

**FERRY COUNTY  
ORDINANCE #2012-03**

**RIGHT TO FARM,  
RANCH, AND PRACTICE  
FORESTRY**

**June 11, 2012**

*Ex. #1*

**FERRY COUNTY RIGHT TO FARM, RANCH, AND PRACTICE FORESTRY  
ORDINANCE #2012-03**

WHEREAS, farming is a major economic factor in Ferry County and the State of Washington;  
and

WHEREAS, a need exists to continue farming, ranching and farm operations in accordance with generally accepted management practices; and

WHEREAS, forestry is a major industry and a major economic factor in Ferry County and the State of Washington; and

WHEREAS, a need exists to continue forestry and forest operations in accordance with generally accepted management practices; and

WHEREAS, farming, ranching and forestry are a part of Ferry County's customs and culture;  
and

WHEREAS, agricultural activities and forest practices conducted on farmland and forest land are subjected to nuisance lawsuits, and that such suits encourage and often force the premature removal of the lands from agricultural uses and timber production; now,

THEREFORE, BE IT HEREBY RESOLVED that the Board of Ferry County Commissioners adopts the following "Ferry County Right to Farm, Ranch and Practice Forestry Ordinance."

BE IT FURTHER RESOLVED, that upon signature and execution of this ordinance that Ferry County Ordinance No. 2009-07 is repealed.

**FERRY COUNTY  
RIGHT TO FARM, RANCH AND PRACTICE FORESTRY ORDINANCE**

Sections:

- 1.0 Short title.
- 2.0 Intent
- 3.0 Policy and purposes.
- 4.0 Definitions.
- 5.0 Nuisance.
- 6.0 Posting of caution signs.
- 7.0 Stray livestock
- 8.0 Interpretation of provisions.
- 9.0 Right of practices.
- 10.0 Disclosure.
- 11.0 Severability.
- 12.0 Headings not part of law.

**Section 1.0 Short title.**

This ordinance shall be known and cited as the "Right to Farm, Ranch and Practice Forestry" Ordinance.

**Section 2.0 Intent.**

It is the intent of this ordinance to enhance the provisions of State code related to "Right to Farm," real estate and public disclosure. This ordinance is not intended to replace or diminish State codes regarding nuisances, disclosure or a person's right to file a claim for damages. Further, this ordinance is not to be construed in any way as modifying or abridging State or Federal laws; rather it is only to be utilized in the interpretation and enforcement of the provisions of this ordinance and County regulations. It is intended that through disclosure property owners and potential purchasers will better understand the impact of living near agricultural, ranching and forestry operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

**Section 3.0 Policy and purposes.**

- (1) (a) It is the declared policy of Ferry County to conserve, enhance and encourage agricultural, ranching and forestry operations within the County. It is the further purpose of the County to provide to the residents of the County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to farm and practice farming, ranching and forestry.
- (b) Washington State planning goals encourage the conservation and retention of productive agricultural, ranching and forest lands and discourage incompatible uses. This goal can be fulfilled through this ordinance by assuring that the uses of lands do not

interfere with the continued use, in the accustomed manner, for the production of food, fiber and forest products.

(2) Where non-agricultural land uses extend into agricultural, ranching and forest areas or exist side by side, agricultural, ranching and forestry operations are frequently the subject of nuisance complaints and on occasion have been forced to cease or curtail operations. Such nuisance complaints discourage investments in farm and forestry improvements to the County's agricultural and forest industry as a whole. It is the purpose of this ordinance to reduce the loss to the County of its agricultural and forest resources by limiting the circumstances under which agricultural, ranching and forestry operations may be considered a nuisance.

(3) It is the policy of Ferry County that the County will not take action to prohibit or restrict usual and customary agricultural, ranching and forestry activities on lands historically used for such activity. This policy applies to all land use in Ferry County including the Urban Growth Area. Such activities include, but are not limited to:

(a) repair, maintenance or replacement of agricultural buildings, including housing and road side stands;

(b) productive use of agricultural, ranch and forest lands, including, but not limited to: tilling, plowing, planting, harvesting, land maintenance, spraying, processing, drainage; and

(c) repair, maintenance or replacement of fencing and fresh water ponds, irrigation and drainage ditches and structures.

(4) The purpose of this ordinance is to promote a good neighbor policy between agricultural, ranching, forest, and non-agricultural and non-forest property owners by promoting this ordinance through a disclosure or notice statement to all existing and new residents of the potential inconveniences and discomforts which may arise from agricultural, ranching and forestry activities.

(5) An additional purpose of this ordinance is to recognize the diversity and complexity of farming, ranching and forestry operations.

#### **Section 4.0 Definitions.**

(1) "Agricultural Operations or Practices" means any condition or activity which occurs on a farm in connection with the production of farm products, and includes, but is not limited to, the following: marketed products at roadside stands or farm markets; noise; dust; odors; fumes; planting; tillage; plowing; maintenance of the soil or other growing medium and composting; soil amendmets; harvesting by hand or by grazing or mechanically; marketing; preparation; transportation of machinery and irrigation equipment; irrigation; frost protection; land maintenance; protection from damage by wildlife and wildfire; prevention of trespass; ground and aerial seeding; ground and aerial spraying; application of chemicals and organic fertilizers, conditioners, pesticides, insecticides, and herbicides and cultivation, growing raising breeding

slaughtering or processing of any living organism having value as an agricultural commodity or product and any practices performed incident to or in conjunction with such operations on the site where the agricultural product is being produced, including preparation for market, delivery to storage or to market, or carriers for transportation to market, the employment and use of labor.

(2) "Farm" means that land, buildings, freshwater ponds, freshwater culturing and growing facilities, machinery, animals and insects/pollinators used in the production of farm products.

(3) "Farm Products" means those plants and animals useful to human beings, and including, but not limited to, the following: forage and sod crops, grains, fuel and feed crops, dairy and dairy products, poultry and poultry products livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, gasses, trees, fungi, freshwater fish and fish products, freshwater crustaceans, apiaries, pollinator and beneficial insects, equine and other similar products, horticultural products or any other product which incorporates the use of forest products, food, feed, fiber or fur.

(4) "Forest Land" means all land which is capable of supporting a merchantable stand of timber and is not actively being used for a use which is incompatible with timber growing.

(5) "Forest Operations or Practices" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, including but not limited to: road and trail construction, intermediate and final harvesting, precommercial thinning, fire safeing, site preparation, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees and brush control.

(6) "Good Management Practices" means historic, current or innovative economically feasible management practices available as defined or recommended by the American Society of Agronomy, the United States Department of Agriculture, Society of American Foresters, American Tree Farm System, Washington Farm Forestry Association, the Washington State University Extension in Ferry County, Ferry County Conservation District and other land based professional or industrial agricultural organizations and field technicians.

(7) "Person" means an individual, company, corporation, partnership, association or other legal entity.

(8) "Ranching Operations or Practices" mean any activity which occurs on a farm or on forest land in connection with the process of raising animals or livestock including, but not limited to: housing, breeding, grazing, herding, fencing, feeding, watering or caring for the general health and welfare of the animals, including protection from damage by wildlife and wildfire and prevention of trespass.

#### **Section 5.0 Nuisance.**

(1) No agricultural, ranching, or forestry activity, operation, facility or appurtenances thereof, regardless of past or future changes in the surrounding area's land use or partitions, and in a manner consistent with current good management practices, not superseding local, State or

Federal regulations shall be considered or become a nuisance unless the activity or practice has a substantial adverse effect on public health and safety, even when in turn these practices may be subject to varying conditions which include, but are not limited to: geographical location, weather, soil types and conditions, type of crop or livestock.

(2) A change in crops, livestock or animal numbers does not constitute a new agricultural or forest activity and shall not be found to constitute a nuisance consistent with subsection (1) above. This applies to land lying fallow for indefinite periods of time due to conservation program or economic conditions.

(3) Ferry County will not take action to prohibit or restrict usual and customary agricultural, ranching and forestry activities on lands historically used for such activity. This applies to all land use in Ferry County, including the Urban Growth Area. Such activities are allowed 24 hours a day 7 days a week and include, but are not limited to:

- (a) repair, maintenance or replacement of agricultural buildings, including housing and road side stands;
- (b) productive use of agricultural, ranch and forest lands, including, but not limited to: tilling plowing, planting, harvesting, land management, spraying, processing or drainage; and
- (c) repair, maintenance or replacement of fencing and fresh water ponds, irrigation and drainage ditches and structures.

#### **Section 6.0 Posting of caution signs.**

During any spray operations, farmers, ranchers or foresters may post caution signs on county rights-of-way that read "Caution Spraying in Progress."

#### **Section 7.0 Stray livestock.**

Occasionally livestock will break through, jump or generally escape a fenced area. Ferry County declares this occasional activity to be consistent with subsection .030(1) above and shall not constitute a nuisance. State and local range and restricted laws apply.

#### **Section 8.0 Interpretation of provisions.**

This ordinance should not be construed to compromise or alter existing County, State or Federal laws.

#### **Section 9.0 Right of practices.**

Ferry County recognizes an individual's right to choose the foods, crops and livestock they plant, produce, process, prepare, raise sell, purchase, distribute, retain, preserve, store or consume in any quantity or length of time except as otherwise prohibited by Washington State Constitution.

Adopted this 11<sup>th</sup> day of June, 2012.

BOARD OF COUNTY COMMISSIONERS  
OF FERRY COUNTY, WASHINGTON

*B. Dansel*

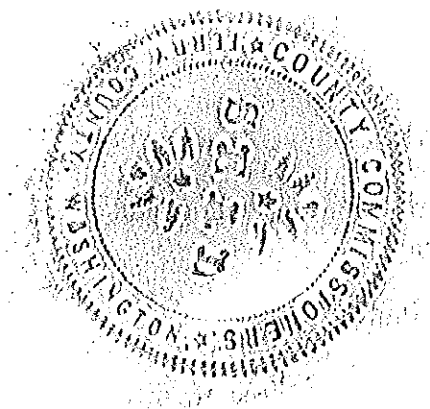
\_\_\_\_\_  
Brian Dansel, Chairman

*ABSENT*

\_\_\_\_\_  
Brad L. Miller, Member

*Bob Health*

\_\_\_\_\_  
Robert L. (Bob) Health, Member



ATTEST:

*Hayley Auberlin*

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Hayley Auberlin, Clerk of the Board

## **Section 10.0 Disclosure**

(1) The statement set forth in subsection (2) ("Disclosure") shall be used under the following circumstances and in the following manners:

(a) Ferry County shall make available a copy of the Disclosure to all owners of real property in Ferry County upon request.

(b) (1) The County adopts RCW 64.06.22 Disclosure of possible proximity to farm.

(2) To the maximum extent possible, the County encourages, prior to transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or any other means, the delivery of the disclosure statement contained in subsection (2) below or a copy of this county right to farm ordinance to the transferee. This is to be achieved by cooperation between the county, the real estate trade association, agriculture and forestry associations, by voluntary means and written agreements.

(2) The following shall constitute the Disclosure required by this section:

"In addition to the Washington right to farm act, RCW 7.48.300-320 or as herein modified, Ferry County maintains a right to farm, ranch and practice forestry. You may be subject to conditions arising from such operations, including, but not limited to, odors, flies, dust, smoke, the operation of machinery of any kind during any 24 hour period (including aircraft), animals, the storage and transport and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, traffic, light, noise, changes in the appearances, and mud. Ferry County has determined that the use of real property for agricultural, ranching, and forestry operations is a high priority and protected use in the County. Those conditions, inconveniences or discomforts arising from agricultural, ranching and forestry operations, if such operations are consistent with commonly accepted good management practices and comply with local, State and Federal laws, shall not be considered a nuisance unless the activity or practice has a substantial adverse effect on public health and safety.

## **Section 11.0 Severability**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

## **Section 12.0 Headings not part of law.**

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.