

STATE OF WASHINGTON
County of Jefferson

**IN THE MATTER OF REVISIONS AND
ADDITIONS TO THE COUNTY'S UNIFIED
DEVELOPMENT CODE IN ORDER TO
IMPLEMENT A SETTLEMENT AGREEMENT
BETWEEN JEFFERSON COUNTY AND THE
WASHINGTON ENVIRONMENTAL COUNCIL
[MLA02-485]**

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ORDINANCE NO. 05-0428-03

WHEREAS, the Board of Jefferson County Commissioners (“the Board”) has, as required by the Growth Management Act, as codified at RCW 36.70A.010 et seq., adopted the Jefferson County Comprehensive Plan (the “Plan”), a Plan that was originally adopted by Resolution No. 72-98 on August 28, 1998 and subsequently later amended, and;

WHEREAS, in furtherance of the Plan, the County adopted its GMA-derived development regulations, known locally as the Unified Development Code (or “UDC”), in December 2000 to be effective as of January 16, 2001, and;

WHEREAS, the UDC, upon its adoption, was timely challenged through means of not less than five Petition For Reviews (“PFRs”) filed with the Western Washington Growth Management Hearings Board (or “WWGMHB”), and

WHEREAS, one of the five timely PFRs was filed by the Washington Environmental Council (“WEC”); and

WHEREAS, the County and WEC signed a Settlement Agreement on March 26, 2002 as an alternative to arguing before the WWGMHB; and

WHEREAS, one of the provisions of the Settlement Agreement was that the County would introduce specific UDC revisions into a public process; and

WHEREAS, that public process is now complete;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners that they approve the following revisions and additions to the UDC and;

BE IT FURTHER ORDAINED by the Board that they make the following general Findings of Facts applicable to these revisions and additions to the UDC:

Section 1 - General Findings of Fact for Revisions and Additions to the UDC:

1. The County adopted its Comprehensive Plan in August 1998 and its development regulations or UDC in December 2000.
2. The Growth Management Act, which mandates that Jefferson County generate and adopt a Comprehensive Plan, also requires that there be in place a process to amend the Comprehensive Plan.
3. These amendments to the County's UDC are being made in order to resolve a particular petition before the WWGMHB, specifically the PFR timely filed by WEC.
4. The County and WEC signed a Settlement Agreement on March 26, 2002 that committed the County to introduce into a public process specific UDC revisions.
5. Proposed UDC amendments were prepared by County planners and sent to the County Planning Commission for review by that advisory body.
6. The Planning Commission discussed the contents of MLA02-485 at seven (7) different Planning Commission meetings from January 8 to April 16, 2003.
7. Public hearings on the proposed UDC amendments occurred before the Planning Commission on February 5 and March 19, 2003.
8. The Planning Commission conducted a workshop with the Jefferson County Conservation District Board on one component of MLA02-485 at the April 2 Planning Commission meeting.
9. The Planning Commission considered and voted on each of the three (3) components of MLA02-485 on April 16, 2003.
10. With one amendment made to the first component (regulation of existing and ongoing agriculture), the Planning Commission voted to adopt the staff recommendation from the Department of Community Development ("DCD").

11. DCD transmitted the written Planning Commission recommendation to the elected County Commissioners.
12. The Board of County Commissioners voted unanimously on April 21, 2003 to adopt UDC revisions per the Planning Commission recommendation for MLA02-485.
13. Adoption of this amending language (which alters the UDC) promotes the health and welfare of the citizens of Jefferson County.
14. Pursuant to Section 9 of this County's Unified Development Code, all proposed amendments to the GMA-derived development regulations should be analyzed, in part, through the "filter" of the seven growth management indicators (or "GMI") listed at UDC §9.5.4(b), although those GMI represent only some of the criteria that the County Commission must use when deciding whether to adopt or reject a proposed UDC amendment.
15. Because of the general nature of the GMI, each and every GMI will not be applicable or apropos for each and every amendment that this County Commission has considered.
16. However, the County Commission, in order to comply with UDC Section 9, should and must make generalized findings of fact with respect to the seven GMI listed there and do so now.
17. With respect to UDC §9.5.4(b)(1), the County Commission finds, as an example of numerous findings they might make with respect to (b)(1), that in the short-term the population of this County has not increased as quickly as the Comprehensive Plan envisioned.
18. Regardless of the possible fluctuation in the rate of population growth that does occur or might occur in this County the adoption of these UDC amendments supports GMA goals to further protect critical areas and the practice of agriculture.
19. The County Commission finds that the other six 'growth management indicators' listed at UDC §9.5.4(b)(2) to (b)(7) are not applicable to these amendments to the GMA-derived development regulations.
20. With respect to the criterion listed at UDC §9.8.1(b)(3), the County Commission finds that there has been much public testimony and concern on the issue of regulation of existing and ongoing agriculture during the public process associated

with MLA02-485 and that therefore there is interest in this issue among the general public and among the agricultural community in particular.

21. With respect to the criterion listed at UDC §9.8.1(b)(3), the County Commission finds that the Planning Commission, consisting of appointed members who reflect the varied viewpoints held by the citizens of Jefferson County, approved these amendments to the development regulations AND that the approval by the Planning Commission indicates that these amendments to the development regulations are therefore in conformance with the widely-held values of the citizens of this County.
22. With respect to the criterion listed at UDC §9.8.1(b)(3), the County Commission finds that the 3-0 vote by the County Commission in support of these amendments to the development regulations is further proof that these amendments are in conformance with widely-held values of the citizens of this County.
23. On January 16, 2003, DCD issued an "Integrated GMA/SEPA Document & Notice of Hearing." This document simultaneously served three purposes: it 1) notified the Washington State Office of Community Development of this County's intent to amend its GMA-driven development regulations, 2) provided a formal notice of adoption of existing environmental documents to fulfill requirements under the State Environmental Policy Act, and 3) informed the world that the Planning Commission would hold a public hearing on this topic on February 5, 2003.
24. With regard to the first component of MLA02-485, concerning the regulation of existing and ongoing agriculture, DCD provided a 14-page memorandum to the Planning Commission dated February 13, 2003 with background information and a revised proposal.
25. The DCD revised proposal was further defined, and augmented by a "Landowner Interpretation Key," in a document provided to the Planning Commission dated February 28, 2003 and entitled, "MLA02-485: Revised 'Exhibit B,' proposed text amendment to the Unified Development Code."
26. These documents and other information were posted on a County web page dedicated to Agricultural Lands planning:
<http://www.co.jefferson.wa.us/commdevelopment/Agriculture.htm>.
27. The public participation requirements of the GMA have been satisfied with respect to these amendments to the County's development regulations.

Section 2 - Language Revisions and Additions to the UDC:

The language of the attached Exhibit, consisting of three (3) pages, is hereby adopted as the detailed revisions and additions to the UDC.

Section 4 - Severability:

If any section, subsection, sentence, clause, phrase, or figure of this ordinance or its application to any person or circumstances is held invalid, the remainder of the ordinance or the application to other persons or circumstances shall not be affected.

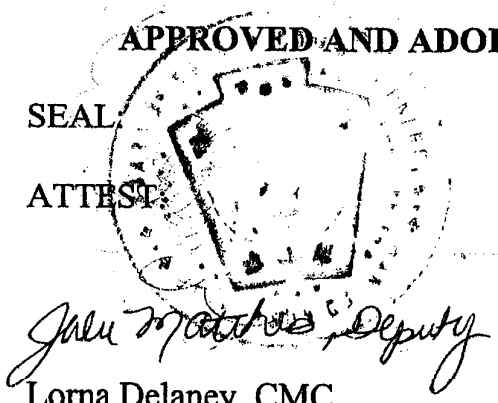
Section 5 - Effective Date:

This ordinance shall become effective immediately upon adoption by the Board of County Commissioners, also known herein as the County Commission.

APPROVED AND ADOPTED this 28th day of April.

SEAL

ATTEST



Lorna Delaney
Lorna Delaney, CMC
Clerk of the Board

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

Dan Titterness
Dan Titterness, Chair

Glen Huntingford
Glen Huntingford, Member

APPROVED AS TO FORM:

David Alvarado 4/28/03
Deputy Prosecuting Attorney

Wendi Wrinkle
Wendi Wrinkle, Member

**Jefferson County Unified Development Code (UDC) line-in/line-out amendments
adopted by the Board of County Commissioners via MLA02-485**

*1. Exemptions to Standard Fish and Wildlife Habitat Area (FWHA) Buffers and
Wetland Buffers for Existing and Ongoing Agriculture*

- Modification of the definition of “Agriculture, Existing and Ongoing” in Section 2 of the UDC:

Agriculture, Existing and Ongoing

Any agricultural activity conducted on lands ~~defined in RCW 84.34.020(2)~~ enrolled in the Open Space Tax Program as Agricultural Land or designated as Agricultural Lands of Long-Term Commercial Significance on the Comprehensive Plan Land Use Map; agricultural use ceases when the area on which it is conducted is converted to a non-agricultural use.

- Removal of the General Exemption at 3.6.4.f(1)ii. Refinement of exemptions in 3.6.8 Fish and Wildlife Habitat Areas (specifically 3.6.8.d(3) and (6)) and 3.6.9 Wetlands (specifically 3.6.9.c(1)v).

UDC 3.6.4 Environmentally Sensitive Areas District (ESA), f. General Exemptions

- (1) The following activities are exempt from the requirements of this Section: ...
- ii. ~~Pre-existing and ongoing agricultural activities on lands containing environmentally sensitive areas. For the purpose of this Section, existing and ongoing means that the activity has been conducted within the past five years.~~

UDC 3.6.8 Fish and Wildlife Habitat Areas, d. Exempt Activities.

- (3) ~~Ongoing and existing~~ Existing and ongoing landscaping activities (such as lawn and garden maintenance) and existing and ongoing agricultural activities on lands enrolled in the Open Space Tax Program as Agricultural Land or on lands designated as Agricultural Lands of Long-Term Commercial Significance on the Comprehensive Plan Land Use Map. For the purpose of this section, existing and ongoing means that agricultural activities have been conducted within the five-year period leading up to the adoption of Ordinance No. _____ on _____, 2003.¹

- ...
- (6) Harvesting wild crops which do not significantly affect the viability of the wild crop, the function of the Fish and Wildlife Habitat Area or regulated buffer (does not include tilling of soil or alteration of the Fish and Wildlife Habitat Area, except as provided in (3), above).

¹ The blank date space is reserved for the date of adoption of the amending ordinance associated with MLA02-485.

UDC 3.6.9 Wetlands, c. Exempt Activities, (1) Wetlands.

- v. Existing and ongoing agricultural activities on lands enrolled in the Open Space Tax Program as Agricultural Land or on lands designated as Agricultural Lands of Long-Term Commercial Significance on the Comprehensive Plan Land Use Map. For the purpose of this section, existing and ongoing means that agricultural activities have been conducted within the five-year period leading up to the adoption of Ordinance No. _____ on _____, 2003.²

- 2. *Required Replacement Ratios for Compensatory Wetland Mitigation (UDC Table 3-5)*

3.6.9 Wetlands.

...

f. Mitigation. The overall goal of mitigation shall be no net loss of wetland function, value, and acreage.

...

- (2) **Compensatory Mitigation—General Requirements.** As a condition of any permit or other approval allowing alteration which results in the loss or degradation of regulated wetlands, or as an enforcement action pursuant to Section 10 of this Code, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or any Code violator.
 - i. Except persons exempt under this Section, any person who alters or proposes to alter regulated wetlands shall restore or create areas of wetland equivalent to or larger than those altered in order to compensate for wetland losses. The following Table 3-5 specifies the ratios that apply to creation or restoration which is in-kind, on-site, and is accomplished prior to or concurrently with alteration:

² The blank date space is reserved for the date of adoption of the amending ordinance associated with MLA02-485.

Table 3-5. Required Replacement Ratios for Compensatory Wetland Mitigation.

Wetland Category	Replacement Ratio Creation and Restoration ⁽¹⁾	Enhancement ⁽²⁾
I	3 6:1	12:1
II or III		
• Forested	2 3:1	6:1
• Scrub-Shrub	4 5 2:1	4:1
• Emergent	4 5 2:1	4:1
IV	4 1 25:1	2 5:1

Note:

1. The first number in the ratio specifies the acreage of wetlands to be created, and the second number specifies the acreage of wetlands proposed to be altered or lost. The replacement ratios are derived from Department of Ecology Publication No. 97-112 (1998): "How Ecology Regulates Wetlands."
2. Enhancement of existing wetlands, may be considered as compensation; but above ratios must then be doubled.
3. Compensation must be completed prior to wetland destruction, where possible.
4. Compensatory mitigation must follow an approved compensatory mitigation plan pursuant to this section, with the replacement ratios as specified above.
5. Compensatory mitigation must be conducted on property which will be protected and managed to avoid further development or degradation. The applicant or Code violator must provide for long-term preservation of the compensation area.
6. The applicant shall demonstrate sufficient scientific expertise, supervisory capability, and financial resources, including bonding, to carry out the project. The applicant must demonstrate the capability for monitoring the site and making corrections if the project fails to meet projected goals.

3. *State Agency Review of Special Reports Associated with Development Permit Applications*

Section 8 • Permit Application and Review Procedures/SEPA Implementation

...

8.2 Project Permit Applications (Type I-IV).

...

4. **Referral and Review of Development Permit Applications.** Upon acceptance of a complete application, the Administrator shall do the following:
 - a. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and county department for review and comment, including those agencies responsible for determining compliance with state and federal requirements. The affected agencies and county departments shall have fourteen (14) calendar days to comment, except that State agencies shall have twenty-eight (28) days to comment on special reports per UDC 3.6.4 et al, including Habitat Management Plans and Wetland Mitigation Plans. Affected agencies and county departments are presumed not to have comments if not submitted within the fourteen (14) calendar day period, or twenty-eight (28) calendar day period, as above; provided, that the Administrator may grant an extension of time if needed. Additionally, in the event that the State agency or agencies involved communicate verbally or in writing intention to waive the opportunity to submit comments, the corresponding State agency comment period shall terminate and be so noted in the case file.

[END]