

FERRY COUNTY
ORDINANCE 2008-01
AMENDING ORDINANCE 2007-05

AN ORDINANCE TO ADOPT THE FERRY COUNTY COMPREHENSIVE PLAN AND THE
CURLEW LAKE SUB AREA PLAN

WHEREAS, Ferry County's Comprehensive Land Use Plan adopted by Ordinance 95-06 was appealed and challenged by Concerned Friends of Ferry County to the Eastern Washington Growth Management Hearings Board; and

WHEREAS, the Eastern Washington Growth Management Hearings Board has reviewed this appeal (Case 97-1-0018 Amended Fourth Order on Compliance dated January 24, 2003.) and has ordered Ferry County to bring it's Comprehensive Plan into compliance with the Growth Management Act regarding designation of fish and wildlife habitat and species:

WHEREAS, Ferry County is required to adopt a Comprehensive Land Use Plan and Sub Area Plans as required under RCW 36.70A.040(2) to fulfill the goals of the State of Washington Growth Management Act and the Goals and Land Use Policies of Ferry County; and

WHEREAS, the Board of Ferry County Commissioners has and will continue to extensively involve the public in the planning process under the Growth Management Act; and

WHEREAS, Ferry County is allowed to amend this plan once a year to reflect the needs and policies of the county as the county changes and continues to grow; and

WHEREAS, the introduction to Critical Areas, the Wetlands Section and the Fish and Wildlife Habitat Conservation Areas Section have been updated.

THEREFORE, BE IT RESOLVED by the Board of Ferry County Commissioners, that the "Ferry County Comprehensive Plan" and the "Curlew Lake Sub-Area Plan" is hereby adopted with the following amendments.

DATED this 1st day of December, 2008.

BOARD OF COUNTY COMMISSIONERS
FERRY COUNTY, WASHINGTON

Objected
Ronald J. Bond, Chairman

Brad L. Miller
Brad L. Miller, Vice-Chairman

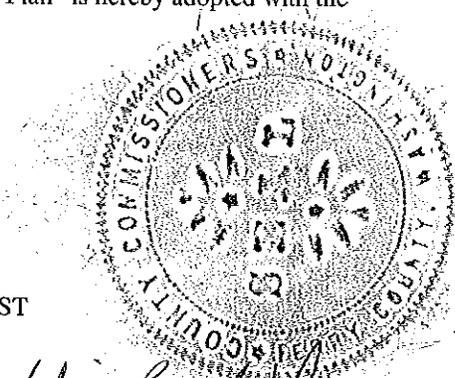
MS. [Signature]
Mike L. Blankenship, Member

ATTEST

Debbie Bechtol
Debbie Bechtol
Clerk of the Board

APPROVED AS TO FORM:

[Signature]
Michael G. Sandona
Prosecuting Attorney



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FERRY COUNTY COMPREHENSIVE PLAN UPDATE 11/17/08

Chapter 4.1 Update

Primary Association Area – The area used on a regular basis by, or in close association with, or is necessary for the proper functioning of the habitat of an endangered, threatened or sensitive species. Regular basis means that the habitat area is normally, or usually known to contain an endangered, threatened or sensitive species. Regular basis is species and habitat dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

Chapter 7 Updates

7.4 CRITICAL AREAS

The State of Washington has defined “Critical areas” to include the following areas and eco-systems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. In efforts to protect the functions and values of critical areas and protect the public health, safety and welfare, special restrictions have been applied to development in these areas and in adjoining protective buffers. Any lands that are classified as critical areas require special review before the land can be altered and even then the land may not be altered depending on site-specific circumstances.

The following sections discuss these critical areas. Further classification and protection of these areas are found in the Ferry County Critical Areas Ordinance (CAO). The CAO also sets criteria for permitting and exemptions based on specific qualifications.

In designating and protecting critical areas under the GMA, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. Ferry County has reviewed currently available science and this information may be found in the Appendix C1 and C2 of the CAO.

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

7.4.1 WETLANDS

Wetland or wetlands are areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps,

marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. All areas meeting the definition of wetland are subject to the provisions of the Critical Areas Ordinance, (CAO).

Wetlands are transitional areas between upland and aquatic environments where water is present long enough to form distinct soils and where specialized hydrophytic vegetation can survive. Wetlands includes marshy areas along shorelines, inland swamps, and seasonal watercourses. Wetlands are typified by a water table that is at or near the surface and there may be standing water all or part of the year. Soils that are present in wetlands are known as *hydric* soils. Certain plant species including trees, shrubs, grasses, and grass-like plants have adapted to the low oxygen content of wetland soils. These plants are known as *hydrophytes*.

Another distinguishing characteristic of wetlands, in addition to soils and plants, is known as hydrology. Wetlands hydrology refers to the wetness of the wetlands -- how often is the soil saturated or flooded with water and how long does it last? Indicators of wetland hydrology may include drainage patterns, sediment deposition, watermarks, stream gauge data, flood predictions, historic data, visual observation of saturated soils, or flooded soils.

In their natural state, wetlands perform functions which are impossible or difficult and costly to replace. Wetlands provide erosion and sediment control -- the extensive root systems of wetland vegetation stabilize stream banks, floodplains, and shorelines. Wetlands improve water quality by decreasing the velocity of water flow, resulting in the physical interception and filtering of waterborne sediments, excess nutrients, heavy metals, and other pollutants. Wetlands also provide food and shelter, essential breeding, spawning, nesting and wintering habitat for fish and wildlife, including migratory birds, and other commercially and recreationally valuable species.

Because Ferry County is an area of limited rainfall, most of the summer base flow in the streams that support wetlands comes from the snowpack in the mountains. In years when the amount of snowfall is low for a number of winters, even though spring rains may be heavy, this groundwater support diminishes. Wetlands can play a very important role in maintaining base flow by recharging the ground water along streams. This, in turn, enhances their ability (both streams and wetlands) to function as natural fish and wildlife habitats. Wetlands also slow flood waters, keep shorelines from eroding, collect stormwater, catch sediments, filter pollution, and maintain natural beauty for recreation and education.

The Ferry County Wetlands Inventory Maps prepared by Eastern Washington University indicates that Ferry County has approximately 40-50,000 acres of open water, rivers, lakes, floodplains and wetlands. There are 5,406 acres of wetlands that are mapped. However, there are large wetland areas including areas along Lake Roosevelt, the San Poil River, and other portions of the Colville Reservation where data is missing.

7.4.2 FUNCTIONS

In their natural state wetlands perform functions, which include flood control; storm water, sediment and pollution control; surface water supply; ground water recharge and discharge; fish and wildlife habitat; recreation, education and open space; and shoreline anchoring and erosion control. All of these functions are covered in the Wetlands section of the CAO.

7.4.3 GOALS

The County's goal is to protect wetlands with a no net loss of wetland area or function; to ensure continuation of their natural functions; to encourage conservation rather than replacement of wetlands in the best economic interest of landowners and residents; and to protect private property rights and ensure that no reasonable use of property will be denied without just compensation nor without due process of law. In those cases where property rights conflict with the County's goal of protecting wetlands, wetland impacts may be permitted provided that there is appropriate mitigation, which may include restoration, enhancement, creation or off-site compensation for any loss of wetland functions and values.

7.4.4 DESIGNATION OF WETLANDS

Wetlands will be evaluated on case-by-case basis. Wetlands will be identified as to type and class and assigned to a category and will be rated using the methodology described in the publication "Washington State Wetland Rating System for Eastern Washington" issued by the Washington State Department of Ecology, (Publication #04-06-15 August 2004). This publication utilizes data sources provided from Washington Department of Natural Resources, Washington Department of Fish and Wildlife and also requiring data collected using the publication.

On site, the person or team evaluating the wetland will first identify the wetland type and wetland class and will then complete a rating form which enables calculating a numeric "functional score" comprised of three functional areas – water quality, hydrology and habitat. The rating form also requires determining whether the wetland possesses any "special characteristics" or is associated with state or federally listed endangered, threatened, sensitive or priority species.

Ferry County will be using the National Wetland Inventory Maps and the Tri-County Wetlands Maps as preliminary tools for locating wetlands. Final delineation will be based on the Washington State Wetlands Identification and Delineation Manual, (Ecology Publication #96-94 dated March 1997).

7.4.5 CLASSIFICATION AND PROTECTION

The classification of wetlands by category and rating is explained in detail in the Wetlands section of the CAO. Ferry County will protect wetlands by requiring protective buffers. Wetland buffers are further addressed in the CAO.

The Wetlands section of the CAO shall also cover the subjects of increased buffer widths; buffer width averaging; regulated activities; non-regulated activities; determination of wetland boundaries and wetland mitigation.

In designating and protecting critical areas, RCW 36.70A.172 requires cities and counties to include best available science in developing policies and development regulations to protect the functions and values of critical areas. WAC 365-195-900 to 925 outlines the procedural criteria for considering best available science in Comprehensive Plans and development regulations.

The Ferry County Board of County Commissioners has considered best available science in developing the policies of the CAO. Appendix C1 of the CAO presents the record of science considered in requiring buffers to protect the functions and values of wetlands.

Ferry County will utilize the CAO when reviewing development permits and activities within wetland areas.

7.4.15 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important, WAC 365-190-080(5).

7.4.16 GOALS

It is Ferry County's goal to protect and maintain the fish and wildlife habitat resources in the County; to attain this goal by incorporating cooperative, coordinated and reasonable land-use planning, and by not depriving the landowners of reasonable use of their land.

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

7.4.17 DESIGNATION

The Ferry County Critical Areas Ordinance, (CAO) shall define, classify, designate and regulate fish and wildlife habitat conservation areas. The following six areas shall be considered fish and wildlife habitat conservation areas:

1. Areas with which endangered, threatened and sensitive species have a primary association. Current status of federally-listed species, which may occur in Ferry County, can be obtained from the U.S. Fish and Wildlife Service, and is available on-line at www.FWS.gov/EasternWashington/ESA.html. State listed species are those native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011).

2. Habitats and species of local importance: These are habitats or species that due to their declining populations, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of local importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term (WAC 365-190-080(5)(c)(ii)). State or local agencies, individuals or organizations may submit a petition to nominate an area or species for approval by the Board of County Commissioners. The nomination process is outlined in Appendix A of the Critical Areas Ordinance.

3. Naturally occurring ponds under 20 acres that provide fish or wildlife habitat: This category does not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds and landscape amenities. This category does include artificial ponds intentionally created from dry areas as part of mitigation.

4. Rivers, Streams and Lakes: Rivers, streams and lakes are as categorized in WAC 222-16-031, the Forest Practice Rules and Regulations, administrated by the Department of Natural Resources. There are three water types within this classification that are fish bearing waters, Types 1, 2, and 3. There are two types that are not fish bearing waters, Types 4 and 5.

The following is a summary of the five water types categorized in WAC 222-16-031, the Forest Practices Rules and Regulations:

a) **Type 1 Water:** Means all waters, within their ordinary high water mark, inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

b) **Type 2 Water:** Means segments of natural waters which are not classified as Type 1 Waters and have a high fish, wildlife and human use.

c) **Type 3 Water:** Means segments of natural waters which are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife and human use.

d) **Type 4 Water:** Means all segments of natural waters within the bank-full width of defined channels that are perennial waters of non-fish bearing streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

e) **Type 5 Water:** Means all segments of natural waters within the bank-full width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, non-fish bearing streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water. Type 5 Waters must be physically connected by an above ground channel system to Type 1, 2, 3, or 4 Waters. A defined channel is indicated by evidence by soil scouring.

Ferry County will use Department of Natural Resources' Water Type Maps to designate water types and classification to the extent they are consistent with WAC 222-16-031, which was effective 7/1/05.

5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or Tribal entity: The Washington Department of Fish & Wildlife Maps will be a reference to locate lakes, ponds and Type 1, 2 and 3 Waters of streams and rivers planted with game fish by governmental entities. The Colville Tribe will be consulted concerning the lakes, ponds, streams and rivers planted with game fish on Tribal Lands.

6. State Natural Area Preserves and Natural Resource Conservation Areas: Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources. There are currently no designated State natural area preserves or natural resource conservation areas within Ferry County.

7.4.18 Protection

Fish and wildlife habitat conservation areas shall be protected by buffers as set forth in the Critical Areas Ordinance. This ordinance shall also cover the following subjects:

1. Mapped priority habitat areas.
2. Activities not regulated in buffers.
3. Regulated activities.
4. Increase of standard buffer widths.

5. Buffer width reduction.
6. Buffer width averaging.
7. Reasonable use exception.
8. Land division.
9. Non-conforming structures and improvements.
10. Appendix A - Nomination process for "Habitats and Species of Local Importance".
11. Appendix B - Habitat Management and Mitigation Plan.
12. Appendix C2 – Best Available Science for Rivers, Lakes and Streams.

In designating and protecting critical areas, RCW 36.70A.172 requires cities and counties to include best available science in developing policies and development regulations to protect the functions and values of critical areas. WAC 365.195.900-925 outlines the procedural criteria for considering best available science in Comprehensive Plans and development regulations.

The Ferry County Board of County Commissioners has considered best available science in developing the policies of the CAO. Appendix C2 of the CAO presents the record of science considered in requiring buffers to protect the functions and values of Rivers, Streams and Lakes.

Ferry County will utilize the CAO when reviewing development permits and activities within fish and wildlife habitat conservation areas.