

FERRY COUNTY

DEVELOPMENT REGULATIONS

ORDINANCE #2013-05

AMENDING ORDINANCE #2012-06

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FERRY COUNTY
DEVELOPMENT REGULATIONS ORDINANCE #-2013-05
AMENDING ORDINANCE #2012-06

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....”, and

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.”, and

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.”, and

WHEREAS, RCW 36.70A.170 states that each county shall designate where appropriate Natural Resource Lands: (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

WHEREAS, the measures adopted through this ordinance are designed to meet the goals and regulations of the Growth Management Act and the policies of the Ferry County Comprehensive Plan, and

WHEREAS, Ferry County is required by WAC 365-190-050 to consider as Agricultural Resource Lands, land not already characterized by urban growth, land used or capable of being used for agricultural production, and land that has long-term commercial significance for agriculture, and

WHEREAS, Ferry County utilized the model provided for the County by then CTED, which was developed by Lewis County. Review of agricultural land was based on the criteria found in WAC 365-190-050 (3)c, and

WHEREAS, other counties have utilized the U.S. Agricultural Census for information to aid in determining designation of Agricultural Lands of Long-Term Commercial Significance. However, due to the effects of Title 7 of the United States Code, most tabulated items for Ferry County are suppressed and coded with a ‘D’ to protect confidentiality; thereby, diminishing the usefulness of the U.S. Agricultural Census for Ferry County, and

WHEREAS, the "land in farms" figures from the U.S. Agricultural Census report there are 749,452 acres in farms in Ferry County, of which 589,738 acres is reported as "land in farms" within the Colville Indian Reservation. This leaves 159,714 acres in "land in farms" outside the Colville Indian Reservation. Of that amount, 134,499 acres are in timber tax classification. This leaves 25,215 acres as privately held "land in farms" under non-timber agricultural use, and

WHEREAS, pastured woodland and woodland not pastured (woodlots, timber tracts and sugarbush) are included as "land in farms" reported in the U.S. Agricultural Census. All state and federally managed forest lands or lands under current use taxation programs as either designated forest or current use timber are designated as Forest Lands of Long-Term Commercial Significance in Ferry County, and protected in Section 8 of this document. The Assessor's office reports 630,418 acres in these programs, and

WHEREAS, the Natural Resources Conservation Service soil surveys report 18 prime soil types in Northern Ferry County and 49 prime soil types on the Colville Reservation located within Ferry County, and

WHEREAS, the 21,360 acres of prime soils found in Northern Ferry County include lands in the Urban Growth Area as well as platted lots, timber lands, and isolated pockets, it is clear that this figure of prime soil acreage is not useful in substantiating acres used for agricultural activity, and

WHEREAS, Ferry County's primary agricultural product is livestock (cattle) and is entirely dependent upon public rangeland for grazing. The 1934 Taylor Grazing Act, the 1976 Federal Land Policy and Management Act and the 1978 Public Rangeland Improvement Act provides leased grazing which stabilizes the livestock industry dependent upon the public range, prevents economic disruption, saves open space and western wildlife and has been the mainstay of the rural western economy, and

WHEREAS, there are 459,545 acres of Colville National Forest grazing leases and 19,423 acres of Washington State grazing leases within Ferry County, and

WHEREAS, Ferry County has a Range Law and a Right to Farm, Ranch and Practice Forestry Ordinance. Agricultural activities are not limited to specific areas but take place on a county-wide basis.

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

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ACRONYM LIST

BLM	Bureau of Land Management
CTED	Washington State Department of Community, Trade and Economic Development (now Washington State Department of Commerce)
DAHP	Washington State Department of Archaeology and Historic Preservation
DNR	Department of Natural Resources (Washington State)
GMA	Growth Management Act
LAMIRD	Limited Areas of More Intense Rural Development
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
USDA	United States Department of Agriculture
USGS	United States Geological Survey
WAC	Washington Administrative Code

FERRY COUNTY ORDINANCE #2012-06 DEVELOPMENT REGULATIONS ORDINANCE

SECTION 1.00 AUTHORITY

This ordinance is adopted pursuant to 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 regulations of the Growth Management Act (RCW 36.70A) and the goals and policies of the Ferry County Comprehensive Plan.

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.

Agriculture Land of Long-Term Commercial Significance – Designated agriculture lands that are not already characterized by urban growth, are primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), and have long-term commercial significance, which includes 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. Long-Term Commercial Significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the twenty-year planning period, if adequately conserved.

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.

Contiguous – Areas immediately adjacent to one another.

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.

Natural Resource Lands - Agricultural, Mineral and Forest Land of Long-Term Commercial Significance.

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 including State and Federal grazing allotment lands, regardless of current designation or soil types.

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).

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 NATURAL 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.

It is the Natural Resource Lands goal of Ferry County to maintain and enhance natural resource-based industries in the county, and to provide for the stewardship, conservation and productive use of these forest, agricultural and mineral lands. The regulations included in this ordinance are designed to protect against loss of natural resource lands consistent with the goals and regulations of the Growth Management Act.

Resource Lands Notice:

All plats, short plats, development permits and building permits issued for development activities on any land within one thousand three hundred twenty feet (1320') of lands designated as agricultural, forest or mineral resource lands of long-term commercial significance shall contain a notice that the subject property may be on/or within one thousand three hundred twenty feet (1320') of lands designated agricultural, forest or mineral resource lands of long-term commercial significance on which a variety of

commercial activities may occur that are not compatible with residential development. In the case of mineral resource lands, mining related activities might include 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 on private and state owned lands 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 promote the restoration and enhancement of degraded forest lands.
- 4) Support and encourage the application of Federal laws on multiple use and sustained yield use of the Federal forest lands for production of food, fuel, fiber and mineral products.

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 or more), where 100% of the land is for resource use only, including all federal and state managed forest land; 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 private properties through Forest Lands of Long-Term Commercial Significance shall not traverse any forest resource lands unless subject to an easement, or shown on maps of the Ferry County Public Works Department or Forest Service Maps of the Colville National Forest, dated 1992.

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.

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

SECTION 9.00 AGRICULTURAL LANDS OF LONG-TERM COMMERCIAL SIGNIFICANCE

Designated agricultural lands are lands that are not already characterized by urban growth, are primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), and have long-term commercial significance, which includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the lands proximity to population areas, and the possibility of more intense uses of the land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the twenty year planning period, if adequately conserved.

BACKGROUND AND ANALYSIS INFORMATION

What the GMA Requires for Agricultural Resource Lands

The GMA Requires Ferry County to designate agricultural resource lands of long-term commercial significance. Designation process must be guided by the criteria contained in WAC 365-19-050. The county must explain how it applied the criteria in its decision to designate. The result of that process must designate a critical mass of land to support the

agricultural economy in Ferry County. The application of the criteria, especially the determination of land suitability, should be based on needs of the agricultural industry as it has adapted itself to the particular landscape and economic conditions of Ferry County. This includes such things as the type of products produced in the county, the needs of the industry particular to Ferry County and the practices common among agricultural producers in the county. Once land is designated, the county's development regulations must assure their conservation. Development regulations conserve agricultural land by protecting it from two primary threats: 1.) Conversion to other uses better suited to land without long-term commercial significance for agriculture. 2.) Interference from incompatible uses on adjacent property.

A determination of whether the county has met its responsibility will be based on these three responsibilities.

- 1) Was the process for designating agricultural resource lands guided by the applicable criteria in WAC 365-190-050?
- 2) Does the result conserve a critical mass of agricultural land in Ferry County?
- 3) Do the development regulations assure the conservation of agricultural lands of long-term commercial significance?

What is Agriculture in Ferry County

Because the fundamental purpose of RCW 36.70A.170 is to preserve the resource needed for the agricultural section, the designation process must start with an understanding of the agricultural industry as it has adapted to the conditions specific to Ferry County. This was determined by examining the Census of Agriculture and by consulting the agricultural producers in the county through the Cattlemen and the Farm Bureau. RCW 36.70A.020 defines "agricultural land" as land devoted to the production of one or more of the following commodities: flowers, dairy, Apiary (bees and honey), vegetables, animal products, berries, grain, hay, straw, turf, seed, some Christmas trees, fish hatcheries, or livestock.

Ferry County reviewed the census of agriculture to determine which of these agricultural products were produced in commercially significant quantities and values in Ferry County.¹ Of these, the only products that are commercially significant were livestock, particularly cattle (\$1.64 Million) exceeding the value of all other commodities by an order of magnitude. Other livestock including horses, sheep and goats are also produced to a lesser degree. Much of the lowland in the county produces hay. However, the Census of Agriculture shows that hay is not commercially significant as a cash crop (\$327,000), but is accessory to the cattle and livestock industry. Consultation with producers in the county shows that the hay that is sold for cash is not exported out of the county, but is instead fed to livestock within the county which are subsequently exported outside of the county. When considering the suitability of the land and the needs of the industry Ferry County focused principally on the needs of the livestock industry.

¹ 2007 Census of Agriculture, Ferry County Profile

Livestock practices in the county use very large amounts of land, but the land is only suitable for very low-intensity use. Most of the land base for livestock consists of scrub, grassland or forest land used for grazing. This land includes tribal land, National Forest land and also private land. Timberland in the county is used for range, grazing and commercial forestry.

Although Ferry County does not have jurisdiction over tribal land or federal land, these lands are used for agriculture within the county. When considering whether the long-term needs of the agricultural industry are being met, these lands are included. Ferry County estimated the total amount of land currently devoted to livestock production in the County. Because of problems with data reporting, Ferry County did not directly use the Census of Agriculture for some lands. Census of Agriculture numbers exclude land leased on a per animal unit rather, than a per acre basis. This excludes Forest Service grazing allotments. Census of Agriculture numbers also combines tribal lands in Okanogan County within the Ferry County totals. Ferry County consulted with the Colville Confederated Tribes and the US Forest Service to account for these issues and estimate the total amount of land in agricultural production in the county as summarized in Table A.

Table A Estimates of Total Land Currently in
Agricultural Production in Ferry County

	Acres
Ag Census ²	749,452
National Forest Grazing Allotments ³	459,545
State Forest Grazing Leases ⁴	19,423

Estimates of the total land in agricultural production cannot determine whether those lands meet the criteria in WAC 365-190-050. However, the estimates provide a way to determine if the result of the designation process is designating a critical mass of lands to assure the conservation of the natural resource basis necessary to sustain the agricultural industry in the county in the long-term.

CRITERIA FOR DESIGNATING AGRICULTURAL LANDS OF LONG-TERM COMMERCIAL SIGNIFICANCE IN FERRY COUNTY, WASHINGTON

Methodology for Designation of Agricultural Lands of Long-Term Commercial Significance

Guidance for identification and designation of Agricultural Lands of Long-Term Commercial Significance is found in WAC 365-190-040 and WAC 365-190-050. Based on the methodology contained in the guidelines established by the State and models provided by the Department of Commerce, the following process is established for

² 2007 Census of Agriculture, Ferry County Profile

³ US Forest Service, Colville National Forest (per head basis)

⁴ Washington State Department of Natural Resources (per head basis)

determination of existence, identification and designation of Agricultural Lands of Long-Term Commercial Significance within Ferry County.

The process used shall be an objective, analytical process to assess lands potentially suitable for agricultural uses. It is based on aerial photography, the WAC guidelines and a numerical score which was reviewed by area to make an accurate determination. All lands within Ferry County are mapped and assessed according to the level of suitability for designation as Agricultural Lands of Long-Term Commercial Significance based upon this process.

Land Potentially Suitable for Agricultural Land of Long-Term Commercial Significance

The initial step in qualifying land under consideration as Agricultural Lands of Long-Term Commercial Significance is to identify lands that may be considered consistent with the requirements of the GMA.

The determination of land to be designated as Agricultural Land of Long-Term Commercial Significance requires the consideration of three factors. First, is the land not already characterized by urban growth? If it is characterized by urban growth, it cannot be designated as Agricultural Land of Long-term Commercial Significance. Second, is the land primarily devoted to the commercial production of agricultural products? If the land is not so primarily devoted, it cannot be designated as Agricultural Land of Long-term Commercial Significance. Third, does the land have long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity and whether it is near population areas or vulnerable to more intense uses? If the land does have long-term commercial significance, it can be designated as Agricultural Land of Long-term Commercial Significance.

As found in WAC 365-190-030(11) "long-term commercial significance" includes consideration of the growing capacity, productivity and the soil composition of the land for long-term commercial production, in consideration of the land's proximity to population areas, and the possibility of more intense uses of the land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the twenty-year planning period, if adequately conserved.

Productivity and soil composition are intrinsically linked and can be utilized as a prime indicator of lands that may be considered suitable for designation as Agricultural Lands of Long-Term Commercial Significance. The growing capacity of various soils is also an indicator of their suitability. The U.S. Department of Agriculture Soil Survey has classified soils using growing capacity, productivity and soil composition, in addition to other factors.

WAC 365-190-050(3)(a)

Factor 1: Land Already Characterized by Urban Growth

Ferry County considered the land characterized by urban growth. Natural resource lands within an Urban Growth Area or a Rural Service Area shall not be designated as Natural Resource Lands of Long-Term Commercial Significance.

WAC 365-190-050(3)(b)

Factor 2: Land Primarily Devoted to Commercial Production

Initially, the U.S. Department of Agriculture soil survey maps were used to determine the parcels capable of being used for agricultural production. In a subsequent review, aerial maps were used to determine current agricultural use and are outlined in the area summaries.

WAC 365-190-050(3)(c)(i)

Criteria One: Soil Classification

Using the U.S. Department of Agriculture system of classification, Classes I through IV have been determined to possess the appropriate characteristics that could make them suitable for Agricultural Lands of Long-Term Commercial Significance designation as required by WAC 365-190-050(3)(b)(ii) and WAC 365-190-050(3)(c)(i). These soil types are assigned a numeric score from 2 (least suitable) to 6 (suitable), depending on their relative suitability as productive agricultural soil.

NRCS Soil Classification (not copied in their entirety).

A moderately high level of management is assumed—one that is practical and within the ability of a majority of the farmers and ranchers. The level of management is that commonly used by the “reasonable” men of the community. The capability classification is not, however, a grouping of soils according to the most profitable use to be made of the land. For example, many soils in Class III or IV, defined as suitable for several uses including cultivation, may be more profitably used for grasses or trees than for cultivated crops. *(Page 5 of 19) Land Capability Classification*

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, range, 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. *(Page 6 of 19) Land Capability Classification*

Note: *Ferry County has no Natural Resources Conservation Service Class I soils.*

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 singly 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.

The soils in this class provide the farm operator less latitude in the choice of either crops or management practices than soils in Class I. They may also require special soil-conserving cropping systems, soil conservation practices, water-control devices, or tillage methods when used for cultivated crops. *(page 7 of 19) Land Capability Classification*

Class II soils comprise about 4,400 acres, or about 21 percent of the mapped soils for Ferry County by the Natural Resources Conservation Service.

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 the conservation practices are usually more difficult to apply and to maintain. They may be 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 continuing 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. When cultivated, many of the wet, slowly permeable but nearly level soils in Class III require drainage and a cropping system that maintains or improves the structure and tilth of the soil. To prevent puddling and to improve permeability, it is commonly necessary to supply organic material to such soils and to avoid working them when they are wet. In some irrigated areas, part of the soils in Class III have limited use because of high water table, slow permeability, and the hazard of salt or sodic accumulation. *(Page 7 of 19) Land Capability Classification*

Class III soils comprise about 4,300 acres or about 20 percent of the mapped soils for Ferry County.

Class IV--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 crops is limited as a result of the effects of one or more permanent features such as (1) steep slopes, (2) severe susceptibility to water or wind erosion, (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. (*Page 8 of 19) Land Capability Classification*)

In Ferry County, Class III, only if irrigated, soils comprise about 10,160 acres or about 47 percent of Ferry County's mapped soils. Class IV soils comprise about 2,500 acres or about 12 percent of the mapped soils.

Soils recap by Natural Resources Conservation Classification:

Class	Percent of mapped soils (Not including Reservation)	Mapping Color
I – No limitations	Zero	
II - Some limitations	21%	Green
III – Severe limitations	20%	Yellow
III (only if irrigated) Severe limitations	47%	Aqua
IV (only if irrigated) Very severe limitations	12%	Aqua

According to the Natural Resources Conservation Service, 79% of the mapped soils in Ferry County are subject to severe limitations.

Soil Class	Numerical Score
Class II soils	6 points
Class III soils	4 points
Class III & IV if irrigated	2 points

Each parcel acquired points proportionally equivalent to the area of each soil class.

WAC 365-190-050(3)(c)

Factor 3: Long-Term Commercial Significance

After determining parcels of land containing soils that are potentially suitable for Agricultural Land of Long-Term Commercial Significance designation, the remaining criteria contained within WAC 365-190-050(3)(c) were used to consider the potential for more intense use of the land. Positive or negative numerical scores were assigned depending whether the criteria is considered positive or negative in the overall effect on commercial agricultural production.

WAC 365-190-050(3)(c)(ii)

Availability of Public Facilities, including roads used in transporting agricultural products. As the whole of Ferry County is covered by fire and police protection, and there is no one area with greater access to, or better roads, this criteria was assigned no numerical score.

WAC 365-190-050(3)(c)(iii)

Criteria Two – Tax Status

Taxpayer voluntary enrollment in an agriculture tax reduction program may be useful in determining commercial intent by the owner in utilizing land for long-term commercial agricultural production and is the next indicator under WAC 365-190-050(3)(c) that may be considered in determining the possibility of more intense use of the land.

Agriculture Current-Use Tax Enrollment	Numerical Score
Enrolled in Ag. Tax Program	1 point
Not enrolled	0 points

WAC 365-190-050(3)(c)(iv)

Criteria Three – Availability of Public Services

Close proximity to certain types of public services and facilities can add pressure for more intense use of the land impinging on or detracting from the viability of the agricultural industry. Land closer to schools and medical facilities usually face greater development pressure than areas elsewhere. Since Ferry County has only one UGA, it was determined that potential agricultural land within close proximity to LAMIRDs should be protected. The logical boundaries of the LAMIRDs were taken into consideration in the process of assigning scores. It is understood that the LAMIRDs boundaries will not change, however, the potential draw of schools, water and sewer districts, medical facilities, etc. place more demand for development in those areas. However, no additional numerical scores were assigned.

Proximity to LAMIRDs	Numerical Score
1/4 mile or less	0 points

WAC 365-190-050(3)(c)(v)

Criteria Four – Proximity to an Urban Growth Area

The distance from an urban growth area or UGA is included as one of the 10 factors listed in the WAC to be considered in identifying Agricultural Land of Long-Term

Commercial Significance in view of the possibility of more intense use of the land. The reasoning supporting this factor as a criterion is two-fold. The first is that land in close proximity to an urban growth area is subject to population expansion and is influenced by the spatial advances of that growth of an urban nature, including more intense uses and higher urban densities – residential, commercial and industrial.

The second reason that proximity to a UGA is a significant factor relates to the suitability of lands for agricultural use and the recognition that there are potential adverse affects caused by the spraying of insecticides and herbicides in current farming practices and the odorous effects in fertilizing planted crops and raising of animals. Although Right to Farm laws provide statutory, legal defenses in lawsuits brought by other landowners claiming injury from farm practices, they do not shield against trespass claims involving farm practices, nor do they shield against claims challenging farm practices as ‘best management practices’.

Although there is no known documented standard by which to measure the general adverse effects, a buffer between agricultural uses and non-agricultural uses is a proven method of minimizing the potential adverse impacts of incompatible uses. As Ferry County has only one UGA (Republic), it was determined that any lands within one mile carried a great potential to impinge on or detract from the viability of agricultural activities, while lands within five miles had a high potential. It is not expected that the city of Republic will expand to fill this five mile distance, but by taking into consideration topography, the location of the Public Development Authority site, the service area for the city water district, the proximity to industrial sites, the consideration of pressures for conversions and potential use conflicts, a five mile buffering area is reasonable.

Distance from Urban Growth Area	Numerical Score
0 to 5 miles	0 points
More than 5 miles	1 point

WAC 365-190-050(3)(c)(iv)

Criteria Five – Predominate Parcel/Farm (Ownership) Size

While agricultural activities may take place on smaller farms across the state, larger farms are more suitable to the typical agricultural activities historically represented in Ferry County, such as grazing and hay production.

Economies of scale, appropriate separation from incompatible uses and other factors were considered in determining the size of a particular farm as it relates to the probability of more intense uses of the land. Smaller farms, because of the limited usefulness and productivity for agricultural uses, unlikelihood commercial significance could be sustained and better suitability and utility for residential, recreational and other non-resource uses, are assigned a lesser numerical score than larger farms. Farm size was determined by including all contiguous ownership as one farm. It was also determined to remove from consideration all platted lots less than 20 acres in size. In order to maintain objectivity, farm sizes were categorized using the U.S. Dept. of Agriculture Census breakdown.

Parcel/Farm(Ownership) Size	Numerical Score
1-9 acres	-3 points
10-19 acres	-2 points
20-49 acres	-1 point
50-179 acres	0 points
180-499 acres	1 point
500-999 acres	2 points
1000 or more acres	3 points
All contiguous ownership was treated as one farm.	

WAC 365-190-050(3)(c)(v)

Criteria Six – Proximity to Markets/Services:

The U.S. Agricultural Census identifies beef cattle as 79% of Ferry County's agricultural product. While State Highway 395 traverses Ferry County north to south, it does so along its most eastern perimeter. The Kettle Mountain range also runs north to south and to access the interior of the county where the major population is, necessitates the passage of one of two mountain passes. To access the interior of the county via Highway 21 requires passage on a ferry across the Columbia River. To access the interior of the county via Highway 20 requires traversing the third mountain pass. Ferry County is very unique in this respect. The only other access entrance is through a foreign country.

Accessibility to market for any agricultural product is not the only difficulty faced by local farmers/ranchers. Support services are non-existent in Ferry County, but are available in neighboring counties with higher population levels. Acquiring supplies, maintaining and repairing equipment and other necessities demand the travel distance and difficulties.

Proximity to Market/Services	Numerical Score
More than 50 road miles	0 points
Less than or equal to 50 road miles	1 point

WAC 365-190-050(3)(c)(vii) and

WAC 365-190-050(3)(c)(viii)

Land Use Settlement Patterns/Intensity of Nearby Land Uses:

County records of the land use settlement patterns show high development in the Urban Growth Areas, Limited Areas of More Intense Rural Developments and along waterways and water bodies. These criteria are already considered in regard to Availability of Public Services and Proximity to an Urban Growth Area. The numerical scores include the proper consideration of these criteria, so no additional numerical scores were assigned.

WAC 365-190-050(3)(c)(ix)

Criteria Seven - History of Nearby Land Uses:

The most common nearby land use which has an effect on lands' long-term commercial significance is adjacent residential use. Because of this, land which is adjacent to residential uses of land is given a Numerical Score of -1 point.

WAC 365-190-050(3)(c)(x)

Land Values Under Alternative Uses:

The primary distinction between land values based on allowable uses is that the value of land which is adjacent to Urban Growth Areas is likely to be higher than land which is not. This criteria is already considered in regard to Proximity to an Urban Growth Area, so no additional numerical scores are assigned.

Other Factors Considered

As WAC 365-190-050(3)(c) states the list of criteria are nonexclusive, the Ferry County Planning Commission considered many other factors. The following is a summary of those factors along with the conclusions.

Floodplain Coincidence:

In other parts of Washington State the depositional soils found within flat, broad floodplains comprise some of the best agricultural soils. However, Ferry County being comprised of glacial till among a mountainous terrain experiences mostly gravel deposits in its narrow floodplain areas. Other limiting factors involving floodplains are frosts and excessive moisture. Floodplain areas tend to experience frosts before other ground and stay wetter longer, both factors that considerably limit their agricultural production value. This was verified upon review of the Natural Resources Conservation District soil classifications which listed 21% of Ferry County's potential agricultural soils as having unfavorable soil structure/permanent wetness after drainage, 67% of the potential agricultural soils as having a shallow depth/permanent waterlogging/slow permeability and 12% of the potential agricultural soils as having a shallow depth/excessive wetness. Although these factors are significant, no additional numerical scores were assigned on this basis.

Block Group:

To be considered long-term commercially significant, agricultural lands should be in a contiguous block of 500 acres or more. This may include multiple ownerships.

Area Summaries: The process of evaluating Ferry County for Agricultural Land of Long-Term Commercial Significance was completed by dividing the county maps into four areas. Each area was reviewed using aerial photography, the criteria listed in WAC 365-190-050(3)(c) and the numerical score. These summaries are available from the Planning Department.

Application of Designation Criteria to Federal Grazing Allotments

Table A on page 18 shows that a significant fraction of the natural resource land base that is in agricultural production now is grazing allotments in the national forest land. Ferry County does not have regulatory jurisdiction on Federal Land. Ferry County is considering this land for designation because it is a significant amount of resource base in the county. Reviewing these lands for designation will assure that a critical mass of agricultural land is designated and conserved. Designation of Forest Service lands also communicates to the Forest Service that Ferry County considers access to this resource critical to the long-term economic health of the county.

Ferry County reviewed the process used by the Forest Service in establishing the grazing allotments. Ferry County could not apply the point value system used for private land because of data availability limitations and the nature of Federal ownership. For example, the grazing allotments are units and not parcels, making the application of some criteria, such as those based on locale and parcel size, problematic. Grazing allotments are also leased on per pair (cow and calf) basis and not on a per acre basis. Instead, Ferry County reviewed the management plan by the forest service and determined that the allotment process used by the US Forest Service addresses the three-pronged test criteria and could be relied on for the county's designation decisions.

- 1) **Already Characterized by Urban Growth:** There are no urban areas in the Colville National Forest so none of the grazing allotments are already characterized by urban growth.⁵
- 2) **Used or Capable of Being Used for Agricultural Production:** Ferry County reviewed the management plan for the Colville National Forest and Consulted with the USFS. The management plan calls for allotment decisions to be based on the productive capacity of the National Forest Lands.⁶ The Colville National Forest has 459,545 acres of grazing allotments within Ferry County⁷. Ferry County has determined that these decisions by Forest Service land managers include a determination that the land is capable of being used for agricultural production. Therefore land in grazing allotment can be considered used or capable of being used for agricultural production.
- 3) **Has Long-Term Commercial Significance for Agricultural Production:** The Colville National Forest Management Plan identifies one of the management goals for the forest to "Provide forage for wildlife and livestock use in quantities to meet the objectives of the wildlife program and to contribute to the stability of the local livestock industry"⁸ The plan identifies capacity for grazing for the life of the plan.⁹ Not all lands that could be used for agriculture in the forest are managed for that purpose. Over time, the plan calls for shifting use from less efficient to more efficient areas and includes investments in a range improvement program.¹⁰ Individual allotment decisions are made based on factors such as demand for grazing allotments, other resource needs and economic factors. These policies show that Forest Service land management activities and the allotments based on them include a determination that grazing allotments are for those lands that have long-term commercial significance.¹¹ Based on a review of the management decision documents of the Colville National Forest, Ferry County has determined that these policies and decisions include sufficient consideration of the criteria in WAC 365-190-050 and

⁵ Colville National Forest Management Plan

⁶ Colville National Forest Management Plan, Forestwide Standards and Guidelines, page 11.

⁷ Letter to Sharon Shumate dated 1/13/2011 from Franklin Pemberton, Public Affairs Officer, Colville National Forest

⁸ Colville National Forest Management Plan, page 4-3

⁹ Ibid, page 4-5

¹⁰ Ibid, 4-17

¹¹ Colville National Forest Management Plan, Forestwide Standard and Guidelines, page 11.

designates all national forest lands with grazing allotments as agricultural lands of long-term commercial significance, as shown on the Future Land Use Map.

Consideration of Tribal Lands

Tribal lands constitute 55% of the total land area in Ferry County. The Colville Confederated Tribes are a sovereign nation. Ferry County cannot designate land or set policy in any way that would interfere with the sovereignty of the Tribe. However, these lands form a significant part of the natural resource base of the county and cannot be ignored. The Colville Confederated Tribes leases tribal lands within the county for grazing. Ferry County cannot designate tribal lands and this tribal grazing land is not mapped. However, the total amount of grazing land managed by the tribe is included in the analysis and in the estimate of land available for agricultural production in the county.

Weighting of Criteria for Assessing Long-Term Commercial Significance

One significant point of controversy in the decision on resource lands designations is on the weighting of the various criteria. Ferry County has used several different weighting criteria to assess long-term commercial significance and to strike an appropriate balance between the various criteria. After all weights are applied a critical mass of lands must be designated so that the natural resource based on the county is conserved for the long-term agricultural production. This is the result that is required. A weighting of criteria that is calculated to assure that no lands are designated does not provide significant "critical mass" to assure the viability of the agricultural industry over the long-term. Table B shows the total acreage of land designated for long-term natural agricultural production under several alternative weighting criteria. This shows the importance of the factors considered relative to the overall results particular to Ferry County.

Table B – Total Acreage of Designated Agricultural Resource Land Under Different Weighting Criteria

Table B shows the different weighting criteria Ferry County considered.

		4/14/2009	Parcel Changes 6/9/2010	Parcel Changes 5/2/2012	Parcel Changes 4/4/13	Parcel Changes 4/4/13
		2 points & above	5 points & above	4 points & above	4 points & above with -1 UGA and -1 LAMIRDS Removed	5 points & above (3 reviews)
Range 32:						
Township	27/28			3 non-contiguous parcels (367.25 acres and 58.89 acres and 66.33 acres) Does not meet threshold		3 parcels removed (minus 367.25 acres and 58.89 acres and 66.33 acres) Does not meet threshold
	35/36		1 non-contiguous parcel (156.06 acres) Does not meet threshold	2 non-contiguous parcels (14 acres and 28 acres) Does not meet threshold		3 parcels removed (minus 156.06 acres and 28 acres and 14 acres) Does not meet threshold
	39/40	27 non-contiguous parcels (1013.6 acres) Does not meet threshold	4 non-contiguous parcels minus 2 parcels (44.81 acres and 86 acres and 9.73 acres and 35 acres minus 99.15 acres) Does not meet threshold	1 non-contiguous parcel (6.6 acres) Does not meet threshold		8 parcels removed (minus 15.5 acres, 20.01 acres, 18.96 acres, 4.65 acres, 44.81 acres, 6.6 acres, 86 acres, 9.73 acres, 35 acres, 11.39 acres, and 43.91 acres) Does not meet threshold

Range 33:						
Township	29/30	5 non-contiguous parcels (40 acres and 60 acres [20 acres timbered]) Does not meet threshold	4 parcels removed (minus 40 acres and 40 acres)	6 non-contiguous parcels (40 acres and 80 acres and 40 acres and 20 acres) Does not meet threshold		6 parcels removed (minus 40 acres and 40 acres and 20 acres and 80 acres) Does not meet threshold
	31/32	1 non-contiguous parcel (74.87 acres (timbered) Does not meet threshold				1 parcel removed (minus 74.87 acres) Does not meet threshold
	37/38	7 non-contiguous parcels (221.99 acres and 252.54 acres) Does not meet threshold	2 parcels removed (minus 20.83 and 19.66)		2 parcels (20.83 acres and 19.66 acres) Does not meet threshold	2 parcels removed (minus 20.83 acres and 19.66 acres) Does not meet threshold
	39/40	1 non-contiguous parcel (10 acres) Does not meet threshold	2 non-contiguous parcels (27.33 acres and 71.5 acres) Does not meet threshold	1 parcel removed (minus 27.33 acres)		1 parcel removed (minus 71.5 acres) Does not meet threshold
Range 34:						
Township	39/40	1 non-contiguous parcel (48.66 acres) Does not meet threshold	2 non-contiguous parcels (99.40 acres and 37.01 acres) Does not meet threshold		1 parcel (50.66 acres) Does not meet threshold	2 parcels removed (minus 37.01 acres and 50.66 acres) Does not meet threshold
Range 35:						
Township	27/28	2 non-contiguous parcel (60 acres and 213.25 acres) Does not meet threshold		1 non-contiguous parcel (30 acres) Does not meet threshold		1 parcel removed (minus 30 acres) Does not meet threshold
	29/30	3 non-contiguous parcels (100 acres and 60 acres and 96 acres) Does not meet threshold				2 parcels removed (minus 100 acres and 60 acres) Does not meet threshold
	31/32	1 non-contiguous parcel (160 acres) Does not meet threshold		1 non-contiguous parcel (129.75 acres) Does not meet threshold		2 parcels removed (minus 160 acres and 129.75 acres) Does not meet threshold
	39/40			1 non-contiguous parcel (79.52 acres) Does not meet threshold		1 parcel removed (minus 79.52 acres) Does not meet threshold
Range 36:						
Township	31/32			2 non-contiguous parcels (35.9 acres and 40 acres) Does not meet threshold		2 parcels removed (minus 35.9 acres and 40 acres) Does not meet threshold
	33/34	19 non-contiguous parcels (544.43 acres) Does not meet threshold	1 non-contiguous parcel (35 acres) Does not meet threshold	1 non-contiguous parcel (40 acres) Does not meet threshold	1 parcel (82.4 acres) Does not meet threshold	5 parcels removed (minus 35 acres and 40 acres and 25.13 acres, 23.28 acres and 82.4 acres) Does not meet threshold
	39/40	6 non-contiguous parcels (143.58 acres, 40.02 acres, 40 acres, 66.17 acres and 27.5 acres) Does not meet threshold				1 parcel removed (minus 40.02 acres) Does not meet threshold
Range 37:						
Township	31/32	7 non-contiguous parcels (90.7 acres [timbered], 80 acres, 15 acres, 7.5 acres and 79.01 acres) Does not meet threshold			2 parcels (39.38 acres and 40 acres) Does not meet threshold	4 parcels removed (minus 79.01 acres, 11 acres, 39.38 acres and 40 acres) Does not meet threshold

	33/34	1 non-contiguous parcel (80 acres) Does not meet threshold				
	35/36			1 non-contiguous parcel (36.95 acres) Does not meet threshold		1 parcel removed (minus 36.95 acres) Does not meet threshold
	37/38	2 non-contiguous parcels (65.1 acres and 30 acres) Does not meet threshold		1 non-contiguous parcel (33 acres) Does not meet threshold		3 parcels removed (minus 65.1 acres, 30 acres, and 33 acres) Does not meet threshold
TOTAL ACREAGE		3,719.92 acres	+ 382.2 acres = 4,102.12 acres	+1,118.86 acres = 5,220.98 acres	+252.93 = 5,473.91 acres	-2,657.06 = 2,816.85 acres

The last column was used as the final criteria in determining Agricultural Land of Long-Term Commercial Significance.

SECTION 9.01 DESIGNATIONS

In determining which lands qualify for future designation or de-designation, comply with the Growth Management Act, shall consider whether the lands are already characterized by urban growth, whether the lands are primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2) and whether the land has long-term commercial significance as described in Section 9.00. The County shall consider the guidance provided, using one or more of the following:

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

The process to consider land for designation or de-designation may be initiated by the county or by petition of a property owner. Considerations shall be directed to the Board of County Commissioners for review and determination.

Prescriptive Designation:

The following lands are prescriptively subject to designation as Agricultural Lands of Long-Term Commercial Significance:

- 1) Land subject to long-term grazing allotments through the United States Forest Service and/or the Washington State Department of Natural Resources (Section 9.0)
478,968 acres
- 2) Land subject to long-term conservation easement (Comprehensive Plan Policy 7.4.30 (5)) 405 acres

Agricultural Land of Long-Term Commercial Significance Designation Point System

- 1) Soil Class and Type
Class 2 (Green): 6 points

- | | |
|---------------------------------------|----------|
| Class 3 (Yellow): | 4 points |
| Class 3 & 4 If irrigated (Turquoise): | 2 points |
- 2) Tax Status (Ag. Current-Use Tax Enrollment)

Enrolled in Ag. Tax Program	1 point
Not Enrolled	0 points

 - 3) Availability of Public Services
(Proximity to LAMIRDs)

¼ mile or less	0 points
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 - 4) Distance from Urban Growth Area (Republic)

0 miles to 5 miles:	0 points
Greater than 5 miles:	1 point

 - 5) Parcel (Farm) Size – Contiguous acres
Remove from consideration all platted lots less than 20 acres

1-9 acres:	-3 points
10-19 acres	-2 points
20-49 acres:	-1 point
50-179 acres:	0 points
180-499 acres:	1 point
500-999 acres:	2 points
1000 acres or greater:	3 points

 - 6) Proximity to markets/services
Cattle sales are 79% of sales therefore are a majority of sales within Ferry County.
The cattle market is Davenport, WA.

More than 50 road miles:	0 points
Less than or equal to 50 road miles:	1 point

 - 7) History of Nearby Land Uses

Adjacent to residential uses	-1 point
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 - 8) Block Group:

	500 acres
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 - 9) Scoring

	+12 to a -2 Median Score of 5
5 points or above:	Ag land of longterm commercial significance unless challenged
4 points or below:	Not considered ag land of longterm commercial significance

Ferry County has designated a total of 479,373 acres as Agricultural Land of Long-Term Commercial Significance.

SECTION 9.02 PROTECTION OF DESIGNATED AGRICULTURAL LANDS OF LONG-TERM COMMERCIAL SIGNIFICANCE

- 1) Agricultural Lands of Long-Term Commercial Significance shall not be divided into parcels less than 20 acres.

- 2) 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.
- 3) 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.
 - a. 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.
 - b. 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.
- 4) Access to private properties through Agricultural Lands of Long-Term Commercial Significance shall not traverse through any agricultural resource land unless subject to an easement, or shown on maps of the Ferry County Public Works Department or Forest Service Maps of the Colville National Forest, dated 1992.
- 5) All plats, short plats, development permits and building permits issued for development activities on any land within one thousand three hundred twenty feet (1320') of lands designated as agricultural, forest or mineral resource lands of long-term commercial significance shall contain a notice that the subject property may be on/or within one thousand three hundred twenty feet (1320') of lands designated agricultural, forest or mineral resource lands of long-term commercial significance on which a variety of commercial activities may occur that are not compatible with residential development. In the case of mineral resource lands, mining related activities might include mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

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.
- 3) US Forest Service Maps of the Colville National Forest, dated 1992.

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 private properties through Mineral Lands of Long-Term Commercial Significance shall not traverse through any mineral resource land unless subject to an easement, or shown on maps of the Ferry County Public Works Department or Forest Service Maps of the Colville National Forest, dated 1992.

All plats, short plats, development permits and building permits issued for development activities on any land within one thousand three hundred twenty feet (1320') of lands designated as agricultural, forest or mineral resource lands of long-term commercial significance shall contain a notice that the subject property may be on/or within one thousand three hundred twenty feet (1320') of lands designated agricultural, forest or mineral resource lands of long-term commercial significance on which a variety of commercial activities may occur that are not compatible with residential development. In

the case of mineral resource lands, mining related activities might include mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

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 disbursal 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, ambulance service, 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. 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 small-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 2009-18.

- 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 2009-18, April 6, 2009;
- Ferry County Comprehensive Plan, September 18, 1995;

Section 12.04: Variances:

Ferry County Comprehensive Plan, September 18, 1995;