

Chapter 18.22 CRITICAL AREAS

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Article I. Purpose

18.22.010 Purpose – Generally.

The purpose of the Jefferson County critical areas ordinance is to comply with state law, including the Growth Management Act (chapter 36.70A RCW); implement the goals and policies of the Jefferson County Comprehensive Plan; comply with the Planning Enabling Act (chapter 36.70 RCW); describe methods and procedures established to ensure the functions and values of critical areas are not degraded while allowing approved uses and development activities in the county; and protect the general public (including public resources and facilities) from hazardous conditions that could result in injury, loss of life, and/or property damage.

Protection of the natural environment is addressed by the following:

- (1) Providing for orderly planned land use in the county through development and use standards that are intended to protect critical area functions;
- (2) Protecting the general health, safety, and welfare of the general public from potentially hazardous conditions;
- (3) Ensuring the rural character of the county and quality of life are maintained by preventing adverse environmental impact;

- (4) Providing a balance between the protection of critical areas and the rights of private property owners for reasonable use of land;
- (5) Supporting the economic value of resource lands while providing critical area protection;
- (6) Providing protection through the use of best available science and supporting development through site specific reports prepared by qualified professionals;
- (7) Ensuring permit flexibility for land use activities while maintaining critical areas protection; and
- (8) Protecting habitats and wildlife corridors to other habitat types, including unique, fragile, or sensitive areas within the county.

Article II. Administrative Provisions

18.22.020 Applicability.

(1) This chapter applies to any land use, development, or activity undertaken on land located within or containing a critical area or a critical area buffer in Jefferson County. The following five critical areas are regulated under this chapter:

- (a) critical aquifer recharge areas;
- (b) frequently flooded areas;
- (c) geologically hazardous areas;
- (d) fish and wildlife habitat conservation areas; and
- (e) wetlands.

(2) Jefferson County shall not issue any permit or approval to alter a critical area or a critical area buffer without ensuring compliance with this chapter. No development shall be constructed, located, expanded, altered, or subdivided without full compliance with the terms of this chapter, including but not limited to clearing and grading, site plan approval, sewage disposal, subdivision, binding site plan, building permit, septic permit, planned residential development, shoreline substantial development, variance, conditional use permit, and rezone.

(3) When property contains more than one critical area, the standards and requirements for each critical area shall be applied.

(4) Uses, development, and activities in critical areas or their buffers for which no permit or approval is required by any other provision of county code are also subject to the development standards and other requirements of this chapter. [Ord. 3-08 § 1]

(5) This chapter applies to all forest practices in which Jefferson County has jurisdiction (such as Class IV general).

- (6) When any provision of this chapter is in conflict with any other section of the Jefferson County Code, the provision that provides most protection to the critical area shall apply, except that any critical area occurring within the jurisdiction of the Shoreline Management Act shall follow the policies and regulations in Chapter 18.25 JCC.
- (7) Compliance with these regulations does not remove an applicant from the obligation to comply with all other applicable federal, state, and/or local regulations. Further, compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permitting requirements. It is the responsibility of the applicant to ensure compliance with all applicable regulations.
- (8) Any action taken in a critical area (or an associated buffer) designated by this chapter that is in violation of the standards and conditions contained herein is expressly prohibited. [Ord. 3-08 § 1]
- (9) Clearing and grading, without first obtaining all applicable permits, is prohibited in critical areas and associated buffers. This includes altering a critical area or a buffer for future site development prior to receiving all applicable permits.
- (10) It is the responsibility of the applicant to demonstrate that the proposal is consistent with the provisions of this chapter.

18.22.030 Identification and mapping of critical areas.

The approximate location and extent of critical areas within the county are displayed on various inventory maps available through the Jefferson County department of community development. The critical areas maps are provided only as a general guide to alert the viewer to the possible location and extent of critical areas. These maps need not to be relied upon exclusively to establish the existence/absence or boundaries of a critical area, or to establish whether all of the elements necessary to identify an area as a critical area actually exist. Conditions in the field control; in the event of a conflict between the information shown on the maps and information shown as a result of field investigations, the latter shall prevail. To the extent practicable, the county shall ensure that its critical area maps are updated as inventories are completed in compliance with the requirements of the Growth Management Act. [Ord. 3-08 § 1]

Jefferson County shall prepare and exhibit dated critical aquifer recharge area maps, which demonstrate the approximate distribution of the susceptible aquifer recharge areas, special aquifer recharge protection areas, or seawater intrusion protection zones. The critical aquifer recharge area maps shall be periodically revised, modified, and updated to reflect additional information. [Ord. 3-08 § 1]

18.22.050 Critical area review process.

As part of the critical area review, the county shall:

- (1) Evaluate the project area and immediate vicinity to determine if critical areas or critical area buffers have the potential to be affected by the proposal.
- (2) Review the submittal and verify the accuracy of the information submitted.
- (3) If a proposal has the potential to occur within a critical area or a buffer, the county shall:

(a) Require the applicant to submit a critical area report prepared by a qualified professional based on the report requirements of this chapter and review the submittal for compliance with report requirements;

(b) Evaluate the report to determine if all potential impacts to the critical area or buffer have been addressed in the critical area report;

(c) Review the proposal for compliance with mitigation sequencing requirements (as defined in JCC 18.10.130) and determine if the mitigation plan sufficiently addresses the potential impacts; and

(d) Ensure that the submittal for critical areas is consistent with other documents submitted as part of the application and that the submittal is consistent with the requirements for a complete application in Chapter 18.40 JCC.

18.22.070 General exemptions.

The activities listed below are exempt from the requirements of this chapter, assuming the proposed activity complies with all provisions of the exemption. The administrator has the authority: (1) to request information from an applicant to ensure compliance with exemption requirements; (2) to determine whether or not an application meets the exemptions listed below; and (3) to take enforcement action for any use, development, or activity undertaken that does not meet exemption requirements. It is the responsibility of the applicant to provide sufficient information for the administrator to determine that one of the following exemptions to be used:

(1) Existing and On-going Agriculture. Existing and ongoing agriculture, as defined in JCC 18.10.010, may continue in substantively the same manner; provided, the activity does not result in adverse impacts to a critical area or a buffer. This exemption shall include maintenance and repair of lawfully established structures, infrastructure, drainage and irrigation ditches, and farm ponds; provided, maintenance work does not expand further into a critical area or a critical area buffer. This exemption does not include: new agriculture; agricultural activities that have ceased for five or more continuous years (except those lands in a federally-recognized conservation program); or any increase, expansion, alteration, or intensification of an existing agricultural activity or existing land area.

(2) Forest Practices Act. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations, WAC Title 222, and which are exempt from Jefferson County jurisdiction.

(3) Maintenance – Transportation and Utilities. Maintenance or reconstruction of existing public or private roads, paths, bicycle ways, trails, bridges, and utility lines when undertaken pursuant to best management practices to minimize impacts to critical areas and to immediately restore any disturbed critical area or its buffer; provided, that reconstruction does not involve expansion of facilities.

(4) Maintenance – Drainage. Maintenance and repair of existing drainage facilities or systems and flood control structures, including, but not limited to, ditches that do not meet the criteria for being considered a fish and wildlife habitat conservation area, culverts, catch basins, levees, reservoirs, and outfalls when

undertaken pursuant to best management practices to minimize impacts to critical areas and immediately to restore any disturbed critical area or its buffer.

(5) Maintenance – Structures. This exemption is limited to reconstruction, remodeling, or maintenance of existing structures within the footprint of an existing lawfully established structure in which work areas are minimized to the extent possible, work areas are restored to previous conditions as soon as construction is complete, and staging areas are located outside of all critical areas and critical area buffers. This exemption shall not apply if the activity creates or continues a circumstance where personal or property damage is likely due to conditions of the critical area or if there is further intrusion into a geologically hazardous area, wetland, frequently flood area, or fish and wildlife habitat conservation area and/or their buffers.

(6) Site Investigative Work. Site investigative work necessary for land use application submittals, including but not limited to surveys, soil logs, and percolation tests involving no fill or use of heavy equipment in a wetland, or a fish and wildlife habitat conservation area or their buffers; provided, that disturbed critical areas and their buffers are immediately restored and best management practices are implemented and excavation for soil logs or percolation tests are filled.

(7) Emergency Action. Action that is taken which is necessary to resolve or prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation, assuming all reasonable measures are implemented to ensure that the emergency action will have the least possible impact on any critical area or buffer. If the nature of the emergency is such that it is not possible to first seek review, the department, as well as any federal or state agencies with jurisdiction (e.g., the U.S. Army Corps of Engineers), must be notified of the action within one working day of the initiation of the emergency work. Any person or agency undertaking emergency work using this exemption must submit a complete application to department of community development for review and approval within 30 days of abatement of the emergency, and the 'after-the-fact' application must show compliance with all requirements of this chapter. Any impacts to critical areas or buffers that are not mitigated within one year of issuance of an 'after-the-fact' permit shall be in violation of this emergency exemption and may be subject to enforcement actions by department of community development.

(8) Artificial Wetlands and Artificial Ponds, assuming the artificial wetland or pond does not meet the definition of wetland or fish and wildlife habitat conservation area and that the artificial wetland or pond was not historically constructed from a wetland or fish and wildlife habitat conservation area (without receiving all applicable permits to modify the critical area).

(9) Irrigation. Operation, maintenance and repair of ditches, reservoirs, ponds and other structures and facilities that do not meet the criteria for being designated a fish and wildlife habitat conservation area.

(10) Low Impact, Passive Recreation. Examples include, but are not limited to, such recreational uses as swimming, canoeing/kayaking, hunting and fishing (pursuant to state law), bird watching, hiking, and bicycling.

(11) Existing Residential Landscaping. Planting, irrigating, mowing, pruning, and maintenance and repair of structures when such activities are part of existing normal residential landscaping activities and no

building permit is required. This exemption does not allow further intrusion into a wetland, fish and wildlife habitat conservation area, frequently-flooded area, geologically hazardous area or their buffers, nor does it allow further intrusion of non-native species into the buffer.

(12) Noxious Weed Control. Removal or eradication of noxious weeds listed in Chapter 16-750 WAC. Such activity is the responsibility of the landowner; provided, that the following conditions are met:

(a) The removal or control of noxious weeds shall follow guidelines issued by the Jefferson County noxious weed control board. The Jefferson County noxious weed control board shall coordinate with the department of planning and community development for the control of noxious weeds in wetlands.

(b) All herbicide applications in aquatic environments shall conform to the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to Chapters 173-201, 16-228, and 222-38 WAC.

(13) Harvesting. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling soil, planting crops, or changing existing topography, water conditions, or water sources and provided these activities do not have any adverse impacts on protection of the critical area or its buffer.

(14) Planting Native Vegetation. The enhancement of a buffer by planting native vegetation.

(15) New Trails. The construction of unpaved, non-motorized trails when located in the outer 25% of a wetland or a fish and wildlife habitat conservation area buffer area and are no wider than five feet. This exemption shall not apply within a frequently flooded area, where development must follow FEMA requirements, or within a geologically hazardous area buffer if the trail will be for public use.

(16) Navigation. Installation of navigation aids and boundary markers.

(17) Administrator Decision. The administrator may determine that an activity is closely allied or similar to any activity in this list. If such an activity does not impact the functions and values of any critical area or its buffers, it may also be determined to be exempt. [Ord. 3-08 § 1]

18.22.080 Nonconforming uses and structures.

(1) Any legal use or legal structure in existence on the effective date of the ordinance codified in this chapter that does not meet the critical area or buffer requirements of this chapter for any designated critical area shall be considered a legal nonconforming use.

(2) Any use or structure for which an application has vested or for which a permit has been obtained prior to the effective date of the ordinance codified in this chapter, that does not meet the buffer requirements of this chapter for any designated critical area, shall be considered a legal nonconforming use.

(3) A legal nonconforming use or structure may be maintained or repaired as allowed by this chapter and the nonconforming provisions of JCC 18.20.260 so long as the use or development does not increase a lawfully established footprint.

(4) A legal nonconforming use or structure that has been damaged or destroyed by fire or other calamity may be restored to a lawfully established prior condition and its immediately previous use may be resumed in accordance with nonconforming provisions of JCC 18.20.260. [Ord. 3-08 § 1]

(5) Nonconforming uses and structures in critical areas that are under the jurisdiction of the Shoreline Management Act shall follow the nonconforming provisions of Chapter 18.25 JCC.

18.22.090 Reasonable economic use variance.

(1) Generally. If the administrator determines that application of this chapter would deny all reasonable economic use of the property, the applicant may apply for a reasonable economic use variance.

(2) Staff Recommendation and Burden of Proof. Upon application to the department, the department shall prepare a recommendation to the hearing examiner. The property owner and/or applicant for a reasonable economic use variance shall bear the burden of proving that the property is deprived of all reasonable economic use.

(3) Hearing Examiner Process. The hearing examiner shall conduct a public hearing on the variance request. Decisions of the hearing examiner shall be final and conclusive. Public notice shall be provided as follows:

(a) The department shall arrange for at least one publication of the notice of hearing to appear in a newspaper of general circulation within the county at least 10 days before the hearing. Payment of all publication fees shall be the responsibility of the applicant.

(b) The department shall send notice to adjacent property owners advising them of the hearing. The notice shall be mailed to the owners of record of all property lying within 300 feet of the property at issue, at least 10 days before the public hearing. Names and addresses of adjacent property owners shall be provided to the department by the applicant, subject to department approval.

(c) The department shall provide the applicant with at least two copies of the hearing notice, and one copy of an affidavit of posting. The applicant shall post the notices and maintain them in place for at least 10 days prior to the hearing, not including the day of posting or the day of the hearing. The notices shall be placed in conspicuous locations on or near the property and shall be removed by the applicant after the hearing. Notices shall be mounted on easily visible boards provided by the department. The affidavit of posting shall be signed, notarized, and returned to the department at least 10 days prior to the hearing.

(d) All hearing notices shall include a legal description of the property involved, and a concise description of the variance requested in lay language.

(4) Hearing Examiner – Required Findings. A reasonable economic use variance may be granted only when the hearing examiner finds that the application meets all of the following criteria:

(a) No reasonable economic use with less impact on the critical area or its buffer is possible.

(b) There is no feasible on-site alternative to the proposed activities that would allow a reasonable economic use with less adverse impacts to critical areas or associated buffers. Feasible on-site alternatives shall include, but are not limited to:

- (i) Reduction in density, scope, scale or intensity;
- (ii) Phasing of project implementation;
- (iii) Change in timing of activities; and
- (iv) Revision of road or parcel layout or related site planning considerations.

(c) The proposed variance will result in the minimum feasible alteration or impairment to the critical area functional characteristics and existing contours, vegetation, fish and wildlife resources, and hydrological conditions.

(d) Disturbance of critical areas has been minimized by locating any necessary alteration in critical area buffers to the minimum extent possible.

(e) The proposed variance will not cause degradation to surface or groundwater quality.

(f) The proposed variance complies with all federal, state and local statutory and common law, including the Endangered Species Act, and statutory laws related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal, and common law relating to property and nuisance.

(g) There will be no material damage to nearby public or private property and no material threat to the health or safety of people on or off the property.

(h) The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the regulations codified in this chapter.

(5) Conditions.

(a) In granting approval for reasonable economic use variances, the hearing examiner may require mitigating conditions.

(b) In granting approval for reasonable economic use variances involving designated wetlands or fish and wildlife habitat conservation areas, the hearing examiner shall consider the following mitigating conditions:

- (i) Provision of a mitigation plan demonstrating how the applicant intends to substantially restore the site to predevelopment conditions following project completion; and
- (ii) The restoration, creation or enhancement of wetlands or fish and wildlife habitat conservation areas and their buffers in order to offset the impacts resulting from the applicant's

actions; the overall goal of any restoration, creation or enhancement project shall be no net loss of wetlands function and acreage.

(6) Performance Bond. The administrator may require a performance bond of 120 percent of the cost of the outstanding work items to be accomplished. [Ord. 3-08 § 1]

18.22.095 Physical separation – Functional isolation.

Buffer areas which are both physically separated and functionally isolated from a critical area and do not protect the critical area from adverse impacts shall be excluded from buffers otherwise required by this chapter. Functional isolation can occur due to existing public roads, structures, vertical separating, or any other relevant physical characteristic. Functional isolation shall be limited to wetland buffers and fish and wildlife habitat conservation area buffers only. Functional isolation shall not be used in geologically hazardous areas buffers, and is not applicable to critical aquifer recharge areas or frequently flooded areas. The administrator may require a biological site assessment to determine whether the buffer is functionally isolated. [Ord. 3-08 § 1]

Article III. Critical Aquifer Recharge Areas

18.22.100 Classification/designation.

Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge. The critical areas aquifer recharge area maps shall be periodically revised, modified, and updated to reflect additional information.

Critical aquifer recharge areas are naturally susceptible due to the existence of permeable soils or a seawater wedge in coastline aquifers. Certain overlying land uses can lead to water quality and/or quantity degradation. The following classifications define critical aquifer recharge areas:

(1) Susceptible aquifer recharge areas are those with geologic and hydrologic conditions that promote rapid infiltration of recharge waters to groundwater aquifers. For the purposes of this article, unless otherwise determined by preparation of an aquifer recharge area report authorized under this article, the following geologic units, as identified from available State of Washington Department of Natural Resources geologic mapping, define susceptible aquifer recharge areas for east Jefferson County:

- (a) Alluvial fans (Ha);
- (b) Artificial fill (Hx);
- (c) Beach sand and gravel (Hb);
- (d) Dune sand (Hd);
- (e) Floodplain alluvium (Hf);
- (f) Vashon recessional outwash in deltas and alluvial fans (Vrd);

- (g) Vashon recessional outwash in melt water channels (Vro);
- (h) Vashon ice contact stratified drift (Vi);
- (i) Vashon ablation till (Vat);
- (j) Vashon advance outwash (Vao);
- (k) Whidbey formation (Pw); and
- (l) Pre-Vashon stratified drift (Py).

(2) Special aquifer recharge protection areas include:

- (a) Sole-source aquifers designated by the U.S. Environmental Protection Agency in accordance with the Safe Drinking Water Act of 1974 (Public Law 93-523), such as Marrowstone Island;
- (b) Special protection areas designated by the Washington Department of Ecology under Chapter 173-200 WAC;
- (c) Wellhead protection areas determined in accordance with delineation methodologies specified by the Washington Department of Health under authority of Chapter 246-290 WAC;
- (d) Groundwater management areas designated by the Washington Department of Ecology in cooperation with local government under Chapter 173-100 WAC.

(3) Seawater intrusion protection zones (SIPZ) are aquifers and land overlying aquifers with some degree of vulnerability to seawater intrusion. SIPZ are defined either by proximity to marine shoreline or by proximity to groundwater sources that have demonstrated high chloride readings. All islands and land area within one-quarter mile of marine shorelines and associated aquifers together compose the coastal SIPZ. Additionally, areas within 1,000 feet of a groundwater source with a history of chloride analyses above 100 milligrams per liter (mg/L) are categorized as either at risk (between 100 mg/L and 200 mg/L) or high risk (over 200 mg/L) SIPZ. Existing individual groundwater sources with a history of chloride analyses above 200 mg/L shall be considered a high risk area for development proposed under this code. New groundwater sources proposed as part of future development are among the "sources or potential sources of contamination" listed in WAC 173-160-171, implementing code for the Water Well Construction Act.

Marine shorelines and islands are susceptible to a condition that is known as seawater intrusion. Seawater intrusion is a condition in which the saltwater/freshwater interface in an aquifer moves inland so that wells drilled on upland areas cannot obtain freshwater suitable for public consumption without significant additional treatment and cost. Maintaining a stable balance in the saltwater/freshwater interface is primarily a function of the rate of aquifer recharge (primarily through rainfall) and the rate of groundwater withdrawals (primarily through wells).

In some cases, high chloride readings may be indicative of connate seawater (i.e., relic seawater in aquifers as opposed to active seawater intrusion). When best available science or a hydrogeologic

assessment demonstrate that high chloride readings in a particular area are due to connate seawater, the area in question shall not be considered an at risk or high risk SIPZ. When the status of an area is in question, the UDC administrator is responsible for making the determination based upon recommendation from Jefferson County public health. [Ord. 3-08 § 1]

18.22.120 Applicability.

(1) High Impact Land Uses. The following land use activities are considered high impact land uses due to the probability and/or potential magnitude of their adverse effects on groundwater and shall be prohibited in areas that are classified as both a susceptible aquifer recharge area and a special aquifer recharge protection area. In areas classified solely as a susceptible aquifer recharge area or a special aquifer recharge protection area, these activities shall require an aquifer recharge area report pursuant to this article:

- (a) Chemical manufacturing and reprocessing;
- (b) Creosote/asphalt manufacturing or treatment (except that asphalt batch plants may be permitted in susceptible aquifer recharge areas only if such areas lie outside of special aquifer recharge protection areas and only if best management practices are implemented pursuant to JCC 18.20.240 (2)(h)(iv) and 18.30.170 and an accepted aquifer recharge area report);
- (c) Electroplating and metal coating activities;
- (d) Hazardous substance treatment, storage and disposal facilities;
- (e) Petroleum product refinement and reprocessing;
- (f) Storage tanks for petroleum products or other hazardous substances;
- (g) Recycling facilities as defined in this code;
- (h) Solid waste landfills;
- (i) Waste piles as defined in Chapter 173-304 WAC;
- (j) Wood and wood products preserving;
- (k) Storage and primary electrical battery processing and reprocessing.

(2) Other Land Uses. The following land use activities in a critical aquifer recharge area are subject to the provisions of the protection standards in this article:

- (a) All industrial land uses;
- (b) All commercial uses;
- (c) The following rural residential land uses:
 - (i) Those using a community sewage system; or

- (ii) Those using a large on-site sewage system; or
- (iii) All planned rural residential developments; or
- (iv) Any conditional use application or discretionary use application (including nonconforming uses that would otherwise require a conditional use application or a discretionary use application).

(3) Seawater Intrusion Protection Zones. New development, redevelopment, and land use activities on islands and in close proximity to marine shorelines in particular should be developed in such a manner to maximize aquifer recharge and maintain the saltwater/freshwater balance to the maximum extent possible, and subject to the antidegradation policy in accordance with WAC 173-200-030. [Ord. 4-10 § 1 (Exh. B); Ord. 3-08 § 1]

18.22.130 Protection standards.

(1) General. The following protection standards shall apply to land use activities; provided, the activity is not prohibited in JCC 18.22.120 above.

(2) Stormwater Disposal.

(a) Stormwater runoff shall be controlled and treated in accordance with best management practices and facility design standards as identified and defined in the Stormwater Management Manual for Western Washington (2014), or as amended, and the stormwater provisions contained in Chapter 18.30 JCC.

(b) To help prevent seawater from intruding landward into underground aquifers, all new development activity on Marrowstone Island and within one-quarter mile of any marine shoreline shall be required to infiltrate all stormwater runoff on site, except for those areas within the Port Ludlow Drainage District. The administrator will consider requests for exceptions to this policy on a case-by-case basis. This provision is interpreted as establishing a hierarchy in which the first and best alternative is on-site infiltration using drywells or other methods; the second best alternative is direct discharge into marine waters through a stormwater tightline. In order to utilize the least preferred alternative, which is considered an exception to the policy, applicants must demonstrate through a geotechnical or similar report prepared by a licensed professional that both on-site infiltration and upland off-site disposal are not practicable or feasible. The report must include cost figures for comparison.

(3) On-Site Sewage Disposal.

(a) All land uses identified in JCC 18.22.120 that are within areas classified as both a special aquifer recharge protection area and a susceptible aquifer recharge area shall meet minimum land area and best management practices (BMPs) for nitrogen removal as design parameters necessary for the protection of public health and groundwater quality. BMPs for the reduction of nitrogen shall comply with JCC 18.30.180.

(b) As new information becomes available that would classify an area as a special aquifer recharge protection area or as designated by the health officer under this article or under the Jefferson County Sewage Management Plan, said area may be designated as such by the county. Any additional areas designated through this process shall receive the same protections identified in subsection (3)(a) of this section.

(4) Golf Courses and Other Turf Cultivation. Golf courses shall be developed and operated in a manner consistent with the most current edition of "Best Management Practices for Golf Course Development and Operation," King County department of development and environmental services. Recreational and institutional facilities (e.g., parks and schools) with extensive areas of cultivated turf shall be operated in a manner consistent with portions of the aforementioned best management practices pertaining to fertilizer and pesticide use, storage, and disposal. In seawater intrusion protection zones, golf courses and other turf cultivation using groundwater for irrigation shall be prohibited, unless the water source is located outside of seawater intrusion protection zones or in an approved public water supply.

(5) Above-Ground Storage and Underground Storage Tanks. Above-ground and underground storage tanks shall be fabricated, constructed, installed, used and operated in a manner which prevents the release of hazardous substances to the ground or groundwater and be consistent with the Department of Ecology's standards for construction and installation under Chapter 173-360 WAC. Above-ground storage tanks intended to hold or store hazardous substances shall be provided with an impervious containment area, equivalent to or greater than 100 percent of the tank volume, enclosing and underlying the tank; or ensure that other measures are undertaken as prescribed by the Uniform Fire Code which provide an equivalent measure of protection. Underground storage tanks intended to store hazardous substances shall provide an impervious tertiary containment area underlying the tanks or ensure that other measures are undertaken which provide an equivalent measure of protection. Refer to JCC 8.10.305(6)(a)(iv).

(6) Mining and Quarrying. Mining and quarrying performance standards containing groundwater protection best management practices pertaining to operation, closure, and the operation of gravel screening, gravel crushing, cement concrete batch plants, and asphalt concrete batch plants, where allowed, are contained in Chapters 18.20 and 18.30 JCC.

(7) Hazardous Materials. Land use activities that generate hazardous substances, which are not prohibited outright under this code, and which are conditionally exempt from regulation by the Washington Department of Ecology under WAC 173-303-100, or which use, store, or handle hazardous substances, shall be required to prepare and submit a hazardous materials management plan that demonstrates that the development will not have an adverse impact on groundwater quality. The facility owner must update the hazardous materials management plan annually. Refer to JCC 8.10.305(5), (6), and (7) for specific details as to the waste stream.

(8) Well Drilling, Land Division, and Building Permits in Seawater Intrusion Protection Zones.

(a) Well Drilling. The Washington State Department of Ecology regulates well drilling pursuant to the Water Well Construction Act. Proposed wells, including those exempt from permitting requirements, must be sited at least 100 feet from "known or potential sources of contamination,"

which include "sea-salt water intrusion areas" (WAC 178-160-171), unless a variance is obtained from Ecology per WAC 173-160-106.

(b) Subdivisions. Applications for land division (Chapter 18.35 JCC) in coastal, at risk, and high risk SIPZ must include specific and conclusive proof of adequate supplies of potable water through a qualifying hydrogeologic assessment (relevant components of an aquifer recharge area report per JCC 18.22.400) that demonstrates that the creation of new lots and corresponding use of water will not impact the subject aquifer such that water quality is degraded by seawater intrusion. A hydrogeologic report assessment shall not be required when the applicant demonstrates that public water is available.

(i) Marrowstone Island. Due to documented seawater intrusion on Marrowstone Island and the existence of undeveloped lots of record, Jefferson County will only allow land division on the island if public water connections are provided to each lot and all existing wells are decommissioned. No permit shall be approved if a public water connection to each lot cannot be provided.

(c) Building Permits.

(i) Evidence of potable water may be an individual well, connection to a public water system, or an alternative system. Whatever method is selected, the regulatory and operational standards for that method must be met, including Jefferson County health codes and the Washington Administrative Code. Pursuant to Section 4 of the State "Guidelines for Determining Water Availability for New Buildings" (Ecology Publication No. 93-27, or as amended), investigation and identification of well interference problems and impairment to senior rights is the responsibility of the Washington Department of Ecology. If the possibility of a problem is suspected, the local permitting authority should contact Ecology, as per RCW 19.27.097.

(ii) All types of building permits that require proof of potable water use, as per RCW 19.27.097, are subject to this article.

(d) Voluntary and mandatory measures of the Jefferson County seawater intrusion policy apply to applications within the coastal, at risk, and high risk SIPZ, and upon Marrowstone Island, in the following manner, in addition to all existing applicable health codes:

(i) Coastal SIPZ.

(A) Voluntary Actions.

(I) Water conservation measures;

(II) Ongoing well monitoring for chloride concentration;

(III) Submittal of data to county.

(B) Mandatory Actions.

(I) For proof of potable water on a building permit application, applicant must utilize DOH-approved public water system if available;

(II) If public water is unavailable, meaning the subject property is not within a current water service area, an individual well may be used as proof of potable water subject to the following requirements:

1. Chloride concentration of a laboratory-certified well water sample submitted with building permit application; and
2. Installation of source-totalizing meter (flow).

(III) If public water is unavailable, a qualifying alternative system may be used as proof of potable water.

(ii) At Risk SIPZ.

(A) Voluntary Actions.

(I) Water conservation measures.

(B) Mandatory Actions.

(I) For proof of potable water on a building permit application, applicant must utilize DOH-approved public water system if available;

(II) If public water is unavailable, meaning the subject property is not within a current water service area, an individual well may be used as proof of potable water subject to the following requirements:

1. Chloride concentration of a laboratory-certified well water sample submitted with building permit application; and
2. Installation of a source-totalizing meter (flow); and
3. Ongoing well monitoring for chloride concentration; and
4. Submittal of flow and chloride data to the county per monitoring program;

(III) If public water is unavailable, a qualifying alternative system may be used as proof of potable water.

(iii) High Risk SIPZ.

(A) Mandatory Actions.

(I) Water conservation measures (per list maintained by UDC administrator);

(II) For proof of potable water on a building permit application, applicant must utilize DOH-approved public water system if available;

(III) If public water is unavailable, meaning the subject property is not within a current water service area, an individual well may only be used as proof of potable water subject to the following requirements:

1. Variance from WAC Title 173 standards granted by Ecology per WAC 173-160-106 for a new groundwater well within 100 feet of a sea-salt water intrusion area per WAC 173-160-171 (i.e., within 100 feet of a groundwater source showing chloride concentrations above 200 mg/L or within 100 feet of the marine shoreline) and with the submittal of a hydrogeologic assessment (relevant components of an aquifer recharge area report per JCC 18.22.400); or

2. For an existing groundwater well not subject to an Ecology variance, applicant must provide a hydrogeologic assessment (relevant components of an aquifer recharge area report per JCC 18.22.400), which shall be transmitted to Ecology for review, demonstrating that use of the well does not cause any detrimental interference with existing water rights and is not detrimental to the public interest; and

3. Chloride concentration of a laboratory-certified well water sample submitted with building permit application; and

4. If chloride concentration exceeds 250 mg/L in a water sample submitted for a building permit, then the property owner shall be required to record a restrictive covenant that indicates a chloride reading exceeded the U.S. Environmental Protection Agency secondary standard (250 mg/L) under the National Secondary Drinking Water Regulations; and

5. Installation of a source-totalizing meter flow; and

6. Ongoing well monitoring for chloride concentration; and

7. Submittal of flow and chloride data to the county per monitoring program;

(IV) If public water is unavailable, a qualifying alternative system may be used as proof of potable water.

(iv) Marrowstone Island. Since Marrowstone Island is a sole source aquifer and a high risk SIPZ, and the island is served by public water, proof of potable water connection to the public water supply will be required (as per a Washington State Department of Ecology letter to Jefferson County public health dated February 27, 2018, or as amended).

(9) Mitigating Conditions. The administrator may require additional mitigating conditions, as needed, to provide protection to all critical aquifer recharge areas to ensure that the subject land or water use action will not pose a risk of significant adverse groundwater quality impacts. The determination of significant

adverse groundwater quality impacts will be based on the anti-degradation policy included in Chapter 173-200 WAC.

(10) Quilcene-Snow Water Resource Inventory Area (WRIA 17) In-stream Flow Rule. All applications required to provide proof of potable water or source water approval shall meet all county and state requirements including WRIA 17 In-stream Flow Rule Chapter 173-517 WAC at the time of application. All applications involving water use shall be reviewed by Jefferson County public health for compliance with county and state requirements.

(11) Authority for Denial. In all critical aquifer recharge areas, the administrator may deny approval if the protection standards contained herein or added mitigating conditions cannot prevent significant adverse groundwater quality impacts. [Ord. 4-10 § 1 (Exh. B); Ord. 3-08 § 1]

18.22.135 Adaptive management.

As part of the periodic review and amendment to Jefferson County's implementing regulations required under RCW 36.70A.130(4), Jefferson County shall review the need for and implement an adaptive management program for groundwater resources in certain discrete geographic areas of the county, consistent with the provisions of WAC 365-195-920(2). [Ord. 3-08 § 1]

Article IV. Frequently Flooded Areas

18.22.1AA Classification/designation.

Frequently flooded areas are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Flood hazard areas are depicted on the Federal Emergency Management Agency's Federal Insurance Rate Maps (FIRMs).

18.22.1BB Applicability.

These standards apply to any development within frequently flooded areas, unless the proposed activity meets any of the exemption listed in Chapter 15.15 JCC. For purposes of this article, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of more than five percent of the native vegetation on the property, or alteration of natural site characteristics.

18.22.140 Incorporation by reference.

This article incorporates by reference the classification, designation and protection provisions contained in the Jefferson County flood damage prevention ordinance (Chapter 15.15 JCC) with the following addition:

(1) The FIRMs identified in the flood damage prevention ordinance (Chapter 15.15 JCC) shall be used to determine flood hazard areas for compliance with the Federal Emergency Management Agency (FEMA) regulatory requirements. Such flood hazard areas shall be subject to the criteria of the flood damage prevention ordinance.

(2) The flood damage prevention ordinance conforms with the intent of the minimum guidelines (WAC 365-190-110) through directly considering the effects of flooding on human health and safety, together with effects on public facilities and services, through its protection standards. [Ord. 3-08 § 1]

(3) Development proposed within the regulated floodplain shall comply with the FEMA Biological Opinion. The applicant shall submit a habitat assessment prepared by a qualified biologist to the department of community development for review. The submittal shall be based on the 2013 FEMA Region 10 guidance document entitled *Floodplain Habitat Assessment and Mitigation, Regional Guidance for the Puget Sound Basin* (or as amended by FEMA). The administrator may request federal assistance in reviewing the submitted habitat assessment. The administrator may waive the requirement to submit a habitat assessment if:

(a) The entire proposal meets one of the exemptions listed in Chapter 15.15 JCC; or

(b) The proposal requires a federal permit that is reviewed by federal agencies responsible for ensuring compliance with the Endangered Species Act (this could include, but is not limited to, project actions covered by separate consultation under Section 4(d), 7, or 10 of the Endangered Species Act); or

(c) A habitat assessment has been previously prepared and the proposed project clearly fits within the nature and scope of that assessment.

(4) In the event that FEMA approves an alternate process for Jefferson County to demonstrate compliance with the Biological Opinion (such as a programmatic review), this department may waive the requirement to submit a Habitat Assessment.

18.22.150 Relationship to other regulations.

While the Jefferson County floodplain management ordinance requires consistency with all other applicable laws, in the event that a conflict should exist the stricter standard shall apply to the regulated development. [Ord. 3-08 § 1]

Article V. Geologically Hazardous Areas

18.22.160 Classification/designation.

Geologically hazardous areas are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.(1) The following erosion, landslide, seismic, and channel migration zone (CMZ) hazard areas shall be designated as geologically hazardous areas and subject to the standards of this article:

(a) Erosion Hazard Areas. Erosion hazard areas are those areas containing soils which, according to the United States Department of Agriculture, Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Also included are coastal erosion-prone areas and channel migration zones. Erosion hazard areas include areas likely to become unstable, and include bluffs, steep slopes, and areas with unconsolidated soils, and may include coastal erosion areas, as mapped on the Coastal Atlas by Washington Department of Ecology.

(b) Landslide Hazard Areas. Landslide hazard areas are areas at risk of mass movement due to a combination of geologic, topographic and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors, as follows:

(i) Areas of historic failures, such as:

(A) Areas delineated by United States Department of Agriculture, Natural Resources Conservation Service as having a significant limitation for building site development; or

(B) Coastal areas mapped as unstable, unstable old slides, and unstable recent slides in the Washington State Department of Ecology Coastal Atlas ; or

(C) Areas designated and mapped as quaternary slumps, earthflows, mudflows, lahars, or landslide hazards by the Washington State Department of Natural Resources or the United States Geological Survey.

(ii) Areas where all three of the following conditions occur:

(A) Slopes are steeper than 15 percent;

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(C) Spring or groundwater seepage.

(iii) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to present) or have been underlain or covered by mass wastage debris of this epoch.

(iv) Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

(v) Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking.

(vi) Areas that are potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones.

(vii) Areas that show evidence of, or are at risk from, snow avalanches.

(viii) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.

(ix) Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet, except areas composed of bedrock.

(c) Seismic Hazard Areas. Areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or

tsunamis. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow groundwater table.

(d) Channel Migration Zones (CMZs). Areas subject to the natural movement of stream channel meanders. Those areas within the delineated high risk CMZ area (the area in which channel migration is likely to occur within the next 50 years) are subject to this article. Disconnected migration areas, which are areas that have been disconnected from the river by legally existing artificial structure(s) that restrain channel migration (such as levees and transportation facilities built above or constructed to remain intact through the 100-year flood elevation) and are no longer available for migration by the river, shall be excluded from review under this article. Moderately high, moderate, and low risk CMZs areas are also excluded from review under this article.

(e) Other geologic events, such as coal mine hazards and volcanic hazards are not a known risk in Jefferson County, and are therefore, not subject to review as part of the permitting process.

(2) Sources Used for Identification. Sources used to identify geologically hazardous areas include, but are not limited to:

(a) United States Department of Agriculture, Soil Conservation Service, Soil Survey for Jefferson County (available online through the United States Department of Agriculture, Natural Resources Conservation Service).

(b) Washington State Department of Ecology, Coastal Atlas.

(c) Washington State Department of Natural Resources, Geologic Hazard Maps (available online).

(d) Geologic Maps of Eastern Jefferson County online maps (landslide hazards, shoreline slope stability, erosion hazards, seismic hazards, and channel migration zones available online).

(e) United States Department of the Interior, USGS Quad Maps.

(f) U.S. Department of the Interior, Bureau of Reclamation, 2004, Channel Migration Zone Study for the Duckabush, Dosewallips, Big Quilcene and Little Quilcene Rivers, Jefferson County, Washington. Denver, CO.

(g) Perkins Geosciences, 2006, Channel Migration Hazard Maps for the Dosewallips, Duckabush, Big Quilcene and Little Quilcene Rivers, Jefferson County, Washington. Seattle, WA.

(h) Perkins Geosciences with TerraLogic GIS, June 2004, Lower Hoh River Channel Migration Study Summary Report.

(i) The following rivers are not regulated as CMZs in this section as these rivers have not been evaluated or mapped for CMZs (not an exhaustive list): Thorndyke Creek, Shine Creek, Chimacum Creek, Snow Creek, Salmon Creek, Upper Hoh River, Bogachiel River, Clearwater River, and Quinault River.

18.22.1CC Regulated activities.

Any land use or development activity within a geologically hazardous area, buffer, or 200-foot-wide management area shall be subject to the provisions of this article unless specifically exempted in JCC 18.22.070.

18.22.170 Protection standards.

(1) General. Application for a project on a parcel of real property containing a designated geologically hazardous area or its buffer shall adhere to the requirements set forth below. The provisions listed below are in addition to those required in JCC 18.30.060 (grading and excavation standards) and JCC 18.30.070 (stormwater management standards), and shall be incorporated into reports prepared by qualified professionals to show compliance with those code requirements.

(2) Drainage and Erosion Control.

(a) An applicant submitting a project application shall also submit, and have approved, a drainage and erosion control plan, as specified in this chapter, when the project application involves either of the following:

- (i) The alteration of a geologically hazardous area or its buffer; or
- (ii) The creation of a new parcel within a known geologically hazardous area.

(b) Drainage and erosion control plans required under this chapter shall discuss, evaluate and recommend methods to minimize sedimentation of adjacent properties during and after construction.

(c) Surface drainage shall not be directed across the face of a marine bluff, landslide hazard or ravine. The applicant must demonstrate that the stormwater discharge cannot be accommodated on site or upland by evidence of a geotechnical report, unless waived by the administrator. If drainage must be discharged from a bluff to adjacent waters, it shall be collected above the face of the bluff and directed to the water by tight line drain and provided with an energy dissipating device at the shoreline, above ordinary high water mark (OHWM).

(d) In addition to complying with the stormwater requirements of Chapter 18.30 JCC, the applicant must clearly demonstrate in the geotechnical report that stormwater quantity, quality, and flow path post-construction will be comparable to pre-construction conditions.

(3) Clearing and Grading.

(a) In addition to the general clearing and grading provisions in Chapter 18.30 JCC, the following provisions shall also apply:

(i) Clearing within geologically hazardous areas shall be allowed only from April 1st to November 1st, unless the applicant demonstrates that such activities would not result in impacts contrary to the protection requirements herein;

(ii) Temporary sedimentation and erosion control measures shall be installed once all applicable permits have been issued and installation shall be based on the locations shown on the approved site plan;

(iii) Clearing limits for roads, septic, water and stormwater utilities, and temporary erosion control facilities shall be marked in the field and approved by the administrator prior to any alteration of existing native vegetation;

(iv) Clearing for roads and utilities shall remain within construction limits which must be marked in the field prior to commencement of site work;

(v) The authorized clearing for roads and utilities shall be the minimum necessary to accomplish project specific engineering designs and shall remain within approved rights-of-way; and

(vi) Clearing land in preparation of site development prior to permit issuance shall be prohibited.

(b) The following provisions regarding grading shall apply:

(i) An applicant submitting a project application shall also submit, and have approved, a grading plan, as specified in this chapter, when the application involves either of the following:

(A) The alteration of a geologically hazardous area or its buffer; or

(B) The creation of a new parcel within a known geologically hazardous area.

(ii) Excavation, grading and earthwork construction regulated under this section shall only be allowed from April 1st to November 1st, unless the applicant demonstrates that such activities would not result in impacts contrary to the protection requirements herein.

(4) Vegetation Retention. The following provisions regarding vegetation retention shall apply:

(a) During clearing for roadways and utilities, all trees and understory vegetation lying outside of approved construction limits shall be retained.

(b) Clearing limits, as shown on the approved site plan, shall be marked by orange construction barrier fencing to be installed prior to beginning any clearing, grading, or other land-disturbing activities.

(c) Vegetation within identified clearing limits may be removed upon permit issuance. All vegetation within the geologically hazardous area or buffer, but outside the marked clearing limits, shall be retained. Cleared vegetation shall not be placed within a geologically hazardous area unless it is used as part of a mitigation plan consistent with other critical area mitigation provisions, is reviewed by the state-licensed geologist or engineer, and is approved by the administrator.

(d) Within a high risk CMZ, vegetation removal shall not be allowed. Vegetation removal outside of a high risk CMZ shall not be reviewed under this article. Should this provision conflict with other vegetation retention requirements specified within the JCC, the more restrictive protection requirement applies.

(5) Geologically Hazardous Area Assessments – When Required. A geotechnical assessment shall be required if a proposed activity occurs within a mapped geologically hazardous area or the 200-foot-wide management area (including those areas that may be temporarily affected by construction), as follows:

- (a) Landslide hazards mapped as slides, high, or moderate;
- (b) Shoreline slope stability mapped as intermediate, unstable, unstable recent landslide, unstable old landslide, or modified;
- (c) Erosion hazard;
- (d) Seismic hazard;
- (e) High risk channel migration zone; or
- (f) Coastal atlas landforms mapped as feeder bluff exceptional, feeder bluff talus, feeder bluff, or modified.

(6) Geologically Hazardous Areas – Levels of Assessments. Geologically hazardous area assessments shall be conducted by a qualified geologist or engineer with a state stamp. The level of assessment required shall be based on site-specific conditions, as follows:

- (a) Assessment Level 1 (Geotechnical Letter). This type of assessment shall be used if the geologist or engineer determines that the proposed activity will occur outside of the buffer (including those areas that may be temporarily disturbed by construction). The geotechnical letter shall be prepared based on report criteria in Article VIII of this chapter.
- (b) Assessment Level 2 (Geotechnical Report). This type of assessment shall be used if the geologist or engineer determines that the proposed activity will occur within a geologically hazardous area or buffer (including those areas that may be temporarily disturbed by construction). If the entire property is located within a geologically hazardous area, the geologist or engineer shall assess the parcel(s) based on requirements in subsection (13) below. The geotechnical report shall be prepared based on report criteria in Article VIII of this chapter.

(7) Geologically Hazardous Areas – Marking Limits. The limits (or outer extent) of a geologically hazardous area shall be marked onsite as follows:

- (a) Geologically hazardous areas shall be identified and staked by a professional geologist or engineer with a state stamp. For landslide hazards, the top and/or toe of slope closest to the proposed activity shall be marked. For erosion hazards, seismic hazards, and high risk channel migration zones, the extent of the geologically hazardous area closest to the proposed activity shall be staked onsite.
- (b) Stakes shall be installed and marked as necessary to clearly identify the geologically hazardous areas present; provided, the distance between each of the stakes shall not exceed 50 feet.
- (c) Staked limits of the geologically hazardous area shall remain onsite based on the type of application, as follows:

- (i) Stakes for building or septic applications shall remain in place until a final building certificate of occupancy for a building permit and/or a final for a septic permit is issued.
 - (ii) Staking for a subdivision, a planned rural residential development, a binding site plan, or a rezone shall remain in place until a final county approval is issued. If, at the time of subsequent building, septic, or other land use application, the stakes are no longer in place, the administrator may require re-staking of the geologically hazardous area by the project geologist or engineer.
 - (iii) Staking for any other application requiring land use review shall remain in place until the department of community development has made a site visit to review the staking relative to property boundaries and proposed activities, as shown on a submitted site plan.
- (d) The staked location of the on-site geologically hazardous areas shall be shown on a site plan submitted with an application.
- (e) If more than one geologically hazardous area is present, only the most restrictive geologically hazardous area (area closest to the proposed activity) shall be staked by the geologist or engineer.
- (8) Buffer Marking. The location of the outer extent of geologically hazardous area buffers shall be marked in the field as follows:
- (a) Geologically hazardous areas and buffers shall be shown on a site plan submitted with an application.
 - (b) Geologically hazardous area buffers shall be staked onsite prior to beginning any clearing, grading, or other land-disturbing activities. The administrator may waive this requirement if all development activities are outside of the geologically hazardous area buffer.
 - (c) The administrator may require signs be posted at the buffer edge if the proposed activity is commercial or industrial, or if the proposed activity is proposed on public lands.
- (9) Buffers – General. The following geologically hazard area buffer provisions shall apply:
- (a) Buffer areas shall be required to provide sufficient separation between the geologically hazardous area and the adjacent proposed project.
 - (b) The appropriate width of the geologically hazardous area buffer shall be determined by either: application of the standard buffer width set forth in subsection (10) below; or by acceptance of a geotechnical report meeting the criteria of this article and Article VIII (critical area reports).
 - (c) Buffers shall remain naturally vegetated. Where buffer disturbance has occurred during construction, replanting with native vegetation shall be required.
 - (d) Buffers shall be retained in their natural condition; however, minor pruning of vegetation to enhance views may be permitted by the administrator on a case-by-case basis.

(e) All buffers shall be measured perpendicularly from the top, toe or edge of the geologically hazardous area.

(10) Buffers – Standard Width and Setback. A standard buffer shall be established from the edge of geologically hazardous areas, and a building setback shall be established from the edge of the buffer. Standard buffer widths shall be based on county geologically hazardous area mapping and Washington Department of Ecology coastal atlas mapping, in the order listed below.

(a) 150 feet:

- (i) Landslide hazards mapped as slides or high;
- (ii) Shoreline slope stability mapped as unstable, unstable recent slides, or unstable old slides;
- (iii) Erosion hazards; or
- (iv) Coastal atlas landforms mapped as feeder bluff exceptional.

(b) 100 feet:

- (i) Landslide hazards mapped moderate;
- (ii) Shoreline slope stability mapped as modified;
- (iii) Channel mitigation zones mapped as high risk; or
- (iv) Coastal atlas landforms mapped as feeder bluff, feeder bluff-talus, or modified.

(c) 50 feet:

- (i) Shoreline slope stability mapped as intermediate.

(d) Seismic hazards, landslide hazards mapped as slight, and shoreline slope stability mapped as stable do not require buffers. Channel migration zones mapped as moderately high risk, moderate risk, low risk, and disconnected are not regulated as a geologically hazardous area and do not require a buffer.

(e) A building setback line is required to be 10 feet from the edge of any geologically hazardous area buffer.

(11) Reducing Buffer Widths. The administrator may reduce geologically hazardous area buffers as follows:

(a) Buffers may be reduced by up to 25 percent with a geotechnical report prepared by a geologist or engineer with a state stamp; provided, the report identifies recommendations for preventing or minimizing risks post-development.

(b) All buffer reductions 25 percent or greater and all development within a geologically hazardous area shall require a geotechnical report prepared by a geologist or engineer with a state stamp. The administrator shall require a third-party review based on JCC 18.22.380 and/or a hold harmless agreement be recorded with the auditor's office. If the administrator requires a third-party review of the report, the administrator shall be responsible for identifying and transmitting the geotechnical report to the third-party reviewer.

(12) Increasing Buffer Widths. Buffer widths may be increased on a case-by-case basis, as determined by the administrator, to protect the functions and values of a geologically hazardous area. Documents that may be used to support this determination, include but are not limited to:

(a) The landslide area is unstable and active.

(b) The adjacent land is susceptible to severe landslide or erosion, and erosion control measures will not effectively protect the proposed project from the risks posed by the landslide hazard area.

(c) The adjacent land has minimal vegetative cover.

(13) Geologically Hazardous Area Development. If a proposed development or use is determined to be a geologically hazardous area, the geologist or engineer shall assess the proposed activity relative to existing geologic conditions to determine if the proposal can be safely constructed and safely used or occupied. All development within a mapped geologically hazardous area shall require a geotechnical report prepared by a geologist or engineer with a state stamp, and the administrator shall have the authority to send the geotechnical report out for third-party review based on JCC 18.22.380 and/or to require a hold harmless agreement be recorded with the auditor's office. If the administrator requires third-party review of the report, the administrator shall be responsible for identifying and transmitting the geotechnical report to the third-party reviewer. Any development or use within a geologically hazardous area may be reduced or mitigated by engineering, design, or modified construction. If the risk cannot be reduced to acceptable levels, the geologically hazardous area is to be avoided.

18.22.180 Conditions.

(1) General. In granting approval for a project application subject to the provisions of this article, the administrator may require mitigating conditions that will, in the administrator's judgment, substantially secure the objectives of this article.

(2) Basis for Conditions. All conditions of approval required pursuant to this section shall be based upon either the substantive requirements of this section or the recommendations of a qualified professional, contained within a critical area report required under this chapter. [Ord. 6-09 § 1 (Exh. B); Ord. 3-08 § 1]

Article VI. Fish and Wildlife Habitat Conservation Areas (FWHCAs)

18.22.200 Classification/designation.

Fish and Wildlife Habitat Conservation Areas (FWHCAs) are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. FWHCAs include those areas identified as being of critical importance to the maintenance of endangered, threatened, or sensitive

species of fish, wildlife and/or plants, or habitats and species of local importance. These areas are typically identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.

(1) The following are designated as fish and wildlife habitat conservation areas:

(a) Areas where federally-listed species (endangered and threatened) and state-listed species (endangered, threatened, and sensitive species) have a primary association.

(i) Federally-listed endangered and threatened species are those fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Services should be consulted for current listing status.

(ii) State endangered, threatened, and sensitive species are those species native to the state of Washington, as identified by the Washington State Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, or are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range. The state maintains the list of these species in WAC 232-12-014 (endangered species) and in WAC 232-12-011 (threatened and sensitive species). The State Department of Fish and Wildlife should be consulted for current listing status.

(b) Rivers and streams not otherwise addressed under Washington State Forest Practices regulations (Chapter 76.09 RCW and WAC Title 222).

(c) Commercial and recreational shellfish areas.

(d) Kelp and eelgrass beds.

(e) Surf smelt, Pacific herring, and Pacific sand lance, and other forage fish spawning areas.

(f) Naturally-occurring ponds less than 20 acres, including submerged aquatic beds that provide fish and wildlife habitat.

(g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

(h) State natural area preserves, natural resource conservation areas, and state wildlife areas.

(i) Species and habitats of local importance established pursuant to the process delineated in JCC 18.22.210. [Ord. 3-08 § 1](j) Waters of the state.

(2) Designated fish and wildlife habitat conservation areas that are within shoreline jurisdiction are also regulated under the shoreline master program in Chapter 18.25 JCC, and in circumstances where the this chapter conflicts with the shoreline master program, the provisions of the shoreline master program shall prevail.

18.22.210 Process and requirements for designating habitats of local importance as critical areas.

(1) Purpose. This section describes the process for designating species and habitats of local importance that are not covered by the federal and state sensitive, threatened or endangered species regulations. Accordingly, this section details the requirements for designating and monitoring species and habitats of local importance, as well as removing such species and habitats from designation if necessary.

(2) Definition. The use of the term “habitat” in this section means a place or type of site where a plant or animal naturally or normally lives and grows, and includes areas used by a species during any life stage at any time of the year..”

(3) Procedure for Designation – Generally. An application/nomination to designate a habitat of local importance as a critical area shall be processed according to the procedures for Type V land use decisions established in Chapter 18.40 JCC.

(4) Nominations/Applications. Any person, organization, or Jefferson County agency may nominate and apply for designation a species or habitat of local importance. A nominating person or organization must be a resident of, or headquartered in, Jefferson County.

(5) Nomination/Application Submittal.

(a) The applicant shall provide information demonstrating that the species or habitat is native to Jefferson County, existing on or before the date of adoption of the regulations codified in this chapter.

(b) All nominations/applications for designation of a species/habitat of local significance shall include the following:

(i) Identification of the species including its scientific and locally common name(s);

(ii) Identification of the geographic location, including Jefferson County parcel numbers, and extent of the habitat associated with a nominated species or the nominated habitat itself if not associated with a nominated species; a map of an appropriate scale to properly describe the location and extent of the habitat will accompany the nomination, as well as geo-referencing information sufficient to allow mapping of the habitat site in the county GIS mapping system;

(iii) The status of the species or the occurrence of the type of habitat in surrounding counties and in the rest of the state has been considered in making this nomination;

(iv) A management strategy for the species or habitat;

(v) Indications as to whether the proposed management strategy has been peer reviewed, and if so, how this was done and by whom;

(vi) Where restoration of habitat is proposed, a specific plan, including how the restoration will be funded, must be provided as part of the nomination;

(vii) Recommendations for allowed, exempt, and regulated activities within the area;

- (viii) Recommended buffer and setback requirements and their justification;
 - (ix) Seasonal requirements;
 - (x) A monitoring plan must be practical and achievable and include the following:
 - (A) Baseline data and a description of what measurements will be used to determine the success of the project. The plan shall include the criteria and time period required to evaluate the success of the plan;
 - (B) A contingency plan for failure;
 - (C) A list of all parcels not included in the nomination but affected by the monitoring process;
 - (xi) The nomination must also include an economic impact, cost and benefits analysis. The nomination must also include an analysis of alternative solutions to formal designation of the habitat of local importance as a regulated critical area under this chapter.
 - (c) The applicant shall be responsible for paying all fees and all expenses incurred by Jefferson County to process the application.
- (6) Review and Approval Criteria.
- (a) Species nominated for designation under this section must satisfy the following criteria:
 - (i) Local populations that are in danger of extirpation based on documented trends since the adoption of the Growth Management Act;
 - (ii) The species is sensitive to habitat manipulation;
 - (iii) The species or habitat has commercial, game, or other special value such as locally rare species;
 - (iv) The nomination includes an analysis of the proposal using best available science; and
 - (v) The nomination specifies why protection by other county, state or federal policies, laws, regulations or nonregulatory tools is inadequate to prevent degradation of the species or habitat and for which management strategies are practicable, and describes why, without designation and protection, there is a likelihood that the species will not maintain and reproduce over the long term, or that a unique habitat will be lost.
 - (b) Habitats nominated for designation under this section must satisfy the following criteria:
 - (i) Where a habitat is nominated to protect a species, the use of the habitat by that species must be documented or be highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and, long-term

persistence of the species in Jefferson County and adjoining counties is dependent on the protection, maintenance or restoration of the habitat;

(ii) Areas nominated to protect a particular habitat must represent either high quality native habitat or habitat that has an excellent potential to recover to a high quality condition and which is either of limited availability or highly vulnerable to alteration;

(iii) The nomination specifies the specific habitat features to be protected (e.g., nest sites, breeding areas, nurseries, etc.). In the case of proposed wildlife corridors, the nomination shall specify those features that are required for the corridor to remain viable to support and protect the nominated species.

(7) Review and Approval Process.

(a) The department of community development shall determine whether the application submittal is complete. If deemed complete, the department shall evaluate the proposal for compliance with the approval criteria set forth in this section and make a recommendation to the planning commission based on those criteria. The department shall also notify all parcel owners affected of the terms and contents of the proposal.

(b) Upon receipt of a staff report and recommendation from the department, the planning commission shall hold a public hearing, and make a recommendation to the board of commissioners based upon the approval criteria set forth in this section.

(c) The Jefferson County board of commissioners shall consider the recommendation transmitted by the planning commission at a regularly scheduled public meeting, and may then adopt an ordinance formally approving the designation. Should the board wish to vary from the planning commission recommendation and alter or reject the application, such action may only occur following a separate public hearing conducted by the board.

(d) Upon approval, the ordinance designating and regulating the species or habitat of local importance shall be codified in this article for public information and implementation by the department, and a notice to title shall be placed upon all parcels affected by the designation.

(e) Each ordinance creating a species or habitat of local importance shall include periodic review or reassessment of the initial designation. The length of the periodic review may be dependent on the characteristics of the species or habitat.

(8) Removal from Designation. Species or habitats of local significance may be removed at any time; provided, that they no longer meet the criteria set forth in subsection (5) of this section (e.g., as a result of a natural catastrophe or climatic change event); and provided further, that the procedural requirements of this section and the procedural requirements established for Type V land use decisions set forth within Chapter 18.40 JCC are met. [Ord. 3-08 § 1]

18.22.220 Sources used for identification.

Sources used to identify fish and wildlife habitat conservation areas include, but are not limited to, the following:

- (1) United States Fish and Wildlife Service, National Wetlands Inventory.
- (2) Washington State Department of Natural Resources, Water Type Index Maps.
- (3) Washington State Department of Fish and Wildlife, Non-Game and Priority Habitats and Species databases.
- (4) National Oceanic and Atmospheric Administration, Endangered and Threatened Marine Species online database.
- (5) United States Geological Survey 7.5-Minute Topographic Maps.
- (6) U.S. Fish and Wildlife, Endangered Species online database.
- (7) Washington Department of Natural Resources, Natural Heritage Program database.
- (8) Northwest Indian Fisheries Commission and Washington Department of Fish and Wildlife Statewide Integrated Fish Distribution Map database.
- (9) National Oceanic and Atmospheric Administration, Environmental Response Management Application, Pacific Northwest.
- (10) Washington Department of Natural Resources Natural Areas database/maps.
- (11) Washington Department of Ecology, Coastal Atlas database.
- (12) Washington Department of Health, Recreational and Commercial Shellfish database.
- (13) Jefferson County (online mapping).

18.22.250 Regulated activities.

Any land use or development activity that is subject to a development permit or approval requirements of this code shall be subject to the provisions of this article. These include, but are not limited to, the following activities that are directly undertaken or originate in a FWHCA or its buffer, unless otherwise exempted under JCC 18.22.070:

- (1) Stream Crossings.
- (2) Utilities.
- (3) Bank Stabilization.

- (4) Gravel Mining.(5) Forest Practices, Class IV General.
- (6) Road/Street Expansion and New Construction.
- (7) Outdoor Recreation, Education, and Trails Construction.
- (8) Chemical Application or Storage.
- (9) Land Alteration (such as excavation, dredging, grading, or filling).
- (10) Modification of Hydrologic Regime or Conditions (including placement of obstructions or impediments to natural water flow or movement).
- (11) Structural Modifications and Expansions.
- (12) Vegetation Removal or Alteration (could include but is not limited to, clearing, harvesting, shading, intentional burning, use of herbicides/pesticides, or planting vegetation that alters the character of the regulated area; provided, that the activity is not exempt under JCC 18.22.070).
- (13) New Activities Affecting Water Quality.

18.22.265 Habitat evaluations – When required.

When a development, use, or activity is proposed on lands designated as a fish and wildlife habitat conservation area or a buffer, a habitat evaluation shall be required. [Ord. 3-08 § 1]. An on-site habitat evaluation determines if FWHCAs or buffers occur in the project area.

If the proposed use, development, or activity occurs in marine water, a dive survey shall be required to determine if any FWHCA is present in the project area and if any FWHCA has the potential to be affected by the proposal.

Evaluations shall be conducted by a qualified professional biologist with expertise in habitats and species of the area.

(1) Types of Reports. As required by this section, an applicant shall submit a report documenting the results of the habitat evaluation for county review and approval. Based on the results of the site evaluation, a report shall be prepared by the biologist, as follows:

- (a) Habitat Reconnaissance Letter. This type of report shall be used if the field evaluation determines that no regulated fish and wildlife habitat conservation area or buffer is present in the proposed project area, which includes those areas that may be temporarily affected by construction-related activities or would be within the limits of clearing for construction. For this level of assessment, the professional biologist must assess all areas within buffers, as specified in Tables 18.22.270(1) and (2), that have the potential to be affected by any proposed project component. Habitat reconnaissance letters shall be prepared by the biologist based on requirements presented in Article VIII (critical area reports) of this chapter.

(b) Habitat Management Plan. This type of report shall be used if the field evaluation determines that any portion of the proposed project occurs within a regulated FWHCA or buffer, which includes those areas that may be temporarily affected by construction-related activities or would be within the limits of clearing for construction. This type of report shall be used if a proposed buffer reduction or buffer averaging does not exceed 25 percent of the standard buffer width, as shown in Tables 18.22.270(1) and (2). Habitat management plans shall be prepared by the biologist based on report requirements in Article VIII (critical area reports) of this chapter. If the proposal requires a reasonable economic use variance, a habitat management plan shall be submitted and the habitat management plan shall also address reasonable economic use variance requirements in JCC 18.22.090.

(c) Applicants shall submit a critical areas stewardship plan for impacts to FWHCAs or for buffer reductions greater than 25 percent of the standard buffer width; provided, the proposal meets all critical area stewardship provisions of this chapter. If the proposal cannot meet the critical areas stewardship plan permitting requirements of this chapter, a reasonable economic use variance shall be required.

(d) If a dive survey is required, the results of the survey shall be described in a report and supported by photos taken underwater.

18.22.270 Protection standards.

(1) General. Application for a project on a parcel of real property containing a designated FWHCA or its buffer shall adhere to the requirements set forth in this section.

(2) Drainage and Erosion Control. In addition to complying with the stormwater requirements of Chapter 18.30 JCC, the applicant must clearly show in the report that stormwater quantity, quality, and flow path post-construction will be comparable to pre-construction conditions.

(3) Grading. An applicant submitting a project application shall also submit, and have approved, a grading plan, as specified in Chapter 18.30 JCC.

(4) Vegetation Retention. The following provisions regarding vegetation retention shall apply:

(a) Vegetation within FWHCAs or buffers shall be retained to the extent practicable. Unless exempt under this chapter, vegetation removal or alteration of a FWHCA or a buffer shall require review and approval by the department. A habitat evaluation shall be required to remove or in any way alter vegetation within a FWHCA or a buffer.

(b) Altering the habitat conditions of FWHCAs or buffers without prior review and approval by the department is prohibited.

(c) All trees and understory vegetation lying outside of road rights-of-way and utility easements shall be retained (except for hazard trees) during maintenance clearing of rights-of-way for roadways and utilities; provided, that understory vegetation damaged during approved clearing operations may be pruned.

(d) Damage to vegetation retained during initial clearing activities shall be minimized by directional felling of trees to avoid critical areas and vegetation to be retained.

(5) Buffers – Standard Requirements. The administrator shall have the authority to require buffers from the edges of all FWHCAs in accordance with the following:

(a) Buffers Generally.

(i) Buffers shall be established for activities adjacent to FWHCAs as necessary to protect the integrity, functions and values of the resource, consistent with the requirements set forth in Tables 18.22.270(1) and 18.22.270(2) of this section.

(ii) A building setback line of 10 feet is required from the edge of any buffer area; however, nonstructural improvements such as septic drain fields may be located within setback areas.

(iii) Buffers shall be retained in their natural condition; however, minor pruning of vegetation to enhance views or provide access may be permitted as long as the function and character of the buffer are not diminished.

(iv) Lighting shall be directed away from the FWHCA.

(v) The administrator shall have the authority to increase a buffer width, if supported by appropriate documentation showing the increase is needed to protect the functions and values of the FWHCA buffer.

(vi) The administrator shall require signs be posted at the buffer edge if the proposed activity is commercial or industrial, or if the activity is proposed on public lands.

(b) Prescriptive FWHCA Buffers.

(i) The standard buffer widths required by this article are considered to be the minimum required to protect the stream functions and values at the time of the proposed activity. When a buffer lacks adequate vegetation to protect critical area functions, the administrator may deny a proposal for buffer reduction or buffer averaging.

(ii) The standard buffer shall be measured landward horizontally on both sides of the stream from the ordinary high water mark (OHWM) as identified in the field. Nevertheless, the required buffer shall include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers, but shall not be extended across paved roads or other lawfully established structures or hardened surfaces. The following standard buffer width requirements are established; provided, that portions of streams that flow underground may be exempt from these buffer standards at the administrator's discretion when it can be demonstrated that no adverse effects on aquatic species will occur.

Table 18.22.270(1): Stream Buffers*

Stream Type	Buffer Requirement
Type “S” – Shoreline Streams	150 feet
Type “F” – Fish Bearing Streams	150 feet
Type “Np”– Non-Fish Bearing Perennial Streams	75 feet
Type “Ns” – Non-Fish Bearing Seasonal Streams greater than or equal to 20% grade	75 feet
Type “Ns” – Non-Fish Bearing Seasonal Streams less than 20% grade	50 feet
<p>*Note:</p> <p>(a) The buffers set forth above shall apply to culverted streams; though in limited circumstances, a variance may be made in the application of stream buffers under Article IX of Chapter 18.40 JCC.</p> <p>(b) The buffers set forth above shall not apply to lawfully-established piped streams. The burden of proof is on the applicant to show that the pipe was lawfully established; failure to demonstrate compliance with this requirement shall result in buffers being required.</p> <p>(c) Stream type shall be determined using the criteria set forth in WAC 222-16-030, or as amended</p>	

(iii) Buffers for Other FWHCAs. The administrator shall determine appropriate buffer widths for other FWHCAs based on the best available information. Buffer widths for nonstream habitat conservation areas shall be as follows:

Table 18.22.270(2): Buffers for Other FWHCAs

FWHCA Type	Buffer Requirement
Areas where federally-listed (endangered and threatened) species or state-listed (endangered, threatened, and sensitive) species have a Primary Association	Buffers shall be 150 feet; provided, that local and site specific factors shall be taken into consideration and the buffer width based on the best available information concerning the species/habitat(s) in question and/or the opinions and recommendations of a qualified professional with appropriate expertise.
Commercial and Recreational Shellfish Areas	Buffers shall extend 150 feet landward from ordinary high water mark of the marine shore.
Kelp and Eelgrass Beds	Buffers apply to areas where native kelp and eelgrass species occur only, and buffers shall extend 22 feet from each patch. There is no buffer for non-native kelp and eelgrass beds.
Surf Smelt, Pacific Herring, and Pacific Sand Lance Spawning Areas	Buffers shall extend 150 feet landward from ordinary high water mark of the marine shore.
Natural Ponds and Lakes (along with any submerged aquatic beds serving as fish or wildlife habitat)	Ponds under 20 acres – buffers shall extend 50 feet from the ordinary high water mark. Lakes 20 acres and larger – buffers shall extend 100 feet from the ordinary high water mark; provided, that where wetlands are associated with the shoreline, the wetland buffer requirements shall also apply.
Natural Area Preserves Natural Resource Conservation Areas	Buffers shall not be required adjacent to these areas. These areas are assumed to encompass the land required for species preservation.
Game Fish Planted by a Governmental or Tribal Agency (lakes, ponds, streams and rivers)	Ponds under 20 acres – buffers shall extend 50 feet from the ordinary high water mark. Lakes 20 acres and larger – buffers shall extend 100 feet from the ordinary high water mark; provided, that where wetlands are associated with the shoreline, the wetland buffer requirements shall also apply. Stream and rivers – see Table 18.22.270(1).
Waters of the State	Buffers shall be 150 feet.
Locally Important Habitat Areas	The buffer for marine nearshore habitats shall extend landward 150 feet from the ordinary high water mark. The need for and dimensions of buffers for other locally important species or habitats shall be determined on a

FWHCA Type	Buffer Requirement
	case-by-case basis, according to the needs of the specific species or habitat area of concern. Buffers shall not be required adjacent to the wildlife corridor. The administrator shall coordinate with the Washington Department of Fish and Wildlife and other state, federal or tribal experts in these instances, and may use WDFW PHS management recommendations when available and applicable.

(6) The administrator shall have the authority to reduce buffer widths on a case-by-case basis; provided, that the specific standards for avoidance and minimization set forth below in JCC 18.22.2DD(1) shall apply, and when the applicant demonstrates to the satisfaction of the administrator that all of the following criteria are met:

- (a) The buffer reduction shall not adversely affect the habitat functions and values of the adjacent FWHCA or other critical area.
- (b) The buffer shall not be reduced to less than 75 percent of the standard buffer.
- (c) The slopes adjacent to the FWHCA within the buffer area are stable and the gradient does not exceed 30 percent.

(7) The administrator shall have the authority to average buffer widths on a case-by case basis; provided, that the specific standards for avoidance and minimization set forth in JCC 18.22.2DD(1) shall apply, and when the applicant demonstrates to the satisfaction of the administrator that all the following criteria are met:

- (a) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer and all increases in buffer dimension are parallel to the FWHCA.
- (b) The buffer averaging does not reduce the functions or values of the FWHCA or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function.
- (c) The buffer averaging is necessary due to site constraints caused by existing physical characteristics such as slope, soils, or vegetation.
- (d) The buffer width is not reduced to less than 75 percent of the standard width.
- (e) The slopes adjacent to the FWHCA within the buffer area are stable and the gradient does not exceed 30 percent.
- (f) Buffer averaging shall not be allowed if FWHCA buffers are reduced pursuant to subsection (6) of this section.

(8) The limits of clearing for the proposed development or use shall be shown on the site plan relative to the FWHCA and the buffer.

(9) In the case of short plat, long plat, binding site plan, and site plan approvals under this code, the applicant shall include on the face of any such instrument the boundary of the FWHCA.

(10) The applicant may also choose to dedicate the buffer through a conservation easement or deed restriction that shall be recorded with the Jefferson County auditor. Such easements or restrictions shall, however, use the forms approved by the prosecuting attorney. [Ord. 3-08 § 1]

18.22.2DD Mitigation sequencing.

(1) The overall goal shall be no net loss of functions, natural processes, or area within a FWHCA or a FWHCA buffer. All regulated development, uses, and activities in a FWHCA or an associated buffer shall be mitigated in the following order:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment to the historical condition or the condition existing at the time of the initiation of a project;
- (d) Reducing or eliminating the adverse impact over time by preservation and maintenance operation during the life of the action;
- (e) Compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments;
- (f) Monitoring the required compensation and taking appropriate corrective measures when necessary.

18.22.2EE Impact assessment and mitigation.

(1) Using the results of site visit, a habitat reconnaissance letter or habitat management plan shall be prepared based on critical area report requirements in Article VIII of this chapter. If a critical areas stewardship plan is required, the report shall also be prepared based on CASP requirements in Article IX of this chapter.

(2) All potential impacts to FWHCAs and buffers must be identified and described in the report. Impact assessments shall be based on any potential impacts to the FWHCA or buffer, and shall consider direct and indirect impacts, permanent and temporary (long-term and short-term) impacts, and cumulative impacts. The impact assessment shall also identify all potential impacts of the project in square feet and shall include the area of temporary construction-related impacts.

(3) Mitigation - Minimum requirements and types of mitigation.

- (a) Minimum mitigation requirements are as follows:

(i) Unavoidable impacts to a critical area buffer shall be mitigated with at least a 1:1 mitigation ratio. The administrator has the authority to require buffer mitigation at a higher ratio if the area to be adversely affected consists of intact native habitat.

(ii) Unavoidable impacts to a critical area shall require mitigation that fully compensates for all adverse effects to FWHCA functions, natural processes, and area.

(b) FWHCAs mitigation shall include the following options:

(i) On-site Mitigation. The applicant may propose on-site mitigation if the mitigation proposal compensates for the loss or degradation to existing habitat.

(ii) Off-site Mitigation. The applicant may propose off-site mitigation if:

(A) On-site mitigation is not feasible and the mitigation proposal compensates for the loss or degradation of existing habitats and species; or

(B) Off-site mitigation provides better protection of the FWHCA or a significant ecological and functional improvement to the FWHCA; and

(C) There is a willing landowner that accepts the proposed mitigation; and

(D) A mitigation agreement/easement is recorded that specifies the individuals or parties responsible for implementing, maintaining, and monitoring the mitigation area.

(iii) In-Lieu Fee Mitigation (ILF). As an alternative to permittee-responsible mitigation, an in-lieu fee program may be used to compensate for impacts or alterations to a fish and wildlife habitat conservation area or a buffer, if an established in-lieu fee program is available for the project area. Use of the in-lieu fee program to address impacts to fish and wildlife habitat conservation areas and/or buffers shall adhere to the in-lieu mitigation requirements in JCC 18.22.350(5).

(c) FWHCA Buffer Mitigation.

(i) FWHCA buffers adversely affected by a proposed development or use shall compensate for the impact(s) at a mitigation ratio of at least 1:1. All development or uses that provide less than an equivalent area of compensation for impacts shall require a critical areas stewardship plan or a reasonable economic use variance.

(ii) Impacts to FWHCA buffers that are well-developed, well-established, and/or have unique natural habitats consisting primarily of native plant species shall require greater than 1:1 compensation (e.g., this could include, but is not limited to, buffers consisting of tall trees; areas dominated by native species; areas considered a priority habitat by WDFW; or habitat conditions that have the potential to support rare plants).

18.22.280 Conditions.

(1) General. In granting approval for a project application subject to the provisions of this article, the administrator may require mitigating conditions that will, in the administrator's judgment, substantially secure the objectives of this article.

(2) Basis for Conditions. All conditions of approval required pursuant to this article shall be based upon either the substantive requirements of this article or the recommendations of a qualified professional utilizing best available science, contained within a critical area report required under this chapter. [Ord. 3-08 § 1]

Article VII. Wetlands

18.22.300 Classification/designation.

Wetlands are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

(1) Determination. As determined using the U.S. Army Corps of Engineers Wetlands Delineation Manual (1987, or as amended) and the Regional Supplement: Western Mountains, Valleys, and Coast Region (2010, or as amended), wetlands shall be designated as critical areas and regulated under this article regardless of size; provided, that Category IV wetlands less than one-tenth acre (4,356 square feet) shall be exempt from the requirements of this article when a report prepared by a qualified wetland professional documents wetland size and wetland category, and describes how all of the following criteria are met:

- (a) The wetland does not provide breeding habitat for native amphibian species. Breeding habitat is indicated by adequate and stable seasonal inundation, presence of thin-stemmed emergent vegetation, and clean water;
- (b) The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices;
- (c) The wetland is not located within a fish and wildlife habitat conservation area (FWHCA) or a FWHCA buffer as defined in Article VI of this chapter, and is not integral to the maintenance of habitat functions of an FWHCA;
- (d) The wetland is not located within a floodplain;

- (e) The wetland is not within the jurisdiction of the county shoreline master program;
- (f) The wetland is not part of a mosaic of wetlands and uplands, as determined using the guidance provided in the wetland rating system; and
- (g) The wetland does not score five or more points for habitat functions (based on the 2014 version of the Washington Department of Ecology Wetland Rating System, or as amended by Washington Department of Ecology).

Wetlands less than one-tenth acre that meet the above criteria shall not be filled or otherwise altered. This exemption does not allow for unmitigated alteration of wetland area or functions. Alteration of any wetland, including wetlands less than one-tenth of an acre, shall require mitigation.

(2) Classification. Wetlands shall be classified by a qualified wetlands professional using the Washington Department of Ecology Wetland Rating System (2014 version, or as amended). Wetland ratings shall not be based on illegal modification of the land. The wetland rating system is based on four categories of wetlands:

(a) Category I. These wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in coastal lagoons; (6) wetlands that perform many functions well (scoring a total of 23 or more points). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

(b) Category II. These wetlands are (1) estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre or (2) wetlands with a moderately high level of functions (scoring between 20 and 22 points total).

(c) Category III. These wetlands are (1) those with moderate level of functions (scoring between 16 and 19 points total) or (2) those that can often be adequately replaced with a well-planned mitigation project. Wetlands scoring between 16 and 19 point generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(d) Category IV. These wetlands have the lowest levels of functions (scoring 15 or fewer total points) and are often heavily disturbed. These wetlands likely could be replaced, or improved in some cases. Replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, so they should be protected to some degree.

(3) Sources Used for Identification. The following sources should be used to identify potential wetland locations. Sources include, but are not limited to:

- (a) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.

(b) United States Department of Agriculture, Soil Conservation Service (Natural Resources Conservation Service), Soil Survey of Jefferson County Areas, Washington.

(c) United States Department of Agriculture, Natural Resources Conservation Service, Hydric Soils List, Jefferson County Area.

(d) Jefferson County Critical Areas Mapping. The wetland maps prepared by the county have been produced for informational purposes only and are not regulatory devices forming an integral part of this article. [Ord. 3-08 § 1]

(e) Washington Department of Ecology Coastal Atlas online mapping.

18.22.310 Regulated activities.

Any land use or development activity shall be subject to the provisions of this Article VII, including, but not limited to, the following activities that are directly undertaken or originate in a regulated wetland or its buffer, unless exempted under JCC 18.22.070:

- (1) The removal, excavation, grading, or dredging of material of any kind, including the construction of ponds and trails;
- (2) The dumping or discharging of any material, or placement of any fill;
- (3) The draining, flooding, or disturbing of the wetland water level or water table;
- (4) The driving of pilings;
- (5) The placing of anything that obstructs water movement, including but not limited to, surface water flow, surface water runoff, or groundwater infiltration;
- (6) The construction, reconstruction, or expansion of any structure;
- (7) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, application of herbicides or pesticides, or planting of vegetation that would alter existing wetland conditions;
- (8) The alteration or modification of water quality and/or water quantity

; or

(9) Wetland Buffers. In addition to those activities allowed in regulated wetlands in this article, the following activities are allowed within wetland buffers provided, that a wetland report and site plan are submitted that show the impacts to buffers are minimized and that any disturbed buffer areas shall be immediately restored except as specifically allowed in JCC 18.22.070.

(a) Construction of low-impact, passive recreational activities, such as pervious trails that are no greater than five feet in width, nonpermanent wildlife watching blinds, and scientific or educational activities, and sports fishing or hunting; provided that construction is limited to the outer 25 percent

of the buffer. Trails within buffers shall be designed to minimize impacts to the wetland, and shall not include any impervious surfaces.

(b) Within the buffers of Category III and IV wetlands only, vegetation-lined swales designed for stormwater management or conveyance when topographic restraints determine there are no other upland alternative locations. Swales used for detention purposes may only be placed in the outer 25 percent of the buffer. Conveyance swales may be placed through the buffer, if necessary. [Ord. 3-08 § 1]

18.22.330 Protection standards.

(1) General. Application for a project on a parcel of real property containing a designated wetland or its buffer shall adhere to the requirements set forth below.

(2) Types of Wetland Evaluations and Reports. An applicant submitting an application for a development, use, or activity on lands determined to be wetland or buffer shall also submit, and have approved, a wetland report prepared based on results of an on-site field investigation conducted by a qualified wetland professional using wetland delineation manuals specified in JCC 18.22.300(1). The site evaluation and reports shall be completed based on the following:

(a) Wetland Reconnaissance. This type of wetland assessment does not require flagging of wetland boundaries or completing a wetland rating form. It shall be used if no regulated wetland is present within 300 feet of the project area, which includes those areas that may be temporarily affected by construction-related activities or would be within the limits of construction. The wetland reconnaissance level of assessment requires the wetland professional to assess all areas within 300 feet of any proposed project component. A wetland reconnaissance letter shall be prepared by the biologist based report requirements presented in Article VIII of this chapter.

(b) Wetland Delineation. This type of wetland assessment shall be used if any portion of the proposed project is within 300 feet of a regulated wetland, including those areas that may be temporarily affected by construction-related activities or are within the proposed limits of clearing. The on-site wetland boundary shall be flagged in the field and flags shall be numbered sequentially, and a wetland rating form shall be completed, as required by JCC 18.22.300(2), for each wetland identified. A wetland delineation report shall be prepared by the biologist based on report requirements presented in Article VIII (critical area reports) of this chapter.

(c) If the wetland is located off of the property involved in the project application and is inaccessible, the best available information shall be used to determine the wetland boundary and category.

(d) Wetland Impact Reporting. If the proposal cannot avoid wetlands, a mitigation proposal shall be prepared by a qualified wetlands professional and a report shall be submitted that complies with the critical areas stewardship plan provisions. If the critical areas stewardship plan provisions cannot be met, then a mitigation plan that meets the requirements of Article VIII (critical area reports) and the reasonable economic use variance criteria of JCC 18.22.090 shall be submitted.

(3) **Wetland Buffer Requirements.** The wetland rating scores and the category shall be determined by a qualified wetland professional and must be submitted to the department for review and approval. Wetland buffer widths shall be prescribed and established based upon the category of the wetland, the wetland rating scores and the impact level of the proposed land use. The resulting buffers are shown in Tables 18.22.330(1), (2), and (3) (for low, moderate and high impact land uses). A building setback of 10 feet is required from the edge of any wetland buffer.

(4) **Buffer Marking.** Upon approval of the delineation report, the location of the outer extent of the wetland buffer shall be identified as follows:

(a) The outer extent of the wetland buffer shall be flagged onsite. (b) In the case of short plat, long plat, and binding site plan, the applicant shall include on the face of any such plan the boundary of the wetland and its buffer.

(c) For all other approvals, the administrator shall have the authority to require a notice to title be recorded on the property by the property owner prior to any permits may be issued.

(d) The administrator shall require signs be posted at the buffer edge if the proposed activity is commercial or industrial, or if the activity is proposed on public lands.

(5) **Buffers – Standard Requirements.**

(a) The administrator shall have the authority to require buffers from the boundaries of all wetlands as established by this article, and in accordance with the following criteria.

(i) Wetland buffer widths shall be measured along a horizontal line perpendicular to the wetland boundary as marked in the field during delineation if required, or based upon site investigation, aerial photographs, or LiDAR images.

(ii) Functionally isolated buffer areas are those areas separated from a wetland that do not protect the wetland from adverse impacts. Buffers need not include areas that are functionally isolated and physically disconnected from the wetland by a substantial developed surface such as a dike, building, parking lot, or road. In determining whether or not a buffer area is functionally isolated, the administrator shall take into consideration whether or not the isolated buffer area is used by wildlife to gain access to the wetland. In instances where substantial wildlife use is documented, the area shall be retained as buffer despite being otherwise isolated or disconnected from the wetland.

(iii) When a buffer is on a slope steeper than 30 percent, and/or lacks adequately dense and diverse vegetation, the administrator may deny a proposal for buffer reduction or buffer averaging.

(b) The prescribed buffer widths shall be established on the basis of the following factors:

(i) The wetland category (I, II, III, IV) as determined by the scoring results on the rating form for the wetland rating system; and

(ii) The expected level of impact of the proposed adjacent land use, as determined from Tables 18.22.330(1), (2), and (3). The administrator may determine, on the basis of detailed information from the applicant about the site conditions, scope, and intensity of the proposed development, that the proposed land use will have a lesser level of impact on the wetland than indicated by similar land uses on the list.

Table 18.22.330(1)

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
 FOR LOW IMPACT LAND USES**

Low impact land uses shall include the following:

- Private driveways serving no more than two residential parcels;
- Unpaved trails (when not exempted by JCC 18.22.070);
- Utility corridors (private or public) without a maintenance road and/or without vegetation management;
- Landscaping, lawns, gravel driveways, etc.;
- Outdoor marijuana grow (fence only).

Wetland Category	Wetland Characteristics • Habitat (H) • Water Quality (WQ)	Buffer Width	
IV (Total of scores for all functions is 15 points or less)	[Total of scores 15 points or less]	25 feet	
III (Total of scores for all functions is 16 – 19 points)	[H score 8 – 9 points] [H score 5 – 7 points] [H score 3 -4 points]	150 feet 75 feet 40 feet	
II (Total of scores for all functions is 20 – 22 points or having “special characteristics” identified in the rating form)	[WQ score 8 – 9 points and H score less than 5 points] [H score 8 – 9 points] [H score 5 – 7 points] [Estuarine] [Not meeting above characteristics]	50 feet 150 feet 75 feet 75 feet 50 feet	

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
 FOR LOW IMPACT LAND USES**

Low impact land uses shall include the following:

- Private driveways serving no more than two residential parcels;
- Unpaved trails (when not exempted by JCC 18.22.070);
- Utility corridors (private or public) without a maintenance road and/or without vegetation management;
- Landscaping, lawns, gravel driveways, etc.;
- Outdoor marijuana grow (fence only).

Wetland Category	Wetland Characteristics • Habitat (H) • Water Quality (WQ)	Buffer Width	
I (Total of scores for all functions is more than 23 points or having “special characteristics” identified in the rating form)	[WQ score 8 – 9 points and H score less than 5 points]	50 feet	
	[H score 8 – 9 points]	150 feet	
	[H score 5 – 7 points]	75 feet	
	[Coastal Lagoon]	100 feet	
	[Estuarine]	100 feet	
	[Wetlands with High Conservation Value]	125 feet	
	[Bog]	125 feet	
	[Forested]	Buffer width based on score for H functions or WQ functions	
		50 feet	
		[Not meeting above characteristics]	
Note: Wetlands shall be classified using the 2014 version of the Washington State Department of Ecology’s Wetland Rating System (Publication No. 14-06-019), or as amended.			

Table 18.22.330(2)

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
 FOR MODERATE IMPACT LAND USES**

Moderate impact land uses shall include the following:

- Single-family residential use on parcels of one acre or larger;
- Private roads or driveways serving three or more residential parcels;
- Paved trails;
- Passive recreation areas;
- Utility corridors (private or public) with a maintenance road;
- Class IV-General forest conversions, including conversion option harvest plans;
- Indoor marijuana grow on parcels of one acre or larger;
- Marijuana processing on parcels of one acre or larger.

Wetland Category	Wetland Characteristics: • Habitat (H) • Water Quality (WQ)	Buffer Width	
IV (Total of scores for all functions is 15 points or less)	Total of scores 15 points or less	40 feet	
III (Total of scores for all functions is 16 – 19 points)	H score 8 – 9 points H score 5 – 7 points H score 3 - 4 points	225 feet 110 feet 60 feet	
II (Total of scores for all functions is 20 – 22 points or having “special characteristics” identified in the rating form)	WQ score 8 – 9 points and H score less than 5 points H score 8 – 9 points H score 5 – 7 points Estuarine Not meeting above characteristics	75 feet 225 feet 110 feet 110 feet 75 feet	
I (Total of scores for all functions is more than 23 points or having “special characteristics” identified in the rating form)	WQ score 8 – 9 points and H score less than 5 points H score 8 – 9 points H score 5 – 7 points Coastal Lagoon Estuarine Wetlands with High Conservation Value Bog	75 feet 225 feet 110 feet 150 feet 150 feet 190 feet 190 feet	

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
 FOR MODERATE IMPACT LAND USES**

Moderate impact land uses shall include the following:

- Single-family residential use on parcels of one acre or larger;
- Private roads or driveways serving three or more residential parcels;
- Paved trails;
- Passive recreation areas;
- Utility corridors (private or public) with a maintenance road;
- Class IV-General forest conversions, including conversion option harvest plans;
- Indoor marijuana grow on parcels of one acre or larger;
- Marijuana processing on parcels of one acre or larger.

Wetland Category	Wetland Characteristics: • Habitat (H) • Water Quality (WQ)	Buffer Width	
	Forested	Buffer width based on score for H functions or WQ functions 75 feet	
	Not meeting above characteristics		
Note: Wetlands shall be classified using the 2014 version of the Washington State Department of Ecology’s Wetland Rating System (Publication No. 14-06-019), or as amended.			

Table 18.22.330(3)

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
FOR HIGH IMPACT LAND USES**

High impact land uses shall include the following:

- Single-family residential use on parcels smaller than one acre;
- Commercial, multifamily, industrial and institutional uses;
- Public roads;
- Hobby farms;
- High-intensity recreation (such as golf courses, ball fields);
- Marijuana indoor grow on parcels less than one acre;
- Marijuana processing on parcels less than one acre;
- Marijuana retail.

Wetland Category	Wetland Characteristic: • Habitat (H) • Water Quality (WQ)	Buffer Width	
IV (Total of scores for all functions is 15 points or less)	Total of scores 15 points or less	50 feet	
III (Total of scores for all functions is 16 – 19 points)	H score 8 – 9 points H score 5 – 7 points H score 3 – 4 points	300 feet 150 feet 80 feet	
II (Total of scores for all functions is 20 – 22 points or having “special characteristics” identified in the rating form)	WQ score 8 – 9 points and H score less than 5 points H score 8 – 9 points H score 5 – 7 points Estuarine Not meeting above characteristics	100 feet 300 feet 150 feet 150 feet 100 feet	
I (Total of scores for all functions is more than 23 points or having “special characteristics” identified in the rating form)	WQ score 8 – 9 points and H score less than 5 points H score 8 – 9 points H score 5 – 7 points Coastal Lagoon Estuarine Wetlands with High Conservation Value Bog	100 feet 300 feet 150 feet 200 feet 200 feet 250 feet 250 feet	

**WETLAND CATEGORIES, RATING SCORES AND BUFFER WIDTHS
FOR HIGH IMPACT LAND USES**

High impact land uses shall include the following:

- Single-family residential use on parcels smaller than one acre;
- Commercial, multifamily, industrial and institutional uses;
- Public roads;
- Hobby farms;
- High-intensity recreation (such as golf courses, ball fields);
- Marijuana indoor grow on parcels less than one acre;
- Marijuana processing on parcels less than one acre;
- Marijuana retail.

Wetland Category	Wetland Characteristic: • Habitat (H) • Water Quality (WQ)	Buffer Width	
	Forested Not meeting above characteristics	Buffer width based on score for H functions or WQ functions 100 feet	
<p>Note: Wetlands shall be classified using 2014 Washington State Department of Ecology’s Wetland Rating System (Publication No. 14-06-019, or as amended).</p> <p>Note: Wetland buffer widths for high-intensity land uses may be reduced to buffer widths for moderate-intensity land uses if the applicant can demonstrate that (1) a 100-foot-wide corridor is protected through legal means (e.g., conservation easement) between the wetland and any other priority habitat, as defined by Washington Department of Fish and Wildlife, and (2) all measures to minimize impacts are implemented, including but not limited to, those specified by Washington State Department of Ecology (October 2014 modifications to Appendix 8-C of publication number 05-06-008, or as amended).</p>			

(6) Reducing Buffer Widths. Upon submission of a critical area report by a qualified wetland professional that demonstrates a buffer reduction does not adversely affect the existing functions and values of the wetland and that it is not possible to adhere to the standard buffer width, the administrator shall have the authority to reduce the prescribed buffer widths listed in the section above; provided, that all of the following shall apply:

- (a) The wetland buffer of a Category I or II wetland is not reduced to less than 75 percent of the standard buffer or 50 feet, whichever is greater; and
- (b) The buffer of a Category III or IV wetland is not reduced to less than 75 percent of the required buffer, or 25 feet, whichever is greater; and
- (c) The applicant implements reasonable measures to reduce the adverse impacts of structures and appurtenances on the subject parcel as determined by the administrator; and

(d) Buffer area reduction shall be minimized to accommodate only those structures and appurtenances as approved by the administrator.

(7) Averaging Buffer Widths. Upon submission of a critical area report by a qualified wetland professional that demonstrates a buffer reduction does not adversely affect the existing functions and values of the wetland and that it is not possible to adhere to the standard buffer width, the administrator shall have the authority to average wetland buffer widths on a case-by-case basis; provided, that all of the following shall apply:

(a) The buffer averaging does not have any adverse impact on the functions and values of the wetland and provides greater protection of the wetland; and

(b) The total area contained within the buffer after averaging is no less than that which would be contained within the prescribed buffer, and the buffer boundary remains more or less parallel to the wetland boundary; and

(c) The most sensitive, or highest value, areas of the wetland have the widest buffer dimensions, and the buffer boundary takes into account variations in slope, soils, or vegetation to optimize the overall effectiveness of the buffer; and

(d) The minimum buffer width is no less than 75 percent of the standard prescribed buffer width; and

(e) The buffer has not been reduced in accordance with subsection (6) of this section (buffer averaging is not allowed if the width of the entire buffer has been reduced already); Ord. 3-08 § 1]; and

(f) If area of buffer reduction is composed of native trees, the buffer reduction shall not be approved unless the area of buffer increase consists of native trees of a similar size, age, density, and species composition as that in the area to be reduced.

(8) For buffer reductions greater than 25 percent of the standard buffer width, an applicant shall submit a critical areas stewardship plan (CASP); provided, the proposal can meet all CASP provisions. A reasonable economic use variance shall be required if any of the CASP provisions cannot be met. CASPs shall be prepared by a qualified wetland professional based on provisions in Article VIII (critical area reports) and Article IX (CASPs) of this chapter.

(9) Increasing Buffer Widths. Buffer widths may be increased on a case-by-case basis, as determined by the administrator, to protect the functions and values of a wetland. Supporting documents that may be used to support this determination, include but are not limited to:

(a) The wetland is used by, or has habitat features that could be used by, state or federally listed threatened or endangered species; or

(b) The wetland serves as nesting or foraging habitat for raptors or great blue herons; or

(c) The area adjacent to the wetland is susceptible to erosion or landslide; or

(d) The area adjacent to the wetland has minimal deep rooting, native vegetation and/or the slopes are greater than 30 percent.

(10) Drainage and Erosion Control. In addition to complying with the stormwater requirements of Chapter 18.30 JCC, the applicant must clearly show in the wetland report that stormwater quantity, quality, and flow path post-construction will be comparable to pre-construction conditions. (11) Building Setback. A 10-foot building setback, measured horizontally from the edge of the buffer, shall be required. **18.22.350 Impact assessment and mitigation.**

The overall goal of mitigation shall be no net loss of wetland function, value, and area.

(1) Mitigation Sequence. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to regulated wetlands or their buffers. When a proposed use or development activity poses potentially significant adverse impacts to a regulated wetland or its buffer, the preferred sequence of mitigation as defined below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment to the historical condition or the condition existing at the time of the initiation of a project;
- (d) Reducing or eliminating the adverse impact over time by preservation and maintenance operation during the life of the action;
- (e) Compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments;
- (f) Monitoring the required compensation and taking appropriate corrective measures when necessary.

(2) Impact Analysis. All potential impacts to wetlands and buffers must be identified and described in the wetland report. Impact assessments shall be based on any potential impacts to the wetland or buffer, and shall consider direct and indirect impacts, permanent and temporary (long-term and short-term) impacts, and cumulative impacts. The impact assessment shall also identify all potential impacts of the project in square feet and shall include the area of temporary construction-related impacts.

(3) Compensatory Wetland Mitigation – General Requirements. As a condition of any permit or other approval allowing alteration which results in the unavoidable loss or degradation of regulated wetlands, or as an enforcement action pursuant to Chapter 18.50 JCC, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or any code violator.

- (a) Except persons exempt under this article, any person who alters or proposes to alter regulated wetlands shall provide wetland mitigation that is equivalent to or larger than those altered in order to

compensate for wetland losses. The following table specifies the mitigation ratios by category and type of mitigation that must be used for compensatory wetland mitigation:

Table 18.22.350

Required Replacement Ratios for Compensatory Wetland Mitigation

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only¹	Re-establishment or Creation (R/C) and Rehabilitation (RH)¹	Re-establishment or Creation (R/C) and Enhancement (E)¹	Enhancement Only¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Estuarine	Case-by-case	4:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
All Other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Wetlands with High Conservation Value	Not considered possible ²	6:1 Rehabilitation of a wetland with high conservation value	R/C not considered possible ³	R/C not considered possible ³	Case-by-case

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
Category I Coastal Lagoon	Not considered possible ²	6:1 Rehabilitation of a coastal lagoon	R/C not considered possible ³	R/C not considered possible ³	Case-by-case
Category I Bog	Not considered possible ²	6:1 Rehabilitation of a bog	R/C not considered possible ³	R/C not considered possible ³	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case

¹ These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

² Wetlands with high conservation value, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Note: Each type of mitigation is defined in Chapter 18.10.130 under mitigation types.

Note: Wetland preservation may be approved by the administrator under limited circumstances on a case-by-case basis if preservation requirements are met, as specified in *Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance*, or as amended.

(b) Compensatory mitigation may also be determined using methods described in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report* (Washington State Department of Ecology Publication #10-06-011, or as amended), provided that the mitigation is consistent with Table 18.22.350 above.

(c) Compensatory mitigation must follow an approved compensatory mitigation plan pursuant to this article, with the replacement ratios as specified above.

(d) Compensatory mitigation must be conducted on property that will be protected and managed to avoid further development or degradation. The applicant or code violator must provide for long-term preservation of the compensation area. The administrator has the authority to require the applicant record a notice to title to ensure protection.

(e) Compensatory wetland mitigation shall be designed to mimic natural wetland hydrologic conditions, and shall not be used as a stormwater system to comply with Chapter 18.30 JCC.

(f) The applicant shall post a mitigation performance bond to ensure monitoring the site occurs and contingency plans are implemented if the project fails to meet projected goals. Corrective actions must be coordinated and approved by department of community development.

(4) Compensatory Wetland Buffer Mitigation – General Requirements.

(a) Wetland buffers adversely affected by a proposed development or use shall be compensated for at a mitigation ratio of at least 1:1. All development or uses that provide less than an equivalent area of compensation for impacts shall require critical areas stewardship plan or a reasonable economic use variance.

(b) Impacts to wetland buffers that are well-developed, well-established, and/or have unique natural habitats consisting primarily of native plant species shall require greater than 1:1 compensation (e.g., this could include, but is not limited to, buffers consisting of tall trees; areas dominated by native species; areas considered a priority habitat by WDFW; habitat conditions that could support rare plants).

(5) Compensatory Wetland and Wetland Buffer Mitigation – Type, Location, and Timing.

(a) Mitigation is to be provided in the preferred order listed below. A lower order preference shall not be approved unless a report prepared by a qualified wetlands professional documents to the satisfaction of the administrator that a higher preferred option is not ecologically viable.

(i) Restoration (re-establishment or rehabilitation) is the preferred mitigation option;

(ii) Creation (also referred to as establishment) may be approved if restoration is not an ecologically viable option;

(iii) Enhancement may be approved if restoration or creation are not ecologically viable options;

(iv) Preservation (also referred to as protection or maintenance) is the least preferred mitigation option and shall be permitted only under limited circumstances when, based on a report prepared by a qualified wetlands professional, the administrator determines that no other option is ecologically viable.

(b) On-site compensation within the same sub-drainage basin is preferred. The administrator may approve off-site compensation only if:

(i) A mitigation plan, prepared by a qualified wetlands professional, documents that on-site mitigation is not feasible and that off-site mitigation is ecologically preferable; and

(ii) No reasonable opportunities exist on-site and within the same sub-drainage basin; and

(iii) On-site mitigation would result in the loss of high-quality upland habitats; and

(iv) Off-site mitigation has a greater likelihood of compensating for project-related impact; and

(v) On-site compensation is not feasible due to hydrology, soils, waves, or other factors; and

(vi) On-site compensation is not practical due to probable adverse impacts from surrounding land uses; and

(vii) Potential functions and values at the site of the proposed restoration are significantly greater than the lost wetland functional values..

(c) Compensation outside of the sub-drainage basin may be approved by the administrator if an in-lieu fee program is used.

(d) Construction of compensation projects must be timed to reduce impacts to existing wildlife and flora. Construction must be timed to assure that grading and soil movement occurs during the dry season. Planting of vegetation must be specifically timed to the needs of the target species.

(e) Compensation must be completed prior to wetland destruction, where feasible.

(6) In-lieu Fee (ILF) Program. An applicant may opt to use an ILF program to compensate for impacts to aquatic resources (critical areas) and/or buffers based on criteria listed below. Use of an ILF program transfers the responsibility of providing compensatory mitigation from the applicant to an ILF program sponsor. The sponsoring organization is required to provide mitigation that complies with all mitigation requirements of this chapter.

(a) The ILF program may be used by an applicant as a way to mitigate for project impacts if the impacts to the critical area or buffer occur within an ILF program service area. If an impact occurs outside of an ILF Program Service Area, an applicant may request that Jefferson County investigate the possibility of using the ILF program as mitigation. The ILF program sponsor is under no obligation to accept mitigation responsibilities for impacts outside a ILF program service area.

(b) The applicant shall determine if there is a preference for using the ILF program over permittee-responsible mitigation to compensate for unavoidable impacts. The county may encourage an applicant to use the ILF program, but shall not require an applicant to use ILF for mitigation.

(c) The administrator may approve an application using an ILF program for mitigation if the ILF program sponsor accepts the mitigation responsibility. The sponsoring organization has the right to deny the request if the sponsoring organization cannot fulfill all ILF program mitigation

requirements. If the sponsoring organization does not accept the mitigation responsibility, the applicant shall be responsible for providing mitigation that complies with this chapter. The administrator shall not approve a permit involving ILF mitigation until (1) the applicant has purchased the appropriate number of credits from the sponsoring organization and (2) the sponsoring organization has completed a statement of sale. Once the ILF program sponsor completes the financial transaction with the applicant, the sponsor becomes responsible for completing the mitigation effort to comply with Jefferson County Code critical areas requirements and the applicable approved in-lieu fee program instrument.

Article VIII. Critical Area Reports

18.22.360 General requirements.

- (1) The administrator shall require a critical area report or reports if any portion of a proposed development or use has the potential to affect a critical area or buffer.
- (2) Critical area reports shall be prepared for county review and approval. In addition to the applicable report requirements presented in this article, critical area reports shall address, at a minimum, the following:
 - (a) Describe the proposed activity;
 - (b) Describe existing site conditions;
 - (c) Describe critical areas and buffers on the subject site;
 - (d) Assess potential impacts to critical areas and buffers;
 - (e) Propose mitigation for unavoidable losses to critical areas and buffers;
 - (f) Present a figure showing the location of critical areas and buffers on the subject site;
 - (g) Present a scaled site plan that includes a north arrow, property boundaries, existing structures and features on the subject site, and the limits of clearing needed during construction;
 - (h) Identify amount of clearing, grading, and impervious surface on a Stormwater Calculation Worksheet; and
 - (i) Present photographs of the subject site.
- (3) Critical area reports shall be valid for up to five years from the date the report was prepared; provided, critical area conditions, including buffer conditions, have not changed during the five-year timeframe. The administrator shall have the authority to require a revised critical area report, as needed, to show the provisions of this chapter are met.

18.22.370 Waivers.

The administrator may waive the requirement for a critical area report in limited circumstances when an applicant demonstrates all of the following:

(1) The proposal involved will not affect the critical area in a manner contrary to the goals, purposes and objectives of this code.

(2) The minimum protection standards required by this chapter are satisfied. [Ord. 3-08 § 1]

18.22.380 Retaining consultants.

Jefferson County may retain consultants to assist in the review of critical area reports outside the range of staff expertise. The applicant shall pay for the costs of retaining said consultants. [Ord. 3-08 § 1]

18.22.390 Acceptance of critical area reports.

(1) The administrator shall verify the accuracy and sufficiency of all critical area reports.

(2) If the administrator finds that a critical area report does not accurately reflect site conditions, or does not incorporate appropriate protections mechanisms, the administrator shall cite evidence that demonstrates where the critical area report is insufficient or in error. The applicant may then revise and resubmit the critical area report.

18.22.400 Critical aquifer recharge area reports.

(1) General. Critical aquifer recharge area reports serve as the primary means for Jefferson County to verify the accuracy of its critical aquifer recharge area map and to determine specific aquifer protection measures to be applied to prevent significant adverse impacts to groundwater quality, and in some cases water quantity. A critical aquifer recharge report shall be prepared when required in Article III (critical aquifer recharge areas) of this chapter.

(2) Critical Aquifer Recharge Area Report Content. An initial evaluation shall be made by a qualified groundwater scientist/engineer. The aquifer recharge area report shall include:

(a) A detailed description of the project, including all processes and other activities that have the potential for contaminating groundwater;

(b) A hydrogeologic evaluation that includes, at a minimum:

(i) A description of the hydrogeologic setting of the aquifer region;

(ii) Site location, topography, drainage, and surface water bodies;

(iii) Soils and geologic units underlying the site;

(iv) Groundwater characteristics of the area, including flow direction and gradient, and existing groundwater quality;

(v) The location and characteristics of wells and springs within 1,000 feet of the site;

(vi) An evaluation of existing groundwater recharge; and

(vii) A discussion and evaluation of the potential impact of the proposal upon groundwater recharge;

- (c) A contaminant transport analysis for the uppermost groundwater supply aquifer assuming an accidental spill or release of project-specific contaminants or on-site sewage discharge, or both if applicable;
- (d) A discussion and evaluation that details available on-site spill response and containment equipment, employee spill response training, and emergency service coordination measures;
- (e) Provides best management practices to minimize exposure of permeable surfaces to potential pollutants and to prevent degradation of groundwater quality; and
- (f) Requirements for a monitoring program with financial guarantees/assurances that the monitoring program will be implemented.

(3) Professional Qualifications. The minimum qualifications for groundwater scientists and engineers performing groundwater and contaminant transport evaluations and preparing aquifer recharge area reports shall be established pursuant to acceptable industry standards for training and experience and as established by the state of Washington in the Washington Administrative Code or by statute.

(4) County Review. Reports shall be forwarded to the Jefferson County department of public health for technical review. The county may request additional information in order to determine the adequacy of the reports and may rely on input from Washington Department of Ecology. The administrator shall determine appropriate conditions as identified in the report to mitigate proposed land uses.

18.22.420 Geologically hazardous area reports.

(1) General. When required in Article V, a site visit conducted by a qualified professional is required to determine if a geologically hazardous area or buffer is present. Based on the site visit, a geotechnical letter or a geotechnical report shall be prepared based on requirements in Article V (geologically hazardous areas), the general report requirements of 18.22.360, and the report criteria specified in subsections (3) and (4) below. If the professional geologist or engineer determines that a mapped geologically hazardous area does not meet the descriptions in the JCC 18.22.160(1), the geotechnical letter or report shall state how the provisions of that subsection are not met and why the area is not subject to the provisions of Article V (geologically hazardous areas).

(2) Qualifications of the Preparer. Geotechnical letters and reports shall be prepared by a licensed geotechnical engineer, a professional geologist, or a licensed professional engineer knowledgeable in regional geologic conditions with professional experience in landslide, erosion, and seismic hazard evaluations. All geologically hazardous area letters, reports, and drawings submitted to the department of community development shall be stamped and signed by the professional preparing the documents.

(3) Geotechnical Letter. A geotechnical letter shall be prepared and submitted only if all project components, including areas of temporary impact and the limits of clearing, are outside of all geologically hazardous area buffers, as described in the Assessment Level 1 description in 18.22.170(6)(a); provided that the geologist or engineer is not proposing a buffer reduction. A geotechnical letter shall address the following:

- (a) Site location and site description.

(b) Description of proposed activity and of all geologically hazardous areas and buffers in the vicinity of the project area.

(c) Distance of the geologically hazardous area buffer and setbacks from the limits of clearing shall be depicted on a site plan, which shall be included with the geotechnical letter.

(d) Recommendations on appropriate protection mechanisms, if necessary, to minimize the risk of erosion or landslide. [Ord. 3-08 § 1]

(4) Geotechnical Report. A geotechnical report shall be prepared and submitted if any part of the proposed activity, including areas of temporary impact and areas within the limits of clearing, are within a geologically hazardous area or a buffer, as described in the Assessment Level 2 description in 18.22.170(6)(b), or if a buffer reduction is proposed. A geotechnical report shall contain the following information:

(a) Site location, including parcel number.

(b) Detailed description of proposed activity.

(c) Date on-site geologic assessment was conducted and date report was completed.

(d) Summary of geologic information reviewed and analyzed (such as maps and reports) to determine the potential for geologically hazardous areas to be present. Based on this review, identify the types of geologically hazardous areas and buffers that have the potential to occur within 200 feet of the project area.

(e) Detailed description of the site, the geologically hazardous areas, and the buffers, including but not limited to, surface and subsurface geology, hydrology, soils, and vegetation.

(f) Detailed description of the results of the field investigation, including all geologically hazardous areas occurring on the site and within 200 feet of the project area. The description shall also address the stability of the of the hazardous areas and buffers at the time of the investigation and shall describe any past activity in the vicinity of the site or project area.

(g) Detailed assessment of the potential for the proposed activity to affect the geologically hazardous area or the stability of the area.

(h) Drainage and erosion control plan that addresses provisions in JCC 18.22.170(2) and presents physical, structural, or managerial best management practices that prevent or reduce pollution of water.

(i) In addition to complying with the clearing, grading, excavation, and stormwater requirements in JCC 18.30.060 and 18.30.070, and the 2014 Stormwater Management Manual for Western Washington (or as amended), a description of potential effects of the proposed activity on stormwater quantity, quality, and runoff patterns post-construction. The report must clearly indicate if the proposal will affect or alter water movement to the geologically hazardous area and buffer if the

proposal is implemented and identify measures to avoid or minimize alteration of stormwater runoff patterns post-construction.

(j) If an activity is proposed within a geologically hazardous area, the report shall state if the proposal can be safely constructed, occupied, or used, and shall include any engineering, design, and construction to protect public health and safety.

(j) Conclusions and recommendations relevant to the proposed activity and existing site conditions.

(k) Site plan showing location and extent of proposed development used during the site visit.

(l) Figure showing geologically hazardous areas and buffers relative to property boundaries, the proposed activity and clearing limits, existing structures and other site features, existing and proposed contours, and stakes placed onsite.

(m) If grading within a geologically hazardous area or buffer is proposed, the geotechnical report must address the grading requirements of JCC 18.30.060, the clearing and grading provisions of JCC 18.22.170(3), and shall be stamped by the engineer.

18.22.440 Fish and wildlife habitat conservation area reports.

(1) General. When required in Article VI, a site visit conducted by a qualified professional biologist is required to determine if a fish and wildlife habitat conservation area (FWHCA) or buffer is present. Based on the site visit, the biologist shall prepare a habitat reconnaissance letter or a habitat management plan. Habitat reconnaissance letters and habitat management plans shall be prepared based on requirements in Article VI (fish and wildlife habitat conservation areas), the general report requirements of 18.22.360, and the criteria specified in subsections (3) and (4) below.

If a proposed activity occurs within the FWHCA or the inner 75 percent of a FWHCA buffer and a critical area stewardship plan (CASP) is required, the CASP report shall also be prepared based on the report requirements of subsection (4) below, JCC 18.22.4FF of this article, and Article IX of this chapter.

(2) Qualifications of the Preparer. Habitat review letters, habitat management plans, and critical area stewardship plans shall be prepared by persons who have a minimum of a bachelor's degree in wildlife or fisheries habitat biology, or a related degree in a biological field from an accredited college or university with a minimum of four years experience as a practicing fish or wildlife habitat biologist.

(3) Habitat Reconnaissance Letter. A habitat reconnaissance letter shall be prepared and submitted only if all project components, including areas of temporary impact and the limits of construction, are outside of all FWHCA buffers, as described in 18.22.265(1)(a); provided that no buffer reduction is proposed. A habitat reconnaissance letter shall address the following:

(a) Identify the site location and describe the site conditions.

(b) Describe the proposed activity.

(c) Describe all FWHCAs and buffers on the property.

(d) Present the distance of all FWHCAs and buffers from the limits of clearing, as shown on a site plan. The site plan used during the site visit shall be included in the habitat review letter.

(e) Photographs of the site and the FWHCAs and/or buffer.

(4) Habitat Management Plan. A habitat management plan shall be prepared and submitted if any portion of the proposed activity, including areas of temporary impact and areas within the limits of clearing, are within a FWHCA or a buffer, as described in 18.22.265(1)(b), or if a buffer reduction is proposed. A habitat management plan shall address the following:

(a) Site location, including parcel number.

(b) Detailed description of all proposed project components relative to property boundaries, other on-site development, and limits of clearing. State whether or not in-water work is proposed, and if so, describe timing and methods of construction.

(c) Date site visits were made and date report was completed.

(d) Summary of information reviewed (such as maps and reports) to determine the potential for FWHCAs or buffers to occur on the property. Based on this review, identify all FWHCAs and buffers that may be present on or in the vicinity of the site or project area.

(e) Describe the existing conditions on the property.

(f) Detailed description of the field investigation results, including habitat types present on the property, habitat conditions with FWHCAs and buffers, location of native vegetation on the property, and location of non-native or invasive vegetation on the property. The report should indicate if the critical areas extend offsite.

(g) If the site or project area is identified as potential habitat for threatened or endangered species, provide dates and times of site visit(s), methods used to determine presence or absence of listed species, methods used to determine if appropriate habitat occurs onsite or in the vicinity of the site, and results of the field investigation.

(h) In addition to complying with the clearing, grading, excavation, and stormwater requirements in JCC 18.30.060 and 18.30.070, and the 2014 Stormwater Management Manual for Western Washington (or as amended), describe any potential effects of the proposed activity on stormwater quantity, quality, and runoff patterns post-construction. The report must clearly indicate if the proposal will affect or alter water movement to the FWHCA and buffer if the proposal is implemented and identify measures to avoid or minimize alteration of stormwater runoff patterns post-construction.

(i) Identify all potential impacts of the proposed activity on FWHCAs or buffers. Impact assessment shall include:

(i) Mitigation Sequencing. Describe measures to avoid impacts to FWHCAs and buffers. For any unavoidable impacts, describe all project components that cannot avoid impacting the FWHCA or buffer, and why the impacts cannot be avoided. Identify measures taken to minimize impacts.

(ii) Types of Impacts. All potential impacts to FWHCAs and buffers shall be identified and described in the report. Impact assessments shall consider direct impacts, indirect impacts, permanent impacts, temporary (long-term and short-term) impacts, and cumulative impacts.

(iii) Impact Area. The area (square footage) of potential impact shall be quantified for each FWHCA and/or buffer. At a minimum, impact area shall include FWHCA or buffer that occurs within the limits of clearing, as shown on the site plan.

(iv) Functional Impact. The impact assessment shall describe how FWHCA and buffer functions will be affected by the proposed development or use. The assessments shall consider how the proposed activity will affect natural processes.

(j) Provide a detailed mitigation plan for any unavoidable impacts. Mitigation plans shall include:

(i) Description of the mitigation area and suitability of the area to compensate for impact area and functions.

(ii) Detailed description of the mitigation proposal.

(iii) Goals and objectives of the mitigation, including a detailed description of how the proposal will compensate for impacts.

(iv) Table identifying impact areas (in square feet) and functions affected for each FWHCA and buffer that also identifies mitigation areas (in square feet) and functions. The table shall clearly show a link between potential impacts (area and function) and proposed mitigation (area and function).

(v) Mitigation plans shall include performance standards that are applicable to the goals and objectives of the mitigation effort. Monitoring shall be required annually for five years and quantifiable performance standards shall be specified in the plan for each of the five years of monitoring.

(vi) A planting plan that lists the species to be planted, including quantity and planting density of each species to be installed.

(vii) Monitoring schedule, monitoring methods, and monitoring data to be collected shall be described.

(viii) Contingency measures shall be described. If any performance standard is not met, the administrator shall require contingency measures be implemented and may extend the monitoring period beyond five years to ensure FWHCAs and buffers are adequately mitigated and protected.

(ix) Figure showing existing conditions, including the property boundaries, the location of the proposed activity and limits of clearing, existing structures and other physical features on the property, the location of all on-site FWHCAs, and all on-site FWHCA buffers. This figure shall be to scale using an easily readable (engineering) scale.

(x) Figure showing impact areas on the property. Figure must be to scale based on an engineering scale and shall show all FWHCAs and buffers potentially affected by the proposal relative to the limits of clearing, property boundaries, and existing site features. Type of impact and area of impact in square feet, as described in subsection (4)(i)(ii) and (iii) above shall be included on the figure.

(xi) Figure showing mitigation areas on the property. Figure must be to scale based on an engineering scale and shall show all mitigation areas proposed on the property. Square footage of each mitigation area shall be shown on the figure. If buffer averaging is proposed, the area of increase shall be shown relative to the area of decrease on the figure.

(xii) Photographs of the site and the FWHCAs and/or buffer.

(5) If any portion of the proposed activity is within a FWHCA or the inner 75 percent of a standard buffer, a critical area stewardship plan shall be required and the report shall also address requirements in JCC 18.22.4FF of this article and comply with Article IX (critical area stewardship plans). If the provisions of the critical area stewardship plan cannot be met by the applicant, a reasonable economic use variance shall be required.

(6) In-lieu Fee Program. A mitigation plan shall not be required if the ILF program, as specified in JCC 18.22.2EE(3)(b)(iii), is used to mitigate project impacts.

18.22.450 Wetland reports.

(1) General. When required by Article VII, a site visit conducted by a qualified wetland professional is required to determine if a wetland or wetland buffer is present. Based on the site visit, a wetland reconnaissance letter or a wetland delineation report shall be prepared. Wetland reconnaissance letters and wetland delineation reports shall be prepared based on requirements Article VII (wetlands), the general report requirements of 18.22.360, and the criteria specified in subsections (3) and (4) below.

If a proposed activity occurs within a wetland or the inner 75 percent of a wetland buffer and a critical area stewardship plan (CASP) is required, the CASP report shall also be prepared based on the report requirements of subsection (4) below, JCC 18.22.4FF of this article, and Article IX of this chapter.

(2) Qualifications of the Preparer. Wetland reports shall be prepared by a qualified wetland professional with wetlands education and at least five years of expertise delineating wetlands and preparing wetland reports. A person who has obtained a Society of Wetland Scientists Professional Wetland Scientist certification shall be qualified to prepare wetland reports.

(3) Wetland Reconnaissance Letter. A wetland reconnaissance letter shall be prepared and submitted only if all the project components are at least 300 feet from areas of temporary impact and the limits of clearing, as described in 18.22.330(2)(a); provided that no buffer reduction is proposed. A wetland reconnaissance letter shall address the following:

- (a) Identify the site location and describe the site conditions.
- (b) Describe the proposed activity.
- (c) Describe all wetlands and buffers on the property.
- (d) Present the distance of all wetlands and buffers from the limits of clearing, as shown on the site plan. The site plan used during the site visit shall be included in the wetland reconnaissance letter.
- (e) Provide a wetland delineation field data form for all potential wetland areas assessed. Plot locations shall be shown on the site plan that is attached to the wetland reconnaissance letter.
- (f) Photographs of the site and the wetlands and/or buffer.

(4) Wetland Delineation Report. A wetland delineation report shall be prepared and submitted if any portion of the proposed activity is within 300 feet of areas of temporary impact and areas within the limits of clearing, as described in 18.22.330(2)(b), or if a buffer reduction is proposed. A wetland delineation report shall address the following:

- (a) Site location, including parcel number.
- (b) Detailed description of all proposed project components relative to property boundaries, other on-site development, and the limits of clearing.
- (c) Date site visits were made and date report was completed.
- (d) Summary of information reviewed (such as maps and reports) to determine the potential for wetlands and buffers to be present. Based on this review, describe wetlands and buffers that may occur within 300 feet of the proposed activity.
- (e) Describe existing conditions on the property.
- (f) Detailed description of the field evaluation results, including methods used to determine if wetlands occur onsite or within 300 feet of the proposed activity, location and types of wetlands identified, and buffer conditions. Discuss all on-site wetlands identified, potential off-site wetlands, and wetland ratings and buffer widths. Indicate locations of wetland boundary flagging and plot flagging, including flag color, type, and number.
- (g) In addition to complying with the clearing, grading, excavation, and stormwater requirements in JCC 18.30.060 and 18.30.070, and the 2014 Stormwater Management Manual for Western Washington (or as amended), describe any potential effects of the proposed activity on stormwater quantity, quality, and runoff patterns post-construction. The report must clearly indicate if the

proposal will affect or alter water movement to the wetland and buffer if the proposal is implemented and identify measures to avoid or minimize alteration of stormwater runoff patterns post-construction.

(h) Identify all potential impacts of the proposed activity on wetlands or buffers. Impact assessment shall include:

(i) Mitigation Sequencing. Describe measures to avoid impacts to wetlands and buffers. For any unavoidable impacts, describe all project components that cannot be avoid impacting wetlands and buffers, and why the impacts cannot be avoided. Identify any measures taken to minimize impacts.

(ii) Types of Impacts. All potential impacts to wetlands and buffers shall be identified and described in the report. Impact assessments shall consider direct impacts, indirect impacts, permanent impacts, temporary (long-term and short-term) impacts, and cumulative impacts.

(iii) Impact Area. The area (square footage) of potential impact shall be quantified for each wetland and/or buffer. At a minimum, impact area shall include wetland or buffer that occurs within the limits of clearing, as shown on the site plan.

(iv) Functional Impact. The impact assessment shall describe how wetland and buffer functions will be affected by the proposed development or use. The assessments shall consider how the proposed activity will affect natural processes.

(i) Provide a detailed mitigation plan for any unavoidable impacts. Mitigation plans shall include:

(i) Description of the mitigation area and suitability of the area to compensate for impact area and functions.

(ii) Detailed description of the mitigation proposal.

(iii) Goals and objectives of the mitigation, including a detailed description of how the proposal will compensate for impacts.

(iv) Table identifying impact areas (in square feet) and functions affected for each wetlands and buffers that also identifies mitigation areas (in square feet) and functions. The table shall clearly show a link between potential impacts (area and function) and proposed mitigation (area and function).

(v) Mitigation plans shall include performance standards that are applicable to the goals and objectives of the mitigation effort. Monitoring shall be required annually for five years and quantifiable performance standards shall be specified in the plan for each of the five years of monitoring.

(vi) A planting plan that lists the species to be planted, including quantity and planting density of each species to be installed.

(vii) Monitoring schedule, monitoring methods, and monitoring data to be collected shall be described.

(viii) Contingency measures shall be described. If any performance standard is not met, the administrator shall require contingency measures be implemented and may extend the monitoring period beyond five years to ensure wetlands and buffers are adequately mitigated and protected.

(ix) Wetland determination field data forms shall be included in the wetland report. Forms shall be legible and sufficient forms shall be submitted to demonstrate all potential wetlands were identified onsite.

(x) Wetland rating form for each wetland identified shall be included in the wetland report.

(xi) Figure showing existing conditions, including the property boundaries, the location of the proposed activity and limits of clearing, existing structures and other physical features on the property, the location of all on-site wetlands and buffers, location of wetland boundary flagging and numbering, and identify plot locations. This figure shall be to scale using an easily readable (engineering) scale.

(xii) Figure showing impact areas on the property. Figure must be to scale based on an engineering scale and shall show all wetlands and buffers potentially affected by the proposal relative to the limits of clearing, property boundaries, and existing site features. Type of impact and area of impact in square feet, as described in subsection (4)(h)(ii) and (iii) above, shall be included on the figure.

(xiii) Figure showing mitigation areas on the property. Figure must be to scale based on an engineering scale and shall show all mitigation areas proposed on the property. Square footage of each mitigation area shall be shown on the figure. If buffer averaging is proposed, the area of increase shall be shown relative to the area of decrease on the figure.

(xiv) Photographs of the site and the wetlands and/or buffer.

(5) If any portion of the proposed activity is within a wetland or the inner 75 percent of a standard buffer, a critical area stewardship plan shall be required and the report shall also address requirements in JCC 18.22.4FF of this article and comply with Article IX (critical area stewardship plans). If the provisions of the critical area stewardship plan cannot be met by the applicant, a reasonable economic use variance shall be required.

(6) In-lieu Fee Program. A mitigation plan shall not be required if the ILF program, as specified in JCC 18.22.350(6), is used to mitigate project impacts.

18.22.4FF Critical area stewardship plan reports.

Critical area stewardship plans shall be prepared by a qualified professional if any portion of the proposed activity will occur within a wetland, a fish and wildlife habitat conservation area, or within the inner 75 percent of a wetland buffer or a fish and wildlife habitat conservation area buffer. In addition to the

habitat management plan requirements of JCC 18.22.440 and/or the wetland report requirements of JCC 18.22.450, the critical areas stewardship plan shall address the following:

- (1) The section of the report describing existing conditions shall also include:
 - (a) A qualitative description of the physical and biological condition of any surface waters on the property.
 - (b) Evidence of historic or existing land uses and human disturbances on the property.
 - (c) A description of adjacent watershed conditions within three-tenths of one mile (1,584 feet):
 - (i) A contours map describing land elevations;
 - (ii) Documented or observed presence of endangered or threatened species, or habitats;
 - (iii) Document priority habitats and species;
 - (iv) A qualitative assessment of hydrologic conditions; and
 - (v) Photo documentation of existing conditions.
 - (d) Site plan showing the entire parcel and all critical area(s) and buffer(s) on the property as well as any existing development. Site plan must be accurate, legible, and to scale.
- (2) The section of the report describing impacts shall also include photographs of the impact area(s).
- (3) The section of the report describing mitigation shall also include:
 - (a) A justification of how the mitigation area protects critical area and buffer functions and values;
 - (b) The performance standards must include the following components:
 - (i) Monitoring Indicator. Identify parameters to be monitored.
 - (ii) Monitoring Metric. Quantify parameters to be monitored.
 - (iii) Monitoring Timeframe. Specify monitoring timeframe (five years minimum).
 - (c) Justification for selected species in the planting plan list.
 - (d) A description and location(s) of any non-native and/or invasive vegetation that is to be controlled or eradicated, including methods to control the species.
 - (e) A description of any short-term protection measures that may be needed (such as protective tubes for plants, jute matting to stabilize soils in planted areas, mulch).
 - (f) A statement that an as-built is to be submitted within 60 days of completion of the mitigation work and that annual monitoring reports are to be submitted by October 31 of each monitoring year.
 - (g) Figure showing the areas to be used for mitigation (if grading is proposed, figure must include existing and final contours along with ration for grading) and showing photo points for future monitoring.

(h) Photographs of the mitigation area(s).

(i) Any supporting references from published literature needed to clearly demonstrate that the critical area and buffer will be protected.

18.22.4GG Frequently flooded area reports.

A habitat assessment shall be submitted if any portion of the proposed project occurs within a Special Flood Hazard Area (floodplain), as mapped by the Federal Emergency Management Agency (FEMA). The report shall be prepared by a qualified biologist who has a minimum of a bachelor's degree in wildlife or fisheries habitat biology, or a related degree in a biological field from an accredited college or university with a minimum of four years experience as a practicing fish or wildlife habitat biologist.

Habitat assessments shall be conducted based on the 2013 *Floodplain Habitat Assessment and Mitigation: Regional Guidance for the Puget Sound Basin*, or as amended by FEMA. Habitat Assessments shall also be prepared to comply with Article III of this chapter and the flood damage prevention ordinance, as codified in Chapter 15.15 JCC.

18.22.4HH Right-of-entry for mitigation verification.

For any mitigation proposal approved by the department of community development, an applicant shall include provisions in the submittal that allows right-of-access to the department of community development for the duration of the specified maintenance and monitoring timeframe, or until the performance standards are met. Right-of-entry shall be limited to the portion of the property where the mitigation was proposed and shall be limited until such time that all performance standards and permit conditions are met; provided, the department of community development contacts the property owner at least 24 hours prior to the site visit, stating the purpose of the site visit.

Article IX. Alternative Protection Standards – Critical Area Stewardship Plans (CASPs)

18.22.460 Critical area stewardship plans – Generally.

Property owners may elect to develop site-specific critical area stewardship plans (CASPs) as an alternative to the prescriptive requirements of Articles VI (Fish and Wildlife Habitat Conservation Areas (FWHCAs)) and VII (Wetlands) of this chapter. CASPs shall be required for buffer reductions greater than 25 percent; provided that the application does not require a reasonable economic use variance. The administrator shall be responsible for reviewing and approving submitted plans. The administrator may, at his/her discretion, seek technical assistance from the Jefferson County conservation district, Washington Department of Fish and Wildlife or the Washington Department of Ecology when reviewing CASPs for approval. [Ord. 3-08 § 1]

18.22.461 Applicability and limitations.

The following provisions define the applicability and limitations of the CASP:

(1) CASPs may be used in any zoning designation if the provisions of this article can be met. CASPs may not be used in the urban growth area if a buffer reduction implemented while using transitional zoning (i.e., rural zoning designation prior to connection with a sewer system) has the potential to preclude future density requirements. The overall goal of the critical areas stewardship plan is to maintain existing

functions and values of the watershed and subbasin while addressing the needs and desires of the property owner.

- (2) CASPs can be applied to properties one-quarter acre or larger.
- (3) CASPs are only applicable to fish and wildlife habitat conservation areas and associated buffers (Article VI) or wetlands and associated buffers (Article VII).
- (4) CASPs must provide equal or greater protection of critical area functions and values than the prescriptive standards of buffers and setbacks.
- (5) CASPs will be administered as a Type I permit, per Chapter 18.40 JCC.

[Ord. 3-08 § 1]

18.22.4II Implementation.

- (1) A CASP permit is valid for the same timeframe as the underlying permit (e.g., building permit, septic permit, shoreline permit). If the underlying permit does not have a specified expiration date or if the CASP application is a standalone application, the CASP permit shall be valid for three years from the date the CASP permit is issued. A CASP permit shall not be considered valid beyond five years from the date the CASP permit is issued. If the underlying permit remains valid beyond five years, the CASP permit shall be considered null and void. Once the permit has expired, it shall not be renewed.
- (2) The applicant shall record a notice title for any approved mitigation at the Auditor's Office and shall post a mitigation performance bond with DCD. The administrator shall provide the necessary paperwork to the applicants. Assuming the administrator does not need to designate staff (or contract with other qualified professionals) to ensure that maintenance and monitoring are completed as required by this section, the performance bond is to be refunded to the applicant at the end of the specified monitoring period or when all performance standards are met, whichever is greater. The CASP permit is a conditional approval and no other permits (such as building, shoreline, septic) shall be approved until the applicant has recorded the notice to title and posted the performance bond.

18.22.510 As-built plan requirement.

An as-built plan shall be prepared by a qualified professional describing the action taken to implement the critical area stewardship plan (CASP). This report shall include:

- (1) A contour map describing final contours if grading is required;
- (2) A quantitative description of the vegetation planted;
- (3) Establishment of two or more permanent photo documentation stations with established bearings and monuments to ensure that subsequent photographs depict the same landscape for comparative purposes;

(4) Additional photographic documentation that shows the condition of mitigation area(s) once CASP mitigation has been implemented. [Ord. 3-08 § 1]

(5) A site plan showing the location of the mitigation areas relative to the mitigation proposal as presented in the approved CASP report and to the CASP permit conditions.

(6) Building final certificate of occupancy and/or septic final shall not be issued until the applicant has submitted an as-built showing compliance with this article, the approved CASP report, and all CASP permit conditions.

18.22.530 Contingency planning.

A contingency plan is required describing how the critical area stewardship plan (CASP) might be modified if monitoring indicates a failure to meet the stated goals, or a need to modify the goals because of events outside the landowner's control (e.g., damage associated with a wildlife). For instance, if one of the planted species of vegetation proves ill adapted to the environment and fails to survive or thrive to the extent needed to provide the intended function then alternative species should be identified. In general, plans should initially plant at greater than 120 percent of the specified final density of shrubs and trees. The contingency plan should call for either supplemental planting when the density falls below the prescribed final density or it could call for the planting of alternate specie(s). [Ord. 3-08 § 1]

18.22.540 Failure to submit required reports.

Failure to submit a report required under this article shall constitute a failure to comply with the terms of the permit. The administrator shall authorize the use of the performance bond to ensure maintenance and monitoring are completed to comply with permit conditions. In the event the performance bond amount is insufficient to ensure compliance with the permit (or if activities on the site have negatively affected the mitigation area(s), the failure to comply with CASP permit conditions shall be processed by the administrator pursuant to Chapter 18.50 JCC, Enforcement. [Ord. 3-08 § 1]

18.22.550 Waiver.

The administrator may waive portions of a critical area stewardship plan (CASP) if, in his/her opinion, critical area functions and values will not be adversely affected by a proposed activity. An approved CASP must be recorded on the property deed (recorded with the Jefferson County auditor) and must remain in effect unless replaced by a new or updated CASP approved by the county. [Ord. 3-08 §

1]Article X. Implementation Strategies

18.22.570 Conservation futures.

Jefferson County through the conservation futures fund (Ordinance No. 06-0708-02, Chapter 3.08 JCC) may use conservation futures funds to compensate affected property owners for their costs in protecting fish and wildlife through the purchase of conservation easements. [Ord. 3-08 § 1]

18.22.580 Education.

Jefferson County encourages good stewardship on its land to provide benefits to fish and wildlife. The county will seek funds to provide general resource education and site-specific assistance to help

landowners understand why it is important to improve their management practices and to show them how to improve those practices in a way that benefits both the landowner and natural resources. The county believes that these are win-win goals key to maintaining and enhancing natural resources. [Ord. 3-08 § 1]

18.22.590 Best management practices (BMPs).

As a general practice, Jefferson County encourages and supports the use of best management practices by all landowners in an effort to enhance the county's natural resources. Farm BMPs have been developed over the last five decades by the USDA and Jefferson County's conservation district. Residential BMPs (JCC 18.22.630) are promoted for all landowners in Jefferson County, whether engaged in agriculture or not. [Ord. 3-08 § 1]

18.22.600 Cost sharing incentives.

Jefferson County will assist and encourage landowners to participate in private, state and federally funded resource enhancement projects. In addition, Jefferson County will seek outside sources of grant funds to increase the resources available for resource stewardship programs. [Ord. 3-08 § 1]

18.22.620 Public benefit rating system.

Buffers that are dedicated as permanent open space tracts will qualify for the maximum number of points under the public benefit rating system. Qualifying applicants will be offered the opportunity to enroll in the Jefferson County open space tax program at no cost. [Ord. 3-08 § 1]

18.22.630 Residential best management practices (BMPs).

The following best management practices (BMPs) will be encouraged by Jefferson County for all existing and future residential development adjacent to critical areas. Permits may be conditioned to require these BMPs when utilizing buffer averaging or other administratively available means of buffer reduction.

(1) Stormwater Management.

- (a) Filter runoff from impervious surfaces through appropriate vegetation such as lawns or biofiltration swales prior to entering wetlands or wetland buffers.
- (b) Direct gutter downspouts into either biofiltration swales or gravel-lined pits to sequester bacteria and atmospherically deposited contaminants.
- (c) Store petroleum, fertilizer and pesticide containers under cover and away from water sources and critical areas until properly disposed.
- (d) Apply only the amount of irrigation water that can be absorbed into the ground to landscapes. Avoid excessive water resulting in surface flows into wetland or wetland buffers.
- (e) Avoid the use of chlorinated water for landscape use.
- (f) Avoid using salt on impervious surfaces such as walks and driveways during freezing weather.
- (g) Ensure that all outside burning is controlled.
- (h) Avoid motorized vehicle incursions into the wetland and/or wetland buffer.

(2) Management of Household Contaminants and Yard Waste.

- (a) Maintain all garbage and litter in enclosed containers that exclude wildlife.
- (b) Do not use poisons to control moles, rodents or other pests near wetlands.
- (c) Strictly adhere to label restrictions when using EPA approved pesticides.
- (d) Do not dispose of yard waste (grass clippings, trimmings, etc.) or any other waste in wetlands or wetland buffers.
- (e) Do not maintain vehicles or equipment in areas where contaminants will wash directly into wetland buffers. Maintenance areas should include filter swales or grassy areas of sufficient width to intercept surface flows into critical areas or their buffers.
- (f) Store all potential contaminants, including petroleum products, pesticides, cleaners, etc., under cover and properly dispose of empty containers.

(3) Landscape Management.

- (a) Do not plant invasive ornamental plants in or adjacent to any critical area buffers.
- (b) Retain, where possible, large trees that shade wetland areas – even though they may grow outside the required buffer.
- (c) Leave permeable surfaces on as much of the landscape as possible.
- (d) Attempt to incorporate large woody debris into the landscape plan as a benefit to wildlife.
- (e) Shield outside lights so that they do not shine directly into nearby wetlands. [Ord. 3-08 § 1]

Article XI. Watershed Monitoring

18.22.640 Watershed monitoring.

Jefferson County shall develop and implement a countywide monitoring plan designed to give early notification of degrading water quality and to document improving water quality as a result of an increased emphasis on voluntary landowner stewardship. This effort will include the following:

- (1) The county will initiate this process by conducting an inventory of all current monitoring activities conducted by local, state and federal agencies and private groups such as stream keepers and water watchers.
- (2) The county will assist with compilation of all of the marine and freshwater data applicable to Jefferson County in a single database to establish a baseline dataset.
- (3) When the inventory described above is complete, a monitoring program will be designed to complement existing efforts to assess the following endpoints:
 - (a) Temperature;

- (b) Dissolved oxygen;
- (c) pH;
- (d) Fecal and total coliform;
- (e) Total suspended solids;
- (f) Total volatile solids; and
- (g) Nutrients, to include NH₄⁺, NH₃, NO₃ and PO₄.

(4) Monitoring of all appropriate Type S and F streams will be accomplished near their entry into the marine environment. Additional monitoring will be accomplished during the first one inch of rain in the fall of each year and during the period of anticipated lowest flow in late summer (August or September).

(5) Jefferson County will encourage biological monitoring using rapid bio-assessment procedures of the health of its watersheds by voluntary programs such as water watchers.

(6) Three samples will be collected at each established sampling site. Where sampling indicates a significant exceedance of Washington State water quality criteria (using appropriate statistical analyses) and/or an exceedance of existing baseline data, Jefferson County will notify (as appropriate) the Washington State Department of Health and the Department of Ecology requesting assistance in determining the cause of the exceedance.

(7) Jefferson County will work cooperatively with landowners contributing to the exceedance to correct the problem. If property owners do not cooperate, or if the exceedance persists despite attempts at adaptive management, then Jefferson County will take whatever legal or regulatory steps are necessary to correct the situation. Those steps may include legal action or an increase in the buffer widths in stream segments causing the exceedances. [Ord. 3-08 § 1]

Article XII. Adaptive Management

18.22.650 Adaptive management.

Adaptive management relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives and makes adjustments to those programs. Management, policy, and regulatory actions are treated as experiments that are purposefully monitored and evaluated to determine whether they are effective and, if not, how they should be improved to increase their effectiveness. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, Jefferson County, in support of its CAO will:

- (1) Address funding for the research component of the adaptive management program;
- (2) Change course based on the results and interpretation of new information that resolves uncertainties; and

(3) Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting critical areas protection and anadromous fisheries. [Ord. 3-08 § 1]

Article XIII. Agriculture

All regulated activities shall comply with critical area provisions in Articles I through XII of this chapter, except that certain agricultural activities described in subsection 6JJ(1) below may use alternative protection standards in section 6LL for wetlands and for fish and wildlife habitat conservation areas (FWHCAs). If the alternative protection standards cannot be met, then the protection standards of Articles I through XII shall be used by the applicant.

18.22.6JJ Applicability.

(1) Agricultural uses and activities, including agricultural accessory uses, as defined in JCC 18.10.010, shall have the option of using the requirements of this article, if at least one of the following is met:

- (a) Agricultural resource lands designated as prime (AP-20) or local (AL-20); or
- (b) Agricultural lands enrolled in the county agricultural open space tax program, pursuant to 84.34 RCW; or
- (c) Agricultural lands in which a recorded document, such as an easement, provides for the preservation of agricultural lands and uses in perpetuity.

(2) If subsection (1) is not applicable, then other farming or agriculture activities (such as hobby farms and agriculture occurring on parcels zoned rural residential) proposed within a critical area or a critical area buffer shall comply with all applicable critical area regulations in Articles I through XII of this chapter. Additionally, non-agricultural activities (such as construction of a single-family residence) on lands meeting subsection (1) above shall comply with all applicable critical area regulations in Articles I through XII of this chapter.

18.22.6KK Regulated activities.

New agricultural activities (not meeting the definition of existing and ongoing agriculture) or expansion of existing agricultural activities shall comply with critical area requirements. Regulated agricultural activities shall include, but are not limited to:

- (1) Clearing natural vegetation or removing trees (clearing does not include harvesting an agricultural crop);
- (2) Grading, including dredging, excavating, or filling;
- (3) Dumping garbage, waste, or other refuse;
- (4) Discharging surface water runoff from development via overland flow, built conveyance systems, or infiltration facilities;

- (5) Altering water levels (surface and subsurface), water quantity, water quality, or surface water flow rates;
- (6) Draining a wetland, fish and wildlife habitat conservation area, or frequently flooded area;
- (7) Diverting or impounding water;
- (8) Storing and using agricultural chemicals, including pesticides, herbicides, fertilizers, and other hazardous materials;
- (9) Creating new ditches and farm ponds or expanding existing ditches and farm ponds;
- (10) Installing new fencing; or
- (11) Constructing an agricultural structure or expanding an existing structure farther into the critical area or buffer.

18.22.6LL Alternative protection standards.

The following alternatives allow flexible protection standards relative to Articles VI (fish and wildlife habitat conservation areas) and VII (wetlands). Where an applicant demonstrates the proposal adequately provides protection of critical areas and buffers, and that implementation of the proposal is not likely to degrade critical areas or buffers over time, the following may be used.

- (1) **Critical Areas Plan.** An applicant may submit a critical areas plan prepared by the Jefferson County Conservation District for review and approval by the department of community development. A critical areas plan may be used for impacts to wetlands, wetland buffers, FWHCAs, or FWHCA buffers. A critical areas plan shall address all report requirements in Articles VI (fish and wildlife habitat conservation areas), VII (wetlands), and VIII (critical areas reports).
- (2) **Working Buffers.** An applicant may use the working buffers concept from the Snohomish County Conservation District; provided, the applicant submits sufficient information demonstrating the proposal is consistent with the applicable agroforestry template. The working buffer shall not be allowed within the inner 35 feet of a wetland or FWHCA buffer and shall not be used if the buffer is associated with a wetland scoring high for habitat value or having special characteristics (as determined from the wetland rating form). This alternative is limited to buffers for wetlands or fish and wildlife conservation areas only; it shall not be used for agricultural activities proposed within a critical area.

18.22.6MM Compliance benchmarks for critical area protection.

(1) Critical area protection is required for existing and ongoing agriculture as well as new agriculture. All agricultural activities shall be conducted so as not to cause harm or degrade the existing functions of critical areas and associated buffers. As allowed under WAC 365-196-830 (Protection of Critical Areas), both regulatory and voluntary measures may be developed and used to prevent degradation of critical areas. For purposes of this article, no harm means:

- (a) Water quality monitoring results shall be based on sampling data collected and analyzed by Jefferson County department of public health or a designated partnering agency. To comply with the no harm requirement for water quality, all parameters evaluated must remain comparable (or improve) relative

to established state standards. If any water quality parameter shows a decline, the departments of community development and public health may require on-site sampling of upstream and downstream water quality conditions to determine if permitted activities that have been implemented have since affected water quality.

(b) Habitat ecology should remain comparable to the watershed descriptions presented in the March 2016 *Watershed Characterization Report* prepared for this critical areas update. Within the Chimacum Creek drainage basin, stream conditions must be maintained at the level presented in Appendix H of the *Chimacum Watershed Agriculture, Fish & Wildlife Protection Plan* (Jefferson County Conservation District 2004). Additionally, indicators of habitat conditions, such as (1) the percent cover of woody vegetation shall not result in a net decrease; (2) the amount of habitat features such as snags, downed woody debris, and open water habitats shall not result in a net decrease; and the amount of impervious surfaces and bare ground shall not result in a net increase on the agricultural land as a result of implementing an approved agricultural activity.

(c) Salmonid stocks should remain stable or improve (based on published Washington Department of Fish and Wildlife assessments, reports, and online information). At a site-specific level, any activity that negatively affects salmonids shall be considered a negative benchmark. This could include, but is not limited to, installation of in-stream barriers to fish passage, removing woody debris from a stream, altering spawning gravel, altering pool/riffle instream conditions, or introduction of chemicals into the water column.

(2) Farm Plans. If agricultural activities result in degradation of a critical area, the farmer shall be required to either cease the agricultural activity that results in critical area degradation or prepare a plan that demonstrates how farming activities will be brought into compliance with critical area protection requirements. A farm management plan may be developed by the Jefferson County Conservation District to voluntarily bring the agricultural activity into compliance with critical area protection standards. A farm management plan shall be submitted to department of community development for review and approval. If the administrator determines a farm management plan does not sufficiently address critical areas degradation, a farm plan (prepared by a certified qualified professional) or other enforcement action based on Chapter 18.50 shall be required.