

FERRY COUNTY
ORDINANCE # 99-01
TIMBER AND FOREST PRACTICES

February 1, 1999

**FERRY COUNTY ORDINANCE # 99-01
TIMBER AND FOREST PRACTICE ORDINANCE**

**AN ORDINANCE AUTHORIZING CONVERSION OPTION HARVEST PLANS
FOR CERTAIN FOREST PRACTICES AND ADDRESSING THE SIX YEAR
MORATORIUM**

WHEREAS, The Washington Forest Practices Rules, WAC 222-20-050, authorizes local government entities to approve Conversion Option Harvest Plans (COHP) for certain Class II, Class III, and Class IV-Special Forest Practice applications which reads as follows:

- (1) If an application to harvest signed by the landowner indicates that within 3 years after completion, the forest land will be converted to a specified active use which is incompatible with timber growing, the reforestation requirements of these regulations shall not apply and the information relating to reforestation on the application form need not be supplied. However, if such specified active use is not initiated within 3 years after such harvest is completed, the reforestation requirements (See chapter 222-34 WAC) shall apply and such reforestation shall be completed within 1 additional year.
- (2) For Class II, III, and IV special forest practices, if an landowner wishes to maintain the option for conversion to a use other than commercial timber operation the landowner may request the appropriate local government entity to approve a conversion option harvest plan. This plan, if approved by the local government entity and followed by the landowner, shall release the landowner from the six-year moratorium on future development, but does not create any other rights. The conversion option harvest plan shall be attached to the application or notification as a condition. Violation of the conversion option harvest plan will result in the reinstatement of the local government entity's right to the six-year moratorium. Reforestation requirements will not be waived in the conversion option harvest plan. Reforestation regulations shall apply at the completion of the harvest operation as required in chapter 222-34 WAC. Nothing herein shall preclude the local government entity from charging a fee to approve such a plan. (See RCW 76.09.060 (3)(b)(i).)
- (3) If the application does not state that any land covered by the application will be or is intended to be converted to a specified active use incompatible with commercial timber operations and except as provided in subsection (2) of this section, the local government entity may, for six years after the date of the application, refuse to accept, process, or approve any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land subject to the application. (See RW 76.09.060 (3)(b)(i).); and

WHEREAS, a COHP is an optional type of Forest Practices Permit, which provides a viable and flexible alternative for forest landowners who have not made a decision about the future conversion of their land to non-forestry uses; and

WHEREAS, establishing regulations for COHP should reduce the number of forest practice operations purposely submitted as a Class II or III permit to avoid a Ferry County SEPA review and the imposition of county conditions on Forest Practices Permits; and

WHEREAS, a COHP option would eliminate the need for an individual SEPA review for each Forest Practices Conversion application; and

WHEREAS, a COHP allows the County to establish standard conditions for local forest practices, while retaining flexible standards for site specific conditions; and

NOW, THEREFORE, BE IT ORDAINED BY THE FERRY COUNTY BOARD OF COMMISSIONERS:

This ORDINANCE shall come into full force and effect on this 1st day of February, 1999.

BOARD OF COUNTY COMMISSIONERS



Gary W. Kohler
Gary W. Kohler, ~~Chairman~~

ABSENT
James M. Hall, Member

Dennis A. Snook
Dennis A. Snook, Member *Chairman*

ATTEST:

Lynne Baldwin
Lynne Baldwin
Clerk of the Board

APPROVED AS TO FORM:

Steve Graham
Steve Graham
Prosecuting Attorney

SECTION 1.00

GENERAL PROVISIONS

Section 1.01 TITLE This Ordinance shall be known as the “Timber and Forest Practices Ordinance.”

Section 1.02 AUTHORITY

Chapter 76.09 of the Revised code of Washington provides the authority and the requirements for County involvement in State Forest Practice activities.

Section 1.03 PURPOSE. The purpose of this Ordinance is to attempt to identify and in certain instances, mitigate, minimize or eliminate potential impacts from timber harvest on drainage courses and critical areas. Orderly development and protection of critical areas directly concern the public’s health, safety and welfare. This Ordinance implements WAC 222-20-050 relating to conversion option harvest plan and RCW 76.09.060 relating to the six year permit moratorium.

Section 1.04 DEFINITIONS

Administrator: The Ferry County Planning Director or his/her appointed designee.

Applicant: The person, party, firm, corporation or legal entity that proposes a Timber Harvest of property in Ferry County or agent thereof.

Board: The legislative authority of Ferry County.

Comprehensive Plan: The current Ferry County Comprehensive Plan with amendments approved by the Board pursuant to State Law.

Conversion: “Conversion to a use other than commercial timber operation” shall mean a bona fide conversion to an active use which is incompatible with timber growing.

Conversion Option Harvest Plan: A plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC 222-20-050.

Critical Areas: Pursuant to all local regulations, ordinances, and/or resolutions including the following areas and ecosystems: 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.

Department: Ferry County Planning Department.

Engineer: The County’s Engineer.

Forest Land: As defined in RCW 76.09.020, shall mean all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

Forest Practices Application: The application required to be submitted to Washington State Department of Natural Resources (DNR) for the harvest of forest products.

Non-Forestry Use: Is an active use of land which is incompatible with timber growing.

Owner: Any person or persons having a legal or equitable property right or interest, whether they may be legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, option or optionee, and beneficiary or grantor of a trust and deed of trust.

Public Resources: Means water, fish and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

Shoreline Management Program: RCW 90.58.030 Shoreline Management Act and the Ferry County Shorelines Master Program.

Section 1.05 GENERAL REGULATIONS

1. Forest management practices shall be subject to Chapter 76.09, RCW, the Washington State Forest Practices Act, applicable Washington State Department of Fish and Wildlife regulations and applicable provisions of Ferry County Shoreline Master Program.
2. All forest practice permit applications provided to the County by the Department of Natural Resources (DNR) shall be reviewed to ensure that regulations in this Plan will be met.
3. If a forest practice application indicates intention by the property owner to convert to a non-forestry use or if forest practices are proposed to occur on land platted after January 1, 1960, the County shall forward to the DNR consent or objections to the permit. County response shall be based on compliance with provisions of this Plan and applicable ordinances.
4. When a forest practice permit is made with the option for conversion to a non-forestry use the property owner shall submit to the Administrator a completed Forest Practice Application that identifies land area to be devoted to it. The Administrator shall impose any conditions necessary to ensure compliance with applicable County regulations and shall notify the property owner and DNR of County requirements. The Administrator may also provide recommendations to the property owner for site development in accordance with applicable County policies.
5. If an application does not state that land included in the application is to be converted to another use within three years after completion of the forest practice, then for six years after the date of the approval of the Forest Practice Application, the County shall

deny all applications for permits or approvals for non-forestry uses of land subject to the application.

6. When necessary to control a fire or halt the spread of disease or damaging insects or to clean up and restore an area devastated by natural disaster such as fire, storm, disease or insect attack, emergency forest practices shall be permitted and shall not be subject to permit requirements of this ordinance but the applicant will still be required to get a Forest Practice Application.

SECTION 2.00

WAIVER OR LIFTING THE SIX-YEAR MORATORIUM

Section 2.01 PURPOSE

The purpose of this section is to provide a public process for the lifting of the mandatory six-year moratorium imposed pursuant to RCW Chapter 76.09.

Section 2.02 SINGLE FAMILY RESIDENCE - ADMINISTRATIVE REVIEW

The Administrator shall waive the six-year moratorium solely for the following: a) the construction of one (1) single family residence or outbuildings, or both, with associated septic system, on a legal lot and building site; or b) the repair of existing structures, existing septic systems or existing wells, under the following conditions:

1. Waiver Fee: \$50.00
2. The building site area intended as developed property shall be no larger than five acres.
3. The person requesting the waiver did not attempt to avoid the County review or restrictions of a conversion forest practices application;
4. The harvest and reforestation of the property shall have been conducted under an approved Forest Practices application in compliance with the State Forest Practices Act;
5. Must apply for a building and/or a septic permit and be subject to the permit application review;
6. Subject to the applicant's compliance with all other local regulations, ordinances, and/or resolutions; and
7. The moratorium on the rest of the property will remain in effect to any future development.

**Section 2.03 CANCELTION OF FOREST PRACTICE PERMIT-
ADMINISTRATIVE REVIEW**

The Administrator shall lift or waive the six year moratorium if the applicant provides proof from the Department of Natural Resources of the canceled Forest Practice Permit and that no logging took place.

**Section 2.04 PROPOSALS OTHER THAN SINGLE FAMILY RESIDENCE -
PUBLIC PROCESS**

The Administrator may lift or waive the six-year moratorium imposed pursuant to the provisions of Chapter 76.09, Revised Code of Washington, for any proposals other than for one (1) single family residence or outbuildings, or both, with associated septic system or the repair of existing structures, wells or septic systems. These other proposals are subject to the following requirements:

- A. APPLICATION. The public process procedure for lifting or waiving of the six year moratorium is subject to the following:
1. Waiver Fee: \$50.00
 1. The person requesting the release did not attempt to avoid the County review or restrictions of a conversion forest practices application;
 2. The current property owner(s) must complete and sign an application on the form provided for such purpose by the Ferry County Planning Department and provide an Environmental Checklist with appropriate fees, if required;
 3. Subject to the fees and review of the particular development proposed. The fees must be paid at the time of submitting the application for review;
 4. Subject to the applicant's compliance with all local regulations, ordinances, and/or resolutions; and
 5. Whenever possible, the Planning Department shall consolidate the application for lifting the moratorium with any other proposed development application.
- B. PROJECT NOTICE. The County shall give a fifteen day public notice by publishing notice in a newspaper of general circulation in the County. The publishing fee shall be paid by the applicant.
- C. APPROVAL. Upon completion of the applicable public process, review of the complete record and provisions of this chapter, the Administrator shall approve or deny the application within 30 days of public process completion. If approved, the Administrator shall issue a permit lifting the six-year moratorium. The permit shall include any applicable conditions of approval. The Administrator shall submit the permit to the County Auditor for filing. Filing fees shall be paid by the applicant.

Failure to comply with any condition of approval shall result in rescission of the permit and reinstatement of the moratorium for a total of six years.

- D. **DISAPPROVAL - NOTIFICATION.** If the Administrator disapproves the proposed application, he/she shall notify the applicant in writing within 30 days of the public process completion of the specific reasons for his disapproval.
- E. **DISAPPROVAL - NOTICE OF APPEAL.** The decision on lifting the six-year moratorium may be appealed to the Planning Commission and if still not resolved to the Ferry County Commissioners and would be subject to Ferry County's adopted appeal process.

SECTION 3.00

CONVERSION OPTION HARVEST PLAN

Section 3.01 PURPOSE

The purpose of the Conversion Option Harvest Plan (COHP) is to allow a process for a landowner to avoid the mandatory six-year moratorium imposed pursuant to Chapter 76.09 Revised Code of Washington on certain Class II, III, and IV Special Forest Practice permit applications by entering into a voluntary agreement with the County for development of the property upon such terms and conditions as may be required by the County.

Section 3.02 APPLICATION PROCESS

1. COHP Plan Fee: \$50.00
2. Completed Forest Practice Application showing the following:
 - a. Clearly dimension all boundaries of property, preferably using the Ferry County Assessor's maps available through the Assessors Office. Also, please label adjacent and on-site county roads;
 - b. Indicate areas where trees will be harvested, buffers, drainage ways and culverts;
 - c. Illustrate all wetlands, lakes, streams, marshes, shorelines, flood plains, creeks, and ponds and slopes approximately thirty percent (30%) or greater;
 - d. Roads: logging, temporary, existing, proposed, permanent (indicate road width.);
 - e. The assessor's parcel number of the property to be logged; and

- f. North point

Additional Permits:

- a. Road Approach Permit: If a new driveway is proposed on a County right-of-way, a permit can be obtained from the Ferry County Public Works Department. They may be reached at (509) 775-5222. For driveways providing access from State Highways, contact the Washington State Department of Transportation at (509) 324-6540.
- b. Hydraulic Permit Approval: All roads which propose to cross a stream shall be required to obtain an HPA permit, as determined by the Washington State Department of Fish and Wildlife, prior to submittal of the COHP. Please contact them at (509) 738-2364.

Section 3.03 REVIEW

A. REVIEW BY ADMINISTRATOR

1. All applications for a COHP shall be submitted and reviewed by the Administrator. The Administrator shall assure that the applications meet the following:
 - a. Comprehensive Plan and Sub area plans;
 - b. Shoreline Master Program;
 - c. Flood Hazard Ordinance;
 - d. Environmental Policy Ordinance;
 - e. Critical Areas Designations and Development Regulations; and
 - f. Other applicable ordinances and regulations.
2. No residence or outbuilding is permitted within fifty (50) feet of the ordinary high-water mark of any DNR Type 1, 2, or 3 stream as defined in WAC 222-16-030 or wetlands. Provided, these set-back requirements may be adjusted by the Planning Department based on the unique site characteristics of a proposed location upon such terms and conditions as the Planning Department may require to protect or minimize degradation to fish and/or wildlife habitat. Selective logging within the fifty (50) feet of the ordinary high water mark would be subject to County and Department of Natural Resources Forest Practices Rules and Regulations.
3. Within the shoreline jurisdiction, no more than 30% of the trees over a sixteen inch DBH shall be harvested in any ten year period.
4. All applications would be subject to the Department of Natural Resource rules. Forest practice activities authorized under this COHP shall not commence until a Forest Practices permit is issued by the Department of Natural Resources.

5. If the Administrator approves of the conversion option harvest plan, he/she shall signify his/her approval by providing a letter to the owner within 30 calendar days of the application submittal.
6. If the Administrator disapproves or finds the application incomplete, he/she shall provide a written explanation thereof within 30 calendar days of the application submittal to the owner.

B. SEPA REVIEW

Pursuant to RCW 43.21.037(1) and WAC 197-11-800(25) Class II and III forest practices for COHP shall be considered exempt from SEPA threshold determination and EIS requirements subject to such rules on SEPA exemptions which may apply.

All Class IV Special COHP forest practice applications are subject to SEPA review by the Department of Natural Resources prior to issuance of the forest practices permit. The Department of Natural Resources will serve as lead agency under SEPA whenever a Class IV Special COHP is proposed. All SEPA rules and requirements, including but not limited to provisions for notice, public and agency comment, and appeals, shall apply.

Section 3.04 AMENDMENT TO APPROVED CONVERSION OPTION HARVEST PLAN

Revisions to a conversion option harvest plan which has been approved may only occur upon mutual written approval of the parties. The contents and procedure for an amended application shall be the same as for the original application. The fee shall be \$50.00. Amended applications shall be forwarded to the Department of Natural Resources on approval.

3.05 APPEAL

Any person wishing to appeal the granting, denial or conditions of approved conversion option harvest plan may do so to the Planning Commission and if still not resolved to the Ferry County Commissioners and shall be subject to Ferry County's adopted appeal process.

3.06 ENFORCEMENT

The Department of Natural Resources (DNR) shall be responsible for enforcement of violations involving Conversion Option Harvest Plan forest practice approval requirements or conditions. Upon discovering any violation of a County recommended condition adopted by the DNR pursuant to WAC 222-20-040(3) or WAC 197-11-055(2)(a)(i), the DNR shall promptly notify the County of the violation and of the level of DNR enforcement intended or taken. Any enforcement notices or orders issued by the DNR involving a condition imposed pursuant to WAC 222-20-040(3) shall require that the violator contact the County and obtain approval of any corrective measures prior to engaging in further practices on property for which the forest practice application was filed. The County may take such enforcement actions authorized by RCW 76.09.140.

3.07 LIMITATIONS ON ISSUANCE OF PERMITS

The County shall not issue any permits for a property upon which there is an outstanding violation of this ordinance, unless such permit is required to perform restoration activity or otherwise comply with the terms of a restoration order.

3.08 SEVERABILITY

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