STATE OF WASHINGTON  
COUNTY OF JEFFERSON  

IN THE MATTER OF REVISIONS AND ADDITIONS TO THE COUNTY’S UNIFIED DEVELOPMENT CODE RELATING TO THE SITING AND APPROVAL OF MAJOR INDUSTRIAL DEVELOPMENTS  

ORDINANCE NO. 02-0311-02  

WHEREAS, the Board of Jefferson County Commissioners (“the BoCC”) has, pursuant to the Growth Management Act, as codified at Chapter 36.70A RCW, adopted development regulations known as the Unified Development Code or “UDC,”  

WHEREAS, the BoCC has determined that Jefferson County should lay the groundwork for certain possible future events, particularly the siting of a Major Industrial Development, as that term of art is defined in the Growth Management Act;  

WHEREAS, the County of Jefferson has worked closely with the City of Port Townsend with respect to generating a process and rules for the possible future siting of a Major Industrial Development at a location in the unincorporated portions of the County; and  

WHEREAS, the text amendments to the UDC made part of this Ordinance have undergone the proper process and substantive review [described in more detail below] and are thus compliant with the Growth Management Act;  

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 that the BoCC makes the following Findings of Facts with respect to these amendments to the text of the UDC:  

1. This matter was formally brought before the Planning Commission on August 1, 2001, as a BoCC of County Commissioners-initiated Unified Development Code (UDC) text amendment pursuant to RCW 36.70.640.  

2. These UDC amendments were also known as application number MLA01-00413.  

3. The BoCC-initiated amendment was jointly developed by staff of the Jefferson County Department of Community Development and the City of Port Townsend Building and Community Development Department with input from the Joint Growth Management Steering Committee (JGMSC), which is composed of elected officials from Jefferson County, the City of Port Townsend, and the Port of Port Townsend.  

4. This cooperation between the City of Port Townsend, the only extant urban growth area or UGA in Jefferson County at the present time, and the County arises, in part, from Countywide Planning Policy #3, paragraph 5, which states that “[i]ncorporated UGA’s will coordinate with the County to assure joint review for addressing those development activities of a regional nature, such as .... ... or large industrial complex.” This dovetails with the consultation requirements laid out in RCW 36.70A.365.
5. The JGMSC discussed the proposed amendments to the UDC at public meetings on the following dates: November 28, 2000; April 12, July 12, August 30, October 4, and November 29, 2001; and February 6, 2002. Each of these meetings included a public comment period.

6. The purpose and intent of the text amendments relating to Major Industrial Developments is to establish a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas pursuant to RCW 36.70A.365 and the Jefferson County Comprehensive Plan (policy EDP 6.1).

7. That Comprehensive Plan policy states that Major Industrial Developments in Jefferson County shall be Conditional Uses.

8. The applicable state statute, codified at RCW 36.70A.365, states that final approval of Major Industrial Developments shall be considered an amendment to the Comprehensive Plan Land Use Map designating the area as an Urban Growth Area.

9. The specific permit process and proposal review guidelines for any proposed Major Industrial Development will be guided and controlled by numerous other provisions of the UDC.

10. The purpose and intent of the text amendments relating to Development Agreements is to amend Section 8.11 of the UDC, which establishes the mechanism under which Jefferson County may enter into Development Agreements as authorized by RCW 36.70.B.170.

11. Among other items, Section 8.11 of the UDC reiterates that Development Agreements are a mandatory element of any Major Industrial Development proposal.

12. County planning staff initially presented the proposed Code amendments to the Planning Commission at the August 1, 2001 meeting.

13. The Planning Commission held a duly noticed public hearing on August 15, 2001. The Executive Director of the Economic Development Council of Jefferson County and other business leaders in the community were invited to testify and did so.

14. In a letter dated and sent September 7, 2001, staff notified the Washington State Office of Community Development (ODC), as required by WAC 365-195-620, of the intent to amend the UDC. Staff also notified other State agencies on September 14, 2001 per the list provided by OCD.

15. The Planning Commission deliberated on this issue at their regularly scheduled meetings on September 5 and September 19, 2001.

16. A vote to recommend a text amendment was postponed at the conclusion of the September 5 meeting in order for staff of the Department of Community Development to research and develop definitions of terms proposed for inclusion in the text amendment related to appraisal of property.

17. In preparation for the September 19 meeting, staff presented the Planning Commission with a preliminary staff recommendation that included topics beyond the appraisal of property. These topics were debated at the September 19 meeting. During the meeting, a member of the Planning Commission introduced a written summary of additional topics and recommendations for discussion at the September 19 meeting. The Planning Commission took no action on these recommendations. No specific motions were introduced relative to them. Some of the topics had been raised and debated previously. A motion to continue the discussion at a subsequent meeting was rejected.

18. The Planning Commission voted to recommend a proposed set of UDC amendments to the BoCC of County Commissioners ("BoCC") on October 17, 2001.
19. The Planning Commission transmitted its recommendation to the BoCC together with a set of Findings and Conclusions and a minority report on November 7, 2001 in preparation for the BoCC's regular agenda on November 13, 2001.

20. The BoCC decided at its November 13, 2001 regular agenda meeting to schedule a public hearing for after the JGMSC meeting scheduled for November 29, 2001.

21. On November 13, 2001, the Responsible Official for review under the State Environmental Policy Act (SEPA), Director of Community Development Al Scalf, issued a Determination of Significance and Notice of Adoption of Existing Environmental Documents for this proposal per WAC 197-11-360, 600, 630 and 965. The SEPA threshold determination was published in the newspaper of record and distributed to State agencies and other interested parties.

22. At the November 29, 2001 JGMSC meeting, City of Port Townsend City Manager David Timmons presented a list of City Council concerns related to the proposed UDC amendments and associated draft Interlocal Agreement between Jefferson County and the City of Port Townsend regarding the processing of applications for industrial development.

23. The BoCC held a duly noticed public hearing on the proposed UDC amendments related to Major Industrial Developments on December 11, 2001.

24. OCD, in a letter dated December 11, 2001, provided comments to the BoCC on the proposed UDC amendments. The BoCC discussed the OCD comments after the December 11, 2001 public hearing and made policy decisions based in part on the nature of the OCD comments. In particular, the BoCC directed staff to simplify and clarify the permit process such that “final approval,” as referenced in the relevant RCW, would not require a Comprehensive Plan amendment process as outlined in UDC Section 9.

25. Certain comments that OCD made in its December 11, 2001 letter regarding the interplay of Development Agreements and Major Industrial Developments have been adopted into the UDC language that is being adopted through this Ordinance, particularly the request of OCD that the amendments to the UDC make clear that the County should not finalize any Development Agreement until such time as the full project review has occurred, i.e., after the Hearing Examiner has granted the M.I.D. applicant his/her or its Conditional Use Permit.

26. In a similar vein, the amendatory language being adopted here makes it clear, as was suggested by OCD, that that final approval of any proposed Major Industrial Development occurs only when the Hearing Examiner has granted the Conditional Use Permit AND the BoCC, acting in its legislative capacity, have approved the parallel Development Agreement.

27. In a similar vein, the County has enacted what amounts to a limit on the number of Major Industrial Developments that it can approve and site, since all of the language adopted here through this Ordinance must be reauthorized by the BoCC when five M.I.D’s are approved or five years have transpired. Such a limit on the number of M.I.D’s was specifically suggested by OCD in its December 2001 letter.

28. The BoCC directed staff after the December 11, 2001 public hearing to address five specific points and submit another version of the proposed UDC amendments for the BoCC’s consideration.

29. The County’s planning staff, also known as DCD, submitted the revised version on January 16, 2002 in preparation for the BoCC’s regular agenda on January 22, 2002.
30. The BoCC discussed the proposed ordinance at its January 22, 2002 regular agenda meeting and agreed during that regular meeting to a City of Port Townsend request, as expressed in a January 18, 2002 letter to Commissioner Dan Titterness from City Council Member Joe Finnie, to delay any dispositive action until after the February 6, 2002 meeting of the JGMSC and a second public hearing on the topic before the BoCC.

31. On January 31, 2002, the City of Port Townsend submitted a draft set of comments regarding the proposed UDC amendments and a draft Interlocal Agreement to the BoCC for consideration prior to the February 6, 2002 JGMSC meeting. The City comments were later finalized in a communication sent to the County just prior to the JGMSC meeting on February 6.

32. On February 6, 2002, members of the JGMSC discussed the proposed UDC amendments and the Interlocal Agreement concerning the siting of Major Industrial Developments. Agreements in principal among the elected officials were reached on at least ten issues.

33. In a letter to the BoCC dated February 13, 2002, City of Port Townsend Mayor Kees Kolf summarized the results of the inter-governmental negotiations at the February 6, 2002 JGMSC meeting and submitted a revised version of the Interlocal Agreement.

34. County and City administration continued to negotiate final details of the Interlocal Agreement and address City comments on the proposed UDC amendments. The BoCC directed staff at its February 19, 2002 regular agenda to create another draft of the proposed UDC amendments that addressed concerns of the City and members of the public.

35. Staff submitted a revised version of the proposed UDC amendments to the BoCC on February 25, 2002 in preparation for a public hearing before the BoCC on that same day.

36. On February 25, 2002, the BoCC held a second duly noticed public hearing on the proposed UDC amendments authorizing a permitting process for Major Industrial Developments.

37. Three members of the public spoke at the February 25th hearing, all of whom were not opposed to the enactment of this Ordinance but instead proposed possible “tweaking” to the language of the UDC text amendments.

38. After deliberation and directing changes to the proposed UDC amendments to address a set of City of Port Townsend concerns as expressed in a letter to the BoCC dated February 25, 2002 from City Attorney John Watts, the BoCC voted three in favor and none opposed to adopting the subject UDC amendments.

39. On February 25, 2002, the BoCC, after directing staff to make minor changes to the document, voted three in favor and none opposed to adopt the Interlocal Agreement with the City of Port Townsend regarding the review of applications for industrial development.

40. The Interlocal Agreement was immediately executed (in multiple copies) by BoCC Chair Richard Wojt and forwarded to the Clerk for the Port Townsend City Council. The City Council of the City of Port Townsend authorized their City Manager to execute the Interlocal on behalf of the City at a public meeting of the City Council on March 4, 2002.

41. The Interlocal Agreement reflects a high level of cooperation at all ranks between this County and the City of Port Townsend and that universal cooperation should be lauded.
42. As a result of negotiation between the County and City elected officials, a “bright line” of 40 acres was selected for an industrial development proposal to be processed as a Major Industrial Development outside of an urban growth area in Jefferson County.

43. Therefore, pursuant to UDC §3.8.3(a), any proposal must immediately require for operation 40 or more acres, including acreage for required buffers, before it can be considered a proper applicant for a Major Industrial Development site in the unincorporated portions of Jefferson County.

44. Many, if not all, of the concerns expressed by the City of Port Townsend and citizens with respect to earlier drafts of the UDC amendments have been addressed or considered by the BoCC prior to the adoption of these amendments to the UDC.

45. By way of example, certain topics, including cost-benefit and cumulative impacts analysis and assurance devices such as bonds, are addressed by the language of the existing Conditional Use Permit criteria listed in UDC §8.8.5 [i.e., (10) The conditional use has merit and value for the community as a whole, and (12) The public interest suffers no substantial detrimental effect. Consideration shall be given to the cumulative effect of similar actions in the area.] and 8.8.12 (Assurance Device).

46. In order to guide the Hearing Examiner when he or she considers the criteria listed in the prior Finding with respect to an application for a Major Industrial Development, subsection 3.8.3(b)(i) and (ii) of the UDC were added per direction from the BoCC. The phrase “merit and value for the community as a whole” now will involve consideration for the number of jobs created.

47. The requirement now is that the number of jobs per net acre of development that will be created by any proposed Major Industrial Development shall be typical for the type of industry proposed. The phrases “negative effects” and “cumulative effects of similar actions in the area” involve consideration for the number and relative locations of Major Industrial Developments permitted in Jefferson County and their subsequent or anticipated impacts.

48. In order to address comments regarding the cumulative impact of multiple Major Industrial Developments in Jefferson County over time, subsection 3.8.8 was added per direction from the BoCC. UDC § 3.8 states that the UDC provisions which govern the review and siting of the Major Industrial Developments must be re-authorized upon the earlier occurrence of one of two events, either the approval of five (5) Major Industrial Developments or the passage of five years from the date of adoption, whichever occurs first.

49. Pursuant to Unified Development Code Section 9.9.3, the BoCC, as the Planning Commission previously has done, enters the following findings related to the applicable criteria contained at UDC § 9.8.1(b):

(1) The circumstances related to the proposed amendment have not substantially changed. This proposal is consistent with the Comprehensive Plan and requires no amendment to the Comprehensive Plan.

(2) The assumptions upon which the Comprehensive Plan was based continue to be valid. This proposal is consistent with the Comprehensive Plan and requires no amendment to the Comprehensive Plan.

(3) Based upon public testimony the proposed amendment appears to reflect current widely held values of the residents of Jefferson County.
50. Creation of a process for the siting of Major Industrial Developments provides another potential economic engine for making the economy of Jefferson County more vibrant and more resistant to national economic downturns.

51. The elected officials from the Port of Port Townsend (a distinct municipal corporation) and the City of Port Townsend are ‘on board’ and approve of the adoption of this Ordinance precisely because it creates another opportunity for economic growth in this County.

52. These UDC text amendments have been the subject of sufficient and detailed comment and analysis by the citizens of this County and thus adoption of these amendments pursuant to the GMA has been the subject of “early and continuous” public participation, as that statute requires.

53. These UDC text amendments have been the subject of peer review by the County’s Planning Commission as is required by the GMA and the Planning Enabling Act of 1963.

54. These UDC text amendments have been the subject of a SEPA-driven review.

55. The County’s UDC, including these text amendments, is and will be compliant with all aspects of the GMA.

56. Adoption of these text amendments to the UDC promotes the health, welfare and general well-being of the citizens of Jefferson County and is enacted by the BoCC, acting as the County Legislature, pursuant to the privileges granted to them by the GMA and the general “police power” granted to legislatures.

Section 1: Language of the revisions and additions to the UDC:

The attached Exhibit “A” are hereby adopted and reflect the precise revisions and additions to the text of the UDC that is being included in the UDC by the adoption of this Ordinance.’

Section 2: Severability:

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

Section 3: Effective Date:

This Ordinance becomes effective upon adoption by the Board of County Commissioners.
Section 4: Automatic Expiration unless reauthorized:

This Ordinance, pursuant to UDC Section 3.8.8, which is enacted as part of this Ordinance, automatically expires and becomes null and void upon the occurrence of certain events described in that UDC Section unless before those events occur the Jefferson County Board of County Commissioners reauthorize and readopt this Ordinance (or a similar Ordinance) by a majority vote.

Approved and adopted this 11th day of March, 2002.

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

Richard Wojt, Chair

(Excused Absence)

Glen Huntingford, Member

Dan Titterness, Member

Lorna Delaney, CMC
Clerk of the Board

APPROVED AS TO FORM:

Jefferson County Prosecuting Attorney

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