FERRY COUNTY CRITICAL AREAS ORDINANCE 2012-05

AMENDING FERRY COUNTY RESOURCE LANDS AND CRITICAL AREAS ORDINANCE #2011-02

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#7

FERRY COUNTY
CRITICAL AREAS ORDINANCE #2012-05

AMENDING FERRY COUNTY RESOURCE LANDS AND CRITICAL AREAS ORDINANCE # 2011-02

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

WHEREAS, RCW 36.70A.040, part of the Growth Management Act, requires that jurisdictions subject to the Act create development regulations to implement comprehensive plans.

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

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

WHEREAS, RCW 36.70A.172 states "In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries."

WHEREAS, in order to come into compliance with the Growth Management Act per the Growth Management Hearings Board Order, Sections, 3.00, 4.00, 4.01, 9.00, 9.01, 9.02, 9.03, and 10.16 were amended. The Bibliography was amended.

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

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

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ACRONYM LIST

The following acronyms are used in this document. Organizational affiliations in ()

BMP	Best Management Practices
BOCC	Board of County Commissioners
CARA	Critical Aquifer Recharge Area
CTED	Department of Community, Trade and Economic Development (Washington State)
DOE	Department of Ecology (Washington State)
DNR	Department of Natural Resources (Washington State)
DRASTIC	A soil classification methodology with the following seven soil parameters: (D) water table depth, (R) net recharge, (A) aquifer media, (S) soil media, (T) topography, (I) impact of the vadose zone, (C) hydraulic conductivity.
FEMA	Federal Emergency Management Agency
FIA	Federal Insurance Administration
FIRM	Flood Insurance Rate Map
FWHCA	Fish and Wildlife Habitat Conservation Areas
GMA	Growth Management Act
NRCS	Natural Resources Conservation Service (USDA)
NWI	National Wetland Inventory
OFM	Office of Financial Management (Washington State)
OHWM	Ordinary High Water Mark
PFC	Properly Functioning Conditions
PHS	Priority Habitats and Species
RCW	Revised Code of Washington

RMZ	Riparian Management Zone
RPG	Registered Professional Geologist
SEPA	State Environmental Policy Act (Washington State)
SMA	Shoreline Management Act
SMP	Shoreline Master Program
UGA	Urban Growth Area
USDA	United States Department of Agriculture
USGS	United States Geological Survey
UST	Underground Storage Tank
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife (Washington State)
WDOE	Washington Department of Ecology (Washington State)
WSU	Washington State University

FERRY COUNTY ORDINANCE 2012-05
CRITICAL AREAS ORDINANCE

Section 1.00 AUTHORITY

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

Section 2.00 PURPOSE

The purpose of this ordinance is to promote the general health, safety and welfare of county residents, public and private property and the natural environment inherent in Ferry County. The regulations included in this ordinance are designed to protect against loss of critical areas. This ordinance also implements the regulations of the Growth Management Act and the goals and policies of the Ferry County Comprehensive Plan.

Section 3.00 DEFINITIONS

Above Ground Storage Tanks - See "underground storage tanks."

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.

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

Aquifer - A body of rock which transmits ground water in usable quantities to wells. (The "rock" may be sandstone, fractured basalt or granite, glacial sands or gravel, and river sands or gravel.)

Aquifer Recharge Area – Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Aquifer Susceptibility - The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

Bank Full Width – means:

1) For streams - the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels

exist, bankfull width is the sum of the individual channel widths along the cross-section.

2) For lakes, ponds, and impoundments – line of mean high water.
3) For periodically inundated areas of associated wetlands – line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

Best Management Practices or **BMPs** - Those physical, structural, and managerial practices, and prohibitions of practices, that when used singly, or in combination, prevent pollution to groundwater and surface water and are listed in the Natural Resources Conservation Service Field Office Technical Guide.

Bog – Areas of peatlands (wetlands with organic soils) that have been classified according to their shape, chemistry, plant species and vegetation structure.

Buffer - An area contiguous to a critical area that is required for the continued protection, functioning, and/or structural stability of a critical area.

Channel – An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels.

Conservation – Managing for long-term use.

Creation of Wetland – The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres.

Critical Aquifer Recharge Areas - Areas where an aquifer which is an essential source of drinking water is vulnerable to contamination that would create a significant hazard to public health. Vulnerability is the combined effect of susceptibility of the aquifer to contamination (rate at which the water filters down to the groundwater table) and the contaminant-loading potential (type and amount of substances that the water carries down with it, such as pesticides or petroleum byproducts). In general, areas of permeable soils and geology are likely to be aquifer recharge areas.

Critical Areas – Include (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.

Critical Habitat - Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitored species.

Dangerous Waste - Solid waste designated in Chapter 173-303-070 through 173-303-130 WAC as dangerous or extremely hazardous waste. The words "dangerous waste" will refer to the full universe of wastes regulated by Chapter 173-303 (including dangerous and extremely hazardous waste).

Demolition Waste - Largely inert waste, resulting from the demolition or razing of buildings, roads, and other manmade structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood, masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process, and asbestos wastes are not considered to be demolition waste to this regulation (source: Chapter 173-304 WAC).

Development of Critical Areas - Any regulated change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the critical area.

Enhancement of Wetland – The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve specific functions(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.

Erosion Hazard Areas - At least those areas identified by the U.S. Department of Agricultural National Resources Conservation Service as having a "severe" rill erosion hazard.

Exotic - Any species of plant or animal that is foreign to the planning area.

Extremely Hazardous Waste - Dangerous wastes designated in Chapter 173-303-070 through 173-303-103 WAC as extremely hazardous.

Feed Lot - A year round confined dense concentration of livestock for the purpose of intense feeding.

Fish and Wildlife Habitat Conservation Areas or FWHCA- Fish and wildlife habitat conservation areas are defined as land management areas 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))

Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from:
1) The overflow of inland or tidal waters and/or
2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (Firm) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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.

Formation - An assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

Geological Hazardous Areas - Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Ground Water – Water in a saturated zone or stratum beneath the surface of land.

Group A Public Water System - Defined as community and noncommunity water systems.
1) Community water system means any Group A water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five year-round (i.e., more than one hundred eighty days per year) residents. Examples of a community water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.
2) Noncommunity water system means a Group A water system that is not a community water system. Noncommunity water systems are further defined as:
   a) Nontransient water system that provides service opportunity to twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year. Examples of a nontransient water system might include a school day care center, or a business, factory, motel, or restaurant with twenty-five or more employees on-site.
   b) Transient water system that serves:
      i) Twenty-five or more different people each day for sixty or more days within a calendar year;

ii) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

iii) One thousand or more people for two or more consecutive days within a calendar year.

Examples of a transient water system might include a restaurant, tavern, motel, campground, state or county park, an recreational vehicle park, vacation cottages, highway rest area, fairground, public concert facility, special event facility, or church.

Habitat of Local Importance – Habitats for species which are designated as being of local importance. Priority Fish and Wildlife Habitat Conservation Areas that include a seasonal range or habitat element which, if altered, may reduce the likelihood that a designated species of local importance will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range and/or movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus and wetlands.

Hazardous Substances - Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in Chapter 173-303-090 or 173-303-100 WAC. The term hazardous substances does not include any of the following when contained in an underground storage tank from which there is not a release of: crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local laws.

High-Impact Use - A business establishment that is regulated due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses possess certain characteristics posing a substantial potential threat or risk to the quality of groundwater and surface waters within Category I Critical Aquifer Recharge Areas. High-impact uses shall include, but are not limited to, the following: (a) landfills; (b) Class V injection wells: Agricultural drainage wells; untreated sewage waste disposal wells; cesspools; Industrial process water and disposal wells; radioactive waste disposal; (c) radioactive disposal sites.

High Intensity Land Use - Land uses which are associated with high levels of human disturbances or substantial critical area impacts including high-intensity recreation such as golf courses, ball fields or master-planned resorts; feed lots; commercial or industrial uses other than "rural small scale business"; institutional uses; new subdivisions with lots less than 2.5 acres per residence and multi-family residential development.

Hydric Soil - A soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Infiltration - The downward entry of water into the immediate surface of soil.

Injection Well - There are five classes of injection wells, two of which are authorized within the state of Washington. Class I, III, and IV wells are prohibited. Class II wells are permitted under Chapter 173-218 WAC by the Washington State Department of Ecology in conjunction with the Washington State Department of Natural Resources. Class V wells generally do not require a permit; however, in some cases where these wells may inject industrial or commercial waste fluids that would cause a violation of Washington's ground water quality standards, a permit may be issued by the Department of Ecology or the activity will be prohibited.

"Class I injection well" means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within ¼ mile of the well bore, an underground source of drinking water.

"Class II injection well" means a well used to inject fluids:

1) Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations; unless those waters are classified as dangerous wastes at the time of injection;
2) For enhanced recovery of oil or natural gas; or
3) For storage of hydrocarbons that are liquid at standard temperature and pressure.

"Class III injection well" means a well used for extraction of minerals, including but not limited to the injection of fluids for:

1) In-situ production of uranium or other metals that have not been conventionally mined;
2) Mining of sulfur by Frasch process; or
3) Solution mining of salts or potash.

"Class IV injection wells" means a well used to inject dangerous or radioactive waste fluids.

"Class V injection wells" means all injection wells not included in Classes I, II, III, or IV. Class V injection wells are commonly known as drywells.

Isolated Wetlands - Those regulated wetlands which are outside of, and not contiguous to any 100 year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

Lake - A naturally or artificially created body of standing open water, 20 acres or greater, that persists throughout the year.

Landfill - A disposal facility or part of a facility at which solid and demolition waste is permanently placed in or on the land that is not a land-spreading disposal facility. (source: Chapter 173-304 WAC). In addition, "landfill" means all continuous land and structures and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.

Landslide Hazard Areas - Areas subject to severe risk of landslide based on a combination of geologic, topographic, and hydrologic factors.

Large Quantity Generators - Those businesses that generate more than two thousand two hundred (2,200) pounds of dangerous waste per month. They accumulate more than two thousand two hundred (2,200) pounds of dangerous waste at any time. They generate and accumulate more than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.

Low Intensity Land Use - Land uses which are associated with low levels of human disturbances or minimal critical area impacts including open space; passive recreation such as unpaved trails, nature viewing areas, camping or fishing sites with no permanent structures and forest management.

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

Medium Quantity Generators - Those businesses that generate more than two hundred twenty (220) pounds, but less than two thousand two hundred (2,200) pounds of dangerous waste per month. They are limited to the accumulation of less than two thousand two hundred (2,200) pounds of dangerous waste at any time. They are limited to the generation of, and accumulation of, less than 2.2 pounds of acutely hazardous waste or toxic extremely hazardous waste.

Mine Hazard Areas - Areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, tailings dams, or airshafts. Mine hazards can also include steep and unstable slopes created by open mines.

Mitigation - Avoiding, minimizing or compensating for adverse impacts to critical areas and/or their buffers. Mitigation, in the following order of preference is:

1) Avoiding the impact altogether by not taking a certain action or parts of an action;
2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3) Rectifying the impact by repairing, rehabilitating or restoring the effected environment;
4) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
5) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
6) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
7) Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures.

Moderate Intensity Land Use – Land uses which are associated with moderate levels of human disturbances or critical area impacts including more active recreation uses such as paved trails, small-scale tourism businesses, camp sites with permanent structures; single

family residence on a parcel equal to or greater than 2.5 acres; and "rural small-scale business".

Native - Any wildlife species naturally occurring in the County for purposes of breeding, nesting, or foraging, excluding introduced species not found historically in Ferry County.

Native Vegetation - Plant species which are indigenous to the planning area in question.

New Construction - Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

Off Site - A location with a different legal property description than that containing the specified wetland or affected portion thereof.

Off Site Compensation - To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

On Site - Anywhere within the property having the same legal description as the specified wetland or affected portion thereof.

On Site Compensation - To replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.

Ordinary High Water Mark - The mark on streams which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation.

Permeability - The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

Pond – A body of water smaller than a lake.

Potable Water - Water that is safe and palatable for human use.

Practicable - Available and capable of being done after taking into consideration costs, existing technology and logistics in light of overall project purposes.

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 include 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 include 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.

Preservation – Permanently securing lands (using full-fee acquisition or conservation easements) to protect the important features of an ecosystem in an "un-impacted" condition. Preservation is essential when a feature of the ecosystem provides a high level of functions, is rare, or otherwise non-replaceable. It does not cause a gain in acreage nor function on the landscape.

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.

Priority Fish & Wildlife Habitat - Conservation areas that include a seasonal range or habitat element with which a priority species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus and wetlands. The Washington Department of Fish and Wildlife's Classification System of Priority Habitat may be used to identify these areas.

Priority Species - Species that are of concern due to their population status and their sensitivity to habitat manipulation. Priority species are designated by the Washington Department of Fish and Wildlife; Priority Habitat and Species Program, and may include endangered, threatened, sensitive, candidate, monitored, or game species.

Qualified Ground Water Scientist - A hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria:

1) Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
2) Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding ground water vulnerability.

Recharge - The process involved in the absorption and addition of water to ground water.

Re-establishment of Wetland – The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland.

Regulated Substance - Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and any other regulated substances); and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. The term "regulated substance" does not include propane or asphalt or any other petroleum product which is not liquid at standard conditions of temperature and pressure.

Rehabilitation of Wetland – The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland.

Restoration of Wetland - The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland areas, restoration is categorized as either "re-establishment" or "rehabilitation".

Rills - Steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

Riparian Area - Refers to a variable border width of moist soils and plants next to a body of water. Riparian areas provide habitat for fish and wildlife for the long term (e.g.

breeding, rearing, escape cover, important travel corridors, streamside shade, foraging, spawning, etc.).

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.

Seismic Hazard Areas - Areas subject to severe risks of damage as a result of earthquake induced ground shaking, slope failure, or soil liquefaction.

Soil Survey - The most recent National Cooperative Soil Survey for the local area or county by the Soil Conservation Service, United States Department of Agriculture.

Solid Waste - All putrescible and nonputrescible solid and semi-solid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction waste, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semi-solid materials that are not the primary products of public, private, industrial, commercial, mining, and agriculture operations. Solid waste includes, but is not limited to, sludge from wastewater treatment plants and septage, septic tanks, wood waste, dangerous waste, and problem wastes.

State Candidate - These species are under review by the Department of Fish and Wildlife for possible listing as endangered, threatened or sensitive. A species will be considered for State Candidate designation if sufficient scientific evidence suggests that its status may meet criteria defined for endangered, threatened, or sensitive in WAC 232-12-297. Currently listed State Threatened or State Sensitive Species may also be designated as a State Candidate Species if their status is in question. State Candidate Species will be managed by the Department, as needed, to ensure the long-term survival of populations in Washington.

State Endangered - A species, native to the state of Washington, that is seriously threatened with extirpation throughout all or a significant portion of its range within the state. Endangered species are legally designated in WAC 232-12-014.

State Sensitive - A species, native to the state of Washington, that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or the removal of threats. Sensitive species are legally designated in WAC 232-12-011.

State Threatened - A species, native to the state of Washington that is seriously threatened with extirpation through all or a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.

Stream - Water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-031 effective 7/1/05 and as listed under "water typing system." Streams also include natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, storm water runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

Structure - A walled and roofed building including a gas or liquid storage tank that is principally above ground.

Underground Storage Tank or UST –

1) An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW; or means any one or combination of tanks (including underground pipes connected thereto) that are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground.
2) The following UST systems, including any piping connected thereto, are excluded from regulation by this ordinance as "underground storage tank systems," but will be subject to regulation if the application meets other criteria as stated in Section 6.05.
    a) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
    b) Any UST system whose capacity is one hundred ten (110) gallons or less;
    c) Any UST system that contains a de minimus concentration of regulated substances.
    d) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;
    e) Farm or residential UST systems of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e. not for resale);
    f) UST systems used for storing heating oil for consumptive use on the premises where stored;
    g) Septic tanks;
    h) Surface impondments, pits, ponds, or lagoons;
    i) Stormwater or wastewater collection systems;
    j) Flow-through process tanks;
    k) Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor; or
    l) Fresh water storage systems.

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.

Volcanic Hazard Areas - Areas subject to pyroclastic flows, lava flows and inundation by debris flows, mud flows, or related flooding resulting from volcanic activity.

Vulnerability - The combined effect of susceptibility to contamination and the presence of potential contaminants.

Water Dependent - A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Water Table - That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

Well - A bored, drilled or driven shaft, or a dug hole whose depth is greater that the largest surface dimension.

Wellhead Protection Area - The surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

Wetland - Areas 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 the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands, if permitted by the county or city. All areas meeting the definition of wetland are subject to the provisions of this ordinance.

Wetland Buffer - A vegetated area bordering a wetland that provides separation from the adjacent or surrounding area to help minimize disturbances resultant from human activity.

Wetland Specialist – Someone who is a certified Professional Wetland Scientist or a non-certified professional wetland scientist who 1) has one or more college degrees in science, 2) has at least 2 years full-time work experience in wetlands, and 3) has completed wetland-specific training programs.

CRITICAL AREAS

Section 4.00 CRITICAL AREAS DEFINED

This ordinance sets forth policies and serves as development regulations for critical areas as defined in RCW 36.70A.030(5) and WAC 365-190-080. Critical areas include wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

Section 4.01 BEST AVAILABLE SCIENCE

In designating and protecting critical areas, RCW 36.70A.172 requires cities and counties to include best available science (BAS) in developing policies and development regulations to protect the functions and values of critical areas. BAS has been included in designating and protecting critical areas and in the development of policies and regulations contained herein.

Section 4.02 USE OF QUALIFIED PROFESSIONALS

In order to adequately assess potential impacts of proposed development to critical areas, the County may require an applicant to submit special reports, studies, surveys, mitigation and management plans, or tests. The reports will provide environmental information and may contain strategies and recommendations for maintaining critical areas and mitigating unavoidable impacts. Any such report shall be prepared by a qualified professional with documented expertise, as defined in this ordinance, in the specified field.

Each report shall include the resume of the person or persons preparing the report, including education and a list of any other relevant qualifications that document expertise in the requisite field. Where licensing, registration, or certification is required or available from the state, a federal agency, or a professional organization, such licensing, registration or certification shall be accepted as demonstrating the required expertise. The criteria set forth in WAC 365-195-905(4) shall inform the determination of whether a person is a qualified professional within the meaning of this ordinance.

Section 5.00 WETLANDS

A definition of a wetland as provided by the Growth Management Act:
"Wetland" or "wetlands" are areas 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 the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands, if permitted by the county or city. All areas meeting the definition of wetland are subject to the provisions of this ordinance.

The official identification and delineation method is the state designed method specific to Washington. It is titled "Washington State Wetlands Identification and Delineation Manual" (Washington Department of Ecology Publication #96-94 dated March 1997).

Section 5.01 FUNCTIONS

1) Flood Control
2) Stormwater, Sediment and Pollution Control
3) Surface Water Supply
4) Groundwater Recharge/Discharge
5) Fish and Wildlife Habitat
6) Recreation/Education/Open Space
7) Shoreline Anchoring and Erosion Control

Section 5.02 GOALS

1) Maintain and protect existing wetland areas in Ferry County to insure no net loss of wetland function or area.
2) To recognize that while the loss of wetlands is undesirable, there may be certain cases where property rights conflict with the County's goal of protecting wetlands. In those cases, wetland impacts may be permitted provided that there is appropriate mitigation which may include restoration, enhancement, creation or off-site compensation for any net loss of wetland functions and values.

Section 5.03 CLASSIFICATION

Wetlands will be rated (identified as to type and class and assigned to a category) using the methodology described in the following 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.

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.

CATEGORY I:
Category I wetlands are those that score over 70 points on the rating system or are rated as Category I based on special characteristics. They generally 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions.

CATEGORY II:
Category II wetlands are those that score between 51-69 points on the rating system or are rated as Category II based on special characteristics. They generally are 1) forested wetlands in the flood plains of rivers, or 2) mature forested wetlands containing fast growing trees, or 3) relatively undisturbed vernal pools present within a mosaic of other wetlands, or 4) wetlands with a moderately high level of functions, or 5) a wetland identified by the State Department of Natural Resources as containing "sensitive" plant species.

CATEGORY III:
Category III wetlands are those that score 30-50 points on the rating system or are rated as Category III based on special characteristics. They generally are 1) vernal pools that are isolated, and 2) wetlands with a moderate level of functions.

CATEGORY IV:
Category IV wetlands have the lowest levels of functions and are often heavily disturbed. They score less than 30 points on the rating system.

Section 5.04 DELINEATION
Ferry County will be using the National Wetland Inventory Maps (NWI) and the Tri-County Wetlands Maps as preliminary tools for locating wetlands. Final site delineation will be based on the Washington State Wetlands Identification and Delineation Manual (Ecology Publ. #96-94 dated March 1997).

Section 5.05 PROTECTIVE BUFFER ZONES
Buffer areas surrounding wetlands are essential to maintenance and protection of wetland functions and values. Buffer areas protect wetlands from degradation by:
1) Stabilizing soil and preventing erosion;
2) Filtering suspended solids, nutrients and harmful or toxic substances;
3) Moderating impacts of stormwater runoff;
4) Moderating system microclimate;
5) Protecting wetland wildlife habitat from adverse impacts;
6) Maintaining and enhancing habitat diversity and/or integrity; and

7) Supporting and protecting wetlands plant and animal species and biotic communities.

A wetland buffer area of adequate width will be maintained between regulated activities and the wetland, to protect the integrity of the wetland.

Ferry County has adopted Ecology's three-dimensional system of buffer widths, considering three factors:

- Wetland Category
- Intensity of proposed land use adjacent to the wetland
- Functional score for wildlife habitat.

The following standard buffer widths apply to all wetlands regulated by this ordinance.

	Wetland Standard Buffer (feet) Based on Habitat Score		
Wetland Category / Land-use Intensity	**Low Habitat**	**Moderate Habitat**	**High Habitat**
Category I /			
Low intensity	50	75	100
Moderate intensity	75	110	150
High intensity	100	150	200
Category II /			
Low intensity	50	75	100
Moderate intensity	75	110	150
High intensity	100	150	200
Category III /			
Low intensity	40	75	N/A
Moderate intensity	60	110	N/A
High intensity	80	150	N/A
Category IV /			
Low intensity	25	N/A	N/A
Moderate intensity	40	N/A	N/A
High intensity	50	N/A	N/A

N/A indicates not applicable / a result that would not occur in the rating system.

Wetland Categories: as defined in Section 5.03

Land-Use Intensity: as defined in Section 3.0

Wildlife habitat scores:

Low wildlife habitat	=	less than 20 points for habitat function
Moderate wildlife habitat	=	20 – 28 points for habitat function
High wildlife habitat	=	29 – 36 points for habitat function

Exception: For any Category 1 wetland which is a bog, the buffer shall be 125' for low intensity, 190' for medium intensity, and 250' for high intensity.

Section 5.06 INCREASED BUFFER WIDTH

The standard buffer width stated in Section 5.05 shall be increased when the County finds, based upon a site specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width.

Section 5.07 BUFFER WIDTH AVERAGING

Buffer width averaging may be used to balance wetland protection requirements with "footprint" requirements of the proposed development. Averaging may also be used to protect an important natural feature which otherwise would fall outside of the standard buffer. The applicant must show that buffer averaging will improve, or at least not impair, overall buffer functions. Buffer width should be narrowed in an area where it will cause the least disturbance to wetland function and widened in an area where it will benefit the wetland the most.

Buffer width averaging will be allowed where a qualified professional wetland biologist / consultant demonstrates that:

1) Averaging will not reduce wetland functional performance;
2) The wetland contains variations in sensitivity due to physical characteristics or existing vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
3) The total area contained in the buffer after averaging is no less than would be contained within the standard buffer;
4) The buffer width is not reduced, at any point, to be less than 75 percent of the width of the standard buffer.

Section 5.08 REGULATED ACTIVITIES

A permit shall be obtained from the Ferry County Planning Department as per Section10.02 ESTABLISHMENT OF DEVELOPMENT PERMIT, prior to undertaking the following activities in a regulated wetland or its buffer unless authorized by Section 5.09.

1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2) The dumping, discharging, or filling with any material;
3) The draining, flooding, or disturbing of the water level or water table;
4) The driving of pilings, with the exemption of fencing;

5) The placing of obstructions;
6) The construction, reconstruction, demolition, or expansion of any structure;
7) The destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;
8) Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetland water sources, including quantity, or the introduction of pollutants;
9) Agricultural activities that tend to degrade wetland quality, i.e. feed lots, excessive use of fertilizers; or
10) Recreational facility development.

Section 5.09 NON-REGULATED ACTIVITIES

The following uses shall be allowed within a wetland buffer to the extent that they are not prohibited by any other chapter or law and provided they do not disturb the natural functions of the wetland. Forest practices are under the jurisdiction of the Department of Natural Resource under the auspices of the Washington Forest Practices Act. Ferry County has no authority to regulate forest practices. However, Ferry County has authority over current conversions with DNR. Ferry County will review forest practices within designated shorelines.

1) Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;
2) Recreational activities provided the activity does not alter the area by changing existing topography, water conditions or water source;
3) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources;
4) Pre-existing and ongoing agricultural activities;
5) The maintenance (but not construction nor enlarging) of drainage ditches;
6) Education, scientific research, and use of nature trails;
7) Navigational aids and boundary markers;
8) Boat mooring buoys;
9) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately re-established;
10) Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, scope or size of the original structure, facility, or improved area and does not include the construction of a maintenance road.

Section 5.10 DETERMINATION OF WETLAND BOUNDARIES AND CATEGORY

Determination of wetland boundaries and category will ultimately be the responsibility of the property owner, to be determined from a field survey by a wetland specialist applying the wetland definition and category types using the methods found in Section 5.00 and 5.03. When the County finds sufficient information is available, the requirement for a full or partial delineation and category determination may be waived.

Single family dwelling units are exempt from the requirement of hiring a professional Wetland Biologist/Consultant for determination of Classification/Delineation of wetlands as per this section.

This exemption may require Classification/Delineation steps for identification of wetland categories and their associated buffers. In the event of this exemption, the landowner will consult the Planning Department for classification and delineation at the time of permit application with no additional fees other than the actual cost of the permit.

Ferry County, when requested by the applicant, may perform the delineation in lieu of direct action by the applicant. The delineation shall be performed by a wetland specialist and shall comply with Sections 5.00 and 5.03. Ferry County may, at its discretion, consult with biologists, hydrologists, soil scientists, or other experts as needed to perform the delineation. The County shall be promptly reimbursed for all expenses incurred for performing delineation, except single family dwelling units which will be provided for by the County for the cost of the Development Permit.

Where the applicant has provided a determination of wetland boundary, Ferry County shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the County may attempt to set mutually agreeable boundaries; or when such an attempt is unsuccessful, shall, at the applicant's expense, obtain competent expert services from professionals approved by Ferry County to render a final delineation.

Section 5.11 WETLAND MITIGATION

Wetland alteration shall not cause significant adverse impacts to wetland ecosystems or surrounding areas, unless the impacts are unavoidable and necessary to the feasibility of the project. In such cases, the resultant impacts shall be offset through the deliberate restoration, creation, or enhancement of wetlands or other mitigation acceptable to the County utilizing standards found in Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication #06-06-011a, March 2006) and Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-011b, March 2006).

The level of impacts will be determined by "mitigation sequencing". This is a process to avoid, minimize, rectify or compensate losses, in that order. It entails: redesign the

project to avoid losses; change the project size or shape to minimize its impact; fix (rectify) impacts of a temporary nature after the development is complete; and finally, compensate for losses that were truly unavoidable. The preferred order of compensation is restoration of lost wetlands, creation of new wetlands, enhancement of degraded wetlands, and preservation of existing high quality wetlands, or some combination.

Compensatory Mitigation / Replacement Ratios

Mitigation plans may include any or all of the following – creation, re-establishment, rehabilitation or enhancement. Replacement ratios shall be lower to higher based on the type of mitigation proposed. The lowest ratios shall apply to creation of a new wetland or re-establishment of a former wetland which no longer exists. Higher ratios shall apply to rehabilitation of an existing, degraded wetland. The highest ratios shall apply to enhancement of an existing functioning wetland. Enhancement improves some wetland functions but does not provide a net gain in wetland functional area.

When losses to wetlands are unavoidable, compensation shall be applied on a case by case basis using the referenced guidance documents. The following ratios are intended as a starting point in determining mitigation requirements and are based on in-kind, same-site and category, prior to or concurrent with the alteration and having a high probability of success.

Category I –Forested	6:1	(units of replacement to 1 unit lost)
Category I – Other	4:1	
Category II – Forested	4:1	
Category II – Other	3:1	
Category III	2:1	
Category IV	1.5:1	

However, the ratios may be decreased or increased up to a multiplier of four depending on other various factors involved in the mitigation plan. Some factors that may be considered could be the combination of replacement / enhancement, differing wetland categories involved, the demonstrated success of the compensatory mitigation chosen, the time frame involved in mitigation and the permanence of the compensation, among others.

Mitigation ratios for bogs shall be on a case by case basis using the referenced guidance documents.

Prior to any development that would result in wetland loss, or issuance of a development permit or authorization, the proposed mitigation shall be submitted as per the requirements in Section 10.04.

Section 6.00 AQUIFER RECHARGE AREAS

Section 6.01 GOALS

The goal of the Aquifer Recharge Area is to designate areas and adopt development regulations for the purpose of protecting areas within Ferry County which are critical to maintaining ground water recharge and quality. The Growth Management Act, Chapter 36.70A RCW; Water Pollution Control Act, Chapter 90.48 RCW; Water Resources Act of 1971, Chapter 90.54 RCW; Regulation of Public Ground Waters, Chapter 90.44 RCW; and the Ground Water Quality Standards, Chapter 173-200 WAC require that these actions be taken to protect ground water quality and quantity such that it's use as potable water can be preserved for current and future uses.

Ferry County chooses to protect ground water quality in addition to the fact that the Growth Management Act requires counties to adopt development regulations to protect areas with a critical recharging effect on aquifer's use for potable water. The Department of Ecology has provided guidelines as to how the county is to identify and protect these areas. For an aquifer to be vulnerable and to require protection from a proposed land use, three conditions must be present:

1) Susceptibility to pollution as the aquifer is recharged;
2) Source of pollution;
3) Use of the aquifer for potable water.

It is the goal of this ordinance to designate areas where the three components of critical aquifer vulnerability occur, and to regulate activities so that pollution of the aquifer is avoided.

<u>Susceptibility</u>

The aquifer underlying a particular location in the county may be more or less "susceptible" to pollution. Susceptibility is essentially the likelihood that a pollutant could be carried down into the aquifer along with the water that recharges the aquifer. Susceptibility is a function of geology (the types and depths of soil and other geological formations lying between the surface and the ground water). The degree of susceptibility is expressed as an index number and categorized as very low, low, moderate, high, or very high susceptibility.

For northern Ferry County, susceptibility was determined through a comprehensive 1992 research study by the Eastern Washington University Department of Geology. They used the method called DRASTIC (defined below in Section 6.02 Classification). This classification method resulted in a set of maps identifying "susceptibility index" for each land area in the north part of the County. Areas which have an index in the moderate, high, or very high range will be considered to be "Susceptible". That is, if a pollution source were to be placed over the aquifer, it would be moderate to highly likely that the pollution could reach the aquifer.

The above Eastern Washington University study was only completed for the north part of the county. Due to this fact, for fee property within the bounds of the Colville Indian Reservation, Planning will consult Appendix Two and Three of the Department of Ecology Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances (defined below in Section 6.02) to determine if the land has a high susceptibility.

Pollution source

Certain types of development activities are recognized to bring with them a potential to create ground water pollutants. These activities are listed in Section 6.05.

This does not mean that every undertaking of these activities will cause pollution. Many techniques of construction and operation are available to prevent pollution. These are known as Best Management Practices. In most cases there are already regulations in place through State and/or Federal agencies which require that activities with potential to pollute ground water must be developed and restricted in such a manner that pollution is avoided.

Potable Use of the Aquifer

This essentially means all groundwater per Chapter 173-200 WAC. However, there will be cases when (enough information is present) that will be declared as non-potable and meet those qualifications per 173-200 WAC.

Review

The Ferry County Planning Department is responsible to review any proposal for a new development activity to determine whether the three conditions for critical aquifer vulnerability may apply. If it is determined that they may apply, then a Critical Aquifer Recharge permit may be required in conjunction with other required development permits.

Specifically, for Northern Ferry County, Planning will consult the maps prepared through the DRASTIC study to determine if the land has a susceptibility index above the threshold for moderate susceptibility. For fee property within the bounds of the Colville Indian Reservation, Planning will consult Appendix Two and Three of the Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances to determine if the land has a high susceptibility.

If so, then Planning will determine whether the proposed type of development is one of those listed as polluting potential.

If the activity is a type which requires pollution-control permitting by a state or federal agency, a state or federal permit will be issued in conjunction with all the requirements of this section.

If Planning has established that a permit to develop in the aquifer area is required then it will be processed per Sections 6.06 and 6.07.

Section 6.02 CLASSIFICATION

In Northern Ferry County, classification is based on the DRASTIC method for mapping hydrogeologic conditions and pollution potential. The DRASTIC method outlines seven parameters: depth to water table (D), net recharge (R), aquifer media (A), soil media (S), topography (T), impact of the vadose zone (I), and hydraulic conductivity (C). These parameters identify a range that shall be used to determine the relative susceptibility to contamination of an area.

1) Sites identified by this Section as having a medium, high, or very high susceptibility rating shall be subject to the protection measures of this Section. Group A public water system protective radius are also protected under this Section.
2) Category I is the highest priority critical aquifer recharge area. Category I are those areas having a high or very high susceptibility rating. High susceptibility rating are those areas that have a rating of 177 through 180 and very high susceptibility rating are those that have a rating of 181 and above on the Aquifer Recharge Maps on file in the Planning Department. Also the100' protective radius around Group A water wells and the 200' protective radius around Group A water springs are classified as Category I.
3) Category II is the primary critical recharge area. This consists of those areas having a medium susceptibility rating. Medium susceptibility ratings are those areas that have a rating of 114 through 176 on the Aquifer Recharge Maps on file in the Planning Department.

Due to the fact that a DRASTIC study was not completed for the south half of the county, classification on fee property within the bounds of the Colville Indian Reservation is based on ratings of susceptibility using the basic parameters presented in Appendix Two and Three of a July, 2000 Department of Ecology Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, Publication #97-30 prepared by Kirk V. Cook, RPG Hydrogeologist. This guidance document uses overall permeability, geologic matrix, infiltration, and depth to water to estimate susceptibility. Each of the major parameters used to estimate susceptibility has been evaluated and rated.

1) Sites identified by this evaluation as having a high susceptibility shall be subject to the protection measures of this Section.
2) High susceptibility ratings are those areas that have a rating of 8-12.

Section 6.03 DESIGNATION

1) Ferry County has designated aquifer recharge areas based on aquifer maps in a December1992 report titled Evaluation of Groundwater Pollution Susceptibility in Northern Ferry County, Washington using the DRASTIC Method produced by Eastern Washington University Geology Department Professor, John Buchanan. Any geographic area designated by the DRASTIC classification as having a high or

medium susceptibility rating shall be designated a Critical Aquifer Recharge Area. In addition, the 100' protective radius around a Group A Public Water Well System and the 200' protective radius around a Group A Public Water Spring System will be designated a Critical Aquifer Recharge Area. Since the above Eastern Washington University study was only completed for the north part of the county, designation for fee property within the bounds of the Colville Indian Reservation will be done on a case-by-case basis using the ratings of susceptibility for aquifers as described in Appendix Two and Three of a July, 2000 Department of Ecology Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, Publication #97-30 prepared by Kirk V. Cook, RPG, Hydrogeologist.

2) A map or maps maintained by the Ferry County Planning Department shall set forth such areas.

Section 6.04 EXEMPT ACTIVITIES IN CATEGORY I AND II

1) The following activities are exempt: Existing activities that currently and legally exist at the time of adoption of this section; and
2) All uses other than 6.05.

Section 6.05 CONDITIONALLY PERMITTED ACTIVITIES IN CATEGORIES I AND II

1) The following activities are conditionally allowed in both Category I and II and require a Critical Aquifer Recharge Area permit. For those activities that are permitted and regulated by the State or Federal Government, their site evaluation permit will be issued in conjunction with all the requirements of this Section.
   a) Above- and below-ground storage tanks (tanks and pipes used to contain an accumulation of regulated substances (see Section 3.00);
   b) Facilities that conduct biological research;
   c) Boat repair shops;
   d) Aircraft servicing;
   e) Chemical research facilities;
   f) Dry cleaners;
   g) Gasoline service stations;
   h) Pipelines;
   i) Printing and publishing shops (that use printing liquids);
   j) Below-ground transformers and capacitors;
   k) Sawmills (producing over ten thousand (10,000) board feet per day);
   l) Solid waste handling and processing;
   m) Vehicle repair, recycling, and auto wrecking;
   n) Funeral services;
   o) Furniture stripping;
   p) Motor vehicle service garages (both private and government);
   q) Photographic processing;
   r) Chemical manufactures and reprocessing;

s) Creosote and asphalt manufacture and treatment;
t) Electroplating activities;
u) Petroleum and petroleum products refining, including reprocessing;
v) Wood products preserving;
w) Golf course;
x) Regulated waste treatment, storage, disposal facilities that handle hazardous material;
y) Medium quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste);
z) Large quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste);
aa) Feed lots;
bb) Mining Operations;
cc) Landfills;
dd) Class II injection wells;
ee) Class V injection wells;
ff) Radioactive sites;
gg) Wastewater treatment facility; or
hh) Oil or gas production and gathering operations.

2) The permitting fee for a Critical Aquifer Recharge Area permit shall be established by the Board of County Commissioners. A State Enviornment Policy Act (SEPA) checklist will also need to be completed.
3) To receive a Critical Aquifer Recharge Area permit, the applicant must demonstrate, through a Level 1 site evaluation report, how they will integrate necessary and appropriate best management practices to prevent degradation to groundwater. The applicant must also meet existing local, state, and federal laws and regulations. A Level 1 site evaluation report shall be completed and submitted to the planning department. Review and approval shall be by the Planning Commission, pursuant to Section 6.06.
4) Alternately, the applicant may process a Level 2 site evaluation report and develop and implement a monitoring program that consists of the following:
   a) Demonstrate, through a Level 2 site evaluation report, how they will prevent degradation to groundwater. The applicant must also meet existing local, state and federal laws and regulations. A Level 2 site assessment report shall be completed and submitted to the planning department. Review and approval shall be by the Planning Commission, pursuant to Section 6.07; and
   b) Develop and implement a monitoring program with quarterly reporting to the Planning Department. The Planning Department will evaluate the monitoring program and may require periodic changes based on the monitoring results, new technology, and/or best management practices.

Section 6.06 LEVEL 1 SITE EVALUATION REPORT/APPROVAL CRITERIA

1) The site evaluation report shall be done by the applicant, and will meet all local, state, and federal rules and regulations. The report will identify appropriate best

management practices and show how they will prevent degradation of groundwater. All necessary technical data, drawings, calculations, and other information to describe application of the best management practice must be supplied. If unable to provide all the information required, or if the applicant preferred, the applicant may hire a licensed hydrogeologist at their own expense and do a Level 2 Evaluation Report. Examples of best management practices include, but are not limited to, the following guidance documents:

a) Dry Cleaning Hazardous Waste Do's and Don't (WDOE, 91-012c);
b) Electroplating (WDOE, 91-0129);
c) Guidance for Remediation of Petroleum Contaminated Soils (WDOE, 91-030);
d) Empty Pesticide Container Disposal (WDOE; 92-br-008);
e) Managing Hazardous Waste for Radiator Shops (WDOE, 92-br-009);
f) Managing Hazardous Waste for Transmission Shops (WDOE, 93-br-010);
g) Managing Hazardous Waste for Tire Dealers (WDOE, 93-br-015);
h) Tank Owners and Operators Guide to Using Ground Water Monitoring for UST Release Detection (WDOE, 93-012);
i) A Guide for Lithographic Printers (WDOE, 94-139);
j) A Guide for Photo Processors (WDOE, 94-138);
k) A Guide for Screen Printers (WDOE, 94-137);
l) Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycling Facilities (WDOE, 94-146);
m) Prevention of Stormwater Pollution at Log Yards—Best Management Practices (WDOE, 95-053);
n) Best Management Practices for Auto Dealerships—Auto Wastes and Containers (WDOE, 95-405A);
o) Best Management Practices for Auto Dealerships—Waste Processes (WDOE, 95-405B);
p) Irrigation Management Practices to Protect Ground Water and Surface Water Quality (WSU, EM4885, April, 1995);
q) Frequently Asked Questions Concerning Solvent and Cleaner Disposal (WDOE, 96-422);
r) Management Requirements for Special Waste (WDOE, 96-1254);
s) Drycleaners (WDOE, F-HWTR-93-541); and
t) Selecting Best Management Practices for Stormwater Management (WDOE, WQ-R-93-011).

2) The report will also identify how the applicant will follow the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event hazardous material is released onto the ground or into groundwater.
3) The report will include site specific hydro geologic information to support a conclusion of no degradation to groundwater. Hydrogeologic information may be available from existing U.S. Geological Survey Reports; U.S. Department of Agriculture, Natural Resources Conservation Service (Soil Survey of North Ferry Area, Washington, 1979; Ferry County); the Northeast Tri-County Health District; and from local purveyors.

4) The report will be reviewed by the Planning Commission or a consultant hired by the County, at the applicant's expense, for this review. The County may consult with the Northeast Tri-County Health Department; State of Washington Departments of Health or Ecology, independent reviewer, or any other parties it sees fit.
5) The Planning Commission can require a Level 2 Site Evaluation Report, at the owner's expense, for major projects that cannot address the issues by just using best management practices.

Section 6.07 LEVEL 2 SITE EVALUATION REPORT/APPROVAL CRITERIA

A licensed hydrogeologist will determine whether the proposed activity will have any adverse impacts on groundwater in Critical Aquifer Recharge Areas based upon the requirements of the Safe Drinking Water Act and the Wellhead Protection Area Program, pursuant to Public Water Supplies, Chapter 246-290 WAC; Water Quality Standards for Ground Waters of the State of Washington, Chapter 173-200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC.

1) The Level 2 site evaluation report will include the following;
   a) Identification of the proposed development plan, along with potential impacts (e.g., on-site septic systems and other on-site activities) that may adversely impact groundwater quality underlying or down gradient of the project or project area;
   b) Drawing in an appropriate scale (1:2,400 or 1 inch to 200 feet) showing the location of abandoned and active wells, springs, and surface water bodies within one thousand (1,000) feet of the project or project area; and
   c) A description of the geologic and hydrologic characteristics of the subject property including the following:
      i) Lithologic characteristics and stratigraphic relationships,
      ii) Aquifer characteristics including recharge and discharge areas, depth to and static water-flow patterns, and an estimate of groundwater-flow velocity,
      iii) Contaminant rate and transport including probable migration pathways and travel time of potential contaminant release from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s),
      iv) Appropriate hydro geologic cross-sections which depict lithology, stratigraphy, aquifer, units, potential or probable contaminant pathways from a chemical release, and rate of groundwater flow, and
      v) Existing groundwater quality, a plan for monitoring groundwater to detect changes and the corrective actions that will be taken if monitoring results indicate contaminants from the site have entered the underlying aquifer(s).
2) The report will be reviewed by the Planning Commission or a consultant hired by the County, at the applicant's expense, for this review. The County may consult with the Northeast Tri-County Health Department; State of Washington Departments of Health or Ecology, an independent reviewer, or any other parties it sees fit.

Section 7.00 FREQUENTLY FLOODED AREAS

Section 7.01 GOALS

Ferry County aims to promote the public health, safety and general welfare of its citizens, and to minimize public and private losses due to flood conditions in specific areas.

Section 7.02 POLICIES

The Ferry County Flood Ordinance 2002-01 adopted in accordance with the Federal Emergency Management Agency, will continue to be used by the Planning Dept. staff to designate frequently flooded areas.

The Federal Emergency Management Agency supplied Ferry County with Flood Insurance Rate Maps. Ferry County will be using these maps as tools to determine areas of special flood hazard.

Section 7.03 CLASSIFICATION

Class I:

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Class II:

Area of special flood hazard: Land in the flood plain subject to a one percent or greater chance of flooding in any given year.

Section 7.04 DESIGNATION

Class I: Activities allowed in the floodway are described in section 5.3 of Ferry County Flood Ordinance 2002-01.

Class II: Building in areas of special flood hazard will require a Development Permit as stated in section 4.0 of Flood Ordinance 2002-01. Any building performed in the areas of special flood hazard will be built according to standards spelled out in section 5.0 of Flood Ordinance 2002-01.

Section 8.00 GEOLOGICALLY HAZARDOUS AREAS

Section 8.01 GOALS

1) Avoid potential disasters which damage homes and property, degrade water quality and quantity, and increase flood hazards. Determine characteristics in soil, slope and geology that will indicate areas where development should be prohibited, restricted or controlled.
2) Prevent or control hazards such as open mine workings, portals, shafts and other open holes that may present significant risk of harm to individuals, wildlife and livestock. Where these features may adversely affect water quality, mitigate the conditions.

Section 8.02 CLASSIFICATION

Geologically hazardous areas can be caused by many different conditions. The following categories will be described under the sub-title of Geologically Hazardous Areas, and will be classified on a case-by-case basis with the assistance of the Ferry County Soil Survey Maps, Department of Natural Resources Geological Survey Maps, and other available information.

1) Erosion Hazard Areas
2) Landslide Hazard Areas
3) Seismic Hazard Areas
4) Mine Hazard Areas
5) Volcanic Hazard Areas

Geologically Hazardous Areas

The Washington State Department of Community, Trade and Economic Development's classification system of risk to structural development as follows in its entirety shall be used as needed. Given the possibility that a geologic activity will happen in a hazard area, the "risk" is an estimate of how much danger will be posed by the activity.

GH1 - Areas where adequate information indicates that no significant geological hazard is present or where it is judged that there is little likelihood for its presence.

GH2 - Areas where adequate information indicated that significant geological hazard is present or where it is judged that there is a high likelihood for its presence.

GH3 - Areas containing a geological hazard the significance of which cannot be evaluated from available data.

GH4 - Areas where available information to evaluate a geological hazard is inadequate.

The Washington Department of Ecology's Geologic Hazard Rating system will be used to identify the level of risk for those areas identified as GH2:

Low Risk: Standard foundation systems and site preparation techniques are expected to result in an acceptable level of risk.

Intermediate Risk: Standard foundation systems and site preparation techniques may be acceptable, but only with confirmation by a geotechnical report.

High Risk: Standard foundation systems and site preparation techniques are unlikely to be acceptable. A geotechnical report is required for recommendation of special foundation designs and site preparation techniques.

1a. Erosion Hazard Areas:

Erosion problems related to development fall into three classes:

1) Natural erosion processes that can be powerful enough to dislocate big chunks of land;
2) Exposure of soil during construction, including road construction, making it susceptible to water and wind erosion; and
3) Increased runoff, because of the increase in impermeable surfaces in development area or because of the removal or destruction of vegetation, causing concentration of water in places where it can cause erosion, typically by forming rills, gullies or deepening ravines.

Runoff management is essential in erosion control. Erosion may cause problems at the source and/or at the destination.

1b. Landslide Hazard Areas:

1) Areas with all three of the following characteristics:
   a) Slopes greater than 15%; and
   b) Impermeable soils (typically silt and water-expansive clay) frequently interbedded with permeable soils. These clays can destabilize a slope very quickly with sufficient hydration. Such clays are common in Ferry County as a byproduct of weathering of volcanic rocks. The quantity of water-expansive clay will be the key point. In such case, consulting with an experienced Geotechnical Engineer for rock mechanics of slopes may be required for questionable development; and
   c) Springs or groundwater seepage; or
2) Any area which has shown movement during the Holocene epoch (from 10,000 years to present) or which is underlain by mass wastage debris of that epoch; or
3) Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting; or
4) Areas that have snow avalanche potential; or
5) Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials; or
6) Areas located in canyons; or
7) Areas on active alluvial fans, presently subject to or potentially subject to inundation by debris flows or catastrophic flooding; or

8) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

1c. Seismic Hazard Areas:

1) Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or soil faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington.

1d. Mine Hazard Areas:

1) Mining in Ferry County has resulted in an extensive network of abandoned mines. All mine operations present a hazard to people, wildlife, and livestock. Stabilization of newer mine openings may actually make these areas safer during a seismic event than that of an unstabilized slope. Because of the strong mining heritage in Ferry County, many mine openings and other mine-related hazards exist. Such hazards include, but are not limited to; portals, shafts, open stopes, steep slopes caused by mining activities, impoundments, dumps, stockpiles, abandoned mine buildings and facilities, abandoned workings and surface drill holes.

1e. Volcanic Hazard Areas:

1) The potential risk from volcanic hazards for any particular area is generally related to how far the area is from a volcanic vent. At the present time Ferry County has no volcanic vents within a large radius.

Section 8.03 DESIGNATION

Ferry County will be utilizing the USDA Natural Resources Conservation Service and other agencies' existing surveys. These surveys along with the soils surveys will be tools used by the Planning Department to assist in judging the possible risk that may exist on a case-by-case basis.

Section 9.00 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Fish and wildlife habitat conservation areas (FWHCA) are defined as land management areas 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.

To maintain viable populations of wildlife species, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include the presence

of essential resources such as food, water, and nest building materials, the complexity of the environment, and the presence or absense of predator species and diseases. Ferry County protects habitat for fish and wildlife species using this ordinance and associated protection measures described below.

Ferry County has a very high proportion of federal, state and other publicly and tribally owned land. These lands are generally managed for the conservation of wildlife habitat. Consequently, one of Ferry County's approaches to protecting all wildlife habitat types is to depend on the management of these lands by the responsible agency; i.e. Colville Confederated Tribes, U.S. Fish and Wildlife, U.S. Forest Service, U.S. Bureau of Land Management, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, etc.

Section 9.01 CLASSIFICATION

The following six habitat areas shall be classified fish and wildlife habitat conservation areas.

1) **Areas with which endangered, threatened and sensitive species have a primary association.**
   a) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status. Those species are:

      1) Canada Lynx.
      2) Grizzly Bear.

   b) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to Ferry County identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the county without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status. Those current species are:

      1) Common Loon
      2) Fisher
      3) Ferruginuous Hawk
      4) Bald Eagle

5) Peregrine Falcon
6) Gray Wolf
7) Flammulated Owl

c) Proposed alteration of areas of primary association will require site specific review of the proposed alteration to determine whether, and to what extent, if any, there will be a reduction of the likelihood that the species will persist over the long term and whether changes to the proposed alteration or mitigation could eliminate any such reduction.

2) **Habitats and species of local importance.**
Ferry County has consulted with current information on priority habitats and species identified by the Washington state department of fish and wildlife. Priority habitat and species information includes endangered, threatened and sensitive species, but also includes candidate species and other vulnerable and unique species and habitats. Ferry County has also reviewed and considered the Washington State Department of Natural Resources' Natural Heritage Program list of high quality ecological communities and systems and rare plants.

Ferry County has the discretion to determine what habitats and species are of local importance.

Habitats and species may be identified and nominated for inclusion or removal as Habitats and Species of Local Importance by state agencies, Ferry County, and local individuals, organizations or tribes. Review of a Habitat and Species of Local Importance application shall be reviewed by the Planning Department, and ultimately decided upon by the Board of Commissioners. In order to qualify, as a habitat or species of local importance, there must be substantial evidence of declining populations or sensitivity to habitat manipulation and the species or habitat, it must not already be protected by existing regulation, and must have locally important commercial or game value, or other special value, such as public appealThe County, upon receipt of a completed nominating or removal form for each species, habitat and/or area, will review the application using the following process.

a) **Application to nominate to include or remove an area or a species to this category shall contain all of the following for each species or habitat:**

A completed environmental checklist which includes the following:
1) Demonstration of need for inclusion or removal for special consideration based on Best Available Science on population, sensitivity to habitat manipulation, commercial or game value, or other special value, such as public appeal;
2) Demonstration of need based on Best of Available Science that a conservation area for the species or habitat is critical.

Supplemental information may be prepared by the applicant(s).

And supplemental information showing the following:

1) Documentation of reasonable public notice methods that the applicant(s) has used to inform the affected area. Examples of reasonable methods are:
   a) Posting the property.
   b) Publishing an advertisement in a newspaper or newsletter of circulation in the general area of the proposal, where interested persons may review information on the proposal. Information in the notice must contain a description of the proposal, general location of the affected area and where comments on the proposal may be sent.
   c) Mailing of informations flyers to property owners within the affected area.
   d) Notification to public or private groups in the affected area which may have an interest in the application.
   e) News media articles that have been published concerning the proposal.
   f) Notices placed at public buildings or bulletin boards in the affected area.
2) Contain the signatures and addresses of all applicants.

The Administrator will review submitted applications for completeness. Complete applications will be reviewed under Ferry County Ordinance No. 94-05 (the SEPA review). Copies will be forwarded to WDFW, DOE, DNR or other State and local agencies of expertise for comments and recommendations regarding accuracy of data, stated need and the effectiveness of proposed management and protection strategies.

Upon completion of the SEPA review, the Ferry County Board of County Commissioners shall hold a public hearing for proposals found to be complete, accurate, feasible, potentially effective and within the scope of this ordinance.

Any objection of a nomination for inclusion or removal may be substantiated by including, but not limited to, the following:

- Threat to the health, safety and welfare of the public
- Demonstrate harm
- No need for special consideration
- The current ordinances provide relevant feasible management strategies
- Substantial economic impact
- signatures and addresses of objectors

Final approval by the Board of County Commissioners of nominations will become designated "Habitats and Species of Local Importance", and will be subject to the provisions of this ordinance. Habitats and species nominated and afforded protection under the category "Habitats and Species of Local Importance" shall then be subject to review under this ordinance.

Final approval by the Board of County Commissioners of nominations for removal shall remove those habitats and species identified from the protection afforded by this ordinance and they will no longer be designated Habitat and Species of Local Importance.

Any decision of the Board of County Commissioners may be appealed to the Superior Court.

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, administered by the DNR. There are three water types within this classification, which are fish bearing waters, Types 1, 2 and 3. There are two types that are not fish bearing waters, Types 4 and 5. The record contains the demographics of Ferry County, and assesses the economic, custom and cultural conditions that lead to the recommendation of standard buffer widths.

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 or 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 nonfish habitat 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, nonfish habitat 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 of soil scouring.

Ferry County will use DNR's Water Type Maps to designate water types and classifications to the extent they are consistent with WAC 222-16-031 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 and 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 Tribes will be consulted concerning the lakes, ponds, streams and rivers planted with game fish that traverse 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 Department of Natural Resources natural area preserves or natural resource conservation areas within Ferry County. However, there are two areas set aside for the protection of wildlife. One is the Sherman Creek Game Reserve managed by the State Department of Fish and Wildlife. The other is the Hellgate Game Reserve within the boundary of the Colville Indian Reservation. Also, Grizzly Mountain Wilderness on the Colville Indian Reservation is an area of natural resource conservation.

Section 9.02 DESIGNATION

Those current listed species have the following designation of a FWHCA:

1) Canada Lynx. Ferry County designates Kettle Range Lynx Management Zone and the Vulcan-Tunk Lynx Management Zone as a FWHCA for purposes of the Canada Lynx. Reference: Washington Department of Fish and Wildlife Lynx Recovery Plan, June, 2001.
2) Grizzly Bear. The grizzly bear has a broad range of habitat tolerance, but contiguous mountainous habitat is an area of primary association in Ferry County, All areas in excess of 4,000 feet in elevation and all state natural preserves, the Hellgate Game reserve and the Grizzly Mountain Wilderness, are designated a FWHCA, for purposes of the Grizzly Bear. Reference: US Fish and Wildlife Service Grizzly Bear Recovery Plan, January 29, 1982.
3) Common Loon. Its areas of primary association include lakes over 19 acres in area and all such lakes are designated a FWHCA, for purposes of the Common Loon. Reference: Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Species: Volume IV, May, 2004.
4) Fisher. Its area of primary association are forests. All lands within federal and state forest lands, state natural preserves and, the Hellgate Game reserve and the Grizzly Mountain Wilderness, and forest land within the Colville Indian Tribes Game Reserve are designated a FWHCA for the Fisher. Reference: Washington

Department of Fish and Wildlife Washington State Recovery Plan for the Fisher, December, 2006.

5) Ferruginous Hawk. Its area of primary association are outside of Ferry County and so no lands are designated as a FWHCA for purposes of the Ferringuous Hawk. Reference: Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Species: Volume IV, May, 2004.
6) Bald Eagle. Landowners must comply with the Federal Bald and Golden Eagle Protection Act to avoid impacting eagles. Landowners should consult the US Fish and Wildlife Service to determine if a permit is required when proposing land use activities within 330 or 660 feet of an eagle nest.
7) Peregrine Falcon. Peregrine falcons usually nest on cliffs, 150 feet or more in height. These areas are designated FWHCA for the Peregrine Falcons. Reference: Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Species: Volume IV, May, 2004.
8) Gray Wolf. Because Gray Wolves are habitat generalists, restrictions on human development or land use practices are not necessary to recover Gray Wolves. Reference: Washington Department of Fish and Wildlife Wolf Conservation and Management Plan, December, 2011.
9) Flammulated Owl. The upper third of all east or south slopes of forests consisting of a 20 inch diameter at breast height Ponderosa Pine overstory with a Douglas Fir, Grand Fir or Ponderosa Pine understory are designated a FWHCA for the Flammulated Owl. Reference: Washington Department of Fish and Wildlife Management Recommendations for Washington's Priority Species: Volume IV, May, 2004.

Habitat areas that meet the above classification criteria are designated as fish and wildlife habitat conservation areas and are subject to the provisions of this ordinance and shall be managed with the Best Available Science on a site by site basis.

Section 9.03 PROTECTION REQUIREMENTS

1) Standard Buffer Widths

It is the goal of this Ordinance to provide buffers that will provide maintenance for fish and wildlife habitat functions. To ensure adequate protection of existing fish and wildlife habitat conservation areas, the buffer requirements shall apply to all development proposals that require approval under existing or subsequently adopted Ferry County regulations, even when a lesser standard might be approved by another agency.

The following buffers shall be required:

Type 1 Waters	150 feet
Type 2 Waters	150 feet
Type 3 Waters	100 feet

Type 4 Waters	50 feet
Type 5 Waters	50 feet

2) **Activities Not Regulated**

Uses and activities, which are consistent with the purpose and functions of the buffer, shall be allowed within the buffer. Activities should not impact the functions or value of the buffer beyond its ability to recover. The following shall be permitted within a buffer:

1) Ongoing activities associated with legal and established land uses including maintenance, repair, rebuilding, or operation of existing legal structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the size of the original structure, facility, or improved area and does not include the construction of a new maintenance road;
2) Existing and on-going agriculture activities;
3) Forest practice activities regulated by the DNR;
4) Water wells and surface water withdrawal systems;
5) Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests or other related activities. In every case, buffer area impacts shall be minimized and disturbed areas shall be immediately re-established;
6) Maintenance, reconstruction, repair or operation of existing private access road/driveways, streets, highways, roads, trails, landscape areas, utilities, floating docks, boat moorings, and buoys;
7) Scientific or educational activities;
8) Wildfire fuel reduction and diseased vegetation removal;
9) Removal of invasive or noxious weeds;
10) Recreational activities provided the activity does not alter the area by changing existing topography, water conditions or water source;
11) Private pedestrian trails, less than 4 feet in width, unpaved and with no bark or fill;
12) Swales planted with native plants;
13) The harvesting of wild crops in a manner that is not injurious to natural reproduction;
14) Non-permanent wildlife-watching/hunting blinds;
15) Buffer alterations for view corridors are allowed with emphasis placed on limbing and with selective timber removal minimized to the extent possible. Proposed alterations shall not exceed a width of 25 feet within the area and shall minimize shrub vegetation removal and ground disturbance while maintaining the large mature trees;
16) Emergencies that threaten public health and safety and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of these regulations. The Ferry County Planning Department shall be notified following resolution of the emergency situation so appropriate mitigations/restoration measures may be pursued; or
17) Existing and on-going mining and other natural resource activities.

3) **Regulated Activities**

The following activities should generally be sited outside of buffer areas; however, if a proposed land use includes special conditions which require the placement or conduct of these activities within the buffer area, then a development permit will be required, with the intent of minimizing impact to the values and functions of the buffer area, and providing mitigation for impacts which may not be avoidable.

The permit shall be obtained from the Ferry County Planning Department as per Section 10.03, Establishment of a Development Permit, prior to undertaking the following activities unless authorized by Section 9.03(3). The Director, if necessary, may also require a Habitat Management and Mitigation Plan pursuant to Section 9.04. This section does not require any permit in addition to those otherwise required by county ordinances. Uses and activities in which no permit or approval is required by any other county ordinances remain subject to the standards and requirements of this section. This section does not exempt uses and activities from any state or federal permits that may be required. For any agricultural activity below, see Section 4.00 for current regulations.

1) Creation of new lots through land subdivision;
2) The construction, reconstruction, demolition or expansion of any structure;
3) The destruction or alteration of buffer areas through clearing, excavating, grading, paving, dumping, filling, intentional burning, vegetation removal or landscaping that would alter the functions and values of the buffer area, unless part of a project which has been permitted or a project which is non-regulated under this Section;
4) The draining, flooding or disturbing of the water level or water table. This does not include residential drilled or dug ground water wells;
5) Recreational facility development;
6) Feed lots (feed lots do not include ordinary winter feeding);
7) Road, expansion of existing corridor road or bridge;
8) Road, new public or private access road/driveway. Roads shall be kept to a minimum. Whenever possible, roads within buffer areas shall not run parallel with the water body and where crossings are necessary, shall cross buffer areas as near right angles as possible;
9) Equestrian/pedestrian/bike trails and associated facilities may be permitted in buffer areas but should be set back 50 feet from the ordinary high water mark, if possible, and shall be a maximum of 14 feet in width. The trails shall be left as soft paths and parking will not be permitted within the buffer area;
10) Bulkheads or retaining walls, where no other practical alternative exists, may be allowed. Beach nourishment and bio-engineered erosion control projects are considered a normal protective bulkhead; or
11) Where no other practical alternative exists to the excavation for the placement of wells, tunnels, utilities, or on site septic systems in a buffer area. Wells and on site septic systems shall be in conformance with local and state requirements.

Buffer vegetation disturbances within the buffer area shall be re-established within one growing season with native vegetation or as recommended by local sources, such as the Ferry Conservation District, the Natural Resource Conservation Service or the Washington State University Ferry County Cooperative Extension Office.

4) **Increase of Standard Buffer Widths**
The standard buffer width may be increased when the County finds, on a case-by-case basis, that a larger area is necessary to protect the critical area functions and values.

5) **Buffer Width Reduction**
   1) The buffer width may be reduced on a site-by-site basis when it is determined that a smaller area is adequate to protect the functions and values based on site-specific characteristics.
   2) Buffer width reduction may be considered for, but not limited to, the following circumstances:
      a) The applicant may demonstrate that the buffer cannot provide certain functions because of soils, geology or topography existing at the site prior to adoption of this ordinance;
      b) A legally established roadway transects the standard buffer, provided that the applicant shows that the part of the buffer on the other side of the roadway provides insignificant biological or hydrological function in relation to the portion of the buffer on the water side of the roadway.
   3) Buffer reductions shall be based upon best available science appropriate for the site. Buffer reductions should be used on a limited basis and should be granted only when it has been determined that the functions and values of the critical area can be maintained.
   4) Applications for buffer width reduction shall follow Variance procedures as outlined in Section 10.01.

6) **Buffer Width Averaging**
Standard buffer widths may be modified by averaging buffer widths or a combination of averaging and reduction. Buffer width averaging shall be allowed only where the applicant demonstrates the following:
   1) Averaging will not decrease the functions and values of the buffer necessary to protect the biological, chemical and physical components of water quality, and
   2) The total area contained within the buffer after averaging is no less than that contained with the standard buffer prior to averaging. The buffer width shall be reduced to not less than 75 percent of the standard buffer unless authorized under Section 10.02.

7) **Land Division**
In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this ordinance. In long plats, buffers may be dedicated as permanent open space tracts, functioning as fish and wildlife habitat conservation areas.

8) **Non-Conforming Structures and Improvements**
Existing and ongoing structures and improved areas within the buffer which are legally existing at the time of the adoption of this ordinance are hereby declared to be non-conforming and shall be subject to the following:

Structural modification of, addition to or replacement of any structure legally established before the adoption of this ordinance which do not meet the buffer requirements are permitted under 9.03(4) if no portion of the modification, addition or replacement extends farther into the buffer. All development adjacent to both "Shorelines" and "Shorelines of State-wide Significance" shall be subject to the provisions in the Ferry County Shorelines Master Program.

9) **Mapped Habitat Areas**
Development proposals within a mapped habitat area for Endangered, Threatened and Sensitive (ETS) species or within 1000 feet of a validated point observation for ETS species may be subject to additional requirements pursuant to Section 9.04 below.

10) **Specific Regulations Applicable to Specific FWHCAs:**
1) Canada Lynx. Lynx habitat conservation areas in Ferry County are delineated in the Washington Department of Fish and Wildlife Lynx Recovery Plan (2001) as "Lynx Management Zones" (Kettle Range and Vulcan-Tunk). For projects related to timber management within these habitat areas that are covered by a habitat management plan with a federal or state agency, no review under this ordinance shall be required. Within these habitat conservation areas, development projects involving the conversion of land from timber to another use are subject to the Habitat Management and Mitigation Plan requirements in Appendix A. Projects occurring outside lynx habitat conservation areas are not subject to review under this ordinance for impacts to lynx habitat.
2) Common Loon. Regulations to protect the Common Loon FWHCA includes all regulations applicable to the use of the waterbody, shoreline regulations, and buffers as provided in this section.

This section does not in any way limit or affect those activities and uses specifically exempted from regulation under Section 9.03(3).

Section 9.04 MAPPED HABITAT AREAS AND MAPPED SPECIES OBSERVATIONS REVIEW

The approximate location and extent of Fish and Wildlife Habitat Conservation Areas for Endangered, Threatened and Sensitive species are shown on the County's critical area map titled "Fish and Wildlife Habitat Conservation Areas of Ferry County". This map as it currently exists and as amended from time to time is to be used as a guide for the county. This map is a reference and does not provide a final critical area designation.

The Washington Department of Fish and Wildlife provides data on known locations of state-listed species through its Priority Habitats and Species (PHS) program.

Protection of habitat for species that may be introduced in the future through federal or state re-introduction, transplanting, transporting programs or migration from other areas will be coordinated with the county.

1) For any development proposal the Planning Director will consult current maps from the WDFW / PHS program, showing documented point locations or mapped polygon areas for ETS species. The mapped polygon areas already include the appropriate buffer for the particular species. Also consulted will be records for any locally nominated or removed habitats and species of local importance in accordance with Section 9.01(2)(a).

2) If the development proposal lies within a mapped polygon area, or within 1000 feet of a documented point location for an ETS species or within a mapped area for Habitats and Species of Local Importance, the Planning Director shall forward to the landowner, or the landowner's agent, all available information pertaining to the mapped location. This will include information provided by the WDFW documenting the date and circumstances of a point location, and any WDFW statement demonstrating best available science for the observation. In the case of polygon mapping, the Planning Director will refer the landowner to the WDFW for management recommendations and/or published information presenting the best available science for that species or habitat type.

3) Should the landowner, or the landowner's agent, or the Planning Director have questions regarding any WDFW mapping, the Planning Director will forward an inquiry to the WDFW requesting interpretation or clarification of data in the PHS database.

Based on the report of the qualified professional and best available science appropriate for the site, Ferry County may require a Habitat and Management Plan for the proposed development (See Appendix A for details).

Section 10.00 ADMINISTRATION

Section 10.01 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, of the Ferry County Comprehensive Plan and adopted development regulations; and
9) In granting of the variance, the county may prescribe such conditions, safeguards or mitigation measures necessary to secure protection of critical areas from adverse impacts.
10) The decision to grant the variance includes consideration of Best Available Science.

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

Section 10.02 REASONABLE USE EXCEPTION

If an applicant for a development proposal demonstrates to the satisfaction of the Planning Commission that application of these regulations would deny all reasonable economic or beneficial use of the subject property, reasonable economic development of the property will be allowed if the applicant also demonstrates all of the following:

1) The application of this section would deny all reasonable economic or beneficial use of the property;
2) There is no other reasonable configuration or placement of the proposed development with less impact on the buffer;
3) 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
4) Any alterations permitted to the critical area or buffer shall be the minimum necessary to allow for reasonable use of the property.

Section 10.03 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before construction or development begins on a regulated activity within any critical area or critical area buffer. The permit shall be for all construction including filling and dredging and other regulated activities as defined in this ordinance. Construction shall not begin until issuance of the required development permit, and must be conducted in compliance with the terms of such permit. A

development permit will be applied for from the Ferry County Planning Department along with other State or Federal permits that may be required for such construction. A State Environmental Policy Act (SEPA) checklist may be required for development in a critical area.

Section 10.04 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit shall be made on forms furnished by the administrator. The application shall include at least the following information:

1) The location of the proposed site;
2) Existing structures, improvements and landscape features including the name and location of all water bodies;
3) The relationship of the site to surrounding topographic and built features;
4) Soil types and conditions, vegetation, and if available photographs showing pertinent information;
5) A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such a land use change upon identified critical areas including the proposed amounts of excavation, grading, and vegetation disturbance;
6) Specifications for proposed building locations, construction and materials, filling, dredging, grading, storage of materials, water supply and sanitary facilities;
7) Data showing that the functions and values of the critical area will not be substantially decreased by the proposed development; and
8) Certification by a qualified professional of the classification and delineation of the critical areas in compliance with this Ordinance; and
9) If applicable, a mitigation and monitoring plan providing for no net loss of critical areas functions and values, the requirements of this Ordinance, and the referenced guidance documents.

In reviewing applications for a development permit, Ferry County will review and consider the following "mitigation sequencing":

1) Avoid the impact altogether by not taking a certain action or part of an action;
2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3) Rectifying the impact by rehabilitating or restoring the affected environment;
4) Reducing or eliminating the impacts over time by preservation and maintenance operations during the life of the action;
5) Compensating for the impact by replacing or providing substitute resources or environments; and
6) Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation may include a combination of the above measures.

Prior to any development that would result in critical areas loss, or issuance of a development permit or authorization, the proposed mitigation shall be submitted as per

the requirements in this section. The plans will include baseline information, goals and objectives, performance standards against which to measure success, a construction plan, a monitoring program to measure the results, and a contingency clause in case of failure to meet the standards. The monitoring plan shall monitor any mitigation sites for at least five years. A performance or maintenance bond to assure implementation may also be required for an amount sufficient to assure the construction of the mitigation and maintenance for five years.

Assessment Relief

The County Assessor shall consider wetland regulations in determining the fair market value of land. Any landowner of an undeveloped wetland who has dedicated an easement or other legal restriction regarding wetland protection shall have that portion of land assessed consistent with those restrictions. Such land shall also be exempt from special assessments.

The Administrator may request additional information needed to decide if the permit should be issued.

Section 10.05 APPROVAL

Within thirty (30) days following the filing of a complete application the Administrator shall approve, or disapprove, the application for a permit. The Administrator shall base his/her decision on whether the application meets the purpose and goals of this ordinance. If approved the Administrator shall promptly issue a variance, or permit; if not he/she shall promptly notify the applicant in writing of the specific reasons for disapproval. Authorization to conduct development activities shall terminate five years after the effective date of the development permit. Provided, the administrator may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date. Development adjacent to Shorelines of the State will be subject to the guidelines and timeframe in the Ferry County Shoreline Master Program.

Section 10.06 FEES

Fees for variances and appeals shall be as established by resolution of the Board of County Commissioners.

Section 10.07 DESIGNATION OF ADMINISTRATOR

The Administrator of this ordinance shall be the Ferry County Planning Director, or his designee.

Section 10.08 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

1) Permit Review - Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2) Review all development permits to determine that the necessary permits have been obtained from those Local, State, or Federal governmental agencies from which prior approval is required.
3) Review all development permits to determine if the proposed development is located in the riparian area or a wetland or its associated buffer zone.
4) Review all variance applications and submit to the Planning Commission.
5) If wetlands class designation/delineation data has not been provided in accordance with Section 5.10, the Administrator shall obtain, review and make reasonable use of any data available from Local, State, Federal or other sources.

Section 10.09 DISAPPROVAL OF APPLICATION

Within twenty (20) days of the Administrator's issuance of a written disapproval of permit application or other determination made under this ordinance, the applicant or interested party adversely affected by the determination may file a written notice of appeal with the Ferry County Planning Commission. Failure to file the notice of appeal within twenty (20) days serves to waive the right of appeal. "Interested party" is defined to include any public officer or agency and any person who owns a substantial interest in property directly affected by the determination.

Section 10.10 DENIAL OF VARIANCE OR REASONABLE USE EXCEPTION

Within twenty (20) days of the Administrator's issuance of a written denial of an application for variance or reasonable use exception, the applicant or interested party adversely affected by the determination may file a written notice of appeal with the Ferry County Board of County Commissioners. Failure to file the notice of appeal within twenty (20) days serves to waive the right of appeal. "Interested party" is defined to include any public officer or agency and any person who owns a substantial interest in property directly affected by the determination.

Section 10.11 DISAPPROVAL OF APPLICATION APPEAL PROCEDURE

With receipt of the notice of appeal the Ferry County Planning Commission shall request, and the Administrator shall provide, a copy of his/her complete file to the Planning Commission. The Planning Commission shall then set a date and time for a public hearing on the appeal. The Planning Commission shall give all parties, including the Appellant and Administrator; thirty (30) days advance notice of the date, time and place of the public hearing on the appeal. The hearing shall be recorded.

The Planning Commission shall consider all information submitted by the Administrator, Appellant and Planning Commission, together with any other evidence it deems relevant. The Planning Commission must consider the same requirements as stated in this

ordinance for the individual permit. It shall then affirm or reverse the Administrator's decision, or remand the matter for further investigation or action by the Administrator. The Ferry County Planning Commission may attach such conditions, as it deems consistent with the purpose of this ordinance to the granting of variances or approval of permits.

Section 10.12 VARIANCE OR REASONABLE USE APPEAL PROCEDURE
With receipt of the notice of appeal the Ferry County Board of County Commissioners shall request, and the Planning Administrator shall provide, a copy of his/her complete file to the Board. The Board of County Commissioners shall then set a date and time for a public hearing on the appeal. The Board of County Commissioners shall give all parties, including the Appellant, Administrator, and the Planning Commission; thirty (30) days advance notice of the date, time and place of the public hearing on the appeal. The hearing shall be recorded.

The Board of County Commissioners shall consider all information submitted by the Administrator and Appellant, together with any other evidence it deems relevant. They must consider the same variance requirements as stated in Section 10.01. It shall then affirm or reverse the Planning Commission's decision, or remand the matter for further investigation or action by the administrator or the Planning Commission. The Ferry County Board of Commissioners may attach such conditions, as it deems consistent with the purpose of this ordinance to the granting of variances or approval of permits.

Section 10.13 VIOLATION
Any person who commences a regulated activity in a critical area or critical area buffer without a valid permit, or 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 10.14 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 $5,000.00.

Section 10.15 CRIMINAL PENALTY
Any person convicted of violating this ordinance shall be guilty of a misdemeanor.

Section 10.16 COLVILLE RESERVATION
Ferry County has regulatory authority over Fee lands within the Colville Reservation as provided in Brendale v. Yakima Indian Reservation (492 U.S. 408 [1989]), although this

area of the law is in flux and such regulatory authority is less clear as result of *Gobin v Snohomish County*, 304 F.3d 909, (9th Cir. 2002).

Section 10.17 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 10.18 SUPPORTING DOCUMENTS

References to regulations, maps, or documents from agencies other than Ferry County apply to this ordinance only if dated prior to adoption of this ordinance.

APPENDIX "A"

HABITAT MANAGEMENT AND MITIGATION PLAN

The Habitat Management and Mitigation Plan shall be approved or denied in writing by the Administrator within 60 days of receipt of application and shall contain but not be limited to the following information:

1) A map (s) prepared at an easily readable scale, showing:
   a) The location of the proposed site;
   b) The relationship of the site to surrounding topographic and built features;
   c) The nature and density of the proposed use or activity;
   d) Proposed building locations and arrangements;
   e) A legend which includes:
      i) A complete and accurate legal description. The description shall include the total acreage of the parcel;
      ii) Title, scale, north arrow; and
      iii) Date
   f) Existing structures, improvements and landscape features including the name and location of all water bodies; and
   g) Location of habitat for priority species.
2) A report which contains:
   a) A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such a land use change upon identified critical wildlife habitat including the proposed amounts of excavation, grading, and vegetation disturbance;
   b) An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats; and
   c) A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. Mitigation measures within the plan may include, but are not limited to:
      i) Protection of critically important plants and trees;
      ii) Limitation of human access to habitat area;
      iii) Seasonal restriction of construction activities;
      iv) Clustering of development and establishment of habitat protection areas;
      v) Signs marking habitats or habitat protection areas;
      vi) Title notice or plat dedication warning statements;
      vii) Conservation easements;
      viii) Protect native plant species which serve as food and shelter from climatic extremes and predators and structure and cover for reproduction and rearing of young for critical wildlife; and

ix) In the revegetation or landscaping of disturbed or developed areas and in any enhancement of habitat or buffer area the use of native species or species as recommended by local sources, such as the Ferry Conservation District,the Natural Resource Conservation Service, the Washington State University Ferry County Cooperative Extension Office, or by the Washington State Department of Fish and Wildlife shall be used.

Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife will be considered.

The Washington State Department of Fish and Wildlife shall respond in writing to the Administrator with review comments or a request for additional time for review within 14 days from the date of mailing of a draft Habitat Management and Mitigation Plan. The Administrator may grant an additional 7 days for an agency to provide review comments. If review comments or a request for additional time to provide review comments is not received in the prescribed time frame, the State review comments on the Habitat Management and Mitigation Plan shall not be considered.

The Administrator shall have the authority to approve or deny Habitat Management and Mitigation Plans or require additional information based upon criteria within this attachment and review comments from relevant agencies. The Administrator shall base his/her decision on written findings of fact and conclusions. The Administrator's written decision shall be forwarded to the Washington State Department of Fish and Wildlife, other agencies or tribal entities which provided comments to the Department and to any other agency/individual(s) who request a copy of the written decision.

3) Mitigation shall be completed prior to granting of final occupancy, or the completion of final approval of any development activity for which mitigation measures have been required.

Any person aggrieved by the Administrator's decision can file an appeal subject to the provisions as stated in Section 10.00 of this ordinance.

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:

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

Section 2.00:

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

Section 3.00:

- Natural Resources Conservation Service Field Office Technical Guide
- RCW 90.76, Underground Storage Tanks, 1989;
- Soil Conservation Service, National Cooperative Soil Survey,
- U.S. Code Title 33, Federal Clean Water Act;
- WAC Chapter 173-303, Dangerous Waste Regulations, 10-05-07;
- WAC 173-218, Underground Injection Control Program, 01-03-06;
- WAC 173-304, Minimum Functional Standards for Solid Waste Handling, 10-04-88;
- WAC 173-351, Criteria for Municipal Solid Waste Landfills, 10-26-93;
- WAC 222-16-031, Interim Water Typing System, 07-01-05;
- WAC 232-12-011, Wildlife Classified as Protected Shall Not be Hunted or Fished, 01-30-06;
- WAC 232-12-014, Wildlife Classified as Endangered Species, 01-30-06;
- WAC 232-12-297, Endangered, Threatened, and Sensitive Wildlife Species Classification, 01-28-02;
- Washington Department of Fish and Wildlife, Classification System for Priority Habitat, updated 2/4/98;
- Washington Department of Fish and Wildlife, Priority Habitat and Species Program, initiated 1989;

Section 4.00:

- RCW 36.70A.030(5), 1994;
- RCW 36.70A.172, Critical Areas - Designation and protection, 1995;
- RCW 36.70A.360, Master Planned Resorts, 1998;

- Section 101(14), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 1980;
- WAC 365.190.080, Minimum guidelines to classify agriculture, forest, mineral lands and critical areas, 03-15-91;
- Supreme Court of the State of Washington, Docket # 76339-9 "Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Board", September 13, 2007;
- WAC 365-195-900, Background and Purpose, 05-03-01;
- WAC 365-195-910, Criteria for Obtaining Best Available Science, 08-27-00;
- WAC 365-195-915, Criteria for Including Best Available Science in Developing Policies and Development Regulations, 08-27-00;
- WAC 365-195-920, Criteria for Addressing Inadequate Scientific Information, 08-27-00;
- WAC 365-195-900-925, Criteria for Demonstrating "Special Consideration" Has Been Given to Conservation or Protection Measures to Preserve or Enhance Anadromous Fisheries, 08-27-00;

Section 4.02:

- WAC 365-195-905, Criteria for Determining Which Information is the Best Available Science, 08-27-00;

Section 4.04:

- Tri-County Wetland Map, July, 1991;
- National Wetland Inventory Map, 1987;

Section 5.00:

- Washington State Department of Ecology, Washington State Wetlands Identification and Delineation Manual, Publication #96-94, March 1997;

Section 5.03:

- Washington State Department of Ecology, Washington State Wetland Rating System for Eastern Washington, Publication #04-06-15, August 2004;

Section 5.04:

- Washington State Department of Ecology, Washington State Wetlands Identification and Delineation Manual, Publication #96-94, March 1997;

Section 5.08:

- RCW 76.09, Forest Practices, 1999;

Section 5.11:

- Washington State Department of Ecology, et al, Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Publication #06-06-011a, March 2006);

- Washington State Department of Ecology, et al, Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Publication #06-06-011b, March 2006);

Section 6.01:

- Buchanan, John, Eastern Washington University, Geology Department, Evaluation of Groundwater Pollution Susceptibility in Northern Ferry County, WA, December 1992;
- Cook, Kirk V., RPG Hydrogeologist, DRASTIC study info; Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, Publication #97-30, July 2000;
- RCW 36.70A. Growth Management, 1990;
- RCW 90.44, Regulation of Public Ground Waters, 1945;
- RCW 90.48, Water Pollution Control, 1989;
- RCW 90.54, Water Resource Act 1971, 2002;
- WAC 173-200, Water quality standards for the ground waters of the state of Washington, 10-31-90;

Section 6.02:

- Cook, Kirk V. RPG Hydrogeologist, Washington Department of Ecology, Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, Publ. No. 97-30, dated July, 2000;

Section 6.03:

- Buchanan, John, Eastern Washington University, Geology Department, Evaluation of Groundwater Pollution Susceptibility in Northern Ferry County, WA, December 1992;
- Cook, Kirk V. RPG Hydrogeologist, Washington Department of Ecology, Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, Publ. No. 97-30, dated July, 2000;

Section 6.06:

- WAC 173-303, Dangerous Waste Regulations, 10-05-07;
- WDOE, Best Management Practices for Auto Dealerships-Auto Wastes and Containers, #95-405A;
- WDOE, A Guide for Lithographic Printers, 94-139;
- WDOE, A Guide for Photo Processors, #94-138;
- WDOE, A Guide for Screen Printers, #94-137;
- WDOE, Best Management Practices for Auto Dealerships-Waste Processes, #95-405B;
- WDOE, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycling Facilities, #94-146;
- WDOE, Drycleaners, F-HWTR-93-541;
- WDOE, Dry Cleaning Hazardous Waste Do's and Don'ts, #91-012c;

- WDOE, Electroplating, #91-0129;
- WDOE, Empty Pesticide Container Disposal, #92-br-008;
- WDOE, Frequently Asked Questions Concerning Solvent and Cleaner Disposal; #96-422;
- WDOE, Guidance for Remediation of Petroleum Contaminated Soils, #91-030, November, 1995;
- WDOE, Management Requirements for Special Waste, #96-1254;
- WDOE, Managing Hazardous Waste for Radiator Shops, #92-br-009;
- WDOE, Managing Hazardous Waste for Transmission Shops, #93-br-010;
- WDOE, Managing Hazardous Waste for Tire Dealers, #93-br-015;
- WDOE, Prevention of Storm Water Pollution at Log Yards-Best Management Practices, #95-053;
- WDOE, Release Detection, #93-012;
- WDOE, Selecting Best Management Practices for Stormwater Management, WQ-R-93-011;
- WDOE, Tank Owners and Operators Guide to Using Ground Water Monitoring for UST, #930012;
- Washington State University, Irrigation Management Practices to Protect Ground Water and Surface Water Quality, EM4885, April, 1995;

Section 6.07:

- WAC 173-200, Water Quality Standards for Ground Waters of the State of Washington, 10-31-90;
- WAC 173-303, Dangerous Waste Regulation, 10-05-07;
- WAC 246-290, Public Water Supplies, 07-03-07;

Section 7.02:

- Ferry County Flood Ordinance 2002-01, January 7, 2002;
- Flood Insurance Rate Maps, May 2, 2006;

Section 7.04:

- Ferry County Flood Ordinance 2002-01, January 7, 2002;

Section 8.02:

- Ferry County Soil Survey Maps;
- Department of Natural Resources Geological Survey Maps;
- Washington Department of Ecology Geologic Hazard Ratings System;
- Washington Department of Community, Trade and Economic Development, Classification of Risk to Structural Development;

Section 9.00:

- WAC 365-190-080(5), Minimum guidelines to classify agriculture, forest, mineral lands, and critical areas, - Critical Areas, Fish and wildlife conservation areas, 04-15-91;

Section 9.01:

- RCW 90.58, Shoreline Management Act, 1971;
- WAC 222-16-031, Interim water type system, 07-01-05;
- WAC 232-12-011, Wildlife classified as protected shall not be hunted or fished, 01-30-06;
- WAC 232-12-014, Wildlife classified as endangered species, 01-30-06;
- WAC 365-190-080 (5) (c)(ii), Minimum guidelines to classify agriculture, forest, mineral lands and critical areas, - Critical Areas, Sources and methods – species of local importance, 04-15-91;
- Washington Department of Fish and Wildlife Maps (Fish Planting);

Section 9.04

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APPROVED this 24th day of September, 2012.

FERRY COUNTY BOARD OF COMMISSIONERS
FERRY COUNTY, WASHINGTON

Brian Dansel, Chairman

Robert L. Heath, Vice Chairman

Brad L. Miller, Member

ATTEST:

Hayley Aubertin, Clerk of the Board

APPROVED AS TO FORM:

L. Michael Golden, Deputy Prosecuting Attorney