

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



CO00023602

AMENDED ORDINANCE NO. 93-040

RIGHT TO FARM; AMENDING SNOHOMISH COUNTY CODE

TITLES 17, 18, 19, 20 AND 32

WHEREAS, the Washington State Growth Management Act (herein after GMA) states in its Planning Goals that local planning efforts should "Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries" and "Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses"; and

WHEREAS, the GMA requires cities and counties to adopt development regulations which assure the use of lands adjacent to agriculture, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner, of these designated lands for the production of food, agricultural products, timber, or for the extraction of minerals; and

WHEREAS, the GMA requires that counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within 300 feet of, lands designated as agricultural lands, forest lands or mineral resource lands, contain notice that the subject property is within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration; and

WHEREAS, Snohomish County has experienced rapid population growth which has resulted in increased residential use of rural lands near agricultural, forest and mineral resource industries, and a high number of complaints from residents regarding the presence of resource industries; and

WHEREAS, Snohomish County population growth is forecast to continue at a high rate resulting in more residential and non-resource land uses being located adjacent to and near agriculture, forest and mineral resource land; and

WHEREAS, Snohomish County adopted the Agricultural Preservation Plan in 1982; and

WHEREAS, said Agricultural Preservation Plan lists conflicts between farmland and farm operations and adjacent and nearby residential, institutional and other land uses; and

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WHEREAS, said Agricultural Preservation Plan specifically states a need to reduce non-farm and farm conflicts by notifying existing and new residents adjacent and near existing farms and farm operations of those farm operations and activities; and

WHEREAS, the Agricultural Advisory Board reviewed the Skagit County and other right-to-farm laws and in its letter dated August 8, 1991 recommended that the County Council adopt provisions of the Skagit County Right to Farm Ordinance; and

WHEREAS, the provisions contained herein meet goals and provisions of the 1982 Agricultural Preservation Plan and the Growth Management Act, and are necessary to protect the health and safety of Snohomish County residents; and

WHEREAS, the County Council held public hearings on June 7, June 14, July 7 and August 4, 1993 to consider Ordinance 93-040; and

WHEREAS, the County Council determined to adopt the right to farm ordinance to apply to designated farmlands as recommended by the Planning Commission, but will send a letter to the Agricultural Advisory Board asking that the Board review and make a recommendation on whether to expand the scope of the right to farm ordinance to non-designated farmlands; and

WHEREAS, all references to dates in Ordinance 93-040 should be adjusted to reflect that 1993 is the interim plan adoption date and that the new GMA plan deadline is July 1994; and the effective date is Section 7 of the Ordinance shall be October 15, 1993.

NOW, THEREFORE, BE IT ORDAINED:

New Section, Section 1: A new chapter 32.15 Right to Farm, is added to Snohomish County Code Title 32 as follows:

Chapter 32.15

RIGHT TO FARM

Sections

- 32.15.010 Purpose
- 32.15.020 Definitions
- 32.15.030 Agricultural activities-presumed reasonable and not a nuisance
- 32.15.040 Circumstances for notice and disclosure
- 32.15.050 Disclosure text
- 32.15.060 Severability
- 32.15.070 Effective date

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32.15.010 Purpose. Farm activities conducted on designated farmland near rural residential and urbanizing areas are subjected to nuisance complaints and such complaints encourage requests for premature conversion of those resource lands. The purpose of this chapter is to help assure that the use of lands adjacent to designated farmland does not interfere with the continued use, in the accustomed manner, of the designated farmland for the production of food and agricultural products. This is accomplished by providing that farm activities conducted on designated farmland are recognized as accepted activities and therefore the potential of nuisance complaints and lawsuits is reduced. A further purpose is to encourage a good neighbor relationship between farmland owners and residential and other landowners by promoting greater awareness of farming activities through notification of owners of land in, adjacent and near designated farmlands of the farm activities.

32.15.020 Definitions.

(1) "Acceptable Agriculture Practices" means agricultural activities undertaken in conformity with all applicable laws and rules, including farm water quality management plans developed in accordance with standards and specifications of the U.S. Department of Agriculture/Soil Conservation Service authorized in the Compliance Agreement among the Washington State Department of Ecology, the Snohomish Conservation District, and the Washington State Conservation Commission Relative to Agricultural Water Quality Management and approved by the Snohomish Conservation District.

(2) "Agricultural Activities" 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 of machinery and irrigation pumps; movement of water, including, but not limited to, use of current county ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another.

(3) "Agricultural Land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(4) "Building Permit" means a permit issued under Title 17 SCC, except permits for Group M Occupancies, plumbing and mechanical.

(5) "Designated Farmland" means any land designated as agricultural land pursuant to RCW 36.70A.070 (1) by Snohomish County Council Motion 93-145, land zoned Agricultural 10 Acre in the zoning code, and land designated Agricultural Land of Primary Importance in the Agricultural Preservation Plan.

(6) "Development Permit" means a permit requiring discretionary review, including but not limited to subdivision approval, short plat approval, planned residential development approval, special use permit, shoreline substantial development permit, and a conditional use permit.

(7) "Farm" means the land, building, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(8) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries, equine and other similar products, or any other products which incorporates the use of food, feed, fiber, or fur.

(9) "Person" means an individual, corporation, partnership, association, or other legal entity.

32.15.030 Agricultural activities-presumed reasonable and not a nuisance.

Agricultural activities conducted on designated farmlands in compliance with acceptable agriculture practices and established prior to surrounding non-agricultural activities are presumed to be reasonable and shall not be found to constitute a nuisance unless the activities have a substantial adverse effect on the public health and safety.

Nothing in this chapter shall affect or impair any right to sue for damages.

32.15.040 Circumstances for notice and disclosure.

The disclosure text set forth in 32.15.050 SCC shall be used under the following circumstances and in the following manners:

(a) Within 90 days of the effective date of this chapter, and each three years after the effective date, Snohomish County shall mail a copy of the disclosure text in 32.15.050 SCC, with an explanatory informational attachment to owners of designated farmland and real property within approximately 1300 feet of designated farmland. Seven years after the effective date of this chapter, the Planning Commission shall evaluate the effectiveness of this notification method and recommend to the County Council its retention, modification or deletion.

(b) Development permits and building permits for land designated farmland or land adjacent to or within 1300 feet of designated farmland shall include the disclosure text in 32.15.050 SCC on the final development or building permit in a location determined by the community development director. Said disclosure notice shall apply to the real property which is subject to the development or building permit as of the date of development or building permit approval and may not be applicable thereafter if areas designated farmland are changed from the farmland designation.

(c) Prior to the closing of a transfer of real property designated farmland, or real property adjacent to or within 1300 feet of designated farmland, by sale, exchange, gift, real estate contract, lease with option to purchase, any other option to purchase or any other means of transfer (except transfers made by testamentary provisions or the laws of descent), the transferor shall provide the transferee a copy of the disclosure text in 32.15.050 SCC and shall record with the county auditor a copy of the same showing an acknowledgement of receipt executed by the transferee in a form prescribed by the director of community development. The form of the acknowledged disclosure text shall include a statement that the disclosure notice applies to the subject real property as of the date of the transfer and may not be applicable thereafter if areas designated farmland are changed from the farmland designation.

(d) In no case shall liability attach to Snohomish County for any actions, error or omissions of any person subject to the requirements of this section.

32.15.050 Disclosure text. The following shall constitute the Disclosure required by this section:

"Your real property is within, adjacent to, or within 1300 feet of designated farmland; therefore, you may be subject to inconveniences or discomforts arising from agricultural activities, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY OF ANY KIND (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF MANURE; THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL OR ORGANIC FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES, HOURS OF OPERATION, AND OTHER AGRICULTURAL ACTIVITIES. Snohomish County has adopted a Right to Farm Ordinance which may affect you and your land. A copy of said ordinance, Chapter 32.15 SCC, may be obtained from Snohomish County.

Agricultural activities conducted on designated farmlands in compliance with acceptable agriculture practices and established prior to surrounding non-agricultural activities are presumed to be reasonable and shall not be found to constitute a nuisance unless the activities have a substantial adverse effect on the public health and safety.

This disclosure applies to the real property which is subject to a development or building permit as of the date of the development or building permit approval or, in the case of real property transfers, the disclosure applies to the subject property as of the date of the transfer. This disclosure may not be applicable thereafter if areas designated farmland are changed from the farmland designation.

Nothing in chapter 32.15 SCC shall affect or impair any right to sue for damages."

32.15.060 Severability. If any section, subsection, sentence, clause or phrase of this chapter 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 chapter.

32.15.070 Effective Date. This ordinance shall be effective on October 15, 1993.

The disclosure provisions of 32.15.040 and 32.15.050 SCC shall apply to all building and development permit applications and real property transfer transactions which occur on and after January 15, 1994.

Section 2. Section 17.04.035 last amended by Ord. 93-038 on August 4, 1993 is hereby amended to read:

17.04.035 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC. In the event of a conflict between a provision of this title and chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC, the requirements of chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC shall control.

Section 3. Section 18.11.035 last amended by Ord. 93-038 on August 4, 1993 is hereby amended to read:

18.11.035 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC. In the event of a conflict between a provision of this title and chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC, the requirements of chapters 32.13 (~~SCC~~), ~~(and)~~ 32.14 and 32.15 SCC shall control.

Section 4. Section 19.08.015 last amended by Ord. 93-038 on August 4, 1993 is hereby amended to read:

19.08.015 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC. In the event of a conflict between a provision of this title and chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC, the requirements of chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC shall control.

Section 5. Section 20.12.015 last amended by Ord. 93-038 on August 4, 1993 is hereby amended to read:

20.12.015 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC. In the event of a conflict between a provision of this title and chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC, the requirements of chapters 32.13 ((SEE))₁ ((and)) 32.14 and 32.15 SCC shall control.

PASSED this 4th day of August, 1993.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Di McLaughlin
Chairperson

ATTEST:

Shiela McCollister
Clerk of the Council, *asst.*

Date: *Aug. 13, 1993*

- APPROVED
- VETOED
- EMERGENCY

[Signature]
County Executive

ATTEST:

Wilder Colwell

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