

Overview of Suggested Revisions to CAO Regarding Agriculture

- Critical Areas Ordinance defers regulation of Agricultural activities on Agricultural Land in Critical Areas to Jefferson Co. Agricultural Ordinance 18.20.030
- Blends elements of existing Jefferson Co Ag ordinance, Island Co. Critical Areas Ordinance, Chimacum Agriculture, Fish and Wildlife Protection Plan and the existing regulations for agriculture into one document.
- Is based on the premise that land in critical areas already converted to agriculture may continue to be farmed, and that farmers have voluntarily made improvements to their operations to protect critical area elements.
- Farmers need operational flexibility to survive – ability to change from one type of crop to another is essential.
- Farmers are responsible for critical area impacts caused by themselves and not responsible for conditions not related to on-site farming activities.
- Emphasis on monitoring to indicate problems along with technical, financial and educational assistance to help remedy problems voluntarily.
- Regulatory backup for situations where problems can not be remedied voluntarily.

Note: The following was approved by the Jeff. Co. Critical Areas Ordinance Review Committee on April 12, 2007 for forwarding to the Jeff. Co. Planning Commission as suggested revisions to the Critical Areas Ordinance and Jefferson Co. Code 18.20.30 regarding Agriculture.

18.f.i (Overlay Zones) Critical Area Identification and Standards

C. Agricultural Areas

(a) Agricultural activities on Agricultural Land in Critical Areas are alternatively regulated by the requirements of the Jefferson Co. Agricultural Ordinance **18.20.030**. Activities that bring an area not previously utilized for agriculture into agricultural use are not covered by this exemption.

(b) Agriculture in the Rural Residential Zones

“Rural residential” is the predominant zoning category in Jefferson County, comprising approximately % ?? of the County’s total land area. Much of the County’s farming activity occurs in the Rural residential zones. Albeit typically small scale and noncommercial in nature, farming in the Rural Residential zones has and will continue to play a significant role in the cultural heritage of the County.

Livestock farming in these zones ranges from a single animal raised as a 4-H project to the maintenance of small livestock operations. Horticulture farming in these zones can be for self-sufficiency; growing of organic produce sold at local farmers markets; or cultivation of specialty crops.

Rural Residential zone farm land and activities often do not meet the County’s criteria for commercial designations. However, these lands are crucial to the future viability of agriculture in Jefferson County. Many of these parcels are leased by commercial farmers to support their farming activities. Others provide a much needed buffer for these designated lands from more intense rural development. All of these smaller farming activities add substantially to the economic base of Jefferson County as mainstays of the County’s “rural character” which in turn is a key magnet for the tourist and retirees and for much needed new business.

While some Rural Residential zone farming activities change in nature and scale with the evolving interests of the property owner, many have been maintained by a particular owner or family for many years. Deep attachments develop to the land and to the County’s agricultural heritage. These attachments are important elements of the County’s culture. Therefore, it is just as important for the County to recognize and protect the important contribution of these Rural Residential zone farming activities to the rural character of Jefferson County as it is to recognize and conserve lands of long term or local commercial significance.

18.20.030 Agricultural activities and accessory uses.

Purpose and Intent

Agriculture (ag), fish and wildlife are important components of the Jefferson County Watersheds. Farming plays a very important role in Jefferson County, even though many farms are small in scale. Large or small, throughout Jefferson County, all farms in Jefferson County, including tree farms, have unique value by contributing to the County’s rural character.

Though it is hard to describe in words, “rural character” is a crucial element of the County’s economy and culture -- and one of the few things virtually all residents agree is essential to the quality of life here. Rural character not only makes people “feel good” about the place where they live and provides a cultural connection to the County’s past -- it also has a very clear dollars-and-cents benefit. Rural character (which would not exist without the County’s farms and forests) is the basis for the County’s important tourist industry. It is also a magnet for retirees as well as for businesses that consider locating here to provide a higher quality of life for their employees.

For all these reasons, it is important as a matter of policy for the County to help keep farmers here farming, including those on limited acreage and those farming in Critical Areas.. Tax incentives, funding for best management practice implementation, educational and technical assistance for farmers, and “Right-to-Farm” measures help. So too does an alternative regulatory approach that protects the environment as mandated by the State’s Growth Management Act, but does so in fair, science-based ways that are as flexible as the law allows, and that does not impede farming operations unnecessarily.

Under zoning standards only farmland designated as either commercial agricultural land (AP-20) or agricultural land of local importance (AL-20) on the official map of Comprehensive Plan Land Use Designations, or other designations designed to conserve agricultural lands are considered “commercial”. However, both commercial and noncommercial farming play an important role in preserving the rural character of Jefferson County. Commercial farming can be either of long-term or local commercial significance to County residents. Noncommercial farming, including raising of small herds of livestock, continues to be a wide spread activity of local importance in the rural area of the County, providing a cultural connection to both the historic past and future of Jefferson County. Farmers continue to make a living on their land, supported by land-use policies, innovative growing and marketing techniques, processing infrastructure, and protective ordinances.

Livestock farming ranges from a single animal raised as a 4-H project to the maintenance of larger livestock operations. Farming can be for self-sufficiency; growing of produce sold at local farmers markets, hay/silage production or cultivation of specialty crops.

Some of these operations do not meet the County’s criteria for commercial designation. However, these lands are crucial to the future viability of agriculture in Jefferson County. Many of these parcels are leased by commercial farmers to support their farming activities. Some have not been actively farmed for several years due to landowner age/health, economic factors, etc. but retention of these lands in the agricultural land pool is of local importance. Others provide a much needed buffer for these designated lands from more intense rural development. All of these smaller farming activities add substantially to the economic base of Jefferson County as mainstays of the County’s “rural character” which in turn is a key magnet for tourists, retirees and for much needed new business.

While some farming activities change in nature and scale with the evolving interests of the property owner, many have been maintained by a particular owner or family for many years. Deep attachments develop to the land and to the County’s agricultural heritage. These attachments are important elements of the County’s culture. Therefore, it is just as important for the County to recognize and protect the important contribution of these farming activities to the rural character of Jefferson County as it is to recognize and conserve lands of long term or local commercial significance.

This ordinance emphasizes a voluntary framework backed by regulation for the protection of water quality, fish and wildlife habitat and critical areas in a manner that conserves and protects agricultural operations in Jefferson County. The ordinance provides a voluntary framework supported by monitoring and backed by regulation (when needed) for the protection of critical areas, water quality, fish and wildlife habitat in a manner that conserves and protects ~~existing and ongoing~~ agricultural operations in Jefferson County. The ordinance will:

(1) Protect the existing functions and values of critical areas, fish and wildlife habitat in converted wetlands and adjacent to streams on land used for agriculture. For purposes of this Section, “existing functions and values” shall mean the following:

(a) Water quality, as documented in "Water Quality Screening Report, July 2001 - June 2003" by the Jefferson County Conservation District where applicable, or WA Dept. of Ecology .

(b) The existing presence or absence of large woody debris within the stream as documented in the "Salmon & Steelhead Habitat Limiting Factors" for WRIA 17 (Nov. 2002) and WRIA 16 (June 2003) and WRIA 20/21.

(c) The existing riparian buffer characteristics and width, including but not limited to the existing amount of shade provided by the existing riparian buffer, as documented by 2005 DNR aerial photography.

(d) The existing channel morphology as documented in the 2005 DNR Aerial Photography, unless modified for habitat improvement.

(2) Conserve and protect agriculture that is conducted adjacent to streams and in critical areas such as wetlands that have been converted to agricultural use in the past. 70% of the “prime” agricultural soils in E. Jefferson County are hydric (wetland) soils that are only “prime” if drained. Since many of the areas that are subject to this plan are located in the converted wetlands and floodplains where substantial drainage infrastructure has been constructed, this plan also must accommodate those existing drainage functions. Agricultural operations on lands which are not included in the definition of agriculture are required to comply with the requirements of Sections 3.6.8 and 3.6.9 of the UDC.

It is the goal of Jefferson County and agricultural landowners to implement the provisions of this ordinance consistent with local, State and Federal programs to protect the health, welfare and safety of the community; accommodate continued operation and maintenance of the drainage infrastructure; and to protect ~~existing and ongoing~~ agriculture, fish and wildlife habitat and anadromous fisheries, as mandated by the Growth Management Act (GMA). This ordinance is intended, to the maximum extent possible, to rely on and coordinate with but not substitute for or duplicate, other State and Federal programs that address agricultural activities in a manner that protects water quality and fish habitat.

(1) Definitions. For the purposes of this section, the following definitions shall apply. Other relevant definitions appear in subsections of this section and in Chapter 18.10 JCC.

Agriculture. The science, art, and business of producing crops, or raising livestock; farming.

Agricultural Activities. Land preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing, tilling, planting, cultivating, fertilizing, weed, pest and disease control, spraying, pruning, trimming, harvesting, processing, packing, sales, and construction of farm and stock ponds, irrigation ditches and systems; livestock management, such as breeding, birthing, feeding and care of animals, birds, honey bees, and fish; the repair maintenance and incidental construction of equipment, structures, or machinery used to perform agricultural or husbandry operations the storage of agricultural products and machinery, rotating and changing agricultural crops, allowing agricultural land used to lie dormant, and land that is enrolled in a local, state or federal conservation program or subject to a conservation easement.

Agricultural Best Management Practices (BMPs). Agricultural BMP’s are recommended methods, structures, and practices designed to protect or improve water quality and fish/wildlife habitat on farms while maintaining economic returns. Implicit within the BMP concept is a voluntary, site-specific approach to natural resource protection/improvement. The goal of BMPs is to protect natural resources from degradation, while maintaining the economic viability of agriculture and related industries. Ideally, these new practices will improve producer profitability as well as protect natural resources. The BMP approach encourages voluntary adoption of improved practices by landowners. BMPs can be classified as either source, structural, cultural, or managerial controls. BMP’s are also known as Conservation Practices.

Agricultural Lands. those specific land areas on which agriculture activities are conducted. It may be designated as either prime agricultural land (AP-20) or agricultural land of local importance (AL-20) on the official map of Comprehensive Plan Land Use Designations or other designations designed to conserve agricultural lands. Agricultural lands of long-term commercial significance is a category of resource lands under the State Growth Management Act and the Jefferson County Comprehensive Plan.

Agricultural Product or Commodity. Any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchadists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

Accessory Uses. Uses accessory to agriculture that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section.

Animal Feeding Operation (AFO): An animal feeding operation (AFO) is a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
---Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
---Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Animal Unit: One animal unit equals 1000 lbs. of livestock, according to NRCS nutrient management conversion standards for livestock species.

Concentrated Animal Feeding Operation (CAFO): An AFO that is defined or designated as a CAFO based on the number of animals at the facility and/or whether the facility discharges to waters of the United States (WUS). An AFO is defined as a large CAFO if it stables or confines numbers of animals specified in the CAFO rule. For example, an AFO with 700 mature dairy cows qualifies as a CAFO. A medium CAFO is smaller (e.g., 400 mature cows) and it discharges to WUS. A small CAFO does not have a sufficient number of animals to qualify as a medium CAFO, and it must be designated a CAFO upon a determination that it is a significant contributor of pollutants to a WUS. The prior explanations are a simplification of the definitions for Large, Medium, and Small CAFO

Farm Equipment. Includes, but is not limited to, tractors, trailers, combines, tillage implements, balers, and other equipment, including attachments and accessories that are used in the planting, cultivating, irrigation, harvesting, and marketing of agricultural, horticultural, or livestock products.

Farm Management Plan, Custom: A custom plan is site specific and is developed for a specific property owner/operator. A custom plan provides a farm management system that implements NRCS BMPs. The County requires a custom plan for specific activities defined as High Intensity Agriculture and for low/medium intensity agriculture documented by County, State or Federal agencies to be contributing to critical area degradation. Jefferson Co. Conservation District staff assigned by the Conservation District Board of Supervisors are eligible to prepare farm plans with the cooperation of landowners/operators. Consultants, property owners and, (with the consent of an owner) lessees, are all eligible to prepare farm plans if the preparer is certified by NRCS. Custom plans may address all aspects of the farming operation or specifically address documented problems.

Farm Management Plan, Standard: A standard plan provides guidance for implementation of NRCS BMPs for Low/Medium Intensity Agriculture. A standard plan is prepared and adopted by the County and applies BMPs to protect Critical Areas for Low and Medium Intensity Agriculture..

Farm Plan/Conservation Plan: A conservation plan is a customized document that provides an inventory of existing land use, and a list of best management practices (BMP's) that can be utilized to protect natural resources on public or private lands. They are also called "Farm Plans". The plan defines and explains the resources in a simple, easy to understand manner. Typically, the plan will

include land use maps, soils information, inventory of resources, engineering notes, and other supporting information. The plan is developed voluntarily by and for the landuser with the assistance of a conservation planner. The landuser makes the decisions on which best management practices to include in the plan. Implementation of the plan by the landuser is voluntary. Conservation Plans are not intended to be used for regulatory purposes, rather they are a resource for the landuser.

Farmed Wet Meadows: Shall mean those wetlands whose vegetative cover has been sufficiently modified in the past as a result of grazing, seeding, cutting for hay or other agricultural practices, such that they are dominated by a pasture species (such as blue grass, orchard grass, fescue, clovers, reed canary grass, etc.) and invasive wetland species indicative of continuous disturbance. They often are saturated or have standing water during the wet season and part of the growing season but are often dry during the summer months.

High Intensity Agriculture: Shall mean agricultural operations including dairies and animal feeding operations designated by federal or state agencies as concentrated animal feeding operations (CAFO's) as those terms are used in federal and state regulations and livestock operations.

Low/Medium intensity agriculture is agriculture not meeting the definition of High Intensity Agriculture .

New Agriculture is conversion of land to agricultural operations after implementation of this ordinance

Open Space Tax Program. County program associated with property taxation. Land being used for agriculture may be enrolled in the tax program through the county assessor. The tax program is independent of land use designation (i.e., zoning) and these development regulations, except in the context of identifying "existing and ongoing agriculture," as defined in this code and exempted from standard stream and wetland buffers as described in subsection (2)(b)(ii) of this section..

(2) Agricultural Activities.

(a) Where Allowed. Agricultural Activities, as defined above, are an allowed use under any of the Comprehensive Plan land use designations, subject to the provisions of this subsection, except that "processing," "packing," and "sales" are regulated under subsection (3) of this section, Accessory Uses.

(b) When Exempt from Permit Process. Agricultural activities, including changes in types of agricultural activities, are considered a matter of right and not subject to land use permits or approval from the administrator, subject to the following:

(i) Other Applicable Laws and Rules. This section does not exempt the proponent from acquiring any other required approvals from county, state or federal agencies, including, but not limited to, approvals related to matters of public health, safety, and welfare.

(ii) Critical Areas. The Growth Management Act, Chapter 36.70A RCW, requires local governments to designate and protect "critical areas," such as wetlands and fish and wildlife habitat areas. This code contains provisions for the protection of critical areas at Article VI-D of Chapter 18.15 JCC, et seq. The fish and wildlife habitat areas section is Article VI-H of Chapter 18.15 JCC and includes protections for streams and their buffers. The wetlands section is Article VI-I of Chapter 18.15 JCC and includes protections for wetland buffers. For agricultural activities, Jefferson County will develop and apply site specific measures to protect environmental quality that constitute best

available science and are fair, flexible and tailored to the level and intensity of the agricultural practices and meet the requirements of the Growth Management Act. These sections pertain to agricultural activities in the following manner:

(A) New agriculture is required to meet all applicable provisions of Article _____ of Chapter 18.15 JCC, et seq. unless designated as agricultural land through the process established by Jefferson County which includes following a site specific Conservation Plan designed to protect existing critical areas functions/values.

(B) Agriculture is not subject to standard stream and wetland buffers provided that agricultural operations protect critical areas existing on those lands and manage the operation to prevent degradation of water quality. Refer to Articles VI-H and VI-I of Chapter 18.15 JCC, respectively. The exemption covers only ~~existing and ongoing~~ activities related to cultivating crops and grazing livestock and the land preparation associated with those agricultural activities. The exemption does not cover new structures, parking areas, or other similar development activities. New development activities related to agriculture are regulated as new agriculture.

(C) In exchange for this exemption from standard stream and wetland buffers, the agricultural communities in each Jefferson County watershed are expected to establish and implement appropriate agricultural best management practices (BMPs) in order to protect critical areas from additional adverse impacts related to the practice of agriculture. Refer to subsection (iii) regarding agricultural BMPs below.

(D) The exemption from standard stream and wetlands buffers for ~~existing and ongoing~~ agriculture will be revisited during periodic review of the Comprehensive Plan and development regulations, pursuant to RCW 36.70A.130. If the county finds through evaluation of best available science that the voluntary implementation of agricultural BMPs is failing to protect wetlands and fish and wildlife habitat areas from impacts related to agriculture in any given watershed or specific areas within a given watershed, this exemption will be modified or eliminated for that watershed or particular sites within that watershed. (See _ Water Quality Monitoring Ordinance (to be developed).

(iii) Agricultural Best Management Practices. Agricultural activities are expected to be conducted in a manner that protects against harm or degradation to the existing functions and values (as of date of enactment of ordinance) of Critical areas through the implementation of agricultural best management practices (BMPs).

(A) Agricultural landowners and operators are encouraged to design BMPs through consultation with the following resources:

(I) Section 4 of the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) contains a nonexclusive list of conservation practices (BMPs) to guide implementation of the expectations of this section.

(II) The Jefferson County conservation district is available to assist in the development of informal farm plans as well as formal plans such as the resource management system (RMS) plan or other type of conservation plan.

(III) A Standard Farm Management Plan and Tips guide prepared by the Jefferson Co. Conservation District and approved by the Jefferson Co BOCC as a Type IV decision under Chapter _____ is a guide for landowners to follow to develop and implement Best Management Practices to protect critical areas on agricultural land. Technical assistance to design/implement BMP's is available from the Conservation District.

(B) The following apply to agricultural operations in critical areas:

(i). Agricultural operation will comply with the Critical Area minimum standard buffers or comply with the following.

(1) Low Intensity/Medium Intensity Agriculture shall protect Critical Areas through the implementation of a Standard Farm Management Plan or, if the owner or lessee elects, a Conservation Plan or Custom Farm Management Plan. .

(2) Low/Medium and High Intensity Agriculture documented to be out of compliance with established performance standards by County, State or Federal agencies to be contributing to critical area degradation shall develop and implement a Custom Farm Management Plan.

(3) High Intensity Agriculture shall protect Critical Areas through compliance with federal and state regulations for dairies, and concentrated animal feeding operations when applicable and implementation of a Custom Farm Management Plan.

(4) To the fullest extent possible, the County and Conservation Districts shall rely on farm plans that apply NRCS BMPs approved by State or Federal agencies to satisfy the requirements of this section relating to Standard and Custom Farm Management Plans.

(5) Existing permanent improvements that were lawfully erected or constructed on or before enactment of this ordinance shall not be required to be modified to comply with the requirements of this Chapter pertaining to agricultural activities, Permanent improvements shall include such features as buildings, structures, bridges, drainage facilities, farm ponds, road, driveway, and laneways. Examples of features that are not permanent improvements include fences, filter strips, confinement areas, nutrient storage areas, watering troughs, and pasture locations.

(6) Previously approved Farm Management Plans and/or lawfully erected, installed or constructed Best Management Practices, located on agricultural lands in order to protect critical areas shall not be required to be modified to comply with updated BMPs or critical area buffer requirements. This shall include fencing that was installed, buffers planted, stream crossings that were constructed, filter strips established, nutrient management systems implemented, barns erected, etc.

(7) Critical area improvements such as stream and/or wetland habitat improvement projects will not affect future wetland characterizations of that wetland complex. Wetland characterizations will be based on the wetland conditions prior to improvements.

(C) BMPs should be designed for site-specific conditions and should include pollution prevention and control measures that effectively address the following management areas:

(I) Livestock and Dairy Management. Livestock and dairy operations must be conducted so as not to contribute any wastes or sediments into a natural or modified natural stream in violation of adopted state water quality standards

(II) Nutrient and Farm Chemical Management. Manure must not be placed in a stream or location where such wastes are likely to be carried into a stream by any means. Farm chemicals shall be applied consistent with all requirements stated on the chemical container labels and all applicable federal and state laws and regulations, such as Chapter 15.58 RCW (Pesticide Control Act), Chapter 17.21 RCW (Pesticide Application Act), and 7 United States Code (USC) 136, et seq., (Federal Insecticide, Fungicide, and Rodenticide Act).

(III) Soil Erosion and Sediment Control Management. Construction of roads used for agricultural purposes, agricultural equipment operation, and ditch construction and maintenance should be undertaken in such a manner as to avoid sediment contribution to streams.

(IV) Operation and Maintenance of Agricultural Drainage Infrastructure. Dredging or removal of noxious vegetation, accumulated sediments in any ditch or ditched stream should be conducted when there is no or minimal flow in the stream (generally between June 15th and October 31st) and in a manner that minimizes sediment contribution or other impacts to water quality. Excavation spoils should be placed so as not to cause bank failures and so that drainage from such spoils does not contribute sediment to streams. Maintenance of vegetation located within a stream that is part of drainage infrastructure may be conducted at any time; provided, that any cutting or mowing is above the ground surface within the channel and in a manner that does not disturb the soil or sediments and

that the cut vegetation does not block water flow. Stream bank vegetation should be preserved or planted as soon as practicable after drainage construction and maintenance are completed in order to stabilize earthen ditch banks. Maintenance activities may also be subject to WA Dept of Fish and Wildlife permits but are not subject to Jefferson County permitting processes..

(V) Riparian Management. Existing riparian vegetation should be managed to continue to provide soil and streambank stability, shade, filtration, and habitat for fish and wildlife. Landowners are encouraged to plant riparian vegetation to improve fish and wildlife habitat by providing shade, cover, organic debris, and control of noxious weeds.

(D) An owner or operator is responsible only for those conditions caused by agricultural activities conducted by the owner or operator and is not responsible for conditions that do not meet the standards of this subsection resulting from actions of others or from natural conditions not related to the on-site agricultural operations. Conditions resulting from unusual weather events (such as storm in excess of a 25-year, 24-hour storm) or other exceptional circumstances that are not the product of obvious neglect are not the responsibility of the owner or operator.

(E) Agricultural activities are expected to meet the objectives and standards of this subsection through voluntary compliance.

(F) Jefferson County, the Jefferson County conservation district, and the Department of Ecology work cooperatively to identify potential areas exceeding ~~violations of~~ state water quality standards and to provide assistance to agricultural owners and operators for preventing or correcting water quality problems ~~violations~~—(see Jefferson Co. Water Quality Monitoring Plan _____). The Department of Ecology maintains ultimate compliance authority for enforcing state water quality standards.

(G) “Existing functions and values” relates to the following categories:

(I) Water quality, as documented in a given watershed by the Jefferson County conservation district or other management agency.

(II) The existence or absence of large woody debris within a stream, as documented in the “Salmon & Steelhead Habitat Limiting Factors” analyses completed by the Washington Department of Fish and Wildlife (WDFW) between 2000 and 2003 for the Water Resource Inventory Areas (WRIAs) 16, 17, 20, and 21, or other relevant studies.

(III) The existing riparian buffer characteristics and width, including, but not limited to, the existing amount of shade provided by the existing riparian buffer, as documented in the “Salmon & Steelhead Habitat Limiting Factors” analyses completed by WDFW between 2000 and 2003 for the Water Resource Inventory Areas (WRIAs) 16, 17, 20, and 21, or other relevant studies.

(IV) The existing channel morphology as documented with year 2000 Department of Natural Resources (DNR) Aerial Photography.

(H) “No material adverse impact” means the following:

(I) Maintaining or improving documented water quality levels, if data is available.

(II) Meeting, or working towards meeting, state water quality standards and the requirements of any total maximum daily load (TMDL) requirements established by the Department of Ecology pursuant to Chapter 90.48 RCW.

(III) Meeting all applicable requirements of Chapter 77.55 RCW and Chapter 220-110 WAC (Hydraulics Code).

(IV) No evidence of material adverse impact to the existing fish and wildlife habitat characteristics of the stream or wetland that can be reasonably attributed to adjacent agricultural activities.

(I) The references above to Chapters 77.55 and 90.48 RCW and Chapters 173-201A and 220-110 WAC shall not be interpreted to replace Department of Ecology and WDFW authority to implement and enforce these state programs.

(iv) **Stormwater Management.** Jefferson County stormwater management regulations and procedures are described in JCC 18.30.060, Grading and excavation standards, and JCC 18.30.070, Stormwater management standards, of this code. These sections pertain to agricultural activities in the following manner:

(A) Agricultural activities such as land preparation for the cultivation of crops or the grazing of livestock and the maintenance of agricultural drainage and irrigation infrastructure are exempt from meeting the minimum requirements for stormwater management and from obtaining a stormwater management permit.

(B) This exemption does not apply to new development that is secondarily related to agriculture and that involves the construction of new structures, such as buildings for agricultural processing and retail sales, and the addition of impervious surfaces, such as compacted areas designed to accommodate parking.

(C) This exemption does not apply to the initial clearing of forested land. Conversion of forested land to some other use incompatible with commercial forestry, as defined in the Forest Practices Act, Chapter 76.09 RCW, requires review under JCC 18.20.160, 18.30.060 and 18.30.070. The State Department of Natural Resources may also require a Class IV general forest practices application.

(v) **Farm Ponds and Irrigation Infrastructure.**

(A) Construction or expansion of farm and stock ponds and irrigation ditches and infrastructure in association with ~~commercial~~ agriculture as defined above is exempt from meeting stormwater management minimum standards and from obtaining approval; provided, that said activities are not conducted in environmentally sensitive areas and their buffers as defined in Article VI-D of Chapter 18.15 JCC. Landowners are encouraged to document the creation of new exempt ponds through photographs (before, during, and after construction) in order to facilitate any future development review on the property.

(B) Construction or expansion of ponds or irrigation ditches and infrastructure in wetlands and their buffers is subject to the provisions of Article VI-I of Chapter 18.15 JCC.

(I) Maintenance of existing farm and stock ponds and agricultural irrigation ditches and infrastructure is allowed without having to meet the protection standards pursuant to the exemption for agriculture at JCC 18.15.355(1)(e), if the activities are not prohibited by any other law.

(II) Construction of new ponds or expansion of existing ponds and drainage-related activities that would introduce new impacts is regulated under Article VI-I of Chapter 18.15 JCC. Pond construction/expansion Activities within wetlands and their buffers require review and approval of a mitigation or enhancement plan pursuant to that article.

(C) Generally, pursuant to JCC 18.30.060(5)(b), drainage improvements constructed in accordance with JCC 18.30.060(2) and 18.30.070 and construction of a pond of one-half acre or less which is not in a regulated wetland are exempt from the stormwater management permit requirement outlined in JCC 18.30.070(6).

(vi) **Livestock Management.**

(A) On designated agricultural lands, livestock management is allowed as a matter of right, except:

(I) Any activity that meets the state or federal definition for a custom slaughtering establishment, custom meat facility, or requires a conditional administrative (C(a)) land use permit.

Note: CAFO's are regulated by the state.

(II) Any operation that meets the state or federal definition for a new large certified feed lot, public livestock market, stockyard, warehouse, or grain elevator, requires a conditional use (C) land use permit.

(B) On lands that are not designated agricultural lands, livestock management is allowed as a matter of right, except:

(I) Any operation that meets the state or federal definition for a custom slaughtering establishment, custom meat facility, certified feed lot, public livestock market, stockyard, warehouse, grain elevator shall be prohibited, except in the heavy industrial land use designation, where a conditional use (C) land use permit shall be required.

(C) Facilities for breeding and maintaining working dogs raised for livestock management purposes are exempt from performance of JCC 18.20.060(3), Animal kennels and shelters, in order to allow livestock guardian dogs to work during nighttime hours. Facilities for breeding and raising dogs for show or sale must be incidental and accessory to the principal farm activities and meet all of the performance standards for animal kennels and shelters at JCC 18.20.060(3).

(vii) Structures. According to JCC 15.05.040(1), certain types of agricultural structures do not require a building permit from the department of community development.

(A) No county building permit is required for buildings or structures erected exclusively for the storage of livestock, feed, and/or farm implements, provided said structures are: freestanding, located at least 10 feet from the nearest residential structure and not attached to any structure, unless attached to another agricultural building; do not contain plumbing, except as necessary to maintain farm animals; do not contain a heat source, such as a wood stove or electric heat, unless specifically permitted.

(B) Agricultural buildings that contain plumbing other than that as authorized above must obtain a plumbing installation permit and health department approval.

(C) Agricultural buildings that contain a heat source for an agricultural purpose must obtain a wood stove permit or an electrical permit as appropriate.

(D) Agricultural buildings used for the storage of private automobiles, trucks, etc., which are used as farm equipment, are considered garages or carports and must obtain a building permit.

(E) Agricultural buildings used for the purpose of hosting members of the public for the purpose of retail sales of agricultural products or machinery constructed on-site shall require a building permit to ensure life safety and structural integrity. If an older agricultural building constructed under the building permit exemption for agricultural buildings is proposed for hosting members of the public, the building shall be brought into compliance with the building code, as determined by the building official.

(F) The building official shall judge whether a proposed structure, a structure under construction, or a completed structure violates this building permit exemption. A structure determined to be in violation will be considered a structure subject to the building code.

(G) Temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits are not considered structures subject to the State Building Code, Chapter 19.27 RCW, pursuant to RCW 19.27.065.

(3) Accessory Uses.

(a) General Provisions. Pursuant to RCW 36.70A.177:

(i) Accessory uses that support, promote, or sustain agricultural operations and production shall comply with the following:

(A) Accessory uses shall be located, designed, and operated so as not to interfere with natural resource land uses and shall be accessory to the growing of crops or raising of animals;

(B) Accessory commercial or retail uses shall predominantly produce, store, or sell regionally produced agricultural products from one or more producers, products derived from regional

agricultural production, agriculturally related experiences, or products produced on-site. Accessory commercial and retail uses shall offer for sale predominantly products or services produced on-site; and

(C) Accessory uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size and scale of existing agricultural buildings on the site but shall not otherwise convert agricultural land to nonagricultural uses.

(ii) Accessory uses may include compatible commercial or retail uses including, but not limited to:

(A) Storage and refrigeration or regional agricultural products;

(B) Production, sales, and marketing of value-added agricultural products derived from regional sources;

(C) Supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production;

(D) Support services that facilitate the production, marketing, and distribution of agricultural products; and

(E) Off-farm and on-farm sales and marketing of predominantly regional agricultural products and experiences, locally made art and arts and crafts, and ancillary retail sales or service activities.

(b) Where Allowed. Accessory uses to agriculture are allowed exclusively in agricultural lands.

(c) Where Prohibited. Accessory uses to agriculture, as defined and regulated in this section, are prohibited in all land use districts except agricultural lands. Proposals that would be classified accessory uses in agricultural lands, such as processing, packing, and sales of agricultural products, may be considered and approved in other land use districts under different and appropriate land use classifications, such as commercial use, light industrial use, home business, cottage industry, or small-scale recreation and tourist use, subject to allowed and prohibited uses per land use district and the associated permit processes and approval criteria.

(d) When Exempt from Permit Process. Accessory uses on agricultural lands are considered a matter of right and not subject to land use permits or approval from the administrator, subject to the following limitations and provisions in association with these various use categories:

(i) General. All accessory uses, when exempted from a permit or approval process, shall be conducted in such a manner that:

(A) Parking for all visitors or suppliers is fully accommodated on-site in a location and manner that does not encroach upon or negatively impact environmentally sensitive areas and their protection buffers and that converts as little prime agricultural soil as practicable into nonagricultural use.

(B) New structures are constructed or existing structures are expanded in a location and manner that does not encroach upon or negatively impact environmentally sensitive areas and their protection buffers and that converts as little prime agricultural soil as practicable into nonagricultural use.

(ii) Composting and recycling must be nonhazardous and biodegradable.

(iii) Processing and packing agricultural products if at least 50 percent of the product was raised or produced on the site or on other Jefferson County parcels, including but not limited to, prepared foods, cheese, wine, beer, decorative materials, compost, etc., including cooperative processing and packing involving more than one local farmer.

(iv) Retail and wholesale sales of agricultural products from existing or new farm stands and farm buildings, including cooperative sales involving more than one local farmer, subject to the following provisions:

(A) At least 50 percent of the square footage of the undercover, retail display area is comprised of products from the farm on which the stand is located or from land owned by the owner of the stand.

(B) If less than 50 percent of the products sold come from the farm on which the sale occurs, all the products sold must primarily supply local agricultural activities and the sales must be accessory to the prime function of the land as a farm. Examples are sale of hay, specialized livestock materials, farm equipment, livestock fencing, horticultural supplies, etc.

- (v) Farm Equipment. Commercial repair and maintenance of farm equipment and sales of equipment, structures, or machinery manufactured on-site for use in agricultural operations subject to the following provisions:
- (A) The activity must be accessory to the main function of the property as a farm.
 - (B) The activity shall comply with JCC 18.20.220(1)(a), (c), and (d), Industrial uses – Standards for site development.
 - (C) Storage of vehicles, equipment, materials or products not related to agriculture must meet the requirements of JCC 18.20.280, Outdoor storage yards.
- (vi) Agritourism. Agriculturally related activities designed to bring the public to the farm on a temporary or continuous basis, such as U-Pick farm sales, retail sales of farm products, farm mazes, pumpkin patch sales, farm animal viewing and petting, wagon rides, farm tours, horticultural nurseries and associated display gardens, cider pressing, wine or cheese tasting, etc., subject to the following provisions:
- (A) All activities must be closely related to normal agricultural activities. Activities which simply adopt an agricultural theme or setting but which are not otherwise a normal extension of agricultural activities are not permitted as a matter of right; however, they may be considered under JCC 18.20.350, Small-scale recreation and tourist uses. The following list of uses not permitted as a matter of right is illustrative but not exhaustive: mechanical rides such as Ferris wheels and carousels, arcade type games and activities, dance halls, stage performances, drinking establishments that serve alcohol which is not wine produced on-site, fireworks, sporting events, caged wild animals, exhibits, etc.
 - (B) Temporary events that are not related to agriculture are regulated by JCC 18.20.380, Temporary outdoor uses.
- (vii) Classes. Subject to the following provisions:
- (A) Classes are clearly accessory to the primary function of the farm.
 - (B) Classes must not exceed four weeks in length for any single course of instruction. Schools with classes that exceed four weeks must meet the provisions of subsection (3)(e)(ii)(B) of this section, addressing agricultural schools.
 - (C) If students are regularly housed on-site for the class, the provisions of JCC 18.20.210, Hospitality establishments, shall apply.
- (viii) Lumber Mills and Associated Forestry Processing Activities and Uses. Harvesting, sawing, processing, assembling and selling lumber is limited to timber from the designated agricultural lands property on which the activity is located and is subject to the regulations of JCC 18.20.230, Lumber mills (portable and stationary).
- (e) When Permit Process is Required.
- (i) Proposal Exceeds Terms or Limitations. Accessory uses on agricultural lands that are best described as one of the uses listed in subsection (3)(d) of this section and yet exceed or lie outside of the terms and limitations set forth in subsection (3)(d) of this section are considered discretionary uses (i.e., “D” uses), as defined at JCC 18.15.020(1)(b), and subject to a Type II administrative review as specified in Chapter 18.40 JCC. The administrator may classify the proposed use as an allowed “yes” use, conditional administrative use, conditional use, or prohibited use. The permit process is subsequently conducted pursuant to Chapter 18.40 JCC according to the use classification.
 - (ii) Other Accessory Uses. The following accessory uses may be permitted on designated agricultural lands subject to a discretionary determination by the administrator (i.e., a Type II administrative review process for a “D” use), provided they are located, designed and operated so as not to interfere with natural resource land uses and subject to the following provisions in association with these various use categories:
 - (A) Permanent and/or seasonal farm worker housing, in addition to an accessory dwelling unit; provided, that:

- (I) The housing is used exclusively for agricultural workers on the farm and their families or members of the family of the farm owner with at least one member of each household actively working on the farm.
 - (II) The housing for farm labor is not sold, leased or rented to the general public unless the owner applies for and receives a permit for an agriculture-related recreational or tourist use as specified in JCC 18.20.350.
 - (III) The farm worker housing units are constructed in such a manner that they meet all applicable regulations for dwelling units for agricultural worker housing.
 - (IV) A covenant is recorded with the title of the parcel on which the housing is located in a form satisfactory to the county that specifies that the units are exclusively for use by farm laborers and their families employed on the property by the owner. The use of the farm labor dwelling units may be converted to nonagricultural uses and the covenant removed subject to approval by the administrator and issuance of any required land use permits.
 - (V) The accommodations shall not require the extension of public sewer services.
 - (B) Agricultural schools which offer a program that lasts for more than 30 days per year per student and which may be the primary function of the land, subject to the following provisions:
 - (I) The predominant focus of the curriculum and activities of the school is closely tied to and dependent upon agricultural activities and facilities on the farm. If the school has a conventional curriculum and is merely utilizing an agrarian setting, it does not qualify for location on designated agricultural land.
 - (II) Agricultural schools under this section which also house students and/or faculty for the duration of the course of study must meet the requirements of JCC 18.40.080 for a conditional use permit.
 - (III) Buildings and parking facilities used for the school avoid location on prime agricultural soils, whenever practicable.
 - (C) Veterinary clinics or hospitals which have at least a portion of their business serving large domestic animals necessitating holding pens, paddocks, etc., subject to the provisions of JCC 18.20.420(1)(a) and (b). Veterinary clinics and hospitals that do not include an on-site, large animal practice are not permitted on land designated agricultural land.
 - (D) Farm restaurant when it is a component of the agritourism activities of a farm subject to the restrictions set forth in JCC 18.20.350(1).
 - (E) Farm campground for fishing or hunting on or near farm property subject to the regulations in JCC 18.20.350(6)(a)(1) through (9).
 - (F) Guide services associated with livestock used for trail riding, packing, etc.
 - (G) Rural recreational tourist lodging subject to the provisions of JCC 18.20.350.
 - (H) Commercial display gardens subject to the requirements of JCC 18.20.350(3). [Ord. 06-04 § 2; Ord. 11-00 § 4.3]
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Proposed Findings of Fact

Background:

Impacts on Critical Areas, Fish & Wildlife Habitat by Agriculture:

The major impacts of agriculture on critical areas in Jefferson County watersheds have been the channelization of the stream courses, removal of riparian vegetation; draining of wetlands; bank erosion due to livestock access, and introduction of invasive vegetation to the watersheds. The majority of these impacts occurred from the late 1800's through the 1960s. While potentially detrimental to some fish & wildlife, the agricultural land use in the watersheds also provides habitat for many wildlife species including deer, elk, coyote, migrating trumpeter swans and other waterfowl.

Since the 1970's, voluntary efforts by individual landowners, agencies and community groups have had positive impacts on critical areas within the watersheds. Most streams and ditches have been fenced to exclude livestock from the stream and stream banks; best management practices (BMP's) such as roof water management systems, pasture management, and livestock waste management have been implemented in ways that improved water quality;. Since the mid 1980's over **28 miles** of stream fencing, **8 miles** of stream/fish habitat improvement projects, and **200+ acres** of streambank plantings have been installed through voluntary cooperation of landowners. This does not include the thousands of feet of stream fencing installed by landowners on their own, without assistance from agencies or community groups. Water quality monitoring by Jefferson Co. Conservation District has documented very significant declines in fecal coliform pollution in streams in the agricultural areas due to voluntary BMP implementation.

Impacts on Agriculture of Critical Areas, Fish and Wildlife habitat protection and improvements:

One component of both the GMA and Jefferson County Comprehensive Plan is the protection of Agricultural Land of Long-Term Commercial Significance (Agricultural Lands). One criterion for identifying Agricultural Lands is that the soils have been determined to be "prime soils" by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS). In addition there are other soil types that are of statewide or local importance. Most of the "prime" soils within the areas affected by this ordinance are prime "if drained and not flooded during the growing season." To continue to be viable for agriculture it is essential to maintain the drainage on these soils. Critical area habitat improvements that have negative impacts on drainage will reduce the acreage of agricultural Lands available for production. For example, fencing livestock out of the stream, while improving water quality and riparian habitat, has resulted in low gradient reaches being clogged with reed canarygrass, causing problems for both agriculture (poor drainage) and fish (low dissolved oxygen levels, lack of habitat diversity). Planting extensive, "no touch" riparian buffers will also reduce the amount of land available for agriculture. In addition, as trees within these buffers grow in height, the shading effect on land adjacent to the buffer will decrease ag productivity outside the buffer.

In some areas with large elk herds fencing to protect critical areas from impacts by livestock would also exclude elk from these areas. Fences adequate to exclude livestock from critical areas will not stand up to elk herd movement unless elk proof fencing is installed. Fences are not practical in the western part of Jefferson Co where elk are present. In elk areas where fencing would be a problem the farms are small (fewer livestock than elk) and the impacts by livestock on critical areas minimal.

Maintaining Agriculture and Protecting Critical Areas:

Maintaining existing agricultural capability and protecting critical areas are compatible if done correctly. Much of the county's agriculture takes place on wetland soils that were converted to agriculture in the late 1800's/early 1900's. All the "prime agricultural soils" in E. Jefferson Co. are only "prime" if drained. Historically the County has treated existing agricultural uses the same as other existing uses and recognizes that, generally under the Federal Clean Water Act these existing and on-going farming practices are exempt from Federal wetlands regulation. Attempting to restore critical areas to pre-European settlement conditions

throughout the watershed is not compatible with maintaining agriculture, but protection and improvements can be, and are being, implemented voluntarily by landowners.

The coho salmon stock utilizing the agricultural areas of Jefferson County watersheds are considered healthy (WDFW _____) and other wildlife species are not in jeopardy due to existing agricultural operations. Agricultural landowners have voluntarily undertaken extensive work to protect/improve water quality and fish/wildlife habitat and there have been no new agricultural encroachments on wetlands in recent years.. Though coho stocks are “healthy,” there is always room for improvement. The status of steelhead and cutthroat trout has not been documented, but these species are present in the watershed. Cutthroat are apparently abundant throughout the watersheds based on juvenile abundance data collected and personal observations. The Endangered Species Act (ESA)-listed summer chum salmon utilizes the lower reaches of the watersheds and is present in agricultural areas in the Salmon, Snow and Big Quilcene systems. Summer chum have been reintroduced into Chimacum Cr. and supplemented in Salmon Cr. and the Big Quilcene River., The other ESA listed fish species, Puget Sound Chinook Salmon, are present in the Dosewallips and Duckabush Rivers. There are ongoing voluntary efforts to provide further protection of the salmonid habitat in all watersheds.

Many of the the agricultural areas of the Jefferson Co. provide winter habitat for a growing population of Trumpeter Swans, as well as other waterfowl. Existing agricultural practices used for hay/silage production and pasture support vegetation attractive to Trumpeter swans. Current farm management techniques result in a lush growth of this grass when the fields flood in winter. Other wildlife utilizing the agricultural areas are bald eagle, coyote, blacktail deer, elk, beaver, otter, numerous species of birds and small rodents, and elk, bear, cougar and bobcat.

This ordinance will not answer the question “How much is enough?” but lays out a mechanism for voluntary protection and improvements of critical areas, water quality, fish and wildlife habitat on agricultural land compatible with maintaining existing agricultural capability. Given the structural and biological impacts of agriculture and other development in the watersheds, fish and wildlife habitat will have to be actively maintained in perpetuity. For instance, large woody debris will have to be placed and maintained in some locations rather than depending on natural recruitment that could lead to flooding and drainage problems. Introduced invasive vegetation such as reed canarygrass, Japanese knotweed and bittersweet (*Solanum dulcamara*) that clogs stream channels will have to be controlled. Implementation of improvements will take place over the long term as funding, technical assistance, and opportunities for protection/improvement are available. The CTED handbook acknowledges that while regulations provide certainty, they can be difficult and costly for agricultural activities, particularly without the understanding and cooperation of the landowners.

This ordinance is “performance based” and utilizes best available science coupled with local knowledge and monitoring data to determine what needs to be done. “Performance based” means that the results of ongoing monitoring will be compared against the standards defined in WAC 173-201A & or baseline data defined by Conservation District baseline data . An owner or operator is responsible only for those conditions caused by agricultural activities conducted by the owner or operator and is not responsible for conditions that do not meet the requirements of this Subsection resulting from the actions of others or from natural conditions not related to the on-site agricultural operations. Conditions resulting from unusual weather events (such as a storm in excess of 25-year, 24-hour storm), or other exceptional circumstances that are not the product of obvious neglect are not the responsibility of the owner or operator.- Water quality data, which reflect impacts of agricultural operations on water quality and in-stream habitat, have been collected since 1988 in several watersheds. Data collected since 1988 have shown improvements and continued trends towards improvement. For example, at the monitoring station at the downstream end of the agricultural area in Chimacum Watershed fecal coliform levels have fallen from a geometric mean value of 280 FC/100 mL in 1988 to 30 FC/100 mL in 2005-2006 (0-50 FC/100mL is considered "Class AA extraordinary," changed to "Extraordinary Primary Contact Recreation" in 2003). This improvement in water quality is directly related to the voluntary implementation of best management practices (BMPs), including extensive fencing of streams and ditches by landowners. An ultimate goal of the efforts is to have all surface water in the watershed meet the criteria for non-polluted water as specified in WAC chapter 173-201A, Water Quality Standards for Surface Waters of the State of Washington (see Appendix A). It should be recognized that according to this WAC surface water in Jefferson Co. must meet the highest State standard for water quality to be in compliance with the water quality

standard, an extremely high standard that will be very difficult to meet in some areas. There are often instances when natural conditions result in water quality not meeting this standard. A more appropriate gauge for measuring "how well we're doing" is to compare conditions to those documented since 1988. A realistic goal is to maintain and improve the conditions documented in the Jefferson County Conservation District "2003 Water Quality Screening Report." or other water quality documentation. Solutions to problems will be site-specific rather than one-size-fits-all.