Pend Oreille County
Washington

ORDINANCE NO. 2015-3

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PEND OREILLE COUNTY, WASHINGTON LOCALLY ADOPTING A LIMITED AMENDMENT TO THE PEND OREILLE COUNTY SHORELINE MASTER PROGRAM; ADOPTING AMENDMENTS TO THE COUNTY DEVELOPMENT REGULATIONS; ESTABLSHING EFFECTIVE DATES; AND PROVIDING FOR SEVERABILITY.

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 fully implement the Comprehensive Plan the County subsequently updated its Development Regulations in accordance with the provisions of the Growth Management Act; and

WHEREAS, in updating its Development Regulations the County recognized the need to update its regulations to protect environmentally sensitive areas also known as critical areas; and

WHEREAS, following the adoption of the updated Development Regulations the County initiated a process to update their Shoreline Master Program in accordance with the provisions of the Shoreline Management Act; and

WHEREAS, the County initiated the process to update their Shoreline Master Program in advance of the statutory mandate to do so; and

WHEREAS, as a small, rural county, with a depressed, natural resource based economy, the County could not have updated the Shoreline Master Program without financial support from the Washington State Department of Ecology: and

WHEREAS, a grant from the Department of Ecology enabled the County to establish a regional partnership to update the Shoreline Master Program that included the support and participation of the Kalispel Tribe, the Pend Oreille County PUD, the cities and towns, of Metaline, Metaline Falls, Ione, Newport, and Cusick, as well as numerous local, state, and federal resource agencies; and

WHEREAS, over a four-year period, utilizing a process featuring extensive opportunities for public involvement, the County Planning Commission prepared draft amendments to update the County Shoreline Master Program; and

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WHEREAS, on December 20, 2011 the Pend Oreille County Planning Commission forwarded to the Board of County Commissioners recommended revisions to the County Shoreline Master Program; and

WHEREAS, the County has also prepared a final draft of revisions to the County Development regulations necessary to implement the updated Shoreline Master Program in accordance with the provisions of State Law; and

WHEREAS, the County Commissioners adopted the Shoreline Master Program and implementing regulations on October 30th, 2012; and

WHEREAS, the Dept. of Ecology adopted the Shoreline Master Program on December 5th, 2013; and

WHEREAS, the Pend Oreille Public Utility District submitted a complete application for a limited amendment to the current County Shoreline Master Program on August 4th, 2014; and

WHEREAS, Pend Oreille County submitted the Limited Amendment application materials to the Washington State Dept. of Commerce on August 25th, 2014 for the coordinated 60 day agency review required by RCW 36.70A.106.

WHEREAS, Pend Oreille County Issued a Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) process on Dec. 5th, 2014; and

WHEREAS, the Pend Oreille County Planning Commission unanimously voted to recommend approval of the proposed limited amendment to the Shoreline Master Program; and

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

Section 1 Revised Table of Permitted Uses

Historical Building Adaptive Use-Shoreline Conditional Use Permit in all Shoreline Designations. Footnote (32) Buildings must be identified on the State Historic Registry

Section 2 New Policy in Shoreline Master Program

Buildings identified by the State of Washington as Historically Significant that are located within Shoreline jurisdiction shall accommodate an adaptive use that does not provide for a net loss of ecological function.

Section 3 Chapter XX.76 (Development Regulations) Non-Conforming Uses and Structures

Additional language: Structures identified on the State Historic Registry are legal non-conforming structures and can accommodate an adaptive use as appropriate.

Section 4 Implementing Regulations. The following regulations contained in Exhibit A are hereby adopted by the County and the County Director of Community Development is authorized to integrate such documents in substantially the same form into the County Development Regulations:

a. **XX.34 Shoreline Regulations;**
b. **XX.76 Non-Conforming Uses and Structures.**

Section 5 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 pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6 Effective Dates. The Revised Shoreline Master Program, the revised Shoreline Map, and the Shoreline Regulations, XX.34 shall go into effect fourteen days following approval by the Department of Ecology. The revised regulations governing Environmentally Sensitive Areas (XX.36), Definitions (XX.10), Non-Conforming Uses and Structures (XX. 76), and Violations and Enforcement (XX.92), shall be effective immediately upon approval of this ordinance in accordance with County rules and procedures.

Section 7 Current Documents Repealed. The current Pend Oreille County Shoreline Master Program, and implementing regulations, including XX.34 Shoreline Regulations, and XX.76 Non-Conforming Uses and Structures, are hereby repealed on the effective date of this Ordinance. The Director of Community Development is authorized to make such interpretations of this Ordinance and the County Development Regulations as may be necessary to provide for the implementation of the revised Shoreline Master Program.

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING THEREOF ON THE 4th OF May, 2015.

Chairperson Steve Kiss

Vice-Chair Mike Manus

Commissioner Karen Skoog

ATTEST/AUTHENTICATED:

Liz Braun, Clerk of the Board

Approved as to form:

Dolly Hunt, Pend Oreille County Prosecuting Attorney