

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

TO: Board of County Commissioners
FROM: Mark McCauley, County Administrator
DATE: May 28, 2024
SUBJECT: CONTINUED DISCUSSION re: on Adoption of an Ordinance Adopting Rules for the Adoption of Ordinances, Resolutions and Motions in Jefferson County

STATEMENT OF ISSUE:

The Board of County Commissioners held a workshop on March 18, 2024 to discuss a proposed ordinance to establish rules for county staff governing the adoption of ordinances, resolutions and motions by the Board of County Commissioners and the Board of Health. Comments were received from the Board of Health and the Department of Community Development on the proposed ordinance and it was revised accordingly. A hearing notice was published regarding the revised proposed ordinance and a hearing was started on April 8, 2024. Because of flaws in the initial hearing notice, a new hearing notice was issued by the Board on April 15, 2024 for a continued hearing on Monday, May 6, 2024 at 11:00 a.m. in the Board Chambers in the County Courthouse.

The new hearing notice called for additional written public comment beginning on April 15, 2024 and ending on May 6, 2024 at the end of the Public Hearing, unless extended by the Board of County Commissioners.

A continued Public Hearing was held on May 6, 2024. Public testimony was received at the continued hearing on May 6, 2024. Based on the public testimony additional clarifying language has been added to the draft ordinance. A clean version of the revised ordinance is attached as Appendix A. A redlined version of the revised ordinance showing changes since the May 6, 2024 hearing is attached as Appendix B.

ANALYSIS:

The proposed ordinance, if adopted, would establish rules for county staff governing the adoption of ordinances, resolutions and motions. This would help improve consistency, efficiency and transparency of Jefferson County's government.

FISCAL IMPACT:

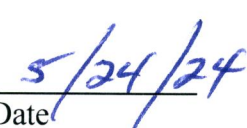
This request has no identifiable fiscal impact although efficiency would be improved through the use of a common set of rules.

RECOMMENDATION:

Approve the attached revised proposed ordinance.

REVIEWED BY:


Mark McCauley, County Administrator


Date

APPENDIX A

STATE OF WASHINGTON COUNTY OF JEFFERSON

An Ordinance Adopting Rules for the Adoption of Ordinances, Resolutions, and Motions in Jefferson County

ORDINANCE NO. _____

WHEREAS, the [Washington Constitution](#), Article XI, Section 11, confers upon county legislative authorities the police power to adopt regulations necessary to protect the health, safety, and well-being of its residents; and,

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

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

WHEREAS, the Board of County Commissioners (“BoCC”) and the Board of Health (“BOH”) adopt ordinances and resolutions with wide-ranging effects; and,

WHEREAS, unified rules for adoption of ordinances and resolutions of the BoCC and the BOH would promote efficiency and transparency; and,

WHEREAS, as the legislative body of Jefferson County, the BoCC has the authority to adopt ordinance rules of procedure governing the introduction, publication, consideration, and adoption of ordinances and resolutions; and,

NOW, THEREFORE, BE IT ORDAINED as follows:

Section 1. Whereas Clauses are Findings of Fact. The Whereas clauses above are findings of fact for this ordinance.

Section 2. Purpose. The purpose of these rules is to establish a uniform process for adoption of ordinances and resolutions in Jefferson County.

Section 3. Use. No authority other than the BoCC, the BOH, or the County Administrator may enforce these rules. Failure of the BoCC, the BOH or the County Administrator to follow these rules in a particular instance shall not be considered as a waiver. No notice of waiver of these rules by the BoCC, the BOH, or the County Administrator need be given.

Section 4. Public Use or Reliance Not Intended. Because these rules are procedural in nature and are designed to assist in the process of adoption of ordinances and resolutions and not to provide substantive rules affecting constituents, it is expressly stated that these rules do not constitute land use regulations, official controls, “appearance of fairness rules,” public hearing rules, or other substantive rules binding upon or to be used by or relied upon by members of the public. These rules do not amend statutory or other regulatory requirements (including in an ordinance).

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Section 5. Types of County Legislative Actions.

- (a) Ordinance. An ordinance is a local law (legislative act) prescribing permanent rules of general applicability, including new legislation. Action by the BOCC and the BOH shall be taken by ordinance when required by a Jefferson County ordinance (including one codified in the Jefferson County Code, “JCC”), the Revised Code of Washington (“RCW”), or the Washington Administrative Code (“WAC”), or where prescribed conduct may be enforced by penalty. All legislative acts should be made by ordinance. Actions relating to subjects of a permanent and general character are usually regarded as legislative.
- (b) Resolution. A resolution usually is less formal than an ordinance and is a statement of legislative policy or direction that may concern matters of special or temporary character. Action by the BoCC or the BOH shall be taken by resolution in those instances where an expression of legislative policy more formal than a motion is desired. Resolutions may be adopted without a public hearing, unless a state or local law requires a hearing.
- (c) Motion. A motion directs a specific course of action. A motion is less formal, usually unwritten, and once approved and entered into the record, is the equivalent of a resolution in those instances where an ordinance or a resolution is not required.
- (d) Order. An “order” is used by a legislative body to direct a specific action be taken on behalf of the county. An order usually is unwritten. Once an order has been complied with, it no longer has effect.

Section 6. Workshops on Proposed Ordinances and Resolutions. The BoCC or the BoH may discuss drafts of proposed ordinances and resolutions at a regular or special meeting, following all the requirements of the Open Public Meetings Act, Chapter [42.30](#) RCW, and this chapter. Ordinances or resolutions requiring a hearing shall not be adopted at a workshop, unless proper and timely notice of a hearing has been given prior to the workshop.

Section 7. Rules for Adoption of Ordinances and Resolutions. The rules for adoption of ordinances and resolutions are as follows:

- (a) One Subject Only. No ordinance or resolution shall contain more than one subject, which shall be clearly expressed in the title.
- (b) Public Hearing Requirement. An ordinance may be adopted only after proper notice and a public hearing. Notice of the time, place and purpose of any public hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing. Some state statutes and local ordinances require a public hearing for ordinances and resolutions. A public hearing shall be held whenever one is required by State statute or local ordinance. State statutes that require a public hearing are listed in Appendix A to the Municipal Research and Services Center of Washington publication *Local Ordinances for Washington Cities and Counties* (2016), which can be found at <https://mrsc.org/getmedia/44e20d0f-a536-473f-baac-bd7504323330/Local-Ordinances-For-Washington-Cities-And-Counties.pdf?ext=.pdf>. For the avoidance of doubt, if the BoCC adopts a Planning Commission recommendation in full under JCC [18.45.060\(3\)](#) or JCC [18.45.090\(4\)](#), a public hearing by the BoCC is not required since the Planning Commission is required to conduct a public hearing prior to transmission of its recommendation to the BoCC.

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(c) Codification of Ordinances. All ordinances of the county of a general and permanent nature shall be incorporated into and become part of the JCC.

(d) Required Format for All Proposed Ordinances and Resolutions.

- (i) Each proposed ordinance and resolution shall be in writing in its entirety;
- (ii) The Clerk of the Board of County Commissioners shall be responsible for numbering each ordinance in the format where the consecutive number adopted each year starting with 01 for the first ordinance adopted, and so on.; then, the month and date adopted in the following format: 0103 and so on; and, then the year adopted in the following format: Ordinance No. 01-0103-24;
- (iii) The Clerk of the Board of County Commissioners shall be responsible for numbering each resolution in the same manner as for ordinances in subsection (ii) (Resolution No. 01-0103-24);
- (iv) If an ordinance or resolution is amended either by deleting or adding language or sections, reference shall be made in the title to the amended ordinance or amended resolution and the earlier ordinance or resolution's ordinance's number, any appropriate code section and, if applicable, the ordinance or resolution's common name (E.g., the Uniform Development Code);
- (v) If an ordinance or resolution repeals or replaces an earlier ordinance, reference shall be made in the title to the repealed or replaced ordinance or resolution and the earlier ordinance or resolution's ordinance's number, any appropriate code section and, if applicable, the ordinance's common name;
- (vi) Each ordinance shall contain the following enactment clause: "Be it ordained by the Board of Health [Board of County Commissioners] of Jefferson County, State of Washington ...;"
- (vii) Each resolution shall contain the following enactment clause: "Be it resolved by the Board of Health [Board of County Commissioners] of Jefferson County, State of Washington ...;"
- (viii) Any definitions shall be in alphabetical order;
- (ix) Only gender neutral terms shall be used;
- (x) If a violation of the ordinance is to be punished by a fine or imprisonment, the penalty shall be stated specifically in the ordinance;
- (xi) Each proposed ordinance or resolution shall contain the following additional language:
 - (A) A statement of facts supporting the ordinance or resolution, sometimes referred to as "whereas clauses;"
 - (B) The purpose of the ordinance or resolution;

APPENDIX A

- (C) The detailed requirements of the ordinance or resolution;
 - (D) The location in the Jefferson County Code for any ordinance to be codified;
 - (E) A statement explaining compliance with the State Environmental Policy Act, Chapter [42.21C](#) RCW or a statement identifying an exemption in WAC [197-11-800](#) that applies;
 - (F) Whether an amended, repealed or replaced ordinance or resolution shall remain in force and effect until the effective date of the newly enacted ordinance or resolution;
 - (G) Whether if any section, subsection, paragraph, sentence, clause, or phrase of the ordinance is declared unconstitutional or invalid for any reason, such decision affects the validity of the remaining parts of the ordinance; and,
 - (H) Whether the effective date is the date of adoption or some other date.
- (e) Public Notice Rules for Ordinances or Resolutions that Require a Hearing. A hearing notice for all proposed ordinances or all resolutions that require a public hearing shall be prepared and transmitted to the BoCC or the BOH, along with an agenda request at least 14 days before the date of any hearing.
- (i) The hearing notice shall contain all of the following:
 - (A) A description of the nature of the proposal under consideration;
 - (B) The availability of relevant draft documents and how they may be obtained, including the location(s) where the draft documents can be viewed either in person, on the county website, or both;
 - (C) How the public can provide oral testimony and written comments;
 - (D) The time, date and location of the hearing; and,
 - (E) The range of alternatives considered or scope of alternatives available for oral testimony or public comment.
 - (ii) The proposed ordinance or resolution described in the hearing notice shall be posted in the location(s) where it can be viewed, as stated in the hearing notice, at least three days prior to publication of the hearing notice.
 - (iii) A hearing notice may be approved for publication by a motion. If such motion fails, the proposed resolution or ordinance shall be considered lost, unless a subsequently adopted motion directs that a revised hearing notice be published.
- (f) Approval by the Prosecuting Attorney. The county relies on advice from the Prosecuting Attorney to ensure that all adopted ordinance and resolutions are in a form sufficient to enforce them and are in compliance with local, state and federal law. Accordingly, all ordinances and all resolutions that require a public hearing must be in a form approved by the Prosecuting Attorney or their designee before:

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- (i) Before submission to the County Administrator as required by Section 7(g);
 - (ii) Before posting a hearing notice in the location where a proposed ordinance or resolution requiring a hearing can be viewed, as required by Section 7(e)(iii); and,
 - (iii) Before any public hearing by the Planning Commission on a proposed ordinance or resolution or before the Planning Commission submits a recommendation to the Board of County Commissioners on a proposed ordinance or resolution.
- (g) Rule Requiring Submission to the County Administrator. All proposed resolutions and ordinances must be submitted to the County Administrator for review in the format required in Section 7(d) prior to submission to a county legislative authority for consideration or adoption.
- (h) Hearing to Consider Adoption of an Ordinance or Resolution at an Open Public Meeting. After compliance with subsections (a) through (f), the BoCC or BoH may consider the ordinance or resolution at a regular or special meeting, following all the requirements of the Open Public Meetings Act, Chapter [42.30](#) RCW. The hearing must be held at the time, date and location stated in the hearing notice.

Section 8. Codification. This ordinance shall be codified as Chapter 2.55 JCC.

Section 9. SEPA Compliance. This ordinance is categorically exempt from the threshold determination and Environmental Impact Statement requirements of the State Environmental Policy Act under WAC [197-11-800\(19\)](#).

Section 10. Effective Date: This ordinance shall take effect immediately upon adoption.

(SIGNATURES FOLLOW ON NEXT PAGE)

APPENDIX A

ADOPTED this ____ day of _____ 2024.

SEAL:

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

Kate Dean, Chair

Greg Brotherton, Member

ATTEST:

Heidi Eisenhour, Member

APPROVED AS TO FORM:

Carolyn Gallaway, CMC Date
Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX B

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

**An Ordinance Adopting Rules for the
Adoption of Ordinances, Resolutions, and
Motions in Jefferson County**

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 - (G) Whether if any section, subsection, paragraph, sentence, clause, or phrase of the ordinance is declared unconstitutional or invalid for any reason, such decision affects the validity of the remaining parts of the ordinance; and,
 - (H) Whether the effective date is the date of adoption or some other date.
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 - (A) A description of the nature of the proposal under consideration;
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 - (C) How the public can provide oral testimony and written comments;
 - (D) The time, date and location of the hearing; and,
 - (E) The range of alternatives considered or scope of alternatives available for oral testimony or public comment.
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- (f) Approval by the Prosecuting Attorney. The county relies on advice from the Prosecuting Attorney to ensure that all adopted ordinance and resolutions are in a form sufficient to enforce them and are in compliance with local, state and federal law. Accordingly, all ordinances and all resolutions that require a public hearing must be in a form approved by the Prosecuting Attorney or their designee before:

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 - (ii) Before posting a hearing notice in the location where a proposed ordinance or resolution requiring a hearing can be viewed, as required by Section 7(e)(iii); and,
 - (iii) Before any public hearing by the Planning Commission on a proposed ordinance or resolution or before the Planning Commission submits a recommendation to the Board of County Commissioners on a proposed ordinance or resolution.
- (g) Rule Requiring Submission to the County Administrator. All proposed resolutions and ordinances must be submitted to the County Administrator for review in the format required in Section 7(d) prior to submission to a county legislative authority for consideration or adoption.
- (h) Hearing to Consider Adoption of an Ordinance or Resolution at an Open Public Meeting. After compliance with subsections (a) through (f), the BoCC or BoH may consider the ordinance or resolution at a regular or special meeting, following all the requirements of the Open Public Meetings Act, Chapter 42.30 RCW. The hearing must be held at the time, date and location stated in the hearing notice.

Section 8. Codification. This ordinance shall be codified as Chapter 2.55 JCC.

Section 9. SEPA Compliance. This ordinance is categorically exempt from the threshold determination and Environmental Impact Statement requirements of the State Environmental Policy Act under WAC 197-11-800(19).

Section 10. Effective Date: This ordinance shall take effect immediately upon adoption.

(SIGNATURES FOLLOW ON NEXT PAGE)

APPENDIX B

ADOPTED this ____ day of _____ 2024.

SEAL:

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

Kate Dean, Chair

Greg Brotherton, Member

ATTEST:

Heidi Eisenhour, Member

APPROVED AS TO FORM:

Carolyn Gallaway, CMC Date
Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney