

**SECOND INTERGOVERNMENTAL LAND USE PLANNING AGREEMENT  
BETWEEN THE CONFEDERATED TRIBES OF THE COLVILLE  
RESERVATION AND FERRY COUNTY**

**I. PREAMBLE**

THIS AGREEMENT is entered into between the Confederated Tribes of the Colville Reservation (Tribes) and Ferry County (County), each acting in their representative capacity. The Tribes is authorized to enter into this Agreement pursuant to Article V, section 1(a) of the Colville Tribal Constitution. The County is authorized to enter into this Agreement pursuant to the Inter-local Cooperation Act, RCW Chapter 39.34, which permits political subdivisions of the State to enter into cooperative agreements with Indian tribes for their mutual advantage and cooperation. The parties have determined that it is in their mutual interest to cooperate and coordinate land use planning, zoning, subdivision regulations, and the implementation thereof, within their respective jurisdictions that lie within the exterior boundaries of the Colville Indian Reservation.

**II. RECITALS**

- A. The Tribes has assumed regulatory jurisdiction for all lands within the exterior boundaries of the Colville Reservation, regardless of ownership type, and the County has assumed regulatory jurisdiction for those lands held in fee title lying within the exterior boundaries of the Colville Reservation. The parties recognize that these jurisdictional claims may be in conflict in individual cases, and nothing in this Agreement is intended to resolve competing jurisdictional claims. Nevertheless, the parties agree it is in everyone's best interest to continue with a mutual, cooperative, planning effort; and
- B. Each entity exercising its independent authority has adopted and periodically updates rules, ordinances, regulations, and policies, impacting land use, and will continue to do so on a regular basis in their own respective capacities; and
- C. Each of the parties has an obligation as a government to ensure that adequate review and permitting of land use and development is undertaken within its respective jurisdiction, and it is in the interest of the residents of Ferry County and the Colville Reservation that a coordinated regional permitting process be established whereby the Tribes and County cooperate in the implementation of permitting processes; and
- D. The Tribes and County recognize that review of land use proposals and issuance of development permits is required by each respective agency for development activities located within the exterior boundary of the Colville Reservation. The Tribes and County also recognize that similar permits could be issued by each agency; and
- E. The Tribes and County recognize the opportunity for, and advantages of, coordination between agencies while enforcing land use regulations for those lands located within the Colville Indian Reservation in order to increase efficiency while reducing duplication of efforts, reduce costs incurred by the jurisdictions and their citizens, promote more predictable application review processes, and increase the visibility of planning efforts which makes decisions more understandable to the public, residents, property owners, developers, and other agencies and jurisdictions.

- F. Intergovernmental communication and cooperation is likely to stimulate economic development within the Colville Indian Reservation and adjacent lands within Ferry County; and
- G. The Colville Reservation was established by Executive Order by President Grant on July 2, 1872, as an exclusive homeland for the Colville Tribes. The Colville Business Council, as the governing body of the Tribes, has an obligation to preserve and protect that homeland for the benefit of the members of the Tribe; and
- H. This Agreement shall not be considered or construed to grant or cede any jurisdiction to the County by the Tribes, or to grant or cede any jurisdiction to the Tribes by the County for the substantive purposes set out in this Agreement, or for any other purpose. This Agreement shall not be considered or construed to be a recognition by the Tribes of the County's jurisdiction on the Colville Reservation and shall not be construed to be a recognition by the County of any tribal jurisdiction off the Colville Reservation; and
- I. The United States Supreme Court's decision in Brendale v. Yakima Indian Nation underscores the merit and necessity for Intergovernmental cooperation.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**III. DEFINITIONS**

Coordination & Cooperation.

The terms coordination and cooperation are used throughout this Agreement. These terms are important to the function of this Agreement. For purposes of this Agreement, these terms shall not have the same meaning as they do in federal regulations and statutes which invoke coordination and cooperation upon governing agencies, such as the National Environmental Policy Act of 1969 (42 USC Chapter 55) and the Federal Land Policy and Management Act of 1976 (43 USC Chapter 35). Rather, for the purpose of this Agreement, the terms coordination and cooperation shall have their ordinary meaning.

**IV. MEETINGS**

The Tribes and the County recognize the desirability of establishing continued communication to provide for discussion regarding intergovernmental planning matters. From time to time, the Director or designee of each of the party's respective planning department may meet in order to communicate about current issues and exchange information that will enhance planning efforts, refine the process for review of development permits for activities on the Reservation, and discuss and resolve planning or regulatory issues. Such meetings may also involve staff from various other departments such as public works, building, etc.

**V. APPLICATION REVIEW**

- A. Processing Agency. The Parties recognize that only one agency, not both, should issue land use permits for development activities. When processing land use applications, the Parties shall utilize the guidance below to identify the processing agency.

1. Trust Land, Allotted Land, Indian Owned Fee Lands: Unless otherwise agreed, the Tribes shall be the processing agency for any permit relating to those lands held in trust within the boundaries of the Colville Reservation for the benefit of the Tribes or any member of the Tribes, for any permit relating to lands located within existing tribal allotments, and for any permit relating to lands located within the exterior boundary of the reservation that are held in fee by the Tribe or any of its members. The County shall be provided the opportunity to submit comments prior to the Tribes making a final decision.
2. Fee land inside reservation: Either the Tribes or the County may be the processing agency for fee lands not owned by the Tribe or its members and located within the exterior boundary of the reservation. The landowner shall have the right to choose which agency to submit applications for land use permits. Any permitting decision may be appealed through the administrative process of the permitting agency; however, the landowner's choice of permitting agency for applications for land use permits is final. The non-permitting agency (Tribes or County) shall be provided the opportunity to submit comments prior to the permitting agency making a final decision.
3. Fee land outside reservation: This agreement does not apply to Fee land outside the reservation. Therefore, the County shall be the permitting agency for fee lands located outside the exterior boundary of the reservations.
4. Permit requirements: The processing agency should use the criteria within this section to determine what permit requirements, from the non-processing agency, to include as conditions placed on the permit.
5. Denial of permit process: When the processing agency denies a permit, the other processing agency shall be notified within a reasonable timeframe.

## **VI. EFFECTIVE DATE, AMENDMENT AND TERMINATION**

This Agreement shall be effective when executed by the Parties. This Agreement may not be amended except by written agreement of the Parties, and shall continue in effect until terminated by joint agreement of the Parties. Provided, any party may terminate its participation in the Agreement by giving sixty (60) days written notice to the other Parties.

This Agreement is executed by the persons signing below who warrant that they have the authority to execute this Agreement.

**CONFEDERATED TRIBES OF THE COLVILLE RESERVATION**

By: M. J. B. M. M. Date: 12/5/16

Title: Chairman, Colville Business Council

**APPROVED AS TO FORM:**

By: Michael J. Whitton Date: 12/5/16

**FERRY COUNTY**

The Board of Ferry County Commissioners approves this intergovernmental agreement

DATED at Republic, Washington this 5 day of December, 2016.

**BOARD OF FERRY COUNTY  
COMMISSIONERS  
REPUBLIC, WASHINGTON**

M. Blankenship

Mike Blankenship, Member

Brad Miller

Brad Miller, Member

Nathan Davis

Nathan Davis, Chair



**ATTEST:**

Amanda Rowton

Amanda Rowton, Clerk of the Board

**APPROVED AS TO FORM:**

Sandra D. Richartz

Sandra D. Richartz, Deputy Prosecuting Attorney

## RESOLUTION

**WHEREAS**, the attached Intergovernmental Agreement is a continued opportunity to achieve a desired consistency between Ferry County comprehensive plans and the Colville Tribes guidelines for land use and comprehensive planning within the Reservation fee lands and surrounding areas, and;

Whereas, the agreement will enable the parties to effectively manage growth, protect natural resources and stimulate orderly economic development while avoiding issues left unresolved by the Supreme Court's decision in *Brendale vs. Yakima Indian Nation*; and

Whereas, it is further recommended by the Community Development Committee to approve this Intergovernmental Land Use Planning Agreement between the Confederated Tribes of the Colville Reservation and Ferry County and authorize the Chairman or designee to sign the agreement.

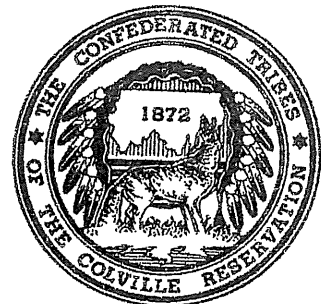
**THEREFORE, BE IT RESOLVED**, that we, the Colville Business Council, meeting in a **SPECIAL SESSION** this **15th day of December, 2016** acting for and in behalf of the Colville Confederated Tribes, Nespelem Washington, do hereby approve the above recommendation of the Community Development Committee.

The foregoing was duly enacted by the Colville Business Council by a vote of **10 FOR 0 AGAINST 0 ABSTAINED**, under authority contained in Article V, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

**ATTEST:**

  
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**Dr. Michael E. Marchand, Chairman**  
**Colville Business Council**

cc: William Womer, Committee Chair  
 Carrie Pakootas, Committee Secretary  
 Francis Somday, Executive Director  
 Debra Wulff, BIA Superintendent  
 Anna Vargas, Reservation Attorney  
 William Nicholson II, Chief Financial Officer  
 Dept. or Program: Pete Palmer, Planning



# Confederated Tribes of the Colville Reservation

Nespelem, Washington

TO: COLVILLE BUSINESS COUNCIL                      DATE: 12/03/16

FROM: Community Development Committee

SUBJECT: Ferry County Intergovernmental Land Use Agreement

Initiated By: Pete Palmer    Program: Planning

Committee Recommendations: Whereas, the attached Intergovernmental Agreement is a continued opportunity to achieve a desired consistency between Ferry County comprehensive plans and the Colville Tribes guidelines for land use and comprehensive planning within the Reservation fee lands and surrounding areas; and

Whereas, the agreement will enable the parties to effectively manage growth, protect natural resources and stimulate orderly economic development while avoiding issues left unresolved by the Supreme Courts decision in Brendale vs. Yakima Indian Nation; and

Whereas, it is further recommended by the Community Development Committee to approve this Intergovernmental Land Use Planning Agreement between the Confederated Tribes of the Colville Reservation and Ferry County and authorize the Chairman or designee to sign the agreement.

COMMITTEE MEMBERS

VOTE CAST  
(YES) (NO)

COMMITTEE MEMBERS

VOTE CAST  
(YES) (NO)

WRussell                                            \_\_\_\_\_  
John F. ...                                            \_\_\_\_\_  
John A. Maxwell                                            \_\_\_\_\_  
Andy Joseph Jr.                                            \_\_\_\_\_  
Steve ...                                            \_\_\_\_\_  
Robert ...                                            \_\_\_\_\_  
Max ...                                            \_\_\_\_\_

Bernie Simon                                            \_\_\_\_\_  
Elizabeth Allen                                            \_\_\_\_\_  
John ...                                            \_\_\_\_\_  
Bruce ...                                            \_\_\_\_\_  
Frank ...                                            \_\_\_\_\_  
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Business Council Actions:

Seconded by:

Andy Joseph Jr.

FOR \_\_\_\_\_

Signed:

WRussell  
Committee Chairperson

NAY \_\_\_\_\_

Signed:

M. ...  
CBC Chairperson

ABSTAINED \_\_\_\_\_

Date Enacted: 12-15-16

Amendments: \_\_\_\_\_