

CHAPTER XX.26 ZONING CONTROLS

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xx.26.010 Purpose. The purpose of this Chapter is to establish zoning controls to guide ~~certain~~ land use decisions in accordance with the provisions of the Pend Oreille County Comprehensive Plan and to promote the general health, safety and welfare of County residents, maintain the rural character, customs and culture of the County, safeguard the public interest in the preservation and conservation of natural resources, and to preserve designated agricultural, timber, and mineral lands of long term commercial significance.

xx.26.020 Legal Lots. All legal lots may be developed in accordance with the provisions of this Title and the Goals and Policies of the Comprehensive Plan provided that:

- A. In the event there is a question regarding the legal status of a lot, the property owner of the lot(s) in question may request that the Community Development Director make an administrative decision on the status of the lot in consultation with the County Assessor and the County Prosecuting Attorney based on information provided by the property owner. This decision shall be a Class 1 decision and made in accordance with the procedural requirements of this Title.
- B. In the event that the strict and literal interpretation of this Title serves to deny a property owner all reasonable use of their property, the property owner may apply for a reasonable use exception and may request the minimal relief necessary to enable the reasonable use of their property.
- C. If a river, County road, public right-of-way, or railroad right-of way has bisected a legal lot, the Community Development Director may approve, in consultation with the County Assessor and County Prosecuting Attorney, a request from the property owner to assign separate parcel numbers to each parcel that was previously created by this de facto segregation. A de facto segregation may not result in creating a non-conforming parcel. This decision shall be a Class 1

decision and made in accordance with the procedural requirements of this Title.

xx.26.030 Establishment of Zoning Districts. The following zoning districts are established in accordance with the provisions of the *Pend Oreille County Comprehensive Plan*:

- A. Rural Residential-5. The residential density of this zoning district is 1 dwelling unit per 5 acres. This zoning district is comprised of parcels with slopes less than 15%, well served for access by State and County roads, or areas that are already developed or platted with lots five acres in size or smaller, located along U.S. highways, state routes, designated arterials, and County Major (07) and Minor (08) collectors (see list in Comprehensive Plan).
- B. Rural Residential-10. The residential density of this zoning district is 1 dwelling unit per 10 acres. This zoning district includes parcels with slopes over 15%, have access via State or County roads, or areas that can provide a transition to Agricultural or Forest Resource lands, frontage on maintained County roads with adequate access.
- ~~B.C.~~ Higher Rural Density – these parcels are generally located within more densely populated areas or adjacent to Urban Growth Areas. They are within the service boundaries of -existing water and or sewer districts, or have commitments to be served. Allowable densities are 1 unit per 5 acres with no services, 1 unit per 2.5 acres with either public water or public sewer services and a hard surface road, and 1 unit per acre with both public water and public sewer services and a hard surface road.
- ~~C.D.~~ Rural Residential-20. The residential density of this zoning district is 1 dwelling unit per 20 acres. Adequate access is required for parcels within this zone. These areas have steep topography, limited access via State and County roads, or areas that can provide a transition to Natural Resource lands.
- ~~D.E.~~ Rural-40. The residential density of this zoning district is 1 dwelling unit per 40 acres. This zoning district is beyond the existing all-weather county road system or private access network.
- E.F. Natural Resource Lands-20. The residential density of this zoning district is 1 dwelling unit per 20 acres. Parcels within this zone must have approved road access and designated as Timber, or Agricultural Lands, or currently in use as a mine.

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G. Natural Resource Lands-40. The residential density of this zoning district is 1 dwelling unit per 40 acres. Parcels within this zone have no road access and must be designated as Timber, or Agricultural Lands, or currently in use as a mine.

H. Industrial Lands – These lands are well suited for industrial uses due to their historic uses, proximity to transportation systems, or, are served (or can be served) by adequate utilities to support an industrial use.

I. Parks and Recreation – These parcels are under the ownership or management of Local, State, or Federal agencies and are used for recreational purposes.

F.J.Commercial – These lands are generally located in areas with higher populations, are well served by a major road network, and are served (or can be served) by adequate utilities for a commercial use.

~~G. Public Lands. The lands within this zone must be publicly owned and all proposed development activities and uses are subject to the provisions of this Title and the requirements of the responsible public agency(s).~~

~~H.K.~~ Tribal Lands. The lands within this zone that are located within the Reservation boundary are under the jurisdiction of the Kalispel Tribe and all proposed development activities and uses are subject to approval by the Kalispel Tribe. Lands outside of the Reservation that are owned by the Kalispel Tribe fall under the jurisdiction of the County regulations.

~~1. Please consult with the Kalispel Tribe to verify the location and boundaries of property under their jurisdiction.~~

xx.26.040 Permitted and Conditional Uses. Land uses shall be permitted in accordance with the Table of Permitted Uses, provided that:

A. Only those uses identified with a P (Permitted), or C (Permitted only through the issuance of a Conditional Use Permit), ~~or S (Permitted only through a Special Use Permit)~~ may be approved. Those uses identified with an X are not permitted in that zone.

1. The permissibility of uses not specifically listed in the Table of Permitted Uses, or any questions about the interpretation of this

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Table, shall be addressed through an administrative code interpretation utilizing the most recent edition of the *North American Industry Classification System (NAICS) Manual* as determined by the County, and the intent of each zoning district.

2. Uses not specifically identified as permissible (P, ~~or C, or S~~), or authorized through an administrative code interpretation, may not be approved.

xx.26.050 Development Standards. The following standards shall apply to all proposed developments and land use activities, unless otherwise specifically noted in this Title:

A. Clustering ~~of Dwellings~~. Approved dwelling units may be clustered on a lot or within a subdivision provided that:

1. The overall density of the development complies with the density of the zoning district in which the lot is located; and
2. The undeveloped portion of the lot is preserved in an open space tract, or similar means approved by the County, and/or a restriction is recorded on the face of the plat or on the Title of the lot that precludes further development or subdivision of the lot in excess of County standards.

B. Setbacks and Buffering.

1. All uses that may be permitted may only be approved based on a finding that adequate provisions have been made for setbacks and buffering from neighboring properties.
 - a. Agricultural buildings shall be set back from other buildings and property lines at least a distance equal to the structure's height above natural grade.
 - b. All development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, open range lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, open range lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development.
 - c. Impacts to neighboring properties shall be ~~avoided~~, minimized, ~~and mitigated~~, or avoided, including noise, light and glare, solid

waste handling, odors, traffic, operating hours, signs and similar sources of conflict.

- C. Parking. Commercial and industrial uses may be approved only based on a finding by the ~~Planning Commission~~appropriate hearing body that adequate provisions have been made for off-~~road-street~~ parking and safe access to public roads, with the number of points of access to arterial roads being ~~minimized~~limited to the requirements of the County Road Department or WSDOT.
- D. Water Access. All applications for development activities fronting, near, or proposing to access a river, lake, stream, or other body of water shall include, subject to County review and approval, a Water Access Management Plan. This plan shall be processed in accordance with the procedures for any associated permits, and shall include, but is not limited to:
1. Identification of the proposed water related uses;
 2. Proposed measures to stabilize the bank or shorelines and to preserve the natural environment;
 3. The location and type of proposed access;
 4. Proposed parking plans;
 5. Storm water management plans;
 6. Public health and safety facilities;
 7. Lighting, landscaping, and protective buffers;
 8. Proposed measures to comply with the requirements of this Title, the Comprehensive Plan, the Shoreline Master Program, and other applicable local, state, and federal permits and approvals; and
 9. Documentation that the proposed use will not exceed the natural capacity of the water body and that it will not adversely affect environmentally sensitive areas.
- E. Road Standards. At the time of project approval. ~~All~~ land use applications and development activities must conform with the current provisions of the *Pend Oreille County Road Regulations and Standards*, provided that:
1. The County Public Works Director shall be responsible for the administration of the *Road Regulations and Standards*;
 2. Whenever the requirements of the *Road Regulations and Standards* are at variance with the provisions of this Title, the more restrictive or those imposing the higher standard shall prevail; and

3. Any person may submit a written request to the Public Works Director for a formal interpretation of the provisions of the *Road Regulations or Standards*. The request shall reference the specific Titles, Chapters, or Sections in question and should include relevant background information and supporting documentation.

xx.26.060 Rural Overlay Zone.

A. The purpose of this zone is to identify rural areas that may be suitable for more intensive development and to establish standards to promote compatible land uses and economic development. Upon the completion of sub-area plans or other form of Zoning classification, some or all of the following areas may be designated as Limited Areas of More Intensive Rural Development, Rural Activity Centers, or similar zones in accordance with the provisions of the Laws of Washington State:

1. Highway 2 Corridor from the intersection with Highway 211 to the Newport UGA;
2. Highway 2 Corridor from the intersection with Highway 211 to the Spokane County line;
3. Sacheen Lake;
4. Diamond Lake;
5. Highway 211 Corridor from Deer Valley Road to Fertile Valley Road;
6. LeClerc Road Corridor from the Pend Oreille River Bridge at Usk south to the Idaho State line;
7. Highway 20 Corridor from the Cusick UGA south to the intersection with Highway 211;
8. Highway 20 Corridor from Outpost to Blueslide: and
9. Highway 20 and Highway 31 intersection (Tiger).

xx.26.070 Essential Public Facilities. The Washington State Growth Management Act directs that no comprehensive plan or development regulation may preclude the siting of essential public facilities. The location and permitting of essential public facilities shall be guided by the policies of the Pend Oreille County Comprehensive Plan and the provisions of this Title, provided that:

A. Essential public facilities may be permitted as a conditional use provided that:

1. The County may require that alternative sites be identified and evaluated;

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2. Essential public facilities requiring urban levels of service should be located in urban growth areas; and

3. Essential public facilities should not be located in or be incompatible with designated Natural Resource Lands.

B. The County may require an extensive public involvement process to ensure that the public and affected property owners are actively involved throughout the pre-application and application review.

C. The County may require a multi-jurisdictional review process if the facility serves a regional, Statewide, or national need.

D. All costs associated with the processing of the required permits and approvals of an essential public facility shall be paid by the Applicant.

E. An analysis of the facility's impact on County finances shall be undertaken. Mitigation of adverse financial impacts shall be required.

F. In addition to the general criteria for conditional uses, the following criteria shall be used to evaluate applications involving essential public facilities:

1. Whether there is a public need for the facility;
2. The impact of the facility on the surrounding uses and environment;
3. Whether the design of the facility or the operation of the facility can be conditioned, or the impacts otherwise mitigated, to make the facility compatible with the rural character of the county and the environment;
4. Whether a package of incentives can be developed that would make siting the facility within the community more acceptable;
5. Whether the factors that make the facility difficult to site can be modified to increase the range of available sites or to minimize impacts on affected areas and the environment;
6. The extent to which the proposed essential public facility is consistent with the County and local Comprehensive Plans; and
7. Essential public facilities shall comply with any applicable State siting and permitting requirements.