

FERRY COUNTY
DEVELOPMENT REGULATIONS
ORDINANCE # 2008-03

AMENDING ORDINANCE 2007-06

REVISED

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FERRY COUNTY
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EX-3

FERRY COUNTY
DEVELOPMENT REGULATIONS ORDINANCE #2008-03
AMENDING ORDINANCE 2007-06

An ordinance adopting development regulations as required by RCW 36.70A.030 (7).

WHEREAS, RCW 36.70A.040(4)(d) states that "the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan...."

WHEREAS, RCW 36.70A.020 (6) states that "Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions."

WHEREAS, RCW 36.70A.030 Definitions (7) states that "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivisions ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70A.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city."

WHEREAS, RCW 36.70A.170 states that each county shall designate where appropriate (a) agricultural land that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products; (b) forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber; (c) mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals, and (d) critical areas.

WHEREAS, the measures adopted through this ordinance are designed to meet these requirements.

NOW, THEREFORE, BE IT ORDAINED by the Board of Ferry County Commissioners, as follows:

TABLE OF CONTENTS

Acronym List	4
Section 1.00 Authority	5
Section 2.00 Purpose	5
Section 3.00 Scope	5
Section 4.00 Definitions	5
Section 5.00 Other Applicable Ordinances	10
Section 6.00 Historic Archaeological Resources Preservation	10
Section 6.01 Goal	10
Section 6.02 Classification	10
Section 6.03 Designation	11
Section 7.00 Resource Lands	12
Section 8.00 Forest Land	12
Section 8.01 Goals	13
Section 8.02 Policies	13
Section 8.03 Classification and Designation	13
Section 8.04 Protection Measures	14
Section 9.00 Agricultural Land	15
Section 9.01 Goals	15
Section 9.02 Classification	15
Section 9.03 NRCS Land Capability Classes (Classes I-VIII)	15
Section 9.04 Designation	18
Section 9.05 Uses Allowed on Designated Agricultural Lands	19
Section 10.00 Mineral Land	20
Section 10.01 Goals	20
Section 10.02 Classification	20
Section 10.03 Designation	20
Section 11.00 Rural Element	21
Section 11.01 Rural Area Development-General Provisions	21
Section 11.02 Rural Area Development-Guidelines	22
Section 11.03 Regulations Pertaining to Rural Area Development	28
Section 11.04 Sub-Standard Lots in the Rural Element	29
Section 11.05 Amendments to the Rural Element	29
Section 12.00 Nonconforming Uses/Exceptions/Variances	31
Section 12.01 Nonconforming Uses	31
Section 12.02 Public Facility Exception	31
Section 12.03 Variances	31
Section 12.04 Reasonable Use Exception	31
Section 13.00 Administration and Enforcement	32
Section 13.01 Appeals	32
Section 13.02 Violation and Penalty	33
Section 13.03 Civil Remedy	33
Section 13.04 Criminal Penalty	33
Section 14.00 Severability	33
Section 15.00 Bibliography	33
Section 16.00 Effective Date	36

ACRONYM LIST

DAHP	Washington State Department of Archaeology and Historic Preservation
DNR	Department of Natural Resources (Washington State)
GMA	Growth Management Act
NRCS	Natural Resources Conservation Service (USDA)
PUD	Public Utilities District
RCW	Revised Code of Washington
RSA	Rural Service Area
RV	Recreational Vehicle
SEPA	State Environmental Policy Act (Washington State)
UGA	Urban Growth Area
USGS	United States Geological Survey
WAC	Washington Administrative Code

**FERRY COUNTY ORDINANCE #2008-03
DEVELOPMENT REGULATIONS ORDINANCE**

SECTION 1.00 AUTHORITY

This ordinance is adopted pursuant the authority granted Ferry County under RCW 36.70, known as "Counties – Planning Enabling Act", and in accordance with RCW 36.70A, known as the Growth Management Act.

SECTION 2.00 PURPOSE

The purpose of this ordinance is to promote the general health, safety and welfare of county residents, public and private property and the natural environment inherent in Ferry County. This ordinance implements the policies of the Growth Management Act (RCW 36.70A) and the policies of the Ferry County Comprehensive Plan.

It is Ferry County's intention to enable the Federal and State agencies to coordinate their planning for intermingled state and federal lands with Ferry County's planning.

SECTION 3.00 SCOPE

This ordinance regulates land uses on all lands in Ferry County outside of the Urban Growth Area. The only designated Urban Growth Area is within the city limits of the City of Republic; thus this ordinance regulates all land uses in the unincorporated area of Ferry County. These lands may be generally referred to as "Rural Lands."

SECTION 4.00 DEFINITIONS

Administrator - The Planning Director, who shall be responsible for the administration and enforcement of the provisions of these regulations within the unincorporated territory of Ferry County.

Agricultural Land - Land primarily devoted to commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees, finfish in upland hatcheries, or livestock.

Agriculture Land of Long-Term Commercial Significance – Designated agriculture lands that include the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

Appeal - A request for a review of the Administrator's interpretation of any provision of this ordinance or a request for a variance.

Archaeological Object – An object that comprises the physical evidence of an indigenous or subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products. All sites, objects, structures, artifacts, implements, and locations of prehistoric or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources.

Archaeological Site – A geographical locality in Washington that contains archaeological objects.

Archaeologist – A “professional archaeologist.” Professional archaeologists may perform surveys.

Designated Forest Land (tax purpose) - Land designated by the owner as forest land, as provided for in RCW 84.33.130, to be valued for tax purposes under RCW 84.33.140. Designated forest land includes those land parcels previously defined as “classified forest land”.

Forest Land of Long-Term Commercial Significance - All lands classified as forest lands under the open space use tax program that is greater than or equal to 20 acres in size where a predominance of the land area is made up of grade 6 or better as determined by the Department of Revenue maps and is characterized by current resource use, and is located outside of urban growth boundaries. This includes Federal and State managed forest lands.

Forest Practices – Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber. This does not include the conversion of forested land to a use incompatible with growing timber.

Ground-Disturbing Action or Activity – Any development, construction, or related operation which could potentially adversely impact archaeological sites and historic archaeological resources, including but not limited to building roads, digging trenches, grading, removing (grubbing) tree stumps, excavating foundations, septic, or utility line installations.

Historic Archaeological Resources – Those properties which are listed in or eligible for listing in the Washington State Register of Historic Places or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470).

Known, Recorded Site – An archaeological site or historic archaeological resources which has been recorded with the Department of Archaeological and Historic Preservation.

Limited Areas of More Intense Rural Development (LAMIRD) – Limited areas of more intense rural development, including necessary public facilities and public services, as allowed by the GMA (RCW 36.70A.070(5)(d)).

Master Planned Resort – Major development as authorized under RCW 36.70A.360.

Mineral Land of Long-Term Commercial Significance - Lands from which the extraction of aggregate and mineral resources can be anticipated, based on geologic, environmental, and economic factors, existing land uses, and land ownership. To be included are lands with long-term commercial significance for extraction of at least the following: sands, gravel, building stone, fossils, valuable metals, gemstones and other naturally occurring inorganic substances that are crystalline, or composed of crystalline materials, that are of value; and any areas for which permits for mining activity have been issued.

Minerals - Sand, gravel and valuable metals, gemstones and other naturally occurring inorganic substances that are crystalline, or composed of crystalline materials, that are of value.

Mining Operations - Mining of rock, stone, gravel, sand, earth and minerals.

Open Space Forest Land (tax purpose) - A designation of parcel land related to timber growth not meaning after a "Forest Land" has been logged but in reference to open space. Ref. RCW 84.34.

Pre-determination Survey – also referred to as Phase I Survey – A survey by a consulting archaeologist to determine the existence of an archaeological object or site but not to include the evaluation of the object or site.

Pre-Existing and Ongoing Agricultural Activities - Agricultural uses and practices including but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment, maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the critical area than the original facility, and maintaining agricultural lands under production or cultivation. Agricultural products includes but are not limited to: Horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees

grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products. Agricultural equipment and agricultural facilities includes but are not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing agricultural products. Agricultural land means those specific land areas on which agriculture activities are conducted.

Professional Archaeologist --A person with qualifications meeting the Federal Secretary of the Interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal standards. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal. Ref: RCW 27.53.030 (8); and Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, 1983 (48 FR 447 16).

Resource Lands - Agricultural, Mineral and Forest land of long-term commercial significance.

Rural Character - Refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

- 1) In which open space, the natural landscape, and vegetation predominate over the built environment;
- 2) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
- 3) That provide visual landscapes that are traditionally found in rural areas and communities;
- 4) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- 5) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- 6) That generally do not require the extension of urban governmental services; and
- 7) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

Rural Development - Refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas. Ferry County rural development activities are identified below at Section 11.03.

Rural Element – Lands that are not designated for urban growth, agriculture, forest, or mineral resources (RCW 36.70A.070(5)). In Ferry County that includes all lands outside of the Urban Growth Area and not designated as agricultural, forest, or mineral lands of long-term commercial significance.

Rural Governmental Services or Rural Services - Include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4). Specific rural governmental services include fire districts, school districts presently located outside UGAs and water districts at 100 service connections or lower. Individual systems for industrial use, fire flow, or National Pollutant Discharge Elimination System or waste discharge under Chapter 90.48 RCW shall not be considered “urban governmental services.”

Rural Lands - All Ferry County lands not within the Urban Growth Area.

Rural Service Areas - Areas of more intense rural development which have specific locations and mapped boundaries as adopted in the Comprehensive Plan. Rural Service Areas meet the criteria of RCW 36.70A.070(5)(d)(iv) & (v).

Rural Small Scale Business – Those businesses which do not exceed 10,000 square feet per building for commercial use or 20,000 square feet per building per industrial use, do not require the extension of urban government services and maintain a rural character.

Urban Governmental Services or “Urban Services” - Include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

Urban Growth - Refers to growth that makes intensive use of land for the location of buildings, structures, impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. “Characterized by urban growth” refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

Urban Growth Areas - Those areas designated by a county pursuant to RCW 36.70A.110.

Variance - A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

SECTION 5.00 OTHER APPLICABLE ORDINANCES

All development must also meet the requirements of other applicable Ferry County ordinances which operate as overlays to these land-use guidelines. These other ordinances include, but are not limited to:

Critical Areas Ordinance;
Shoreline Master Program;
State Environmental Policy Act (SEPA) Implementing Ordinance;
Timber and Forest Practice Ordinance;
Flood Damage Prevention Ordinance;
Building Ordinance;
Concurrency Ordinance;
Subdivision Ordinances, including the Long Subdivision, Short Subdivision and Binding Site Plan Ordinances.

SECTION 6.00 HISTORIC ARCHAEOLOGICAL RESOURCES PRESERVATION

SECTION 6.01 GOAL

To avoid the loss of archaeological and historic information.

SECTION 6.02 CLASSIFICATION

The earliest evidence of human history in Ferry County appears at Kettle Falls on the Columbia River, where archaeological sites have yielded dates indicating that native people lived here as long 9,000 years ago.

Later generations of Indian groups such as the Sanpoil, Lakes, Colville, and Okanogan made this area their home and still do. The Columbia, which forms the county's southern and eastern borders, was vitally important to native people. Before dams were built on the river, the salmon ran up many tributary streams, providing not only food but a central theme of local culture.

In 1872, a presidential proclamation set aside an area including the present Ferry and Okanogan counties as the Colville Indian Reservation. As gold discoveries became possible, portions of the reservation were opened up, and the county seat of Republic was established in 1896. The town began its career as a gold rush tent camp called "Eureka" and within three years, its post office (called "Republic" after a major local mine) was doing more business than any other eastern Washington city outside of Spokane.

Ferry County officially separated from Stevens County in 1899, and by 1902, the Republic miners were connected with the outside by two railroads. One was a branch of the Great Northern and the other was a local line. It ran 30 miles from Grand Forks, British Columbia, and operated for 20 years under seven or eight different names, providing one of the more colorful chapters in the county's history.

Ferry County's historic and cultural resources include evidence of all these waves of settlement – native peoples, prospectors, homesteaders, railroad builders – and all who came after. It is in the interest of today's residents to preserve that evidence and protect it for future generations.

Ferry County will be using a list of known, recorded archaeological sites and historic archaeological resources in Ferry County as provided by the Department of Archeology and Historic Preservation (DAHP) to ensure that development activities will not result in the loss of information.

SECTION 6.03 DESIGNATION

Ferry County will try to ensure that archaeological sites and significant historic archaeological resources are not disturbed or destroyed through any action of the County, or through any action permitted by the County.

All plats, short plats, development permits and building permits issued for development activities shall state that real property located within Ferry County may be subject to state, local and tribal regulations concerning open range, historic or archaeological sites, wetlands, shorelines, floodplains and critical areas.

If a check of known site locations shows no recorded sites, a notice shall be attached to the permit stating that "in the event an archaeological object is discovered through ground-disturbing activities, work in that area shall cease and the Ferry County Planning Department and the Department of Archaeology and Historic Preservation shall be notified." At that point a survey may be required. If a check of known site locations and survey results show there is no archaeological site located within the proposed project area, no further action is needed.

If an archaeological site or significant historic archaeological resource is identified in the known site location records or through survey, a protection plan should be developed by the landowner/developer, the affected tribe, an archaeologist, and the DAHP. Such plan shall be forwarded to the County, who may then issue a permit subject to conditions outlined in the protection plan.

Alternatively, the applicant may choose a mitigation alternative to protecting the site. Such alternatives should be appropriate to the nature of the site and proposed activity, but might include one of the following:

- 1) Recording the site with the DAHP;
- 2) Reburying human remains, should the site be a grave;
- 3) Burying or plating the site with a permeable surface (asphalt, crushed rock, etc) to prohibit intentional damage;

- 4) Excavation and recovery of resources in approved manner;
- 5) Avoidance; or
- 6) A combination of the above measures.

No permit shall be issued for any disturbance of an identified archaeological site or significant historic archaeological resources without an agreed-upon protection or mitigation plan. An archaeological excavation permit from DAHP may be required to carry out the provisions of the protection or mitigation plan per RCW 27.53.060 and 27.44.020 and WAC 25-48. DAHP will inform on requirements of an excavation permit during the development of the mitigation or protection plan.

The applicant would only be responsible for the cost of the predetermination survey, if required. After notification of the predetermination survey, any interested party must respond within 30 days of notification as to the need of additional surveys. If additional surveys are performed by the interested party, they must be completed not to exceed 6 months.

SECTION 7.00 RESOURCE LANDS

The Growth Management Act requires every county to designate resource lands and to adopt development regulations that assure the conservation of these lands for resource use.

RCW 36.70A.170 defines three categories of lands for designation:

- 1) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;
- 2) Forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;
- 3) Mineral lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals.

All development permits and building permits issued for development activities on rural lands shall contain a notice that the subject property may be on/or within one thousand three hundred twenty feet (1320') of lands designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development. In the case of mineral resource lands, an application might be made for mining related activities including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

SECTION 8.00 FOREST LAND

Forest lands are to be classified to determine those lands in Ferry County that are lands of long-term commercial significance. Forest lands of long-term commercial significance will be classified by growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the lands.

In classifying forest land of long term commercial significance, Ferry County will use the current Forest Land Grades of the Department of Revenue along with the Orthophoto Maps filed at the Ferry County Assessor's Office and the Colville National Forest Maps, 1992. Forest practices are under the jurisdiction of the Department of Natural Resource under the auspices of the Washington Forest Practices Act. Ferry County has no authority to regulate forest practices. However, Ferry County has authority over current conversions with DNR. Ferry County will review forest practices within designated shorelines.

SECTION 8.01 GOALS

- 1) Conserve and protect Forest Lands from activities that would adversely affect the primary use of forest land for commercial forest management.
- 2) Minimize the loss of Forest Land acreage, functions, and values through a combination of land use and development regulation and non-regulatory means such as public education, technical assistance to land owners and tax incentives.
- 3) Encourage and assist the restoration and enhancement of degraded forest lands.

SECTION 8.02 POLICIES

- 1) Commercial forest lands will be identified and designated based on operational factors; surrounding land use; parcel size and public service levels that are conducive to long-term continuance in forest management.
- 2) The primary land use activities in forest areas are commercial forest management, agriculture, mineral extraction, recreation and those subordinate uses that maintain, enhance or have no impact on the long-term management of designated commercial forest lands.
- 3) Ferry County supports and encourages the maintenance of forest lands in timber and current use property tax classifications consistent with RCW 84.33 and 84.34.
- 4) Ferry County encourages the continuation of commercial forest management by working with forest managers to identify and develop other incentives for continued forestry.

SECTION 8.03 CLASSIFICATION AND DESIGNATION

Forest lands of long-term commercial significance are those lands outside of designated urban growth areas classified as Forest Lands Grades 1 through 6, within a majority of acreage and in parcels of twenty acres or greater, or of contiguous ownership totaling 20 acres.

The following lands are those designated state and federally managed forest lands or are under current use taxation programs as either: Designated Forest or Current Use Timber.

Class I Forest Lands

- 1) Existing use demonstrated as commercial resource management; and
- 2) In any one section of land (640 acres), where 100% of the land is for resource use only; and
- 3) Lands that fall within grades 1 through 6 of the Forest Lands grades; and
- 4) Minimum area meeting the criteria in 1 through 3 above is 640 acres in size.

Class II Forest Lands

- 1) Existing use demonstrating as commercial resource management; and
- 2) No more than 10% of the land is non-resource use; and
- 3) Lands that fall within grades 1 through 6 of the Forest Lands Grades; and
- 4) Minimum area meeting criteria in 1 through 3 above is 320 acres in size.

Class III Forest Lands

- 1) Existing use demonstrated as commercial resource management; and
- 2) No more than 25% of the land is non-resource use; and
- 3) Lands that fall within grades 1 through 6 of the Forest Lands Grades; and
- 4) Minimum area meeting criteria in 1 through 3 above is 80 acres.

Class IV Forest Lands

- 1) Existing use demonstrated as commercial resource management; and
- 2) Timber lands of any grade, greater than or equal to 20 acres, where the best use is for timber production.

SECTION 8.04 PROTECTION MEASURES**Class I and II Forest Lands:**

- 1) Lands within Class I and II Forest Lands shall have no more than one single or multiple family dwelling per 20 acres.
- 2) Lands within Class I and II Forest Lands shall not be divided into parcels less than 20 acres.

Class III and IV Forest Lands:

- 1) Lands within Class III Forest lands shall have no more than one single or multiple family dwelling per 10 acres.
- 2) Lots will be designed to ensure that the residences or other occupied structures are constructed and controlled by the residents.
- 3) Lands within Class III Forest Lands shall not be divided into parcels less than 10 acres.

Property owners who intend to use off-site water supply from adjacent Forest Lands, will be required to show legal access (i.e. easement/water rights) from the forest landowner, prior to platting or upon application for a building permit.

Access to residential properties through forest lands shall not traverse any lands unless it's the only feasible means of serving the property and legal access has been granted by the owner.

Property owners within or adjacent to Forest Lands will be notified at the time of platting, obtaining a building permit or a development permit that they will be liable for the cost of extinguishing any fires that they may cause.

SECTION 9.00 AGRICULTURAL LAND

SECTION 9.01 GOALS

To preserve and protect agricultural practices on lands of long-term commercial significance. To encourage the continuation of present agricultural practices and continue all available tax incentives for those who may contemplate and practice agriculture in the future. Existing and ongoing agricultural activities shall be encouraged.

To conserve agricultural lands in Ferry County. There are lands in Ferry County which don't meet Prime farmland, but are useful and necessary to Ferry County which therefore need to be protected and promoted.

To promote development on non-prime farmlands and conserve prime farmlands for open space, continued agricultural use, or available for lease for agricultural use.

SECTION 9.02 CLASSIFICATION

Ferry County is a forested mountainous county with varied growing seasons. The prime croplands of Ferry County are devoted to: hay, grains, orchards and seed crops. The remaining agricultural resource land in Ferry County is used in timber, grazing or mining. The timber and mining are addressed in Sections 8.00 and 10.00.

Ferry County will employ the United States Department of Agriculture - Natural Resources Conservation Service's Land-Capability Classification System (Agricultural Handbook No. 210, September, 1979) as a tool to classify agricultural lands of long-term significance, as well as past growing history.

SECTION 9.03 NATURAL RESOURCES CONSERVATION SERVICE LAND- CAPABILITY CLASSES (CLASSES I- VIII)

The following are excerpts from United States Department of Agriculture - Natural Resources Conservation Service's Land-Capability Classification System (Agricultural Handbook No. 210). The classifications are not copied in their entirety.

CLASS I:

Soils in Class I have few limitations that restrict their use. Soils in this class are suited to a wide range of plants and may be used safely for cultivated crops, pasture, woodland and wildlife. The soils are nearly level and erosion hazards (wind or water) are low. They are deep, generally well drained, and easily worked. They hold water well and are either fairly well supplied with plant nutrients or highly responsive to an input of fertilizer.

The soils in Class I are not subject to damaging overflow. They are productive and suited to intensive cropping. The local climate must be favorable for growing many of the common field crops.

In irrigated areas, soils may be placed in Class I if the limitation of the arid climate has been removed by relatively permanent irrigation works. Such irrigated soils (or soils potentially useful under irrigation) are nearly level, have deep rooting zones, have favorable permeability and water-holding capacity, and are easily maintained in good

tilth. Some of the soils may require initial conditioning including leveling to the desired grade, leaching of a slight accumulation of soluble salts, or lowering of the seasonal water table. Where limitations due to salts, water table, overflow, or erosion are likely to recur, the soils are regarded as subject to permanent natural limitations and are not included in Class I.

CLASS II:

Soils in Class II have some limitations that reduce the choice of plants or require moderate conservation practices. Soils in Class II require careful soil management, including conservation practices to prevent deterioration or to improve air and water relations when the soils are cultivated. The limitations are few and the practices are easy to apply. The soils may be used for cultivated crops, pasture, range, woodland or wildlife food and cover.

Limitations of soils in Class II may include single or in combination the effects of (1) gentle slopes, (2) moderate susceptibility to wind or water erosion or moderate adverse effects of past erosion, (3) less than ideal soil depth, (4) somewhat unfavorable soil structure and workability, (5) slight to moderate salinity or sodium easily corrected but likely to recur, (6) occasional damaging overflow, (7) wetness correctable by drainage but existing permanently as a moderate limitation, and (8) slight climatic limitations on soil use and management.

CLASS III:

Soils in Class III have severe limitations that reduce the choice of plants or require special conservation practices, or both. Soils in Class III have more restrictions than those in Class II and when used for cultivated crops, pasture, woodland, range or wildlife food and cover.

Limitations of soils in Class III restrict the amount of clean cultivation; timing of planting, tillage, and harvesting; choice of crops; or some combination of these limitations. The limitations may result from the effects of one or more of the following: (1) moderately steep slopes; (2) high susceptibility to water or wind erosion or severe adverse effects of past erosion; (3) frequent overflow accompanied by some crop damage; (4) very slow permeability of subsoil; (5) wetness or some waterlogging after drainage; (6) shallow depths to bedrock, hardpan, fragipan, or claypan that limit the rooting zone and the water storage; (7) low moisture-holding capacity; (8) low fertility not easily corrected; (9) moderate salinity or sodium; or (10) moderate climatic limitations.

CLASS IV:

Some soils in Class IV have very severe limitations that restrict the choices of plants, require very careful management, or both. The restrictions in use for soils in class IV are greater than those in Class III and the choice of plants is more limited. When these soils are cultivated, more careful management is required and conservation practices are more difficult to apply and maintain. Soils in Class IV may be used for crops, pasture, woodland, range, or wildlife food and cover.

Soils in Class IV may be well suited to only two or three of the common crops or the harvest produced may be low in relation to inputs over a long period of time. Use for cultivated crop is limited as a result of the effects of one or more permanent features such as (1) steep slopes, (2) severe susceptibility to shallow soils, (3) severe effects of past erosion, (4) shallow soils, (5) low moisture-holding capacity, (6) frequent overflows accompanied by severe crop damage, (7) excessive wetness with continuing hazard of waterlogging after drainage, (8) severe salinity or sodium or (9) moderately adverse climate.

CLASS V:

Soils in Class V have little or no erosion hazard but have other limitations impractical to remove or limit their use largely to pasture, range, woodland, or wildlife food and cover.

Soils in Class V have limitations that restrict the kind of plants that can be grown and that prevent normal tillage of cultivated crops. They are nearly level but some are wet, are frequently overflowed by streams, are stony, have climatic limitations, or have some combination of these limitations. Examples of Class V are (1) soils of the bottom lands subject to frequent overflow that prevents the normal production of cultivated crops, (2) nearly level soils with a growing season that prevents the normal production of cultivated crops, (3) level or nearly level stony or rocky soils, and (4) ponded areas where drainage for cultivated crops is not feasible but where soils are suitable for grasses or trees. Because of these limitations cultivation of the common crops is not feasible but pastures can be improved and benefits from proper management can be expected.

CLASS VI:

Soils in Class VI have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture or range, woodland, or wildlife food and cover.

CLASS VII:

Soils in Class VII have very severe limitations that make them unsuited to cultivation and that restrict their use largely to grazing, woodland or wildlife.

CLASS VIII:

Soils and landforms in Class VIII have limitations that preclude their use for commercial plant production and restrict their use to recreation, wildlife, or water supply or to aesthetic purposes.

Ferry County recognizes those soils mapped as Prime Farmland by the Natural Resources Conservation Service.

Prime Farmland: Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forestland, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and

dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

Unique Farmland: Those lands other than prime farmland that are used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. According to the Natural Resources Conservation Service, Ferry County does not have any Unique Farmland.

SECTION 9.04 DESIGNATION

It is the intent of Ferry County to designate certain lands as Agriculture Lands of Long Term Commercial Significance. Ferry County will consider for designation those lands which meet the classification of prime farmland soils as mapped by the Natural Resources Conservation Service according to classification criteria as described in Section 9.03.

The County shall consider the combined effects of the proximity to population areas and the possibility of more intense uses of the land as indicated by:

- 1) The availability of public facilities;
- 2) Tax status;
- 3) The availability of public services;
- 4) Relationship or proximity to urban growth areas;
- 5) Predominant parcel size;
- 6) Land use settlement patterns and their compatibility with agricultural practices;
- 7) Intensity of nearby land uses;
- 8) History of land development permits issued nearby;
- 9) Land values under alternative uses; and
- 10) Proximity of markets.

Prior to designation, the owner of each parcel proposed for such designation will be notified and will be given the opportunity at public hearings to show cause why the parcel should not be so designated.

The County may remove an area from designation as Agricultural Land of Long Term Commercial Significance consistent with one or more of the following criteria:

- 1) Change in circumstances pertaining to the comprehensive plan or public policy;
- 2) Change in circumstances beyond the control of the landowner pertaining to the subject property;
- 3) An error in designation;
- 4) New information on natural resource land.

The process to consider de-designation may be initiated by the County or by petition of a property owner, and will be considered on an area-wide basis during the comprehensive plan update or amendment process.

SECTION 9.05 USES ALLOWED ON DESIGNATED AGRICULTURAL LANDS

Agricultural lands of long-term commercial significance shall not be divided into parcels less than 20 acres.

Agricultural lands of long-term commercial significance shall be limited to residential development at a density of no more than 1 unit per 20 acres other than additional residential units for extended family or full time employees of a farm upon which they work and live. Any such additional residential uses should be sited on soils other than the prime soils of the parcel, where possible, or should be sited to have the least practical impact on the contiguity and integrity of the portion of the parcel actually used for agricultural production.

Accessory uses will be allowed as provided in RCW 36.70A.177. The accessory uses shall be located, designed and operated so as to not interfere with, and to support, the continuation of the overall agricultural use of the property and the neighboring properties.

Agricultural accessory uses and activities will be allowed including, but not limited to, the storage, distribution and marketing of regional agricultural products, agriculturally related experiences, or the production, marketing and distribution of value-added agricultural products.

Non-agricultural accessory uses and activities will be allowed as long as the uses and activities are consistent with the size, scale and intensity of the existing agricultural use of the property. Non-agricultural accessory uses shall not convert more than one acre of agricultural land to non-agricultural uses.

The 'Open Range Law' is in effect in most of Ferry County, therefore those moving into the area need to be aware that livestock may be grazing on or near their property. If a landowner objects to livestock on their land, they can find the Open Range Law under RCW 16.24. Legal fencing is addressed under RCW 16.60.

Ferry County shall give priority to agricultural lands of long-term commercial significance when considering urban growth area boundaries.

The type of farming performed in Ferry County has typically been non-aggressive (low usage of pesticides and fertilizers). For this reason Ferry County has decided against requiring buffers between agricultural lands and new development. If the type of farming should change in the future, the decision against buffers shall be reviewed through administrative and public process.

Property owners who intend to use off-site water supply from adjacent Agricultural Lands, will be required to show legal access (i.e., easement/water rights) from the Agricultural landowner, prior to platting or upon application for a building permit.

Access to residential properties through agricultural lands shall not traverse any land unless it is the only feasible means of serving the property and legal access has been granted by the owner.

SECTION 10.00 MINERAL LAND

SECTION 10.01 GOALS

To conserve mineral lands for productive economic use by identifying and designating mineral resource lands of long-term commercial significance and to minimize loss of paleontological information.

SECTION 10.02 CLASSIFICATION

Ferry County has a unique geologic history. Epithermal precious-metal deposits in the Eocene Sanpoil Volcanics in the Republic graben have been targeted by several mineral exploration companies. More than 2.5 million ounces of gold have been produced from epithermal deposits in the Republic area since 1896. Exploration continues and new ore deposits continue to be discovered.

The ancient lakebeds of the Eocene Klondike Mtn. Formation overlie the heavily mineralized Sanpoil Volcanics. These sediments have yielded many fossils of plants, fish, and insects and are known as the world's richest source of Eocene temperate climate plant fossils. Outcrops in Republic have produced many previously unknown plant taxa and contain valuable evidence of past environmental conditions and plant adaptations.

Since the fossil bearing lake sediments were deposited in the Republic Graben's lowlands, it is reasonable to assume that additional fossils exist in graben. It is likely that increased exposure of the Klondike Mtn. formation by development and mineral exploration will reveal new fossil locations.

SECTION 10.03 DESIGNATION

Ferry County will use the following as tools to designate mineral resource lands of long-term commercial significance on a case-by case basis:

- 1) The Washington State Department of Natural Resources geological maps;
- 2) The USGS Quadrangle Geological Survey Bulletins for the Ferry County area.

In order to minimize loss of important scientific information, Ferry County strongly encourages property owners and developers to submit all fossils found to the Stonerose Interpretive Center in Republic, The Thomas Burke Washington State Museum, at the University of Washington in Seattle, or other qualified paleontological facilities for evaluation.

All exploration, extraction, mining reclamation, and processing operations in Ferry County shall comply with Ferry County Mining Ordinance #90-02, and State and Federal mining reclamation laws.

Property owners who intend to use off-site water supply from adjacent Mineral Lands, will be required to show legal access (i.e., easement/water rights) from the mineral landowner, prior to platting or upon application for a building permit.

Access to residential properties through mineral lands shall not traverse any land unless it's the only feasible means of serving the property and legal access has been granted by the owner.

SECTION 11.00 RURAL ELEMENT

SECTION 11.01 RURAL AREA DEVELOPMENT — GENERAL PROVISIONS

Rural character—Rural character in Ferry County is identified by large stretches of state and federal lands, mostly timber, with some grazing and mining, punctuated by small clusters of residences, resource uses, and businesses, small towns, crossroad commercial, tourist, and shoreline areas. The predominance of resource and governmental lands, rather than lot size, is the primary characteristic.

Rural lifestyles and economies—Employment in Ferry County is based predominantly on jobs located outside of urban growth areas. Resource based employment in agricultural, mining, timber production, recreation, and home occupations, small businesses, and industries are critical to the overall success of the Ferry County economy.

All lands outside the Urban Growth Area are considered to be “rural lands” in the context of contributing to rural character and contributing to the rural lifestyle and economy. In context of guidelines and regulations for “rural area development”, the classification “Rural Element” does not include those lands designated as “resource lands of long-term commercial significance”. Resource use, recreational use, and particularly agricultural and timber uses and accessory uses are permitted and encouraged. This is true even if the property is not designated as lands for long-term commercial resource use.

Uses within the County may be commercial, recreational, residential, large-scale industrial, or small-scale industrial, so long as the infrastructure within the community has the capability to handle the demands of the development or that improvements can be made to assure concurrence for schools, traffic, fire, water, and waste discharge. Development shall be subject to concurrency requirements outlined in Section 11.03. In addition, smaller home occupations and cottage industries are an essential component of the County economy and will be permitted in all areas.

Finally, the historic dispersal of population of Ferry County, the limited private lands, and the need to encourage a strong economic base warrant additional areas of more intense activity where (1) the area is already developed, (2) limited public facilities already exist, (3) means can be identified to avoid intrusion of more intense activities into undeveloped areas, (4) means can be identified to protect ground and surface water and (5) means can be found to protect resource lands.

SECTION 11.02 RURAL AREA DEVELOPMENT — GUIDELINES

The guidelines set forth below provide the framework for development regulations dealing with a variety of rural area development issues.

Rural areas in Ferry County are those lands which are not within an Urban Growth Area, and not within designated timber, mineral, or agricultural lands of long-term commercial significance. Within the rural element it is anticipated that the development pattern will retain essentially the current rural character and development pattern. As envisioned by the policies of the Comprehensive Plan, the landscape will continue to be characterized by large stretches of land in agriculture and timber use, though not specifically designated as resource lands of long-term commercial significance. Resource uses will be allowed and encouraged anywhere within the rural area and will not be restricted based on other uses in the vicinity. The resource uses will be interspersed with recreational, residential and small-scale business uses. Residential densities will provide a variety of choices from very large lots to the minimum available lot size for new subdivision, 2.5 acres per lot.

Within the rural element, the County recognizes the following categories of uses considered for more intense rural area development: Rural Service Areas, which include small towns, cross road commercial areas and shoreline areas; small-scale business; tourist uses; natural resource based industries; and, potentially, master planned resorts and major industrial developments.

1) Rural Service Areas

Rural Service Areas are areas of more intense rural development which have specific locations and mapped boundaries as adopted in the Comprehensive Plan. The boundaries are based on the logical extent of commercial, industrial, residential, or mixed-use activity which was developed and in place prior to the commencement of Ferry County planning under the GMA. The Comprehensive Plan, Section 7.12.3, describes the nature and extent of development in each of the Rural Service Areas and includes boundary maps which are hereby made a part of these Development Regulations.

New subdivision of land within a Rural Service Area is limited to the following minimum lot sizes:

Minimum 12,500 square feet for a residential lot that is to be served by community water and community sewer systems.

Minimum one acre for a lot to be served by community water and individual sewer system.

Minimum 2.5 acres for a lot to be served by individual water supply and individual sewer system.

Additional restrictions apply in the Curlew Lake Shoreline Area as indicated in Section c) Shoreline Areas below.

a) Small Towns

The small towns in Ferry County are Danville, Curlew, Pine Grove, Laurier, Orient, Inchelium, and Keller.

Nature of the small towns: each of these towns was developed in a historic pattern of small lots surrounding a central commercial industrial or market feature. The small towns have existing infrastructure including fire protection, water districts, school facilities and other public buildings and services which serve not only the small town but also provide basic needs and services for the surrounding community.

Physical limits of the small towns: The areas designated for development within small towns shall be confined to areas of historic development, but making small allowances for regular boundaries and efficient service areas. See Maps for detail. At this time we have no air photos for the areas within the bounds of the Colville Indian Reservation.

Uses within the small towns may be commercial, residential, recreational, large-scale industrial, or small-scale industrial, so long as the infrastructure within the community has the capability to handle the demands of the development or that improvements can be made to assure concurrence for schools, traffic, fire, electric power, water, and waste discharge. The development must also meet the Critical Area Ordinance requirements. Residential uses shall be based upon historic lots and lot sizes. Commercial uses shall be principally designed to serve the existing and potential rural population and shall be consistent in character with the existing area. For those areas whose existing character includes service to the highway traveler and/or the tourist industry in addition to the rural population, then extension of such traveler/tourist services is considered to be consistent with the existing area. Commercial uses shall not be larger than 10,000 square feet for non-resource uses. Industrial uses shall not be larger than 50,000 square feet per location, for non-resource based uses.

- i) Danville: Danville is a small community situated along Highway 21 at the north boundary of Ferry County, in Township 40 N, Range 34 E.W.M. It has an international border crossing into Canada, a post office, existing or potential community-scale or highway-oriented businesses, and many small lots created in the early 1900's. The boundaries are confined to the area of development along the highway and existing home sites within the original town site plat. The area is approximately 80 acres in size.

- ii) Curlew: Curlew is located along the Kettle River and Highway 21, in Township 39 N., Range 33 E.W.M. Curlew has a public water system operated by a water district, which is exploring options for implementing a public sewer system. Curlew was formerly served by a railroad line, which has now been abandoned and is, potentially, to be preserved as a rail-bank and trail system. The Curlew "town center", platted in the early 1960's, includes a post office, K-12 school, churches, a community center, a cemetery, a volunteer fire department, tourist facilities, existing and potential community-scale businesses, and a registered historical site, the Ansonge Hotel/Museum. To the north of town center lies a potentially available industrial site formerly served by the railroad. On the west side of the highway, the boundary includes "Cougar Corner" at the junction of Highway 21 and the Kettle River Road, the site of a medical clinic plus potential for highway-oriented and community-scale businesses and for institutional/agency facilities. The boundary also includes an R/V park development at the junction of Highway 21 and Customs Road. The boundary is limited to the areas described above, with some existing residential lots in between. The area is approximately 300 acres in size.
- iii) Pine Grove: Pine Grove is located at the junction of State Highways 21 and 20, in Townships 36 and 37 N., Range 33 E.W.M. The area borders the County fairgrounds, has a well developed road network, and is served by a public water system operated by a water district. There are existing and potential community-scale and highway-oriented businesses and several active or available industrial sites. The area includes a recycling center and the major shop and facilities of the Ferry County Public Utility District. The boundaries reflect the area developed as of 1991 and/or as served by, or committed to service by the water district. The area is approximately 120 acres in size.
- iv) Laurier: Laurier is a small community situated at the Canadian border along Highway 395, in Township 40 N., Range 36 E.W.M. Laurier has an international border crossing, a state-owned airstrip, post office, existing or potential community-scale or highway-oriented businesses. The boundaries are confined to the area historically known as the town site. The area is approximately 40 acres in size.
- v) Orient: Orient is a small community lying along State Highway 395 and the Kettle River, in Township 39 N., Range 36 E.W.M. Orient has a water system, school, post office, volunteer fire department, and existing or potential community-scale businesses. The boundaries are confined to the area of the original town site, platted in the early 1900's, which is served by the water system. The area is approximately 275 acres in size.
- vi) Inchelium: Inchelium is located in the southeast portion of Ferry County, in Township 32 N., Range 37 E.W.M., and is in the bounds of the Colville Indian Reservation along Lake Roosevelt. It has a water system, sewer

system, school, post office, community center, volunteer fire department, medical clinic, library, child-care center, community college extension, church, tribal long-house, and youth center. Inchelium includes existing or potential community and tribal businesses, and includes a tribal post and pole manufacturing plant. The boundaries are confined to the area served by the water system. The area is approximately 600 acres in size.

- vii) Keller: Keller is located in the southern portion of Ferry County, in Township 30 N., Range 33 E.W.M., and is in the bounds of the Colville Indian Reservation on State Highway 21. It has a water system, sewer system, school, post office, medical clinic, community center, church, tribal long house, and existing or potential community-scale businesses. The boundaries are confined to the area known as the Keller town site, but also include three separate housing developments north of Keller that are also served by the water system. The area is approximately 160 acres in size.

b) Cross Road Commercial Areas

Cross road commercial areas provide residential, recreational, commercial, and industrial opportunities which are important to Ferry County and its economy. Cross Road Commercial areas are found at major intersections where local commercial service needs are met. Uses within the cross road commercial areas may be commercial, residential, recreational, large-scale industrial, or small-scale industrial, so long as the infrastructure within the community has the capability to handle the demands of the development or that improvements can be made to assure concurrence for schools, traffic, fire, water, and waste discharge. The development must also meet the Critical Area Ordinance requirements. Residential shall be limited to the area of current development. Commercial uses shall be principally designed to serve the existing and potential rural population and shall be consistent in character with the existing area. For those areas whose existing character includes service to the highway traveler and/or the tourist industry in addition to the rural population, then extension of such traveler/tourist services is considered to be consistent with the existing area. Commercial shall not exceed 10,000 square feet per building and 5,000 square feet per use. For example: a person wants to put in a commercial business within the cross road commercial area. He would be subject to a 5,000 square foot building. However, if he wanted to put in a 10,000 square foot building such as a mini mall, a number of small stores could be located within the building. Each use within that building would be limited to less than 5,000 square feet. Industrial uses shall be limited to 20,000 square foot buildings per location. Size limits do not apply to resource based uses.

The County has six (6) such areas: Malo, Barstow, Barney's Jct., The Pines, Boyds and Torboy.

- i) Malo: Malo is located at the junction of State Highway 21 and St. Peters Creek Rd, in Township 38 N., Range 33 E.W.M. It has a post office, community-scale business, and some small residential lots. The boundaries

are the developed area from just south of the post office to north of the historic Malo store. The area is approximately 15 acres in size.

- ii) Barstow: Barstow is located on Highway 395, in Township 38 N., Range 37 E.W.M. It has existing or potential community-scale or highway-oriented businesses. The boundaries are limited to the area of the businesses, which is approximately 5 acres in size.
- iii) Barney's Jct.: Barney's is located at the junction of State Highway 20 and State Highway 395, in Township 36 N., Range 37 E.W.M. The area has a water system, sewer system, and fire hall, and includes a mobile-home and RV park. The area includes existing or potential highway-oriented and tourist-accommodation businesses, including tribally-owned business. The boundaries are confined to the area that includes the above, and is approximately 100 acres in size.
- iv) The Pines: The Pines is located in the southern part of the County, in Township 31 N., Range 33 E.W.M., within the bounds of the Colville Indian Reservation where Cache Creek Road meets State Highway 21. The area includes potential for highway-oriented business plus associated residential property. The area is approximately 10 acres.
- v) Boyds: Boyds is located on State Highway 395, in Township 37 N., Range 37 E.W.M. It includes existing or potential community-scale or highway-oriented businesses, and has potential for industrial location because of the railroad siding. The area is approximately 40 acres.
- vi) Torboy: Torboy is located north of Republic along State Highway 21 and West Curlew Lake Road, in Township 37 N., Range 33 E.W.M. The area includes an RV park plus storage and equipment shop, and includes an industrial site owned and operated by the Republic Public Development Authority (PDA). The area is approximately 35 acres.

c) Shoreline Areas

Ferry County has three (3) lakes which are considered areas in which more intense rural area development may occur. They were platted into small residential lots along or in the vicinity of their shorelines to take advantage of recreation and view amenities, prior to Ferry County opting for growth management. Other shorelines within the county are designated rural and are not considered areas intended for more intense development to occur. The areas considered to have adequate school, water, and other public services to permit continued enjoyment of the shorelines of the County without causing an undue sprawl or impact to resource lands include:

- i) Lake Curlew: Platted portions and limited infill. Located in Townships 37 and 38 N., Range 33 E.W.M., the Lake Curlew sub-area plan was adopted along with the Ferry County Comprehensive Plan. The Lake Curlew Planning

District boundaries are confined within the area between Highway 21 and West Curlew Lake Road which meet at the north boundary. The south boundary is the West Herron Creek Rd. The area between Old West Curlew Lake Road and West Curlew Lake Road is also included in the Lake Curlew Shoreline Rural Service Area. The area includes the Ferry County airport, has resorts, a state park, Ferry Conservation District, some county owned property and many subdivisions and short platted lots. The largest of the subdivisions, Curlew Kai, includes a public water system owned and operated by the homeowner's association. Lots smaller than one acre in size are prohibited in the planning district.

- ii) North & South Twin Lakes: Platted portions and limited infill. Located in Township 32 N., Range 35 E.W.M., within the bounds of the Colville Indian Reservation. Twin Lakes includes water systems, sewer systems, existing or potential community-scale or tourist businesses, resorts with gas, youth camp, Tribal campground, laundromat, and several subdivisions. The boundaries are confined to the area already developed and the small portion of fee lands along the Twin Lakes Meteor Rd.

Areas of more intense shoreline development shall be limited to areas within existing plats, infill between plats where not separated by more than one half mile, and minor adjustments for ease of public service and logical boundaries.

Shoreline areas will not be permitted to extend into areas of prime farmland, prime timber land, or areas of operating mineral lands.

All development around Curlew Lake will also be subject to the rules and regulations in the Curlew Lake Sub Area Plan as well as any other regulations that apply. Within the Curlew Lake Sub Area Plan, maximum development density for all property within 500' of Curlew Lake's shoreline shall not be less than 2.5 acres and must provide for individual water and sewer. Maximum development density for all property beyond 500' of Curlew Lake's shoreline shall not be less than 1 acre. Lots beyond 500' of the shoreline with lots from 1 acre to 2.5 acres in size must provide for community water and either a community sewer system or an area of clustered individual drain fields. Lots beyond 500' of the shoreline area with lots 2.5 acres in size may provide for individual water and sewer.

2) Small-scale Business

The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and non residential uses, but do provide job opportunities for rural residents are encouraged and permitted in the rural area. Public services and public facilities shall be limited to those adequate to serve the isolated use and does not require urban services.

To assure the isolated nature of such businesses, new small-scale businesses shall not exceed 10,000 square feet per building. Each individual use within the building would be limited to 5,000 square feet. Industrial uses shall be limited to 20,000 square foot buildings per location. Size limits do not apply to resource based uses.

3) Tourist Uses

The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development will be allowed in the rural area.

A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use.

4) Major Natural Resource Based Industries

An existing or new natural resource based industry requiring a location near agricultural land, forest land, or mineral land upon which it is dependent will be allowed outside the Urban Growth Area subject to RCW 36.70A.365.

5) Master Planned Resorts

Ferry County considers a stand-alone resort to be an appropriate use within rural areas and such uses may include commercial facilities designed to serve the tourist population. While no such facilities presently exist, public facilities designed to serve such rural tourist uses shall not be used to serve private residential structures intended for sale. The development will be subject to RCW 36.70A.360 and must meet all SEPA and critical area requirements.

6) Major Industrial Developments

An existing or new manufacturing, industrial, or commercial business that requires a parcel of land so large that no suitable parcels are available within an urban growth area will be allowed subject to RCW 36.70A.365.

SECTION 11.03 REGULATIONS PERTAINING TO RURAL AREA DEVELOPMENT

- 1) The rural based economy and lifestyles authorized in Ferry County must comply with the Shoreline Master Program, Critical Area Ordinance, and SEPA based rules and regulations designed to protect the environment, and particularly fish and wildlife habitat. This is accomplished through the permit process and requirements for concurrency. Mitigation through SEPA may be required to avoid or reduce impacts and projects may be rejected where major impacts identified in environmental documents cannot be acceptably mitigated.
- 2) Except as provided above for Rural Service Areas, rural development shall be limited to resource use, recreational use, single-family residential development which may include home occupations, and those special uses itemized in Section 11.02, 2 through 6. Any new subdivision in the rural area shall have a minimum lot size of 2.5

acres per lot. Residential development on a lot larger than 2.5 acres shall be limited to a density of not more than one single-family dwelling unit per 2.5 acres and/or not more than one business use per lot other than no limit on home occupations conducted entirely within the residence which do not require parking or other facilities not typical for residential use.

- 3) All development permits and building permits issued for development activities on rural lands shall contain a notice that the subject property may be on/or within one thousand three hundred twenty feet (1320') of lands designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development. In the case of mineral resource lands, an application might be made for mining related activities including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.
- 4) Concurrency is the availability of adequate public facilities to serve the needs of a particular facility or development contemporaneously with the advent of the impact to be mitigated. Each development which imposes on the community impacts over and above those which the community is equipped to handle is required to address and deal with the service limitations in advance of receiving a building permit or development permit for the project in question. Development regulations shall provide that each public service agency providing public services to a given project, including school districts, fire districts, any water district which may be affected and the County, must all verify in writing that to the extent impacted by the development (a) the district has the capability to provided any increased service needs or (b) the district has entered into a mitigation agreement with the proponent to assure that adequate capacity and service to meet demands reasonably created by the new project will be available when needed.

SECTION 11.04 SUB-STANDARD LOTS IN THE RURAL ELEMENT

Development will be permitted on any existing lot that is less than the current standard size provided that 1) the lot was legally created prior to the adoption of this ordinance; 2) that water and wastewater can be provided and approved; and (3) any critical area requirements are met.

SECTION 11.05 AMENDMENTS TO THE RURAL ELEMENT

Amendments to these development regulations will be considered by the Planning Commission and by the Board of County Commissioners in accord with the County's Public Participation Plan, Resolution 2007-08.

- 1) Authorization to Initiate Amendments – An amendment to the text or the maps may be initiated by the Board of County Commissioners, by the Planning Commission, or by a petition of one or more persons affected by the proposed amendment. Said petition shall be filed with the County Planning Director.
- 2) Planning Commission Review and Recommendation - As specified in the Public Participation Plan, suggestions for amendment, submitted to the Planning Department, will be added to the docket of suggested amendments. At least once per year, the suggestions will be considered by the Planning Commission which will

make a recommendation to the Board of County Commissioners. The review by the Planning Commission will be as provided in this Section.

- 3) Contents of Petition for Amendment – A petition for a map amendment shall contain the following information:
 - a) The proposed amendment and the reason it is sought.
 - b) An identification of that portion of this ordinance or the development map proposed to be amended.
 - c) A legal description of all land which would be governed by new land use regulations if the amendment were enacted.
 - d) A generalized description of the actual land uses on all land described in this subsection and on all land located within five hundred (500) feet of the land described in this subsection.
 - e) A description of the petitioner's property which would be governed by the new land use regulations if the amendment were enacted.
 - f) The names and addresses of each owner of land located within five hundred (500) feet of the land described in this subsection.
- 4) Findings of Planning Commission – Whenever the Planning Commission makes a recommendation either for enactment or rejection of an amendment, it shall prepare a statement containing its findings in support of the recommendation, which shall include, but not be limited to, findings on the following points:
 - a) Whether the enactment of the amendment complies with the purpose of the Ferry County Comprehensive Plan;
 - b) Whether all of the new uses to be permitted on the land covered by the amendment would be compatible with uses permitted on adjacent or nearby land;
 - c) Whether there is likelihood that enactment would have a disruptive effect on the stability and continuation of land use patterns on land not covered by the amendment;
 - d) Whether there is likelihood that the new land uses provided under the amendment would cause the value of land not covered by the amendment to increase or decrease greatly in value and thereby render the current land use provisions economically ill-suited as they pertain to such land;
 - e) Whether the existing use regulations unreasonably restrict or prevent use of land covered by the amendment, and whether such regulations apply to adjacent uses;
 - f) Whether the enactment of the amendment complies with the purpose of this ordinance and the public interest would be served; and
 - g) Whether there is likelihood that enactment of the amendment would result in other petitions to amend this ordinance.
- 5) Public Participation - Public notice, public hearing, and action by the Board of County Commissioners will be in accord with the Public Participation Plan.
- 6) Withdrawal of Petition – A petition of an amendment may be withdrawn upon written note from the petitioner or, if there is more than one petitioner, by majority of the persons signing the petition.
- 7) Notice to Nearby Property Owners – In addition to requirements of the Public Participation Plan, a notice of proposed amendment and the schedule for public hearing shall be mailed to each property owner of record within 500 feet of any property included in a proposal.

SECTION 12.00 NONCONFORMING USES/EXCEPTIONS/VARIANCES

SECTION 12.01 NONCONFORMING USES

A nonconforming use is an activity, structure, or condition in existence at the time of adoption of this ordinance that would not now be permitted. A nonconformance may be continued or physically maintained. Structural modification of, addition to, or replacement of any nonconforming structure is permitted if the modification, addition, or replacement does not increase the size of the structure by more than 1000 square feet over that existing before the adoption of this ordinance.

SECTION 12.02 PUBLIC FACILITY EXCEPTION

If the application of this section would prohibit a development proposed by a public agency or public utility, the agency or utility may apply for an exception.

SECTION 12.03 VARIANCES

A permit for a variance provides the opportunity for a landowner to make reasonable use of his property when adherence to the requirements of these regulations discriminates against the individual. A variance may be granted an individual property owner when the Planning Commission finds that all of the following are met:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same designated area;
- 2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same designated area under the terms of this ordinance, and prevent an otherwise reasonable use of the property;
- 3) That special conditions and circumstances do not result from actions of the applicant;
- 4) That granting the variances requested would not confer on the applicant any privilege that is denied by this ordinance to other lands, structures, or buildings in the same designated area;
- 5) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
- 6) The variance granted is the minimum necessary to accommodate the use;
- 7) The use will not conflict with local or state health regulations;
- 8) The granting of the variance is consistent with the general purpose and intent of this ordinance and of the Ferry County Comprehensive Plan; and
- 9) In granting of the variance, the county may prescribe necessary conditions, safeguards or mitigation measures necessary.

A variance approval shall be good for five years from the date of approval.

SECTION 12.04 REASONABLE USE EXCEPTION

If the application of this section would deny all reasonable economic and beneficial use of the property, the applicant may apply for an exception pertinent to this subsection.

- 1) The applicant shall apply to the Planning Commission. The applicant may apply for a reasonable use exception without first applying for a variance if the requested

exception includes relief from standards for which a variance cannot be granted. The Planning Commission shall review the application in consultation with the prosecuting attorney and the criteria as stated in subsection 2 of this section and shall prepare a recommendation to the Board of County Commissioners.

- 2) The Planning Commission shall review the exception and shall make a final decision based on the following criteria:
 - a) the application of this chapter would deny all reasonable economic and beneficial use of the property;
 - b) the proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this ordinance and with the public interest.

SECTION 13.00 ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the County Planning Director or other such persons designated by the Responsible Official to administer the provisions of these regulations.

The Prosecuting Attorney, at the request of the Responsible Official, may institute any legal proceedings to enforce the provisions of these regulations.

SECTION 13.01 APPEALS

- 1) Appeals - Appeals may be taken to the Board of County Commissioners by any person aggrieved, or by any officer, department, board or bureau of Ferry County affected by any decision of an administrative nature pursuant to this ordinance. Such appeals shall be filed in writing in duplicate with the Clerk of the Board within twenty (20) days of the action being appealed.
- 2) Notice of Time and Place for an Appeal – Upon the filing of an appeal, the Board of County Commissioners shall set the time and place at which the matter will be considered. At least a ten (10) day notice of such time and place together with one (1) copy of the written appeal, shall be given to the Planning Director. At least ten (10) days notice of the time and place shall be given to the adverse parties of record in the case. The Planning Director shall forthwith transmit to the Board of County Commissioners all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent.
- 3) Scope of Authority on Appeal – In exercising the powers granted by this ordinance, the Board of County Commissioners may, in conformity with this ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the Planning Commission from whom the appeal was taken insofar as the decision on the particular issue is concerned.
- 4) Action Final – The action by the Board of County Commissioners on an appeal from the decision of the Planning Commission shall be final and conclusive unless within ten (10) days from the date of said action the original applicant or an adverse party makes application to a court of competent jurisdiction
- 5) Findings of Fact – The Board of County Commissioners shall, in making an order, requirement, decision, or determination, include in a written record of the case, the findings of fact upon which the action is based.

SECTION 13.02 VIOLATION AND PENALTY

Any person who commences a regulated activity beyond the stated conditions of the person's permit or variance, shall be in violation of this ordinance.

SECTION 13.03 CIVIL REMEDY

This ordinance may be enforced by civil action for injunctive, declaratory or other such relief as necessary to insure compliance. The court may impose a civil penalty of up to \$5,000.

SECTION 13.04 CRIMINAL PENALTY

Any person convicted of violating this ordinance shall be guilty of a misdemeanor.

SECTION 14.00 SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provisions to other persons or circumstances is not affected.

SECTION 15.00 BIBLIOGRAPHY

The following documents are referred to in this ordinance and are included by reference for use or guidance. Changes to these documents by the author or authoring agency require review by Ferry County for effect on this ordinance and possible need for other adjustments to the ordinance before being approved for inclusion in the ordinance by act of the Board of County Commissioners:

Section 1.00: Authority:

- RCW 36.70, Planning Enabling Act, 1963;
- RCW 36.70A, Growth Management Act, 1990, and as amended through 2007;

Section 2.00: Purpose:

- Ferry County Comprehensive Plan, September 18, 1995;
- RCW 36.70A, Growth Management Act, 1990 and as amended through 2007;

Section 4.00: Definitions:

- Federal Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, 1983 (48 FR 447 16);
- RCW 36.70A.070(5), Comprehensive Plans—Mandatory Elements, October 2007;
- RCW 36.70A.070(5)(d)(iv)&(v)-Limited Areas of More Intensive Rural Development, 1995;
- RCW 36.70A.110(4), Comprehensive Plans—Urban Growth Areas, October 2007;
- RCW 36.70A.170 Natural Resource Lands and Critical Areas—Designations, October 2007;

- RCW 36.70A.360, Master Planned Resorts, 1998;
- RCW 84.33.140, Forest Land Valuation, Assessor to list forest land at grade and class values—Computation of Assessed Value—Adjustment of Values—Certification—Use—Notice of Continuance—Appeals—Removal of Classification—Compensating Tax, 2000;
- RCW 84.33.130, Forest Land Valuation, Application by Owner that Land be Designated and Valued as Forest Land—Hearing—Rules—Approval, Denial of Application—Appeal, 2003;
- RCW 84.34, Open Space, Agricultural, Timber Lands—Current Use, 1992;
- RCW 90.48, Water Pollution Control, 1996;
- US Code Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915, 16 U.S.C. Sec. 470, National Historic Preservation Act, 1966;

Section 6.03: Designation:

- RCW 27.44.20 Examination permitted—Removal to archaeological repository, October 2007;
- RCW 27.53.060, Disturbing, etc., Archaeological Resource or Site Without Written Permit or Permission Unlawful—Conditions Allowed—Exceptions, October 2007;
- WAC 25-48, Archaeological Excavation and Removal Permit, 1995;

Section 7.00: Resource Lands:

- RCW 36.70A.170, Natural Resource Lands and Critical Areas—Designations, October 2007;

Section 8.00: Forest Land:

- Ferry County Assessor, Orthophoto Maps;
- RCW 76.09, Forest Practices, 1999;
- Washington Department of Revenue, Forest Land Grades;
WAC 458-40-530, Property Tax, Forest Land-Land Grades-Operability Classes
- Colville National Forest Maps, 1992;

Section 8.02: Policies:

- RCW 84.33, Timber Lands, 1990;
- RCW 84.34, Open Space, Agriculture, Timber Lands—Current Use, 1992;

Section 8.03: Classification:

- Washington Department of Revenue, Forest Land Grades;
WAC 458-40-530, Property Tax, Forest Land-Land Grades-Operability Classes

Section 9.02: Classification:

- USDA, Natural Resources Conservation Service's Land-Capability Classification System, Agricultural Handbook No. 210, Land Classifications, 1973;

Section 9.03: Natural Resources Conservation Service Land Capability Classes (Classes I-VIII):

- USDA, Natural Resources Conservation Service's Land-Capability Classification System, Agricultural Handbook No. 210, Land Classifications, 1973;

Section 9.04: Designation:

- USDA, Natural Resources Conservation Service's Land-Capability Classification System, Agricultural Handbook No. 210, Land Classifications, 1973;

Section 9.05: Uses Allowed on Designated Agricultural Lands:

- RCW 16.24, Stock Restricted Areas, 1989;
- RCW 16.60, Fences, 1985;
- RCW 36.70A.177, Agricultural Lands—Innovative Zoning Techniques—Accessory Uses;

Section 10.03: Designation:

- Ferry County Mining Ordinance #90-02, June 25, 1990
- USGS Quadrangle Geological Survey Bulletins;
- Washington Department of Natural Resources Geological Maps;

Section 11.02: Rural Area Development—Guidelines:

- Ferry County Comprehensive Plan, September 18, 1995;
- Ferry County Comprehensive Plan Rural Service Areas Maps
- RCW 36.70A.360, Master Planned Resorts;
- RCW 36.70A.365, Major Industrial Developments:

Section 11.05: Amendments to the Rural Element:

- Ferry County Public Participation Plan, Resolution 2007-08, May 29, 2007;
- Ferry County Comprehensive Plan, September 18, 1995;

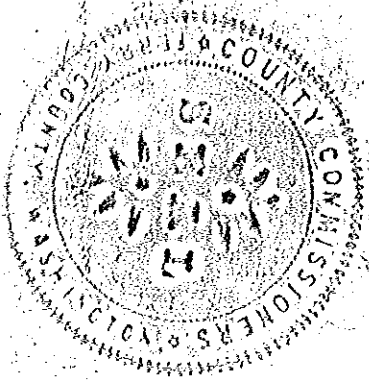
Section 12.04: Variances:

- Ferry County Comprehensive Plan, September 18, 1995;

SECTION 16.00 EFFECTIVE DATE:

This ordinance shall come into full force and effect, the 1st day of December, 2008.

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



Objected

Ronald J. Bond, Chairman

Brad L. Miller

Brad L. Miller, Vice-Chairman

Mike L. Blankenship

Mike L. Blankenship, Member

ATTEST:

Debbie Bechtol

Debbie Bechtol, Clerk of the Board

APPROVED AS TO FORM:

Michael Sandona

Michael Sandona, Prosecuting Attorney