

OKANOGAN COUNTY
Ordinance 2010-005

*AN ORDINANCE AMENDING OKANOGAN COUNTY ORDINANCE 90-6 AND COUNTY CODE 5.28,
"FARM OPERATIONS"*

WHEREAS, The amendment modifies Okanogan County Ordinance 90-6 and County Code 5.28 "Farm Operations"; and,

WHEREAS, The amendment builds consistency between the Okanogan County Comprehensive Plan, Okanogan County's land use regulations, and local farm operations; and;

WHEREAS, The amendment creates a Farm Operations ordinance which is more legally defensible than in the current form; and,

WHEREAS, said amendments have been available to the public and government agencies, and published in the Okanogan County's periodical of record. Comments from the public and government agencies have been reviewed and considered by the County legislative authority; and,

WHEREAS, A final environmental determination of non-significance (DNS) was issued by the Okanogan County responsible SEPA official in accordance with RCW 43.21C, WAC 197-11, and OCC 14.04. The determination stands. All procedural SEPA requirements have been met; and,

WHEREAS, The Okanogan County Regional Planning Commission conducted a public hearing. The Planning Commission heard public testimony and offered a recommendation to the Board of Okanogan County Commissioners; and,

WHEREAS, The Board of Okanogan County Commissioners conducted a public hearing, accepted testimony and considered the recommendation of the Planning Commission.

BE IT THEREFORE ORDAINED: The Board of Okanogan County Commissioners do hereby adopt amendments to Okanogan County Ordinance 90-6 and County Code 5.28 "Farm Operations" as identified in exhibit A.

DATED at Okanogan, Washington this 23 day of August, 2010.



ATTEST:



Brenda Crowell, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

ABSENT

Mary Lou Peterson, Member



Don (Bud) Hover, Member



Andrew Lampe, Chair

Exhibit A

Track Changes Version

OCC Chapter 5.28 Farm Operations

Sections:

5.28.005	<u>Short Title</u>
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5.28.040050	<u>Farm operations</u> Hours not restricted <u>Time Restrictions Prohibited</u>
5.28.050060	<u>Farm operation practices</u> Permitted under varying conditions <u>Varying Conditions-Consideration of Effects on Management Practices</u>
5.28.060070	<u>Posting of signs during spraying</u> <u>Posting of Caution Signs</u>
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5.28.090	<u>Subdivisions</u>
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5.28.005 Short Title

This chapter may be known and cited as the Right-to-Farm ordinance.

5.28.010 Purpose

Okanogan County has determined that agricultural operations are important to the economy, customs, and culture of Okanogan County and will not consider the inconveniences or discomforts arising from farm operations to be a nuisance if such operations are legal, consistent with accepted customs and standards, and operated in a non-negligent manner.

5.28.010020 Definitions

- A. "Farm" means the land, buildings and machinery used in the commercial production of farm products, which is located within the boundaries of Okanogan County.
- B. "Farm operation" means a condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets, noise, odors, dust, fumes, operation and transport of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, and pesticides, including—herbicides, fungicides, and insecticides, and associated drift of such materials, preparation, tillage, and maintenance of the soil or other growing medium and composting, the production, irrigation, frost protection, cultivation, growing, raising, breeding, harvesting, slaughtering, or processing of any living organism having value as an agricultural commodity or product, and any commercial practices performed incident to or in conjunction with such operations on the site where the agricultural product is being produced, including preparation for market, delivery to storage or to market, or to carriers for transportation to market, and the employment and use of labor.
- C. "Farm product" means those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding farms, and grazing and feedlot operations, portable slaughter facilities, fruits, vegetables, flowers, seeds, grasses, trees,

fish, apiaries, equine and other similar products, or any other products which incorporate the use of food, feed, fiber or fur.

- D. "Generally accepted agricultural and management practices" means those historic practices ~~and or~~ those innovative practices as defined or recommended by the state of Washington Department of Agriculture, Washington State or Okanogan County Horticulture Association, recommendations of Washington State Cooperative Extension Services in Okanogan County, and/or county conservation district recommendations conservation district(s), and other agricultural organizations and field technicians.
- E. "Person" means an individual, corporation, partnership, association, or other legal entity.

5.28.020030 Farm to conform Conformity to accepted practices Accepted Practices

A farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices.

5.28.030040 Farm existing before change in land use -- Permitted Effect of Adjacent Land Use or Occupancy on Preexisting Farm

- A. A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of adjacent land or other land in the general area.
- B. If property you own or are purchasing or may purchase in the future is located close to agricultural lands or within agricultural lands, you may be subject to inconveniences or discomfort arising from agricultural operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, dust, chemicals, smoke, insects, operation of machinery, disruption of road traffic, and aircraft operation. One or more of the inconveniences described above will occur even in the case of an agricultural operation which is in conformance with existing laws and regulations and locally accepted customs and standards. If you live near or move to an agricultural area, you shall be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector.

5.28.040050 Farm operations -- Hours not restricted Time Restrictions Prohibited

Farm operations shall not be restricted to time of day, ~~or day~~ or days of the week, but shall be conducted according to generally accepted agricultural and management practices.

5.28.050060 Farm operation practices -- Permitted under varying conditions Varying Conditions-Consideration of Effects on Management Practices

A farm operation shall not be found to be a public or private nuisance when conducted according to generally accepted management practices when in turn these practices may be subject to varying conditions which include but are not limited to: geographical location, weather, soil types and conditions, type of crop or livestock and management systems.

5.28.060070 Posting of signs during spraying Posting of Caution Signs

During any spray operations, farmers may post county approved caution signs on county rights-of-way that read "Caution Spraying in Progress".

5.28.080 Interpretation of provisions

This chapter should not be construed to compromise existing county, state, and federal laws.

5.28.090 Subdivisions

All final short plats and long plats, in accordance with OCC Title 16, shall include the following plat disclaimer: "Okanogan County maintains a Right-to-Farm ordinance (OCC 5.28). Okanogan

County will not consider inconveniences or discomforts arising from farms and farm or range operations to be a nuisance if the farm or farm or range operation conforms to generally accepted agricultural and management practices."

5.28.100 Severability

If any provision of this title is for any reason held to be invalid, the remainder of this title shall not be affected. If any provision of this title is adjudged invalid as applied to a particular person or circumstance, that provision of this title shall not be affected as to other persons or circumstances.