

## **STEVENS COUNTY ORDINANCE NO. 2012-02**

### **AN ORDINANCE AMENDING STEVENS COUNTY CODE TO INCLUDE A NEW CHAPTER KNOWN AS TITLE 2 OF THE STEVENS COUNTY CODE REGARDING A RIGHT TO FARM, RANCH AND PRACTICE FORESTRY**

WHEREAS, farming is a major industry and a major economic factor in Stevens County and the State of Washington; and

WHEREAS, a need exists to continue farming, ranching and farm operations in accordance with generally accepted management practices; and

WHEREAS, forestry is a major industry and a major economic factor in Stevens County and the State of Washington; and

WHEREAS, a need exists to continue forestry and forest operations in accordance with generally accepted management practices; and

WHEREAS, farming, ranching and forestry are a part of Stevens County's customs and culture; and

WHEREAS, agricultural activities and forest practices conducted on farmland and forest land are subjected to nuisance lawsuits, and that such suits encourage and often force the premature removal of the lands from agricultural uses and timber production; now,

THEREFORE, BE IT HEREBY RESOLVED that the Board of Stevens County Commissioners adopt the following "Stevens County Right to Farm, Ranch and Practice Forestry Ordinance."

BE IT FURTHER RESOLVED, that upon signature and execution of this ordinance that Stevens County Ordinance No. 1-1990 is repealed.

**STEVENS COUNTY**  
**RIGHT TO FARM, RANCH AND PRACTICE FORESTRY ORDINANCE**

Sections:

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**2.01.005 Short title.**

This chapter shall be known and cited as the “right to farm, ranch and practice forestry” ordinance.

**2.01.010 Intent.**

It is the intent of this ordinance to enhance the provisions of State code related to “Right to Farm,” real estate and public disclosure. This ordinance is not intended to replace or diminish State codes regarding nuisances, disclosure or a person’s right to file a claim for damages. Further, this ordinance is not to be construed in any way as modifying or abridging 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. It is intended that through disclosure property owners and potential purchasers will better understand the impact of living near agricultural, ranching and forestry operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

**2.01.020 Policy and purposes.**

- (1) (a) It is the declared policy of Stevens County to protect, enhance and encourage agricultural, ranching and forestry operations within the County. It is the further purpose of the County to provide to the residents of the County proper notification of the County’s recognition and support through this ordinance of those persons’ and/or entities’ right to farm and practice farming, ranching and forestry.
- (b) Washington State planning goals encourage the conservation and retention of productive agricultural, ranching and forest lands and discourages incompatible uses. This goal can be fulfilled through this ordinance by assuring that the uses of lands do not interfere with the continued use, in the accustomed manner, for the production of food, fiber and forest products.
- (2) Where non-agricultural land uses extend into agricultural, ranching and forest areas or exist side by side, agricultural, ranching and forestry operations are frequently the subject of

nuisance complaints and on occasion have been forced to cease or curtail operations. Such nuisance complaints discourage investments in farm and forestry improvements to the detriment of adjacent agricultural, ranching and forestry uses and the economic viability of the County's agricultural and forest industry as a whole. It is the purpose of this ordinance to reduce the loss to the County of its agricultural and forest resources by limiting the circumstances under which agricultural, ranching and forestry operations may be considered a nuisance.

- (3) It is the policy of Stevens County that the County will not take action to prohibit or restrict usual and customary agricultural, ranching and forestry activities on lands historically used for such activity consistent with the comprehensive plan. This policy applies to all land use zoning in Stevens County. Such activities include, but are not limited to:
  - (a) repair, maintenance or replacement of agricultural buildings, including housing and road side stands;
  - (b) productive use of agricultural, ranch and forest lands, including, but not limited to: tilling, plowing, planting, harvesting, erosion control, spraying, processing, drainage; and
  - (c) repair, maintenance or replacement of fencing and fresh water ponds, irrigation and drainage ditches and structures.
- (4) The purpose of this ordinance is to promote a good neighbor policy between agricultural, ranching, forest, and non-agricultural and non-forest property owners by promoting this ordinance through a disclosure or notice statement to all existing and new residents of the potential inconveniences and discomforts which may arise from agricultural, ranching and forestry activities.
- (5) An additional purpose of this ordinance is to recognize the diversity and complexity of farming, ranching and forestry operations.

#### **2.01.030 Definitions.**

- (1) "Agricultural Operations or Practices" means any condition or activity which occurs on a farm in connection with the production of farm products, and includes, but is not limited to, the following: marketed products at roadside stands or farm markets; noise; dust; odors; fumes; planting; tillage; plowing; maintenance of the soil or other growing medium and composting; soil amendments; harvesting by hand or by grazing or mechanically; marketing; preparation; delivery; storage; transportation of products and equipment; operation of machinery; transportation of machinery and irrigation equipment; irrigation; frost protection; flood and erosion control; land maintenance; ground and aerial seeding; ground and aerial spraying; application of chemicals and organic fertilizers, conditioners, pesticides, insecticides, and herbicides and cultivation, growing, raising, breeding, slaughtering, or processing of any living organism having value as an agricultural commodity or product and any 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 carriers for transportation to market, the employment and use of labor.
- (2) "Discretionary Development Permits" – Permit applications requiring discretionary review, including, but not limited to, subdivision permits, planned unit developments, special use permits, variances and shoreline substantial development/conditional use/variance permits.

- (3) “Farm” means that land, buildings, freshwater ponds, freshwater culturing and growing facilities, machinery, animals and insects/pollinators used in the production of farm products.
- (4) “Farm Products” means those plants and animals useful to human beings, and including, but not limited to, the following: forage and sod crops, grains, fuel and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, fungi, freshwater fish and fish products, freshwater crustaceans, apiaries, pollinator and beneficial insects, equine and other similar products, horticultural products or any other product which incorporates the use of forest products, food, feed, fiber or fur.
- (5) “Forest Land” means all land which is capable of supporting a merchantable stand of timber and is not actively being used for a use which is incompatible with timber growing.
- (6) “Forest Operations or Practices” mean any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, including but not limited to: road and trail construction, intermediate and final harvesting, precommercial thinning, fire safeing, site preparation, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees and brush control.
- (7) “Good Management Practices” means historic, current or innovative economically feasible management practices available as defined or recommended by the American Society of Agronomy, the United States Department of Agriculture Natural Resource Conservation Service, Washington State Department of Agriculture, Society of American Foresters, American Tree Farm System, Washington Farm Forestry Association, the Washington State University Extension in Stevens County, Stevens County Conservation District and other land based professional or industrial agricultural organizations and field technicians.
- (8) “Person” means an individual, company, corporation, partnership, association or other legal entity.
- (9) “Ranching Operations or Practices” mean any activity which occurs on a farm or on forest land in connection with the process of raising animals or livestock including, but not limited to: housing, breeding, grazing, herding, fencing, feeding, watering or caring for the general health and welfare of the animals.

**2.01.040 Nuisance.**

- (1) No agricultural, ranching, or forestry activity, operation, facility or appurtenances thereof, regardless of past or future changes in the surrounding area’s land use or zoning designation or partitions, and in a manner consistent with current good management practices, not superseding local, State or Federal regulations shall be considered or become a nuisance as defined in Stevens County Code unless the activity or practice has a substantial adverse affect on public health and safety.
- (2) A change in crops, livestock or animal numbers does not constitute a new agricultural or forest activity and shall not be found to constitute a nuisance consistent with subsection (1) above. This applies to land lying fallow for indefinite periods of time due to a conservation program or economic conditions.
- (3) Stevens County will not take action to prohibit or restrict usual and customary agricultural, ranching and forestry activities on lands historically used for such activity. This applies to all land use zoning in Stevens County. Such activities include, but are not limited to:

- (a) repair, maintenance or replacement of agricultural buildings, including housing and road side stands;
- (b) productive use of agricultural, ranch and forest lands, including, but not limited to: tilling, plowing, planting, harvesting, erosion control, spraying, processing or drainage; and
- (c) repair, maintenance or replacement of fencing and fresh water ponds, irrigation and drainage ditches and structures.

**2.01.050 Posting of caution signs.**

During any spray operations, farmers, ranchers or foresters may post caution signs on county rights-of way that read “Caution Spraying in Progress.”

**2.01.060 Stray livestock.**

Occasionally livestock will break through, jump or generally escape a fenced area. Stevens County declares this occasional activity to be consistent with subsection .030(1) above and shall not constitute a nuisance. State and local range and restricted laws apply.

**2.01.070 Interpretation of provisions.**

This chapter should not be construed to compromise or alter existing County, State or Federal laws.

**2.01.080 Right of practices.**

Stevens County recognizes an individuals right to choose the foods, crops and livestock they plant, produce, process, prepare, raise, sell, purchase, distribute, retain, preserve, store or consume in any quantity or length of time except as otherwise prohibited by Washington State Constitution.

**2.01.090 Disclosure.**

- (1) The statement set forth in subsection (2) (“Disclosure”) shall be used under the following circumstances and in the following manners:
  - (a) Stevens County shall make available a copy of the Disclosure, with an explanatory informational attachment to all owners of real property in Stevens County with the annual tax bill; provided that no liability shall attach to Stevens County for any actions or omissions under this subsection.
  - (b) (1) The County adopts RCW 64.06.22 Disclosure of possible proximity to farm.
  - (2) To the maximum extent possible, the County encourages, prior to transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or any other means, the delivery of the disclosure statement contained in subsection (2) below or a copy of this county right to farm ordinance to the transferee. This is to be achieved by cooperation between the county, the real estate trade association, agriculture and forestry associations, by voluntary means and written agreements

(c) Upon the issuance of a discretionary development permit, including, but not limited to, subdivision permits and use permits, the discretionary development permit shall include an advisory statement containing the disclosure notice

(2) The following shall constitute the Disclosure required by this section:

“In addition to the Washington right to farm act, RCW 7.48.300-320 or as herein modified, Stevens County maintains a right to farm, ranch and practice forestry ordinance. As a result of normal agricultural, ranching and forestry operations and practices, you may be subject to conditions arising from such operations, including, but not limited to, odors, flies, fumes, dust, smoke, the operation of machinery of any kind during any 24 hour period (including aircraft), animals, the storage and transport and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, traffic, light, noise, changes in the appearances, and mud. Stevens County has determined that the use of real property for agricultural, ranching, and forestry operations is a high priority and protected use in the County. Those conditions, inconveniences or discomforts arising from agricultural, ranching and forestry operations, if such operations are consistent with commonly accepted good management practices and comply with local, State and Federal laws, shall not be considered a nuisance unless the activity or practice has a substantial adverse affect on public health and safety.”

**2.01.100 Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.

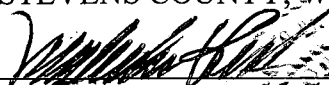
**2.01.110 Headings not part of law.**

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

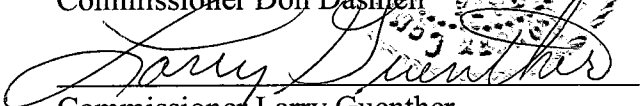
Passed by the Board of Stevens County Commissioners meeting in regular session at Colville, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 10<sup>th</sup> day of April, 2012.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT


BOARD OF COUNTY COMMISSIONERS  
OF STEVENS COUNTY, WASHINGTON

  
Chairman Malcolm Friedman

  
Commissioner Don Dashiell

  
Commissioner Larry Guenther

ATTEST:

  
Polly Coleman  
Clerk of the Board