

FILED
Court of Appeals
Division II
State of Washington
5/27/2020 3:14 PM
No. 53245-0-II

From Jefferson County Superior Court No. No. 18-2-01023-05

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

Fort Discovery Corp., a Washington corporation;
**Stephen Anderson; Steven Gilstrom; and Jay
Towne,**

Appellants,

v.

Jefferson County, a Washington municipality,
Respondent.

RESPONDENT'S SUPPLEMENTAL BRIEF

JEFFERSON COUNTY
PROSECUTING ATTORNEY'S OFFICE

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I. INTRODUCTION

Pursuant to the court’s May 13, 2020 order, this supplemental brief addresses the “impact, if any, the changes made to Title 8, ch. 8.50 JCC, have on this appeal, following the repeal and replacement of Ordinance No. [12-1102-18](#)¹ with Ordinance No. [04-0224-20](#), enacted on February 24, 2020.”² First, as discussed in detail below, the amended regulations in Ordinance No. [04-0224-20](#) pose *less* burden on an applicant than those in Ordinance No. [12-1102-18](#) and do *not* ban outdoor shooting ranges, as FDC³ claims in its supplemental brief. Respondent’s Brief demonstrates why Ordinance No. [12-1102-18](#) complies with RCW 9.41.290, Article I, Section 24 of the Washington Constitution and the Second Amendment to the United States Constitution. Since Ordinance No. [04-0224-20](#) poses *less* burden, it complies as well.

Second, the basic structure of Ordinance No. [12-1102-18](#) was not changed in Ordinance No. [04-0224-20](#) and this ordinance still does not prohibit any type of commercial shooting facility. “Appellants agree that reasonably safe gun ranges are an important government purpose.”

¹ County Ordinances and the Growth Board decisions are hyperlinked for convenience.

² Ordinance No. [04-0224-20](#) is attached as [Appendix 1](#). Citations to Ordinance No. [04-0224-20](#) are to [Appendix 1](#), by page number. Note: Ordinance No. [04-0224-20](#) has not been appealed under the Growth Management Act (Chapter [36.70A](#) RCW) or the Land Use Petition Act (Chapter [36.70C](#) RCW) and the deadlines for appeal have passed.

³ As in the Respondent’s Brief, “FDC” is used in this Supplemental Brief to describe all of the Appellants for convenience.

Appellants' Opening Brief, 32. The Chapter 8.50 JCC regulation of commercial shooting facilities as amended remains “reasonably necessary to protect public safety or welfare, and substantially related to legitimate ends sought.” *State v. Jorgenson*, 179 Wn.2d 145, 156, 312 P.3d 960, 964 (2013). *See also Kitsap Cty. v. Kitsap Rifle & Revolver Club*, 1 Wn.App.2d 393, 416, 405 P.3d 1026, 1037 (2017), *review denied*, 190 Wn.2d 1015, 415 P.3d 1198 (2018).

Finally, like Ordinance No. [12-1102-18](#), the key components of Ordinance No. [04-0224-20](#) remain: (1) An operating permit is required (JCC 8.50.230; Appendix 1, 25-29); (2) The operating permit is based on an application with required components aimed at promoting health and safety (JCC 8.50.240; Appendix 1, 29-37); and, (3) The operating permit must meet three minimum standards for health and safety (JCC 8.50.250; Appendix 1, 38). Ordinance No. [04-0224-20](#) maintains the safety requirement in Ordinance No. [12-1102-18](#) that there be no shooting after dark. JCC 8.50.240(2)(p); Appendix 1, 32. The regulations in the changes to Chapter 8.50 JCC are valid health and safety regulations, like those upheld by the federal district court in *Ezell* (*Ezell v. City of Chicago*, 70 F. Supp. 3d 871, 885–88 (N.D. Ill. 2014), *aff'd in part, rev'd in part*, 846 F.3d 888 (7th Cir. 2017)), that were not challenged on appeal. *Ezell v. City of Chicago*, 846 F.3d 888, 891 (7th Cir. 2017).

Accordingly, the court should affirm the superior court's decision granting Jefferson County summary judgment and should award Jefferson County its costs on appeal.

II. BACKGROUND LEADING TO THE AMENDMENTS

A. FDC Appealed Only Ordinance No. [12-1102-18](#) Here, But Two Ordinances Were Appealed to the Growth Board Under the Growth Management Act.

In addition to this litigation filed by FDC, the Tarboo Ridge Coalition, a neighborhood group opposed FDC's hoped for commercial shooting facility, filed an appeal to the Western Washington Growth Management Hearings Board (Growth Board)⁴ of the Title 8 JCC operating permit ordinance on appeal here, Ordinance No. [12-1102-18](#).

Tarboo Ridge Coalition also appealed to the Growth Board a companion land use ordinance, Ordinance No. [15-1214-18](#), located in Jefferson County's Unified Development Code, Title 18 JCC. FDC did not appeal Ordinance No. [15-1214-18](#) (the Title 18 ordinance) or intervene in the Growth Board appeal. In its supplemental brief, FDC avoids discussion of Ordinance No. [03-0224-20](#).⁵ Therefore, Ordinance No. [03-0224-20](#) is not material to this appeal.

⁴ *Tarboo Ridge Coalition v. Jefferson County*, WWGMHB Case No. 19-2-0003.

⁵ Ordinance No. [03-0224-20](#) is attached as [Appendix 2](#). Citations to Ordinance No. [03-0224-20](#) are to [Appendix 2](#), by page number.

B. The Growth Board Invalidated Ordinance No. [12-1102-18](#) and Ordinance No. [15-1214-18](#) Under the Growth Management Act.

On September 16, 2019, the Growth Board issued its Final Decision and Order⁶ ([FDO](#)). The [FDO](#) invalidated both Ordinance No. [12-1102-18](#) and Ordinance No. [15-1214-18](#) under the Growth Management Act. The Growth Board found as a fact in the [FDO](#) that: “The new shooting facility regulations create a new land use category, ‘outdoor shooting facilities’, and allow two types of shooting facilities: commercial shooting facilities (allow police and military unit training and which may include ‘one or more shooting ranges’) and non-commercial facilities for use by property owners or guests.” [FDO](#), 15. Despite the County’s arguments to the contrary that Ordinance No. [12-1102-18](#) is not a development regulation, the Growth Board assumed jurisdiction of Ordinance No. [12-1102-18](#) under the Growth Management Act. [FDO](#), 7-11. In the [FDO](#), the Growth Board held in pertinent part: “The end result of the County’s actions in adopting amendments to both titles will allow larger shooting facilities with more uses in natural resource lands than previously allowed in its development regulations.” *Id.* at 16.

⁶ *Tarboo Ridge Coalition v. Jefferson County*, WWGMHB Case No. 19-2-0003 (FDO, September 16, 2019). (<http://www.gmhb.wa.gov/Global/RenderPDF?source=casedocument&id=6576>, last accessed on May 16, 2020).

The Growth Board remanded both ordinances to the Jefferson County Board of Commissioners (Commissioners) with a compliance report due by not later than March 2, 2020. [FDO](#), 19. The Growth Board set a compliance schedule, including a compliance hearing set for April 9, 2020. *Id.*

C. The County Satisfied the Growth Board’s Final Decision and Order.

To comply with the [FDO](#), the Commissioners amended Ordinance No. [12-1102-18](#) (the Title 8 ordinance), by adopting Ordinance No. [04-0224-20](#) on February 24, 2020. The Commissioners also amended Ordinance No. [15-1214-18](#) (the Title 18 ordinance) to comply with the [FDO](#), by adopting Ordinance No. [03-0224-20](#) (the Title 18 ordinance), which prohibits the siting and construction of new outdoor commercial shooting facilities. Ordinance No. [03-0224-20](#) demonstrates that it has been modified to address the requirements of the Growth Management Act, as reflected in the September 16, 2019 Growth Board’s [FDO](#). Appendix 2, 6. Further, Ordinance No. [03-0224-20](#) provided express reasons why indoor commercial shooting facilities are more protective of safety and the environment than outdoor commercial shooting facilities. Appendix 2, 5.

On April 3, 2020, the Growth Board issued its Order on Compliance, which rescinded the order of invalidity in the [FDO](#) and determined that

both Ordinance No. [03-0224-20](#) and Ordinance No. [04-0224-20](#) are compliant with the Growth Management Act. *Tarboo Ridge Coalition v. Jefferson County*, WWGMHB Case No. 19-2-0003 (Compliance Order, April 3, 2020), 3.⁷

III. AMENDMENTS TO THE ORDINANCE ON APPEAL

A. Ordinance No. [04-0224-20](#) Does Not Ban Outdoor Shooting Facilities.

Ordinance No. [04-0224-20](#) regulates “commercial shooting facilities.” Appendix 1, 20. (“The purpose of this article is to provide uniform requirements for the operation of *all commercial shooting facilities* in unincorporated parts of the county.” (emphasis added).) “Commercial shooting facility” means an indoor shooting facility *or an outdoor shooting facility* designed and specifically designated for safe shooting practice with firearms ...” Appendix 1, 21. (emphasis added).) FDC’s erroneous claim that Ordinance No. [04-0224-20](#) bans outdoor shooting facilities relies only on one sentence in Ordinance No. [04-0224-20](#). But that sentence *only* applies to safety plans for *indoor* shooting facilities. That one sentence states: “(q) A requirement *for an indoor shooting facility* that no shooting take place outdoors.” JCC 8.50.240(2)(q); Appellant’s Supplemental Brief, 2 and Appendix A. On the same page,

⁷ <http://www.gmhb.wa.gov/Global/RenderPDF?source=casedocument&id=6868>, last accessed on May 16, 2020.

just above that one sentence, the ordinance contains: “A requirement that no shooting take place after dark *at an outdoor shooting facility*.” *Id.* Under no reasonable construction of Ordinance No. [04-0224-20](#) can one reach the conclusion that the ordinance bans outdoor shooting facilities.

B. The Amended Regulations in Ordinance No. [04-0224-20](#) Result in Less Burden on an Applicant.

First, the JCC 8.50.210 (Purpose) Ordinance No. [12-1102-18](#) (the Title 8 ordinance) was amended to limit the focus *strictly* to *operations* of a commercial shooting facility:

- (1) Establish ~~an~~ operational permitting procedure and rules for the ~~siting, design and~~ operation of commercial shooting facilities that protect the health and safety of participants, spectators, neighboring properties and the public;
- (2) Include appropriate measures designed to make the discharge of firearms safe during the operation of commercial shooting facilities; and,
- ~~(3) Protect the environment;~~
- ~~(4) Ensure compatibility with neighboring land uses as regulated in Title 18 JCC; and,~~

Appendix 1, 20.

Second, Section 8.50.230 (Operating Permit Required), was modified to address the holding in the [FDO](#) that Ordinance No. [12-1102-18](#) was a development regulation by: (1) deleting in JCC 8.50.230(2) the cross-reference to Title 18 JCC, the Unified Development Code (land use code); (2) eliminating the mandatory requirement in JCC 8.50.230(3) that

development permits for commercial shooting facilities under Title 18 JCC must be considered at the same time as operating permits under Title 8 JCC; and, (3) eliminating the requirement in JCC 8.50.230(5) that inspections under Ordinance No. [12-1102-18](#) also must review compliance with development permits issued under Title 18 JCC. Appendix 1, 26.

Third, JCC 8.50.240 (Application for a Commercial Shooting Facility Operating Permit) was modified to remove the Facility Design Plan requirement in JCC 8.50.240(2). Appendix 1, 30-31 A section like JCC 8.50.240(2) was then added to the amended Title 18 ordinance, Ordinance No. [03-0224-20](#). Appendix 2, 20. The definition of “facility design plan” was removed, as were other definitions only used in the former Facility Design Plan portion, including the definitions of “backstop,” “baffles,” “ballistic trauma,” “berm,” “buffer zone,” “critical areas,” “false report,” “five stand shooting,” “impact area,” “other reports of violations,” “skeet shooting,” “sporting clays,” “target line,” and, “trap shooting.” Appendix 1, 20-25.

Fourth, JCC 8.50.250 (Minimum Standards) was amended to eliminate language that previously related to design and critical areas, which might have made the ordinance a development regulation. Appendix 1, 38.

Accordingly, Ordinance No. [04-0224-20](#) poses *less* burden on an applicant than Ordinance No. [12-1102-18](#).

C. Facts Found in Ordinance No. [04-0224-20](#) Demonstrate that in Jefferson County, Other Opportunities Exist for Citizens to Practice Shooting.

The Second Amendment at its “core” protects the “right of law-abiding, responsible citizens to use arms in defense of *hearth and home*.” *D.C. v. Heller*, 554 U.S. 570, 635, 128 S. Ct. 2783, 2821-22, 171 L. Ed. 2d 637 (2008) (emphasis added.) The Seventh Circuit later considered Chicago gun regulations that required all gun owners to obtain training that included one hour of live-range instruction (*Ezell v. City of Chicago*, 846 F.3d 888, 900 (7th Cir. 2017)), coupled with shooting range ordinances that severely limited location of indoor commercial shooting ranges (846 F.3d at 891), thereby affecting “the entire law-abiding adult population of [Chicago].” *Ezell v. City of Chicago*, 70 F. Supp. 3d 871, 883 (N.D. Ill. 2014), *aff’d in part, rev’d in part*, 846 F.3d 888 (7th Cir. 2017). In contrast, Jefferson County does not require range training, and shooting practice already is allowed in Jefferson County because: (1) The Jefferson County Code does not prohibit individuals from training and practicing with weapons outdoors on private property, except in lawfully established no shooting areas (Appendix 1, 2); (2) Target shooting is allowed on national forest lands (not including wilderness lands), which comprise approximately 119,039 acres in Jefferson County (Appendix 1, 3), and on state-owned Department of Natural Resources lands (not

including rural residential zones or natural resources conservation areas), which comprise approximately 181,452 acres in Jefferson County, unless a specific area has been closed to shooting. (*Id.*); and, (3) Jefferson County owns property on which an outdoor shooting facility exists that is open to the public and is operated by the Jefferson County Sportsmen's Association under a license that is in effect until December 31, 2040, where individuals can train and practice shooting. Appendix 1, 2.

D. The Structure and Key Components in Ordinance No. [12-1102-18](#) Have Been Maintained in Ordinance No. [04-0224-20](#).

The approach to amending Ordinance No. [12-1102-18](#) was to keep as much as possible intact and revise the portions of Ordinance No. [12-1102-18](#) that the Growth Board relied on to hold it was a development regulation.⁸ Like Ordinance No. [12-1102-18](#), the key components of Ordinance No. [04-0224-20](#) remain: (1) An operating permit is required (JCC 8.50.230; Appendix 1, 25-29); (2) The operating permit is based on an application with required components aimed at promoting health and safety (JCC 8.50.240; Appendix 1, 29-37); and, (3) The operating permit must meet three minimum standards for health and safety (JCC 8.50.250; Appendix 1, 38). Ordinance No. [04-0224-20](#) maintains the safety requirement in Ordinance No. [12-1102-18](#) that there be no shooting after dark. JCC 8.50.240(2)(p); Appendix 1, 32.

⁸ [FDO](#), 8-11.

The commercial shooting facility regulations in Chapter 8.50 JCC are valid health and safety regulations, like those upheld by the federal district court in *Ezell* (*Ezell v. City of Chicago*, 70 F. Supp. 3d 871, 885–88 (N.D. Ill. 2014), *aff'd in part, rev'd in part*, 846 F.3d 888 (7th Cir. 2017)), that were not challenged on appeal. *Ezell v. City of Chicago*, 846 F.3d 888, 891 (7th Cir. 2017). Respondent’s Brief discusses why the regulations are constitutional and are not preempted.

E. Other Amendments to Ordinance No. [12-1102-18](#) Improve its Clarity, Lessening Any Burden of Compliance.

The following amendments to Ordinance No. [04-0224-20](#) do not increase its burden:

1. The “BMP” definition was modified slightly. Appendix 1, 21.
2. The “Commercial shooting facility” definition was modified primarily to move an exception to an exception into the body of the definition:

(15) “Commercial shooting facility” means an indoor shooting facility or outdoor shooting facility designed and specifically designated for safe shooting practice with firearms, whether open to the public, open only to private membership, ~~open to organizational training for law enforcement officers or organizational training for members of the armed forces,~~ or any combination of the above that for the use of the commercial shooting facility requires a contract, charges a fee or other compensation, or requires membership. ~~There may be one or more~~ In addition, where property is used primarily for lawful shooting ranges located at practice for guests of the owner, and where the other uses of the property either facilitate shooting

practice or are incidental, intermittent or occasional and whether or not payment is received, it is presumed that the property used for lawful shooting practices is a commercial shooting facility. The term commercial shooting facility does not include:

(a) Shooting facilities that are both owned and operated by any instrumentality of the United States, the State of Washington, or any political subdivision of the State of Washington; or,

(b) Any portion of a privately-owned property used for lawful shooting practice solely by its owner or the owner's guests without payment of any compensation to the owner of the privately owned property or to any other person, except where the property is presumed to be a commercial shooting facility, as described above. ~~For the avoidance of doubt, where privately owned property is used primarily for lawful shooting practice for guests of the owner, and where the other uses of the property either facilitate shooting practice or are incidental, intermittent or occasional, it is presumed that the privately owned property used for lawful shooting practices is a commercial shooting facility.~~

Appendix 1, 21.

3. Minor changes were made to the “indoor facility” (Appendix 1, 23) and “outdoor facility” definitions (Appendix 1, 24) and “lawful incidental sales of firearms, ammunition, component parts and accessories” were authorized at indoor shooting facilities. Appendix 1, 23.

4. The “physical containment” definition was removed (Appendix 1, 24) and replaced with the definition of containment: “(16) ‘Containment’ means the prevention of projectiles from leaving a shooting range during operations.” Appendix 1, 21.

5. The department charged with enforcing the ordinance was changed to the Public Health Department's Division of Environmental Public Health, by modifying the definition of "department." Appendix 1, 22.

6. The use of the word "plan" in the definitions of "environmental plan," "operations plan" and "safety plan" was changed to "component." Appendix 1, 22, 23, 25.

7. The "explode" definition was changed to "explodes." Appendix 1, 22.

8. The "rules and regulations" definition was modified as follows: "~~(5758)~~ (57)(58) 'Rules and regulations' means requirements used in the operation of a commercial shooting facility that minimize the risk of threatened harm." Appendix 1, 25.

9. In the "shooting range" definition, the following sentence was removed: "A commercial shooting facility may include multiple shooting ranges." Appendix 1, 25.

10. "Mean" was made plural in the "threatened harm" definition. Appendix 1, 25.

11. The safety plan/component in JCC 8.50.240 was modified to add the following required elements:

(a) The safety fan for each shooting range proposed;

(b) Approximate location of buildings on adjoining property;

(q) A requirement for an indoor shooting facility that no shooting take place outdoors.

Appendix 1, 31-32.

12. There is a minor clarification of the no shooting after dark requirement. Appendix 1, 32.

13. The component in JCC 8.50.240(1)(e) of a “noise abatement plan” in JCC 8.50.240(5) is changed to “sound suppression component,” with minor, non-substantive changes to JCC 8.50.240(5). Appendix 1, 33-34.

14. The sentence is removed from JCC 8.50.240(4)(b) that required the environmental plan/health component to identify the: “Approximate location of any stream, river, lake, or other body of water within 500 yards of the commercial shooting facility.” Appendix 1, 33.

15. Minor, non-substantive changes are made to the requirement in JCC 8.50.240(6) for a professional evaluation. Appendix 1, 34.

16. JCC 8.50.260 was changed to reflect that the County now has a hearing examiner code, Chapter [2.30](#) JCC. Appendix 1, 38.

17. JCC 8.50.270 eliminated the reference to the 21 calendar day Land Use Petition Act statute of limitations. Appendix 1, 38.

IV. CONCLUSION

In its response to FDC’s mootness motion, the County will show why this case should not be dismissed on mootness grounds. For example, FDC can obtain effective relief in this appeal because it claims: “The state Framers codified common law gun rights in the state constitution—and shooting at a gun range *without restrictions* was one of the rights codified.” Opening Brief, 45 (emphasis added). That argument, though incorrect, applies equally to Ordinance No. [04-0224-20](#).

Ordinance No. [04-0224-20](#) poses *less* burden on an applicant than Ordinance No. [12-1102-18](#). Respondent’s Brief discusses why the Chapter 8.50 JCC regulations in Ordinance No. [12-1102-18](#) comply with RCW 9.41.290, Article I, Section 24 of the Washington Constitution and the Second Amendment to the United States Constitution. Ordinance No. [04-0224-20](#) poses *less* burden, so it also complies. Accordingly, the court should affirm the superior court’s decision on the cross-motions for summary judgment and should award Jefferson County its costs on appeal.

RESPECTFULLY SUBMITTED this 27th day of May 2020.



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CERTIFICATE OF SERVICE

I hereby certify that on the 27th of May 2019, I caused to be served the above Respondent's Brief on Behalf of Respondent Jefferson County, Washington on the following party at the following address:

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APPENDIX 1 – Ordinance No. 04-0224-20

APPENDIX 1

COUNTY OF JEFFERSON STATE OF WASHINGTON

**An Ordinance Repealing and Replacing }
Ordinance No. 12-1102-18 and Amending } ORDINANCE NO. 04-0224-20
Title 8, Chapter 8.50 Jefferson County Code }
related to Shooting in the County }**

WHEREAS, the Washington Constitution, Article XI, Section 11, confers upon county legislative authorities the police power to adopt regulations necessary to protect the health, safety, and well-being of its residents as are not in conflict with general laws; and,

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and,

WHEREAS, RCW 9.41.290 provides that the State of Washington fully occupies and preempts the entire field of firearms regulations within its boundaries, and counties may only enact ordinances as expressly authorized by RCW 9.41.300; and,

WHEREAS, RCW 9.41.300(2)(a) provides an exception to RCW 9.41.290 under which a county may, by ordinance, restrict the discharge of firearms in any portion of its jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized so long as such ordinance shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and,

WHEREAS, Article VI of the United States Constitution states that “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding;” and,

WHEREAS, Article I, Section 2 of the Washington State Constitution states, “The Constitution of the United States is the supreme law of the land;” and,

WHEREAS, there is a fundamental principle of Washington law sometimes called “the preemption doctrine,” that derives from Article VI of the United States Constitution, Article I, Section 2 of the Washington State Constitution, Article XI, Section 11 of the Washington State Constitution, and RCW 36.32.120(7) that the Washington Administrative Code (WAC) calls the “Supremacy Principle,” which holds that a higher authority of law will displace the law of a lower authority of law when the two authorities come into conflict; and,

WHEREAS, under the Supremacy Principle, state statutes and regulations cannot conflict with the United States Constitution, the Washington Constitution, and federal laws; and, local ordinances and regulations cannot conflict with the United States Constitution, federal laws, the Washington Constitution, or state laws; and,

WHEREAS, Article I, Section 32 of the Washington State Constitution states, “A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government;” and,

WHEREAS, the Jefferson County Code does not prohibit individuals from lawfully training and practicing with weapons outdoors on private property, except in lawfully established no shooting areas; and,

WHEREAS, Jefferson County owns property on which an outdoor shooting facility exists that is open to the public and is operated by the Jefferson County Sportsmen’s Association (JCSA) under a license that is in effect until December 31, 2040, where individuals can train and practice shooting; and,

WHEREAS, JSCA has posted to its website a true and accurate diagram of the JCSA facility at <http://jeffersoncountysportsmen.org/wp/> which is copied below; and,



WHEREAS, according to the United States Supreme Court, the Second Amendment at its core protects the right of law-abiding, responsible citizens to use arms in defense of hearth and home; and,

WHEREAS, this ordinance protects the rights of citizens under Washington Constitution Article I, Section 24 and the Second Amendment to the United States Constitution; and,

WHEREAS, local governments have considerable latitude in exercising police powers and a regulation is reasonable if it promotes public safety, health, or welfare, and bears a reasonable and substantial relation to accomplishing the purpose being pursued; and,

WHEREAS, due to the amount of land in Jefferson County owned by the federal and state governments, areas of protected shorelines, and limited water and septic capacity in other areas of Jefferson County, there are limited areas where residents can live; and,

WHEREAS, widely disseminated information exists about uncontrolled incidents at shooting ranges outside of Jefferson County where people's safety has been threatened; and,

WHEREAS, commercial shooting facilities are best operated using the best available source information on ensuring minimizing risks from the discharge of firearms and ensuring the greatest level of public safety both on and off these facilities; and,

WHEREAS, the National Rifle Association (NRA) 2012 *Range Source Book*, states that "A range is only as safe as the manner in which it is used" and "health and safety considerations are twofold: (2) ensuring the health and safety of participants, staff and spectators, and (2) ensuring the health and safety of surrounding inhabitants;" and,

WHEREAS, at outdoor commercial shooting facilities and their surrounding areas, there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and,

WHEREAS, Jefferson County experienced a substantial increase in population density in areas proximate to its existing commercial shooting facilities and the County has an interest in minimizing potential safety hazards created by the operation of commercial shooting facilities; and,

WHEREAS, public concerns about lack of safety and nuisance noise arising from the operation of commercial shooting facilities in unincorporated Jefferson County have called on the scarce resources of Jefferson County's emergency management system and the Sheriff's Office, which has the effect of diminishing the availability of these resources for emergency services; and,

WHEREAS, Jefferson County has rural areas where emergency services are scarce and adopting a commercial shooting ordinance would promote public safety and preserve precious emergency services; and,

WHEREAS, commercial shooting facilities benefit Jefferson County by providing its residents and law enforcement the opportunity to learn firearm safety, to practice shooting, and to participate in amateur recreational firearm sports in a safe, controlled setting; and,

WHEREAS, the Olympic National Park and the Olympic National Forest, comprise approximately 60% of the County's 1.16 million acres of land and about another 20% of land is under the jurisdiction of other federal and state agencies; and,

WHEREAS, target shooting is allowed on national forest lands (not including wilderness lands), which comprise approximately 119,039 acres in Jefferson County, and on state-owned Department of Natural Resources lands (not including rural residential zones or natural resources conservation areas), which comprise approximately 181,452 acres in Jefferson County, unless a specific area has been closed to shooting; and,

WHEREAS, about twenty percent of the land-base in Jefferson County is zoned rural residential (RR-5, RR-10 or RR-20) or about 86,341 acres, is where dispersed target shooting can

be carried out, provided the property is not in a no shooting area designated in Article II of Chapter 8.50 JCC and they do not discharge the firearm recklessly; and,

WHEREAS, such dispersed, sporadic sport-oriented target shooting is less impactful from both a noise impact and a human health impact, than the concentrated impacts poised by outdoor commercial shooting facilities; and,

WHEREAS, lead is a heavy metal hazardous waste that can travel through soils, ground and surface waters, and persist in the environment, bioaccumulating up the food chain; and,

WHEREAS, lead is a known health hazard and neurotoxin that can affect humans and animals alike; and,

WHEREAS, noise above certain levels, particularly persistent, repetitive, percussive is deleterious to humans and animals alike; and,

WHEREAS, noise at outdoor shooting facilities is much more likely to generate complaints by nearby residents, than noise at indoor shooting facilities; and,

WHEREAS, greater technology exists to control noise impacts at indoor shooting ranges than at outdoor commercial shooting facilities, where noise leaving commercial outdoor commercial shooting facilities can reach and negatively impact humans, domestic and wild animals unless the outdoor shooting range's noise is mitigated through best management practices and the outdoor shooting range is properly operated; and,

WHEREAS, the BoCC finds it is in the public interest to provide for commercial shooting facilities in Jefferson County in the face of increasing population pressure, the limited space where people can live; and,

WHEREAS, the BoCC adopted Ordinance 12-1102-18 on November 2, 2018 and adopted Ordinance No. 15-1214-18 on December 14, 2018 as reasonable regulations for commercial shooting facilities; and,

WHEREAS, the BoCC did not intend that Ordinance 12-1102-18 be a development regulation as defined in the Growth Management Act (Chapter 36.70A RCW); and,

WHEREAS, on September 16, 2019, the Western Washington Growth Management Hearings Board (Growth Board) issued its Final Decision and Order in Case No. 19-02-0003-c, that invalidated the Ordinance 12-1102-18 on the basis that it was a development regulation under the Growth Management Act because it had not been reviewed under the State Environmental Policy Act (Chapter 43.21C RCW) and did not comply with the County's public participation process which requires consideration by the Jefferson County Planning Commission; and,

WHEREAS, the Growth Board's September 16, 2019 decision invalidated Ordinance 12-1102-18 under the Growth Management Act and remanded the BoCC to achieve compliance as addressed in the Final Decision and Order with compliance due on March 2, 2020; and,

WHEREAS, on September 23, 2019 the BoCC referred both Ordinance 12-1102-18 and Ordinance No. 15-1214-18 to the Jefferson County Planning Commission to ensure compliance with the Growth Board's remand; and,

WHEREAS, this Ordinance has been revised to remove the bases on which the Growth Board determined Ordinance 12-1102-18 was a development regulation as defined in the Growth Management Act; and,

WHEREAS, even though this Ordinance is not a development regulation, the County utilized its public participation process for comprehensive plan amendments and development regulations required by the Growth Management Act, including consideration by the Jefferson County Planning Commission, as a precaution and to show respect to the Growth Board's September 16, 2019 decision; and,

WHEREAS, the County has fulfilled the requirements of the State Environmental Policy Act for this Ordinance and has utilized the County's public participation process, including consideration by the Jefferson County Planning Commission; and,

WHEREAS, the Jefferson County Division of Environmental Public Health is a department of the Jefferson County Department of Health, whose purpose is to protect the health of all Jefferson County residents by promoting healthy communities and their environments; and,

WHEREAS, the BoCC has determined that the Division of Environmental Public Health is best suited to enforcing this Ordinance because of its expertise in processing and enforcing other health and safety regulations;

NOW, THEREFORE, be it ordained by the BoCC as follows:

Section 1. Repeal and Replacement of Ordinance No. 12-1102-18 and Amending Chapter 8.50 JCC. Ordinance No. 15-1214-18 (Title 18 – Land Use Code) is repealed and replaced with this ordinance.

Section 2. Findings. The BoCC hereby adopts the above recitals (the "WHEREAS" statements) as its findings of fact in support of this Ordinance.

Section 3. Not a Development Regulation. Neither Article III of Chapter 8.50 JCC, as adopted, nor the provisions of this Ordinance are a development regulation as defined in RCW 36.70A.030(7) and WAC 365-196-200(8).

Section 4. Establishment of a Fee. The department shall charge a fee base fee of \$450 plus actual costs incurred (including consultant work) for processing an application for a commercial shooting facility. This fee shall be added to the Appendix Fee Schedule for the department.

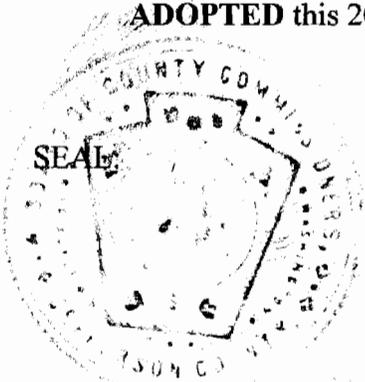
Section 5. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, then the remainder of this Ordinance or application of its provisions to other persons or circumstances shall remain valid and unaffected.

Section 6. SEPA Compliance. On January 13, 2020 the SEPA responsible official issued a determination of nonsignificance (DNS) after reviewing a January 6, 2020 SEPA Checklist (Checklist). Consistent with RCW 43.21C.030(2), WAC 197-11-060, and Washington State Department of Ecology, State Environmental Policy Act Handbook, 43 (2018), the Checklist analyzed five non-project alternatives, including the December 3, 2019 recommendation of the Jefferson County Planning Commission, in addition to the no-action alternative. Five written comments were received timely on the DNS. All these written comments make claims that are belied by a careful review of the Checklist. None of the written comments were from state or federal agencies or Indian Tribes. Detailed responses to all of the were sent that address all the concerns raised in the comments. After considering all the comments and providing detailed responses to all of them the SEPA responsible official determined to retain the DNS on February 20, 2020. Consistent with Department of Ecology SEPA policy, a memorandum signed by the SEPA responsible official was emailed to the Department of Ecology on February 20, 2020 and placed in the Department of Community Development's project file.

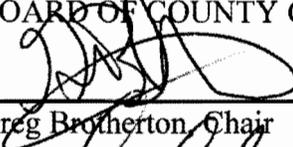
Section 7. Effective Date. This ordinance is effective immediately upon adoption.

(SIGNATURES FOLLOW ON NEXT PAGE)

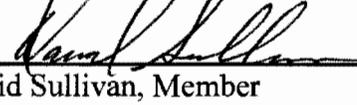
ADOPTED this 20th day of February 2020, at ~~4:25~~ ^{4:23 p.m.} p.m.



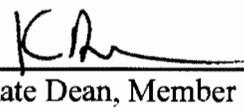
JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS



Greg Brotherton, Chair



David Sullivan, Member



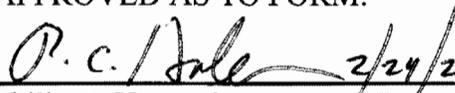
Kate Dean, Member

ATTEST:



Carolyn Gallaway,
Deputy Clerk of the Board

APPROVED AS TO FORM:

 2/24/2020

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A

[Modifications to Current Articles III of Chapter 8.50 JCC]

Chapter 8.50

NO SHOOTING AREAS SHOOTING IN THE COUNTY

Sections:

Article I. Establishment Procedures for No Shooting Areas

- 8.50.010 Purpose.
- 8.50.020 Exemptions.
- 8.50.030 Prohibited.
- 8.50.040 Firearms defined.
- 8.50.050 Creation, alteration or dissolution of a no shooting area.
- 8.50.060 Violations – Misdemeanors – Penalty – Arrest.
- 8.50.070 Enforcement officers and procedures.
- 8.50.080 Interpretation.

Article II. Boundary Descriptions for No Shooting Areas

- 8.50.100 Kala Point.
- 8.50.110 Port Ludlow.
- 8.50.120 Brinnon – Black Point.
- 8.50.130 Brinnon.
- 8.50.140 Brinnon – Triton Cove.
- 8.50.150 Brinnon – Olympic Canal Tracts.
- 8.50.160 South Coyle Peninsula.
- 8.50.170 Paradise Bay.
- 8.50.180 Chimacum Creek.
- 8.50.190 Tala Shore.
- 8.50.200 Ocean Grove.

Article III. Commercial Shooting Facilities

- 8.50.210 Purpose.
- 8.20.220 Definitions.
- 8.50.230 Operating Permit Required.
- 8.50.240 Application for a Commercial Shooting Facility Operating Permit.
- 8.50.250 Minimum Standards.
- 8.50.260 Administrative Remedy for Decisions Made by the Director.
- 8.50.270 Judicial Appeals.
- 8.50.280 Safe Harbor for Owners and Operators.
- 8.50.290 Reports of Violations of this Article.
- 8.50.300 Review Committee.
- 8.50.310 Limitations on the Applicability of this Article.
- 8.50.320 Warning and Disclaimer of Liability.

Article I. Establishment Procedures for No Shooting Areas

8.50.010 Purpose.

The purpose of articles I and II of this chapter is to establish a process for the establishment, alteration, or dissolution of “no shooting” areas in unincorporated Jefferson County and to provide regulation of the discharge of firearms in such areas as provided in articles I and II of this chapter. The creation of a no shooting area shall be considered in accordance with RCW 9.41.300(2)(a) wherein counties are authorized to enact laws and ordinances restricting the discharge of firearms “where there is a reasonable likelihood that humans, domestic animals, or property may be jeopardized.” County officials shall endeavor to facilitate solutions within communities to resolve concerns leading to petitions for no shooting areas. Areas considered for creation, alteration, or dissolution of a no shooting area shall be considered on an individual basis to adequately assess the motivation for the proposal and to resolve existing differences regarding an area. Creation of a no shooting area must be realistically enforceable in the area designated. [Ord. 2-07 § 1]

8.50.020 Exemptions.

The designation of a no shooting area shall continue to allow:

- (1) The use of firearms by citizens pursuant to RCW 16.08.020 regarding dogs, or other animals, endangering livestock.
- (2) The lawful use of a firearm by a law enforcement officer in the performance of their duties.
- (3) The use of firearms to lawfully slaughter farm animals.
- (4) The lawful use of force by citizens.
- (5) The operation of an indoor shooting facility which has obtained an operating permit or provisional operating pursuant to Article III of Chapter 8.50 JCC.
- (6) The operation of a commercial shooting facility that has an operating permit or a provisional operating permit issued pursuant to Article III, of Chapter 8.50 JCC.

~~(6) The operation of a commercial shooting facility sited in accordance with Title 18 JCC that has an operating permit or a provisional operating permit issued pursuant to Article III, of Chapter 8.50 JCC.~~

~~(5) The continued operation of legally established private or public gun club facilities or commercial shooting ranges that are not commercial shooting facilities as defined in Article III of Chapter 8.50 JCC, and which were established and operating prior to the enactment of the no shooting area or the development of outdoor ranges constructed in compliance with JCC 18.20.350(8).~~

8.50.030 Prohibited.

It is unlawful for any person to discharge any firearm or to propel from any portion of Jefferson County any projectile discharged from any firearm across, in or into a no shooting area established by Jefferson County. Articles I and II of this chapter shall not abridge the right of the individual guaranteed by Article I, Section 24 of the State Constitution to bear arms in defense of self or others. [Ord. 2-17; Ord. 2-07 § 3]

8.50.040 Firearm defined.

“Firearm” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. The definition of “firearm” includes the terms pistol, rifle, short-barreled rifle, shotgun, short-barreled shotgun, machine gun, and antique firearm as those terms are defined in RCW 9.41.010. The term “firearm” shall not include: (a) devices, including but not limited to “nail guns,” which are used as tools in the construction or building industries and which would otherwise fall within this definition; or, (b) a “destructive device” as defined in 18 U.S.C. Section 921(a)(2).

8.50.050 Creation, alteration, or dissolution of a no shooting area.

(1) The process for the creation, alteration, or dissolution of a no shooting area can be initiated in accordance with RCW 9.41.300, wherein counties are authorized to enact laws and ordinances restricting the discharge of firearms “where there is a reasonable likelihood that humans, domestic animals, or property may be jeopardized,” by either:

(a) A petition filed by residents containing the signatures of at least 20 elector-residents of each voting precinct in the area under consideration; or

(b) A majority vote of the board of county commissioners.

(2) Petitions or requests for the creation of a no shooting area or to alter or dissolve an existing no shooting area by the Jefferson County board of commissioners shall be filed with the clerk of the board of county commissioners. The petition or request must be based on a definable threat to the public health, safety or general welfare.

(3) The petition or request must include a legal description of the proposed boundaries with: a map showing the proposed area, a written statement explaining the reasons for the petition, and a statement, where applicable, of reported incidence involving firearms in the petition area.

(4) After petition signatures have been verified by the Jefferson County auditor-elections and the board of county commissioners finds the petition warrants consideration, the county commissioners shall hold a public hearing regarding the petition or may choose to facilitate an amicable solution within the proposed area or may assign a review committee to consider the merit of the petition specific to the area under consideration. The county commissioners may have the review committee consider the petition before establishing a date for the public hearing. Treaty tribes will be contacted by the county to identify any concerns and invite their participation.

(a) The review committee shall consist of:

(i) The county sheriff or his designee.

- (ii) The director of the department of community development, or his designee.
 - (iii) Three residents-at-large to be appointed by the county commissioners.
 - (iv) At least one representative of tribal interests will be invited.
 - (v) Representative stakeholders from the petition area as determined by the county commissioners, with the goal of including persons from all sides of any contended or questionable issue.
- (b) The review committee shall consider, but is not limited to consideration of, the location, terrain and surrounding land use of the petition area. The committee shall also consider any additional instructions given by the county commissioners at the assignment of the committee. The county commissioners shall hold a public hearing on the review committee's recommendations soon after they are received by the commission.
- (5) Legal notice of the public hearing shall be published one time in the official newspaper of the county at least 10 days prior to the hearing.
- (6) If the county commissioners find the formation, alteration, or dissolution of the petitioned area to be beneficial to the public health, safety or general welfare, the area shall be established, altered, or dissolved as a no shooting area by ordinance. The board of commissioners shall consider, but is not limited to considerations of, the location, terrain and surrounding land use of the petitioned area. The board of commissioners shall determine the final boundaries for the creation of a no shooting area.
- (7) Public works may post signs along public roads indicating a no shooting area boundary where deemed necessary. The department of community development shall inform development and permit applicants if a parcel is within a no shooting area.

8.50.060 Violations – Misdemeanors – Penalty – Arrest.

- (1) Any person discharging a firearm in a no shooting area is guilty of a misdemeanor. It shall not be a violation of articles I and II of this chapter when a person discharges a firearm in accordance with the provisions of RCW 9A.16.020.
- (2) Any law enforcement officer having probable cause to believe that a person has committed a violation of articles I and II of this chapter has the authority to arrest the person.
- (3) The first offense for violation of article I or II of this chapter constitutes a civil penalty not to exceed \$100.00. Consecutive offenses are punishable, upon conviction, by a fine not to exceed \$250.00 or by confinement in the county jail for a period of not more than 90 days.

8.50.070 Enforcement officers and procedures.

Enforcement of articles I and II of this chapter may be by any state or county law enforcement officer, state game officer, or state fish and wildlife officer. All such enforcement officers are empowered to issue citations to and/or arrest without warrant persons violating the provisions of this chapter. Said enforcement officers may serve and execute all warrants, citations and other process issued by the courts.

In addition, mailing by registered mail of such warrant, citation or other process to the last known place of residence of the offender shall be deemed as personal service upon the person charged. Said enforcement officers may seize and hold as evidence the weapon and ammunition of any person violating the provisions of this chapter.

8.50.080 Interpretation.

In the event any other county ordinance, whether or not codified, is in conflict with any of the terms of articles I and II of this chapter, the more stringent shall be construed as applicable.

Article II. Boundary Descriptions for No Shooting Areas

8.50.100 Kala Point.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter:

Bordered on the West by Airport Cutoff Road; on the North by Old Fort Townsend Road and the Old Fort Townsend State Park boundary; on the South by Prospect Avenue extending to Port Townsend Bay; and on the East by the Shoreline of Port Townsend Bay.

[Ord. 12-95]

8.50.110 Port Ludlow.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter:

The northern boundary begins at the Admiralty Inlet Shoreline adjacent to northern property lines of lots in Port Ludlow #5 at the northern end of Montgomery Lane. The boundary then moves westward across the properties mentioned above along their northern property lines, crosses Oak Bay Road and continues westward along the fire hall northern property line and on west along the northern property lines of Port Ludlow #2, Area 3, at the northern end of Keefe Lane.

At the NW corner of Lot #75 on Keefe Lane the No Shooting boundary turns south along the western side of Jefferson Avenue to the northern property lines of Port Ludlow #2, Area 3 lots along Fleet Drive. The boundary then moves west and then south around the cemetery, across Swansonville Road and continues south along the western side of Talbot Way to the junction of Talbot Way and Walker Way. Here the boundary turns west along the north side of Walker Way and continues as Walker Way becomes a gravel road to the NW corner of the properties in Port Ludlow #6.

The boundary then heads generally south along the western property lines of Port Ludlow #6 to Oak Bay Road. It then turns west along the north side of Oak Bay Road, then south and then east around the Port Ludlow RV Park and commercial area to Paradise Bay Road. The boundary then turns south along the western side of Paradise Bay Road to a point opposite the end of Camber Lane, it then heads SW picking up the outside of the fairways of the Port Ludlow Golf Course staying at the outside fairway points entirely around the western, southern and the eastern portions of the golf course to the southern property lines of Fairwood Village.

The boundary then heads east along the south side of Springwood Drive and across Teal Lake Road. It then swings NE along the property lines of Teal Lake Village on the south side of Outlook Lane. The boundary then heads north along the eastern side of the Osprey Conservation Tract, which is east of the eastern property lines of Teal Lake Village lots at the end of Clear View Place and Seaway Place to Paradise Bay Road. The boundary then continues north across Paradise Bay Road along the eastern property lines of Bay View Village, Divisions 1 and 2 to Ludlow Bay Road. The boundary then turns NE along the SE side of Ludlow Bay Road to the end of Ludlow Beach Tracts #2. It then turns NW to the shoreline of Ludlow Bay.

[Ord. 4-96]

8.50.120 Brinnon – Black Point.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter:

The northern boundary begins at and includes the old and new Pleasant Harbor Marinas at mile marker #308 on Highway 101. The boundary then moves southwesterly along the highway to the first Duckabush River Bridge at mile marker #310. The boundary includes all of Black Point surrounded by Hood Canal, to the East of Highway 101 between the above referenced mile markers EXCEPT that portion along the southern boundary known as the Duckabush Flats which is along the Duckabush River Estuary below the shoreline bluff.

[Ord. 5-97]

8.50.130 Brinnon.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter:

The area bordered on the east by Highway 101; on the north by the Dosewallips Road; on the west by the power line; and on the south by the Dosewallips River.

[Ord. 3-99]

8.50.140 Brinnon – Triton Cove.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter:

The area bordered on the north by an unnamed year around creek from the Hood Canal to the Bonneville power lines (the area under the power lines is to be included in the No Shooting zone); on the West by the far side of the power lines; the East by Hood Canal; and on the South by the Jefferson County line.

[Ord. 7-00]

8.50.150 Brinnon – Olympic Canal Tracts.

The area described below is hereby established as a “No Shooting” zone as provided in Article I of this chapter. The no shooting area is encompassed by the following description:

Beginning at the point of intersection of the centerline of U.S. Highway 101 and the centerline of Duckabush Road;

Thence northwesterly along the centerline of Duckabush Road to the intersection with the most westerly line of the Bonneville power lines;

Thence southwesterly along the most westerly line of the Bonneville power lines to the intersection of said power lines with McDonald Creek;

Thence southeasterly along McDonald Creek to the shoreline of Hood Canal;

Thence northerly along the shoreline of Hood Canal to the tidal area at the mouth of the Duckabush River;

Thence northerly along the shoreline to a point along the shoreline that is due west of the intersection of the centerline of U.S. Highway 101 and the centerline of Duckabush Road;

Thence west to the point of beginning.

Said property being portions of Sections 15, 16, 17, 20, 21, 28 and 29 all in Township 25 North, Range 2 West; Willamette Meridian.

All lying in Jefferson County, state of Washington.

[Ord. 12-02]

8.50.160 South Coyle Peninsula.

The area described below is hereby established as a "No Shooting" zone as provided in Article I of this chapter. The no shooting area is encompassed by the following description:

That portion of Sections 2, 3, 4 and 5 of Township 25 North, Range 1 West, Willamette Meridian, and Sections 27, 28, 29, 32, 33, 34 and 35 of Township 26 North, Range 1 West, Willamette Meridian, described as follows:

Beginning at the Southeast corner of Tax 1 as described under Parcel A in Auditor File Number 488422, Section 28 Township 26 North, Range 1 West Willamette Meridian;

Thence continuing along the extension of the South line of said Tax 1 to the centerline of said Payne Road and the TRUE POINT OF BEGINNING;

Thence Westerly along the extension of the South line and along the South line of said Tax 1 to the Northeasterly corner of Tax 2 as described under Auditor's File Number 422414;

Thence Southerly and Westerly along the Easterly and Southerly boundary of the parcel identified under said Auditor's File Number 422414;

Thence continuing Westerly along the extension of the Southerly line of said parcel to the 0.0 low tide mark in Dabob Bay;

Thence Southerly along the 0.0 low tide mark of Dabob Bay, and Northerly and Easterly along the 0.0 low tide mark of Hood Canal to the point of intersection of the centerline of East Go-onna Beach Drive extended Easterly from the most Easterly point of said centerline located in the Southwest 1/4 of Section 27, Township 26 North, Range 1 West, Willamette Meridian, and said 0.0 low tide mark of Hood Canal;

Thence Westerly along said extension and the centerline of East Go-onna Beach Drive to the intersection of said East Go-onna Beach Drive with the centerline of Coyle Road;

Thence Northerly and Easterly along the centerline of Coyle Road to the intersection of said road with the centerline of Payne Road;

Thence Westerly and Southerly along the centerline of Payne Road to the TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM any portion of the following described parcels that lie within the above described bounds and that do not lie within the Northerly and Easterly 200 foot setback from the centerline of Zelatched Point Road, within the Northerly and Westerly 200 foot setback from the centerline Coyle Road or within the Southerly and Easterly 200 foot setback from the centerline Payne Road:

The South one half of the Southeast quarter of Section 28, Township 26 North, Range 1 West, Willamette Meridian, lying Southerly and Easterly of Payne Road;

The Northeast quarter of Section 33, Township 26 North, Range 1 West, Willamette Meridian, lying Northerly and Westerly of Coyle Road;

The South one half of the Northwest of Section 33, Township 26 North, Range 1 West, Willamette Meridian, lying Northerly and Easterly of Zelatched Road; and

The Northwest quarter of the Southeast quarter of Section 33, Township 26 North, Range 1 West, Willamette Meridian, lying Northerly and Easterly of Zelatched Road and Northerly and Westerly of Coyle Road;

Situate in Jefferson County, Washington.

[Ord. 12-14 § 1; Ord. 20-02]

8.50.170 Paradise Bay.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter.

All of the land lying within the following bounds:

Beginning at the intersection of the most northerly line of Tract A of the Plat of Woodridge Village Division 1 as recorded in Volume 7 Pages 47 through 50 of Plats, Jefferson County, state of Washington and the easterly margin of Teal Lake Road;

Thence northeasterly along said northerly line of said Tract A to the intersection of said line with the southerly margin of Crestview Drive as recorded in the Plat Amendment to Teal Lake Village Volume 6 Pages 186 through 197 of Plats, Jefferson County, state of Washington;

Thence in a straight line northeasterly to the intersection of said line with a point located at the intersection of the southerly boundary of Tract C of the said plat of Woodridge Village Division 1 and the northerly margin of said Crestview Drive;

Thence northerly along the northerly margin of said Crestview Drive, said margin also being the westerly boundary of said Tract C, to the southerly margin of Outlook Lane as recorded in said plat of Amendment to Teal Lake Village, said line also being the northerly line of said Tract C;

Thence easterly along the northerly boundary of said Tract C to the intersection of said line with the most easterly boundary of said plat of Amendment to Teal Lake Village;

Thence northerly along the easterly boundary of said plat of Amendment to Teal Lake Village to the intersection of said line with the southerly margin of Paradise Bay Road;

Thence along said southerly and westerly margin in an easterly and southerly direction to the intersection of said westerly margin of Paradise Bay Road with the North line of Section 22, Township 28 North, Range 1 East, W.M.;

Thence easterly along the North line of said Section 22 to the mean lower low water boundary of Hood Canal;

Thence southeasterly and easterly along said mean lower low water boundary to Point Hannon and the easterly mean lower low water boundary of Hood Canal in Section 25, Township 28 North, Range 1 East, W.M.;

Thence following the mean lower low water boundary of Hood Canal through Sections 25, 26, 35 and 36, all lying in Township 28 North, Range 1 East, and Section 2, Township 27 North, Range 1 East, W.M., to the intersection with the northerly margin of State Route 104 with said mean lower low water boundary of Hood Canal;

Thence northwesterly along the north margin of State Route 104 to the intersection of said margin with the easterly margin of Paradise Bay Road;

Thence northerly and northwesterly along the easterly margin of Paradise Bay Road to the south line of Section 23, Township 28 North, Range 1 East, W.M.;

Thence westerly along said south line of Section 23 to the intersection with the westerly margin of Paradise Bay Road;

Thence southerly along the westerly margin of Paradise Bay Road to the intersection with the northerly margin of Andy Cooper Road;

Thence westerly along the northerly margin of said Andy Cooper Road to the intersection with the easterly margin of Teal Lake Road;

Thence northwesterly along the easterly margin of Teal Lake Road to the point of beginning of this description.

All situated within Jefferson County, Washington.

[Ord. 4-08 § 1]

8.50.180 Chimacum Creek.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter.

All of the following described lands, being a portion of Sections 34 and 35, Township 30 North, Range 1 West, W.M., and Sections 2 and 3, Township 29 North, Range 1 West, W.M., lying within the following bounds:

Beginning at the intersection of centerline of as-built Prospect Avenue extended Easterly to the westerly shoreline of Port Townsend Bay said point being the True Point of Beginning of this description;

Thence Westerly along the centerline of as-built Prospect Avenue to the intersection of said road with the centerline of State Route 19, also known as Airport-Cutoff Road;

Thence Southeasterly along the centerline of said State Route 19 to the intersection with the centerline of Irondale Road;

Thence Easterly along the centerline of Irondale Road to the intersection with the centerline of platted Market Street as said road is platted in the plat of Harrisburg recorded in Volume 1 Page 16 records of Jefferson County, Washington;

Thence Easterly along said centerline of Market Street to the centerline of Maple Street as platted on said plat;

Thence continuing Easterly along the centerline of platted Market Street lying North of Block 40 and Reserve A, as platted in the plat of Irondale, recorded in Volume 3 Page 5 records of Jefferson County, Washington and the extension of said Market Street to the Westerly shoreline of Port Townsend Bay;

Thence Northerly and Westerly, upland of the 0.0 low tide mark with a line at the mouth of Chimacum Creek between the following coordinates: -122.771 48.049D DD to -122.771.48.049 DD, within Port Townsend Bay to the True Point of Beginning.

All lying and being in Jefferson County, Washington.

[Ord. 3-17 § 1; Ord. 11-08 § 1]

8.50.190 Tala Shore.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter.

That portion of Section 15, Township 28 North, Range 1 East, W.M., Jefferson County, Washington, encompassed within the following described boundary:

Beginning at the intersection of the South Section line of Section 15, Township 28 North, Range 1 East, W.M. Jefferson County, State of Washington and the centerline of a private road known as East Ludlow Ridge Road, as said private road is described in Auditor File Number 285012 records of Jefferson County, Washington; Thence Northerly along said private road centerline to the North line of the Southeast Quarter of the Northwest Quarter of Sections 15, Township 28 North, Range 1 East; Thence Easterly along said North line of the Southeast Quarter of the Northwest Quarter of Sections 15 to the Northwest corner of Government Lot 4; Thence Easterly along the North line of Government Lot 4 and the Easterly extension of the North line of Government Lot 4 to the 0.0 low tide mark within Hood Canal,

Thence Southerly along said 0.0 low tide mark within Hood Canal to the intersection of said 0.0 low tide mark with the Easterly extension of the South section line of said Section 15; Thence West along said Easterly extension of said South section line and the South section line of Section 15, Township 28 North, Range 1 East, to the intersection of said South line and the centerline of the private road known as East Ludlow Ridge Road said point being the point of beginning of this description.

TOGETHER WITH:

All of Section 10, Township 28 North, Range 1 East, W.M. Jefferson County, State of Washington.

All situated in Jefferson County, State of Washington.

[Ord. 6-14 §§ 1, 2]

8.50.200 Ocean Grove.

The area described below is hereby established as a no shooting area as provided in Article I of this chapter.

Albert Balch and Harry Cotton's Ocean Grove Estates, as per plat recorded in Volume 4 of Plats, Page 20, records of Jefferson County, Washington;

TOGETHER WITH Albert Balch and Harry Cotton's Ocean Grove Estates No. 2, as per plat recorded in Volume 4 of Plats, Page 27, records of Jefferson County, Washington;

TOGETHER WITH that portion of Government Lot 4, Section 24, Township 30 North, Range 2 West, W.M., not included in said Albert Balch and Harry Cotton's Ocean Grove Estates and in Albert Balch and Harry Cotton's Ocean Grove Estates No. 2.

TOGETHER WITH that portion of Lot 5 of survey recorded in Volume 11 of Surveys, Page 54, under Auditor's File Number 328912, located within Government Lot 5, Section 24, Township 30 North, Range 2 West, W.M., described as follows:

Beginning at the Northwest corner of said Lot 5;

Thence proceeding on a bearing of S 88° 30' 34" East 67.21 feet along the North line of said Lot 5 to the Southwest corner of Lot 12, plat of Ocean Grove No. 2, Volume 4 of Plats, Page 27, records of Jefferson County;

Thence continuing South 88° 30' 34" East 76.22 feet to the Southeast corner of said Lot 12;

Thence turning South 26° 34' 58" West 166.11 feet to a rebar and cap marked "Parrish, LS 29535";

Thence continuing South 26° 34' 58" West 9.07 feet;

Thence North 83° 52' 04" West 69.36 feet to the West boundary of said Lot 5;

Thence North 01° 29' 25" East 8.53 feet to a rebar and cap marked "Parrish, LS 29535" and the West line of said Lot 5;

Thence along the West line of Lot 5 North 01° 29' 25" East 144.51 feet to the Point of Beginning;

TOGETHER WITH Albert Balch and Harry Cotton's Ocean Grove Estates No. 3, as per plat recorded in Volume 4 of Plats, Page 31 and amended in Volume 6 of Plats, Page 138-139, records of Jefferson County, Washington.

APPENDIX B

Article III. Commercial Shooting Facilities

8.50.210 Purpose.

The purpose of this article is to provide uniform requirements for the establishment and operation of all commercial shooting facilities in unincorporated parts of the county. These requirements include provisions that:

- (1) Establish an operational permitting procedure and rules for ~~the siting, design and the~~ operation of commercial shooting facilities that protect the health and safety of participants, spectators, neighboring properties and the public;
- (2) Include appropriate measures designed to make the discharge of firearms safe during the operation of commercial shooting facilities; and,
- ~~(3) Protect the environment;~~
- ~~(4) Ensure compatibility with neighboring land uses as regulated in Title 18 JCC; and,~~
- (5) Promote the continued availability in the county of shooting facilities for firearm education, training, and practice in the safe use of firearms, and firearm sports, without prohibiting or expressly regulating the discharge of firearms.

8.50.220 Definitions.

The following definitions shall apply in the interpretation and enforcement of the ordinance codified in this article:

- (1) “Aggrieved party” means a person or persons who can demonstrate that a decision by the director or a hearing examiner will prejudice them or their interests that are protected by federal or state law or JCC.
- (2) “Annual inspection” means the annual inspection required by JCC 8.50.230(5)(d).
- (3) “Applicant” means a person applying for an operating permit.
- (4) “Armed forces” means the armed forces of the United States or of the National Guard or organized reserves.
- ~~(5) “Backstop” means a barrier that stops or redirects bullets fired on a shooting range, usually directly behind the target line.~~
- ~~(6) “Baffles” means barriers constructed to contain bullets or to reduce, redirect or suppress sound waves.~~
- ~~(7) “Ballistic trauma” means wounds to humans or domestic animals or property damage from the discharge of firearms.~~

- (8) ~~“Berm” means an embankment used for restricting bullets to a given area, as a protective or dividing wall between shooting areas, or for noise abatement.~~
- (9) “BMP” means best management practice or practices, which are systems of practices, schedules of activities, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.
- (10) “Bullet” means a single projectile fired from a firearm.
- (11) ~~“Buffer zone” has the same meaning as in JCC 18.10.20B and includes but is not limited to buffer zones required by Chapter 18.22 JCC (the critical areas ordinance) or Chapter 18.25 JCC (the shoreline master program ordinance), federal or state law.~~
- (12) “Cartridge” means a self-contained unitized round of ammunition that is made up of a case, a primer, powder, and a bullet. The case usually is made of brass but may be steel, metal alloy or plastic.
- (13) “CFR” means the Code of Federal Regulations, as it now exists or is later amended.
- (14) “Cold Range” means a shooting range open to the public on which all firearms are to be unloaded at all times, unless instructed otherwise by a range master or a range officer.
- (15) “Commercial shooting facility” means an ~~indoor commercial shooting facility~~indoor shooting facility or ~~outdoor commercial shooting facility~~ designed and specifically designated for safe shooting practice with firearms, whether open to the public, open only to private membership, or any combination of the above that for the use of the commercial shooting facility requires a contract, charges a fee or other compensation, or requires membership. In addition, where property is used primarily for lawful shooting practice for guests of the owner, and where the other uses of the property either facilitate shooting practice or are incidental, intermittent or occasional and whether or not payment is received, it is presumed that the property used for lawful shooting practices is a commercial shooting facility. The term “commercial shooting facility” does not include:
- (a) Shooting facilities that are both owned and operated by any instrumentality of the United States, the State of Washington, or any political subdivision of the State of Washington; or,
 - (b) Any portion of a privately-owned property used for lawful shooting practice solely by its owner or the owner’s guests without payment of any compensation to the owner of the privately-owned property or to any other person, except where the property is presumed to be a commercial shooting facility, as described above. ~~For the avoidance of doubt, where privately owned property is used primarily for lawful shooting practice for guests of the owner, and where the other uses of the property either facilitate shooting practice or are incidental, intermittent or occasional, it is presumed that the privately owned property used for lawful shooting practices is a commercial shooting facility.~~
- (16) “Containment” means the prevention of projectiles from leaving a shooting range during operations.

(17) “Cowboy action shooting” means a type of match using one or a combination of firearms in “Old West themed” courses of fire for time and accuracy.

~~(18) “Critical areas” mean critical areas as defined in Chapter 18.22 JCC.~~

(19) “Department” means the county public health department’s division environmental public health~~community development~~.

(20) “Director” means the director of the department ~~of community development~~.

(21) “Environmental Component Plan” means ~~the portion of the Safety and Environmental Health Plan that contains the plan for mitigating the environmental impacts of related to managing solid waste and lead by implementing generally accept BMPs for management of lead commercial shooting facilities as required by JCC 8.50.240(4).~~

(22) ~~“Expansion” means any proposed change that increases the existing activities and uses permitted for a commercial shooting facility, including expansions of a commercial shooting facility lawfully operating as of the effective date of the ordinance codified in this article. Examples of expansions include but are not limited to additional firing positions, lengthened periods of operations, increases in permitted firearm caliber or range, or increased size of shot fall or direct fire zones. Modifications made solely through routine maintenance of a commercial shooting facility, such as the installation of sewer, water or other utilities, pavement of a parking lot, the installation of safety baffles, construction of side or backstop berms, or the construction or remodeling of a clubhouse, shall not be considered an expansion. “Expansion” means any proposed change that increases the operations permitted for a commercial shooting facility, including expansions of a commercial shooting facility lawfully operating as of the effective date of the ordinance codified in this article. Examples of expansions include but are not limited to adding firing positions, increasing periods of operations, increasing permitted firearm caliber or range, or increasing size of shot fall or direct fire zones. Modifications made solely through routine maintenance of a commercial shooting facility, such as the installation of sewer, water or other utilities, pavement of a parking lot, the installation of safety baffles, construction of side or backstop berms, or the construction or remodeling of a clubhouse, shall not be considered an expansion under this chapter.~~

(23) “Exploding target” means a target that explodes when hit by a projectile.

(24) “Explodes” means burst or shatter violently and noisily from rapid combustion, decomposition, excessive internal pressure, or other process, typically scattering fragments widely.

~~(25) “Facility Design Plan” means the written procedures or policies of a commercial shooting facility that specifically define the facility design requirements for the commercial shooting facility as required by JCC 8.50.240(2).~~

~~(26) “False Report” means a report of violation that results in the dispatch of the department, the sheriff or emergency services for a violation of this article when, in fact, there was no violation of this article and no reasonable belief there was a violation of this article.~~

(27) “Firearm” has the same meaning as in JCC 8.50.040.

(28) “Firing line” means a line parallel to the targets from which firearms are discharged.

- (29) "Firing point" means a location from which one individual fires at an associated target located down range.
- (30) ~~"Five stand shooting" means a shotgun shooting sport where there are five stations or stands on the firing line and multiple strategically placed target throwers that throw targets in front of the firing line.~~
- (31) "Hazardous substance" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or WAC 173-303-100.
- (32) "Hazardous waste" means those solid wastes designated by 40 CFR Part 261 and regulated as hazardous or mixed waste by the United States EPA.
- (33) "Hot Range" means a shooting range on which all firearms are allowed to be loaded at all times.
- (34) ~~"Impact area" means the area in a backstop or bullet trap directly behind the target where bullets are expected to impact or the area downrange where bullets will impact if not captured by a backstop or bullet trap.~~
- (35) "Indoor shooting facility" means a commercial shooting facility within a fully enclosed structure, including lawful incidental sales of firearms, ammunition, component parts and accessories.
- (36) "JCC" means the Jefferson County Code, as it now exists or is later amended.
- (37) "Law enforcement officer" means "federal peace officer" as defined in RCW 10.93.20(6), "general authority Washington peace officer" as defined in RCW 10.93.20(3), "law enforcement" officer as defined in RCW 9.41.010 (12), "peace officer" as defined in RCW 43.101.010(11), "limited authority Washington peace officer" as defined in RCW 10.93.20(4), "qualified law enforcement officer" as defined in 18 U.S.C. Section 928B(c) and, "specially commissioned Washington peace officer" as defined in RCW 10.93.20(5). For the avoidance of doubt, "law enforcement officer" includes federal, tribal, state, and local members of law enforcement organizations certified by their jurisdiction to enforce the laws of that jurisdiction.
- (38) "Life safety incident" means an incident that causes ballistic trauma to humans, domestic animals, or property.
- (39) "Member of the armed forces" means a member of the armed forces, ~~when on duty.~~
- (40) "NRA Range Source Book" means the ~~most current~~2012 version of The NRA Range Source Book published by the National Rifle Association.
- (41) "Operations ~~Component Plan~~" means the portion of the Safety and Environmental Health Plan that contains the written procedures or policies of a commercial shooting facility that specifically define the operations requirements for the commercial shooting facility as required by JCC 8.50.240(3).
- (42) "Operator" means the person operating the commercial shooting facility.

- (43) “Operating Permit” means the operating permit required by this article.
- (44) “Or” means both or and and/or.
- (45) ~~“Other Reports of Violations” means reports of violations that are not life safety incidents or threats to humans, domestic animals or property.~~
- (46) “Outdoor shooting facility” means a commercial shooting facility that is not an indoor shooting facility.
- (47) “Owner” means the holder of title to the real property on which a commercial shooting facility is located.
- (48) “Person” means person as that term is defined in RCW 1.16.080.
- ~~(49) “Physical containment” means the use of physical barriers that are sufficient to contain the projectile from the highest power firearm used on a shooting range when the shooting range is used in accordance with its operating permit. Physical containment may include, but is not limited to baffles, sidewalls, backstops and berms of adequate design, quantity, and location to ensure that projectiles cannot escape the commercial shooting facility.~~
- (50) “Practical shooting” means a sport that challenges an individual’s ability to shoot rapidly and accurately with a firearm. To do this, shooters take on obstacle-laden shooting courses called stages, some requiring many shots to complete, and others just a few. While scoring systems vary between practical shooting organizations, each measures the speed with which the stage is completed, with penalties for inaccurate shooting.
- (51) “Projectile” means an object fired from a firearm.
- (52) “Provisional operating permit” means a provisional operating permit issued pursuant to JCC 8.50.230(4)(c).
- (53) “Qualified Shooting Range Evaluator” means a person who has been an NRA range technical team advisor or who is a professional engineer with expertise in the design of shooting ranges.
- (54) “Range master” or “range officer” means a person or persons trained and appointed by the operators of a commercial shooting facility to oversee the safe discharge of firearms in accordance with the requirements of this article and any additional safety specifications that may be adopted by the operators of the commercial shooting facility. At a minimum, a range master or a range officer shall complete the necessary training and obtain certification to be a range master or range officer from the National Rifle Association, the NROI National Range Officer Institute, the IDPA International Defensive Pistol Association, the SASS Single Action Shooters Society, the CMP Civilian Marksmans Program, the Washington State Criminal Justice Commission, ~~an~~the armed forces or, as determined by the director, other training equivalent to the National Rifle Association training for certification as a range master or range officer.
- (55) “RCW” means the Revised Code of Washington, as it now exists or is later amended.
- (56) “Report of Violation” means a report of a violation of this article received by the department or the sheriff.

~~(57) “Routine maintenance” means repair of structures or property maintenance for which permits are not required or repair of berms.~~

(58) “Rules and regulations” means requirements used in the operation of a commercial shooting facility that minimize the risk of threatened harm.

(59) “Safety fan” means all areas in or outside a shooting range where projectiles may impact or ricochet when firearms are operated in accordance with rules and regulations (as defined above). The safety fan extends to the maximum range of the most powerful cartridge and firearm used on the shooting range ~~unless adequate physical containment is provided. When physical containment is adequate, the safety fan is limited to the area within the containment.~~

(60) “Safety Componentplan” means the portion of the Safety and Environmental Health Plan that contains the written procedures or policies of a commercial shooting facility that specifically define the safety requirements for the commercial shooting facility as required by JCC 8.50.240(2).

(61) “Sheriff” means the elected sheriff of Jefferson County or designee.

(62) “Shooting range” consists of a firing line or firing points, and an impact area.

~~(63) “Skeet shooting” means a shotgun shooting sport where the shooter is on the firing line and shoots at targets launched from two skeet houses in somewhat sideways paths that intersect in front of the shooter.~~

~~(64) “Sporting clays” means a form of clay pigeon shooting that consists of multiple shooting stations laid out over natural terrain such that target presentations simulate the unpredictability of live quarry shooting.~~

(65) “Target” means a mark to shoot at.

~~(66) “Target line” means the line where targets are placed.~~

(67) “Threatened Harm” means a reasonable likelihood that humans, domestic animals, or property have been or will be jeopardized by the operations of the commercial shooting facility.

(68) “Tracer or incendiary ammunition” means any ammunition causing or designed to cause fires and includes a projectile or shell that traces its own course in the air with a trail of smoke, chemical incandescence, or fire to facilitate adjustment of the aim of a firearm.

~~(69) “Trap shooting” means a shotgun shooting sport where a shooter on the firing line shoots at targets launched from a single launching point and generally away from the shooter.~~

(70) “U.S.C.” means the United States Code, as it now exists or is later amended.

(71) “WAC” means the Washington Administrative Code, as it now exists or is later amended.

8.50.230 Operating Permit Required.

(1) Commercial shooting facilities shall be authorized and operated in accordance with an operating permit issued by the department. No proposed or established commercial shooting facility may operate without an operating permit. Failure to obtain an operating permit shall result

in closure of the commercial shooting facility until such time a permit is obtained. Commercial shooting facilities that operate without an operating permit are subject to enforcement, including but not limited to injunctive relief. The operating permit shall govern the scope of operations of each commercial shooting facility, and shall be issued, denied, or conditioned based upon the standards set forth in this article.

(2) ~~The operating permit is not alter the legal nonconforming use status and rights of established commercial shooting facilities, which are governed by Title 18 JCC and the common law, nor shall the operating permit authorize expansion of commercial shooting facility uses that otherwise require approval pursuant to a conditional use permit or other land use permits per Title 18 JCC. An expansion, as defined in JCC 8.50.220(22) of a commercial shooting facility, shall require a new operating permit.~~

(3) ~~DiscretionaryConditional Use Permit and Operating Permit for New-Commercial Shooting Facilities may be considered by the hearing examiner at the same time. If the owner or operator of a proposed new commercial shooting facility shall apply applies for an operating permit at the time of and thea discretionaryconditional use permit application, A hearing examiner considering a conditional use permit application pursuant to Title 18 JCC shall review the operating permit application as part of the review.~~ A hearing examiner may consider both applications at the same time pursuant to Chapter 2.30 JCC, but the requirements and procedures under this chapter and under Title 18 JCC are separate and distinct and must be followed separately.

(4) Provisional Operating Permit for Established Commercial Shooting Facilities.

(a) The owner or operator of an established commercial shooting facility in active use on the effective date of the ordinance codified in this article shall apply for an operating permit not later than one hundred eighty (180) days after the effective date of the ordinance codified in this article or within such other period as established by the director in consultation with the applicant.

(b) Subject to JCC 8.50.230(4)(c), an established commercial shooting facility must obtain an operating permit within one year of the application required by JCC 8.50.230(4)(a).

(c) If the professional evaluation (JCC 8.50.240(6)) does not demonstrate full compliance with this article, then a provisional operating permit may be issued by the director, provided: ~~Life Safety Deficiencies.~~ All life safety deficiencies identified in the professional evaluation must be corrected prior to issuance of the provisional operating permit.

(d) Provisional operating permits do not vest the applicant to any Jefferson County Code requirements.

~~i. Critical Area Deficiencies. Any proposed operation that likely threatens to cause a detrimental impact to a critical area must be addressed to remove that threat prior to issuance of the provisional operating permit.~~

ii. Other Deficiencies.

A. In consultation with the owner or operator, the ~~Qualified Sshooting Rrange Eevaluator~~ who performed the professional evaluation and the director will establish a timeline for remedying all the other deficiencies noted in the

professional evaluation that are not life safety deficiencies ~~or critical area deficiencies.~~

B. If the director concludes that agreement on the timeline for correction of the other deficiencies cannot be reached, the director shall provide written notice of agreement to attend mediation to the applicant to be concluded within 60 days, along with a proposed timeline for correction of the other deficiencies.

C. If the applicant does not agree to mediation within 7 days after the director sends written notice, the timeline for correction of the other deficiencies proposed by the director pursuant to JCC 8.50.230(4)(d)(ii)(B) shall be established.

D. The applicant may appeal the establishment of the timeline for correction of the other deficiencies established pursuant to subsection JCC 8.50.230(4)(c)(iii)(C) to the hearing examiner pursuant to Chapter 2.30 JCC.

E. The provisional operating permit shall be issued only on the condition of acceptance by the applicant of the timeline established for correction of the other deficiencies.

F. Failure to adhere to the timeline for correction of the other deficiencies may result in a notice of correction served by the department on the owner or operator of the commercial shooting facility.

G. Following a notice of correction, the director and the owner or operator of the commercial shooting facility may meet to develop a compliance plan. The compliance plan shall establish a reasonable and specific time frame for compliance with the timeline for correction of the other deficiencies. The voluntary correction process is optional as deemed by the director. If the director believes that the requirements of a voluntary correction plan are not being met, the director shall revoke the provisional operating permit.

H. Failure to adhere to the timeline for correction of the other deficiencies 30 days after issuance of the notice of correction or after failure to adhere to a compliance plan shall constitute sufficient grounds for the director to terminate immediately the provisional operating permit.

I. Termination of a provisional operating permit by the director may be appealed pursuant to JCC 8.50.260.

J. When all other deficiencies have been corrected, the director shall issue an operating permit.

(5) Inspections and Annual Report Required.

(a) Pre-Operation Inspection. Prior to issuing any operating permit or provisional operating permit, the department shall inspect the commercial shooting facility to determine that the commercial shooting facility complies with ~~any applicable conditional use provisions required by Title 18 JCC~~ and all the requirements in the approved operating permit application.

(b) Annual report. The holder of the operating permit shall submit a report to the department on an annual basis in a form required by the department. The annual report is due each year on the last day of the same month the operating permit was issued. The annual report shall include:

i. A written statement by the owner of the commercial shooting facility declaring that the commercial shooting facility is compliant with the initial operating permit approval;

ii. A statement of any changes to the plans required by JCC 8.50.240(1)(a)-(e), as submitted in the application; and,

iii. A current statement of general liability insurance and any monitoring data required by an operating permit ~~or any applicable conditional use permit issued pursuant to Title 18 JCC.~~

(c) Annual Inspection. After issuance of an operating permit, commercial shooting facilities shall be subject to an annual inspection by the department following submission of the annual report required by this section. The department shall develop a checklist for an annual inspection. The checklist for the annual inspection shall be provided to the operator at the time the operating permit is issued and shall be effective during the term of the operating permit.

(d) Noncompliance Inspection. A noncompliance inspection shall be triggered upon receipt by the director of any of the following claims:

i. A claim of noncompliance with the operating permit; or,

ii. A claim that there exists either a life safety incident or threatened harm.

For noncompliance inspections:

i. The department shall have the authority to establish procedures for noncompliance inspections.

ii. The department shall contact the commercial shooting facility within one business day after receipt by the department of a claim pursuant to subsection (d) and shall give the commercial shooting facility a written notice of the claim; and,

iii. The owner or operator shall make the commercial shooting facility available for inspection not later than two business days after receiving a request for an inspection from the department.

(e) Following an annual inspection or a noncompliance inspection:

i. The department shall inform the owner or operator in writing of any deficiencies or corrective actions to be taken, which may include any of the actions authorized by subsection (f);

- ii. The owner or operator shall take corrective action within a reasonable time, as determined by the department in consultation with the operator; and,
 - iii. The owner or operator shall allow the department to conduct follow-up inspections to verify that corrective action has been taken.
- (f) Life Safety Incident. If the director determines there was a life safety incident:
- i. The director may suspend or modify the operating permit, close the commercial shooting facility or a shooting range, or modify shooting range operations;
 - ii. The director shall provide the owner or operator a written notice that shall set forth each claimed life safety incident with a specific reference to applicable violation of this article or operating permit and the corrective measures to be taken;
 - iii. The owner or operator shall respond in writing to the written notice provided by the director and shall take any necessary corrective measures within a reasonable time, as determined by the department in consultation with the operator;
 - iv. The owner or operator shall allow the department to conduct follow-up inspections to verify that corrective action has been taken;
 - v. The department shall verify that corrective action has been taken; and,
 - vi. Until the corrective measures are completed and verified, the director's determination in JCC 8.50.230(5)(f)(i) shall remain in effect.
- (g) Effect of a Suspension of an Operating Permit. An operating permit that has been suspended requires the commercial shooting facility to cease any firing activities until the permit has been reinstated by the director.
- (h) Land Use Permits Also May be Required. In addition to the operating permit required by this article, ~~land use a separate permit applications under~~ may be required under Title 18 JCC. ~~Land use permit applications for a commercial shooting facility shall be governed by Title 18 JCC.~~

8.50.240 Application for a Commercial Shooting Facility Operating Permit.

(1) Required Components. The application for a commercial shooting facility operating permit shall contain a Safety and Environmental Health Plan with the components required in the subsections that follow:

- (a) ~~Facility Design Plan;~~
- (b) ~~Safety Component Plan;~~
- (c) ~~Operations Component Plan;~~

- (d) Environmental Health Component~~Plan~~;
- (e) Sound Suppression Component~~Plan~~;
- (f) Professional Evaluation;
- (g) Certification; and,
- (h) A list of all property owners prepared by a title company within the distance of the safety fan, but no less than one mile.

~~Facility Design Plan.~~

~~(a) The Facility Design Plan for all indoor and outdoor commercial shooting facilities shall contain the following elements:~~

- ~~i. Locations and dimensions of all walkways;~~
- ~~ii. Locations of all hazardous material storage and use, per a hazardous substance or hazardous waste management plan, if needed; and,~~
- ~~iii. The component parts for each shooting range.~~

~~(b) The Facility Design Plan for all outdoor commercial shooting facilities:~~

- ~~i. — Locations and dimensions of firing lines or firing points, target lines and impact areas including all related buildings;~~
- ~~ii. — Locations, dimensions and slope of all backstops and side berms, whether natural feature or manmade and the volume, source, and type of all materials of which they are comprised;~~
- ~~iii. — Locations and specifications of all baffles and containment structures;~~
- ~~iv. — Location of all security measures specified in JCC 8.50.250(1);~~
- ~~v. — The safety fan for each shooting range proposed;~~
- ~~vi. — Approximate location of buildings on adjoining property;~~
- ~~vii. — Approximate location of any stream, river, lake, or other body of water within 500 yards of the commercial shooting facility.~~
- ~~viii. — Dimensional drawings of physical layout for each of the items listed in this subsection, drawn at an engineering scale appropriate for the drawings;~~
- ~~ix. — Horizontal drawings of the baffles and containment structures, and a description of the materials to be used for them;~~
- ~~x. — For rifle and pistol shooting ranges:~~

A. ~~Longitudinal cross sections, with elevations, of that portion of each shooting range from 10 feet behind each firing line to 10 feet beyond the downrange terminus of each direct fire zone, 10 feet beyond the back toe of each backstop if manmade, or if natural, 20 feet beyond the front edge of the backstop, as applicable; and,~~

B. ~~Latitudinal cross sections, from 10 feet outside all side berms or the edge of each safety fan, of typical areas between each firing line and backstop or downrange terminus of the direct fire zone.~~

~~xi. For five stand shooting, skeet shooting, sport clay shooting and trap shooting ranges, the location and dimension of the shot fall zones and component parts; and,~~

~~xii. Elevations of all shooting ranges showing target area, backstops and berms.~~

(2) Safety Component ~~Plan~~. The Safety Component ~~Plan~~ shall contain at least the following elements:

(a) The safety fan for each shooting range proposed;

(b) Approximate location of buildings on adjoining property;

(c) Sign-in procedures, rules and regulations, and protocols for the use of shooting ranges;

(d) An emergency plan, to include provision for immediate notification to 911 of any life safety incident and on the next business day to the department;

(e) Methods for documenting the accidental or unintended release of a bullet anywhere at or from the commercial shooting facility, which documentation shall be transmitted to the department within 7 days of the release;

(f) Provisions for the safe loading and unloading of firearms;

(g) A requirement that range masters and range officers shall complete the necessary training and obtain certification to be a range master or range officer;

(h) A requirement that at least one range master or range officer be present when shooting is occurring whenever the commercial shooting facility is open to the public;

(i) A requirement that when the commercial shooting facility is closed to the public, a commercial shooting facility member who has passed the minimum training requirements of the range shall be present;

(j) Provision for specific safety requirements for all cowboy action shooting, practical shooting, and similar sports shooting matches at any shooting range;

(k) Rules and regulations for changing the use of shooting ranges from cold ranges to hot ranges or vice versa;

(l) A means for participants and spectators to readily contact emergency services such as fire or emergency medical services; ~~and,~~

(m) Provision for emergency services access by vehicle or air transport;

(n) A requirement prohibiting the use of alcohol, Cannabis or other drugs at the commercial shooting facility when it is open to the public or shooting is occurring;

(o) A requirement that drones may not be flown by anyone on the commercial shooting facility when open to the public or while shooting is being conducted; and,

(p) A requirement that no shooting take place after dark at an outdoor shooting facility, except for law enforcement officers or members of the armed forces provided such shooting after dark for law enforcement officers or members of the armed forces does not occur after 10 p.m., shooting does not exceed four hours, and the maximum days shooting after dark is allowed does not exceed one day per week.

(q) A requirement for an indoor shooting facility that no shooting take place outdoors.

(3) Operations Component~~Plan~~. The Operations ComponentPlan shall contain at least the following elements:

(a) The days of the week and the hours of operations;

(b) Whether the commercial shooting facility will be open to the public, open only to private membership, open to training for groups or organizations, or any combination of these;

(c) A description of any activities that would not be overseen by the owner or operator and how the owner or operator will obtain compliance with the operating permit for these activities.

(d) The types and largest caliber of firearms and ammunition to be allowed on each shooting range;

(e) Type of shooting proposed on each shooting range;

(f) Whether exploding targets are to be used. If so, a plan for mitigation of noise impacts on neighbors;

(g) A requirement that the owner or operator maintain comprehensive general liability insurance coverage, with a minimum coverage amount of one million dollars for each occurrence and combined single limit and two million in the aggregate during operation of the commercial shooting facility;

(h) A requirement that certificates of insurance for all policies that provide insurance coverage for the commercial shooting facility be provided to the department evidencing continuous insurance coverage required by the Operations Plan within fifteen (15) days of approval of the Operations Permit that include:

i. The limits of coverage;

- ii. The names and addresses of all certificate holders; and,
 - iii. A statement that the insurance policy shall not be canceled or allowed to expire except on thirty (30) days prior written notice to the department.
- (i) A requirement that the department be notified of any change in the insurance required by the Operations Plan.
- (4) ~~Environmental Health Component Plan. Each commercial shooting facility operator shall develop and submit an~~ The Environmental Component plan with shall contain the following minimum requirements:
- (a) BMPs for the collection and disposal of bullets, cartridges, and shotgun wadding.
 - ~~(b) Approximate location of any stream, river, lake, or other body of water within 500 yards of the commercial shooting facility.~~
 - (c) At indoor facilities, BMPs for lead as recommended by the National Institute for Occupational Safety and Health (NIOSH) in its 2009 publication entitled NIOSH Alert – Preventing Exposures to Lead and Noise at Indoor Firing Ranges, as it exists now or later is amended.
 - (d) At outdoor shooting facilities, BMPs for lead as recommended by USEPA Region 2 in its 2005 publication entitled Best Management Practices for Outdoor Shooting Ranges, as it exists now or later is amended.
 - (e) If, other than lead, any hazardous substance or hazardous waste will be kept stored at the commercial shooting facility, the Environmental Health Component Plan also shall include:
 - i. A plan for compliance with requirements under existing law for the handling and closure of facilities for storage or use of the hazardous substance or hazardous waste; and,
 - ii. A plan for financial assurance consistent with existing law for addressing any remediation of hazardous substances or hazardous waste.
 - ~~(e) For the avoidance of doubt, this article neither seeks to set nor does set any substantive environmental standards, including but not limited to standards for any hazardous substance or hazardous waste, including but not limited to lead.~~
- (5) Sound Suppression Component~~Noise Abatement Plan. Each commercial shooting facility operator shall develop and submit a noise abatement plan. The sound suppression component shall contain the following~~ minimum requirements:
- (a) Identify potential sound issues and potential solutions to those issues;
 - (b) Describe proposed methodologies and technologies to suppress sound~~mitigate noise from operations proposed for the facility;~~

- (c) Provide a description of how the sound suppression component will be ~~integrated into yearly planning~~implemented on a yearly basis; and,
- (d) Contain BMPs to maximize ~~sound suppression noise abatement~~ consistent with the NRA Source Book and Chapter 8.70 JCC (noise control).

(6) Professional Evaluation.

- (a) The Professional Evaluation shall be the responsibility of the county under the direction of the director and shall be performed by a qualified shooting range evaluator.
- (b) If requested, the applicant shall allow for an inspection ~~of the site of the new or established~~ commercial shooting facility by the qualified shooting range evaluator.
- (c) ~~The Professional Evaluation~~qualified shooting range evaluator shall contain an evaluation of the operating permit application that shall be performed by a qualified shooting range evaluator (as defined above) that meets the following minimum requirements provide a written evaluation of the level of safety of the operations proposed in the operating permit application, which shall contain:
 - i. ~~The evaluation shall discuss Any~~ An evaluation of all safety issues not addressed by the operating permit application;
 - ii. ~~Any~~ An evaluation of all proposed uses~~operations that are inconsistent to ensure consistency with the NRA Range Source Book for facility designs and institutional controls;~~
 - iii. ~~The evaluation shall include~~ An evaluation of whether the commercial shooting facility's operations~~uses and institutional controls described in the application for an operating permit~~ minimize threatened harm;
 - iv. ~~The evaluation shall be in written form and signed by~~ The signature of the qualified shooting range evaluator;
 - v. For new commercial shooting facilities, ~~the evaluation shall certify a certification~~ that the operating permit application satisfies all the requirements of this article.
 - vi. For established commercial shooting facilities, the evaluation shall classify the ways in which the facility is currently non-compliant with this article according to the following priorities:
 - A. Life safety issues ~~or critical area deficiencies~~ that must be remedied prior to issuance of an operating permit; and,
 - B. ~~Facility design components~~ Proposed operations that do not meet the safety objectives of this article; and,
 - C. ~~Facility design components that do not mitigate detrimental effects of the facility on critical areas.~~

- (d) The applicant shall reimburse the county for the actual costs incurred (including consultant work and the cost of county staff review based on the applicable hourly rates, less the application fee) of the evaluation. No operating permit shall be issued until reimbursement to the county is made.
- (e) The applicant may challenge the evaluation by appealing the professional evaluation to the hearing examiner pursuant to JCC 8.50.260.

(c) Certification.

- (a) Every application for an operating permit for a new commercial shooting facility shall be accompanied by a notarized certification by the operator that specifies the commercial shooting facility:
 - i. Complies with this article;
 - ii. Meets commonly accepted shooting facility safety and ~~design~~operations practices; and,
 - iii. Shall be operated in a manner that protects the safety of all persons present at the commercial shooting facility and persons on neighboring properties.
- (b) Every application for an operating permit for an established commercial shooting facility shall be accompanied by a notarized certification by the operator that specifies the following:
 - i. The operator will abide by the improvement plan agreed upon as a condition of the issuance of the operating permit;
 - ii. Areas of non-compliance at the commercial shooting facility will not increase over time;
 - iii. That as much as possible the facility meets commonly accepted shooting facility safety and ~~design~~operations practices; and,
 - iv. That the facility shall be operated in a manner that protects the safety of all persons present at the commercial shooting facility and persons on neighboring properties.

(9) Notice and Comment.

- (a) The director shall issue a notice of application for on all commercial shooting facilities.
- (b) The notice of application shall include the following:
 - i. The name and address of the applicant or the applicant's representative;
 - ii. The date of application, the date of the notice of completion for the application, and the date of the notice of application;
 - iii. The street address location of the project or, if unavailable, a description of the subject property reasonably sufficient to inform the public of its location, which may

- include a vicinity location (map), the location in reference to roadway intersections, or a written description (rural route box or subdivision lot and block alone are not sufficient);
- iv. The identification of state, federal or other permits required by other agencies with jurisdiction not included in the application, to the extent known by the county;
 - v. The name and phone number of the person at the department evaluating the application;
 - vi. A statement of the limits of the public comment period, which shall be 30 calendar days following the date of the notice of application;
 - vii. Statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
 - viii. A statement of the preliminary determination, if one has been made at the time of the notice of application, of the proposed commercial shooting facility's consistency with this article;
 - ix. The date, time, place of hearing, if applicable, and if scheduled prior to the date of the notice of application;
 - x. A statement of when and where a copy of the application, all supporting documentation and evidence relied upon by the applicant, and applicable development regulations may be available for public inspection;
 - xi. ~~A statement that a copy of any staff report will be available for inspection at no cost to the public at least 7 calendar days prior to any public hearing (if applicable); and,~~
 - xii. Any other information the administrator determines appropriate.
- (c) The director shall issue the notice within 14 calendar days of receipt of an application for a commercial shooting facility.
 - (d) The notice of application shall be sent by mail to the applicant and to all property owners identified in JCC 8.50.240(1)(h).
 - (e) The notice of application shall also be published in the official county newspaper at least once. Published notice shall include the proposed commercial shooting facility's road or street address or location, type(s) of permit(s) all applied for concerning the commercial shooting facility, comment period dates, and location where the complete application and notice of application may be reviewed.
 - (f) The department shall be responsible for preparation of the list of all property owners identified in JCC 8.50.240(1)(h); provided, that the director retains the authority to require the applicant to supply and certify the list of all property owners identified in JCC 8.50.240(1)(h) in circumstances where the information is not readily available to the county. The department shall obtain addresses for mailed notice from the county's geographic information system (GIS) or real property tax records. The director shall

make a notation in the file affirming mailing of notice to all persons entitled to notice under this article.

- (g) All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.
- (h) Failure to send notice by mail shall not invalidate such proceedings where the owner appears at the hearing or receives actual notice.
- (i) As optional methods of providing public notice of any operating permits, the county may:
 - i. Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;
 - ii. Notify the news media;
 - iii. Place notices in appropriate regional or neighborhood newspapers or trade journals;
 - iv. Place public notice in agency newsletters or send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas;
 - v. Mail to neighboring property owners; or,
 - vi. Place notices on the Internet.
- (j) The county's failure to provide the optional notice as described above shall not be grounds for invalidation of any operating permit decision.
- (k) The comment period shall be 30 calendar days from the date of the published notice of application.
- (l) Comments may be mailed, personally delivered or sent by facsimile.
- (m) Comments shall be as specific as possible.
- (n) The director will receive public comments during regular business hours any time up to and during the open record hearing, if any, or if there is no ~~pre-decision hearing~~open record hearing, prior to the decision on the operating permit.
- (o) The county may not issue a decision or recommendation on the operating permit until the expiration of the public comment period on the notice of application.
- (p) The applicant shall reimburse the county for the actual costs incurred for providing notice. No operating permit shall be issued until reimbursement to the county is made.

8.50.250 Minimum Standards.

- (1) Required Security. Commercial shooting facilities shall ~~provide security measures~~ be operated to deter unauthorized entry to any shooting range, such as barriers, berms, cameras, gates, fencing, on-site security personnel, physical limits, or signage.
- (2) Containment. Commercial shooting facilities shall be ~~designed and~~ operated so that when firearms are operating in accordance with the rules and regulations (as defined above) there is containment, thereby minimizing threatened harm ~~all projectiles are kept from leaving any shooting range or the commercial shooting facility.~~
- (3) ~~Critical Areas Operations Cannot Create a Nuisance.~~ The operation of commercial shooting facilities shall not create a public nuisance. ~~Commercial shooting facilities shall be designed and operated to prevent adverse impacts to critical areas.~~

8.50.260 Administrative Remedy for Decisions Made by the Director.

When a decision is made by the director pursuant to the provisions of this article, an applicant or any aggrieved party may appeal the decision to the hearing examiner pursuant to the procedures in Chapter 2.30 JCC (Hearing Examiner Code) by providing written notice of appeal to the director within 14 calendar days of the decision. The fee for such appeal shall be as set forth in the Jefferson County fee ordinance and must be paid by the appellant at the time of filing the notice of appeal.

8.50.270 Judicial Appeals.

- (1) Time to File Judicial Appeal. ~~Within 21 calendar days of the date the decision or action becomes final,~~ the applicant or any aggrieved party may appeal the final decision of the director or the hearing examiner to a court of competent jurisdiction in a manner consistent with state law.
- (2) All appellants and aggrieved persons must timely exhaust all administrative remedies prior to filing a judicial appeal.
- (3) Service of Appeal. Notice of appeal and any other pleadings required to be filed with the court shall be served by delivery to the county auditor (see RCW 4.28.080), and all persons identified in JCC 8.50.240(1)(h), within the applicable time period. This requirement is jurisdictional.
- (4) Cost of Appeal. The person who filed the notice of appeal shall be responsible for the cost of transcribing and preparing all records ordered certified by a court or desired by the person who filed the notice of appeal. Prior to the preparation of any records, the person who filed the notice of appeal shall post with the county auditor an advance fee deposit in an amount specified by the county auditor. Any overage will be promptly returned.

8.50.280 Safe Harbor for Owners and Operators.

Full compliance with an operating permit creates a rebuttable presumption that the commercial shooting facility is not being operated as a nuisance. ~~For the avoidance of doubt,~~ The burden of proving full compliance is on the owner or operator.

8.50.290 Reports of Violations of this Article.

- (1) **Creation of a Form.** The director, in consultation with the sheriff, shall develop a form for receipt of reports of violations of this article.
- (2) **Provided to the Owner or Operator.** All reports of violation shall be provided to the owner or operator of the commercial shooting facility as soon as possible, but no later than two business days from the receipt of the report of violation.
- (3) **Maintenance of Reports.** The director shall maintain a copy of all reports of violation for at least two years following receipt of a report of violation.
- (4) **Discussion During Annual Inspection.** During the annual inspection, all reports of violation shall be addressed by the department and the owner or operator of a commercial shooting facility.
- (5) **Response to Reports of Violation.**
 - (a) **Name of Informant.** All reports of violation shall be encouraged to include the name of an informant with current contact information for use in the investigation.
 - (b) **Expedited Response.** The sheriff shall respond to reports of life safety incidents or threatened harm that violate this article as soon as practical, considering the nature of the report of violation and the other operational demands on the sheriff at the time the report of violation is received.
 - (c) **Routine Response.** Other reports of violation shall be evaluated by the department for investigation. In consultation with the sheriff, the department shall develop a procedure for addressing other reports of violation.
 - (d) **Noise Only Response.** When the report of violation is limited to a claim of noise nuisance, the report of violation shall be addressed by the sheriff under Chapter 8.70 JCC (Noise Control).

8.50.300 Review Committee.

The county board of commissioners may require the director to establish a review committee to evaluate proposed revisions to this article. The review committee shall consist of: (a) the director of the department of community development or the director's designee (chair); (b) Jefferson County Sheriff or the Sheriff's designee; (c) Jefferson County Director of Environmental Health or the director's designee; (c) a representative of each current commercial shooting facility in unincorporated Jefferson County; (d) a resident or property owner from each of the three districts of Jefferson County; (e) one representative of tribal interests, if interested; ~~and~~ (f) one at large Jefferson County resident or property owner appointed by the county board of commissioners; and (g) one member of the Jefferson County Planning Commission. The Jefferson County Prosecuting Attorney (or designee) shall be an ~~ex-officio member of~~ advisor to

the review committee but shall not be required to attend every meeting of the review committee. All Review Committee meetings shall be subject to the requirements of the Open Public Meetings Act, Chapter 42.30 RCW.

8.50.310 Limitations on the Applicability of this Article.

- (1) This article does not place physical controls on development of land, does not control land use activities, and does not modify any applicable conditional use approval criteria under Title 18 JCC.
- (2) Nothing in this article shall be construed as establishing zoning, subdivision control, platting or adoption of detailed maps to control the physical development of Jefferson County.
- (3) The mention of members of armed forces in this article is neither a statement of authorization or prohibition by the county of training by units of the armed forces at any commercial shooting facility. Any disclosure requirements in this article related to members of the armed forces or law enforcement officers only requires information to be provided to regulate the operations at a commercial shooting facility under this article. The mention of members of the armed forces in this article does not change any provision in Title 18 JCC, including but not limited to uses authorized or conditional use approval criteria.
- (4) This article requires BMPs for compliance with existing substantive environmental standards. However, this article does not create any substantive land use environmental standards, including but not limited to standards for critical areas, shoreline management, or storage of any hazardous substance or hazardous waste.
- (5) This article does not vest or provide non-conforming status under any provision of the JCC. An operating permit issued under this article does not alter the legal nonconforming use status and rights of established commercial shooting facilities, which are governed by Title 18 JCC and the common law, nor shall the operating permit authorize expansion of commercial shooting facility uses that otherwise require approval pursuant to a conditional use permit or other land use permits per Title 18 JCC.
- (6) Nothing in article shall be construed as:
 - (a) Authorizing an application or a permit for an outdoor commercial shooting facility to be located in whole or in part in an area designated as an area where the discharge of firearms is prohibited under Chapter 8.50 JCC. ~~Shooting ranges~~Outdoor shooting facilities in such areas are expressly prohibited.
 - (b) Permitting the discharge of firearms, the ownership or possession of which is otherwise prohibited by law.
 - (c) Permitting the use or possession of a firearm by an individual who is otherwise prohibited by law from owning or possessing that firearm.
 - (d) Allowing or authorizing the discharge of firearms otherwise prohibited by state or federal law.

- (e) Allowing or authorizing the discharge of tracer or incendiary ammunition.
- (f) Allowing or authorizing the discharge of a destructive device as that term is defined in 25 U.S.C. Section 5845(f) or any explosive as that term is defined in RCW 70.74.010(5).
- (g) Allowing or authorizing the discharge of a machine gun as that term is defined in 26 U.S.C. Section 5845(b) or RCW 9.41.010(17), unless specifically authorized under RCW 9.41.190(3).
- (h) Allowing or authorizing the discharge of a short-barreled rifle or a short-barreled shotgun as those terms are defined in RCW 9.41.010, unless specifically authorized under RCW 9.41.190(3).
- (i) Permitting a commercial shooting facility to maintain or create a public nuisance as defined in Chapter 7.48 RCW, JCC 5.10.050, JCC 8.20.140, JCC 8.30.020, JCC 8.55.070, Chapter 8.70 JCC, Chapter 8.90 JCC, JCC 15.05.100, or Title 18 JCC.
- (j) Abridging or altering the rights of action by the state, by the county or by persons, which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.
- (k) Limiting a court of competent jurisdiction from:
 - i. Ruling that a commercial shooting facility is a public nuisance; or,
 - ii. Requiring additional noise, environmental or safety controls as a condition of continued operation of a commercial shooting facility.
- (l) Nullifying or rendering void the terms of any existing or future injunctive order issued by a court of competent jurisdiction pertaining to operations or activities at a shooting range or commercial shooting facility.

8.50.320 Warning and Disclaimer of Liability.

The degree of protection required by this article for commercial shooting facilities is reasonable for regulatory purposes and is based on available information. This article does not imply that commercial shooting facilities will be free from risk of bodily injury or property damage, even if operated consistently with an operating permit. This article does not create liability on the part of the county or any officer or employee of the county for any bodily injury or property damage that results from reliance on this article, or any administrative decision made lawfully under this article, including but not limited to the decision to approve the application for an operating permit. By regulating commercial shooting facilities, the county is attempting to address obvious safety and environmental issues at commercial shooting facilities. Neither this article nor an operating permit issued pursuant to this article may be relied upon as a determination that operation of a commercial shooting facility consistent with an operating permit renders the commercial shooting facility free from the risk of bodily injury or property damage.

APPENDIX 2 – Ordinance No. 03-0224-20

APPENDIX 2

COUNTY OF JEFFERSON STATE OF WASHINGTON

**An Ordinance Repealing and Replacing }
Ordinance 15-1214-18 and Amending Title } ORDINANCE NO. 03-0224-20
18 Jefferson County Code related to }
Commercial Shooting Facilities }**

WHEREAS, Article XI, Section 11 of the Washington State Constitution, confers upon county legislative authorities the police power to adopt regulations necessary to protect the health, safety, and well-being of its residents as are not in conflict with general laws; and,

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and,

WHEREAS, RCW 9.41.290 provides that the State of Washington fully occupies and preempts the entire field of firearms regulations within its boundaries, and counties may only enact ordinances as expressly authorized by RCW 9.41.300; and,

WHEREAS, RCW 9.41.300(2)(a) provides an exception to RCW 9.41.290 under which a county may, by ordinance, restrict the discharge of firearms in any portion of its jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized so long as such ordinance shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and,

WHEREAS, Article VI of the United States Constitution states that “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding;” and,

WHEREAS, Article I, Section 2 of the Washington State Constitution states, “The Constitution of the United States is the supreme law of the land;” and,

WHEREAS, there is a fundamental principle of Washington law sometimes called “the preemption doctrine,” that derives from Article VI of the United States Constitution, Article I, Section 2 of the Washington State Constitution, Article XI, Section 11 of the Washington State Constitution, and RCW 36.32.120(7) that the Washington Administrative Code (WAC) calls the “Supremacy Principle,” which holds that a higher authority of law will displace the law of a lower authority of law when the two authorities come into conflict; and,

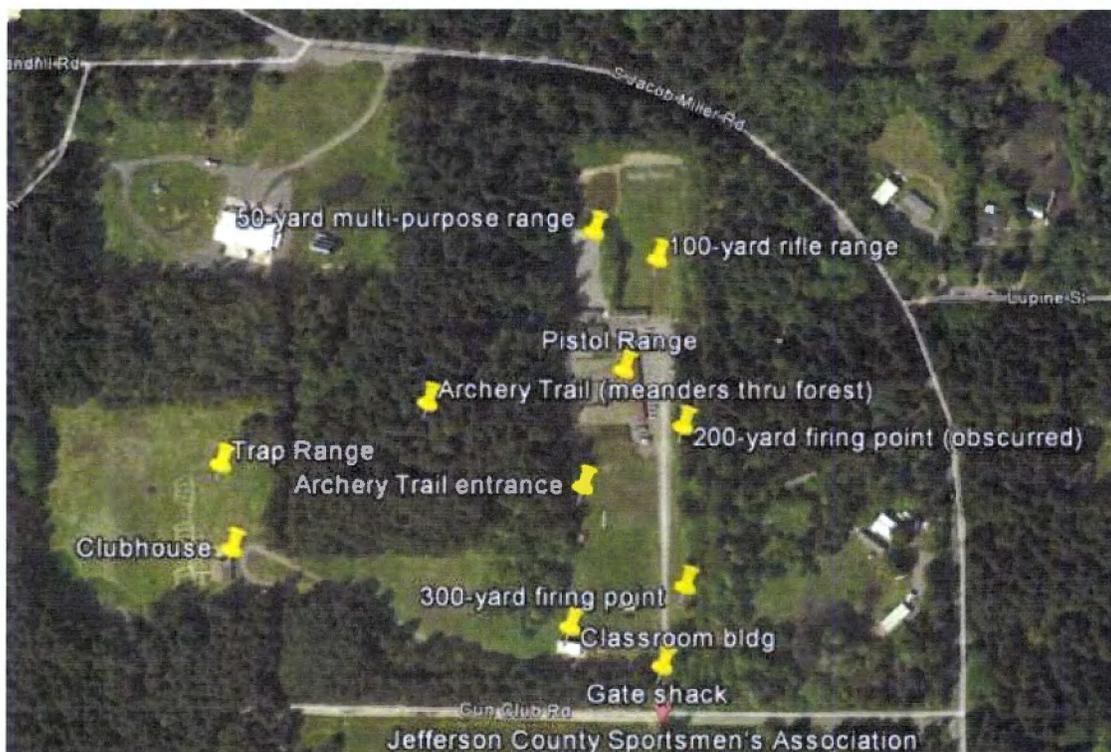
WHEREAS, under the Supremacy Principle, state statutes and regulations cannot conflict with the United States Constitution, the Washington Constitution, and federal laws; and, local ordinances and regulations cannot conflict with the United States Constitution, federal laws, the Washington Constitution, or state laws; and,

WHEREAS, Article I, Section 32 of the Washington State Constitution states, “A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government;” and,

WHEREAS, the Jefferson County Code does not prohibit individuals from lawfully training and practicing with weapons outdoors on private property except, in lawfully established no shooting areas;

WHEREAS, Jefferson County owns property on which an outdoor shooting facility exists that is open to the public and is operated by the Jefferson County Sportsmen’s Association (JCSA) under a license that is in effect until December 31, 2040, where individuals can train and practice shooting;

WHEREAS, JSCA has posted to its website a true and accurate diagram of the JCSA facility at <http://jeffersoncountysportsmen.org/wp/>:



WHEREAS, according to the United States Supreme Court, the Second Amendment at its core protects the right of law-abiding, responsible citizens to use arms in defense of hearth and home;

WHEREAS, Jefferson County staff has performed an analysis and determined that indoor commercial shooting facilities actually could be sited, assuming compliance with existing provisions in Title 18 JCC and the Planning Commission Recommendation that commercial indoor shooting facilities be allowed only as a discretionary use in all commercial and industrial zoning districts (except resource based industrial zoning district), subject to review under the State Environmental Policy Act that is presented in a Technical Memorandum attached as Exhibit A to a February 7, 2020 staff report that demonstrates that under the zoning scheme adopted in this Ordinance;

WHEREAS, this Ordinance protects the rights of citizens under Washington Constitution Article I, Section 24 and the Second Amendment to the United States Constitution; and,

WHEREAS, local governments have considerable latitude in exercising police powers and a regulation is reasonable if it promotes public safety, health, or welfare, and bears a reasonable and substantial relation to accomplishing the purpose being pursued; and,

WHEREAS, Jefferson County is required to under RCW 36.70A.040 to plan under the Growth Management Act and must implement its Comprehensive Plan through development regulations; and,

WHEREAS, Jefferson County Code (JCC) 18.45.090 permits the County to amend their development regulations when the amendment is consistent with the Comprehensive Plan and after referral and consideration by the Planning Commission; and,

WHEREAS, RCW 36.70A.060 requires that development regulations assure the conservation of natural resource lands; and,

WHEREAS, due to the amount of land in Jefferson County owned by the federal and state governments, areas of protected shorelines, and limited water and septic capacity in other areas of Jefferson County, there are limited areas where residents can live; and,

WHEREAS, widely disseminated information exists about uncontrolled incidents at shooting ranges outside of Jefferson County where people's safety has been threatened; and,

WHEREAS, commercial shooting facilities are best developed using the best available source information on ensuring minimizing risks from the discharge of firearms and ensuring the greatest level of public safety both on and off these facilities; and,

WHEREAS, the National Rifle Association (NRA) 2012 *Range Source Book*, which provides the best available guidance to assist in safely planning, designing, constructing and maintaining shooting range facilities, makes clear that following these published best practices minimizes but does not eliminate risks associated with the use of firearms either on or off the range; and,

WHEREAS, the NRA 2012 *Range Source Book*, states, "During the planning and design phases of a project, safety must be paramount and health and safety considerations are twofold: (2) ensuring the health and safety of participants, staff and spectators, and (2) ensuring the health and safety of surrounding inhabitants;" and,

WHEREAS, at outdoor commercial shooting facilities and their surrounding areas, there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and,

WHEREAS, Jefferson County experienced a substantial increase in population density in areas proximate to its existing commercial shooting facilities and the County has an interest in ensuring the compatibility of commercial shooting facilities with their surroundings and in minimizing potential safety hazards created by the operation of commercial shooting facilities; and,

WHEREAS, public concerns about lack of safety and nuisance noise arising from the operation of commercial shooting facilities in unincorporated Jefferson County have called on the scarce resources of Jefferson County's emergency management system and the Sheriff's Office, which has the effect of diminishing the availability of these resources for emergency services; and,

WHEREAS, Jefferson County has rural areas where emergency services are scarce and adopting a commercial shooting ordinance which allows only indoor commercial shooting ranges would promote public safety and preserve precious emergency services; and,

WHEREAS, commercial shooting facilities benefit Jefferson County by providing its residents and law enforcement the opportunity to learn firearm safety, to practice shooting, and to participate in amateur recreational firearm sports in a safe, controlled setting; and,

WHEREAS, the Olympic National Park and the Olympic National Forest, comprise approximately 60% of the County's 1.16 million acres of land and about another 20% of land is under the jurisdiction of other federal and state agencies; and,

WHEREAS, target shooting is allowed on national forest lands (not including wilderness lands), which comprise approximately 119,039 acres in Jefferson County, and on state-owned Department of Natural Resources lands (not including rural residential zones or natural resources conservation areas), which comprise approximately 181,452 acres in Jefferson County, unless a specific area has been closed to shooting; and,

WHEREAS, about twenty percent of the land-base in Jefferson County is zoned rural residential (RR-5, RR-10 or RR-20) or about 86,341 acres, is where dispersed target shooting can be carried out, provided the property is not in a no shooting area designated in Article II of Chapter 8.50 JCC and the firearm is not discharged recklessly; and,

WHEREAS, such dispersed, sporadic sport-oriented target shooting is less impactful, from both a noise impact and a human health impact, than the concentrated impacts posed by outdoor commercial shooting facilities; and,

WHEREAS, the BoCC finds it is in the public interest to provide for indoor commercial shooting facilities in Jefferson County in the face of increasing population pressure and the limited space where people can live; and,

WHEREAS, the Jefferson County Comprehensive Plan Vision Statement approved in 2018 states that "Jefferson County honors and respects the natural world as integral to our health and lifestyles. The County protects open spaces, shorelines, forests, clean air and clean water, wildlife and wildlife habitat so that future generations may also practice stewardship of the land, the seas, and the communities of Jefferson County;" and,

WHEREAS, Jefferson County's Comprehensive Plan states that development should ensure that the County's quality of life is preserved as it is enhanced; and,

WHEREAS, the Jefferson County Comprehensive Plan states the County's agricultural and forest lands of long-term commercial significance should be protected and conserved; and,

WHEREAS, the Jefferson County Comprehensive Plan states that the County should conserve the environment, ecologically sensitive areas, natural surface water and recharge areas, and preclude development and land uses that are incompatible with critical areas; and,

WHEREAS, the Jefferson County Comprehensive Plan states that the purpose of the forest land zones is to ensure forest lands of long-term commercial significance are protected from incompatible uses thereby sustaining the ability of forest resource extraction activities to be maintained as a viable commercial activity, while allowing for diversity in the size of forest tracts; and,

WHEREAS, without best management practices such as those suggested by the United States Environmental Protection Agency Region 2 in its 2005 publication entitled Best Management Practices for Outdoor Shooting Ranges (USEPA 2005), lead and other heavy metals released at shooting ranges could negatively impact human health and the environment; and,

WHEREAS, lead is a heavy metal hazardous waste that can travel through soils, ground and surface waters, and persist in the environment, bioaccumulating up the food chain; and,

WHEREAS, lead is a known health hazard and neurotoxin that can affect humans and animals alike; and,

WHEREAS, noise above certain levels, particularly persistent, repetitive, percussive is deleterious to humans and animals alike; and,

WHEREAS, noise at outdoor shooting facilities is much more likely to generate complaints by nearby residents, than noise at indoor shooting facilities; and,

WHEREAS, greater technology exists to control noise impacts at indoor shooting ranges than at outdoor commercial shooting facilities, where noise leaving commercial outdoor commercial shooting facilities can reach and negatively impact humans, domestic and wild animals unless the outdoor shooting range's noise is mitigated through best management practices and the outdoor shooting range is properly operated; and,

WHEREAS, properly maintained state of the art HVAC keep air clean for clients and workers; and,

WHEREAS, bullet traps at shooting ranges now provide the maximum possible containment for spent bullets, which can be reclaimed and recycled, thereby minimizing any resulting contamination and protecting the County's human health and natural resources; and,

WHEREAS, the BoCC adopted Ordinance 12-1102-18 on November 2, 2018 and adopted Ordinance No. 15-1214-18 on December 14, 2018 as reasonable regulations for commercial shooting facilities; and,

WHEREAS, the BoCC did not intend that Ordinance 12-1102-18 be a development regulation as defined in the Growth Management Act (Chapter 36.70A RCW); and,

WHEREAS, the BoCC had a reasonable belief that Ordinance No. 15-1214-18 protected natural resource lands, as required by RCW 36.70A.060; and,

WHEREAS, on September 16, 2019, the Western Washington Growth Management Hearings Board (Growth Board) issued its Final Decision and Order in Case No. 19-02-0003-c, which invalidated the Title 8 Ordinance on the basis that it was a development regulation under the Growth Management Act and was invalid because it had not been reviewed under the State Environmental Policy Act (Chapter 43.21C RCW) and did not comply with the County's public participation process which requires consideration by the Jefferson County Planning Commission; and,

WHEREAS, the Growth Board's September 16, 2019 decision invalidated Ordinance 12-1102-18 and Ordinance No. 15-1214-18 under the Growth Management Act and remanded them to Jefferson County to achieve compliance as addressed in the Final Decision and Order with compliance due on March 2, 2020; and,

WHEREAS, the Growth Board's September 16, 2019 decision criticized Ordinance No. 15-1214-18 because it modified the previous shooting facility regulations which only allowed small-scale recreation and tourist uses defined as isolated uses that are leisure or recreational in nature; and,

WHEREAS, the County finds that the small-scale tourist and recreation limitations, along with other development regulations contained in this Ordinance assure the conservation of natural resource lands, as required by RCW 36.70A.060; and,

WHEREAS, on September 23, 2019 the BoCC referred both Ordinance 12-1102-18 and Ordinance No. 15-1214-18 to the Jefferson County Planning Commission to ensure compliance with the Growth Board's remand; and,

WHEREAS, the Growth Management Act regulations at WAC 365-196-725(1) require that the County consider the Supremacy Principle, which states: "Comprehensive plans and development regulations adopted under the act are subject to the supremacy principle of Article VI, United States Constitution and of Article XI, Section 11, Washington state Constitution;" and,

WHEREAS, Policy LU-P-1.2 of the 2018 Comprehensive Plan states that the County must follow the supremacy principle and "Acknowledge and protect the rights of private property owners in preparing land use, development, and environmental regulations, prohibit arbitrary and discriminatory actions, and preserve reasonable uses for regulated properties;" and,

WHEREAS, because this Ordinance is a development regulation under the Growth Management Act, the County utilized its public participation process for comprehensive plan amendments and development regulations required by the Growth Management Act, including consideration by the Jefferson County Planning Commission; and,

WHEREAS, the County has fulfilled the requirements of the State Environmental Policy Act and the has utilized County's public participation process, including consideration by the Jefferson County Planning Commission; and,

NOW, THEREFORE, be it ordained by the BoCC as follows:

Section 1. Repeal and Replacement of Ordinance No. 12-1214-18 and amending Title 18 JCC. Ordinance No. 15-1214-18 (Title 18 – Land Use Code) is repealed and replaced with this ordinance. Title 18 JCC is amended as in the attached Appendix.

Section 2. Findings. The BoCC hereby adopts the above recitals (the “WHEREAS” statements) as its findings of fact in support of this Ordinance.

Section 3. No Effect on the Moratorium Adopted in Ordinance No. 14-1209-19 and Ordinance No. 02-0224-20. The moratorium in Ordinance No. 14-1209-19 and Ordinance No. 02-0224-20 is not terminated by the adoption of this Ordinance and continues until the BoCC determines that the need for a moratorium has ended or until the moratorium terminates of its own accord, if not subsequently extended by the BoCC pursuant to state law.

Section 4. Establishment of a Fee. The department shall charge a fee base fee of \$450 plus actual costs incurred (including consultant work) for processing an application for a commercial shooting facility. This fee shall be added to the Appendix Fee Schedule for the department.

Section 5. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, then the remainder of this Ordinance or application of its provisions to other persons or circumstances shall remain valid and unaffected.

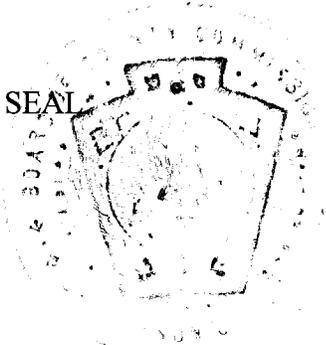
Section 6. SEPA Compliance. On January 13, 2020 the SEPA responsible official issued a determination of nonsignificance (DNS) after reviewing a January 6, 2020 SEPA Checklist (Checklist). Consistent with RCW 43.21C.030(2), WAC 197-11-060, and Washington State Department of Ecology, State Environmental Policy Act Handbook, 43 (2018), the Checklist analyzed five non-project alternatives, including the December 3, 2019 recommendation of the Jefferson County Planning Commission, in addition to the no-action alternative. Five written comments were received timely on the DNS. All these written comments make claims that are belied by a careful review of the Checklist. None of the written comments were from state or federal agencies or Indian Tribes. Detailed responses to all of the were sent that address all the concerns raised in the comments. After considering all the comments and providing detailed responses to all of them the SEPA responsible official determined to retain the DNS on February 20, 2020. Consistent with Department of Ecology SEPA policy, a memorandum signed by the SEPA responsible official was emailed to the Department of Ecology on February 20, 2020 and placed in the Department of Community Development’s project file.

Section 7. Effective Date. This ordinance is effective immediately upon adoption.

(SIGNATURES FOLLOW ON NEXT PAGE)

4:21

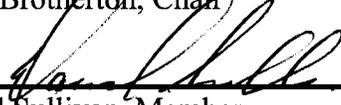
ADOPTED this 20th day of February 2020, at ~~4:15~~ p.m.



JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS



Greg Brotherton, Chair



David Sullivan, Member



Kate Dean, Member

ATTEST:



Carolyn Gallaway,
Deputy Clerk of the Board

APPROVED AS TO FORM:

 2/29/2020

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A

ADDITIONS OR DELETIONS TO DEFINITIONS:

18.10.020 B definitions.

“Backstop” means a barrier that stops or redirects bullets fired on a shooting range, usually directly behind the target line.

“Baffles” means barriers constructed to contain bullets or to reduce, redirect or suppress sound waves.

“Berm” means an embankment used for restricting bullets to a given area, as a protective or dividing wall between shooting areas, or for noise abatement.

“Bullet” means a single projectile fired from a firearm.

18.10.030 C definitions.

“Commercial shooting facility” means an indoor shooting facility or outdoor shooting facility designed and specifically designated for safe shooting practice with firearms, whether open to the public, open only to private membership, or any combination of the above that for the use of the commercial shooting facility requires a contract, charges a fee or other compensation, or requires membership. In addition, where property is used primarily for lawful shooting practice for guests of the owner, and where the other uses of the property either facilitate shooting practice or are incidental, intermittent or occasional and whether or not payment is received, it is presumed that the property used for lawful shooting practices is a commercial shooting facility. The term “commercial shooting facility” does not include:

- (a) Shooting facilities that are both owned and operated by any instrumentality of the United States, the State of Washington, or any political subdivision of the State of Washington; ~~and~~
- (b) Any portion of a privately-owned property used for lawful shooting practice solely by its owner or the owner’s guests without payment of any compensation to the owner of the privately-owned property or to any other person, except where the property is presumed to be a commercial shooting facility, as described above. ~~For the avoidance of doubt, where privately owned property is used primarily for lawful shooting practice for guests of the owner, and where the other uses of the property either facilitate~~

~~shooting practice or are incidental, intermittent or occasional, it is presumed that the privately owned property used for lawful shooting practices is a commercial shooting facility.~~

18.10.060 F definitions.

“Firearm” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. The definition of “firearm” includes the terms pistol, rifle, short-barreled rifle, shotgun, short-barreled shotgun, machine gun, and antique firearm as those terms are defined in RCW 9.41.010. The term “firearm” shall not include: (a) devices, including but not limited to “nail guns,” which are used as tools in the construction or building industries and which would otherwise fall within this definition; or, (b) a “destructive device” as defined in 18 U.S.C. Section 921(a)(2).

“Firing line” means a line parallel to the targets from which firearms are discharged.

“Firing point” means a location from which one individual fires at an associated target located down range.

18.10.080 H definitions.

“Hazardous waste” means those solid wastes designated by 40 CFR Part 261 and regulated as hazardous or mixed waste by the United States EPA.

18.10.090 I definitions.

“Impact area” means the area in a backstop or bullet trap directly behind the target where bullets are expected to impact or the area downrange where bullets will impact if not captured by a backstop or bullet trap.

“Indoor shooting facility” means a commercial shooting facility within a fully enclosed structure, including lawful incidental sales of firearms, ammunition, component parts and accessories.

18.10.130 M definitions.

“Minimal impacts” means impacts that do not cause adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.

“Minimal demands on existing infrastructure” means demands that do not cause the need for additional infrastructure, including but not limited to roads, fire protection, water, wastewater disposal or stormwater control that is not provided by the applicant.

18.10.140 N definitions.

“NRA Range Source Book” means the 2012 version of the NRA Range Source Book published by the National Rifle Association.

18.10.150 O definitions.

Outdoor Shooting Range. (See “Shooting range.”)

“Outdoor shooting facility” means a commercial shooting facility that is not an indoor shooting facility.

18.10.160 P definitions.

“Physical containment” with respect to a commercial shooting facility means the use of physical barriers that are sufficient to contain the projectile from the highest power firearm used on a shooting range when the shooting range is used in accordance with its operating permit. Physical containment may include but is not limited to baffles, sidewalls, backstops and berms of adequate design, quantity, and location to ensure that projectiles cannot escape the commercial shooting facility.

“Projectile” means an object fired from a firearm.

18.10.170 Q definitions.

“Qualified Shooting Range Evaluator” means a person who has been an NRA range technical team advisor or who is a professional engineer with expertise in the design of shooting ranges.

18.10.180 R definitions.

“Recreational uses” means those activities of a voluntary and leisure time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.

“Rules and regulations” with reference to a commercial shooting facility means requirements used for the safe operation of a commercial shooting facility.

18.10.190 S definitions.

“Shooting range” consists of a firing line or firing points, and an impact area.

“Small-scale recreation or tourist uses” means recreational uses or tourist uses that are reliant upon a rural setting or location; do not include any new residential development beyond that allowed in the underlying land use district; and otherwise meet the performance standards in JCC 18.20.350.

8.10.200 T definitions.

“Target” means a mark to shoot at.

“Target line” means the line where targets are placed.

“Tourist uses” means used by persons traveling for pleasure or culture.

8.10.210 U definitions.

“U.S.C.” means the United States Code, as it now exists or is later amended.

18.15.045 Unnamed uses.

~~This code recognizes that not every conceivable use can be identified and that new uses may evolve over time. Furthermore, it establishes the administrator’s authority to review proposed “unnamed” uses for similarity with other uses listed in this code and to ensure consistency of the proposed use with the applicable district. When a use is not specifically listed in Table 3-1 (or, if proposed within the Irondale and Port Hadlock UGA, in Chapter 18.18 JCC), it shall be reviewed as a discretionary “D” use by the administrator, using a Type II process specified in Chapter 18.40 JCC. The administrator shall use the criteria contained in JCC 18.15.040(2) to determine and establish whether the proposed unnamed use shall be classified as an allowed use, a conditional use, or prohibited within the applicable district.~~

(1) When Tables 3-1 and 3A-1 prohibits or authorizes unnamed uses or unnamed facilities in a zone as a discretionary “D” use, discretionary conditional “C(d)” use, or conditional “C” use, the administrator shall follow the use or facility listed in Tables 3-1 and 3A-1.

(2) Not every conceivable use or facility can be identified and that new uses or facilities may evolve over time. When it is not clear whether a proposed use or facility is listed in Tables 3.1 and 3A-1 as named or unnamed, the administrator may issue a code interpretation pursuant to JCC 18.40.360, which shall classify the proposed use or facility as either named or unnamed, considering the factors listed in Section 18.40.360(4). If classified as a named use, the administrator shall identify the named use listed in Tables 3-1 and 3A-1. If classified as an unnamed use, the administrator shall use the criteria contained in JCC 18.15.040(2) to determine and establish whether the proposed unnamed use shall be classified as an allowed use, a conditional use, or prohibited within the applicable district.

JCC 18.20.170 Cottage Industry

(1) Purpose. To provide for small-scale economic development activities on residential parcels, subordinate to the primary residential use, if the administrator finds that such activities can be conducted without substantial adverse impact on the residential environment and rural character in the vicinity. The scale and intensity of cottage industries are typically greater than could be accommodated as a home business, but less than would require a land use district designation of commercial or industrial.

(2) The following list of uses allowable as cottage industries include, but are not necessarily limited to:

- (a) Sales of antiques and collectibles;
- (b) Art or photography studios;
- (c) Computer software development;
- (d) Handicrafts;
- (e) Ironworking or blacksmith shop;
- (f) Construction office;
- (g) Furniture repair or refinishing;
- (h) Pottery shop;
- (i) Real estate sales office;

- (j) Small equipment repair;
- (k) Woodworking shop;
- (l) Excavating contractors;
- (m) Small engine and boat repair; and,
- (n) Auto and truck repair and service (excludes auto and truck sales, fuel stations and heavy equipment repair).

(3) The following occupations are prohibited as cottage industries, except in the West End Planning Area – Remote Rural (WEPA RR) overlay district (Article VI-L of Chapter 18.15 JCC) and when located on parcels with direct access to a principal arterial (i.e., Highway 101) in the Brinnon Planning Area – Remote Rural (BRPA RR) overlay district:

- (a) Heavy equipment repair shop;
- (b) Autobody work or paint shop; and,
- (c) Large-scale furniture stripping.

(4) The following occupations are prohibited as cottage industries in all of unincorporated Jefferson County:

- (a) Commercial shooting facilities or uses that are associated with shooting firearms.

The following occupations are prohibited as cottage industries:

(5) All cottage industries shall be subject to the following standards, except as provided for in the West End Planning Area and Brinnon Planning Area – Remote Rural overlay districts as specified in Article VI-L of Chapter 18.15 JCC, Remote Rural Overlay Districts for the West End Planning Area and the Brinnon Planning Area.

- (a) The cottage industry shall be operated by at least one full-time, bona fide resident in a single-family residence of the parcel on which the proposed use is being requested.

(b) The cottage industry may not employ more than four employees on the site who reside off the subject property. Auto and truck repair shall only employ two persons on the site who reside off the subject property.

(c) Only those buildings or areas as specifically approved by the county may be utilized in the conduct of business.

(d) Any business requiring customers to visit the site shall provide adequate on-site parking spaces, in addition to one for each full-time equivalent employee who resides off the subject property, and two for the owners of the property. All parking spaces shall meet the standards of JCC 18.30.100.

(e) All structures and outside activities shall be so located or screened from adjacent properties to avoid disturbances through glare, noise, dirt or other nuisances or hazards.

(f) All activity related to the conduct of the business or industry, except for activities related to the growing and storing of plants, shall be conducted within an enclosed structure or be sufficiently screened from view of adjacent residences.

(g) All cottage industry activities shall be sufficiently screened from view of adjacent residences, using site location, topography, landscaping, fencing, the retention of native vegetation, or a combination thereof necessary to meet the Type A screening requirements of JCC 18.30.130.

(h) Traffic generated by the cottage industry shall not exceed the level of service adopted for the public roadway which accesses the use, nor generate significant traffic in excess of that normally generated by typical uses found within the particular district.

(i) No business may provide drive-through service.

(j) Cottage industries shall be limited in their hours of operation. No business on-site customer service shall be conducted before 8:00 a.m. or after 8:00 p.m., Monday through Friday, and before 9:00 a.m. or after 6:00 p.m., Saturday and Sunday.

(k) The administrator may attach additional conditions or requirements, or may make modifications to the site plan where necessary to protect the health, safety and welfare of the public.

(l) The granting of the proposed cottage industry use shall not constitute a rezone. No expansions of approved cottage industries are permitted, except as specified in Article VI-L of Chapter 18.15 JCC, Remote Rural Overlay Districts for the West End Planning Area and the Brinnon Planning Area, concerning the rural remote overlay districts.

(m) No exterior display of goods for sale shall be allowed.

(n) The cottage enterprise is an accessory use to the residential use of a dwelling unit, and the residential function of the buildings and property shall be maintained.

(o) Any new structure constructed to accommodate the cottage industry shall be limited in scale so that it is in character with neighboring properties. In no case shall more than 5,000 square feet of total building area on the property be devoted to the cottage industry.

(p) No more than one sign is allowed, consistent with the sign standards in JCC 18.30.150.

(q) No on-site direct retail sales of products not produced on site are allowed, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps and antiques, and their accessories.

(r) Minimum parcel size shall be one-acre gross site area.

(s) No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of the quiet use and enjoyment of adjoining and surrounding property. Any after-hours business activities shall not have noise impacts discernible beyond the property boundaries.

(t) Not more than one cottage industry shall be allowed in or on the same premises.

(u) The proposed cottage industry shall comply with the standards and requirements of the Jefferson County environmental health department.

(v) Where shooting firearms is associated with a cottage industry at a property, such property shall be considered a commercial shooting facility.

(6) Auto repair and service proposals are subject to the following additional requirements:

(a) The proposal shall submit a detailed operating plan in compliance with the latest edition of the Washington State Department of Ecology's Guide for Automotive Repair Shops identified as Publication No. 92-BR-16.

(b) The proposal shall include an operating plan which complies with the Department of Ecology's SMM. The submittal shall include a stormwater management plan in compliance with Chapter 18.30 JCC and include supplemental information which addresses and complies with Volume IV-2.1 and 2.2 of the SMM.

(c) The operation shall be limited to two stalls or bays for repair and servicing.

(d) The cottage industry shall not store more than three vehicles at any one time awaiting or departing for or from servicing or repair. This excludes the vehicles being actively serviced in the facility.

(e) A 50-foot buffer shall be maintained from the structure housing the auto repair and service to all adjacent property lines. [Ord. 15-18 § 1 (Appx. A); Ord. 8-06 § 1]

JCC 18.20.170(4) Standards for Cottage Industries

(4) All cottage industries shall be subject to the following standards, except as provided for in the West End Planning Area and Brinnon Planning Area – Remote Rural overlay districts as specified in Article VI-L of Chapter 18.15 JCC, Remote Rural Overlay Districts for the West End Planning Area and the Brinnon Planning Area.

(a) The cottage industry shall be operated by at least one full-time, bona fide resident in a single-family residence of the parcel on which the proposed use is being requested.

(b) The cottage industry may not employ more than four employees on the site who reside off the subject property. Auto and truck repair shall only employ two persons on the site who reside off the subject property.

(c) Only those buildings or areas as specifically approved by the county may be utilized in the conduct of business.

(d) Any business requiring customers to visit the site shall provide adequate on-site parking spaces, in addition to one for each full-time equivalent employee who resides off the subject

property, and two for the owners of the property. All parking spaces shall meet the standards of JCC 18.30.100.

(e) All structures and outside activities shall be so located or screened from adjacent properties to avoid disturbances through glare, noise, dirt or other nuisances or hazards.

(f) All activity related to the conduct of the business or industry, except for activities related to the growing and storing of plants, shall be conducted within an enclosed structure or be sufficiently screened from view of adjacent residences.

(g) All cottage industry activities shall be sufficiently screened from view of adjacent residences, using site location, topography, landscaping, fencing, the retention of native vegetation, or a combination thereof necessary to meet the Type A screening requirements of JCC 18.30.130.

(h) Traffic generated by the cottage industry shall not exceed the level of service adopted for the public roadway which accesses the use, nor generate significant traffic in excess of that normally generated by typical uses found within the particular district.

(i) No business may provide drive-through service.

(j) Cottage industries shall be limited in their hours of operation. No business on-site customer service shall be conducted before 8:00 a.m. or after 8:00 p.m., Monday through Friday, and before 9:00 a.m. or after 6:00 p.m., Saturday and Sunday.

(k) The administrator may attach additional conditions or requirements, or may make modifications to the site plan where necessary to protect the health, safety and welfare of the public.

(l) The granting of the proposed cottage industry use shall not constitute a rezone. No expansions of approved cottage industries are permitted, except as specified in Article VI-L of Chapter 18.15 JCC, Remote Rural Overlay Districts for the West End Planning Area and the Brinnon Planning Area, concerning the rural remote overlay districts.

(m) No exterior display of goods for sale shall be allowed.

(n) The cottage enterprise is an accessory use to the residential use of a dwelling unit, and the residential function of the buildings and property shall be maintained.

(o) Any new structure constructed to accommodate the cottage industry shall be limited in scale so that it is in character with neighboring properties. In no case shall more than 5,000 square feet of total building area on the property be devoted to the cottage industry.

(p) No more than one sign is allowed, consistent with the sign standards in JCC 18.30.150.

(q) No on-site direct retail sales of products not produced on-site are allowed, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps and antiques, and their accessories.

(r) Minimum parcel size shall be one acre gross site area.

(s) No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of the quiet use and enjoyment of adjoining and surrounding property. Any after-hours business activities shall not have noise impacts discernible beyond the property boundaries.

(t) Not more than one cottage industry shall be allowed in or on the same premises.

(u) The proposed cottage industry shall comply with the standards and requirements of the Jefferson County environmental health department.

(v) Where shooting firearms is associated with a cottage industry at a property, such property shall be considered a commercial shooting facility, which is prohibited.

JCC 18.20.135 Commercial Shooting Facilities

(1) Regulation of the Siting and Development of Commercial Shooting Facilities.

(a) The siting and development of commercial shooting facilities are regulated under Chapter 18.20 JCC.

(b) The operations of a commercial shooting facility are regulated under Chapter 8.50 JCC, and require a separate permit for operations under Title 8, the Health and Safety Code.

(c) A commercial shooting facility may only be an indoor shooting facility, located in a commercial or industrial zone, except shall not be allowed in a heavy industrial or resource-based industrial zones. No outdoor Commercial Shooting facilities shall be

allowed, except for those with that qualify as a legal nonconforming use under JCC 18.20.260.

- (d) Lawful incidental sales of firearms, ammunition, component parts and accessories shall be allowed. However, in industrial zones, JCC 18.20.220(1)(c)(i), (ii), and (iii) shall apply, but (iv) shall not.

(2) Facilities Plan. An application for a permit for all commercial shooting facilities shall contain a facilities plan that includes:

- (a) Locations and dimensions of all walkways;
- (b) Locations of all hazardous material storage and use, per a hazardous substance or hazardous waste management plan, if needed;
- (c) The component parts for each shooting range;
- (d) Locations and dimensions of firing lines or firing points, target lines and impact areas including all related buildings;
- (e) Locations, dimensions and slope of all backstops and side berms and the volume, source, and type of all materials of which they are comprised;
- (f) Locations and specifications of all baffles and containment structures.
- (g) Dimensional drawings of physical layout for each of the items listed in this subsection, drawn at an engineering scale appropriate for the drawings; and,
- (h) Horizontal drawings of the baffles and containment structures, and a description of the materials to be used for them.

(3) Consistency with the NRA Source Book Standards. All commercial shooting facilities shall be designed to be consistent with the NRA Source Book standards for shooting range design.

(4) Minimum Standards. All commercial shooting facilities shall be designed to meet the following minimum standards:

- (a) Rules and Regulations Required. All commercial shooting facilities shall adopt rules and regulations as defined in JCC 18.10.180;

- (b) Required Security. Commercial shooting facilities shall be designed to provide security measures to deter unauthorized entry to any shooting range, such as barriers, berms, cameras, gates, fencing, on-site security personnel, physical limits, or signage; and,
 - (c) Containment. Commercial shooting facilities shall be designed so that when firearms are operating in accordance with the rules and regulations as defined in JCC 18.10.180, all projectiles are kept from leaving any shooting range or the commercial shooting facility.
- (5) Professional Evaluation.
- (a) An application for a discretionary use for a commercial shooting facility shall include a professional evaluation as required in this subsection.
 - (b) The Professional Evaluation shall be the responsibility of the county under the direction of the director and shall be performed by a qualified shooting range evaluator.
 - (c) If requested, the applicant shall allow for an inspection of the site of commercial shooting facility by the qualified shooting range evaluator.
 - (d) The Professional Evaluation shall contain an evaluation of the permit application that shall be performed by a qualified shooting range evaluator (as defined above) and shall provide a written evaluation of the level of safety of the proposed commercial shooting facility, including:
 - i. An evaluation of how the commercial shooting facility meets the minimum standards in JCC 18.20.135(4);
 - ii. An evaluation of all proposed uses to ensure consistency with the NRA Range Source Book for facility designs and institutional controls;
 - iii. An evaluation of whether the commercial shooting facility's uses and institutional controls described in the application minimize threatened harm;
 - iv. An evaluation of how the commercial shooting facility's uses and institutional controls described in the application protect critical areas and shorelines.
 - v. The signature of the qualified shooting range evaluator;
 - vi. The evaluation shall certify a certification that the operating permit application satisfies all the requirements of this article.

- (e) The applicant shall reimburse the county for the actual costs incurred (including consultant work and the cost of county staff review based on the applicable hourly rates, less the application fee) of the evaluation.
- (6) Protection of Critical Areas and Shorelines. All commercial shooting facilities shall comply with every applicable provision of the JCC related to protection of critical areas and shorelines (and buffers for all such areas, including but not limited to the buffers required in Chapter 18.22.JCC (Critical Areas) and Chapter 18.25 JCC (Shoreline Master Program).

JCC 18.20.200(2) on Permitted Home Businesses

- (2) Permitted home businesses do not include the following:
 - (a) Funeral chapel or funeral home;
 - (b) Medical or dental clinic or hospital;
 - (c) Veterinary clinic or hospital; and,
 - (d) Uses that are associated with shooting firearms.

JCC 18.20.350(1) and (2) Small-scale recreation and tourist uses

(1) Small-Scale Recreation and Tourist Uses. Small-scale recreational and tourist uses rely on a rural location and setting and provide opportunities to diversify the economy of rural Jefferson County by utilizing the county's abundant recreational opportunities and scenic and natural amenities in an environmentally sensitive manner consistent with the rural character of the county. Upon approval pursuant to this code, these types of uses may be conducted in the land use districts specified in Tables 3.1 and 3A-1 in JCC 18.15.040 and as provided for in small-scale recreation and tourist (SRT) overlay districts under JCC 18.15.470 and 18.15.572. Agritourism on designated agricultural lands is regulated in JCC 18.20.030, agricultural activities and accessory uses. The following list of uses is not intended to be exhaustive, but rather is intended to be illustrative of the types of small-scale recreation or tourist uses:

- (a) Aerial recreational activities such as balloon rides, glider and parachute events;
- (b) Animal preserves and game farms;
- (c) Equestrian centers, on parcels 10 acres or larger in size;
- (d) Campgrounds and camping facilities;
- (e) Commercial fishing ponds;

- (f) Cultural festivals;
- (g) Miniature golf, not to exceed a gross use area of one acre;
- (h) Model hobby parks and sites on parcels 10 acres or larger in size;
- (i) Outdoor recreational equipment rental and/or guide services;
- (j) Outdoor ~~shooting and archery ranges;~~ Outdoor commercial shooting facilities;
- (k) Private hunting or fishing camps;
- (l) Public display gardens;
- (m) Recreational off-road vehicle (ORV) and all-terrain vehicle (ATV) parks and recreational areas on parcels 20 acres or larger in size;
- (n) Recreational, cultural or religious conference center/retreat facilities on parcels 10 acres or larger in size;
- (o) Recreational vehicle parks, travel trailer parks, and commercial campgrounds on parcels at least five acres in size;
- (p) Rural restaurants, only when associated with a primary recreational or tourist use; and
- (q) Rural recreational lodging or cabins for overnight rental on parcels 10 acres or larger in size.

~~(2) Unnamed Small Scale Recreation or Tourist Uses. Other uses not specifically named above may be classified as small scale recreational and tourist uses by the administrator, subject to the provisions of this section, upon documentation by the applicant that the proposed use is dependent upon a particular rural location or setting and is consistent with the intent and application of RCW 36.70A.070(5)(d) and the Jefferson County Comprehensive Plan.~~

CHANGES TO THE USE TABLE:

Table 3-1. Allowable and Prohibited Uses

	Resource Lands	Rural Residential	Rural Commercial	Rural Industrial	Rural Industrial	Public	UGA
Specific Land Use	AG Agricultural Resource Lands – AP-20 (Prime Agricultural Lands) and AL-20 (Agricultural Land of Local Importance) Forest Resource Lands – CF-80 (Commercial Forest), RF-40 (Rural Forest), and IF (Inholding Forest)	RR Rural Residential – RR:20 (Rural Residential 1 DU/20 Acres), RR1:10 (Rural Residential 1 DU/10 Acres), and RR 1:5 (Rural Residential 1 DU/5 Acres)	RC Rural Commercial – GC (General Crossroads), NC (Neighborhood/Visitor Crossroads), CC (Convenience Crossroads), and RVC (Rural Village Center)	I Rural Industrial LI/M (Light Industrial/Manufacturing), LI (Light Industrial – Glen Cove), LI/C (Light Industrial/Commercial (Glen Cove))	I Rural Industrial – HI (Heavy Industrial, RBI (Resource-Based Industrial))	P Public – PPR (Parks, Preserves and Recreation)	UGA Urban Growth Area. See Chapter 18.18 JCC
Commercial indoor shooting facility	<u>No</u>	<u>No</u>	<u>D</u>	<u>D</u>	<u>No</u>	<u>No</u>	See Chapter 18.18 JCC
Commercial outdoor shooting facility ¹⁰	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	See Chapter 18.18 JCC

¹⁰ Outdoor commercial shooting facility shall be a prohibited use in all zoning districts, including for small-scale tourist and recreation uses.

Specific Land Use
Retail sales and services (not including recreational marijuana retail) ¹¹

¹¹ Lawful incidental sales of firearms, ammunition, component parts and accessories for indoor shooting facilities shall be allowed. However, in industrial zones, JCC 18.20.220(1)(c)(i), (ii), and (iii) shall apply, but (iv) shall not.

Table 3A-1. Allowable and Prohibited Uses

	Urban Residential	Urban Commercial	Urban Industrial	Public
Specific Land Use	Urban low density residential (ULDR), Urban moderate density residential (UMDR), and Urban high density residential (UHDR)	Urban Commercial (UC) and Visitor-oriented commercial (VOC)	Urban Light Industrial (ULI)	Public (P)
Commercial indoor shooting facility	<u>No</u>	<u>D</u>	<u>D</u>	<u>No</u>
Commercial outdoor shooting facility ¹⁰	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>

¹⁰ Outdoor commercial shooting facility shall be a prohibited use in all zoning districts, including for small-scale tourist and recreation uses.

Specific Land Use
Retail sales and services (not including recreational marijuana retail) ¹¹

¹¹ Lawful incidental sales of firearms, ammunition, component parts and accessories for indoor shooting facilities shall be allowed. However, in industrial zones, JCC 18.20.220(1)(c)(i), (ii), and (iii) shall apply, but (iv) shall not.

JEFFERSON COUNTY PROSECUTING ATTORNEY'S OFFICE

May 27, 2020 - 3:14 PM

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Appellate Court Case Title: Fort Discovery Corp. et al., Appellants v. Jefferson County, Respondents
Superior Court Case Number: 18-2-01023-6

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