



**JEFFERSON COUNTY**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

621 Sheridan Street • Port Townsend • Washington 98368  
 360/379-4450 • 360/379-4451 Fax  
 http://www.co.jefferson.wa.us/commdevelopment

**Application for Suggested Comprehensive Plan / UDC Amendment**

MLA # <u>06-242</u>	PROJECT/APPLICANT NAME: <u>JEFFERSON COUNTY DEPT. OF COMMUNITY DEVELOPMENT</u>
---------------------	--

**Submittal Requirements**

1. A completed Master Land Use Application. Representative authorization is required if application is not signed by applicant.
2. Any additional information reasonably deemed necessary by the Administrator to evaluate the proposed amendment.
3. Please prepare and label as “Exhibit A,” a description of the proposed Plan/UDC amendment and any associated development proposal(s) if applicable. Applications for projected-related amendments must include plans and information or studies accurately depicting existing and proposed uses and improvements. Applications for such amendments that do not specify proposed uses and potential impacts are assumed to have maximum impact to the environment and public facilities and services.
4. Please provide an explanation of why the amendment is being proposed. (Attach additional sheets, if necessary.)  
“Critical Areas” (a.k.a., Environmentally Sensitive Areas) is a term of art from the Washington State Growth Management Act (GMA) that includes wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and similar features. The purpose of these proposed amendments to the Unified Development Code (UDC)—Title 18 of the Jefferson County Code (JCC)—is to incorporate best available science as applied to the regulatory protection of critical areas under the GMA and Part Nine of Chapter 365-195 of the Washington Administrative Code (WAC).
5. Please prepare and label as “Exhibit B,” proposed amendatory language (i.e., to affected text of both the Comprehensive Plan and UDC) shown in “bill” format, with text to be added indicated with underlining (e.g., underlining), and text to be deleted indicated with strikeouts (e.g., ~~strikeouts~~).
6. Please prepare and label as “Exhibit C,” a **thorough** explanation of how the proposed amendment, meets, conflicts with, or relates to the following inquiries (NOTE: Simple “yes” or “no” responses are unacceptable.)
  - a. Have the circumstances related to the proposed amendment and/or the area in which it is located substantially changed since the adoption of the Jefferson County Comprehensive Plan?
  - b. Are the assumptions that form the basis for the Jefferson County Comprehensive Plan no longer valid, or has new information become available that was not considered during the process of adoption of the Jefferson County Comprehensive Plan or any subsequent amendment?
  - c. Does the proposed amendment reflect current widely held values of the residents of Jefferson County?
7. *The applicant hereby certifies that the statements contained in this application are true and provide an accurate representation of the proposed amendment; and the applicant(s) hereby acknowledges that any approval issued on this application may be revoked if any such statement is found to be false.*

AL SCALF, DIRECTOR OF COMMUNITY DEVELOPMENT  
 APPLICANT’S SIGNATURE

MAY 17, 2006  
 DATE

## Description of the Proposed UDC Amendments

### Issue

“Critical Areas” (a.k.a., Environmentally Sensitive Areas) is a term of art from the Washington State Growth Management Act (GMA) that includes wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and similar features. The purpose of these proposed amendments to the Unified Development Code (UDC)—Title 18 of the Jefferson County Code (JCC)—is to incorporate best available science as applied to the regulatory protection of critical areas under the GMA and Part Nine of Chapter 365-195 of the Washington Administrative Code (WAC).

Background and supporting information on Critical Areas planning can be accessed from this webpage:  
<http://www.co.jefferson.wa.us/commdevelopment/CriticalAreas.htm>

### Board of County Commissioners Concern

On January 18, 2006, the BoCC entered into a Settlement Agreement with the Washington Environmental Council (WEC) in order to resolve a petition before the Western Washington Growth Management Hearings Board filed by WEC following December 1, 2004, which was the statutory deadline for Jefferson County to complete a review and update of its Comprehensive Plan and development regulations according to RCW 36.70.130(4). The review includes a requirement to consider “best available science” in establishing development regulations for protecting the functions and values of critical areas.

The BoCC directed staff to prepare a proposal for public review that corresponds with the Settlement Agreement with WEC.

### Department of Community Development Recommendation

After review and consideration of scientific information related to the critical areas categories proposed for amendment, DCD proposes the code language outlined in this amendment application. DCD will work with the Planning Commission and the BoCC, with input from the public and State agencies, to develop a final proposal worthy of legislation adoption by the BoCC.

### Affected UDC Sections

The follow sections of **JCC Chapter 18.15 Land Use Districts, Article VI Overlay Districts** are proposed for amendment. A brief description of each amendment follows:

Article VI-D Environmentally Sensitive Areas District. The terms “environmentally sensitive areas” and “critical areas” are synonymous. Amendments to general section for consistency with critical areas category-specific amendments.

Article VI-G Geologically Hazardous Areas. A category entitled Channel Migration Zones (CMZs) is proposed to be added to this subsection, including respective identification sources and protection standards. CMZs are areas subject to the natural movement of stream channel meanders.

Article VI-H Fish and Wildlife Habitat Areas. This section is proposed to be renamed Fish and Wildlife Habitat Conservation Areas to match RCW 36.70A.030(5). The stream typing format is proposed to switch from a numbering system previously in use by the State Department of Natural Resources (DNR) to a lettering system currently in use by DNR under Chapter 222-16-030 WAC. Revised stream buffers would apply to the new stream types. The proposal includes additional sources used for identification of these areas, including reference to the County’s core wildlife habitat conservation database. A regulatory nexus is proposed for designated core wildlife habitat areas or corridors that would

affect applications for land division and forest practices conversions. Language associated with bank stabilization standards is proposed for clarification. A provision for vegetation retention within delineated CMZs is included.

Article VI-I Wetlands. The proposal incorporates guidance from the State Department of Ecology for the rating and management of wetlands, specifically the *Washington State Wetland Rating System for Western Washington*, as proscribed in the 2004 Ecology publication #04-06-025, and the protection standards of the 2005 Ecology publication #05-06-008 *Wetlands in Washington – Volume 2: Guidance for Protecting and Managing Wetlands*, Alternative 3 in Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System.

Article VI-J Special Reports. Amendments to this section for consistency with critical areas category-specific amendments.

Article VI-M Planned Rural Residential Developments. A clause is proposed for amendment to expressly qualify a broader range of environmental design approaches related to fish and wildlife habitat conservation areas for density bonuses under the cluster land division provisions of this section.

Additionally, definitions in **JCC 18.10.230** are proposed for amendment in relation to revised wetlands provisions. “Wetland enhancement” is proposed for amendment and “wetland re-establishment” and “wetland rehabilitation” are proposed for addition to that section.

[End]

## Proposed Line-In/Line-Out Development Code Language

All header references are to the Jefferson County Code (JCC), Title 18 Unified Development Code (UDC).

Note: JCC Table of Contents to be modified appropriately.

### Chapter 18.10 Definitions

#### 18.10.230 W Definitions.

“Wetland enhancement” means alteration of an ~~existing~~ wetland ~~or habitat~~ to improve ~~or increase its characteristics and processes without degrading other existing one or more wetland~~ functions. Enhancements ~~are to be is~~ distinguished from wetland ~~or habitat~~ creation ~~or and wetland~~ restoration ~~projects~~.

“Wetland re-establishment” is a form of wetland restoration in which the goal is to return natural or historic functions to a former wetland by conducting such activities as removing fill material, plugging ditches, or breaking drain tiles.

“Wetland rehabilitation” is a form of wetland restoration in which the goal is to repair natural or historic functions of a degraded wetland by conducting such activities as breaching a dike or returning tidal influence to a wetland.

### Article VI-D. Environmentally Sensitive Areas District (ESA)

#### 18.15.185 Purpose.

Purpose. The environmentally sensitive areas overlay district (ESA) is adopted to implement the policies of the Comprehensive Plan for five types of environmentally sensitive areas ~~—also known as “critical areas” under the Growth Management Act—~~ as defined in Articles VI-E through VI-I of this chapter:

- (1) Critical aquifer recharge areas;
- (2) Frequently flooded areas;
- (3) Geologically hazardous areas;
- (4) Fish and wildlife habitat conservation areas;
- (5) Wetlands. [Ord. 10-04 § 3; Ord. 11-00 § 3.6.4(a)]

#### 18.15.190 Applicability.

Any land use or development activity which is subject to a development permit or approval under this code may only be undertaken on land located within or containing an ESA or its buffer if the provisions of this Article VI-D are met. Uses and activities in environmentally sensitive areas, or their buffers for which no permit or approval is required by any other county ordinance, remain subject to the development standards and other requirements of this section. [Ord. 11-00 § 3.6.4(b)]

#### 18.15.195 Allowable uses.

All uses shall be subject to requirements specified in Table 3-1 and Chapter 18.18 JCC for the underlying district, unless otherwise specified in this code. [Ord. 11-00 § 3.6.4(c)]

#### 18.15.200 Coverage.

This Article VI-D applies to all uses and activities within ESAs or their designated buffers unless otherwise exempt. The following permits and approvals shall be subject to and coordinate with the requirements of this section: clearing and grading; site plan approval; sewage disposal; subdivision or short subdivision; binding site plans; building permit; planned residential development; shoreline substantial development; variance; conditional use permit; certain forest practice permits (Class IV general, Class III conversion option harvest plans); other permits leading to the development or alteration of land; and rezones if not combined with another development permit. In instances where a proposal involves a parcel of real property with more than one ESA or ESA buffer, the standards that pertain to each identified ESA shall apply. When provisions of this section conflict with one another, or when provisions of this section

conflict with any other local law, the provision that provides more protection to the ESA shall apply. No permit involving a designated environmentally sensitive area shall be approved unless it is determined to be in compliance with this code.

Any action taken in an environmentally sensitive area designated under this article that is in violation of the standards and conditions contained herein is expressly prohibited. [Ord. 10-04 § 3; Ord. 11-00 § 3.6.4(d)]

18.15.205 General exceptions.

The administrator may grant an exception to the requirements of this Article VI-D. In determining whether an exception is appropriate, the administrator shall require that the proposed land or water use will not create unmitigatable significant adverse environmental impacts. In making this determination, the administrator may require that an applicant prepare a special report (per Article VI-J of this chapter). In granting an exception, the administrator may require conditions of approval, including mitigation, as necessary to ensure that the subject land or water use action will not pose a risk of adverse environmental impacts. [Ord. 11-00 § 3.6.4(e)]

18.15.210 General exemptions.

The following activities are exempt from the requirements of this Article VI-D:

- (1) Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment which requires action within a time too short to allow compliance with this article.
- (2) Repealed by Ord. 5-03.
- (3) Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity.
- (4) Structural alterations to buildings, permitted under the provisions of this code, that do not alter the structural footprint or introduce new adverse impacts to an adjacent environmentally sensitive area.
- (5) Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation above the ground.
- (6) Forest practices conducted pursuant to Chapter 76.09 RCW, except Class IV (general conversions) and conversion option harvest plans (COHP).
- (7) Normal and routine installation and maintenance of propane storage tanks and wood stoves for single-family houses or mobile homes. [Ord. 5-03 § 2; Ord. 11-00 § 3.6.4(f)]

18.15.215 Nonconforming uses.

- (1) Any use or structure in existence on the effective date of this code or amended section of the code, as applicable, becomes effective that does not meet the buffer requirements of this Article VI-D 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 code, that does not meet the buffer requirements of this article for any designated ESA, shall be considered a legal nonconforming use.
- (3) A legal nonconforming use or structure may be repaired or maintained or repaired, assuming the nonconforming footprint does not increase without limitation by this article.
- (4) A legal nonconforming use or structure that has been damaged or destroyed by fire or other calamity may be restored and its immediately previous use may be resumed. [Ord. 11-00 § 3.6.4(g)]

18.15.220 Reasonable economic use variance.

- (1) If the application of this Article VI-D would deny all reasonable economic use of the property, the applicant may apply for a reasonable economic use variance, only upon denial of a permit due to the requirements of this article.
- (2) The applicant shall apply to the department, and the department shall prepare a recommendation to the hearing examiner. The property owner and/or applicant for a reasonable use variance has the burden of proving that the property is deprived of all reasonable use. [Ord. 11-00 § 3.6.4(h)]

18.15.225 Notice.

The hearing examiner shall conduct a public hearing on the variance request. Decisions of the hearing examiner shall be final and conclusive unless appealed to the appellant examiner. Public notice shall be provided as follows:

- (1) 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.
- (2) 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.
- (3) 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.

(4) All hearing notices shall include a legal description of the property involved, and a concise description of the variance requested in nonlegal language. [Ord. 11-00 § 3.6.4(i)]

**18.15.230 Findings.**

A reasonable economic use variance may be granted only when the hearing examiner finds that the application meets all of the following criteria:

(1) No reasonable economic use with less impact on the ESA or its buffer is possible.

(2) There is no feasible on-site alternative to the proposed activities that would allow a reasonable economic use with less adverse impacts to environmentally sensitive areas or ESA buffers. Feasible on-site alternatives shall include, but are not limited to reduction in density; phasing of project implementation; change in timing of activities; and revision of road or parcel layout or related site planning considerations.

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

(4) Disturbance of environmentally sensitive areas has been minimized by locating any necessary alteration in ESA buffers to the minimum extent possible.

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

(6) 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.

(7) 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.

(8) 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 ordinance codified in this code. [Ord. 11-00 § 3.6.4(j)]

**18.15.235 Conditions.**

(1) In granting approval for reasonable economic use variances, the hearing examiner may require mitigating conditions that will, in the examiner's judgment, substantially secure the objectives of this code.

(2) In granting approval for reasonable economic use variances involving designated wetlands, the hearing examiner shall consider the following mitigating conditions:

(a) Provision of a mitigation plan demonstrating how the applicant intends to substantially restore the site to predevelopment conditions following project completion; and

(b) The restoration, creation or enhancement of wetlands 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. [Ord. 11-00 § 3.6.4(k)]

...

**Article VI-G. Geologically Hazardous Areas**

**18.15.270 Classification/designation.**

(1) Classification. Geologically hazardous areas shall be classified based upon a combination of erosion, landslide and seismic hazard.

(2) Designation. The following erosion, landslide ~~and~~ seismic, and channel migration zone (CMZ) hazard areas shall be subject to the standards of this Article VI-G:

(a) Erosion Hazard Areas. Areas containing soils or soil complexes described and mapped within the United States Department of Agriculture/Soil Conservation Service Soil Survey for Jefferson County as having a severe or very severe erosion hazard potential.

(b) Landslide Hazard Areas. Areas potentially subject to mass movement due to a combination of geologic, topographic and hydrologic factors including:

(i) Areas of historic failures or potentially unstable slopes, such as:

(A) Areas described and mapped as having severe or very severe building limitations for dwellings without basements within the United States Department of Agriculture/Soil Conservation Service Soil Survey for Jefferson County;

(B) Areas described and mapped as recent or old landslides or slopes of unstable materials within the Washington State Department of Ecology Coastal Zone Atlas of Jefferson County; and

(C) Areas described and mapped as areas of poor natural stability, former landslides and recent landslides by the Washington State Department of Natural Resources, Division of Geology and Earth Resources;

(ii) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, or undercutting by wave action; and

(iii) Areas with any indications of earth movement, such as:

(A) Rockslides;

(B) Earthflows;

(C) Mudflows; and

(D) Landslides.

(c) Seismic Hazard Areas. Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. These areas are identified by the presence of: poorly drained soils with greater than 50 percent silt and very little coarse material; loose sand or gravel, peat, artificial fill and landslide materials; or soil units with high organic content.

(d). Channel Migration Zones (CMZs). Areas subject to the natural movement of stream channel meanders. In the delineated high risk CMZ area, channel migration is likely within the next 100 years; in the moderate risk CMZ area, channel migration is possible in the next 100 years. Areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies are excluded from the high or moderate risk designation. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or avulsion.

(3) 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.

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

(c) Washington State Department of Natural Resources, Slope Stability and Geologic Maps of Eastern Jefferson County.

(d) Washington State Department of Natural Resources, Geographic Information System: Soil Survey.

(e) Washington State Department of Natural Resources, Geologic Maps of Eastern Jefferson County, Compressibility of Earth Materials in Eastern Jefferson County.

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

(g) US 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.

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

(4) Geologic Hazard Area Maps. The maps prepared by the county using the identification sources listed in this section have been produced for informational purposes only and are not regulatory devices forming an integral part of this code. [Ord. 11-00 § 3.6.7(a)]

18.15.275 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.

(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 OHWM.

(d) In addition to any erosion control methods specified in the drainage and erosion control plan, the administrator may require hydroseeding of exposed or disturbed areas.

(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) Only that clearing necessary to install temporary sedimentation and erosion control measures shall occur prior to clearing for roadways or utilities;
- (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; and
- (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.
- (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 lying outside of approved construction limits shall be retained; provided, that understory damaged during approved clearing operations may be pruned.
- (b) Damage to vegetation retained during initial clearing activities shall be minimized by directional felling of trees to avoid environmentally sensitive areas and vegetation to be retained.
- (c) Retained trees, understory and stumps may subsequently be cleared only if such clearing is necessary to complete the proposal involved in the triggering application.
- (5) Buffer Marking. The location of the outer extent of landslide hazard area buffers shall be marked in the field as follows:
- (a) A permanent physical separation along the boundary of the landslide hazard area shall be installed and permanently maintained. Such separation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the administrator.
- (b) Buffer perimeters shall be marked with temporary signs at an interval of one per parcel or every 100 feet, whichever is less. Signs shall remain in place prior to and during approved construction activities. The signs shall contain the following statement: "Landslide Hazard Area & Buffer – Do Not Remove or Alter Existing Native Vegetation."
- (c) In the case of short plat, long plat, binding site plan or site plan approvals under this code, the applicant shall include on the face of any such instrument the boundary of the landslide hazard area and its buffer.
- (6) Buffers – Standard Requirements. The following landslide hazard area buffer provisions shall apply:
- (a) Buffer areas shall be required to provide sufficient separation between the landslide hazard area and the adjacent proposed project.
- (b) The appropriate width of the landslide hazard area buffer shall be determined by either: application of the standard buffer width set forth below; or, by acceptance of a geotechnical report meeting the criteria of this section.
- (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 landslide hazard area boundary.
- (f) A standard buffer of 30 feet shall be established from the top, toe and all edges of landslide hazard areas.
- (g) A building setback line is required to be five (5) feet from the edge of any buffer area for a landslide hazard area OR to outside the full extent of the high risk channel migration zone (CMZ), whichever is greater. For development proposed within moderate risk CMZs, the administrator shall determine the appropriate building setback based on circumstances that are specific to the proposed development site. In most circumstances, buffers associated with CMZs will be established through application of the protection standards for fish and wildlife habitat conservation areas (FWHCAs) through that article of the code, as those buffers will generally be greater than buffers for geologically hazardous areas as determined through this article of the code.
- (7) Reducing Buffer Widths. The administrator may reduce the standard landslide hazard area buffer width only when the project applicant demonstrates, to the satisfaction of the administrator, that the project cannot meet the required

setback. The reduced buffer must adequately protect the proposed project and the landslide hazard area to the maximum extent possible. Under no circumstances shall the buffer width be reduced to less than 15 feet.

(8) Increasing Buffer Widths. The administrator may increase the standard landslide hazard area buffer width when a larger buffer is necessary to protect the proposed project and the landslide hazard area. This determination shall be made when the administrator demonstrates any one of the following through appropriate documentation:

- (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 or the landslide hazard area.
  - (c) The adjacent land has minimal vegetative cover.
- (9) Geotechnical Report.

(a) An applicant submitting a project application shall submit, and have approved, a geotechnical report, as specified in Article VI-J of this chapter, when the application involves any of the following:

- (i) The alteration of a landslide hazard area or its buffer.
- (ii) The creation of a new parcel within a known landslide hazard area.
- (iii) The construction of a publicly owned facility in a designated seismic hazard area.

(b) Where a geotechnical report is required for a landslide hazard area, the project application shall not be approved unless the geotechnical report certifies all of the following:

- (i) There is minimal landslide hazard as proven by a lack of evidence of landslide activity in the vicinity in the past;
- (ii) An analysis of slope stability indicates that the proposal will not be subject to risk of landslide, or the proposal or the landslide hazard area can be modified so that hazards are eliminated;
- (iii) The proposal will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
- (iv) The proposal will not decrease slope stability on adjacent properties; and
- (v) All newly created building sites will be stable under normal geologic conditions (if applicable).

(c) Where a geotechnical report is required for a seismic hazard area, the project application shall not be approved unless the geotechnical report demonstrates that the proposed project will adequately protect the public safety. [Ord. 11-00 § 3.6.7(b)]

18.15.280 Conditions.

(1) General. In granting approval for a project application subject to the provisions of this Article VI-G, 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 special report required under this chapter. [Ord. 11-00 § 3.6.7(c)]

#### Article VI-H. Fish and Wildlife Habitat Conservation Areas

*Note: All references to Fish and Wildlife Habitat Areas (FWHAs) in the UDC will be changed to Fish and Wildlife Habitat Conservation Areas (FWHCAs).*

18.15.285 Classification/designation.

Fish and wildlife habitat conservation areas (FWHCAs) include both aquatic and terrestrial areas within Jefferson County. The approximate location and extent of critical fish and wildlife habitat conservation areas are displayed in the Washington Department of Fish and Wildlife's (WDFW) Priority Habitat and Species (PHS) Program database, and Jefferson County's Core Wildlife Habitat Conservation Areas database. The following designations shall be used in classifying ESAs to be regulated under this Article VI-H.

(1) Those waters that meet the criteria for type S, F, Np, and Ns as set forth in Chapter 222-16-030 and Chapter 222-16-031 WAC. Included in this definition are streams, lakes, and marine waters that are regulated under RCW 90.58 RCW, Shoreline Management Act, and wetlands and channel migration zones associated to regulated water bodies.

(2) Areas that are recognized by federal or state agencies for which federal or state endangered, threatened, and sensitive species of fish and wildlife have a primary association. This includes known locations of nests, rookeries, or other breeding areas; and habitat areas targeted for preservation by federal, state and/or local government which provide wildlife habitat benefits.

~~(3) Areas that contain habitats and species of local importance, including areas identified as Core Wildlife Habitat and Corridors in Jefferson County's Wildlife Habitat Conservation Areas database.~~

~~(1) All seasonal ranges and habitat elements with which state-listed candidate and monitor species or priority game and nongame species have a primary association.~~

~~(2) All habitats with which species of local importance have a primary association.~~

~~(3) Those waters that meet the criteria for Type 1, 2, 3, 4 and 5 streams as set forth in WAC 222-16-030.~~

~~(4) Areas with which federal or state endangered, threatened, and sensitive species of fish and wildlife have a primary association. [Ord. 11-00 § 3.6.8(a)]~~

18.15.290 Sources used for identification.

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

(1) United States Department of the Interior, 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 Datab-Bases.

(4) Jefferson County Shoreline Master Program and associated inventory and analysis.

(5) National Wetlands Inventory database.

(6) Coastal Zone Atlas, Jefferson County.

(7) WRIA 16, WRIA 17, WRIA 20, and WRIA 21 Limiting Factors Analyses.

(8) Jefferson County's Core Wildlife Habitat Conservation Areas database.

(9) US 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.

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

[Ord. 11-00 § 3.6.8(b)]

18.15.295 Fish and wildlife habitat conservation area maps.

The above maps have been produced for informational purposes only and are not regulatory devices forming an integral part of this Article VI-H. [Ord. 11-00 § 3.6.8(c)]

18.15.300 Exempt activities.

The following uses shall be allowed within a FWHCA or its buffer, if they are not prohibited by any other law, provided they are conducted so as to minimize any impact on the function and character of the FWHCA or its buffer, and provided they are consistent with any county-approved habitat management plan or other special report required by this chapter, or any state or federally approved management plan for an endangered, threatened, or sensitive species.

(1) Reconstruction of structures destroyed by fire or other means; provided, that completed application for reconstruction occurs within the previous structural footprint and within two years of the destruction. This provision is intended to apply only to that portion of a building which lies within a FWHCA or its buffer;

(2) The removal of noxious weeds from buffer areas;

(3) Existing and ongoing landscaping activities (such as lawn and garden maintenance) and existing and ongoing agricultural activities on lands enrolled in the open space tax program for agriculture or on lands designated as agricultural lands of long-term commercial significance on the official map of Comprehensive Plan Land Use Designations. For the purpose of this section, existing and ongoing means that agricultural activities have been conducted within the five-year period leading up to the adoption of Ordinance No. 5-03 on April 28, 2003;

(4) The enhancement of a buffer by planting indigenous vegetation;

(5) The construction of trails which shall be unpaved when located in the buffer areas and elevated when located in wetlands, which are not intended for motorized use, and which are no wider than five feet, unless additional width is necessary for safety along a precipice, steep hillside, or other hazardous area;

(6) Harvesting wild crops which do not significantly affect the viability of the wild crop, the function of the fish and wildlife habitat area or regulated buffer (does not include tilling of soil or alteration of the fish and wildlife habitat area, except as provided in subsection (3) of this section);

(7) Any of the general exemptions authorized by Article VI-D of this chapter. [Ord. 06-04 § 2; Ord. 5-03 § 2; Ord. 11-00 § 3.6.8(d)]

18.15.305 Regulated activities.

Any land use or development activity which is subject to a development permit or approval requirements of this code shall be subject to the provisions of this Article VI-H. These include, but are not limited to the following activities which are directly undertaken or originate in a FWHCA or its buffer, unless exempted.

(1) Stream Crossings. All stream crossings should be discouraged and alternatives should be explored. Any private or public road expansion or construction which is proposed and must cross streams classified within this article, shall comply with the following minimum development standards:

(a) The design of stream crossings shall meet the requirements of the Washington Department of Fish and Wildlife. Fish passage shall be provided if necessary to address manmade obstructions on-site. Other alternatives may be allowed upon a showing that, for the site under review, the alternatives would be less disruptive to the habitat or that the necessary building foundations were not feasible. Submittal of a habitat management plan which demonstrates that the alternatives would not result in significant impacts to the fish and wildlife habitat area (FWHCA) may be required;

(b) Crossings shall not occur in salmonid spawning areas unless no other reasonable crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;

(c) Bridge piers or abutments shall not be placed either within the floodway or between the ordinary, high water marks unless no other reasonable alternative placement exists;

(d) All stream crossings shall be required to pass 100-year projected flood flows, even in non-fish bearing Type 4 and 5 streams. In addition, crossings for Type 1, 2 or 3 should allow for downstream transport of large woody debris;

(e) Crossings shall serve multiple properties whenever possible; and

(f) Where there is no reasonable alternative to providing a culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

(2) All land divisions, as allowed by Chapter 18.35 JCC, or as a PRRD as regulated in this chapter, shall comply with the following development standards:

(a) In order to avoid the creation of nonconforming lots, each new lot shall contain at least one building site that meets the requirements of this code, including buffer requirements for FWHCAs. This site must also have access and a sewage disposal system location that are suitable for development and does not adversely impact the FWHCA.

(b) The applicant must submit a habitat management plan if the proposal is located within a designated core wildlife habitat area or corridor, unless the proposal is for a planned rural residential development (PRRD), as provided for in this code, and the PRRD clusters residential development outside of designated core wildlife habitat areas or corridors. The habitat management plan submitted with a standard land division application must demonstrate that the land division and subsequent development will not result in fragmentation and loss of wildlife habitat function.

(bc) After preliminary approval and prior to final land division approval, the common boundary between a required buffer and the adjacent property shall be identified using appropriate signs as specified in this article. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the administrator to provide adequate identification to the buffer and the FWHCA.

(ed) Buffer areas shall be dedicated as permanent open space tracts, functioning as sensitive areas buffers.

(3) Utilities. Placement of utilities within designated fish and wildlife habitat areas may be allowed pursuant to the following standards:

(a) Construction of utilities may be permitted in FWHCAs or their buffers, only when no practicable or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below. Utilities are encouraged to follow existing or permitted roads where possible.

(b) Construction of sewer lines or on-site sewage systems are not permitted in FWHCAs or their buffers, except that they may be permitted in a buffer area when the applicant demonstrates it is necessary to meet state and/or local health code requirements; there are no other practicable alternatives available; and construction meets the requirement of this article. Joint use of the sewer utility corridor by other utilities may be allowed.

(c) New utility corridors shall not be allowed in FWHCAs with known locations of federal or state-listed endangered, threatened or sensitive species, except in those circumstances where an approved habitat management plan is in place.

(d) Utility corridor construction and maintenance shall protect the environment of fish and wildlife habitat areas and their buffers.

(i) New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side.

(ii) New utility corridors shall be revegetated with appropriate native vegetation at not less than preconstruction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility shall ensure that such vegetation survives for a three-year period.

(e) Utility towers should be painted with brush, pad or roller and should not be sandblasted or spray-painted, nor shall lead-base paints be used.

(4) Bank Stabilization.

(a) A stream channel and bank, bluff, and shoreline may be stabilized when naturally occurring earth movement threatens existing legal structures (structure is defined for this purpose as those requiring a building permit pursuant to the

Uniform Building Code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish habitat or improved water quality, as demonstrated through a habitat management plan or equivalent study or assessment. Bluff, bank and shoreline stabilization shall follow the standards of the Jefferson County Shoreline Master Program, geologically hazardous areas provision in this chapter, and the floodplain management ordinance.

(b) The administrator may shall require that bank stabilization be designed by a professional engineer licensed in the state of Washington with demonstrated expertise in hydraulic actions of shorelines. For bank stabilization projects within FWHCAs, the applicant must provide a geotechnical report that demonstrates that emphasis shall be placed on bioengineering solutions (vegetation versus hard surfaces) unless proved by the applicant to be are infeasible. The report must document the engineering rationale why bioengineering solutions are infeasible in a manner which can be confirmed through review by other engineering professionals. Bank stabilization projects may also require a hydraulic project approval from the Washington Department of Fish and Wildlife which will be determined after consultation with WDFW.

(5) Gravel Mining. Gravel mining is discouraged within FWHCAs or their buffers, and it shall not be permitted if it causes unmitigatable significant adverse impacts, but it may be allowed following the review and approval of a habitat management plan, including a detailed mining and reclamation plan pursuant to the applicable performance standards in Chapter 18.20 JCC (mineral extraction) or as otherwise required in this code.

(6) Forest Practices, Class IV General. Timber harvesting with associated development activity involving land conversions from forest use, or otherwise meeting the DNR definition as a Class IV General application, shall comply with the provisions of this article, including the maintenance of buffers, where required. Proposals corresponding with Class IV General applications and located within a designated core wildlife habitat area or corridor must either conform to the minimum standards of the conversion option harvest plan (COHP) provisions of this code or include a habitat management plan that demonstrates that the activity will not be detrimental to the function of the core wildlife habitat area or corridor.

(7) Road/Street Repair and Construction. Any private or public road or street expansion or construction which is allowed in a fish and wildlife habitat area or its buffer shall comply with the following minimum development standards:

(a) No other reasonable or practicable alternative exists and the proposed road or street serves multiple properties whenever possible;

(b) Public and private roads are encouraged to provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;

(c) The road or street construction is the minimum necessary, as required by the department of public works' guidelines. Minimum necessary provisions may include projected level of service requirements; and

(d) Construction time limits shall be determined in consultation with the Washington Department of Fish and Wildlife in order to ensure species and habitat protection.

(8) Outdoor Recreation, Education and Trails. Activities and improvements which do not significantly affect the function of the fish and wildlife habitat area or regulated buffer (including viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted in FWHCAs or their buffers.

(a) Trails and other facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other previously disturbed areas;

(b) Trails and other facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;

(c) Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize impacts to wildlife, fish, or their habitat and/or critical characteristics of the affected conservation area;

(d) Trails, in general, shall be set back from streams so that there will be minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible and trails within a FWHCAs are not intended to be used by motorized vehicles.

(9) Chemical Application or Storage. Chemical applications are not permitted within FWHCAs unless expressly approved as part of a farm plan, forest practices application, or for the control of invasive or noxious plant species. In cases where approved chemical applications occur as part of a forest practices application or farm plan, proper reporting procedures shall be followed. Chemical storage shall not be permitted within a FWCA or its buffer. [Ord. 11-00 § 3.6.8(e)]

18.15.310 General prohibitions.

No land use or development activity, even if the activity does not require a permit, shall be allowed that alters the function or character of the FWCA or its buffer. This includes, but is not limited to activities involving:

(1) The removal, excavation, grading, dumping, discharging, or filling of any material unless part of a project which has been permitted pursuant to this Article VI-H;

(2) The destruction or alteration of FWHCAs or their buffers through clearing, grading, harvesting, shading, intentional burning, vegetation removal or planting of vegetation that would alter the character of the FWCA or buffer, unless part of a project which has been permitted pursuant to this article;

(3) New residential, commercial or industrial development or construction, unless exempted or provided for elsewhere in this article. [Ord. 11-00 § 3.6.8(f)]

18.15.315 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 below.

(2) Drainage and Erosion Control. An applicant submitting a project application shall also submit, and have approved, a drainage and erosion control plan, as specified in this chapter.

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

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

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

(b) 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.

(c) Retained trees, understory and stumps may subsequently be cleared only if such clearing is necessary to complete the proposal involved in the project application.

(d) Vegetation in a delineated channel migration zone (CMZ) shall be managed consistent with DNR Forest and Fish rules for timber harvest, which encourage the development of mature trees to provide a source of habitat-forming large woody debris (LWD). [222-30-020(12) WAC]

(5) Buffers – Standard Requirements. Fish and wildlife habitat conservation areas shall have buffers and building setbacks established.

(a) Buffers or setbacks shall be maintained along the perimeter of fish and wildlife habitat conservation areas. Buffer distances associated with for streams shall be measured horizontally from the ordinary high water mark (OHWM), unless the stream is associated with a delineated high risk channel migration zone (CMZ), in which case the buffer shall be measured from the outer boundary of the CMZ. All other buffer distances shall be measured horizontally from the established FWHCA perimeter.

(b) A building setback line of five feet is required from the edge of any buffer area.

(c) 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.

(d) Streams with adjacent riparian wetland habitats shall be subject to the buffer widths which apply to their wetland class or the standard streamside buffer widths set forth below, whichever is more restrictive.

(e) Standard streamside-buffer widths shall be applied to each side of the stream-waterbody in accordance with Table 3-2.

Table 3-2. Standard Streamside Buffers

<u>Stream Type</u>	<u>Buffer Widths</u>
<u>Type 1 &amp; 2</u>	<u>150 ft.</u>
<u>Type 3</u>	<u>100 ft.</u>
<u>Type 4</u>	<u>100 ft.</u>
<u>Type 5</u>	<u>50 ft.</u>

Table 3-2. Standard Stream Buffers.

<u>Stream Type</u>	<u>Buffer Widths</u>
<u>Category S</u>	<u>150 ft</u>
<u>Category F</u>	<u>150 ft</u>
<u>Category Np</u>	<u>100 ft</u>
<u>Category Ns</u>	<u>50 ft</u>

Note: Stream type shall be determined using the criteria set forth in WAC 222-16-030.

(d) Marine shorelines are regulated in conjunction with the Jefferson County Shoreline Master Program (SMP). The standard building setback in the SMP shall also be considered a FWHCA and may be regulated as such through this article.

(6) Reducing Buffer Widths. The administrator may reduce the standard buffer widths when the project applicant demonstrates the following to the satisfaction of the administrator:

(a) Standard buffer function will be preserved through such mechanisms as buffer averaging or enhancement with native vegetation.

(b) A habitat management plan is required for all buffer width reductions, including buffer averaging.

(c) Under no circumstances shall buffer widths be reduced by more than 25 percent, except that the administrator may reduce a buffer applied to the outer boundary of a delineated CMZ based on review of the habitat management plan that demonstrates the maintenance of riparian habitat functions and consideration of circumstances, such as topography, habitat conditions and species presence, that are specific to the development site.

(7) Increasing Buffer Widths. The administrator may increase the standard buffer width when a larger buffer width is necessary to protect the structure, function and character of FWHCAs. The buffer may be increased or other protections provided in order to prevent a significant adverse environmental impact to the function or character of the FWHCA by a proposed land use or development activity.

This determination shall be supported by appropriate documentation. Such determination shall be attached as permit condition and shall demonstrate that:

(a) A larger buffer is necessary to maintain viable populations or critical habitat of endangered, threatened, or sensitive species; or

(b) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts to the FWHCA; or

(c) Increasing the vegetation area widths will only be done as necessary to preserve the structure, function and character of the FWHCA; or

(d) If the FWHCA lies within an area where there is evidence of a migrating stream or river channel, or within a delineated moderate or low risk CMZ, increased protection in the form of an extended buffer will may be necessary. ~~Based upon site habitat conditions and species presence, the buffer may be extended;~~ or

(e) If streams are located in ravines (45 percent slope or greater), the minimum buffer width shall be the minimum buffer required for the stream type, or a buffer width which extends 25 feet beyond the top of the slope, whichever is greater.

(8) Averaging Buffer Widths. The administrator may modify the standard buffer widths by averaging. Buffer width averaging shall be allowed only when an individual or firm meeting the criteria of JCC 18.15.395(2) demonstrates all of the following to the satisfaction of the administrator:

(a) Width averaging will not adversely impact the function or character of the designated FWHCA.

(b) The total area contained within the buffer after averaging is not less than that contained within the standard buffer prior to averaging.

(c) The standard buffer width has not been reduced by more than 25 percent.

(d) A habitat management plan shall be prepared to justify buffer width averaging.

(9) Buffer Marking. Upon approval of the habitat management plan, the location of the outer extent of required buffers shall be marked in the field as follows:

(a) A permanent physical separation along the boundary of the buffer area shall be installed and permanently maintained. Such separation may consist of logs, a tree or hedge row, or other prominent physical marking approved by the administrator.

(b) Buffer perimeters shall be marked with temporary signs at an interval of one per parcel or every 100 feet, whichever is less. Signs shall remain in place prior to and during approved construction activities. The signs shall contain the following statement: "Buffer – Do Not Remove or Alter Existing Native Vegetation."

(c) 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 streamside buffer area.

(d) 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. 11-00 § 3.6.8(g)]

18.15.320 Conditions.

(1) General. In granting approval for a project application subject to the provisions of this Article VI-H, 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 special report required under this chapter. [Ord. 11-00 § 3.6.8(h)]

**Article VI-I. Wetlands**

18.15.325 Classification/designation.

(1) Classification. Wetlands shall be classified using the 2004 Washington State Department of Ecology's Wetland Rating System for Western Washington (Ecology Publication #04-06-025), or as amended 2nd Edition, 1993. Wetland rating categories shall not be determined based on illegal modification of the land. Wetland delineations shall be determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

(2) Designation. As determined using the 2004 Washington State Department of Ecology's Wetland Rating System for Western Washington, 2nd Edition, 1993 (Ecology Publication #04-06-025, or as amended), all Category I wetlands, Category II and Category III wetlands 2,500 square feet or larger in size, and Category III and IV wetlands 10,000,000 square feet or larger in size, shall be subject to the standards of this Article VI-I.

(3) Sources Used for Identification. The following sSources should be used to identify designatedpotential 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, Soil Survey of Jefferson County Areas, Washington.

(bc) United States Department of Agriculture, Natural Resources Conservation Service, Hydric Soils List, Jefferson County Area. Areas identified as hydric soils, soils with significant soil inclusions and "wet spots" within the United States Department of Agriculture/Soil Conservation Service Soil Survey for Jefferson County.

(c) Washington State Department of Natural Resources, Geographic Information System: Hydrography and Soils Survey Layers.

(4)(d) County Wetland-Environmentally Sensitive Areas Mappings. 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. 11-00 § 3.6.9(a)]

18.15.330 Regulated activities.

Any land use or development activity shall be subject to the provisions of this Article VI-I, including, but not limited to, the following activities which are directly undertaken or originate in a regulated wetland or its buffer, unless exempted:

(1) The removal, excavation, grading, or dredging of material of any kind, including the construction of ponds and trails;

(2) The dumping, discharging, or filling of any material;

(3) The draining, flooding, or disturbing of the wetland water level or water table;

(4) The driving of pilings;

(5) The placing of obstructions;

(6) The construction, reconstruction, demolition, 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 the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW (Forest Practices Act) and its rules; or

(8) Activities that result in:

(a) A significant change of water temperature;

(b) A significant change of physical or chemical characteristics of wetlands water sources, including quantity; or

(c) The introduction of pollutants. [Ord. 11-00 § 3.6.9(b)]

18.15.335 Exempt activities.

(1) Wetlands. The following uses shall be allowed within a regulated wetland without having to meet the protection standards, or requirements for wetland studies or mitigation set forth in this Article VI-I, if they are not prohibited by any other law. However, forest practices and conversions are governed by Chapter 76.09 RCW and its rules.

(a) Normal maintenance, repair, or operation of existing structures, facilities, or improved areas, such as on-site septic systems, lawns, landscaping, orchards, gardens, trails, and driveways. Maintenance and repair do not include any modification that changes the character, scope, or size of the original structure, facility, or improved area, and do not include the construction of a maintenance road;

(b) Modification or expansion of existing uses and structures, pursuant to the requirements of the nonconforming use and structure provisions of this code;

(c) Outdoor recreational activities, including hunting and fishing (pursuant to state law), birdwatching, hiking, bicycling, boating, and swimming;

(d) 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;

(e) Existing and ongoing agricultural activities on lands enrolled in the open space tax program for agriculture or on lands designated as agricultural lands of long-term commercial significance on the official map of Comprehensive Plan Land Use Designations. For the purpose of this section, "existing and ongoing" means that agricultural activities have been conducted within the five-year period leading up to the adoption of Ordinance No. 5-03 on April 28, 2003;

(f) Removal of noxious weeds

(fg) Normal maintenance, but not construction or enlargement, of drainage ditches;

(gh) Use of existing nature trails;

(hi) Installation of navigation aids and boundary markers;

(ij) Site investigative work necessary for a project application submittal, such as surveys, soil logs, percolation tests, and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored;

(jk) Drilling or digging and maintenance of wells; provided, that wetland impacts are minimized and disturbed areas are immediately restored.

(2) Wetland Buffers. In addition to those activities allowed in regulated wetlands in this article, the following activities are allowed within wetland buffers without having to meet the protection standards, or requirements for wetland studies or mitigation set forth in this article; provided, that impacts to buffers are minimized and that disturbed areas are immediately restored except as specifically allowed in subsection (2)(a) of this section.

(a) In association with a single-family residence only, the establishment and expansion of lawns, landscaping, orchards, gardens, and fences; provided, that:

(i) Lawns, landscaping, orchards, and gardens shall be allowed within the outer 25 percent of the buffer width where no reasonable alternative is available. No structure other than fences nor any impervious surface shall be included in the above; and

(ii) Fences shall be designed to allow the unimpeded passage of surface water beneath them.

(b) Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These include low intensity, passive recreational activities, such as pervious trails, nonpermanent wildlife watching blinds, scientific or educational activities, and sports fishing or hunting. Trails within buffers shall be designed to minimize impacts to the wetland, and shall not include any impervious surfaces.

(c) 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. 06-04 § 2; Ord. 5-03 § 2; Ord. 11-00 § 3.6.9(c)]

18.15.340 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) Delineation. An applicant submitting a project application shall also submit, and have approved, a wetland delineation report as specified in JCC 18.15.400. Additionally, the following provisions shall apply:

(a) The location of the wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

(b) 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 class.

~~(c) After approval of the delineation report, the wetland boundary shall be staked and flagged in the field. Wetland delineations must be conducted by a qualified wetland biologist with education and training experience in wetland science.~~

(d) This requirement may be waived under the following circumstances:

(i) Single-Family Residences. The requirement for a wetland delineation and special report may be waived for construction of a single-family residence on an existing lot of record if field investigation by county staff indicates the following:

(A) Sufficient information exists for staff to estimate the boundaries of a wetland without a delineation; and

(B) The single-family residence and all accessory structures and uses are not proposed to be located within the distances identified in Table 3-3, below, from the estimated wetland boundary.

~~(ii) Subdivisions and Short Subdivisions Land Divisions. The requirement for a wetland delineation and special report will be waived for subdivisions and short subdivisions of an existing lot of record if field investigation by county staff indicates the following:~~

~~(A) Sufficient information exists for staff to estimate the boundaries of a wetland without a delineation; and~~

~~(B) Building envelopes or building setback lines are not proposed to be located within the distances identified in Table 3-3, below, from the estimated wetland boundary.~~

(C) Appurtenances, utility lines, stormwater ponds or vaults, and road improvements are not proposed to be located within the distances identified in Table 3-3, below, from the estimated wetland boundary.

Table 3-3. Minimum Wetland Buffers Necessary as Part of Qualifying for a Waiver from Delineation and Special Report Requirements(1, 2, 3)

Wetland Category	Intensity of Impact According to Proposed Land Use	Required Distance from Estimated Wetland Boundary (feet)(4, 5)
I	High	225450
	Moderate	338
	Low	225
II	High	150450
	Moderate	338
	Low	225
III	High	75225
	Moderate	165
	Low	113
IV	High	3775
	Moderate	60
	Low	38

Notes:

1. These buffers are one part of the complete requirements necessary to qualify for a waiver. See subsection (2) of this section.

2. These are not standard wetland buffers: they are optional buffers for cases when a delineation is not made. These minimum waiver buffers, shown in Table 3-3, are 1.5 times the standard buffer widths identified in this article, according to wetland category, wetland characteristics, and the level of impact associated with proposed land use type. If a single-family residence, building envelope, or setback line in a subdivision is proposed to be closer to the wetland than the distance identified in the table, a wetland delineation must be conducted and a wetland report must be performed submitted for County review.

3. ~~The same opportunities for exemption from delineation shall apply to u~~Uncategorized wetlands shall be assumed to be Wetland Category 1 with wetland characteristics that require the largest buffer width in the respective wetland category, unless an assessment is made of the wetland in order to determine its category and classify the wetland according to the wetland characteristics in Table 3-4B of this section. The ~~department of community development applicant~~ shall be responsible for determining the wetland category and characteristics, and that determination must be made by a qualified professional.

4. Upon submittal of a wetland assessment performed by a qualified professional that includes a determination of the wetland category and wetland characteristics, the required distance from the estimated wetland boundary in this table in order to qualify for a waiver from the full wetland delineation and special report requirements may be reduced to 1.5 times that of the standard buffer width in Table 3-4B associated with the identified wetland category and characteristics.

45. The following shall not be located within the distances identified in the table: (a) single-family residences and all accessory structures and uses; (b) subdivision building envelopes and setback lines; and (c) appurtenances, utility lines, stormwater ponds or vaults, and road improvements.

(3) Drainage and Erosion Control. An applicant submitting a project application shall also submit, and have approved, a drainage and erosion control plan as specified in this chapter. The plan shall discuss, evaluate and recommend methods to minimize sedimentation of designated wetlands during and after construction. The plan shall also discuss, evaluate and recommend methods to mimic existing wetland hydrologic conditions to the extent possible in order to minimize the potential for altering surface water flows (quantity and duration) to the wetland post-construction.

(4) Buffer Marking. Upon approval of the delineation report the location of the outer extent of the wetland buffer shall be marked in the field as follows:

(a) A permanent physical separation along the upland boundary of the wetland buffer area shall be installed and permanently maintained. Such separation may consist of ~~logs, split rail fencing, densely planted native vegetation, a tree or hedge row,~~ or other prominent physical marking approved by the administrator.

(b) ~~Buffer perimeters shall be marked with temporary signs at an interval of one per parcel or every 100 feet, whichever is less. Signs shall remain in place prior to and during approved construction activities. The signs shall contain the following statement: "Wetland & Buffer — Do Not Remove or Alter Existing Native Vegetation."~~In the case of short plat, long plat, binding site plan, and site plan approvals under this code, temporary silt fencing and orange barrier fencing shall be installed in the upland area beyond the wetland edge during construction to protect the wetland and wetland buffer. Temporary fencing must be removed once construction is complete.

(c) 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 wetland and its buffer.

(d) 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.

(5) Buffers – Standard Requirements. The following buffer provisions shall apply:

(a) Buffer areas shall be required to provide sufficient separation between the designated wetland and the adjacent proposed project to protect the wetland functions and values.

(b) The appropriate width of the wetland buffer shall be determined by either: application of the standard buffer widths set forth below in Table 3-4; or by variations to the standard buffers as allowed in subsections (6), (7) and (8) of this section.

(c) Buffers shall remain naturally vegetated except where the vegetation has been disturbed, invaded by highly undesirable species (e.g., noxious weeds), or would substantially benefit from the increased diversity of ~~introduced-native~~ species. Where buffer disturbance has occurred during construction, replanting with native vegetation shall be required. Minor pruning of vegetation to enhance views ~~and removal of undesirable species (e.g., alders)~~ may be permitted by the administrator on a case-by-case basis.

(d) All buffers shall be measured perpendicularly from the wetland boundary as surveyed in the field.

(e) For purposes of determining buffer requirements, proposed land uses shall be categorized as having high, moderate, or low levels of impact according to Table 3-4A, or as determined by the administrator on a case-by-case basis.

Table 3-4A. Types of proposed land use that can result in high, moderate, and low levels of impact to adjacent wetlands.

<u>Level of Impact from Proposed Change in Land Use</u>	<u>Types of Land Use</u>
<u>High</u>	<ul style="list-style-type: none"> <li>• <u>Commercial</u></li> <li>• <u>Urban</u></li> <li>• <u>Industrial</u></li> <li>• <u>Institutional</u></li> <li>• <u>Retail sales</u></li> <li>• <u>Residential (more than 1 unit/acre)</u></li> <li>• <u>Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.)</u></li> <li>• <u>High-intensity recreation (golf courses, ball fields, etc.)</u></li> <li>• <u>Hobby farms</u></li> </ul>
<u>Moderate</u>	<ul style="list-style-type: none"> <li>• <u>Residential (1 unit/acre or less)</u></li> <li>• <u>Moderate-intensity open space (parks with biking, jogging, etc.)</u></li> <li>• <u>Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)</u></li> <li>• <u>Paved trails</u></li> <li>• <u>Building of logging roads</u></li> <li>• <u>Utility corridor or right-of-way shared by several utilities and including access/maintenance road</u></li> </ul>
<u>Low</u>	<ul style="list-style-type: none"> <li>• <u>Forestry (cutting of trees only)</u></li> <li>• <u>Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)</u></li> <li>• <u>Unpaved trails</u></li> <li>• <u>Utility corridor without a maintenance road and little or no vegetation management.</u></li> </ul>

(ef) Standard wetland buffer widths shall be as established in Table 3-4B.

Table 3-4B. Standard Buffer Widths  
for Wetlands

Wetland Category	Standard Buffer Width
I	150 ft.
II	100 ft.
III	50 ft.
IV	25 ft.

<b><u>WETLAND CHARACTERISTICS</u></b>	<b><u>BUFFER WIDTH (BY PROPOSED LAND USE IMPACT)</u></b>
<b><u>CATEGORY I WETLANDS</u></b> <b><u>(Wetlands scoring 70 or more points for all functions OR wetlands having "Special Characteristics" as identified on the rating form)</u></b>	
<u>Natural Heritage Wetlands</u>	<u>Low - 125 ft</u> <u>Moderate – 190 ft</u> <u>High – 250 ft</u>
<u>Bogs</u>	<u>Low - 125 ft</u> <u>Moderate – 190 ft</u> <u>High – 250 ft</u>
<u>Forested</u>	<u>Buffer width to be based on score for habitat functions or water quality functions</u>
<u>Estuarine</u>	<u>Low - 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft</u>
<u>Wetlands in Coastal Lagoons</u>	<u>Low - 100 ft</u> <u>Moderate – 150 ft</u> <u>High – 200 ft</u>
<u>High level of function for habitat (score for habitat 29 - 36 points)</u>	<u>Low – 150 ft</u> <u>Moderate – 225 ft</u> <u>High – 300 ft</u>
<u>Moderate level of function for habitat (score for habitat 20 - 28 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>
<u>High level of function for water quality improvement (24 – 32 points) and low for habitat (less than 20 points)</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>
<u>Not meeting any of the above characteristics</u>	<u>Low – 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>
<b><u>CATEGORY II WETLANDS</u></b> <b><u>(Wetlands scoring 51-69 points for all functions OR wetlands having "Special Characteristics" as identified on the rating form)</u></b>	

<u>High level of function for habitat (score for habitat 29 - 36 points)</u>	<u>Low - 150 ft</u> <u>Moderate – 225 ft</u> <u>High – 300 ft</u>
<u>Moderate level of function for habitat (score for habitat 20 - 28 points)</u>	<u>Low - 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>
<u>High level of function for water quality improvement and low for habitat (score for water quality 24 - 32 points; habitat less than 20 points)</u>	<u>Low - 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>
<u>Estuarine</u>	<u>Low - 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>
<u>Interdunal</u>	<u>Low - 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>
<u>Not meeting above characteristics</u>	<u>Low - 50 ft</u> <u>Moderate – 75 ft</u> <u>High – 100 ft</u>
<b><u>CATEGORY III WETLANDS</u></b> <b><u>(Wetlands scoring 30-50 points for all functions)</u></b>	
<u>Moderate level of function for habitat (score for habitat 20 – 28 points)</u>	<u>Low – 75 ft</u> <u>Moderate – 110 ft</u> <u>High – 150 ft</u>
<u>Not meeting above characteristic</u>	<u>Low – 40 ft</u> <u>Moderate – 60 ft</u> <u>High – 80 ft</u>
<b><u>CATEGORY IV WETLANDS</u></b> <b><u>(Wetlands scoring less than 30 points for all wetlands functions)</u></b>	
<u>Score for all 3 basic functions is less than 30 points</u>	<u>Low - 25 ft</u> <u>Moderate – 40 ft</u> <u>High – 50 ft</u>

(6) Reducing Buffer Widths. The administrator may reduce the standard wetland buffer widths, when the project applicant demonstrates both of the following to the satisfaction of the administrator:

(a) Standard wetland buffer width averaging as set forth in this article is unfeasible.

(b) The project application includes a buffer enhancement plan using native vegetation which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for functions and values.

(c) Buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate intensity impacts under the following conditions:

(i) For wetlands that score moderate or high for habitat (20 points or more for the habitat functions), the width of the buffer can be reduced if a relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitat (as defined by Washington Department of Fish and Wildlife) and if measures, such as those presented in Table 3-4C, are used to minimize impacts of different land uses on wetlands.

(ii) For wetlands that score less than 20 points for habitat, the buffer width can be reduced to that required for moderate land use impacts by applying measures, such as those presented in Table 3-4C, to minimize the impacts of the proposed land uses.

(d) Buffer reductions may be allowed where a legally established, nonconforming use of the buffer exists (such as a road or structure that lies within the recommended buffer width) as long as the degree of nonconformity does not increase.

Table 3-4C. Examples of measures to minimize impacts to wetlands from proposed land uses with high-intensity impacts.

<u>Type of Disturbance</u>	<u>Origins of Disturbance</u>	<u>Examples of Measures to Minimize Impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Warehouses</u></li> <li>• <u>Manufacturing</u></li> <li>• <u>Residential</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> </ul>
<u>Noise</u>	<ul style="list-style-type: none"> <li>• <u>Manufacturing</u></li> <li>• <u>Residential</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> </ul>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Manufacturing</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Application of agricultural pesticides</u></li> <li>• <u>Landscaping</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> <li>• <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u></li> <li>• <u>Apply integrated pest management</u></li> </ul>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Manufacturing</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Commercial</u></li> <li>• <u>Landscaping</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u></li> <li>• <u>Prevent channelized flow from lawns that directly enters the buffer</u></li> </ul>
<u>Change in water regime</u>	<ul style="list-style-type: none"> <li>• <u>Impermeable surfaces</u></li> <li>• <u>Lawns</u></li> <li>• <u>Tilling</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u></li> </ul>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> <li>• <u>Residential areas</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract</u></li> </ul>
<u>Dust</u>	<ul style="list-style-type: none"> <li>• <u>Tilled fields</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Use best management practices to control dust</u></li> </ul>

(7) **Increasing Buffer Widths.** The administrator may increase the standard wetland buffer widths when a larger buffer is necessary to protect wetland functions and values based on local conditions. This determination shall be made only when the department demonstrates any one of the following through appropriate documentation:

- (a) A larger buffer is necessary to maintain viable populations of existing species.
- (b) The wetland is used by species listed by the Washington State Department of Wildlife as endangered, threatened, or sensitive, or has documented priority species or habitats or essential or outstanding potential habitat for those species, or has unusual nesting or resting sites (e.g., heron rookeries and raptor nesting trees).
- (c) The adjacent land is susceptible to severe landslide or erosion, and erosion control measures will not effectively prevent adverse wetland impacts.
- (d) The adjacent land has minimal vegetative cover or slopes greater than 45 percent.

(8) ~~Averaging~~ Buffer Widths Averaging. The administrator may modify the standard wetland buffer widths set forth in this section by averaging. Buffer width averaging shall be allowed only when an individual or firm meeting the criteria of JCC 18.15.400(2) demonstrates all of the following to the satisfaction of the administrator:

- (a) ~~Width-Buffer~~ averaging will ~~not adversely impact the result in an improvement to~~ wetland functions and values;
- (b) The total area contained within the wetland buffer after averaging is not less than that contained within the standard buffer prior to averaging;
- (c) The standard buffer width has not been reduced by more than 25 percent. [Ord. 11-00 § 3.6.9(d)]

18.15.345 Noncompensatory enhancement.

(1) ~~Noncompensatory enhancement~~ are those wetland enhancement projects which are conducted solely to increase the functions and values of an existing wetland and which are not required to be conducted pursuant to the mitigation requirements of JCC 18.15.350. ~~There are two types of noncompensatory enhancement:~~

~~(1) Type 1 Noncompensatory Enhancement. Type 1 noncompensatory enhancement projects involve the filling, draining, or excavating of a regulated wetland. All applications for Type 1 noncompensatory enhancement projects shall be accompanied by an enhancement plan prepared in accordance with subsections (1)(a) and (1)(b) of this section, which demonstrates that the proposed activities will result in an increase in wetland functions and values.~~

~~(a) The enhancement plan must be submitted for review and approval by the administrator;~~

~~(b) The enhancement plan must either be prepared by a qualified wetlands consultant or accepted in writing by the U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, or the Washington Department of Ecology.~~

~~(2) Type 2 Noncompensatory Enhancement. Type 2 noncompensatory enhancement projects involve wetland alterations that do not include the filling, draining, or excavating of a regulated wetland. Such projects might involve the removal of non-native plant species or the planting of native plant species.~~

(2) All applications for Type 2 noncompensatory enhancement projects shall be accompanied by an enhancement plan prepared in accordance with subsections (2)(a) through (2)(c) of this section, which demonstrates that the proposed activities will result in an increase in wetland functions and values.

(a) The enhancement plan shall be submitted for review and approval by the administrator;

(b) The enhancement plan must include a detailed description of the activity including the following information:

- (i) The goal of the enhancement project;
- (ii) What plants, if any, will be removed or planted;
- (iii) How the activity will be conducted, including the type(s) of tools or machinery to be used; and
- (iv) The qualifications of the individual who will be conducting the enhancement activity.

(c) The enhancement plan must either be prepared by a qualified wetlands consultant or accepted in writing by the U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, or the Washington Department of Ecology. [Ord. 11-00 § 3.6.9(e)]

18.15.350 Mitigation.

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

(1) Mitigation Sequence. Mitigation includes avoiding, minimizing, or compensating for adverse impacts to regulated wetlands or their and wetland buffers. ~~When a proposed use or development activity poses potentially significant adverse impacts to a regulated wetland or its buffer, the~~ The preferred sequence of mitigation, as defined below, shall be followed to protect wetland functions and values.

~~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 actions on that portion of the site which contains the regulated wetland or its buffer;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

(2) Compensatory Mitigation – General Requirements. As a condition of any permit or other approval allowing alteration which results in the 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 when conducting activities exempt under this article, any person who permanently alters or proposes to alter regulated wetlands shall restore or create areas of provide wetland mitigation that achieves equivalent or greater wetland functions equivalent to or larger than those altered in order to compensate for wetland losses. The following Table 3-5 specifies the ratios that apply to creation or restoration which is in-kind, on-site, and is accomplished mitigation conducted prior to or concurrently with alteration. For impacts to forested and shrub wetlands that are not permanent, mitigation for temporal loss of wetland functions will be determined on a case-by-case basis.

Table 3-5. Required Replacement Ratios  
for Compensatory Wetland Mitigation Mitigation Ratios

Wetland Category	Creation and Restoration(1)	Enhancement(2)
I	6:1	12:1
II or III		
• Forested	3:1	6:1
• Scrub Shrub	2:1	4:1
• Emergent	2:1	4:1
IV	1.25:1	2.5:1

Notes:

1. The first number in the ratio specifies the acreage of wetlands to be created, and the second number specifies the acreage of wetlands proposed to be altered or lost. The replacement ratios are derived from Department of Ecology Publication No. 97-112 (1998): "How Ecology Regulates Wetlands."
2. Enhancement of existing wetlands may be considered as compensation, but above ratios must then be doubled.

Category and Type of Wetland Impacts	Wetland Re-establishment or Creation	Wetland Rehabilitation Only	Wetland Re-establishment or Creation (R/C) and Rehabilitation (RH)	Wetland Re-establishment or Creation (R/C) and Enhancement (E)	Wetland Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 1:1RH	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
Category II Interdunal	2:1 Compensation has to be interdunal wetland	4:1 Compensation has to be interdunal wetland	1:1 R/C and 2:1 RH Compensation has to be interdunal wetland	Not considered an option	Not considered an option
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 Natural Heritage site	Not applicable	6:1 Rehabilitation of a Natural Heritage site	Not applicable	Not applicable	Not applicable
Category I Coastal Lagoon	Not applicable	6:1 Rehabilitation of a coastal lagoon	Not applicable	Not applicable	Case-by-case

<u>Category I Bog</u>	<u>Not applicable</u>	<u>6:1 Rehabilitation of a bog</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Case-by-case</u>
<u>Category I Estuarine</u>	<u>Case-by-case</u>	<u>6:1 Rehabilitation of an estuarine wetland</u>	<u>Case-by-case</u>	<u>Case-by-case</u>	<u>Case-by-case</u>

- (b) Compensation must be completed prior to wetland ~~or wetland buffer destruction~~ impact, where possible.
- (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 which 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.
- (e) Mitigation plans shall be prepared by a qualified wetland specialist as specified in JCC 18.15.400.
- (f) The applicant shall demonstrate sufficient scientific expertise, supervisory capability, and financial resources, including bonding, to carry out the project. The applicant must demonstrate the capability for monitoring the site and making corrections if the project fails to meet projected goals. A performance bond must be provided at 120 percent of the cost of the mitigation project. Bonding will be retained until the performance standards in the mitigation plan have been met and approved by the Department.
- (3) Compensatory Mitigation – Type, Location, and Timing.
  - (a) Priority will be given to in-kind, on-site compensation if feasible ~~and if the wetland to be lost has a moderate to high functional value.~~
  - (b) When the wetland to be impacted is of a limited functional value and is degraded, compensation may be of ~~the a~~ wetland ~~community~~ type most likely to succeed and provide an increase in wetland functions and values with the highest functional value possible.
  - (c) Out-of-kind compensation may be allowed when out-of-kind replacement will best meet identified goals (for example, replacement of ~~historically diminished regionally rare~~ wetland types or provide greater functions and values). ~~Where out of kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values.~~
  - (d) Off-site compensation can be allowed only if:
    - (i) On-site compensation is not feasible due to hydrology, soils, waves, or other factors;
    - (ii) On-site compensation is not practical due to probable adverse impacts from surrounding land uses; or
    - (iii) Potential functional functions and values at the site of the proposed restoration mitigation are significantly greater than the lost wetland functional values. ~~;~~ ~~or~~
    - ~~(iv) Off site compensation will be conducted in accordance with subsection (4) of this section (Cooperative Compensation Projects).~~
  - (e) ~~Except in the case of cooperative compensation projects, o~~Off-site compensation must occur within the same watershed where the wetland loss occurs; ~~provided, that Category IV wetlands may be replaced outside of the watershed if there is no reasonable technical alternative. The stormwater storage function provided by Category IV wetlands must be provided for within the design of the development project.~~
  - (f) ~~Except in the case of cooperative compensation projects, in selecting compensation sites applicants must pursue locations in the following order of preference:~~
    - (i) ~~Filled, drained, or cleared sites which were formerly wetlands and where appropriate hydrology exists; and~~
    - (ii) ~~Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where the appropriate natural hydrology exists.~~
  - ~~(g) 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 conducted between November and March, unless temporary irrigation is provided.~~
- (4) Cooperative Compensation Projects. The county may encourage, facilitate, and approve cooperative projects where one or more applicants, or an organization with demonstrated capability, may undertake a compensation project if it is demonstrated that:
  - (a) Creation of one or several larger wetlands may be preferable to many small wetlands;
  - (b) The group demonstrates the organizational and fiscal capability to act cooperatively;
  - (c) The group demonstrates that long term management of the compensation area can and will be provided; and

(d) There is a clear potential for success of the proposed compensation at the identified compensation site. Conducting compensation as part of a cooperative process does not reduce or eliminate the required replacement ratios outlined in this article. [Ord. 5-03 § 2; Ord. 11-00 § 3.6.9(f)]

## Article VI-J. Special Reports

### 18.15.355 Waivers.

The administrator may waive the requirement for a special report when an applicant demonstrates all of the following:

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

(2) The minimum protection standards required by this section are satisfied. [Ord. 4-02 § 2; Ord. 11-00 § 3.6.10(a)]

### 18.15.360 General contents.

(1) Scale Map and Written Report. Special reports for environmentally sensitive areas shall include a scale map of the development proposal site and a written report prepared by a qualified professional with sufficient training and experience. Special reports shall be submitted to the department in hard copy and digital form, in an appropriate format specific to each type of report, as prescribed by the administrator.

(2) Impacts Assessment. The special report shall identify and characterize any critical area as a part of the larger development proposal site, assess impacts of the development proposal on any environmentally sensitive areas on or adjacent to the development proposal site, and assess the impacts of any alteration proposed for a critical area.

(3) Protection Mechanisms. The special report shall propose adequate protection mechanisms that may include mitigation, maintenance and monitoring plans, and performance surety.

(4) Preparer – Proof of Qualifications. Special reports shall include documentation certifying the qualifications of the preparer. [Ord. 4-02 § 2; Ord. 11-00 § 3.6.10(b)]

### 18.15.365 Retaining consultants.

Jefferson County may retain consultants to assist in the review of special reports outside the range of staff expertise. The applicant shall pay for the costs of retaining said consultants. [Ord. 4-02 § 2; Ord. 11-00 § 3.6.10(c)]

### 18.15.370 Responsibility.

(1) General. Special reports shall include documentation certifying the qualifications of the preparer.

(2) Determining Accuracy and Sufficiency. The administrator shall verify the accuracy and sufficiency of all special reports.

(3) Nonacceptance of Inaccurate or Insufficient Reports. If the administrator finds that a special report does not accurately reflect site conditions, or does not incorporate appropriate protection mechanisms, the administrator shall issue a report citing evidence (e.g., soil samples, well log data, etc.) that demonstrates where the special report is insufficient or in error. The applicant may then either revise the special report and submit another special report, or appeal the administrative determination pursuant to this code. [Ord. 4-02 § 2; Ord. 11-00 § 3.6.10(d)]

### 18.15.400 Wetland delineation report.

(1) General. This report shall be required when a proposed development encroaches upon a designated wetland or its buffer, and shall be used to identify the boundaries and classification of the designated wetland.

(2) Qualifications of the Preparer. Wetland delineation reports shall be prepared by ~~either a~~ qualified wetland biologist with wetlands expertise ~~, or an individual or firm who has been certified by the United States Army Corps of Engineers, Region 10, to perform wetland delineations.~~

(3) Information Requirements.

(a) ~~A~~ Map(s) prepared at an easily readable scale, in hard copy and digital format such that the survey can be integrated into the County's Geographic Information Systems (GIS) database, and including the following information:

(i) Wetland boundaries and wetland buffers;

(ii) Sample site and sample transects ~~Plot locations~~;

(iii) Boundaries of forested areas; and

(iv) Boundaries of wetland classes if multiple classes exist.

(b) A legend that includes the following information:

(i) A complete and accurate legal description as prescribed by the triggering application form (the description shall include the total acreage of the parcel);

(ii) Title, scale and north arrows; and

(iii) Date, including revision dates, if applicable; and.

~~(iv) Certificates by a professional biologist as appropriate.~~

(c) A report that contains the following information:

(i) A discussion of the delineation methods and results, with special emphasis on technique used from the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter;

(ii) A description of relevant site information acquired from the National Wetland Inventory maps, ~~and~~ the Soil Survey for Jefferson County, and the Jefferson County Critical Areas Mapping database;

(iii) The ~~acreage~~ square footage of each wetland on the site, based on the survey, ~~if the acreage will impact the buffer size determination or the project design;~~

(iv) All completed field data sheets, including wetland delineation field data sheets and wetland rating form, numbered to correspond to each plot location, delineated wetland, and/or sample project site;

(v) Project cross-sections, both before and after completion, in relation to the surface elevation of the wetland must be indicated for proposed activities which involve cutting or filling operations within the wetland or its proposed buffer;

(vi) Classification of the wetland in accordance with the standards adopted in this chapter and a detailed written analysis of the existing regulated wetland including: vegetation communities classified per the U.S. Fish and Wildlife Service Classification of Deepwater Habitats (1979); species composition of vegetation communities, including presence and percent cover; existing soils types on the site and hydric soil indicators observed; and existing hydrologic conditions including inflow/outflow, source of water within the system, relative water quality, and seasonal changes in hydrology, if applicable;

(vii) ~~An detailed~~ analysis of wildlife species use of the wetland and its buffer;

(viii) A detailed analysis of the existing wetland buffer including species composition and percent coverage, whether the buffer is disturbed or not, and the functional value of the buffer in relation to the regulated wetland;

(ix) If the development activity would eliminate all or part of a regulated wetland then a detailed compensatory mitigation plan as outlined in subsection (4) of this section must be provided.

(4) Mitigation Plan Contents. All wetland ~~restoration, creation, and enhancement~~ mitigation projects required by this code, either as a condition of project approval or as the result of an enforcement action, shall follow a mitigation plan prepared by a qualified specialist as defined herein and conducted in accordance with the requirements described in this code. Preparation of the mitigation plan shall follow guidance in the Washington State Department of Ecology – U.S. Army Corps of Engineers – U.S. Environmental Protection Agency manual for mitigation in Washington state (Ecology Publication #06-06-011b, or as amended), or in an alternative format acceptable to the Department. Maintenance and monitoring of the mitigation area shall be conducted over a five-year period, beginning after the mitigation project is complete. The applicant or code violator must receive written approval of the mitigation plan by the administrator prior to commencement of any wetland ~~restoration, creation, or enhancement~~ mitigation activity. [Ord. 11-00 § 3.6.10(j)]

#### Article IV-M. Planned Rural Residential Developments (PRRDs)

...

18.15.520 Modification of permitted densities – Density bonuses.

...

(4) Criteria for Approval of Bonus Densities...

(e) Environmental Design. Items for consideration under this criterion include on-site designs providing regional benefits, including drainage control using natural drainage and landscaped drainage retention facilities; flood control measures, particularly those measures serving regional needs; significant public access provided to designated potential open space or park areas, shoreline areas, trails, scenic sites and viewpoints; provision for substantial and exceptional landscape treatment; preservation of critical fish and wildlife habitat ~~identified for threatened and endangered species;~~ and the use of recycled materials and resource conserving designs.

[END]

## Submittal Requirement #6

Please prepare and label as "Exhibit C," a thorough explanation of how the proposed amendment, meets, conflicts with, or relates to the following inquiries. (NOTE: Simple "yes" or "no" responses are unacceptable.)

- a. Have the circumstances related to the proposed amendment and/or the area in which it is located substantially changed since the adoption of the Jefferson County *Comprehensive Plan*?

On January 18, 2006, the BoCC entered into a Settlement Agreement with the Washington Environmental Council (WEC) in order to resolve a petition before the Western Washington Growth Management Hearings Board filed by WEC following December 1, 2004, which was the statutory deadline for Jefferson County to complete a review and update of its Comprehensive Plan and development regulations according to RCW 36.70.130(4). The review includes a requirement to consider "best available science" in establishing development regulations for protecting the functions and values of critical areas.

- b. Are the assumptions that form the basis for the Jefferson County *Comprehensive Plan* no longer valid, or has new information become available that was not considered during the process of adoption of the Jefferson County *Comprehensive Plan* or any subsequent amendment?

New scientific information and State agency guidance is available for consideration when establishing regulatory protection for critical areas under the GMA. The information sources are described in supporting documents, including a review of best available science commissioned by the County in 2004, and subsequent updates to channel migration zone mapping for the south Jefferson County rivers and publication of State agency guidance on wetlands rating and management. The information sources for designation and classifying each of the critical areas categories are included in the respective JCC sections proposed for amendment. Refer to the attached line-in/line-out code amendment proposal.

- c. Does the proposed amendment reflect current widely held values of the residents of Jefferson County?

The BoCC entered into a Settlement Agreement with a GMA petitioner earlier this year that outlined a series of code amendments related to critical areas protection. In accordance with BoCC direction, DCD staff has created a proposal for public review. Input from the public will be sought and considered during the legislative process associated with this set of proposed set code amendments.

[END]