

Chapter 14.02 RIGHT TO FARM

Sections:

[14.02.010](#) Policy and purpose.

[14.02.020](#) Definitions.

[14.02.030](#) Nuisance – Disorderly house – Breach of peace.

[14.02.040](#) Disclosure.

[14.02.050](#) Agreement to refrain from legal action.

14.02.010 Policy and purpose.

A. It is the declared policy of this county to promote farm operations and to inform residents of the county's support for the right to farm. State planning goals encourage the conservation of productive agricultural lands and discourage incompatible uses. Land uses adjacent to farm lands should not interfere with farm operations.

B. The purpose of this chapter is to promote a good neighbor policy between agricultural and nonagricultural property owners by requiring notice to purchasers and users of property adjacent to or near farm operations of the inherent potential problems associated with such purchase or use, including but not limited to the noises, odors, dust, chemicals, smoke, and hours of operations that may accompany farm operations. Through mandatory disclosures purchasers and users will better understand the consequences of living near farm operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

C. Where nonagricultural land uses extend into agricultural areas or exist side by side, agricultural operations are frequently the subjects of nuisance complaints and on occasion have been forced to cease or curtail operations. Such nuisance complaints discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this chapter to reduce the loss to the county of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance. This chapter is not to be construed as in any way modifying or abridging county, state, or federal laws; rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and county regulations.

D. An additional purpose of this chapter is to facilitate the unhampered continuation of legal and customary operations associated with farm operations. (Ord. 93-073 Exh. A; Ord. 92-15 (part)).

14.02.020 Definitions.

A. "Discretionary development permits" means permit applications requiring discretionary review, including but not limited to subdivision permits, binding site plan approvals, planned unit developments, special use permits, variances, shoreline substantial development permits, and conditional use permits.

B. "Farm" means that land, buildings and machinery used in the commercial production of farm products.

C. "Farm operations" means a condition or activity which occurs on a farm in connection with the commercial production of land-based farm products, and includes but is not limited to: market produce at roadside stands or farm markets; preparation for market, delivery to storage or to market, or to carriers for transportation to market; transportation of equipment; storage and application of manure; noise, dust, fumes, odors, flies; operation of machinery and irrigation pumps; ground and aerial seeding or spraying; the application of chemical and organic fertilizers, conditioners, insecticides, pesticides and herbicides and associated drift of such materials; and the employment and use of labor.

D. "Farm products" means those land-based plants and animals useful to human beings, and including, but not limited to: forage and sod crops, grains and feed crops, dairy and dairy products, livestock – including breeding and grazing, fruits, vegetables, flower seeds, grasses, trees, fish, apiaries and horticultural products, or any other product which incorporates the use of food, feed and fiber, or fur.

E. "Good management practices" means current, economically feasible, management practices available as defined by the American Society of Agronomy, the United States Department of Agriculture Soil Conservation Service, the Washington State University Cooperative Extension Service in Whatcom County, and other land-based professional or industrial agricultural organizations.

F. "Person" means an individual, corporation, partnership, association, or other legal entity. (Ord. 93-073 Exh. A; Ord. 92-15 (part)).

14.02.030 Nuisance – Disorderly house – Breach of peace.

No land-based farm operation, facility or appurtenances thereof, regardless of past or future changes in the surrounding area's land use or zoning designation, conducted or maintained for commercial purposes, and in a manner consistent with current good management practices, not superseding local, state, or federal regulations shall be or become a nuisance or a disorderly house, as defined in Chapter [9.40](#) WCC, or a breach of peace, as defined in Chapter [9.44](#) WCC. (Ord. 93-073 Exh. A).

14.02.040 Disclosure.

A. The statement set forth in subsection B of this section shall be used under the following circumstances and in the following manners:

1. Upon the conveyance of a fee interest in real property the seller shall require that disclosure statement as set forth in subsection B be signed by the purchaser and recorded in the county auditor's office in conjunction with the deed conveying the real property when one of the following conditions is met:

a. That the real property is within one-half mile of real property upon which farm operations are conducted;

b. The real property is within the area designated as agriculture or rural on the map or maps comprising the Whatcom County Comprehensive Plan;

c. The real property is within one-half mile of the area designated as agriculture or rural on the map or maps comprising the Whatcom County Comprehensive Plan.

2. Upon the issuance of a discretionary development permit for land on or within one-half mile of the area designated as agriculture or rural on the map or maps comprising the Whatcom County Comprehensive Plan or within one-half mile of land upon which agricultural operations are being conducted, the discretionary development permit shall include a condition that the owners of the property be required to sign a statement of acknowledgment containing the disclosure on forms provided by Whatcom County, which shall then be recorded in the county auditor's office.

3. All building permits and discretionary development permits for land on or within one-half mile of the area designated as agriculture or rural on the map or maps comprising the Whatcom County Comprehensive Plan or within one-half mile of land upon which agricultural operations are being conducted shall contain a notice of disclosure.

B. The following shall constitute the disclosure required by this section:

The subject property is within or near designated agriculture lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, flies, fumes, dust, smoke, the operation of machinery of any kind during any 24-hour period (including aircraft), the storage and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Whatcom County has determined that the use of real property for agricultural operations is a high priority and favored use and will not consider to be a nuisance those inconveniences or discomforts arising from farm operations, if such operations are consistent with commonly accepted good management practices and otherwise comply with local, state, and federal laws.

(Ord. 98-083 Exh. A § 67; Ord. 93-073 Exh. A; Ord. 92-15 (part). Formerly 14.02.030.).

14.02.050 Agreement to refrain from legal action.

A. All discretionary project permits for land on or within one-half mile of the area designated as agriculture or rural on the map or maps comprising the Whatcom County Comprehensive Plan or within one-half mile of land upon which farm operations are being or may be conducted shall contain an agreement that the developer and any subsequent purchasers or successors in interest shall agree to refrain from any legal action to restrain or collect damages from the owners of such adjacent properties, or from Whatcom County, arising out of any reasonable and lawful activity on said agricultural lands which occurs in the normal course of their established use.

B. The agreement shall appear as a covenant or deed restriction upon the subject property, or the plat and each lot thereof, and shall run with the land. Said covenant or deed restriction may be removed by submission to and approval by the Whatcom County hearing examiner, of a petition representing a

majority of the land owned by property owners within one-half mile of the plat boundary. However, the hearing examiner shall remove the restriction only upon finding that the risk of liability to Whatcom County or the previously existing agricultural operation will not be increased thereby. (Ord. 98-083 Exh. A § 68; Ord. 93-073 Exh. A; Ord. 92-15 (part). Formerly 14.02.040.).