

**Pend Oreille County  
Washington**

Ordinance No. 2018-01

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**AN ORDINANCE OF THE BOARD OF COUNTY  
COMMISSIONERS OF PEND OREILLE COUNTY,  
WASHINGTON ADOPTING AMENDMENTS TO THE  
COUNTY'S DEVELOPMENT REGULATIONS.**

WHEREAS, the Pend Oreille Board of County Commissioners adopted a Comprehensive Plan recommended by the County Planning Commission on October 17, 2005; and

WHEREAS, the County Comprehensive Plan was prepared and has been implemented in accordance with the provisions of the Washington State Growth Management Act; and

WHEREAS, the Comprehensive Plan that was prepared is truly a community based document that will serve to guide the allocation of limited County resources and day to day decision making over the next twenty years; and

WHEREAS, in order to implement the Comprehensive Plan, the Board of County Commissioners adopted, based on a recommendation from the County Planning Commission, Interim Development Regulations effective December 12, 2006; and

WHEREAS, the Board of County Commissioners adopted permanent Development Regulations on August 27, 2007 (the "Development Regulations"); and

WHEREAS, sound planning principals and the provisions of the Washington State Growth Management Act require that the County periodically review and update the County's Development Regulations; and

WHEREAS, the Board of County Commissioners adopted Ordinance December 22, 2015, adding Chapter XX.96 to the County Code allowing for the establishment of the Hearing Examiner system; and

WHEREAS, in November of 2017 the Planning Commission at the direction of the Board of County Commissioners initiated a public process to review and further update the County's Development Regulations, including, but not limited to, ensuring that land use applications are

processed in a manner that balances the efficient processing of applications and allows for adequate public input; and

WHEREAS, through this public process the Planning Commission, the County-contracted Land Use Consultant, Staff, and Legal Land Use Consultant prepared recommended amendments to the County's Development Regulations reflecting revised Processing Procedures set forth under Chapter XX.14; and

WHEREAS, the Pend Oreille County Planning Commission conducted a series of public meetings on the proposed amendments to the Development Regulations; and

WHEREAS, the Planning Commission provided numerous opportunities for public review and comment on the proposed amendments; and

WHEREAS, the County has completed an integrated SEPA/GMA review of the proposed amendments; and

WHEREAS, the County issued a Determination of Nonsignificance on February 22, 2018, and there was no appeal of the threshold determination; and

WHEREAS, the Planning Commission voted at its March 20, 2018 meeting to recommend amendments to Chapter XX.14 of the Development Regulations; and

WHEREAS, the Board of County Commissioners conducted a public hearing on April 30, 2018; and concluded it on June 12, 2018; and

WHEREAS, the Board of County Commissioners believe it is in the best interest of the County to revise the notification requirements for certain ministerial permits and to authorize a hearing examiner to conduct appeals on certain permits and to conduct the public hearings on quasi-judicial permit applications; and

WHEREAS, the Board of County Commissioners have considered the recorded developed by the Planning Commission, the input of County staff, and the input of the public.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF PEND OREILLE COUNTY WASHINGTON, DO ORDAIN AS FOLLOWS:

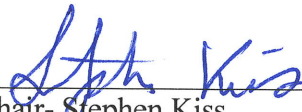
Section 1. Amended Development Regulations Adopted. The County hereby adopts the amended and restated Chapter XX.14 of the Development Regulations, in the form as evidenced in the attached as Exhibit "A" and by this reference fully incorporated herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law


or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall become effective upon signature.

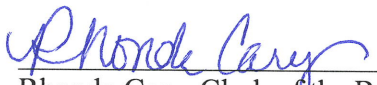
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING THEREOF ON THE 12<sup>th</sup> OF June, 2018.

  
Chair- Stephen Kiss

  
Vice-Chair – Mike Manus

  
Commissioner – Karen Skoog

ATTEST/AUTHENTICATED:

  
Rhonda Cary, Clerk of the Board

Approved as to form:

  
Dolly Hunt, Pend Oreille County Prosecuting Attorney

## **CHAPTER XX.14 PROCESSING PROCEDURES**

### **Sections:**

- xx.14.010 Purpose.**
- xx.14.020 Project Review Classifications.**
- xx.14.030 Procedures for Class 1 Review.**
- xx.14.040 Procedures for Class 2 Review.**
- xx.14.050 Procedures for Class 3 Review.**
- xx.14.060 Procedures for Class 4 Review.**
- xx.14.070 Consolidated Permit Processing.**
- xx.14.080 Completeness Review.**
- xx.14.090 Notice of Application.**
- xx.14.100 Preliminary SEPA Determination.**
- xx.14.110 SEPA Threshold Determination.**
- xx.14.120 Notice of Public Hearing.**
- xx.14.130 Determination of Consistency.**
- xx.14.140 Notice of Decision.**
- xx.14.150 Appeals.**
- xx.14.160 Reapplications.**

**xx.14.010 Purpose.** The purpose of this Chapter is to provide for effective and efficient administrative review of land use and development applications with consistent procedures for similar projects, and to combine procedural and substantive environmental reviews with the review of project permit applications under other applicable requirements. This Chapter is intended to provide a framework within which the consistency of project permit applications with the Comprehensive Plan and Development Regulations shall be determined.

A. The following is a brief summary of key land use decision-making roles:

1. The Board of County Commissioners is the legislative body of the County and is the only body which can adopt or amend an ordinance. The Board shall make the final decisions on Class 3 and Class 4 applications. The Board shall also make appointments to the Planning Commission, designate a County Community Development Director, and appoints a County Hearing Examiner(s);
2. The County Planning Commission is the planning advisory body to the Board of County Commissioners and shall have the authority to make recommendations to the Board of County Commissioners on certain Class 4 applications and on long range planning matters, and shall perform other duties as assigned by the Board of County Commissioners;
3. The Community Development Director shall have the authority to make decisions on Class 1 applications. It shall be the duty of the Community



Development Director and his or her designee(s) to administer the provisions of this Title and to coordinate the implementation of all planning requirements and activities in the County, and to interpret the provisions of this Code. The Community Development Director and all authorized County representatives are hereby empowered to cause any structure or tract of land to be inspected and examined, and to order, in writing, the remedying of any condition found to exist in violation of any provision of Pend Oreille County Code or ordinances;

4. The County Prosecuting Attorney shall advise the Board of County Commissioners, Planning Commission, and County Staff regarding the legal interpretations, applications, and the enforcement of this Title; and
5. The County Hearing Examiner shall be responsible for making decisions on certain Class 2 applications, and performing other duties as assigned by the Board of County Commissioners.

**xx.14.20 Project Review Classifications.** Four classes of review are established for the purposes of administering this Title. These four classes, their appropriate decision-maker, hearing body, appellate body, and the types of permits included in each class are contained in the following Table:

Class of Review	Types of Permit	Hearing Body	Decision Maker	Appellate Body
Class 1	<ul style="list-style-type: none"> <li>- Boundary Line Adjustment*</li> <li>- Building Permit*</li> <li>- Certificate of Occupancy*</li> <li>- Clearing and Grading Permit*</li> <li>- Code Enforcement Action*</li> <li>- Code Interpretation*</li> <li>- De Facto Segregation*</li> <li>- Flood Plain Development Permit*</li> <li>- Forest Practices Act Permit*</li> <li>- Large Lot Segregation/Aggregation*</li> <li>- Shoreline Authorizations*</li> <li>- SEPA Action</li> <li>- Short Plat / Final Short Plat (4 lots or less)</li> <li>- Special Use Permit*</li> <li>- Shoreline Substantial Development Permit</li> <li>- Shoreline Variance (2)</li> <li>- Vacation Rental Permit (Renewal)*</li> </ul>	None	Community Development Director	Hearing Examiner

Class 2	<ul style="list-style-type: none"> <li>- Conditional Use Permit</li> <li>- Master Planned Resort</li> <li>- Preliminary Binding Site Plan</li> <li>- Preliminary Plat Approval (5+ lots)</li> <li>- Reasonable Use Exception</li> <li>- Recreation/Tourism Facility</li> <li>- RV Park</li> <li>- RV Resort</li> <li>- Shoreline Conditional Use Permit (1)</li> <li>- Vacation Rental</li> <li>- Variance</li> </ul>	Hearing Examiner	Hearing Examiner	Superior Court
Class 3	<ul style="list-style-type: none"> <li>-Final Plat Approval (5 lots or more)</li> <li>-Final Binding Site Plan Approval</li> </ul>	None	Board of County Commissioners	Superior Court
Class 4	<ul style="list-style-type: none"> <li>- Comprehensive Plan Amendments</li> <li>- Development Agreements (3)</li> <li>- Development Regulation Revisions</li> <li>- Future Land Use Map Amendments</li> <li>- Shoreline Master Program Amendment (2)</li> <li>- Site Specific Rezones</li> </ul>	Planning Commission	Board of County Commissioners	Growth Management Hearings Board

**Footnotes:**

- (1) Shoreline conditional use permits and shoreline variances are subject to review and approval by the Department of Ecology and appeals are heard by the Shorelines Hearings Board.
- (2) Amendments to the Shoreline Master Program are subject to review and approval by the Department of Ecology and appeals are heard by the Growth Management Hearings Board.
- (3) Development agreements shall be reviewed and approved by the Board of County Commissioners in accordance with the Development Regulations and provisions of state law.

(\*) These items do not require public notice or advertising.

**xx.14.30 Procedures for Class 1 Review.** Class 1 permit applications involve administrative action by the Community Development Director without an open record public hearing. The Hearing Examiner shall conduct an open record public hearing for appeals of decisions on Class 1 permits unless otherwise noted in this Title.

A. Applications for Class 1 permits shall be processed by the County in accordance with the following general procedures unless the Applicant is notified in writing by the Community Development Director:

1. Completeness review and Determination of Completeness;
2. Issuance of a SEPA Threshold Determination, if required;

3. Distribution of Notice of Application, if required;
4. Review of written comments;
5. Determination of Consistency; and
6. Distribution of Notice of Decision.

**xx.14.40 Procedures for Class 2 Review.** Class 2 reviews require that an open record public hearing be conducted prior to making a decision.

A. Applications for Class 2 permits shall be processed by the County in accordance with the following general procedures, unless the Applicant is notified in writing by the Community Development Director:

1. Completeness review and Determination of Completeness;
2. Distribution of a Notice of Application;
3. Issuance of a SEPA Threshold Determination, if required;
4. Preparation of a staff report containing relevant information about the application and a Determination of Consistency. This report may also include a staff recommendation and shall be made available to the public before the open record public hearing conducted by the Hearing Examiner;
5. An open record public hearing shall be conducted by the Hearing Examiner, during which the Applicant shall be given the opportunity to present the proposed project and interested parties shall be allowed to make comments and submit written testimony; and
6. Hearing Examiner review and issuance of a Notice of Decision.

**xx.14.50 Procedures for Class 3 Review.** Class 3 reviews involve the final review and approval of applications by the Board of County Commissioners to verify that all conditions of preliminary approval have been met. As a result, all required public hearings have already been conducted and all required public notices have already been provided.

A. Applications subject to a Class 3 review shall be processed by the County in accordance with the following general procedures, unless the Applicant is notified in writing by the Community Development Director:

1. Preparation of a staff report identifying all conditions of approval, documenting that all conditions have been met, and identifying the steps that must be taken to finalize and record the proposed action.

2. Board of County Commissioner review and final action.

**xx.14.60 Procedures for Class 4 Review.** Decisions on all Class 4 permit applications shall be made by the Board of County Commissioners following an open record public hearing conducted by the Planning Commission.

A. It is the intent of the County to integrate the review of Class 4 permit applications with the annual Comprehensive Plan amendment and the periodic update processes prescribed in this Title, and as a result shall publish an annual schedule for submitting Class 4 permit applications, provided that applications for site specific rezones may be submitted at any time.

1. Docketing Process. Written requests from the public to amend the Comprehensive Plan, the Future Land Use Map, and/or the County Development Regulations together with all relevant supportive or explanatory material as determined to be applicable by staff in the application packet, shall be submitted to the Planning Department. The County shall establish a closing date for the acceptance of written requests, and such shall be advertised in accordance with the County's noticing requirements. All plan amendment requests shall be docketed for possible consideration for inclusion in the Comprehensive Plan. The docketed list of proposed amendments shall be presented to the Planning Commission within 60 days of the closing date. The Planning Commission shall make a recommendation to the Board of County Commissioners on whether or not to move forward on consideration of docketed amendments.
2. The Board of County Commissioners, after a recommendation from staff and the Planning Commission, can recommend that an amendment be processed in the current amendment cycle or that the amendment remain on the docket list for future consideration, or that the amendment be denied further consideration.

B. The Board of County Commissioners or County Departments, in consultation with the Board, may initiate amendments to the County Development Regulations at any time.

C. Applications for site specific amendments to the Pend Oreille County Future Land Use Map will include an amendment to the official zoning map of Pend Oreille County. Rezone requests that require an amendment to the Comprehensive Plan or the Future Land Use Map shall be processed during the annual comprehensive plan amendment process.

D. In general terms, applications for Class 4 permits accepted for processing shall be processed by the County in accordance with the following procedures, unless the Applicant is notified in writing by the Community Development Director:

1. Determination of Complete Application;

2. Distribution of a Notice of Application;
3. Issuance of a SEPA Threshold Determination, if required;
4. Preparation of a staff report and staff recommendation that shall be made available for public review prior to the open record public hearing;
5. An open record public hearing shall be conducted, during which the Applicant shall be given the opportunity to present the proposed amendment, and interested parties shall be allowed to make comments and submit written testimony;
6. Distribution of the proposed amendments to state agencies, as appropriate, for review and comment;
7. The recommendation of the Planning Commission along with a complete copy of the record shall be provided to the Board of County Commissioners for review prior to their decision (if applicable); and
8. Board of County Commissioner review and action.

**xx.14.070 Consolidated Permit Processing.** It is the goal of the County to consolidate the permit processing for projects or development activities that require two or more permits or approvals. The Community Development Director shall determine the appropriate means of consolidating the processing of all permits and shall assign the highest-class review classification of the individual permits being sought to the consolidated permit application (with Class 4 being the highest followed by Class 3, 2, and 1). This consolidation may include integrating public hearings, establishing unified comment periods, and/or concurrent reviews. The Community Development Director is authorized to make modifications to the procedural requirements of this Title in order to effectively consolidate project reviews.

**xx.14.80 Completeness Review.** All applications shall be submitted on such forms and in accordance with such procedures as may be prescribed by the County, provided that:

- A. All applications shall be signed by the property owner or show owner consent of the application by the agent acting on the owner's behalf;
- B. All applicable fees shall be submitted at the time of application unless otherwise specified;
- C. Prior to submitting any Class 2 applications, Applicants shall make an appointment for and attend a pre-application meeting with County Staff. The purpose of this meeting is to identify and discuss the proposed project or development activities, permit procedures, processing requirements, permit fees, schedules, and information that will be necessary for

project review. The Community Development Director may invite representatives from County departments and other affected agencies to attend;

D. A completed SEPA checklist shall be filed at the same time as an application for all permits, except when the County has determined the activity to be Categorically Exempt from the requirements of SEPA, when the County and Applicant agree that an EIS is required, the SEPA compliance for the proposed project has already been completed, or SEPA compliance has been initiated by another agency;

E. Within 28 days of submittal, the County shall conduct a review of all application materials to determine if the application is complete and ready for processing. The County shall then make a Determination of Completeness and shall provide the Applicant with written notification which states:

1. That the application is complete and ready for processing or that the application is incomplete and what is necessary to make the application complete;
2. To the extent known by the County, the identity of other permits required by the project application; and
3. To the extent known by the County, the identity of other agencies with jurisdiction over the application.

F. Nothing in this Title shall limit the Community Development Director from incorporating the Notice of Application and Determination of Completeness into one document.

G. The issuance of a Determination of Completeness shall not preclude the County from requesting additional information from the Applicant in order to complete the processing of an application.

H. If the County determines an application is not complete, or that additional information is necessary to complete the review of the application, and the Applicant fails to respond to the request from the County in the established time frames, the County shall notify the Applicant in writing that the application has lapsed and become void.

**xx.14.90 Notice of Application.** Following the issuance of a Determination of Completeness, the County shall issue a Notice of Application for all Class 1B, Class 2 and Class 4 project permit applications.

A. Notices of Application shall include:

1. A description of the proposed action;



2. Identification of the permits and approvals that may be required and opportunities for public review and comment; and
3. SEPA actions taken or Preliminary SEPA Threshold Determinations, if any.

**xx.14.100 Preliminary SEPA Determination.** A preliminary SEPA Threshold Determination or Preliminary SEPA action may be included with Notice of Application if such preliminary actions have been made at the time the Notice of Application is issued. A preliminary SEPA Threshold Determination, or preliminary SEPA action, does not substitute, or in any way circumvent, the process for making a final SEPA Threshold Determination or in taking a SEPA action. Preliminary SEPA determinations are intended to encourage early public comment on project applications.

**xx.14.110 SEPA Threshold Determinations.** A Threshold Determination is required for any proposal that is not categorically exempt within ninety days that an application has been deemed complete. All Threshold Determinations shall result in a Determination of Non-significance (DNS), or a Determination of Significance (DS), provided that the County may also issue a Mitigated Determination of Non-Significance (MDNS) based on conditions attached to the proposal, or on changes to, or clarifications of, the proposal made by the Applicant:

- A. After submission of an environmental checklist and prior to a Threshold Determination, the County shall notify the Applicant if it is considering issuing a DS. As a result, the Applicant may clarify or change features of the proposal to mitigate the impacts which make the DS likely. If a proposal continues to have a probable significant adverse environmental impact, even with the mitigating measures, an EIS shall be prepared.
- B. If a preliminary SEPA Threshold Determination was not made in conjunction with a Notice of Application, and no probable significant adverse impacts are anticipated, a Determination of Non-Significance shall be issued and a 15-day comment period may be required.
- C. If a pre-decision open record public hearing is required; the SEPA Threshold Determination must be issued at least 15 days before the hearing.
- D. Except for a Determination of Significance (DS), the County may not issue a decision on a project application until the expiration of the public comment period on the Notice of Application.
- E. If the County makes a SEPA Determination of Significance (DS) concurrently with the Notice of Application, the Notice of Application shall be combined with the Determination of Significance and Scoping Notice.
- F. Whenever the County makes a Threshold Determination, it shall seek to include the public notice for this SEPA action with the Notice of Application or Notice of Decision for any associated land use application(s) or permits, provided that:

1. If no public notice is required for the permit or approval, the County shall give notice of the DNS or DS by publishing a notice in the County's Newspaper of Record;

2 Whenever the County issues a DS, all public notices shall state the scoping procedure for the required EIS; and

3. Whenever the County issues a DEIS (Draft EIS), or SEIS (Supplemental EIS), notice of the availability of those documents shall be given by at least 2 of the following methods:

a. Indicating the availability of the DEIS or SEIS in any public notice required for an associated land use application or permit;

b. Posting the property, for site-specific proposals;

c. Publishing notice in the County's Newspaper of Record;

d. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

e. Notifying the news media; and/or

f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists.

G. Mitigation measures incorporated in the MDNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the County.

**xx.14.120 Determination of Consistency.** As part of all project and application reviews, the County shall determine if a proposed project or development activity is consistent with applicable County development regulations, and the Goals and Policies of the adopted Comprehensive Plan.

A. Nothing in this section shall limit the authority of the County in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

B. The County may determine that adopted comprehensive plans, sub-area plan elements of a comprehensive plan, development regulations, or other local, state or federal rules or laws provide adequate environmental analysis and mitigation of some or all specific probable adverse environmental impacts of a proposed action.

**xx.14.130 Notice of Decision.** A Notice of Decision shall be issued for all Class 2. A Notice of Decision may not be issued until the expiration of the comment period on the Notice of Application.

A. Notices of Decision shall include:

1. A description of the decision or actions taken;
2. Any mitigation or conditions of approval required under applicable development regulations or under SEPA;
3. If a SEPA threshold determination has not been issued previously, the Notice of Decision shall state this determination; and
4. A description of applicable appeal procedures.

**xx.14.140 Public Notice Requirements.** For permit applications that require public notice the following provisions shall apply:

A. These public notice requirements shall apply to the following unless otherwise specified:

1. Notices of Application;
2. Notices of Decisions;
3. Public Hearing Notices;
4. SEPA Threshold Determinations; and
5. Notices of Appeals.

B. All public notices will be mailed at least fifteen days prior to the date of any required public hearing and/or comment period to the:

1. Applicant;
2. To the owners of all parcels within 300 feet of the boundaries of the parcel in question and any adjacent parcels under the ownership or control of the Project Sponsor;
3. Agencies with jurisdiction;
4. Parties who have provided oral or written testimony on the permit and requested to be on the mailing list;

5. Parties who have submitted written requests to receive notice; and
  6. Parties of Record.
- C. Public notices shall be published in the general newspaper of record at least fifteen days prior to the date of any public hearing and/or any public comment periods.
  - D. Copies of public notices shall also be posted or available for review at the County Courthouse.
  - E. In addition, Notices of Applications shall be posted in a highly visible location(s) on the site of the proposed activities in accordance with procedures established by the Community Development Director.

**xx.14.150 Appeals.**

A. All appeals of interpretations or actions regarding Class 1 and Class 2 Reviews shall be filed in a format prescribed by the County along with the required fee, within 14 days of the date of the interpretation or action. If the deadline to file an appeal falls on a weekend or on a County Holiday, the deadline shall become the next business day. The County shall mail written notice to all parties of record to apprise them of all open and closed record public appeal hearings and shall place a public notice in the County's Newspaper of Record at least fourteen days before the open record appeal hearing.

1. The Notice of Appeal shall specify the claimed error(s) and issue(s) which the Hearing Examiner is asked to consider, and shall specifically state all grounds for such appeal. Issues or grounds of appeal which are not so identified need not be considered by the Hearing Examiner;

2. The Appellants and any Respondents to the Notice of Appeal shall have the opportunity to present oral and written arguments and evidence during open record appeal hearings. Oral argument shall be confined to the established record and to any alleged errors in the decision;

3. Following an appeal hearing, the Hearing Examiner may affirm, reverse or modify the decision of record. and shall adopt its own written findings and conclusions in support of its decision; and

4. The County may require an Applicant and/or the Appellant to reimburse the County for the cost of preparing materials to be used during open or closed record hearings including but not limited to the cost of copying, taping, and/or transcribing a certified record of the proceedings.

B. Requests to appeal Class 4 decisions, must be filed with the Eastern Washington Growth Management Hearings Board or in accordance with the laws of Washington State.

- C. Appeals of SEPA threshold Determinations or SEPA actions shall be combined with any appeals of associated applications or permits.
- D. Except for the appeal of a SEPA Determination of Significance, no more than one open public record hearing and no more than one closed record appeal may occur on a single permit application or master application.
- E. Pursuant to WAC 197-11-680, the appeals of the following shall not be consolidated with a hearing or appeal on the underlying application:
  - 1. An appeal of a determination of significance;
  - 2. An appeal of a procedural determination made by the County when the County is a project proponent, or is funding a project, and chooses to conduct its review under SEPA prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction.
  - 3. An appeal of a procedural determination made by an agency on a non-project action.

**xx.14.160 Reapplications.** Applications subject to a Class 2 or 4 review may not be resubmitted for at least 12 months from the date that the previous application for the same or a substantially similar project, as determined by the County, was denied or terminated.