

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

HEARING ON PROPOSED ORDINANCE

TO: Board of County Commissioners

FROM: Mark McCauley, County Administrator

DATE: April 8, 2024

SUBJECT: Public Hearing 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 the proposed ordinance. After the workshop, revisions were made to the proposed ordinance based on comments from the Board of County Commissioners, the Board of Health, the Prosecuting Attorney's Office, the Public Health Officer, and the DCD Director. The revised proposed ordinance contains footnotes identifying the revisions and their source. All footnotes will be removed upon adoption of an ordinance.

A hearing notice for the proposed ordinance was published at the direction of the Board of County Commissioners March 27, 2023 and April 3, 2024. The hearing notice set a hearing on the proposed ordinance for Monday, April 8th at 11:00 am in the Board of County Commissioners Chambers in the County Courthouse.

Written public comment was invited through the end of the hearing. Public testimony will be received at the hearing on April 8, 2024.

The revised proposed ordinance was made available for viewing on the County website by clicking on: www.co.jefferson.wa.us—Services - Laserfiche Web Portal (username and password is: public) - Board of Commissioners - BOCC Agenda Packets - 2024 Weekly Agenda Items - 04 April 2024 – 040824 - Hearing/Testimony re: Adoption of Ordinances.

The revised proposed ordinance made available on the County's website is attached to this Agenda Request.

ANALYSIS:

The revised 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, after deleting the footnotes.

REVIEWED BY:



Mark McCauley, County Administrator

04/04/24
Date

**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 below 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).

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.¹
- (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.² 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.³
- (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.⁴

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.

¹ Added based on *Durocher v. King County*, 80 Wn.2d 139, 152-53, 492 P.2d 547, 555 (1972) (citing 5 E. McQuillin, *The Law of Municipal Corporations*, § 16.55 (3d ed. 1969 rev. vol.) at 213). [Note: Footnotes are to be removed before this Ordinance is finalized.]

² Consistent with *Durocher v. King County*, 80 Wn.2d 139, 152-53, 492 P.2d 547, 555 (1972) (citing 5 E. McQuillin, *The Law of Municipal Corporations*, § 16.55 (3d ed. 1969 rev. vol.) at 213). [Note: Footnotes are to be removed before this Ordinance is finalized.]

³ Added based on *Spokane v. Ridpath*, 74 Wash. 4, 8, 132 P. 638, 640 (1913) (citing 34 Cyc. 1667; Black’s Law Dictionary, 1027).

⁴ Added based on Municipal Research and S 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>.

- (b) Public Hearing Requirement.⁵ An ordinance may be adopted only after proper notice and a public hearing.⁶ 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.⁷ 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 S 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>.⁸ For the avoidance of doubt, if the Board of County Commissioners adopts a Planning Commission recommendation in full under JCC [18.45.060\(3\)](#) or JCC [18.45.090\(4\)](#), a public hearing by the Board of County Commissioners is not required since the Planning Commission is required to conduct a public hearing prior to transmission of its recommendation to the Board of County Commissioners.⁹
- (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 resolution 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: 01-03 and so on; and, then the year adopted in the following format: 24 (E.g., Ordinance No. 01-03-24);¹⁰
 - (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) (E.g., Resolution No. 01-02-24);¹¹
 - (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 and the earlier ordinance or resolution's ordinance's number, the appropriate code section

⁵ This section was added for clarity.

⁶ Moved from Section 5 in prior draft.

⁷ See RCW [36.70.390](#).

⁸ This sentence was added based on comments by the BoCC.

⁹ This sentence was added based on comments from the DCD Director.

¹⁰ Added based on Municipal Research and S 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>.

¹¹ Added based on Municipal Research and S 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>.

and, if applicable, the ordinance's common name (E.g., the Uniform Development Code);¹²

- (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 and the earlier ordinance or resolution's ordinance's number, the appropriate code section and, if applicable, the ordinance's common name;¹³
- (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 ...;"¹⁴
- (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 ...;"¹⁵
- (viii) Any definitions shall be in alphabetical order;¹⁶
- (ix) Only gender neutral terms shall be used;¹⁷
- (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;¹⁸
- (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;

¹² Added based on Municipal Research and S 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>.

¹³ Added based on Municipal Research and S 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>.

¹⁴ See RCW 36.38.030.

¹⁵ See RCW 36.38.030.

¹⁶ Added based on Municipal Research and S 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>.

¹⁷ Added based on Municipal Research and S 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>.

¹⁸ Added based on Municipal Research and S 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>.

- (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;¹⁹
 - (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,²⁰
 - (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.²¹ 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 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 public comment.

¹⁹ Added based on Municipal Research and S 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>.

²⁰ Added based on Municipal Research and S 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>.

²¹ Changes to this section were made based on comments from the Public Health Officer and the BOH that approval as to form of all resolutions was not necessary as resolutions may be used by a legislative body to adopt a statement of legislative policy or direction that may concern matters of special or temporary character, such as proclamations.

- (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 hearing²² must be in a form approved by the Prosecuting Attorney or their designee before:
 - (i) Before submission to the County Administrator as required by Section 7(f);
 - (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(d)(iii); and,
 - (iii) Before any public hearing by the Planning Commission or before the Planning Commission submits a recommendation to the Board of County Commissioners.²³
- (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\(19\)](#).²⁴

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

(SIGNATURES FOLLOW ON NEXT PAGE)

²² This change was made based on comments from the Public Health Officer and the BOH that approval as to form of all resolutions was not necessary as resolutions may be used by a legislative body to adopt a statement of legislative policy or direction that may concern matters of special or temporary character, such as proclamations.

²³ This section was changed to ensure flexibility of the Planning Commission is maintained based on comments by the DCD Director.

²⁴ This section was changed to add greater specificity based on comments by the DCD Director.

ADOPTED this ____ day of _____ 2024.

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

SEAL:

Kate Dean, Chair

Greg Brotherton, Member

ATTEST:

Heidi Eisenhower, Member

APPROVED AS TO FORM:

Carolyn Gallaway, CMC Date
Clerk of the Board

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney