

STATE OF WASHINGTON
JEFFERSON COUNTY

An Ordinance Establishing a Moratorium }
on Commercial Shooting Facilities in } ORDINANCE NO. 05-1218-17
Unincorporated Areas of Jefferson County }

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, RCW 9.41.290 provides that the State of Washington fully occupies and preempts the entire field of firearms regulations within its boundaries, and counties may only enact ordinances as expressly authorized by RCW 9.41.300; and,

WHEREAS, RCW 9.41.300(2)(a) provides an exception to RCW 9.41.290 under which a county may, by ordinance, restrict the discharge of firearms in any portion of its jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized so long as such ordinance shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and,

WHEREAS, local governments have considerable latitude in exercising police powers and 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;¹ and,

WHEREAS, due to the amount of land in Jefferson County owned by the federal and state governments, areas of protected shorelines, and limited water and septic capacity in other areas of Jefferson County, there are limited areas where residents can live; and,

WHEREAS, Jefferson County has experienced a substantial increase in population density in areas proximate to its existing commercial shooting facilities and the County has an interest in ensuring the compatibility of commercial shooting facilities with their surroundings and in minimizing potential safety hazards created by the operation of commercial shooting facilities; and,

WHEREAS, bullets striking a residence on November 22, 2017 near the shooting range located at 112 Gun Club Rd., Port Townsend, WA 98368 on land owned by Jefferson County but operated by Jefferson County Sportsmen's Association called to question the safety of commercial shooting facilities, even though it was ultimately determined the damage was likely not caused by the shooting facility operated by Jefferson County Sportsmen's Association; and,

¹ *City of Seattle v. Montana*, 129 Wash.2d 583,591-92 (1996).

WHEREAS, public complaints about lack of safety and land use compatibility issues arising from the operation of commercial shooting facilities in unincorporated Jefferson County have called on the scarce resources of Jefferson County's emergency management system and the Sheriff's Office, which has the effect of diminishing the availability of these resources for emergency services; and,

WHEREAS, Jefferson County has rural areas where commercial shooting facilities may be appropriate, but where emergency services are scarce and adopting a commercial shooting ordinance would promote public safety and preserve precious emergency services; and,

WHEREAS, commercial shooting facilities benefit Jefferson County by providing its residents and law enforcement the opportunity to learn firearm safety, to practice shooting, and to participate in amateur recreational firearm sports in a safe, controlled setting; and,

WHEREAS, the Jefferson County Board of Commissioners (BoCC) finds it is in the public interest to protect and preserve the continued viability of commercial shooting facilities in Jefferson County in the face of increasing population pressure and density of conflicting land uses; and,

WHEREAS, Jefferson County's neighbor, Kitsap County has passed a commercial shooting facility ordinance that withstood legal challenge; and,

WHEREAS, the BoCC finds that uniform requirements for the establishment and operation of all commercial shooting facilities in unincorporated Jefferson County would provide assurance of the safe conduct of recreational and educational shooting activities in Jefferson County, provided the regulation: (1) provides for and promotes safety by establishing a permitting procedure and rules for the siting, design and operation of commercial shooting range facilities that safeguards participants, spectators, neighboring properties and the public; (2) does not prohibit or expressly regulate the discharge of firearms; (3) involves measures designed to make the discharge of firearms safe; (4) protects the environment; (5) ensures compatibility with neighboring land use; and, (6) promotes the continued availability of shooting facilities for firearm education, practice in the safe use of firearms, and recreational firearm sports; and,

WHEREAS, the BoCC finds that resident and property owner input and careful analysis of the uniform requirements for commercial shooting facilities should be obtained before legislation imposing uniform requirements on commercial shooting facilities can be adopted by the BoCC; and,

WHEREAS, this moratorium is authorized by RCW 36.70.795, RCW 36.70A.390 and Article 11, § 11 of the Washington State Constitution, for up to one year, as long as a work plan for Jefferson County's planning agency is made part of this Ordinance;

NOW, THEREFORE, be it ordained by the BoCC as follows:

Section 1. Moratorium. There shall be in unincorporated Jefferson County a moratorium with respect to:

The submission, acceptance, processing or approval of any Jefferson County permit applications for any proposed use, development, proposal or project for the siting, construction or modification of any commercial shooting facility, during the period of development of an ordinance for the permitting, development and operation of commercial shooting facilities that: (1) provides for and promotes safety by establishing a permitting procedure and rules for the siting, design and operation of commercial shooting range facilities that safeguards participants, spectators, neighboring properties and the public; (2) does not prohibit or expressly regulate the discharge of firearms; (3) involves measures designed to make the discharge of firearms safe; (4) protects the environment; (5) ensures compatibility with neighboring land use; and, (6) promotes the continued availability of shooting facilities for firearm education, practice in the safe use of firearms, and recreational firearm sports.

Section 2. Definitions. As used in this Ordinance, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

- 2.1 “Commercial shooting facility” means a commercial facility having one or more shooting ranges that for use of the facility require a contract, charge a fee, or require membership.
- 2.2 “Firearm” means any weapon or device by whatever name known which will or is designed to expel a projectile by the action of an explosion. The term “firearm” shall include but not be limited to rifles, semi-automatic weapons, automatic weapons, pistols, revolvers, and shotguns. The term “firearm” shall not include devices, including but not limited to “nail guns,” which are used as tools in the construction or building industries and which would otherwise fall within this definition.
- 2.3 “Shooting range” means a place designed and used for weapons training or the safe discharge of firearms for individuals wishing to practice, improve upon, or compete as to their shooting skills. There may be one or more ranges located at a shooting facility.

Section 3. Effect of Moratorium. This moratorium neither impacts any permit applications relating to acceptance, processing, or approval of any Jefferson County permit applications for any proposed use, development, proposal or project for the siting, construction or modification of any commercial shooting facility that have previously been deemed “substantially complete” by Jefferson County, nor alters, amends, repeals or revises any other applicable statute, regulation, or code provision applicable to such substantially complete applications.

Section 4. Duration. Unless subsequently extended by the BoCC pursuant to state law, this moratorium adopted by this Ordinance is effective immediately upon adoption and shall remain in effect not longer than one year, consistent with the work plan detailed in Section 6.

Section 5. Public Hearing. Pursuant to state law, a public hearing regarding this moratorium will be held by the County Commission no later than sixty days after adoption.

Section 6. Work Plan. The following work plan is adopted:

- 6.1 The BoCC shall receive public comments on this Ordinance, starting January 15, 2018 and through the date of the public hearing required by Section 5.
- 6.2 The BoCC shall hold the public hearing on this Ordinance required by Section 5 no later than sixty days after its adoption, namely on or before February 16, 2017.
- 6.3 On or before January 15, 2018, the County will issue a request for proposals (RFP) to retain the professional services of a consultant with in the ability to provide information on the siting, engineering, design, construction and operation of both indoor and outdoor shooting facilities that: (1) provide for and promote safety for participants, spectators, neighboring properties and the public, (2) protect the environment; (3) ensure compatibility with neighboring land use; and, (4) ensure the continued availability of shooting facilities in areas of population growth. The consultant's experience must include experience with ballistic safety ceilings, baffling, ballistic walls, bullet traps, live fire shoot houses, towers, and training facilities.
- 6.4 On or before sixty days after the issuance of the RFP required by Section 6.3, the BoCC shall approve a contract for the consultant.
- 6.5 The BoCC shall establish a Review Committee to advise the County as the County develops a draft ordinance. The Review Committee shall consist of: (a) the director of the department of community development or the director's designee (chair); (b) Jefferson County Sheriff or the Sheriff's designee; (c) Jefferson County Director of Environmental Health or the director's designee; (c) a representative of each current commercial shooting facility in unincorporated Jefferson County; (d) a resident or property owner from each of the three districts of Jefferson County; (e) one representative of tribal interests, if interested; and (f) one at large Jefferson County resident or property owner appointed by the BoCC. The consultant hired pursuant to Section 6.3 and the Jefferson County Prosecuting Attorney (or designee) shall be ex officio members of the Review Committee, but shall not be required to attend every meeting of the Review Committee. All Review Committee meetings shall be subject to the requirements of the Open Public Meetings Act, Chapter 42.30 RCW.
- 6.6 The Review Committee shall: (a) study the safety, environmental and land use impacts of commercial shooting facilities and reasonable measures to address those impacts, including among other measures whether there should be an amendment to the No Shooting Areas Ordinance, Chapter 8.50 JCC to allow indoor commercial shooting facilities in No Shooting Areas; and, (b) shall provide input to the County as the County generates and recommends a draft ordinance. The draft shooting facility ordinance for existing and new commercial shooting facilities within unincorporated Jefferson County shall be forwarded to the Planning Commission if within its jurisdiction, or to the Board of County Commissioners within 120 days of the Review Committee's establishment.
- 6.7 If referred to the Planning Commission, it shall conduct a hearing on the proposed ordinance provided by the Review Committee within 30 days of receipt.

- 6.8 Planning Commission shall provide a final recommendation to the BoCC within 30 days the hearing required by Section 6.7.
- 6.9 A BoCC informational session on staff recommendations shall be held within 30 days of submission of the recommended regulations.
- 6.10 A BoCC hearing for the adoption of a final ordinance shall be held within 30 days of the informational session required by Section 6.9, which shall be within one year of the adoption of this Ordinance.

Section 7. Findings. The BoCC hereby adopts the above recitals (the "WHEREAS" statements) as its findings of fact in support of this Ordinance.

Section 8. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, then the remainder of this Ordinance or application of its provisions to other persons or circumstances shall remain valid and unaffected.

ADOPTED this 18th day of December 2017, at 3:48 p.m.



JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

Kathleen Kler
Kathleen Kler, Chair

David Sullivan
David Sullivan, Member

Kate Dean
Kate Dean, Member

APPROVED AS TO FORM:

P. C. Hunsucker 12/18/17
Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

Carolyn Gallaway
Carolyn Gallaway,
Deputy Clerk of the Board