board of county commissioners is the highest decisionmaker, followed by ~~the appellate hearing examiner~~, 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), Chapter 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 Chapter 18.15 JCC, and Article X of this chapter. [Ord. 11-00 § 8.1(3)]

18.40.040 Project permit application framework.

Table 8-1. Permits – Decisions

**Project permit application framework.**

**Table 8-1. Permits – Decisions**

| Type I (1)     | Type II  | Type III  | Type IV                             | Type V                                  |
|----------------|--|---|-------------------------------------|---|
| Septic permits | Classification of unnamed and discretionary uses under Article II of Chapter 18.15 JCC | Reasonable economic use variances under JCC 18.15.220 | Final plats under Chapter 18.35 JCC | Special use permits under JCC 18.15.110 |

|  |   |  |   |   |
|--|---|--|---|---|
| Allowed uses not requiring notice of application (e.g., “Yes” uses listed in Table 3-1 in JCC 18.15.040, building permits, etc.) | Release of six-year FPA moratorium for an individual single-family residence under JCC 18.20.160  | PRRDs under Article VI-M of Chapter 18.15 JCC and major amendments to PRRDs under JCC 18.15.545(3)   | Final PRRDs under Article VI-M of Chapter 18.15 JCC | Jefferson County Comprehensive Plan amendments under Chapter 18.45 JCC                                |
| Minor amendments to planned rural residential developments (PRRDs) under JCC 18.15.545   | Cottage industries under JCC 18.20.170  | Shoreline substantial development permits for secondary uses, and conditional and variance permits under the Jefferson County Shoreline Master Program (SMP) |   | Amendments to development regulations including amendments to this UDC and the Land Use Districts Map |
| Home businesses approved under JCC 18.20.200   | Short subdivisions under Article IV of Chapter 18.35 JCC  | Plat alterations and vacations under JCC 18.35.030(3)  |   | Amendments to the Jefferson County SMP  |
| Temporary outdoor use permits under JCC 18.20.380  | Binding site plans under Article V of Chapter 18.35 JCC   | Long subdivisions under Article V of Chapter 18.35 JCC   |   | Subarea and utility plans and amendments thereto  |
| Stormwater management permits under JCC 18.30.070  | Administrative conditional use permits under JCC 18.40.550(1) [i.e., listed in Table 3-1 in JCC 18.15.040 as “C(a)”]  | Discretionary conditional use permits under JCC 18.40.550(2) [i.e., listed in Table 3-1 in JCC 18.15.040 as “C(d)”] where required by administrator          |   | Development agreements and amendments thereto under Article XI of this chapter                        |
| Road access permits under JCC 18.30.080  | Discretionary conditional use permits under JCC 18.40.550(2) [i.e., 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 18.40.550(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 18.40.670(1)  | Major variances under JCC 18.40.670(2)   |   |   |
| Boundary line adjustments under Article II of Chapter 18.35 JCC  | Shoreline substantial development permits for primary uses under Jefferson County SMP   | Wireless telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC  |   |   |
| Minor adjustments to approved preliminary short plats under JCC 18.35.150  | Wireless telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC   | Major industrial development conditional use approval under Article VIII of Chapter 18.15 JCC  |   |   |
| Minor amendments to approved preliminary long plats under JCC 18.35.340  | Small-scale recreation and tourist (SRT) uses in SRT overlay district under JCC 18.15.572.  | <a href="#">Forest Practices Release of a Moratorium under JCC 18.20</a>   |   |   |
| Site plan approval advance determinations under Article VII of this chapter  | <a href="#">Plat Alternations under JCC 18.35.670</a>   |  |   |   |
| Exemptions under the Jefferson County SMP  | <a href="#">Appeals of Enforcement actions under JCC 18.50</a>  |  |   |   |
| Revisions to permits issued under the Jefferson County SMP   |   |  |   |   |

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

**Table 8-2. Action Types – Process**

| Project Permit Application Procedures (Types I-IV) |                 |   |  | Legislative   |
|--|-----------------|---|--|---|
| Type I   | Type II         | Type III  | Type IV  | Type V  |
| Recommendation made by:                            | Project planner | Project planner   | N/A  | Planning commission <sup>1</sup>  |
| Final decision made by:                            | Administrator   | Administrator   | Board of county commissioners  | Board of county commissioners   |
| Notice of application:                             | No              | 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 | Yes, before planning commission to make recommendation to board of county commissioners |
| Closed record appeal/final decision:               | No              | No  | <del>Yes, before appellate hearing examiner</del> No                           | Yes, or board of county commissioners could hold its own hearing                        |
| Judicial appeal:                                   | Yes             | Yes   | Yes  | Yes <sup>2</sup>  |

<sup>1</sup>Type V land use actions are subject to review and recommendation by the planning commission. However, utility plans and moratoria and interim zoning controls adopted under RCW 36.70A.390 are not subject to review and consideration by the planning commission.

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

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

#### 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. ~~unless appealed~~ Appeal to Superior Court. If appealed, closed record hearing and final decision by appellate hearing examiner.

Type IV: Closed record decision by board of commissioners during a regular public meeting. Type IV decisions are purely ministerial in nature (see Article IV of Chapter 18.35 JCC).

Type V: Except for utility plans, notice and public hearing before planning commission, with planning commission recommendation to board of commissioners. Notice of public hearings provided prior to final legislative decisions (see Chapter 18.45 JCC).

[Ord. 11-04 § 3; Ord. 18-02 § 2 (Exh. D); Ord. 2-02 § 1; Ord. 7-01 § 1 (Exh. B); Ord. 3-01 § 1; Ord. 11-00 § 8.1(4)]

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. 11-00 § 8.1(5)]

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 Chapter 18.45 JCC. [Ord. 11-00 § 8.1(6)]

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. 11-00 § 8.1(7)]

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 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.

(2) Exemptions. If categorically exempt under SEPA, Chapter 42.31C RCW, Type I permits shall not be subject to the following provisions contained in this chapter:

- (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 public record predecision hearing and any recommendations on project permits that do not require an open record predecision 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 shall be processed within 120 calendar days after the applicant files a complete application, subject to JCC 18.40.110. [Ord. 11-00 § 8.1(8)]

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

### 18.40.090 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 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 required for all Type II and Type III 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. 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 shall be held within 15 calendar days of the request and payment of the fee set forth in the Jefferson County fee ordinance. 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. 11-00 § 8.2(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 project permit application form, including a SEPA checklist unless categorically exempt from SEPA;
- (b) 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;
- (c) Identification of a single contact person or entity to receive determinations and notices required by this code;
- (d) A legal description of the site, including the Jefferson County assessor's parcel number;
- (e) The applicable fee as set forth in the Jefferson County fee ordinance;
- (f) For each building permit 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;
- (g) 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;
- (h) 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) Identification of other local, state and federal permits required for the proposal, to the extent known by 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 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) 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 Chapter 58.16 RCW in 1937;
- (d) A recorded survey of the subject property in order to verify property boundaries and setback measurements;

~~(e) Assessor's maps and a list of tax parcels and their owners for all properties within 300 feet of the property to which public notice must be sent under SEPA or Article III of this chapter.~~

(4) Application Requirements in Other Applicable Regulations. ~~In addition to the requirements set forth in JCC 18.40.100(1), (2) and (3), certain types of land use applications require additional information to be considered complete.~~ 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, Chapter 15.05 JCC, or its successor ordinance;
- (b) On-site septic systems pursuant to Chapter 8.15 JCC;

- (c) Reasonable economic use variance permits under JCC 18.15.220;
- (d) Planned rural residential developments (PRRDs) under Article VI-M of Chapter 18.15 JCC;
- (e) Cottage industries under JCC 18.20.170;
- (f) Home businesses under JCC 18.20.200;
- (g) Temporary outdoor use permits under JCC 18.20.380;
- (h) Stormwater management permits under JCC 18.30.070;
- (i) Sign permits under JCC 18.30.150;
- (j) Boundary line adjustments under Article II of Chapter 18.35 JCC;
- (k) Short plats under Article III of Chapter 18.35 JCC;
- (l) Long plats under Article IV of Chapter 18.35 JCC;
- (m) Binding site plans under Article V of Chapter 18.35 JCC;
- (n) Site plan approval advance determinations under Article VII of Chapter 18.40 JCC;
- (o) 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; and
- (p) Wireless telecommunications permits under JCC 18.20.130 and Chapter 18.42 JCC;

(q) Plat Alterations under Article IV 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. 3-01 § 1; Ord. 11-00 § 8.2(2)]

18.40.110 Submission of acceptance of application determination of completeness – 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 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 – Appeal.

(a) 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, or to appeal the decision to the hearing examiner in accordance with the procedures for Type II projects. 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.

(b) If the applicant refuses to submit additional information, does not request additional time to submit the required information within the 90-calendar-day period, or does not appeal the decision, the application will be considered abandoned and therefore withdrawn and the applicant shall forfeit the application fee. The department of community development 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 time period or other applicable time period set forth in JCC 18.40.350320.

(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 (14) 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 with-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. 11-00 § 8.2(3)]

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. 5-03 § 2; Ord. 11-00 § 8.2(4)]

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 ~~determinations~~ data collected under this section.

(2) During project review, the administrator or any subsequent reviewing body (e.g., the hearing examiner ~~or appellate 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 Chapters 36.70A and/or 43.21C RCW, including project review under Articles VI-D through VI-I of Chapter 18.15 JCC, and Article X of this chapter. [Ord. 11-00 § 8.2(5)]

18.40.140 Project consistency.

(1) A proposed project's consistency with this Unified Development Code or other development regulations adopted under Chapter 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 Chapter 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 Chapter 36.70A RCW to refer to performance in accordance with this chapter and Chapter 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)(h) to ensure compliance with the requirements of Chapters 18.20 and 18.30 JCC. [Ord. 11-00 § 8.2(6)]

### 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 predecision 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 long plats and PRRDs) ~~or hearings before the appellate hearing examiner, as 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 Chapter 18.45 JCC and as required by state law.

(5) The applicant shall be responsible for all costs of public notice. [Ord. 11-00 § 8.3(1)]

#### 18.40.160 Notice of application – When required.

The administrator shall issue a notice of application on all Type II and Type III project permit applications. [Ord. 11-00 § 8.3(2)]

#### 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 predecision 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. 11-00 § 8.3(3)]

#### 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 predecision hearing is required. A notice of application shall be required for all Type II projects, regardless of whether such projects are exempt from SEPA. [Ord. 11-00 § 8.3(4)]

#### 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 can 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, 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) Pursuant to WAC 197-11-355, 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;
  - (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;
  - (14) A statement that a copy of the staff report will be available for inspection at no cost to the public at least seven calendar days prior to the public hearing (if applicable); and
  - (15) Any other information the administrator determines appropriate. [Ord. 11-00 § 8.3(5)]
- 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 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. 11-00 § 8.3(6)]

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

(1) Published Notice. The administrator shall publish notice in the official county newspaper at least once. 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.

(2) Posting. 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 be postponed in order to allow compliance with this notice requirement.

(3) Mailing.

(a) 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.

(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. 11-00 § 8.3(7)]

18.40.220 Notice of application – Public comment.

(1) Length of Comment Period. The comment period shall be 14 calendar days from the date of the notice of application, except as may otherwise be provided for 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, personally delivered or sent by facsimile. Comments shall be as specific as possible.

(4) The administrator will 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. 11-00 § 8.3(8)]

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 notice of a threshold determination under SEPA may be combined with the notice of public hearing. 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. 11-00 § 8.3(9)]

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

In addition to the notice for Type III actions above, pursuant to Chapter 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. 11-00 § 8.3(10)]

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. 11-00 § 8.3(11)]

#### Article IV. Project Review and Approval Processes

18.40.260 Administrative approvals without notice (Type I).

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)). 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. 11-00 § 8.4(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. ~~Closed record appeals of Type II permit decisions (i.e., to the appellate hearing examiner) are not allowed.~~ [Ord. 11-00 § 8.4(2)]

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 of Type II decisions.

(2) For Type III actions, the administrator shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of county departments, affected agencies and 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. The staff report shall include and consider all written public comments on the 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 predecision 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 of Type II administrative decisions for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal or appeal, and evaluating the proposal or appeal for consistency with this Unified Development Code, adopted plans and regulations. Notice of the hearing examiner hearing shall be in accordance with JCC 18.40.230. As applicable, all appeals of administrative interpretations made under Article VI of this chapter, and appeals of SEPA threshold determinations made under Article X of this chapter (other than determinations of significance (DS)) shall be considered together with the decision on the project application in a single, consolidated public hearing.

(5) In addition to the approval criteria listed elsewhere in this Unified Development Code, the hearing examiner shall not approve a proposed development unless he/she first makes the following findings and conclusions:

- (a) The development adequately mitigates impacts identified under Articles VI-D through VI-I of Chapter 18.15 JCC (i.e., environmentally sensitive areas) and Article X of this chapter (i.e., SEPA implementing provisions);
- (b) The development is consistent with the Jefferson County Comprehensive Plan and meets the requirements and intent of this Unified Development Code;
- (c) The development is not detrimental to the public health, safety and welfare;
- (d) For subdivision applications, findings and conclusions shall be issued in conformance with Chapter 18.35 JCC and RCW 58.17.110.

(6) In the hearing examiner's decision regarding Type III actions and appeals of Type II administrative decisions, the hearing examiner shall adopt written findings and conclusions.

(a) The hearing examiner's decision following closure of an open record predecision public hearing on a Type III action shall include one of the following actions:

- (i) Approve;
- (ii) Approve with conditions;
- (iii) Deny without prejudice (reapplication or resubmittal is permitted); or
- (iv) Deny with prejudice (reapplication or resubmittal is not permitted for one year).

(b) A hearing examiner's decision following an open record appeal hearing on a Type II administrative decision, on a SEPA threshold determination on a Type II administrative decision, or on a SEPA threshold determination on a Type III permit decision shall include one of the following actions:

- (i) Grant the appeal in whole or in part;
- (ii) Deny the appeal in whole or in part; or
- (iii) If appropriate, in a proceeding involving a SEPA appeal of a threshold determination consolidated with the hearing on a Type III permit application, continue the open record public hearing pending SEPA compliance.

(c) The hearing examiner decision shall be issued within 10 working days unless a longer period is agreed upon by the hearing examiner and the applicant. [Ord. 11-00 § 8.4(3)]

~~18.40.290 — Appellate hearing examiner action (appeals of Type III decisions).~~

~~(1) — Upon receiving notice of an appeal of a Type III decision by the hearing examiner, the appellate hearing examiner shall hold a closed record appeal hearing, adopt written findings and conclusions and make a decision.~~

~~(2) — The appellate hearing examiner's decision following a closed record appeal hearing shall include one of the following actions:~~

- ~~(a) — Grant the appeal in whole or in part;~~
- ~~(b) — Deny the appeal in whole or in part;~~
- ~~(c) — Remand for further proceedings and/or evidentiary hearing in accordance with JCC 18.40.340. [Ord. 11-00 § 8.4(4)]~~

18.40.300290 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. 11-00 § 8.4(5)]

18.40.310300 Procedures for public hearings.

Public hearings (including open record appeals of Type II decisions and open record predecision hearings on Type III permit applications) shall be conducted in accordance with the hearing examiner's rules of procedure and shall serve to create or supplement an evidentiary record upon which the hearing examiner will base his/her decision. In cases where scientific standards and criteria affecting project approval are at issue, the hearing examiner shall allow orderly cross-examination of expert witnesses presenting reports and/or scientific data and opinions. The hearing examiner may address questions to any party who testifies at a public hearing. The hearing examiner shall open the public hearing and, in general, observe the following sequence of events:

- (1) Staff presentation, including submittal of any administrative reports. The hearing examiner may ask questions of the staff;
- (2) Applicant presentation, including submittal of any materials. The hearing examiner may ask questions of the applicant;
- (3) Testimony or comments by the public germane to the matter;
- (4) Rebuttal, response or clarifying statements by the staff and the applicant;
- (5) The evidentiary portion of the public hearing shall be closed and the hearing examiner shall deliberate on the matter before him/her;
- (6) Pursuant to RCW 36.70.970, each final decision of the hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the Jefferson County Comprehensive Plan, this Unified Development Code and any other applicable county development regulations. Each final decision of the hearing examiner, unless the applicant and hearing examiner mutually agree to a longer period in writing, shall be rendered within 10 working days following conclusion of all testimony and hearings. [Ord. 11-00 § 8.4(6)]

~~18.40.320 — Procedures for closed record hearings and appeals.~~

~~———— Closed record hearings on appeals of Type III decisions to the appellate hearing examiner shall be conducted in accordance with the appellate hearing examiner's rules of procedure and shall serve to provide argument and guidance for the appellate hearing examiner's decision. Except as provided in JCC 18.40.340, no new evidence or testimony shall be given or received. The parties to an appeal of a hearing examiner decision to the appellate hearing examiner may submit timely written statements or arguments. A decision by the appellate hearing examiner shall be in writing and shall be rendered in a timely manner as set forth in JCC 18.40.310(6). [Ord. 11-00 § 8.4(7)]~~

18.40.3310 Reconsideration.

A party of record at a public hearing ~~or closed record appeal~~ may seek reconsideration only of a final decision by filing a written request for reconsideration with the hearing examiner ~~or appellate hearing examiner (as applicable)~~ within five ~~calendar business~~ days of the ~~date of the~~ final written decision. The request shall comply with JCC 18.40.360330(5)(b). The hearing examiner ~~or appellate hearing examiner (as applicable)~~ shall consider the request without public comment or argument by the party filing the request, and shall issue a decision within 10 working days of the request. If the request is denied, the previous action shall become final. If the request is granted, the

hearing examiner ~~or appellate hearing examiner (as applicable)~~ may immediately revise and reissue his/her decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. [Ord. 11-00 § 8.4(8)]

~~18.40.340 — Remand.~~

~~—— If the appellate hearing examiner determines that the record on appeal is insufficient or otherwise flawed, he/she may remand the matter back to the hearing examiner to correct the deficiencies. [Ord. 11-00 § 8.4(9)]~~

~~18.40.350~~ 18.40.320 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, ~~appellate hearing examiner~~ and, in the case of certain Type V decisions, as more fully set forth in Chapter 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.

(b) A copy of the notice of decision shall be mailed 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 posted and published as set forth in JCC 18.40.210(1) and (2), and shall be provided to the Jefferson County assessor.

(4) Timing of Notice of Final Decision. The final decision on a development proposal shall be made within 120 calendar days from the date of the determination of completeness unless:

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

(b) 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);

(c) The application involves a preliminary long plat application under Article IV of Chapter 18.35 JCC. In such cases, the application shall be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of the determination of completeness; or

(d) The application involves a final short plat application under Article III of Chapter 18.35 JCC, or a final long plat application under Article IV of 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.

(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 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 43.21 RCW.

(d) Any period for open record ~~and/or closed record~~ appeals of project permits under JCC 18.40.360330; provided however, that the time period for the hearing and decision shall not exceed a total of 90 calendar days ~~for an open record appeal hearing or 60 calendar days for a closed record appeal hearing.~~

(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.

(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, ~~appellate 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 ~~land use~~ decision, as further provided in JCC 18.40.3630(4) & 18.40.340. [Ord. 11-00 § 8.4(10)]

Article V. Appeals

18.40.3630 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 18.40.5520, 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. ~~Closed record appeals of Type II permit decisions (i.e., to the appellate hearing examiner) are not allowed.~~

(b) All appeals of Type II permit decisions must be in writing, conform with the procedures for appeal set forth in subsection (5) of this section, and be filed within 14 calendar days after the notice of decision is issued. Appeals of 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) Type III Permits.

(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.~~810~~780). The appeal must be in writing, in conformance with subsection (5) of this section, and be filed within 14 calendar days after the threshold determination is issued as set forth in subsection (4) 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 hearing examiner's decision on a Type III permit (including its decision on the underlying project and any decision on a SEPA appeal) may be appealed by a party of record to the appellate hearing examiner. Any such appeal must be in writing, in conformance with subsection (5) of this section, and be filed within 14 calendar days after the notice of decision is issued pursuant to subsection (4) of this section.~~

(4) Calculation of Appeal Periods. The appeal periods shall be calculated as of the date the notice of decision is published or, for appeals involving a SEPA determination, from the date the decision is issued pursuant to WAC 197-11-340(2)(d).

(5) Procedure for Appeals.

(a) A notice of appeal shall be delivered to the administrator by mail or by personal delivery, and must be received by 4:00 p.m. on the last business day of the appeal period, with the required appeal fee pursuant to the Jefferson County fee ordinance.

(b) The notice of appeal shall contain a concise statement identifying:

(i) The decision being appealed and the identification of the application which is the subject of the appeal;

(ii) The name, address, and phone number of the appellant and his/her interest in the matter;

(iii) Appellant's statement describing standing to appeal (i.e., how he or she is affected by or interested in the decision);

(iv) The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;

(v) The desired outcome or changes to the decision; and

(vi) A statement that the appellant has read the appeal and believes the contents to be true, signed by the appellant.

(c) Any notice of appeal not in full compliance with this section shall not be considered. [Ord. 11-00 § 8.5(1)]

18.40.3740 Judicial appeals.

(1) Time to File Judicial Appeal. The applicant or any aggrieved party may appeal from the final decision of the administrator, hearing examiner, ~~appellate hearing examiner or any other final decisions as specifically authorized to the Jefferson County superior court within 21 calendar days of the date of the issuance of the land use decision, as defined by the Land Use Petition Act, RCW 36.70C.040(4), unless another time period is established by superseding state law or local ordinance, 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. This requirement is jurisdictional.

(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 be promptly returned to the appellant.

~~(4) Land Use Petition Act. The Land Use Petition Act, Chapter 36.70C RCW, shall govern judicial review of land use decisions. [Ord. 11-00 § 8.5(2)]~~

Article VI. Unified Development Code Interpretation

18.40.3850 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 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. 11-00 § 8.6(1)]

18.40.3960 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 reject as abusive of this section any request for interpretation that seeks interpretation of more than four UDC sections, is onerous or asks hypothetical questions. The Administrator may ask that the rejected request be broken down into smaller requests.~~

~~(23)~~ 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 fee ordinance or an administrator's interpretation.

(34) 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 set for other applicants; and
- (c) Consistency with the Jefferson County Comprehensive Plan and other relevant ordinances and policies.

(45) Conflicts with Other Regulations. Where conflicts occur between the provisions of this code and the Jefferson County building code, 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. 11-00 § 8.6(2)]

18.40.400370 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 days of having received the request; 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. 11-00 § 8.6(3)]

18.40.410380 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 Chapter 18.50 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. 11-00 § 8.6(4)]

18.40.42390 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 18.40.360340. The fee for such appeal shall be as set forth in the Jefferson County fee ordinance and must be paid by the appellant at the time of filing the appeal. [Ord. 11-00 § 8.6(5)]

18.40.430400 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 18.40.370340. All appeals must conform to the provisions of JCC 18.40.370340, and are subject to the requirements set forth in that section. [Ord. 11-00 § 8.6(6)]

#### Article VII. Site Plan Approval Advance Determinations

##### 18.40.4410 Purpose.

The purpose of this article is to allow prospective buyers, owners or developers of land a means to obtain advance determinations of the site requirements and constraints to particular parcels without undertaking the risk or expense of applying for a “triggering” building or other development permit. It is intended to reduce the cost of development and aid in the facilitation of predevelopment financing for applicants. [Ord. 11-00 § 8.7(1)]

##### 18.40.4520 Scope.

All “Yes” uses identified in Table 3-1 in JCC 18.15.040, or classified as such by the administrator pursuant to Article II of Chapter 18.15 JCC, that require issuance of a building or septic permit are eligible to obtain site plan approval advance determination. Advanced site plan approval may be granted without an accompanying building or development permit only upon completion of an administrative review process to ensure consistency with the performance standards of Chapter 18.20 JCC, the development standards of Chapter 18.30 JCC and other applicable requirements of the UDC. The decision of the administrator regarding site plan review may be appealed only as part of an appeal of an underlying building or other construction or development permit decision. [Ord. 3-01 § 1; Ord. 11-00 § 8.7(2)]

##### 18.40.4630 Application requirements.

Each application for site plan approval advance determination shall include the information required by JCC 18.40.100(1) and must identify the specific proposed use of the property for which the application is being submitted. Any commercial, industrial, small-scale recreational and tourist use, or multifamily residential use listed as a “Yes” use in Table 3-1 in JCC 18.15.040, or classified as such by the administrator, that seeks site plan approval advance determination under this article shall also be subject to the additional application submittal requirements of JCC 18.40.4080(2) and the preapplication conference requirements of JCC 18.40.0970. The administrator may require additional information subject to the specific submittal requirements of JCC 18.40.100(3) and (4), where determined by the administrator to be necessary for review of a site plan approval advance determination application. For the purposes of meeting the requirements of this article, the application requirements of JCC 18.40.100(1)(g) shall be interpreted to require the submittal of soil logs and other applicable information pursuant to WAC 246-272-11001 and the Jefferson County Code necessary to determine compliance with the Jefferson County health department regulations regarding on-site septic disposal.

The administrator may waive specific submittal requirements determined to be unnecessary for review of a site plan approval advance determination application. [Ord. 11-00 § 8.7(3)]

##### 18.40.4740 Application review.

Review of applications for site plan 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. 11-00 § 8.7(4)]

18.40.4850 Approval criteria.

Site plans shall be approved upon showing that all of the following have been satisfied:

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

(a) The Jefferson County Comprehensive Plan; and

(b) The provisions of this code, including any incorporated standards.

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

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

(4) Approving the proposed site plan will serve the public use and interest and adequate provision has been made for the public health, safety and general welfare. [Ord. 11-00 § 8.7(5)]

18.40.4960 Duration of approval.

Approval of the site plan shall be effective for five years from the date of original approval by the administrator. If a building permit has not been issued within the five-year period, the site plan approval shall expire. An expired site plan approval advance determination cannot be revived or extended except by new application that must meet all then-existing criteria and conditions listed in this article. Knowledge of the expiration date and shall be the responsibility of the applicant. The county will not provide notification prior to expiration. [Ord. 3-01 § 1; Ord. 11-00 § 8.7(6)]

18.40.50470 Limitations on approval.

Approval of the site plan shall not guarantee the performance of specific site features or improvements (e.g., wells, septic systems, stormwater drainage facilities, etc.) and any proposal granted a site plan approval advance determination shall not be immune from changes in state or federal laws which are enacted or have an effective date after the date of the site plan approval advance determination and which may affect the performance and implementation of the site plan and associated use or activity. Any subsequent land division or boundary line adjustment of a parcel or lot which has received site plan approval advance determination under this article shall void such site plan approval and require a new site plan approval advance determination application. Approval of a site plan under this section does not constitute authority to commence any development or building activity until such time as final authorizing permits are issued

(e.g., septic, wells, stormwater management, or building permits, etc.). [Ord. 11-00 § 8.7(7)]

18.40.510480 Modifications to an approved site plan.

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

(a) A change of proposed land use to one other than that approved for the original site plan;

(b) The location or relocation of a road or street (excluding driveways, internal parking or accessways);

(c) An adjustment that crosses land use district boundaries where the administrator reasonably believes that the adjustment is intended to serve as a rationale for a future site-specific land use district redesignation application;

(d) The creation of an additional lot, tract or parcel;

(e) Would create a site plan for a parcel that does not qualify as a building site pursuant to this code;

(f) Would make the site plan inconsistent with any restrictions or conditions of

approval for a recorded short plat, long plat, boundary line adjustment, plat amendment or binding site plan.

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

(a) The modification will not be inconsistent or cause the site plan to be inconsistent with the decision of the county preliminarily approving the application;

(b) The modification will not violate the intent of the original conditions of application approval; and

(c) The modification will not cause the site plan approval advance determination 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 plan approval advance determination application. [Ord. 11-00 § 8.7(8)]

Article VIII. Conditional Uses

18.40.52490 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. 11-00 § 8.8(1)]

18.40.5300 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. 11-00 § 8.8(2)]

18.40.540510 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 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. 11-00 § 8.8(3)]

18.40.550520 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 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 be more appropriately considered and addressed through an open public record pre-decision hearing before the Jefferson County hearing examiner; or

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

(b) Timing. The administrator shall 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).

(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 JCC 18.40.120(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. 11-00 § 8.8(4)]

18.40.560530 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 be served by adequate infrastructure including roads, fire protection, water, wastewater disposal, and stormwater control;

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

(d) The conditional use will 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 not unreasonably interfere with allowable development or use of neighboring properties;

(f) The pedestrian and vehicular traffic associated with the conditional use will 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 code and any other applicable local, state or federal law; and more specifically, conforms to the standards contained in Chapters 18.20 and 18.30 JCC;

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

(i) The conditional use will 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. [Ord. 11-00 § 8.8(5)]

(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 JCC 18.40 Article II – Project Permit Application (Type I – IV) 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 will not exceed the following limitations:

- a. The modification will not increase residential use by more than one unit, if allowed by the land use district;
- b. The modification will not increase the required amount of parking by more than twenty (20) percent or twenty spaces (whichever is less);
- c. The proposed modification will not expand the total square footage of all structures and/or outdoor use areas, excluding parking, by more than twenty (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 JCC 18.30;
- d. The modification will not change or modify any special condition imposed under any previous official review;
- e. The modification will not significantly reduce the amount or location of required site screening;
- f. The modification will not expand an existing nonconforming use or structure, or render a conforming use or structure nonconforming;
- g. The modification will not establish a new use;
- h. The modification will not expand a mining/site operation, mineral processing or mineral batching activity;
- i. In the determination of the Administrator, the modification will 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 Section 8 of this Code.

(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.

#### 18.40.570540 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. 11-00 § 8.8(6)]

| 18.40.~~580~~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. 11-00 § 8.8(7)]

| 18.40.~~590~~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. 11-00 § 8.8(8)]

| 18.40.~~600~~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 be processed as a Type II land use decision pursuant to JCC 18.40.270. [Ord. 11-00 § 8.8(9)]

| 18.40.~~610~~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. 11-00 § 8.8(10)]

| 18.40.~~620~~590 Permit suspension or revocation.

The county may suspend or revoke an approved conditional use permit pursuant to Chapter 18.50 JCC ~~only~~ 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. 11-00 § 8.8(11)]

| 18.40.~~630~~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. 11-00 § 8.8(12)]

Article IX. Variances (Minor and Major)

| 18.40.~~640~~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. 11-00 § 8.9(1)]

18.40.650620 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 18.15 JCC. [Ord. 11-00 § 8.9(2)]

18.40.660630 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 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. 11-00 § 8.9(3)]

18.40.670640 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 expansion of an existing building which would extend no more than 10 percent beyond the dimensional, area and bulk 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 proposed expansion would not:

(i) Increase the nonconformity of the building; and

(ii) Result in any portion of the 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. 11-00 § 8.9(4)]

18.40.680650 Approval criteria.

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

(1) The variance will 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 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. 11-00 § 8.9(5)]

18.40.~~690660~~ 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. 11-00 § 8.9(6)]

18.40.~~700670~~ 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. 11-00 § 8.9(7)]

18.40.~~710680~~ 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. 11-00 § 8.9(8)]

18.40.~~72690~~ 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. 11-00 § 8.9(9)]

#### Article X. State Environmental Policy Act (SEPA) Implementation

18.40.~~7300~~ Authority.

- (1) This section contains county procedures and policies implementing the State Environmental Policy Act (SEPA) (Chapter 43.21C RCW). Jefferson County adopts this article under RCW 43.21C.120, as amended, and WAC 197-11-904.
- (2) SEPA Rules – Adoption by Reference. The county hereby adopts by reference the SEPA rules, 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. The county adopts by reference the definitions in WAC 197-11-700 et seq., as supplemented by Chapter 18.10 JCC. [Ord. 11-00 § 8.10(1)]

18.40.~~740710~~ 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. 11-00 § 8.10(2)]

18.40.~~750~~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 SEPA rules and make them available in accordance with the Chapter 42.17 RCW (the Disclosure – Campaign Finances – Lobbying Records Act). [Ord. 11-00 § 8.10(3)]

18.40.~~760~~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. 11-00 § 8.10(4)]

18.40.770740 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. 11-00 § 8.10(5)]

18.40.780750 Categorically exempt actions – Use of existing documents and analyses.

(1) Categorically Exempt Levels.

(a) Except as set forth in subsection (1)(b) 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(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(c)(iii), the maximum exempt level for the construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet or gross floor area, and with associated parking facilities designed for up to 40 automobiles.

(e) Pursuant to WAC 197-11-800(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 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~~ 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 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)(a).
  - (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. 11-00 § 8.10(6)]

18.40.~~790760~~ 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.~~780750~~(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 ~~specific~~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 ~~specific~~ 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 (Chapter 36.70A RCW).

Where ~~specific~~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 ~~a specific~~the probable significant adverse environmental impacts has 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 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.~~810780~~:

(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) ~~Shall consider m~~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 a~~ 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 ~~project 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 18.40.810780. 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 Chapter 197-11 WAC. When a DS is issued, an opportunity will be provided to comment on the scope of the EIS that will be developed.

(b) The DEIS, FEIS or SEIS will 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 will 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 18.40.8410. [Ord. 11-00 § 8.10(7)]

18.40.800770 Substantive authority.

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

(a) The conditions are necessary to mitigate ~~probable significant adverse specific adverse~~ environmental impacts identified in environmental documents prepared pursuant to this code and Chapter 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 ~~specific~~ 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 Chapter 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 15.05 JCC, as now exists or may hereafter be amended;
    - (v) The Jefferson County flood damage protection ordinance, 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 permit a high quality of life for all residents of Jefferson County. [Ord. 11-00 § 8.10(8)]

18.40.~~810~~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 responsible official shall 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. There will be no second comment period when 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.~~350~~320(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 197-11-560, 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 (14) calendar days for a DNS or MDNS;

(b) Twenty-one (21) 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 (30) calendar days for a DEIS.

(5) The responsible official shall consider timely comments on the notice of application and either issue a DNS or MDNS with no comment period using the procedures set forth in Article IV of this chapter and this article; issue a DS; or require additional information or studies prior to making a threshold determination. A copy of the DNS or mitigated 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.

(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. 11-00 § 8.10(9)]

18.40.820790 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 ~~50-100~~ 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.~~810780~~(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 Chapter 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. 11-00 § 8.10(10)]

18.40.~~830800~~ Environmentally sensitive areas.

(1) Actions identified as categorically exempt from SEPA under JCC

18.40.~~780730~~(1) shall remain exempt under SEPA even when located in one or more of the ESAs classified, designated and mapped under Article VI-D of Chapter 18.15 JCC. A threshold determination shall not be required for actions identified as categorically exempt.

(2) Actions located in one or more ESAs 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 Article VI-D of Chapter 18.15 JCC. [Ord. 11-00 § 8.10(11)]

18.40.~~840810~~ 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 for an open record appeal hearing. Any such appeal must be filed within the time limits of JCC 18.40.~~360330~~(2)(b), and must be consolidated

with any appeal on the underlying Type II permit decision. Any requests for reconsideration shall be governed by JCC 18.40.330310.

(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. 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. ~~The hearing examiner’s decision on the SEPA decision may be appealed to the appellate hearing examiner pursuant to JCC 18.40.290 for a closed record hearing as further set forth in Article IV of this chapter. (See RCW 36.70B.060(6).)~~ Any requests for reconsideration shall be governed by JCC 18.40.330310; ~~any remands shall be governed by JCC 18.40.340.~~

(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 ~~using the same procedures applicable to Type III permit appeals 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 Chapter 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. When the last calendar day (as defined in Chapter 18.10 JCC) of the appeal period is a Saturday, Sunday or legal holiday, the appeal period shall run to the next business day.

(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 JCC 18.40.360330(5). Notice of all appeals shall be mailed to all parties of record not less than 10 calendar days prior to the date of the public hearing to consider the appeal.

(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. Review shall be on a de novo basis.

(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. ~~For all decisions covered by the Land Use Petition Act, Chapter 36.70C RCW, this time period shall be 21 calendar days from the issuance of the land use decision, as defined by RCW 36.70C.040(4) and Article V of this chapter.~~

(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 a 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 the department, 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 90.58 RCW, the Shoreline Management Act. Appeals of SEPA mitigation measures pertaining to projects subject to 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 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 Chapter 18.50 JCC, which provides for voluntary correction, notice and orders to correct the violation, stop work and emergency orders, 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 corrected by any reasonable and lawful means, as further set forth in Chapter 18.50 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 or emergency order issued pursuant to Chapter 18.50 JCC is guilty of a misdemeanor and upon conviction shall be punished as set forth in JCC 18.50.110. Each day such violation or failure to comply continues shall be considered an additional misdemeanor offense. [Ord. 11-00 § 8.10(12)]

#### Article XI. Development Agreements

##### 18.40.~~850820~~ 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. 2-02 § 1; Ord. 7-01 § 2 (Exh. B); Ord. 11-00 § 8.11(1)]

##### 18.40.~~860830~~ 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 environmentally sensitive areas in Article VI-D of Chapter 18.15 JCC (~~Environmentally Sensitive Areas District (ESA)~~) may not be varied by adoption of any development agreement. [Ord. 2-02 § 1; Ord. 7-01 § 2 (Exh. B); Ord. 11-00 § 8.11(2)]

18.40.~~870840~~ 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 Chapter 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. 2-02 § 1; Ord. 7-01 § 2 (Exh. B); Ord. 11-00 § 8.11(3)]

18.40.~~880850~~ 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.~~870-840~~ 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. The board of county commissioners may, in its sole discretion, approve the development agreement. If the development agreement relates to a project permit application, the provisions of Chapter 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. 2-02 § 1; Ord. 7-01 § 2 (Exh. B); Ord. 11-00 § 8.11(4)]

18.40.~~890860~~ 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 Section 501, Ch. 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. 2-02 § 1; Ord. 7-01 § 2 (Exh. B); Ord. 11-00 § 8.11(5)]

