PEND OREILLE COUNTY
NEWPORT, WASHINGTON

ORDINANCE NO. 2017-2

AN ORDINANCE OF PEND OREILLE COUNTY GOVERNING FACILITIES ASSOCIATED WITH THE RETAIL SALES OF MARIJUANA IN UNINCORPORATED PEND OREILLE COUNTY; STATING THAT THE COUNTY WILL NOT PROCESS APPLICATIONS FOR MARIJUANA FACILITIES IN TOWNS THAT HAVE PROHIBITTED SUCH FACILITIES; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, Pend Oreille County has prepared and is implementing a comprehensive plan and development regulations in accordance with the provisions of the Washington State Growth Management Act; and

WHEREAS, the Growth Management Act authorizes the County to periodically review and amend its development regulations; and

WHEREAS, the Laws of Washington State have been amended to permit the retail sales of marijuana in state-licensed facilities subject to certain conditions; and

WHEREAS, the State of Washington has adopted regulations governing the retail sales of marijuana; and

WHEREAS, the Washington State Attorney General has issued an opinion(s) that local governments are not preempted by state law from prohibiting retailers within their jurisdiction; and

WHEREAS, local governments are not preempted by state law from prohibiting from establishing development standards to govern the location, development, and operation of marijuana retailers within their jurisdiction; and

WHEREAS, the Board of County Commissioners has adopted a moratorium on the issuance of permits for facilities associated with the retail sales of marijuana in the unincorporated County; and

WHEREAS, the Board of County Commissioners conducted a public hearing on the moratorium on March 8, 2016 and public hearings on the extension of the moratorium on July 26, 2016 and January 24, 2017; and

WHEREAS, the Pend Oreille County Planning Commission conducted public workshops and received public comments on the moratorium and the permitting of facilities associated with the retail sales of marijuana at public meetings on February 23, 2016, March 22, 2016, April 26, 2016, May 26, 2016, and January 10, 2017; and

WHEREAS, the Planning Commission received numerous comments that the retail sales of marijuana can have significant adverse impacts on a small, rural community such as Pend Oreille County; and

WHEREAS, the Board of County Commissioners has considered the public comments received and the recommendation of the Planning Commission, and finds that the prohibition of facilities to sell marijuana is necessary to protect the public health and safety; and

WHEREAS, Pend Oreille County has executed inter-local planning agreements with the small towns in the County that authorize the County Department of Community Development to process land use applications on behalf of the Town; and

WHEREAS, the Town of Cusick has amended its development regulations to prohibit the production, processing, and retail sales of marijuana; and

WHEREAS, the Town of Ione has amended its development regulations to permit the retail sales of marijuana only in the Highway Commercial (HC) district, subject to conditions, and that only permits the production and processing of marijuana in the Industrial (I) district, subject to conditions, and that specifically prohibits the production, processing, selling, or delivery of marijuana in the Village Center (VC), Government (G), Light Industrial (LI), or Residential (R) districts; and

WHEREAS, the Town of Metaline has not amended its development regulations to include specific provisions governing the production, processing, or retail sales of marijuana, or medical marijuana cooperatives; and

WHEREAS, the Town of Metaline Falls has not amended its development regulations to include specific provisions governing the production, processing, or retail sales of marijuana, or medical marijuana cooperatives; and

WHEREAS, in the event that the state law and/or regulations are subsequently amended to permit the sale of medical marijuana without the sale of marijuana for recreational purposes, the Board of County Commissioners may review and revise these regulations.

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

Section 1 Moratorium Repealed. The moratorium imposed on the establishment, location, operation, licensure, or maintenance of premises, facilities, businesses, or any other activities or operations involving the sale of marijuana and marijuana products is hereby repealed on the effective date of this Ordinance.

Section 2 Development Regulations Amended. The Pend Oreille County Development Regulations are to be amended to prohibit facilities associated with the retail sales of marijuana in unincorporated Pend Oreille County; and

Section 3 Inter-local Planning Agreements. The County hereby acknowledges that it will process applications associated with the production, processing, or sale of marijuana as well as the establishment of medical marijuana cooperatives in towns in accordance with the provisions of any local ordinances the towns adopt, and will not accept or process applications for marijuana facilities that are prohibited.

Section 4. Administrative Code Interpretations Authorized. In the event of any question or uncertainty regarding the applicability or administration of this ordinance the County Director of Community Development or his/her designee is hereby authorized to make such administrative code interpretations as may be necessary.

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 Date and Declaration of an Emergency. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force and effect immediately upon adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 WN. App 641, 904 P. 2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein. This ordinance shall become effective immediately upon passage. The Clerk of the Board is directed to publish a summary of this ordinance, consisting of the title, at the earliest publication date.

APPROVED BY THE PEND OREILLE COUNTY BOARD OF COMMISSIONERS AT A REGULAR MEETING THEREOF ON June 12 **, 2017.**

Karen Skoog, Chair

Stephen Kiss, Vice-Chair

Mike Manus, Member

ATTEST/AUTHENTICATED:

Rhonda Cary, Clerk of the Board

APPROVED AS TO FORM:

Dolly Hunt, Prosecuting Attorney