

JEFFERSON COUNTY BOARD OF HEALTH ORDINANCE 8.10
SOLID WASTE REGULATIONS

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SOLID WASTE REGULATIONS

8.10.010 – AUTHORITY AND PURPOSE

- (1) These solid waste rules and regulations are promulgated to implement the requirements of Chapter 70.95 RCW, Chapter 173-304 WAC, Chapter 173-350 WAC, and Chapter 173-351 WAC under the authority of Chapters 43.20.050, Powers and Duties of State Board of Health 70.05, Local Health Departments, Boards, Officers Regulations, and 70.95, Solid Waste Management Reduction and Recycling, in the Revised Code of Washington (RCW), and Chapters 246-203, General Sanitation, 173-304, Minimum Functional Standards for Solid Waste Handling, 173-350, Solid Waste Handling Standards, and 173-351, Criteria for Municipal Solid Waste Landfills, in the Washington Administrative Code (WAC), in order to protect the public health and the environment, and promote the safety and welfare of the citizens of Jefferson County. All references to these RCWs and WACs, and all other RCWs, WACs, and other federal, state, and local regulations, refer to the cited chapters and paragraphs sections, as amended. The rules and regulations herein in this chapter govern the handling, storage, collection, transportation, treatment, utilization, processing and final disposal of all solid waste within Jefferson County, including the issuance of permits and enforcement.
- (2) These regulations shall apply to all persons and in all territory within the boundaries of unincorporated Jefferson County, except actions by persons on lands under the jurisdiction of the Federal Government or recognized Native American Nations and Tribes.
- (3) It is expressly the purpose of these rules and regulations of this chapter is to provide for and promote the health of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these rules and regulations.
- (4) It is the specific intent of these rules and regulations of this chapter is to place the obligation of complying with its requirements upon waste generators, haulers, and/or operators of solid waste handling sites, and no provision of, nor term used in these rules and regulations is intended to impose any duty whatsoever upon the county, the Board of Health ~~nor~~ any of its their officers or employees, for whom the implementation or enforcement of these rules and regulations shall be discretionary and not mandatory.
- (5) Nothing contained in these rules and regulations is intended to be, nor shall be construed to create or form the basis for any liability on the part of the county, the Board of Health ~~nor~~ its their officers, employees or agents, for any injury or damage resulting from the failure of any person subject to these rules and regulations to comply with these rules and regulations, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of these rules and regulations on the part of the county or the Board of Public Health.

8.10.015 – ADOPTION BY REFERENCE

Pursuant to and by the authority of Chapter 70.95 RCW, Jefferson County Public Health hereby adopts ~~Chapter 173-350, Solid Waste Handling Standards, and Chapter 173-304, Minimum Functional Standards for Solid Waste Handling~~ Chapter 173-350 WAC (Solid Waste Standards). As provided for by RCW 70.95.160, the Board of Public Health makes the following amendments to Chapter 173-350 RCW in order to make this chapter more stringent, as authorized by RCW 70.95.160 and WAC 173-350-700(2). To the extent that any state statute or regulation listed in this section is amended or revised subsequent to the adoption of this chapter that amendment or revision is deemed incorporated into this Chapter upon its effective date and is applicable to any activity regulated by this Chapter.

8.10.020 – APPLICABILITY

WAC 173-350-020 “*Applicability*”, is adopted by reference except that subparagraph ~~(6)(2)(f)~~ is hereby repealed in order to make this chapter more stringent, as authorized by RCW 70.95.160 and WAC 173-350-700(2). Single-family residences and single-family farms disposing of their own solid wastes on their own property shall be subject to these regulations.

8.10.021 – Determination of Solid Waste.

WAC 173-350-021 is adopted by reference.

8.10.025 – OWNER RESPONSIBILITY FOR SOLID WASTES

WAC 173-350-025 is revised to read as follows:

(1) General.

The owner, operator, or occupant of any premise, business, establishment, or industry shall be responsible for the satisfactory and legal arrangement for the solid waste handling of all solid waste generated or accumulated by them on the property. An owner is not relieved of the duties and obligations imposed by this ~~Chapter~~chapter because the owner has leased the property or premises to another or permitted others to occupy the premises or operate there.

(2) Removal.

It shall be the responsibility of the owner, operator or occupant of any premise, business, establishment or industry to remove solid waste from the premises where it was generated to a permitted solid waste handling facility at a frequency that does not create a nuisance or litter problem, or at a frequency otherwise approved by the Health Officer. The Health Officer may require any person who does not store, remove, transport, or dispose of solid waste consistent with these regulations, or who stores solid waste so as to create a nuisance or litter problem, to remove solid waste from the premises where it was generated, or collected, by that person to a permitted solid waste handling facility no less frequently than once per week.

(3) Disposal.

- (a) Generally. It shall be the responsibility of the owner, operator or occupant of any premise, business, establishment or industry to dispose of all solid wastes at an appropriate solid waste handling facility permitted to receive such waste, or in a manner consistent with these regulations as approved by the Health Officer. Should a situation arise where disposal of solid waste is not covered under these regulations, the Health Officer shall determine acceptability of a method of disposal for the solid waste on a case-by-case basis
- (b) Unlawful Dumping. It shall be unlawful for any person to dump, deposit, bury, or allow the dumping, depositing or burying of any solid waste onto or under the surface of the ground or into the waters of this state, except at a solid waste disposal site for which there is a valid permit. Unlawful dumping shall include unauthorized deposition of solid waste into a container that is owned or leased by another person.
- (c) Name Appearing on Waste Material and Presumption. Whenever solid waste dumped in violation of this regulation contains three (3) or more items bearing the name of one individual, there shall be a presumption that the individual whose name appears on such items committed the unlawful act of dumping.
- (d) Identification Presumed. When the Health Officer investigates a case of unlawful dumping and finds identification in the solid waste as described in Section 025(3)(c), or other evidence, ~~he/she~~the Health Officer may then order the person who committed the unlawful dumping to remove and dispose of said solid waste according to these regulations. Following the disposal of said solid waste, the Health Officer may order this person to present to the Health Officer a receipt from the permitted disposal facility as proof of appropriate disposal.
- (e) Lack of Identification. When the Health Officer investigates a case of unlawful dumping and finds no identification in the solid waste, nor evidence, ~~he/she~~the Health Officer may then order the property owner to remove said solid waste from ~~his/her~~the land, and have the solid waste disposed of according to these regulations. Where this occurs on private land, the property owner or occupant shall be responsible for removal and disposal. Where this occurs on public land, the appropriate governmental agency shall be responsible for removal and disposal.
- (f) Burning Prohibited. It shall be unlawful for any person to burn solid waste including garbage or rubbish unless these materials are burned in an appropriate permitted energy recovery or incinerator facility. The burning of land clearing debris and the residential burning of natural vegetative matter is regulated under Chapter 173-425 WAC; (Outdoor Burning).
- (g) Disposal Service Required. When a person does not dispose of solid wastes in a manner consistent with these regulations, the Health Officer may order said person to obtain ongoing and regularly scheduled solid waste collection service if said person does not already have this service and if a solid waste collection service exists or is offered in the geographic area where the person resides. Said service shall be from a solid waste collection service holding a Solid Waste Handling Permit issued by Jefferson County

Public Health and necessary certificates issued by the Washington Utilities and Transportation Commission. If said person does not have this service and resides in a geographic area where a single solid waste collection service operates exclusively under covenant or ordinance as required by local government, and said service is mandatory for persons residing within the jurisdiction of the local government, the Health Officer may schedule ongoing regularly scheduled service for said person with this solid waste collection service. If service is cancelled through nonpayment, it will be deemed a violation of this ~~paragraph~~section.

- (h) Disposal Receipts Required. Any person in violation of this ~~paragraph~~section to whom a notice and order to correct violation has been issued is required to produce receipts from a permitted solid waste disposal, recycling and/or reclamation facility or solid waste transporter to demonstrate compliance with the notice and order to correct violation issued by ~~Jefferson County Public Health~~ the Health Officer or designee.

8.10.030 – EFFECTIVE DATES.

WAC 173-350-030, *Effective Dates* are hereby adopted by reference. ~~The effective date of these regulations is November 1st, 2014.~~

8.10.040 – PERFORMANCE STANDARDS.

WAC 173-350-040, *Performance Standards*, is hereby adopted by reference.

8.10. 100 – DEFINITIONS.

Terms used in this regulation shall have the meaning provided in WAC 173-350-100, WAC 173-351-100 WAC and WAC 173-304-100 are hereby adopted in its entirety by reference, ~~herein~~ except as revised or altered by the definitions provided below.

Abandoned Landfills: Those sites not closed in accordance with all applicable regulatory requirements in place at the time that waste handling/disposal activities ceased.

Abate: Repair, replace, remove, destroy, or otherwise remedy a condition(s) which constitutes a nuisance or a violation of these regulations by such means, in a manner, and to such an extent as the Health Officer determines is necessary in the interests of the general health, safety and welfare of the community.

Abrasive Blasting: A method of surface preparation in which an abrasive aggregate is sprayed under pressure on to exterior surfaces which include, but are not limited to, boats, ships or other watercraft.

Agricultural Wastes: Non-dangerous wastes on farms resulting from the production of agricultural products including, but not limited to, crop residues, manures, animal bedding, and carcasses of dead animals weighing each or collectively in excess of fifteen (15) pounds.

Animal Wastes: Wastes generated on a farm, including manure, pet feces, and dead animals.

Asbestos-Containing Material: Any material containing more than one percent (1%) asbestos

as determined using the method specified in EPA regulations Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

Asbestos-Containing Waste Material: Any waste that contains or is contaminated with friable asbestos-containing material. Asbestos-containing waste material includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

Ashes: The residue from combustion or incineration of material including solid wastes and any air pollution flue dust.

Biomedical Waste: Biomedical waste means, and is limited to, the following types of waste:

1. "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.
2. "Biosafety level 4 disease waste" is the waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the Centers for Disease Control, National Institute of Health, and Biosafety in Microbiological and Biomedical Laboratories, current edition.
3. "Cultures and stocks" are wastes infectious to humans including specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.
4. "Human blood and blood products" are waste human blood and blood components, and materials containing free-flowing blood and blood products.
5. "Pathological waste" is human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for interment or cremation.
6. "Sharps waste" is all hypodermic needles, syringes with needles attached, intravenous tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

Biomedical Waste Collection Service: Any agency, business, or service operated by a person for the purpose of biomedical waste collection and transportation.

Biomedical Waste Generator: Any producer of biomedical waste to include without limitation the following categories: General acute care hospitals, skilled nursing facilities or convalescent hospitals, intermediate care facilities, in-patient care facilities for the developmentally disabled, chronic dialysis clinics, community clinics, health maintenance organizations, surgical clinics,

urgent care clinics, acute psychiatric hospitals, laboratories, medical buildings, ~~physicians'~~ offices and clinics, veterinary offices and clinics, dental offices and clinics, funeral homes or other similar facilities.

Biomedical Waste Treatment: Means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting infectious disease.

Board of Health: The Jefferson County Board of Health.

Buffer Zone: That part of a facility that lies between the active area and the property boundary. Junk cars are not allowed in a Buffer Zone as defined in Title 18 of Jefferson County Code.

Bulky Waste: Large items of refuse, such as appliances (white goods), furniture, junk vehicles, and other oversize wastes which would typically not fit into reusable or disposable containers.

CFR: The Code of Federal Regulations as it exists now or may be amended.

Construction Waste: Non-dangerous solid waste, largely inert waste, generated as the result of construction of buildings, roads, and other man-made structures. Construction waste consists of, but is not limited to: concrete, asphalt, brick, rock, wood and masonry, composition roofing and roofing paper, shakes, shingles, plastic and paper wrappings, plastic pipe, fiberglass insulation, carpeting, floor tile, glass, steel, and minor amounts of other metals like copper.

Decision: Any writing authored by ~~Jefferson County Public Health (JCPH)~~Public Health, the ~~Local~~Health Officer or any employee or representative of JCPH Public Health or the ~~Local~~Health Officer that serves to represent the official position of the JCPH Public Health or the ~~LHO~~Health Officer including, but not limited to, a decision to deny a permit application, a decision to allege permit violation(s), issuance of an Abatement Order, transmittal to a person or entity of a Notice and Order to Correct Violation, or a decision to suspend or revoke an existing or issued permit.

Demolition Waste: Non-dangerous solid waste, largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste consists of, but is not limited to: concrete, asphalt, brick, rock, wood and masonry, composition roofing and roofing paper, shakes, shingles, plastic pipe, fiberglass insulation, carpeting, floor tile, glass, steel, minor amounts of other metals like copper, and incidental amounts of soil associated with these wastes. Plaster (i.e., sheet rock or plaster board), yard wastes, stumps, or any other materials that are likely to produce gases or leachate during the decomposition process are not considered to be demolition waste for the purposes of this definition. Bulky wastes, white goods, and asbestos-containing materials are not considered to be demolition waste for the purpose of this regulation.

Discarded Commodity: Products or items that because of damage, misuse, wear, or neglect and because of such neglect are no longer being utilized for their intended purpose. Neglect, for the purpose of this definition is deemed to include, but not limited to, circumstances where a product or item is left exposed to the weather to rot, rust or deteriorate or is so severely damaged such that it can no longer be used for its intended purpose.

Disposal Site: The location where any final treatment, utilization, processing or deposition of solid waste occurs. See also the definition of interim solid waste handling site.

Drop Box Facility: A facility used for the placement of a detachable container, including the area adjacent for necessary entrance and exit roads, unloading and turnaround areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site

Ecology: The Washington State Department of Ecology.

Emission: The release of air contaminants from solid waste into the outdoor atmosphere.

Environmentally Sensitive Areas or “ESA”: shall be as defined at RCW 36.70A.030(5) (or as hereafter amended) to include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas (and buffers for all such areas) as those terms are defined and described in Title 18 of the Jefferson County Code in its current form or as it may be in the future, amended, supplemented or replaced. Junk cars are not allowed in an ESA as defined in Title 18 of Jefferson County Code.

EPA: The United States Environmental Protection Agency.

Hazardous Substance: 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.

Health Officer: The Health Officer or the Health Officer's representative, of the Jefferson County Public Health.

Junk Vehicle: “Junk vehicle” has the same meaning as in RCW 46.55.010(5). However, “Junk vehicle” does not include a vehicle or part thereof that is stored pursuant to a permitted use under Chapter 18 JCC and entirely within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or part thereof that is stored or parked pursuant to a permitted use under Chapter 18 JCC in a lawful manner on private property in connection with the business of a licensed vehicle wrecker or licensed vehicle dealer and is fenced according to the requirements of RCW 46.80.130. ~~A junk vehicle includes campers, boats, boat trailers or any other type of vehicle used for human transportation which may exhibit any of the following:~~

- ~~Build-up of debris, moss or weeds on, in, under, or around the vehicle that obstructs use;~~
- ~~Damage to the frame;~~
- ~~More than one missing or shattered window or windshield;~~
- ~~More than one inoperable or missing headlight or taillight;~~
- ~~More than one flat tire;~~
- ~~A missing or inoperable engine or transmission.~~
- ~~A missing wheel, license plate, driver side mirror, tire, body panel, door, hood or other obvious body part, not including a bumper.~~
- ~~A license plate that has been invalid for more than 60 days.~~
- ~~Evidence that the vehicle has not been moved in at least 60 days.~~

~~A vehicle certified under RCW 46.55.230 as meeting at least three of following requirements-~~

~~shall be considered a junk vehicle:~~

- ~~1. Three (3) years old or older;~~
- ~~2. Extensively damaged, such damage including but not limited to the following: a broken window or windshield, or missing wheels, tires, motor, or transmission;~~
- ~~3. Apparently inoperable; and/or~~
- ~~4. Has approximate fair market value equal only to the approximate value of the scrap in it.~~

For enforcement purposes, possessing three (3) or more junk vehicles on a single property of any size is not allowed under this regulation.

Minimum Functional Standards (MFS): Chapter 173-304 WAC, *Minimum Functional Standards for Solid Waste Handling*.

Moderate Risk Waste (MRW): means solid waste that is limited to conditionally exempt small quantity generator (CESQG) waste and household hazardous waste (HHW) as defined in this chapter.

Nuisance: Consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures or endangers the, repose, health or safety of others; or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property. To the extent applicable, the County adopts the definitions of nuisance found in [Ch.Chapter 7.48 RCW](#).

Owner: The person, business entity or partnership that is the title owner of record with the Jefferson County Auditor for the parcel or parcels where the violation is allegedly occurring.

Person responsible: The owner, lessee, occupant or operator of the premises, business, activity or action that is allegedly a violation of this [Chapterchapter](#).

Problem Wastes:

1. Any solid material removed during a remedial action, a dangerous waste site closure, other cleanup efforts, or other actions, which contain hazardous substances, but are not designated dangerous wastes;
2. Dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and the dredge spoils are not dangerous wastes and are not regulated by Section 404 of the Federal Clean Water Act (PL 95-217); or
3. Waste abrasive blasting grit or other material used in abrasive blasting. Common aggregates include, but are not limited to silica sand, utility slag or copper slag. Waste abrasive blasting grit does not include blasting grit that will be reused for its intended purpose.

Public Health: Jefferson County Public Health or any person acting on behalf of or employed by Jefferson County Public Health.

Remedial Action: Any action to identify, eliminate or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessment or health effects studies conducted to determine the risk or potential risk to human health.

RCW: The Revised Code of Washington as it exists now or may be amended.

Rubbish: All non-putrescible wastes from all public and private establishments and from all residences.

Solid Waste: All putrescible and non-putrescible solid and semi-solid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, animal wastes, construction and demolition wastes, land clearing wastes, contaminated soils, contaminated dredged spoils, junk vehicles or parts thereof (including waste tires), and discarded commodities. This includes all liquid, solid and semi-solid, materials that are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste also includes, but is not limited to, woodwaste, dangerous waste, yard waste, bulky waste, biomedical waste, animal waste, waste tires, recyclable materials, and problem wastes. Municipal sewage sludge or septage is a solid waste when placed in a municipal solid waste landfill subject to the requirements in Chapter 173-351 WAC, *Criteria for Municipal Solid Waste Landfills*, Chapter 173-308 WAC, *Biosolids Management*, and a solid waste handling permit issued by the Health Officer.

Used Oil:

1. Lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, hydraulic device, or differential of an automobile, truck, bus, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; or
2. Any oil that has been refined from crude oil, used, and as a result of use, has been contaminated with physical or chemical impurities; or
3. Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination, is no longer useful to the original purchaser; and
4. Used oil does not include oil to which dangerous wastes have been added, or oil that would otherwise be considered used oil except that it is used as a fuel in an industrial furnace, which meets the emission standards of the ~~Puget Sound~~ Olympic Region Clean Air Agency.

WAC: The Washington Administrative Code as it exists now or may be amended.

8.10.200 – Beneficial Use Permit Exemptions

WAC 173-350-100 *Beneficial Use Permit Exemptions* is hereby adopted by reference.

8.10. 210 – ~~Reeyeling~~ Recycling and Material Recovery Facilities.

WAC 173-350-210, *Recycling and Material Recovery Facilities* is hereby adopted by reference.

8.10. 220 – Composting Facilities

WAC 173-350-220, *Compost Facilities* is hereby adopted by reference. ~~Paragraph~~Section 220(7) has been revised as follows:

220(7) *Compost Facilities – Financial Assurance requirements.*

- (a) Financial Assurance may be required for certain compost facilities as determined by Public Health.
- (b) If required by Public Health, the owner or operator shall establish a financial assurance mechanism in accordance with WAC 173-350-600 for closure in accordance with the approved closure plan. The funds shall be sufficient for hiring a third party to remove the maximum amount of wastes that could be present at any time during the operation of the facility and to accomplish closure in accordance with the facility closure plan.
- (c) If required, no owner or operator shall commence or continue to operate any part of the facility until a suitable financial assurance mechanism has been provided to ~~the JHD~~Public Health in accordance with WAC 173-350-600.

8.10. 225 – Other Organic Handling

WAC 173-350-225, Other Organic Handling is hereby adopted by reference.

8.10. 230 – Land Application

WAC 173-350-230, *Land Application* is hereby adopted by reference.

8.10.240 – Energy Recovery and Incineration

WAC 173-350-240, *Energy Recovery and Incineration* is hereby adopted by reference.

8.10.250- Anaerobic Digestors

WAC 173-350-250, Anaerobic Digestors is hereby adopted by reference.

8.10.300 – On-site Storage, Collection, and Transportation Standards

WAC 173-350-300, On-Site Storage, Collection, and Transportation Standard is hereby adopted by reference and revised with the addition of the following ~~paragraph~~sections.

300(2)(b)(iv) Containers of mixed municipal solid waste, putrescible waste, and rubbish shall be closed at all times except when waste is being added or removed. Commercial containers located at public or private collection facilities may be kept open during routine hours of operation, as long as the container drain plugs remain in place.

300(2)(b)(v) The owner, operator or occupant of any premises, business establishment or

industry shall store all recyclable materials so as not to produce unsafe or unsanitary conditions.

8.10.305 – Solid Waste Handling Standards for Specific Waste Stream

8.10.305 (1) Animal Waste

- (a) Animal waste, as defined in Section 100, shall be disposed of in a manner consistent with these regulations, or other method approved by the Health Officer.
- (b) Any animal waste that is deemed biomedical waste as defined in Section 100, shall be handled, treated, and disposed of as required in Section 305(b).
- (c) Animal Manure. Animal manure shall not be deposited, or allowed to accumulate, in any ditch, gulch, ravine, river, stream, lake, pond, marine water, or upon the surface of the ground, or on any highway or road right of way, where it may become a nuisance or menace to health, as determined by the Health Officer, through the breeding of flies, harboring of rodents, or pollution of water. Manure shall not be allowed to accumulate in any place where it can pollute any source of drinking water.
- (d) Dead Animals. Except as otherwise provided in Section 305(3), dead animals shall be disposed of in a manner to protect the public health and the environment. Their disposal shall be consistent with local codes. Dead animals may be taken to a rendering plant, a veterinary clinic, an animal shelter, pet cemetery, or can be disposed of directly at permitted operating landfills or transfer stations so as not to create a nuisance. Property owners may bury dead animals on their property, so long as no nuisance is created. If the dead animal is buried, it shall be placed so that every part shall be covered by at least two (2) feet of earth and at a location not less than one-hundred (100) feet from any well, spring, stream, or other surface waters, and in a place not subject to overflow. In all cases of death from communicable disease, the dead animal, if disposed of by burial, shall first be thoroughly enveloped in unslaked lime.
- (e) Pet Feces. Pet feces, especially dog droppings, shall be disposed of in a manner, such as burial, or bagging and placement into containers described in Section 300(2), which does not create a nuisance or pollute surface waters of the state. Pet feces shall not be disposed of into the sanitary sewer unless approved by the sewer purveyor. This waste shall not be put into a storm sewer or on-site sewage system.

8.10.305 (2) Asbestos-Containing Waste

- (a) General. Asbestos-containing waste material (ACWM), as defined in Section 100, shall be handled and disposed of pursuant to 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Chapter 173-303 WAC, Dangerous Waste Regulations, Olympic Region Clean Air Agency Rule 6.3 and Chapter 296-65 WAC, Asbestos Removal and Encapsulation.
- (b) Removal. Persons removing ACWM shall contact the Olympic Region Clean Air Agency for information and instruction concerning removal and disposal. ACWM must be wetted down during removal to reduce airborne emissions of particulate matter. ACWM shall be sealed into leak tight containers or placed in one or more plastic bags with a combined six (6) mils

thickness or greater and identified with the proper warning label.

- (c) Disposal. The ACWM shall be disposed of in accordance with 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, at a facility permitted to receive such wastes, in accordance with an approved operations plan, and covered with at least fifteen centimeters (6 inches) of non- asbestos containing waste material immediately following disposal.

8.10.305 (3) BIOMEDICAL WASTE

- (a) Applicability. This regulation applies to all persons who generate biomedical waste including, but not limited to, individuals, hospitals, medical and dental clinics, medical laboratories, nursing or intermediate care facilities, veterinary facilities and other institutions, which may generate biomedical wastes as defined in Section 100, without regard to the quantity of biomedical waste produced per month.
- (b) Storage and Handling.
 - (i) Containment of biomedical waste shall be in a manner and location which affords protection from animals, rain, and wind and does not provide a breeding place or a food source for insects or rodents.
 - (ii) Biomedical wastes shall be segregated from the general medical waste stream at the point of origin and stored in separate containers. When possible, biomedical wastes should be rendered non-infectious through chemical or physical treatment procedures as approved by the facility's site safety officer.
 - (iii) Biomedical waste, except for sharps, shall be contained in disposable leakproof containers having strength to prevent ripping, tearing or bursting under normal conditions of use. The containers shall be secured to prevent leakage or expulsion of solid or liquid waste during storage, handling or transport. The containers can be of any color and shall be conspicuously labeled with the international biohazard symbol, and the words "Biohazardous Waste" or words that clearly denote the presence of biomedical waste.
 - (iv) All sharps, including home-generated sharps, shall be contained in leak-proof, rigid, puncture resistant, break resistant containers that are labeled and tightly lidded during storage, handling and transport. These containers must be capable of maintaining their structural integrity from the point of storage to deposition at an approved disposal or collection site. The containers shall be of any color and shall be conspicuously labeled with the international biohazard symbol, and the words "Biohazardous Waste" or words that clearly denote the presence of biomedical waste.
 - (v) Reusable Containers.
 - (A) Reusable containers for biomedical waste storage, handling or transport shall be thoroughly washed and decontaminated by a method approved by the Health Officer each time they are emptied, unless the surfaces of the containers have been protected from contamination by disposable liners, bags or other devices removed with the waste.
 - (B) Approved methods of decontamination are agitation to remove visible solid residue combined with chemical disinfection. Chemical disinfectants should be used in accordance with the manufacturer's recommendations or by disinfectant

concentration/contact times approved in writing by the Health Officer. Other decontamination methods may be approved in writing by the Health Officer.

- (C) Reusable pails, drums or bins used for containment of biomedical waste shall not be used for any other purpose except after being disinfected by procedures as described in this regulation and after the international biohazard symbol and the words "Biohazardous Waste" are removed.
 - (vi) The handling and storage of all biomedical waste must prevent the dissemination of biomedical waste into the environment.
 - (vii) Trash chutes shall not be used to transfer biomedical waste.
 - (viii) Biomedical waste shall not be placed into the general waste stream unless contained and treated.
 - (ix) Sharps shall not be placed into the general waste stream.
- (c) Disposal.
- (i) All biomedical waste that has been contained as described in Section 305(3)(b) shall be disposed of at a solid waste handling facility permitted to receive such waste.
 - (ii) All human or animal body parts, fetuses, and other pathological specimens shall be disposed of either by appropriate interment, incineration or other method approved by the Health Officer.
 - (iii) Untreated liquid and liquefied biomedical waste may be disposed of by release into a sanitary sewage system, if this practice is approved by the providing sewer utility, provided that the Health Officer shall have the authority to require the treatment of any biomedical liquid, according to requirements specified by the Health Officer, prior to release into a sanitary sewage system if deemed necessary to protect the public health.
 - (iv) Biomedical waste shall be disposed of on a regular basis to avoid nuisance conditions. If any nuisance condition exists, the Health Officer shall have the authority to require a specific disposal or collection frequency.
 - (v) Sharps must be contained in accordance with Section 305(3)(b)(iv) and prepared for disposal by a means that protects medical handlers, solid waste workers and the public from injury. The disposal of sharps shall be limited to the following methods unless prohibited by the requirements of Chapter 70.95K RCW, Biomedical Wastes:(No longer exempts home-generated sharps.)
 - (A) Depositing properly contained sharps at a facility that has agreed to accept home generated sharps.
 - (B) Depositing properly contained sharps at a medical facility or pharmacy that provides a program to dispose of sharps waste and that meets the requirements of these regulations.
 - (C) Using a permitted biomedical waste collection service. (E) Other methods approved by the Health Officer.
- (d) Transfer of Biomedical Waste. Any biomedical waste generator, who produces untreated

biomedical waste, shall have said waste collected and transported by a permitted biomedical waste collection service.

- (e) **Inspection.** The Health Officer shall have the authority to inspect any biomedical waste generator, at any reasonable time, to determine if the generator's biomedical waste is being handled, stored, and disposed of in accordance with this regulation, or to determine if the waste generator's solid waste is being disposed of in accordance with this regulation.
- (f) **Disposal Service Required.** When a person does not dispose of biomedical waste in a manner consistent with these regulations, the Health Officer may order said person to obtain ongoing and regularly scheduled biomedical waste collection and disposal service if said person does not have this service and if commercial biomedical waste collection and disposal service exists in or is offered in the geographic areas where the person resides. Said service shall be from a biomedical waste collection and disposal service holding a Solid Waste Handling Permit issued by Public Health.
- (g) **Biomedical Waste Collection Services.** In addition to the general operation and maintenance requirements applicable to persons operating a solid waste collection service specified in Section 300, vehicles used by biomedical waste collection services shall have a leak proof and fully enclosed vehicle compartment constructed of durable and easily cleanable materials, and shall be identified on each side of the vehicle with the name or trademark of the biomedical waste collection service.

8.10.305 (4) BULKY WASTE

Bulky wastes shall be stored and transported in such a manner so as not to create a nuisance or safety hazard. Recycling of bulky wastes is encouraged where programs have been established to accept them. If recycling is not feasible, these wastes shall be taken directly to a disposal site permitted to accept oversized waste. Land clearing bulky waste such as tree stumps, trees, portions of buildings and other waste shall be transported directly to a transfer station or landfill designed and permitted to accept these bulky wastes; provided, that nothing herein shall prevent these wastes from being salvaged and/or used as firewood.

8.10.305 (5) DANGEROUS WASTE

- (a) All solid waste must be designated as required by WAC 173-303-070 to prevent the disposal of dangerous waste at a facility not permitted to accept dangerous waste. All solid waste designated as a dangerous waste must be managed in a manner consistent with these regulations and Chapter 173-303 WAC.
- (b) The Health Officer may require the screening of any waste suspected of being a regulated dangerous waste as defined in Section 100. The screening process may involve analytical testing, a disclosure of the waste constituents and waste generation process, and other additional information necessary to determine if the waste is dangerous. The Health Officer may establish a schedule for compliance as part of the screening process. Based on the results of the required screening, the Health Officer may require the generator or transporter to direct the waste to a facility permitted to handle such waste.

8.10.305 (6) MODERATE RISK WASTE AND USED OIL

(a) Small Quantity Generator (SQG) Waste.

- (i) Applicability. This section applies to conditionally exempt small quantity generators (SQGs) as defined in Section 100. In addition to the requirements of this section, SQGs must meet the storage requirements of Section 305(6)(a)
- (ii) Waste Designation. SQGs shall designate suspected or known dangerous wastes pursuant to WAC 173-303-070 through WAC 173-303-100.
- (iii) Container Labeling. SQGs shall label all containers of MRW and used oil with the name of the waste and identify the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public. Containers of MRW shall also be labeled with the words “hazardous waste” or “dangerous waste”.
- (iv) Secondary Containment. The Health Officer may require an SQG to provide secondary containment for liquid MRW and/or used oil stored on-site if the Health Officer determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, the location of accumulation, or due to a history of spills or releases from accumulation containers. When required under this section, a secondary containment system must be durable, compatible with the waste it is meant to contain, and large enough to contain a volume equal to ten (10) percent of all containers, or one hundred and ten percent (110 %) of the largest single container, whichever is greater.
- (v) Hazardous Materials Management Plans. If a SQG has violated any part of this regulation, the Health Officer may require the SQG to prepare and follow a written Hazardous Materials Management Plan approved by Public Health and in a format prescribed by Public Health.

(b) Storage Requirements.

- (i) SQG Waste, used oil, and hazardous substances shall be stored in containers which are:
 - (A) Compatible with the waste contained therein;
 - (B) In good condition and without any leaks, corrosion or other signs of deterioration;
 - (C) Securely closed at all times except during the addition or removal of contents; and
- (ii) Containers of SQG, used oil, and hazardous substances shall be stored on an impervious surface and in a location(s) that is covered and controlled to prevent:
 - (A) Container deterioration due to weather exposure; (B) Surface water run-on and run-off;
 - (C) Exposure to extreme temperatures;
 - (D) Unintentional discharge to stormwater, soil, or surface water; and
 - (E) Any other controllable condition, which may cause or increase the possibility of container failure.

- (c) Accumulation. In addition to the quantity exclusion limits (QELs) for small quantity generators contained in WAC 173-303-070(8), SQG, used oil, and hazardous substances shall not be accumulated in quantities that, in the opinion of the Health Officer, present a threat to public health or the environment.

- (d) Transportation. SQG and used oil shall be transported in accordance with WAC 173-350-300(3)(d) Treatment and Disposal.
 - (i) SQG Waste. All SQG shall be transported to a permitted MRW collection facility, or picked up by a permitted dangerous waste transporter for treatment or disposal at a facility permitted to accept such waste. SQG shall not be deposited in the general municipal solid waste collection system, a public sewer system, a storm drain, an on-site sewage system, in surface or ground water, or onto or under the surface of the ground.
 - (ii) Pesticides. Usable pesticides shall be utilized in accordance with the EPA approved label requirements, or shall be disposed of, as appropriate, at a permitted hazardous waste treatment, storage, or disposal facility, the Jefferson County Moderate Risk Waste Collection Facility, or through an approved Department of Agriculture collection event. (For additional information call WSDA at 1-877-301-4555) Empty containers from canceled, suspended, or otherwise unusable pesticides should be disposed of as a hazardous waste or triple rinsed in accordance with the requirements under WAC 173-303-160(2)(b). Rinsate from a pesticide container must be reused in a manner consistent with its original intended purpose or disposed of as a hazardous waste under Chapter 173-303 WAC.
 - (iii) Used Oil. Used oil shall be recycled or disposed of at a facility permitted or approved for that purpose, or as otherwise allowed by Ecology or the Health Officer. Used oil may be taken to service stations or similar facilities that collect used oil for subsequent reprocessing at a facility specifically permitted for that purpose.
- (e) Mitigation and Control. The person responsible for a spill or non-permitted discharge of SQG, used oil, and/or hazardous substances shall take appropriate and immediate action to protect public health and the environment, including any necessary measure required to prevent the spread of contamination. In addition, the person responsible for a spill or discharge shall:
 - (i) Notify Public Health and, when an imminent threat to public health or the environment exists, call 911;
 - (ii) Clean up any released hazardous substance, or take such actions as may be required or approved by federal, state, or local officials; and
 - (iii) Meet applicable requirements of Section 305(7) as directed by the Health Officer.

8.10.305 (7) PROBLEM WASTE

- (a) Screening. Persons excavating problem waste as defined in Section 100, which is intended for upland fill in Jefferson County and which may contain a hazardous substance, endanger the public health, or adversely impact the environment, shall contact the Health Officer to determine the need for screening in accordance with Section 305(9)(b)
- (b) Management Options.
 - (i) Beneficial Reuse. Any person intending to beneficially reuse problem wastes must first contact the Health Officer to determine the appropriate reuse options.
 - (ii) Treatment. Problem wastes may be treated to remove contaminants and, following treatment, may be used as upland fill in Jefferson County if the treated waste is determined

by the Health Officer not to be a problem waste.

(iii) Disposal. Problem waste can only be disposed of at a solid waste handling facility permitted to receive such waste.

(c) Waste Abrasive Blasting Grit Storage. Waste abrasive blasting grit shall be stored under cover in a manner that minimizes contact with process water or stormwater. Persons recycling waste abrasive blasting grit at a facility permitted to recycle such waste are exempt from the provisions of Section 305(7)(b) of these regulations provided that the recycling facility enlists a process and produces a final product that does not endanger human health or the environment as a result of using said material.

8.10.305 (8) SEPTAGE

Septage must be disposed of directly into a sewage treatment works, licensed as such by Ecology, with the permission of and according to the requirements of the sewage treatment works or disposed of into an alternative treatment works or other process approved by the Health Officer. Septage of domestic quality, meeting all applicable requirements for biosolids under Chapter 173-308 WAC, Biosolids Management, may be beneficially reused by being applied to land as approved by the Health Officer on a case-by-case basis.

8.10.310 – ~~Intermediate Solid Waste Handling Facilities~~ Transfer Station and Drop Box Facilities

WAC 173-350-310, ~~Intermediate Solid Waste Handling Facilities~~ *Transfer Station and Drop Box Facilities* is hereby adopted by reference.

8.10.320 – Piles Used for Storage or Treatment

WAC 173-350-320, *Piles Used for Storage or Treatment* is hereby adopted by reference. ~~Paragraph~~section 320(7) has been revised as follows:

320(7) *Piles used for Storage or Treatment – Financial Assurance requirements.*

- (a) Financial Assurance may be required for certain piles treating or storing solid waste as determined by Public Health.
- (b) If required by Public Health, the owner or operator shall establish a financial assurance mechanism in accordance with 173-350-600 for closure in accordance with the approved closure plan. The funds shall be sufficient for hiring a third party to remove the maximum amount of wastes that could be present at any time during the operation of the facility and to accomplish closure in accordance with the facility closure plan.
- (c) If required, no owner or operator shall commence or continue to operate any part of the facility until a suitable financial assurance mechanism has been provided to the JHD in accordance with WAC 173-350-600.

8.10.330 – Surface Impoundments and Tanks

WAC 173-350-330, *Surface Impoundments and Tanks*, is hereby adopted by reference. ~~Paragraph~~section 330(7) has been revised as follows:

330(7) *Surface Impoundments and Tanks – Financial Assurance requirements.*

- (a) Financial Assurance may be required for certain surface impoundments and tanks used for treating or storing solid waste as determined by Public Health.
- (b) If required by Public Health, the owner or operator shall establish a financial assurance mechanism in accordance with WAC 173-350-600 for closure in accordance with the approved closure plan. The funds shall be sufficient for hiring a third party to remove the maximum amount of wastes that could be present at any time during the operation of the facility and to accomplish closure in accordance with the facility closure plan.
- (c) If required, no owner or operator shall commence or continue to operate any part of the facility until a suitable financial assurance mechanism has been provided to the JHD in accordance with WAC 173-350-600.

8.10.350 – Waste Tire Storage ~~and Transportation~~

WAC 173-350-350, *Waste Tire Storage ~~and Transportation~~* is hereby adopted by reference.

8.10.355 – Waste Tire Transportation

WAC 173-350-355, *Waste Tire Transportation* is hereby adopted by reference.

8.10.360 – Moderate Risk Waste Handling

WAC 173-350-360, *Moderate Risk Waste Handling* is hereby adopted by reference.

8.10.400 – Limited Purpose Landfills

WAC 173-350-400, *Limited Purpose Landfills* is hereby adopted by reference.

8.10.410 – Inert Waste Landfills

WAC 173-350-410, *Inert Waste Landfills* is hereby adopted by reference.

8.10.450 – Municipal Solid Waste Landfills

WAC 173-351, *Criteria for Municipal Solid Waste Landfills* is hereby adopted by reference.

8.10.460 – Construction and Notification Standards Near Landfills

- (1) Construction Requirements.

(a) Methane Protection.

- (i) Any person constructing or developing any area within one-thousand (1,000) feet of the footprint of an active, closed, or abandoned landfill shall provide documentation that demonstrates that levels of methane gas within this one-thousand (1,000) foot zone are below the lower explosive limits (LEL) under all conditions. A description of the investigation methodology, all analytical data, and conclusions shall be presented in a report submitted by a licensed professional engineer or professional geologist to the Health Officer and the local building department for review and approval. Copies of this report shall also be provided to the Washington Department of Ecology and the ~~Puget Sound Clean Air Agency~~ Olympic Region Clean Air Agency; and.
 - (ii) Any person constructing or developing any area within one-thousand (1,000) feet of the footprint of an active, closed, or abandoned landfill shall provide documentation that demonstrates that all enclosed structures are protected from potential methane migration. The method for ensuring a structure's protection from methane shall be addressed in a report submitted by a licensed professional engineer to the Health Officer and the local building department for approval. Such a report shall contain a description of the mitigation measures to prevent the accumulation of explosive concentrations of methane gas within or under enclosed portions of a building or structure. At the time of final inspection, the engineer shall furnish a signed statement attesting that the building or structure has been constructed in accordance with his/her recommendations for addressing methane gas migration.
 - (iii) The Health Officer may grant a variance to the requirements in Section 460(1)(a)(ii) above, based on a review of data submitted pursuant to preceding Section 460(1)(a)(i).
- (b) Stormwater. To minimize erosion impacts and leachate generation, no person shall detain stormwater on a closed or abandoned landfill. Stormwater may be conveyed across a closed or abandoned landfill if the conveyance system has been engineered to minimize the percolation of stormwater into the landfill.
- (c) Construction within the Footprint of the Landfill. No person shall construct within the footprint of a closed or abandoned landfill without first having submitted detailed engineering plans documenting how potential hazards will be controlled. Potential hazards include, but are not limited to, subsidence, methane, odor problems, hazards associated with subsurface utility installation, and leachate generation. A qualified, licensed Professional Engineer (PE) shall sign such plans. These plans must be submitted for review and approval to the jurisdictional building department and Public Health, or Public Health's designated representative.
- (d) Groundwater Supply Wells. No person shall construct a groundwater supply well within one- thousand (1,000) feet of an active, closed, or abandoned landfill property boundary without a formal request for variance as outlined in Chapter 173-160 WAC, Minimum Standards for the Construction and Maintenance of Wells.
- (e) Methane Monitoring. All landfills where methane gas is generated shall provide for adequate venting, collecting, redirecting, or elimination of gases generated by solid waste. It shall be the responsibility of the landfill owner/operator to develop a sampling and testing program to monitor gas production and potential migration.

(2) Notification Requirements for Owners of Landfills. All owners of active, closed, or abandoned landfills shall:

- (a) File a Notice to Title with the County Auditor's office noting the presence of a landfill on the tax parcel within one-hundred and eighty (180) days of the effective date of these regulations.
- (b) For any property without notice to title, Public Health may file a notice to title regarding the presence of a landfill on the property.
- (c) Disclose the presence of an active, closed, or abandoned landfill to all prospective purchasers of the property.

8.10.490 – Other Methods of Solid Waste Handling

WAC 173-350-490, *Other Methods of Solid Waste Handling* is hereby adopted by reference.

8.10.500 – Ground Water Monitoring

WAC 173-350-500, *Ground Water Monitoring* is hereby adopted by reference.

8.10.600 – Financial Assurance Requirements

WAC 173-350-600, *Financial Assurance Requirements* is hereby adopted by reference.

Paragraphsection 600(1) of the WAC is revised by adding the following sub-paragraphsection.

- (d) Certain waste piles; certain surface impoundments and tanks; and certain compost facilities as determined by Public Health.

8.10.700 – Permits and Local Ordinances

WAC 173-350-700, *Permits and Local Requirements*, is hereby adopted by reference. Section 700(1) of the WAC is revised by adding the following sub-paragraphsection.

- (d) Landfills closed pursuant to this Chapter 173-351, *Mixed Municipal Solid Waste Landfills* or Chapter 173-304 are required to obtain a closure-post closure permit.

- (e) Permit holders must comply with all rules and intent of the Jefferson County Comprehensive Solid Waste Management Plan (JCCSWMP).

8.10.710 – Permit Application and Issuance

WAC 173-350-710, *Permit Application and Issuance* is hereby adopted by reference. Appeal of a Permit Denial. Any person aggrieved by the denial of permit denial shall:

1. Within ten (10) days of receiving the written letter denying a permit, the appellant shall request a hearing in writing. The appellant shall submit specific statements in writing of the

reason why error is assigned to the decision of the ~~health officer~~Health Officer.

2. The hearing authorized by this ordinance and WAC 173-350-710(6) shall be before the Health Officer.
3. Upon receipt of such request together with hearing fees, the ~~health officer~~Health Officer shall notify the person of the time, date, and place of such hearing, which shall be set at a mutually convenient time not less than five business days or more than thirty (30) business days from the date the request was received.
4. Within thirty (30) days, the Health Officer will issue a decision upholding or reversing public health's action. The ~~health officer~~Health Officer may require additional actions as part of the decision.
5. Any party aggrieved by the Health Officer's written determination resolving an appeal may only then appeal to the Pollution Control Hearings Board by filing with the Board a notice of appeal within thirty (30) days after receipt of notice of the determination of the Health Officer.
6. It is expressly stated in this code that JCC 8.10.710 and WAC 173-350-710(6) do not apply to A) any Notice and Order to Correct Violation sent by Jefferson County Public Health or its Local Health Officer to any person or entity, or B) any written decision by Jefferson County Public Health or its Local Health Officer which allege violations of an existing or issued permit or which serve to revoke an existing or issued permit.

8.10.715 – General Permit Application Contents

WAC 173-350-715, *General Permit Application Contents* is hereby adopted by reference.

8.10.900 – ~~Corrective Action~~ Remedial Action

WAC 173-350-900, ~~*Corrective Action*~~ Remedial Action is hereby adopted by reference.

8.10.950 – Enforcement and Enforcement Alternatives

- (1) Other Laws, Regulations and Agency Requirements
 - (a) All solid waste management shall be subject to the authority of other laws, regulations or other agency requirements in addition to these rules and regulations. Nothing in these rules and regulations is intended to abridge or alter the rights of action by the state or by persons, which exist in equity, common law or other statutes to abate pollution or to abate a nuisance.
 - (b) Chapter 173-350 WAC, Minimum Functional Standards for Solid Waste Handling, is hereby adopted by reference.
 - (c) In order to better protect public health and the environment, if a conflict exists in the interpretation of Chapter 173-350 WAC and these regulations, or in the interpretation of Chapter

173-351 WAC and these regulations, the more stringent regulation shall apply.

8.10.950 (2) ENFORCEMENT AUTHORITY

The Health Officer, his or her designee, or any person appointed as an “Enforcement Officer” by the Jefferson County Board of Health shall have the authority to enforce the provisions of these regulations equally on all persons. The Health Officer is also authorized to adopt rules consistent with the provisions of these rules and regulations for the purpose of enforcing and carrying out its provisions.

8.10.950 (3) RIGHT OF ENTRY

- (a) Whenever necessary to make an inspection to enforce or determine compliance with the provisions of these regulations, and other relevant laws and regulations, or whenever the Health Officer has cause to believe that a violation of these regulations has or is being committed, the Health Officer or his/her duly authorized inspector may, in accordance with federal and state law, seek entry of any building, structure, property or portion thereof at reasonable times to inspect the same.
- (b) Prior to entering any building, structure, property or portion thereof the Health Officer or his/her duly authorized inspector shall attempt to secure the consent of the owner, occupant or other person having apparent charge or control of said building, structure, property or portion thereof.
 - (i) If such building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reason for the inspection, and request entry.
 - (ii) In attempting to contact the owner, occupier or other persons having apparent control of said building, structure, property or portion thereof, the inspector may approach said building or structure by a recognizable access route, e.g., a street or driveway, leading to said building or structure.
- (c) If permission to enter said building, structure, property or portion thereof is not obtained from the owner, occupier or others persons having apparent control of said building, structure, property or portion thereof, the Health Officer or his/her duly authorized inspector shall also have recourse to any other remedies provided by law to secure entry.,

8.10.950 (4) INSPECTIONS – PERMITTED FACILITIES

- (a) General. At a minimum, the Health Officer may, to the extent resources permit, perform annual inspections of all permitted solid waste facilities. Findings shall be noted and kept on file. The Health Officer shall furnish a copy of the inspection report, or annual summary, to the site operator.
- (b) Pre-Operational Inspection. Whenever plans and specifications are required by these regulations to be submitted to the Health Officer, the Health Officer may inspect the proposed solid waste disposal site, solid waste handling facility, or solid waste collection service prior to the start of the operations to verify compliance with approved plans and specifications.

8.10.950 (5) NOTICE AND ORDER TO CORRECT VIOLATION

- (a) Issuance. Whenever the Health Officer determines that a violation of these regulations has occurred or is occurring, he/she may issue a written notice and order to correct violation to the property owner or to any person causing, allowing or participating in the violation.
- (b) Content. The notice and order to correct violation shall contain:
 - (i) The name and address of the property owner or other persons to whom the notice and order to correct violation is directed;
 - (ii) The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
 - (iii) A description of the violation and a reference to that provision of the regulation, which has been violated;
 - (iv) A statement of the action required to be taken to correct the violation and a date or time by which correction is to be completed;
 - (v) A statement that each violation of this regulation shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation;
 - (vi) A statement that the person, to whom the Notice and Order is directed, can appeal the Order to the Health Officer, in accordance with the terms of this Chapter, and that any such appeal must be presented to the Health Officer with ten days;
 - (vii) A statement that the failure to obey this notice may result in the issuance of a notice of civil infraction, and/or the assessment of an administrative remedy, and/or, if applicable, the imposition of criminal penalties.
- (c) Disposal Receipts. The notice and order to correct violation may also include a statement requiring the person to whom the notice and order to correct violation is directed to produce receipts from a permitted solid waste disposal facility, permitted hazardous waste facility, or the local household hazardous waste facility (moderate risk waste facility) or transporter to demonstrate compliance with an order issued by the Health Officer.
- (d) Service of Order. The notice and order to correct violation shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to correct violations by first class and / or certified mail postage prepaid, return receipt requested, to such person at his/her last known address. The notice and order to correct violation shall also be served via certified mail/return receipt requested to the owner of the parcel or parcels where the alleged violations are occurring to the owner's last known address.
- (e) Extension. Upon written request received prior to the correction date or time, the Health Officer may extend the date set for corrections for good cause. The Health Officer may consider substantial completion of the necessary correction or unforeseeable circumstances that render completion impossible by the date established as a good cause.
- (f) Supplemental Order to Correct Violation. The Health Officer may at any time add to,

rescind in part, or otherwise modify a notice and order to correct violation. The supplemental order shall be governed by the same procedures applicable to all notice and order to correct violations procedures contained in these regulations.

- (g) Enforcement of Order. If, after any order is duly issued by the Health Officer, the person to whom such order is directed fails, neglects, or refuses to obey such order, the Health Officer may:
 - (i) Utilize any remedy or penalty under Section 950(6) of these regulations; and/or
 - (ii) Abate the health violation using the procedures of these regulations; and/or
 - (iii) Pursue any other appropriate remedy at law or equity.
- (h) Written Assurance of Discontinuance. The Health Officer may accept a written assurance of discontinuance of any act in violation of this regulation from any person who has engaged in such act. Failure to comply with the assurance of discontinuance shall be a further violation of this regulation.

8.10.950 (6) STOP-WORK ORDERS

The Health Officer may cause a Stop-Work order to be issued whenever the Health Officer has reason to believe that a violation of this regulation is occurring. The effect of the Stop-Work order shall be to require the immediate cessation of such work or activity that has contributed to the violation until authorized by the Health Officer to proceed.

- (a) Content. A Stop-Work Order shall include the following:
 - (i) The name and address for the person responsible for the alleged violation;
 - (ii) The street address or description sufficient for identification of the building, structure or premises, or land upon or within which the alleged violation has occurred or is occurring.
 - (iii) A description of the violation and reference to the provision of the Jefferson County Board of Health Ordinance, which has been allegedly violated;
 - (D) The required corrective action;
 - (iv) A statement that a failure to comply with the order may lead to issuance of a civil infraction to the person named in the order;
 - (v) A statement that the person to whom the Stop Work Order is directed can appeal the Order to the Health Officer in accordance with the §950(7) of this Chapter and that any such appeal must be presented to the Health Officer with ten days.
- (b) Service of Notice. The Health Officer shall serve the Stop Work Order upon the owner of the property where the alleged violation occurred or is occurring and the person, firm or business entity that has allegedly violated this Chapter, either personally or by mailing a copy of the notice by regular and certified or registered mail, within a five-day return receipt requested, to the owner at his or her last known address. A copy of the Order shall also be posted on the property where the alleged violation occurred or is occurring.
- (c) Posting of Notice. In addition to service of the notice listed above, an additional notice shall be posted on the property in substantially the following form:

Under the authority of Jefferson County Code Chapter 8.10, *Solid Waste Regulations* you are hereby required to immediately **STOP WORK**.

This order is in effect at this property for all work and activities that relate to violations of Jefferson County Code Chapter 8.10, *Solid Waste Regulations*, and remains in effect until removed by Public Health. It is a violation of these regulations to remove, deface, destroy, or conceal a posted Stop Work Order.

FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE ISSUANCE OF A CIVIL INFRACTION.

8.10.950 (7) VOLUNTARY CORRECTION

When the Health Officer determines that a violation has occurred or is occurring, he or she shall attempt to secure voluntary correction by contacting the person responsible for the alleged violation and, where possible, explaining the violation and requesting correction.

- (a) Voluntary Correction Agreement. The person responsible for the alleged violation may enter into a voluntary correction agreement with Public Health. The voluntary correction agreement is a contract between Public Health and the person responsible for the violation in which such person agrees to abate the alleged violation within a specified time and according to specified conditions. The voluntary correction agreement will be in lieu of the issuance of further citations or the abatement of the property pursuant to RCW 7.48 or §950(6) of this Chapter. The voluntary correction agreement shall include the following:
- (i) The name and address of the person responsible for the alleged violation;
 - (ii) The street address or other description sufficient for identification of the building, structure, premises, or land upon or within which the alleged violation has occurred or is occurring;
 - (iii) A description of the alleged violation and a reference to the regulation, which has been violated;
 - (iv) The necessary corrective action to be taken, and a date or time by which correction must be completed;
 - (v) An agreement by the person responsible for the alleged violation that Public Health may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;
 - (vi) An agreement by the person responsible for the alleged violation that Public Health may enter the property to abate the violation and recover its costs and expenses (including administrative, hearing and removal costs) from the person responsible for the alleged violation if the terms of the voluntary correction agreement are not satisfied; and
 - (vii) An agreement that by entering into the voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the Health Officer under these regulations or otherwise, regarding the matter of the alleged violation and/or the required corrective action.
- (A) Right to a Hearing Waived. By entering into a voluntary correction agreement, the person responsible for the alleged violation waives the right to a hearing before the

Health Officer under these regulations or otherwise, regarding the matter of the violation and/or the required corrective action. The person responsible for the alleged violation may, by through written documentation provided to the Health Officer, state his or her decision to reject and nullify the voluntary correction agreement, at which time that person is entitled to an appeal to the Health Officer pursuant to §970 of this Chapter.

- (B) Extension and Modification. The Health Officer may, at his or her discretion, grant an extension of the time limit for correction or a modification of the required corrective action if the person responsible for the alleged violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances have delayed correction under the original conditions.
- (C) Abatement by Public Health. The county may abate the alleged violation in accordance with Section 950(8) if all terms of the voluntary correction agreement are not met, except that the person responsible for the alleged violation shall not have a right to appeal the Abatement Order.
- (D) Collection of Costs. If all terms of the voluntary correction agreement are not met, the person responsible for the alleged violation shall be assessed all costs and expenses of abatement, as set forth in Jefferson County Code 8.10, §950(6).

8.10.950(8) ABATEMENT ORDERS

Where the Health Officer has determined that a violation of these regulations has occurred or is occurring, he or she may issue an Abatement Order to the person responsible for the alleged violation requiring that the unlawful condition be abated within a reasonable time period as determined by the Health Officer.

- (a) Prerequisite to Abatement Order. Absent conditions which pose an immediate threat to the public health, safety or welfare of the environment, the procedures for abatement of conditions constituting a violation of these regulations should only be utilized by Public Health only after corrections of such conditions have been attempted through the use of the civil infractions process. Once it has been determined by Public Health that there is no immediate threat to the public health's safety or welfare and that correction of such conditions has not been adequately achieved through use of the civil infraction process, then Public Health is authorized to proceed with abatement of such conditions pursuant to these regulations. Public Health shall also attempt to enter into a voluntary corrections agreement prior to issuing an Abatement Order.
- (b) Content. An Abatement Order shall include the following:
 - (i) The name and address for the person responsible for the alleged violation;
 - (ii) The street address or description sufficient for identification of the building, structure or premises, or land upon or within which the alleged violation has occurred or is occurring;
 - (iii) A description of the violation and reference to the provision of the Jefferson County Board of Health Ordinance, which has been allegedly violated;

- (iv) The required corrective action and a date and time by which the correction must be completed and after which, the Health Officer may abate the unlawful condition in accordance with §950(8) of this Chapter.
 - (v) A statement that the costs and expenses incurred by Public Health pursuant to §950(8) of this Chapter, including any amount expended on staff time to oversee the abatement, may be assessed against a person to whom the Abatement Order is directed in a manner consistent with this Chapter; and
 - (vi) A statement that the person to whom the Abatement Order is directed can appeal the Order to the Health Officer in accordance with §970 of this Chapter.
- (c) **Service of Notice.** The Health Officer shall serve the Abatement Order upon the owner of the property where the alleged violation occurred or is occurring, either personally or by mailing a copy of the notice by regular and certified or registered mail, a five-day return receipt requested, to the owner at his or her last known address. The Order shall also be served on each of the following if known to the Health Officer or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record and the holder of any other estate or legal interest of record in or to the property or any structures on the property. The failure of the Health Officer to serve any person required herein to be served, shall not invalidate any proceedings hereunder as to any other person duly or relieve any such person from any duty or obligation imposed by the provisions of this section. A copy of the Order shall also be posted on the property where the alleged violation occurred or is occurring.
- (d) **Authorized Action by Public Health.** Using any lawful means, Public Health may enter the subject property and may remove or correct the condition that is subject to abatement.
- (e) **Recovery of Costs and Expense.** The costs of correcting a condition which constitutes a violation of these regulations, including all incidental expenses, shall be billed to the owner of the property upon which the alleged violation occurred or is occurring, and shall become due within fifteen calendar days of the date of mailing the billing for abatement. The term “incidental expenses” includes, but is not limited to, personnel costs, both direct and indirect and including attorney’s fees; costs incurred in documenting the violation; towing/hauling, storage and removal/disposal expenses; and actual expenses and costs to Public Health in preparing notices, specifications and contracts associated with the abatement, and in accomplishing and /or contracting and inspecting the work; and the costs of any required printing and mailing.
- (f) **Collection of Costs and Expenses.** The costs and expenses of correcting a condition, which constitutes a violation of these regulations, shall constitute a personal obligation of the person to whom the Abatement Order is directed. Within fifteen days of abating any violation, the Health Officer shall send the person named in the Abatement Order a bill that details the work performed, materials removed, labor used and the costs and expenses related to those tasks as well as any other costs and expenses incurred in abating the violation.

8.10.950(9) NOTICE TO VACATE

When a condition constitutes a violation of these regulations and poses an immediate threat to life, limb, property or safety of the public or persons residing on the property, the Health Officer may issue a Notice to Vacate.

- (a) Content. A Notice to Vacate shall include the following:
- (i) The name and address for the person responsible for the alleged violation;
 - (ii) The street address or description sufficient for identification of the building, structure or premises, or land upon or within which the alleged violation has occurred or is occurring;
 - (iii) A description of the violation constituting an emergency and reference to the provisions of the Jefferson County Board of Health regulations, which has been allegedly violated;
 - (iv) A date, as determined by the severity of the emergency, by which any persons must vacate the premises. In case of extreme danger to persons or property immediate compliance shall be required;
 - (v) The required corrective action;
 - (vi) A statement that the person to whom the Notice to Vacate is directed can appeal the order to the Health Officer in accordance with §970 of this Chapter and that any such appeal must be presented to the Health Officer with ten days.
- (b) Service of Notice. The Health Officer shall serve the Abatement Order upon the owner of the property where the alleged violation occurred or is occurring, either personally or by mailing a copy of the notice by regular and certified or registered mail, within a five-day return receipt requested, to the owner at his or her last known address. A copy of the Order shall also be posted on the property where the alleged violation occurred or is occurring.
- (c) Posting the Notice. In addition to providing service as states above, an additional notice shall be posted on the property in substantially the following form:

DO NOT ENTER UNSAFE TO OCCUPY

It is a violation of the Jefferson County Code 8.10 to occupy this building, or to remove or deface this notice.

Health Officer,
Jefferson County Public Health

- (d) Compliance. No person shall remain in or enter any building, structure, or property which has been so posted, except that entry may be made to repair or correct any conditions causing or contributing to the threat to life, limb, property, or safety of the public or persons residing on the property. No person shall remove or deface any such notice after it is posted until the required corrective action has been completed and approved.

8.10.960 VIOLATIONS, REMEDIES AND PENALTIES

8.10.960(1) Violations.

- (a) Any violation of a permit requirement issued pursuant to these regulations shall be a violation of these regulations
- (b) Violations of these regulations may be addressed through the remedies and penalties provided in this section.
- (c) Each violation of these regulations shall be a separate and distinct offense and in the case of a continuing violation, each day a violation is occurring or present shall be considered a separate and distinct violation.
- (d) The Health Officer may investigate alleged or apparent violations of these regulations. Upon request of the Health Officer, the person allegedly or apparently in violation of these regulations shall provide information identifying themselves.
- (e) Violations, apparent or alleged, that occurred or are occurring in environmentally sensitive areas, as that term is defined in this Chapter, of Jefferson County will have the highest priority for investigation by those persons charged in this Chapter with investigating such violations and enforcing this Chapter and such violations will be subject to a ‘zero tolerance’ policy.

8.10.960(2) Suspension of a Permit

- (a) The Health Officer may temporarily suspend any permit issued under these regulations for:
 - (i) Failure of the holder to comply with the requirements of the permit;
 - (ii) Failure to comply with any notice and order to correct violation issued pursuant to these regulations related to the permitted activity;
 - (iii) Failure to comply with a stop-work or abatement order issued pursuant to Section 950(6) and 950 (8) of these regulations; or
 - (iv) The non-payment or dishonor of any check or draft used by the permit holder to pay any Public Health fees associated with the permit.
- (b) Permit suspension shall be carried out through the notice and order to correct violation provisions specified in Section 950(5), and the suspension shall be effective upon service of the notice and order to correct violation upon the holder or operator. The holder or operator may appeal such suspension as provided in Section 970 of these regulations.
- (c) Notwithstanding any other provision of this regulation, whenever the Health Officer finds that a violation of this regulation has created or is creating an unsanitary, dangerous or other condition which, in his/her judgment, constitutes an immediate and irreparable hazard, he/she may, without service of a written notice and order to correct violation, suspend and terminate operations under the permit immediately.

8.10.960(3) Revocation of Permits.

- (a) The Health Officer may permanently revoke any permit issued by him/her for:

- (i) Failure of the holder to comply with the requirements of the permit;
- (ii) Failure of the holder to comply with any notice and order to correct violation issued pursuant to these regulations related to the permitted activity;
- (iii) Failure to comply with a stop-work or abatement order issued pursuant to Section 950(6) and 950 (8);
- (iv) Interference with the Health Officer in the performance of his/her duties;
- (v) Discovery by the Health Officer that a permit was issued in error or on the basis of incorrect information supplied to him/her; or
- (vi) The non-payment or dishonor of any check or draft used by the holder to pay any Public Health fees associated with the permit.

(b) Such permit revocation, including any appeal of the decision to revoke, shall be carried out through the notice and order to correct violation provisions specified in Section 950(5) and the revocation shall be effective upon service of the notice and order to correct violation upon the holder or operator. The holder or operator may appeal such revocation, as provided in Section 970 of these regulations.

8.10.960(4) Civil Remedies.

- (a) Except as provided in Section 960(2)(b), the violation of any provision of these regulations is designated as a Class 1 civil infraction pursuant to Chapter 7.80 RCW, Civil Infractions.
- (b) Any person who unlawfully dumps solid waste as described in Section 025(3)(b) or waste in an amount greater than one (1) cubic foot has committed a Class 1 civil infraction pursuant to Chapter 7.80 RCW, Civil Infractions. Any person who unlawfully dumps solid waste in an amount less than or equal to one (1) cubic foot has committed a Class 3 civil infraction pursuant to Chapter 7.80 RCW. The court may also impose restitution for any violation.
- (c) The Health Officer may issue a notice of civil infraction pursuant to Chapter 7.80 RCW if the Health Officer has reasonable cause to believe that the person has violated any provision of these regulations or has not corrected the violation as required by a written notice and order to correct violation.
- (d) Civil infractions shall be issued, heard and determined as described in Chapter 7.80 RCW, and any applicable court rules.
- (e) All other legal and equitable remedies are also deemed available to Public Health or its Health Officer and may be invoked, utilized or sought at any time regardless of whether other remedies have or have not been undertaken or sought.

8.10.960(5) Criminal Penalties.

- (a) Any person who unlawfully dumps biomedical waste as described in Section 025(3)(b) shall

be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.

- (b) Any person who unlawfully dumps “dangerous waste” as defined in WAC 173-350-100 and/or RCW 70.105.010(5) in violation of RCW 70.105.090 shall be, upon conviction, guilty of a misdemeanor. The court may also impose restitution.
- (c) Any person who unlawfully dumps “dangerous waste” as defined in WAC 173-350-100 and/or RCW 70.105.010(5) in violation of RCW 70.105.085 shall be, upon conviction, guilty of a felony. The court may also impose restitution.
- (d) Any person who unlawfully dumps solid waste as described in Section 025(3)(b) and in an amount less than one (1) cubic yard, but greater than (1) cubic foot, shall be, upon conviction, guilty of a misdemeanor, and shall be subject to a fine of not more than \$1,000, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution as stated in Chapter 70.95 RCW, Solid Waste Management-Reduction and Recycling.
- (e) Any person who unlawfully dumps solid waste as described in Section 025(3)(b) of these regulations and in an amount greater than (1) cubic yard, shall be, upon conviction, guilty of a gross misdemeanor, and shall be subject to a fine of not more than \$5,000, or imprisonment in the county jail not to exceed one (1) year, or both. The court may also impose restitution as stated in Chapter 70.95 RCW, Solid Waste Management-Reduction and Recycling.
- (f) Any person who fails, neglects, or refuses to obey an order of the Health Officer to correct a violation as set forth in Section 950(5)(g) above shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than \$100, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.
- (g) Any person who fails, neglects, or refuses to comply with a written assurance of discontinuance pursuant to Section 950(5)(h) above shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than \$100, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.
- (h) Any person who operates a solid waste facility or collection service without a permit shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.
- (i) Any person who operates a solid waste facility or collection service after a permit has been revoked shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000, or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.

8.10.960(6) Noncompliance Fees.

- (a) Pursuant to the most current Public Health fee schedule adopted by the Board of Health,

Public Health may assess a noncompliance fee to a permittee or small quantity generator for the following:

- (i) Public Health oversight and review required as a result of the Health Officer's determination that a permitted facility or small quantity generator is not in compliance with its permit and/or applicable regulations and has not met the compliance dates specified in a notice and order to correct violation; or
 - (ii) Amendments to an existing Public Health permit required as a result of the permitted facility not being in compliance with its permit and/or applicable regulations.
 - (iii) Second and subsequent re-inspections conducted by Public Health in response to the permittee or small quantity generator not complying with their permit and/or J.C.C. code or the permittee not meeting the requirements outlined in a notice and order to correct violation.
- (b) The noncompliance fee shall not be assessed in addition to the permit fee for permitted facilities where permit fees, as described in the most recent Public Health fee schedule, specifically include those Public Health activities described in Section 950(6)(d)(i).

8.10.960 (7) Whenever a re-inspection fee is assessed by Public Health, the fee shall be due and payable thirty (30) days after receipt of the invoice by the permittee.

8.10.960(8) Other Legal or Equitable Relief

Notwithstanding the existence or use of any other remedy, the Health Officer may seek legal or equitable relief to enjoin any acts or practices or abate any conditions that constitute or will constitute a violation of this ordinance, or rules and regulations adopted under it, or any state health law or regulation, or that otherwise threatens public health.

8.10.960(9) Imminent and Substantial Dangers.

Notwithstanding any provisions of this regulation the Health Officer may take immediate action to prevent an imminent and substantial danger to the public health by the improper management of any waste irrespective of quantity or concentration.

8.10.970 APPEALS AND APPELLATE RULES

8.10.970(1) Three Categories of Decisions. There is established in this code three categories of Decisions (as that term is defined herein) that may be appealed, each category having its own rules. Those three categories are:

- (a) Denial of a permit application or suspension of an existing or issued permit, said appeals to be governed by the provisions of WAC 173-350-710(6) as amended by this Code;
 - (i) The initial appeal by the local health jurisdiction shall be with the Health Officer
 - (ii) The appeal of the Health Officers Decision shall be to the Washington State Pollution Controls Hearings Board pursuant to RCW 70.95.210.

- (b) Revocation of an existing or issued permit, said appeals to be governed by this section except that appeals of a permit revocation shall be heard only by the Board of Health and will not come before the Local Health Officer; and
- (c) Any other Decision transmitted, issued, promulgated, distributed or submitted by Jefferson County Public Health or its Local Health Officer, said appeals to be governed by this section.

8.10.970(2) How to Appeal. The process described in this section shall apply to any Decision, as that term is defined herein, which is not subject to the provisions of WAC 173-350-710. The person(s) or entity wishing to appeal must fulfill all of the following obligations:

- (1) Notify Jefferson County Public Health of their request for a hearing within ten (10) days of the date of the Decision they wish to appeal;
- (2) Submit a specific statement(s) in writing describing why error should be assigned to the Decision; and,
- (3) Pay the established hearing fee.

8.10.970(3) Obligations of Public Health upon receipt of a request for a hearing:

Upon the appellant's compliance with Section 970(2) above, the Local Health Officer shall notify the appellant of the time, date and place of such hearing, which shall be set a mutually convenient time not less than five (5) business days nor more than thirty (30) business days from the date Public Health determines the appellant has complied with Section 970(2).

8.10.970(4) Hearing Procedures before the Local Health Officer and the Board of Health.

Except as noted elsewhere in this Chapter, these rules shall apply to hearings held before the Local Health Officer and the Board of Health.

- (1) Hearings shall be open to the public.
- (2) Hearings shall be presided over by the Health Officer or Chair of the Board of Health.
- (3) Such hearings shall be recorded.
- (4) Hearings shall be opened with a recording of the time, date and place of the hearing, and a statement of the cause for the hearing.
- (5) The Health Officer or Chair of the Board of Health shall then swear in all potential witnesses.
- (6) The case shall be presented in the order directed by the Health Officer or Chair of the Board of Health.

- (7) The appellant may present his case of rebuttal. The Health Officer or any member of the Board of Health may ask questions. The Health Officer or Chair of the Board of Health may, at his or her option, allow the opportunity for a closing statement or summation.
- (8) General rights held by all parties include, but are not limited to:
- (a) To be represented by an attorney;
 - (b) To present witnesses and obtain testimony from them;
 - (c) To cross-examine witnesses;
 - (d) To object to evidence for specific grounds.
- (8) In the conduct of the proceeding, the Health Officer or Chair of the Board of Health may consider any evidence, including hearsay evidence that a reasonably prudent person would rely upon in the conduct of his or her affairs. Relevant evidence is admissible, if in the opinion of the presiding person (Chair of the Board of Health or Health Officer) it is the best evidence reasonably obtainable having due regard for its necessity, availability and trustworthiness; provided, that in passing upon the admissibility of evidence the presiding person may give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior court of the State of Washington.
- (9) Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The ~~health-officer~~Health Officer shall decide rulings on the admissibility of evidence, and the Washington rules of evidence shall serve as guidelines for those rulings.
- (10) Inasmuch as any appeal to the ~~board of health~~Board of Health from a ~~health-officer~~Health Officer decision is a review on the record, the ~~health-officer~~Health Officer shall ensure that the record generated contains testimonial and documentary evidence supporting the ~~health-officer~~Health Officer's determination.
- (11) The ~~health-officer~~Health Officer may continue the hearing to another mutually acceptable date to allow for additional submission of information or to allow for additional consideration.
- (12) Prior to closing of the hearing, the ~~health-officer~~Health Officer shall issue its oral ruling unless the ~~health-officer~~Health Officer determines that the matter should be taken under advisement. Written findings of fact, conclusions of law and orders shall be served on the appellant within fourteen (14) days of the oral ruling. If the matter is taken under advisement, written findings, conclusions and orders shall be mailed to the appellant within thirty (30) days of the close of the hearing.

8.10.970(5) Burden of proof

Any appellant shall bear the burden of proof, which shall be "by a preponderance of the

evidence,” i.e., that the appellant’s factual and legal assertions are more likely than not to be true based on the evidence presented.

8.10.970(6) How to appeal a Ruling Decision by the Local Health Officer

- (1) Any person aggrieved by the findings, conclusions or required actions of an administrative hearing shall have the right to appeal the matter by requesting a hearing before the ~~board of health~~Board of Health.
- (2) Such notice of appeal shall be in writing and presented to the ~~health officer~~Health Officer within thirty (30) days of the ~~health officers~~Health Officer’s decision.
- (3) The aggrieved person shall pay the fee established in the Public Health fee ordinance for an appeal to the Board of Health.
- (4) The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the ~~health officer~~Health Officer and shall be accompanied by a fee as established in the current public health fee schedule. The appellant and the ~~health officer~~Health Officer may submit additional information to the ~~board of health~~Board of Health for review.
- (5) The notice and order to correct violation shall remain in effect during the appeal.
- (6) Any person affected by the notice and order to correct violation may make a written request for a stay of the decision to the ~~health officer~~Health Officer within five (5) business days of the ~~health officer~~Health Officer’s decision. The health officer will grant or deny the request within five business days.
- (7) Upon receipt of a timely written notice of appeal together with the hearing fee, the ~~health officer~~Health Officer shall set a time, date, and place for the requested hearing before the ~~board of health~~Board of Health and shall give the appellant written notice thereof. Such hearing shall be set at a mutually convenient time not less than fifteen (15) business days or more than thirty (30) business days from the date the appeal was received by the ~~health officer~~Health Officer.
- (8) ~~Board of health~~Board of Health hearings shall be open to the public and presided over by the chair of the ~~board of health~~Board of Health. Such hearings shall be recorded. ~~Board of health~~Board of Health hearings shall be opened with a recording of the time, date and place of the hearing, and a statement of the cause for the hearing. The hearing shall be limited to argument of the parties and no additional evidence shall be taken unless, in the judgment of the chair, such evidence could not have reasonably been obtained through the exercise of due diligence in time for the hearing before the ~~health officer~~Health Officer. Argument shall be limited to the record generated before the ~~health officer~~Health Officer, unless the chair admits additional evidence hereunder.
- (9) Any decision of the ~~board of health~~Board of Health shall be final and may be reviewed by an action filed in superior court. Any action to review the ~~board’s~~Board of Health’s decision must be filed within thirty (30) business days of the date of the decision.

8.10.970(7) Rules specific to a Board of Health hearing arising from an appeal of a Health Officer Ruling Decision

- (1) Any appeal to the Board of Health of a Ruling Decision made by the Health Officer shall be considered a “closed record” hearing, ~~meaning the parties to such an appeal must comply with the following:~~
- (2) The record created below, including all documents, records or exhibits as well as the audio or written transcript of the hearing before the Health Officer, shall be provided to the Board of Health by Public Health.
- (3) Upon receipt of the appeal materials transmitted by JCPH Public Health, the Board of Health shall conduct a hearing to determine the correctness of the decision by the Health Officer within thirty-five (35) days.
- (4) The petitioner shall be given at least five (5) days’ notice by certified mail of the time, date and place of said hearing. Further, if the petitioning party is a person other than the permit applicant or a permit holder, then notice of the purpose, time, date, and place of said hearing shall likewise be mailed by certified mail to the permit applicant or permit holder.
- (5) No additional testimony, written or oral, will be accepted or reviewed by the Board of Health.
- (6) The parties may submit a brief, legal argument or Memorandum of Authorities of no more than ten (10) pages on their behalf (style requirements: letter sized paper, 1” margins on all edges, at least 1.50 spaces between lines). This limit may be amended or waived by the Chair of the Board of Health (in writing) if hardship is shown by the party seeking to submit a longer document.
- (7) The parties may make oral argument to the Board of Health, no longer than fifteen (15) minutes per side.
- (8) The representative or counsel for the party appealing to the Board of Health shall be permitted to have a rebuttal time of not more than five (5) minutes.
- (9) The rules listed above at Section 970(4)(a) through (d) shall also apply.

8.10.970(8) Procedural rules specific only to the Board of Health hearing a revocation of permit case

- (1) Unless otherwise contravened or distinguished here, the rules listed at Section 970(4) shall apply.
- (2) Appeals shall be made in writing and shall be signed and dated by the petitioning party.
- (3) All parties shall be given an opportunity to present evidence, analysis and recommendations.
- (4) The parties are authorized to submit a brief, legal argument or Memorandum of Authorities of no more than ten (10) pages on their behalf (style requirements: letter sized

paper, 1” margins on all edges, at least 1.50 spaces between lines). This limit may be amended or waived by the Chair of the Board of Health (in writing) if hardship is shown by the party seeking to submit a longer document.

- (5) Members of the Board of Health may direct questions to any person providing testimony.
- (6) The chairperson of the Board of Health may permit the presentation of testimony by any non-party, but only upon an oral finding by the chairperson that the testimony of the non-party is not “cumulative or repetitive” AND is and will be of “substantial value” to the ultimate decision of the Board of Health.
- (7) Following presentation of evidence and testimony, the chairperson of the Board of Health shall close the hearing and initiate discussion with other board members on the matters presented.
- (8) Should the Board of Health require additional testimony, it may continue the hearing to a date and time not to exceed thirty-five (35) days following the date of the initial hearing; provided, that at the close of the second public hearing the Board of Health may continue its deliberations on the appeal to another time and date not to exceed thirty-five (35) days following the close of the second hearing conducted to receive additional testimony. There shall be no extensions past the date of the second hearing without the written consent of all parties to the matter.
- (9) A full and complete record shall be kept of all proceedings and all testimony shall be recorded. The record of testimony and exhibits together with all papers and requests filed in the proceedings shall constitute the exclusive record for the decision in accordance with the law.
- (10) The Board of Health shall issue a final RulingDecision in writing and send same to all parties no more than thirty (30) days after the close of the hearing.
- (11) All decisions shall become a part of the record and shall include a statement of findings and conclusions.

8.10.970(9) Exhaustion of Administrative Remedies

An appellant (aggrieved party) shall not be considered to have exhausted all ~~of its~~ administrative remedies until such time as it has obtained from the Board of Health a final and dispositive RulingDecision.

8.10.970(10) Further appeals

Unless the challenged Decision was of a type subject to the provisions of WAC 173-350-710(6), a RulingDecision from the Board of Health constituting a final and dispositive resolution of the issue(s) presented may only be appealed to the Superior Court of the State of Washington

8.10.980 VARIANCES

(1) Applicability. Any person who owns or operates a solid waste facility may apply to the Health Officer for a variance from any paragraph of these regulations except as provided in Section 950(8)(b)(iv) of these regulations.

(2) Granting Requirements.

(a) The Health Officer may grant such variance if it finds that:

- (i) The solid waste handling practices or site location do not endanger public health, safety or the environment; and
- (ii) Compliance with the regulation from which variance is sought would produce hardship on the applicant without equal or greater benefits to the public; and
- (iii) No other practicable or reasonable alternative exists. A practicable alternative is one that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and better reducing or eliminating impacts to health and the environment. It may include equipment or facilities not owned by the applicant that could have reasonably been or be obtained, utilized, expanded, or managed in order to manage, reduce, or eliminate impacts to health and the environment. A reasonable alternative is one that could feasibly attain or approximate compliance, but would better reduce or eliminate impacts to health and the environment.

(b) No variance shall be granted pursuant to this paragraphsection until the Health Officer has considered the relative interests of the applicant, other owners of property likely to be affected by the waste handling practices, and the general public.

(c) Any variance or renewal shall be granted within the requirements of this paragraphsection and for time period and conditions consistent with the reasons therefore, and within the following limitations:

- (i) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the Health Officer may prescribe.
- (ii) The Health Officer may grant a variance conditioned by a timetable if:

(A) Compliance with this regulation will require spreading of costs over a considerable time period; and

(B) The timetable is for a period that is needed to comply with this regulation.

(d) No variance from Chapters 173-350 WAC, Minimum Functional Standards for Solid Waste Handling, and 173-351 WAC, Criteria for Municipal Solid Waste Landfills, shall be granted by the Health Officer except with the approval and written concurrence of Ecology prior to action on the variance by the Health Officer.

(e) The Health Officer may grant variances from these regulations for standards that are more stringent than the standards of Chapters 173-350 and 173-351 WAC, or from provisions in

these regulations that are not contained in Chapters 173-350 and 173-351 WAC, without Ecology approval.

(3) Application.

- (a) The application shall be accompanied by such information as the Health Officer may require.

- (b) An application for a variance, or for the renewal thereof, submitted to the Health Officer shall be approved or disapproved by the Health Officer within ninety (90) calendar days of receipt unless the applicant and the Health Officer agree to a continuance.
- (c) Notice shall be given by mailing a notice of the variance application to persons who have written to the Health Officer asking to be notified of all variance requests.
- (4) Renewal. The Health Officer may renew any variance granted pursuant to this ~~paragraph~~section on terms and conditions and for periods that would be appropriate on initial granting of a variance. No renewal shall be granted except on written application. Any such application shall be made at least sixty (60) calendar days prior to the expiration of the variance.

8.10.990 – SEVERABILITY CRITERIA FOR INERT WASTE

WAC 173-350-990 980, *Inert Waste Criteria*, Severability is hereby adopted by reference.

APPENDIX A. REFERENCES

The following is a list of Federal, State, and local laws, regulations, and documents referenced in Jefferson County Board of Health Ordinance 09-1020-05, *Solid Waste Regulations*. Copies of these documents may be found at the Port Townsend office of Jefferson County Public Health, the Jefferson County Courthouse, or through your local library.

A. Federal:

1. United States Code (USC):

- 33 USC 1344 PARAGRAPH 404 OF THE FEDERAL CLEAN WATER ACT
(PL 95-217), PERMITS FOR DREDGED OR FILL MATERIAL
- 42 USC 300 SAFE DRINKING WATER ACT (PL 95-523)
- 42 USC 2011 ATOMIC ENERGY ACT OF 1954
- 42 USC 6901 RESOURCE CONSERVATION AND RECOVERY ACT OF 1976
(RCRA)
- 42 USC 9601 COMPREHENSIVE ENVIRONMENTAL RESPONSE
COMPENSATION AND LIABILITY ACT OF 1980 (CERCLA)

2. Code of Federal Regulations (CFR):

- 10 CFR Part 20 STANDARDS FOR PROTECTION AGAINST RADIATION
- 40 CFR Part 61 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS
- 40 CFR Part 258 CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS
- 40 CFR Part 503 STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE
SLUDGE

3. Environmental Protection Agency:

- SW-846 TEST METHODS FOR EVALUATING SOLID WASTE,
PHYSICAL/ CHEMICAL METHODS

B.

State:

1. Revised Code of Washington (RCW), Chapters:

7.80	CIVIL INFRACTIONS
42.17	DISCLOSURE - CAMPAIGN FINANCES - LOBBYING –
RECORDS	
43.21A	DEPARTMENT OF ECOLOGY
46.37	VEHICLE LIGHTING AND OTHER EQUIPMENT
46.55	TOWING AND IMPOUNDMENT
70.05	LOCAL HEALTH DEPARTMENTS, BOARDS, OFFICERS - REGULATIONS
70.93	WASTE REDUCTION, RECYCLING, AND MODEL LITTER CONTROL ACT
70.94	WASHINGTON CLEAN AIR ACT
70.95	SOLID WASTE MANAGEMENT - REDUCTION AND RECYCLING
70.95K	BIOMEDICAL WASTE
76.04	FOREST PROTECTION
90.48	WATER POLLUTION CONTROL

2. Washington Administrative Code (WAC), Chapters:

173-160	MINIMUM STANDARDS FOR CONSTRUCTION AND MAINTENANCE OF WELLS
173-200	WATER QUALITY STANDARDS FOR GROUND WATERS OF THE STATE OF WASHINGTON
173-201A	WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF WASHINGTON
173-218	UNDERGROUND INJECTION CONTROL PROGRAM
173-240	SUBMISSION OF PLANS AND REPORTS FOR CONSTRUCTION
	OF WASTEWATER FACILITIES
173-303	DANGEROUS WASTE REGULATIONS
173-304	MINIMUM FUNCTIONAL STANDARDS FOR SOLID WASTE HANDLING
173-308	BIOSOLIDS MANAGEMENT
173-314	WASTE TIRE CARRIER AND STORAGE SITE LICENSES
173-350	STANDARDS FOR SOLID WASTE HANDLING
173-351	CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS
173-425	OUTDOOR BURNING
197-11	SEPA RULES
246-203	GENERAL SANITATION
246-220	RADIATION PROTECTION - GENERAL PROVISIONS
246-232	RADIOACTIVE MATERIALS - LICENSING APPLICABILITY
296-24	GENERAL SAFETY AND HEALTH STANDARDS
296-62	OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR CARCINOGENS
296-65	ASBESTOS REMOVAL AND ENCAPSULATION
480-70	SOLID WASTE AND/OR REFUSE COLLECTION COMPANIES

3. Washington State Department of Ecology (Ecology): Ecology document 80-12,

Biological Testing Methods

Ecology document 91-30: Guidance for Remediation of Petroleum Contaminated
Soils
(revised November 1995)
Ecology document 93-51, Chemical Testing for Complying with the Dangerous
Waste
Regulations

C. Local/Regional:

1. Jefferson County Public Health: Jefferson County Comprehensive Solid Waste Management Plan (JCCSWMP)

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