

STAFF REPORT

TITLE

RIGHT-TO-FARM

PROJECT TYPE

CODE AMENDMENT 2010-1



SUBMITTED TO

**BOARD OF OKANOGAN COUNTY
COMMISSIONERS**

FROM

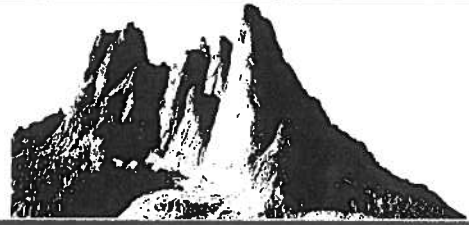
REGIONAL PLANNING COMMISSION

HEARING DATE

AUGUST 23, 2010

2:00 P.M.

Okanogan County
Office of
Planning and Development



Staff Report For:

Hearing Date: August 23, 2010

Right-to-Farm
Code Amendment 2010-1

Date Prepared: August 5, 2010

To: Okanogan County Regional Planning Commission

From: Okanogan County Office of Planning and Development

By: Ben Rough, Senior Planner

PROJECT SUMMARY

Okanogan County proposes amendments to OCC 5.28 “Farm Operations”. This is Okanogan County’s Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan.

This proposal does not affect one specific project. It is not proposed by the public. This amendment is being processed by direction of the Board of Okanogan County Commissioners. The revisions are aimed to accompany current planning efforts undertaken to amend and update Okanogan County’s comprehensive plan.

Code Amendment Summary

The purpose for revising the Farm Operations ordinance stems from the following two primary goals:

- 1) Build consistency between the Okanogan County Comprehensive Plan, Okanogan County’s land use regulations, and local farm operations, and
- 2) Create a Farm Operations ordinance that is more legally defensible than in the current form.

If approved, the Planning Commission and Board of Okanogan County Commissioner may opt to further modify the proposed ordinance, as well as tailor back or strike some or all of the of the proposed changes.

Comparison of the current and proposed ordinance discovers the following:

Code Sections

Amendment Summary

Short Title

New Section

Purpose

New Section: Explains the purpose of the ordinance

Definitions

****No new definitions****

Farm: (added new language)

Farm Operation: (added new language)

Farm product: (added new language)

Generally Accepted Agricultural and Management Practices: (added new language)

Person: (same)

<u>Code Sections (continued)</u>	<u>Amendment Summary</u>
Conformity to Accepted Practices	Same
Effect of Adjacent Land use or Occupancy on Preexisting Farm	Added new section (B)
Time Restrictions Prohibited	Same
Varying Conditions-Consideration of Effects on Management Practices	Same
Posting of Caution Signs	Same
Designations	New Section: open range and stock restricted areas
Interpretation of Provisions	New Section: Consistency with other applicable laws
Subdivisions	New Section: Introduces a plat disclaimer for new subdivisions
Severability	New Section: Portions to be found invalid do not affect remainder of ordinance.

***Minor grammatical revisions not affecting the intent of the regulation are not identified above*

Planning Commission Recommendations

The Planning Commission revised the draft code amendment from that which was presented to them from the Planning Department. A summary of revisions include:

Short Title/5.28.005

New Section. The ordinance is titled “Farm Operations” although it is commonly referred to as the Right-to-Farm ordinance. Addition of a short title will allow citations and other forms of correspondence to refer to OCC 5.28 as the Right-to-Farm ordinance, as it is commonly known.

Definitions/Section 5.28.020

Farm Operation: Added more comprehensive agricultural description.
 Farm Product: Added more comprehensive agricultural description.
 Generally accepted agricultural and management practices: Modified to include innovative practices and field technicians.

Effect of Adjacent Land Use or Occupancy on Preexisting Farm/Section 5.28.040

Modified to have less passive language.

Designations/Section 5.28.080

Refined the process to designate Stock Restricted Areas.

Subdivision/Section 5.28.100

Added “Range Operations” to a plat disclaimer for new short plats and long plats.

COMPREHENSIVE PLAN

Comprehensive Plans

The proposed code amendment affects all of Okanogan County, therefore all land and property designated by the Comprehensive Plan. The intent of the current proposal is consistent with the Okanogan County Comprehensive Plan, the Addendum to Okanogan County's Comprehensive Plan, the Upper Methow Valley Comprehensive Plan, and current comprehensive plan update process.

June 16, 1965: "*Okanogan County Comprehensive Plan*"

April 5, 1976: "*Methow Valley Addendum to the Okanogan County Comprehensive Plan*"

March 6, 2000: "*Upper Methow Valley Comprehensive Plan*"

Note: The primary reasons this code amendment is proposed is to create a legally defensible regulatory document which is consistent with local farm operations and the comprehensive plan update. The proposed ordinance amendments are compatible with Okanogan County's comprehensive plans.

PROCESS BACKGROUND

Notifications

Newspapers

May 13, 2010: Notice of the proposal and threshold SEPA determination was published in the Oroville Gazette Tribune, Okanogan County's legal periodical of Record.

June 3, 2010: Notice of the proposal, public hearing, and final SEPA determination was published in the Oroville Gazette Tribune, Okanogan County's legal periodical of Record.

Agency Notification

April 29, 2010: Notice of the proposal and threshold SEPA determination was forwarded to appropriate agencies for their respective review and comment.

May 12, 2010: Notice of the proposal, threshold SEPA determination, and extended SEPA comment period was forwarded to appropriate agencies for their respective review and comment.

June 2, 2010: Notice of the proposal, public hearing, and final SEPA determination was forwarded to appropriate agencies for their respective review and comment.

Public Comments

Specific members of the public were not notified during the first notification (proposal and threshold SEPA determination). At that time, public notice was served by publication in the County's legal periodical. As members of the public submitted comments their names were added to a list.

June 2, 2010: Specific members of the public were notified during the second notification (proposal, public hearing, final SEPA determination).

Comments/Notification List(s)

Comments received to date were considered in analysis of the proposal and identified in this staff report. Comments will be accepted until testimony ends through the legislative public hearing process. A list of notified agencies and public, and comments received, are attached to this report.

State Environment Policy Act (SEPA)

The environmental review and determination process is authorized and outlined in WAC 197-11, RCW 43.21C (SEPA), and Okanogan County Code, Title 14.04 Environmental Policy. This process is intended to ensure that the potential for probable, significant, and adverse environmental impacts are considered (in

addition to technical and economic considerations) by state and local government officials when making decisions.

Determination: DNS (Determination of Non-significance)

April 28, 2010: Okanogan County's SEPA responsible official issued a threshold DNS for this code amendment. In error, the DNS was not published in the Oroville Gazette Tribune, Okanogan County's legal periodical of record.

May 13, 2010: Date of publication; notice of the threshold SEPA determination and extended SEPA comment period published in the Oroville Gazette Tribune, Okanogan County's legal periodical of record.

May 28, 2010: The SEPA comment period ended.

June 3, 2010: Date of publication; notice of the final SEPA determination published in the Oroville Gazette Tribune, Okanogan County's legal periodical of record. The SEPA appeal period began.

June 18, 2010: The SEPA appeal period ends. No appeals have been received thus far.

Public Hearings

Planning Commission: The Okanogan County Regional Planning Commission Conducted a public hearing on June 28, 2010. At this time the public was given the opportunity to offer testimony into the record.

County Commissioners: Following the Public Hearing before the Okanogan County Regional Planning Commission, the Board of Okanogan County Commissioners will conduct their own open record public hearing for this project. This staff report will be offered to the Board during that hearing. This staff report is analysis of process and procedures and regulatory analysis conducted by the Planning Department and Okanogan County Regional Planning Commission for this project.

RECOMMENDATION – OKANOGAN COUNTY REGIONAL PLANNING COMMISSION

The Okanogan County Regional Planning Commission recommends that the Board of Okanogan County Commissioners approve this amendment to Okanogan County Code subject to findings of fact and conclusions of law.

OPTIONS – BOARD OF OKANOGAN COUNTY COMMISSIONERS

The Board of Okanogan County Commissioners has the following options in considering this proposal:

Option #1 – Approval

Approve this code amendment subject to findings of fact and conclusions of law. Adopt an ordinance.

Option #2 – Denial

Deny this code amendment subject to findings of fact and conclusions of law.

SUGGESTED MOTION

The following motions could be used by the Board of Okanogan County Commissioners. The Board could revise a motion to include revisions to the code amendment.

Approval

“I, _____, move to approve Code Amendment 2010-1 amending Okanogan County Code 5.28 “Farm Operations” subject to findings of fact and conclusions of law and direct staff to prepare enabling documents for adoption.

Denial

“I, _____, move to deny code amendment 2010-1 amending Okanogan County Code 5.28 “Farm Operations”, subject to the attached findings of fact and conclusions of law.”

ATTACHMENTS

Attachment A:	Draft Code: OCC 5.28 “Farm Operations”
Attachment B:	Current Code: OCC 5.28 “Farm Operations”
Attachment C:	Public Comments & Notification List
Attachment D:	Agency Comments & Notification Lists
Attachment E:	Public & Agency Notifications
Attachment F:	SEPA Determinations (threshold & final)
Attachment G:	SEPA Checklist
Attachment H:	Findings of Fact
Attachment I:	Conclusions of Law
Attachment J:	Draft Adoption Ordinance

Attachment A
Draft Code: OCC 5.28 "Farm Operations"

A - Draft Code

PROPOSED ORDINANCE

OCC Chapter 5.28 Farm Operations

Sections:

<u>5.28.005</u>	Short Title
<u>5.28.010</u>	Purpose
<u>5.28.020</u>	Definitions
<u>5.28.030</u>	Conformity to Accepted Practices
<u>5.28.040</u>	Effect of Adjacent Land Use or Occupancy on Preexisting Farm
<u>5.28.050</u>	Time Restrictions Prohibited
<u>5.28.060</u>	Varying Conditions-Consideration of Effects on Management Practices
<u>5.28.070</u>	Posting of Caution Signs
<u>5.28.080</u>	Designations
<u>5.28.090</u>	Interpretation of provisions
<u>5.28.100</u>	Subdivisions
<u>5.28.110</u>	Severability

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.

5.28.020 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, pesticides, herbicides, fungicides, 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 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 or those innovative practices as defined or recommended by the state of Washington Department of Agriculture, Washington State or Okanogan County Horticulture Association, Washington State Cooperative Extension Services in Okanogan County, conservation district(s), and other agricultural organizations and field technicians.
- E. "Person" means an individual, corporation, partnership, association, or other legal entity.

5.28.030 Conformity to 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.

5.28.040 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.

5.28.050 Time Restrictions Prohibited

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

5.28.060 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.

5.28.070 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 Designations

- A. Okanogan County is hereby designated as Open Range Land with the exception of incorporated municipalities, areas designated as “future expansion area” as identified by the Okanogan County Comprehensive Plan, and areas designated as stock restricted areas in accordance with section B herein.
- B. Okanogan County shall adopt and maintain a map depicting all lands which are designated as Stock Restricted Area. Okanogan County shall adopt stock restricted areas in accordance with procedures defined by RCW 16.24 “Stock Restricted Areas”.

5.28.090 Interpretation of provisions

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

5.28.100 Subdivisions

All final short plats and long plats, in accordance with OCC Title 16, shall include the following plat disclaimer: *“Okanogan County maintains a Farm Operations Ordinance (Okanogan County Code, Chapter 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.”*

5.28.110 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.

Attachment B
Current Code: OCC 5.28 "Farm Operations"

B - Current Code

CURRENT ORDINANCE

OCC Chapter 5.28 FARM OPERATIONS

Sections:

<u>5.28.010</u>	Definitions
<u>5.28.020</u>	Farm to conform to accepted practices
<u>5.28.030</u>	Farm existing before change in land use - Permitted
<u>5.28.040</u>	Farm operations - Hours not restricted
<u>5.28.050</u>	Farm operation practices - Permitted under varying conditions
<u>5.28.060</u>	Posting of signs during spraying

5.28.010 Definitions

- A. "Farm" means the land, buildings and machinery used in the commercial production of farm products.
- 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 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, 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, grazing and feedlot operations, 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 those practices as defined by the state of Washington Department of Agriculture, recommendations of Washington State Cooperative Extension Services and/or county conservation district recommendations.
- E. "Person" means an individual, corporation, partnership, association, or other legal entity. (Ord. 90-6 § 1, 1992).

5.28.020 Farm to conform to 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. (Ord. 90-6 § 2, 1992).

5.28.030 Farm existing before change in land use - Permitted

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. (Ord. 90-6 § 3, 1992).

5.28.040 Farm operations - Hours not restricted

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. (Ord. 90-6 § 4, 1992).

5.28.050 Farm operation practices - Permitted under varying conditions

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. (Ord. 90-6 § 5, 1992).

5.28.060 Posting of signs during spraying

During any spray operations, farmers may post county approved caution signs on county rights-of-way that read "Caution Spraying in Progress". (Ord. 90-6 § 6, 1992).

Attachment C
Public Comments & Notification List

C - Public Comments

Perry Houston

6/28/10

Right to Farm Ordinance

Security is important

Crimes against livestock/agriculture

That crimes against livestock and agriculture be promptly and thoroughly investigated and prosecuted.

For example: prompt request by Sheriff to brand inspector for help when livestock crimes have been committed.

Bernard & Aimee
Thurlow

Range Land Disclosure

⇒ Purpose of Disclosure

The purpose of the Range Land Disclosure is to make the buyer aware of the possibility of roaming livestock on a property near open range.

⇒ Who must provide the disclosure?

If the property is adjacent to open range, the seller must disclose, in writing, information regarding grazing on the open range. (Open range is all unenclosed land outside cities or towns.)

⇒ When is it due?

The disclosure must be provided to the buyer before the sales agreement is signed.

⇒ Additional Information

The disclosure also identifies fencing requirements and warning about harming livestock.

The law requires that the seller retain a copy of the disclosure document that has been signed by the purchaser acknowledging receipt of the original document.

For more information:

Form: Range Land Disclosure

NRS: 113.065

water and right-to-farm ordinance amendments

From: Dianne Thurlow <thurlowranch@yahoo.com> [View Contact](#)
To: thurlowsean@yahoo.com
Cc: Bernard Thurlow <thurlowranch@yahoo.com>

Thu, May 27, 2010 8:31:41 PM



Dear Mr. Rough,

We support these amendments to the above 2 ordinances.

The right-to-farm ordinance is very important to family farms. Family farms have much to offer. They produce healthy, home-grown foods. They often have history and stories that everyone can learn from and enjoy. Many families have worked very hard keeping their farms productive. Many other people have worked very hard on these farms to produce foods and crops. The local heritage is fascinating. The work so many people did is a lesson for all. We are fortunate to have wonderful sources of local meats, fruits, vegetables, forage, and other crops.

We would like to see added to the right-to-farm ordinance a Range Land Disclosure. The purpose of the range land disclosure is to make the real estate buyer aware of the possibility of roaming livestock on a property near open range..

If the property is adjacent to open range, the seller must disclose, in writing, information regarding grazing on the open range. (Open range is all unenclosed land outside of cities or towns.)

The disclosure must be provided to the buyer before the sales agreement is signed.

The disclosure also identifies fencing requirements and warning about harming livestock.

The law requires that the seller retain a copy of the disclosure that has been signed by the purchaser acknowledging receipt of the original document.

Finally, some language should be included to make it unlawful for any group or individual to target and harass family farm owners in an attempt to drive them off their land or out of business.

We appreciate the opportunity to comment.

Bernard and Dianne Thurlow

Ben Rough

From: buck orndorff [sustainableok@gmail.com]

Sent: Friday, June 18, 2010 9:40 AM

To: Brenda Crowell; Ben Rough

Cc: Isabelle Spohn; Jessica McNamara

Subject: Open Range Land designation

To: Okanogan Planning Department and
Board of County Commissioners

Please include these comments in the upcoming Planning Commission and BOCC meetings regarding adoption of the proposed Right To Farm Ordinance changes:

In section 5.28.080, Open Range Land is stated to include all of Okanogan County with the exception of (A) incorporated towns and urban growth areas. Then, it's stated (B) that Stock Restricted areas *will be* adopted and depicted on maps. This two part statement makes it sound as though there is reason to believe that CURRENT stock restricted areas could be changed. If this were to happen, or to be interpreted as such by present or future BOCC officials, it would cause a good deal of problems in parts of the county that are neither towns or urban growth areas, but that would be highly problematic if open range were to be interpreted as the the rule in these area (eg. Pogue Flats, etc.). As such, I'd like to suggest combining A and B, to state:

"...with the exception of incorporated municipalities, areas designated as urban growth boundaries (as identified by the Okanogan County Comp. Plan), and lands which are currently designated as Stock Restricted Area (as depicted on Okanogan County Maps designating these lands).

(Below is the current proposed ordinance statement)

5.28.080 Designations

A.

Okanogan County is hereby designated as Open Range Land with the exception of incorporated municipalities and areas designated as urban growth boundaries as identified by the Okanogan County Comprehensive Plan.

B.

Okanogan County shall adopt and maintain a map depicting all lands which are designated as Stock Restricted Area.

Ambiguity is never good when people's property rights are concerned, so hopefully this suggested change or something like it would help clear up any potential future conflict or legal concerns as to the county's open range policy.

Sincerely,
Buck Orndorff
173 Robinson Canyon Road
Omak, WA
(826-0530)

Ben Rough

From: Scott Looper [scottlooper@yahoo.com]

Sent: Thursday, June 24, 2010 4:16 PM

To: Ben Rough

Why don't you come and sit in my back yard and listen to Gebbers Farms cannons for a while. This is a new cherry orchard that was put in next to our property. This family has lived here since 1982. We have put up with sprayers, wind machines, bird scare speakers, ect. Now the orchard that was planted two years ago are using propane cannons for the second year. I understand the right to farm and have no problem with farmers using tactics. BUT, when does it give them the right to move into a previously quiet area and make all this damn noise. I have an autistic son who is having issues with this as well. What about OUR RIGHTS to peace and quiet where we live. That cannon is within 150 yards of my house and shakes the windows when it blows every 20 seconds. Watching the birds IGNORE the noise is what gets my goat, obviously the cannons do not work. I believe the state court of appeals ruled in 2004 that a previously planted orchard could change fruit and use cannons. A newly planted cherry orchard next to a residence IS considered a nuisance and therefore unlawful. Court case Davis vs Taylor and the attorneys that won this case are located in Yakima. Robert Lawrence-Berrey law firm fought and won the case against propane cannons next to residential areas. I called the Okanogan Sheriff's department on this issue, there only answer was "uh, I don't know what to tell you, how am I supposed to know if it's a new orchard. Why don't you look up the laws and case numbers and bring it to the Sheriff". This is unacceptable, why should I look up the law when they are supposed to enforce it. We have rights too, we have the right to peace and quiet in our homes and property. We have the right to enjoy being outside without the constant barrage of cannons. We have the right to be able to listen to our tv or radio without having to crank the volume up. HOW ABOUT SOME PEACE AND QUIET AND A FEW RESTRICTIONS ON THESE CANNONS. SUCH AS DISTANCE FROM A DWELLING, RATE OF FIRE PER HOUR, DAILY TIME LIMITS. WE LIVED HERE FIRST, DOESN'T THAT MATTER OR ACCOUNT FOR ANYTHING.

Thank you for your time.

Scott Looper

Ben Rough

From: Mike Corrigan [michael833@centurytel.net]
Sent: Thursday, May 20, 2010 12:25 PM
To: Ben Rough
Subject: right to farm ordinance

Dear Ben Rough, senior planner

We are in favor of the "right to farm ordinance" that is proposed for Okanogan County.

Sincerely Michael Corrigan, Kathryn Corrigan

Ben Rough

From: Dianne Thurlow [thurlowranch@yahoo.com]
Sent: Thursday, May 27, 2010 6:55 PM
To: Ben Rough
Subject: Fw: water and right-to-farm ordinance amendments

----- Forwarded Message -----

From: Dianne Thurlow <thurlowranch@yahoo.com>
To: thurlowsean@yahoo.com
Cc: Bernard Thurlow <thurlowranch@yahoo.com>
Sent: Thu, May 27, 2010 6:31:41 PM
Subject: water and right-to-farm ordinance amendments

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We would like to see added to the right-to-farm ordinance a Range Land Disclosure. The purpose of the range land disclosure is to make the real estate buyer aware of the possibility of roaming livestock on a property near open range..

If the property is adjacent to open range, the seller must disclose, in writing, information regarding grazing on the open range. (Open range is all unenclosed land outside of cities or towns.)

The disclosure must be provided to the buyer before the sales agreement is signed.

The disclosure also identifies fencing requirements and warning about harming livestock.

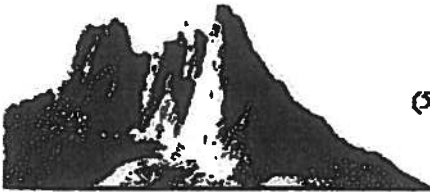
The law requires that the seller retain a copy of the disclosure that has been signed by the purchaser acknowledging receipt of the original document..

Finally, some language should be included to make it unlawful for any group or individual to target and harass family farm owners in an attempt to drive them off their land or out of business.

We appreciate the opportunity to comment.

Bernard and Dianne Thurlow

5/28/2010



OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT
 123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
 (509) 422-7160 • FAX: (509) 422-7349 • TTY/Telce Use 800-833-6388
 email: planning@co.okanogan.wa.us

COMMENT SHEET

Project Name: Right-to-Farm
Application Number: Code Amendment 2010-1
Out For Comment: April 29, 2010
Project Comment Due: Public Hearing
SEPA Comments Due: May 13, 2010
Project Planner: Ben Rough
E-Mail: brough@co.okanogan.wa.us

RECEIVED

MAY 05 2010

OKANOGAN COUNTY
 PLANNING

- The enclosed application and supporting documentation is being sent to your agency for review and comment
- Written comments can be returned using one of the following methods to the:

OKANOGAN COUNTY OFFICE OF PLANNING AND DEVELOPMENT:

Via USPS Mail: 123 5th Avenue N, Suite 130, Okanogan, WA 98840

Via Fax: 509.422.7349

Via Email: to the Planners email address

- Comments are due by the date specified above
- All comments received during the comment period will be forwarded to the project applicant
- All comments received during the comment period are appreciated and will be considered in the review of the application
- If this proposal is deemed significant and/or controversial by your agency, please contact the Project Planner listed above
- Any questions you may have about the project should be referred to the Project Planner as soon as possible

Comments:

Denise See Attached Comments

(If needed, use reverse side of this sheet for additional comments)

(Signature)

(Title)

04/29/10

(Date)

Comments on OCC Chapter 5.28

Thank you for the opportunity to provide input on this Ordinance. In general, I understand and support the intent of the “right to farm” Ordinance to provide a sense of security for farmers making an investment in improving our community and simultaneously put new non-agricultural users on notice that this is a rural county. What concerns me about the current draft is the apparent bias that seems to favor all forms of agriculture, existing, expanded or even new over other uses. The Ordinance would deny existing non-agricultural landowners, who may be threatened by new agricultural uses or significant expansions of use such as family farms conversion into larger commercial production, the right to be heard regarding expanded nuisance impacts. Without a local right to recourse, legitimately aggrieved landowners will have little choice but to pursue their concerns through state agencies. Ironically, this may increase regulation on agriculture rather than reduce it.

At its core this Ordinance appears designed to provide increased protection to the private property rights of one group of land owners (farmers) at the expense of another (non-agricultural landowners). Such unequal protection of private property rights has the potential to result in a regulatory taking if existing non-agricultural land owners are denied the right to address nuisances created through expansion or changes in adjacent agricultural land uses.

If the intent is to prevent erosion of agricultural land by subdivision, then the issue should be addressed through zoning restrictions.

The following specific comments are keyed to the numbered sections of the Ordinance:

Section 5.28.010 Purpose – Consider amending to include language limiting “right to farm” protections to operations that have pre-existed for at least some defined required time before a change occurs in land use in the surrounding area.

Rationale: As worded, the Ordinance creates an unreasonable bias in favor of all agricultural uses over non-agricultural uses whether existing or not. This would not likely survive a takings challenge.

Section 5.28.020 D Generally Accepted Practices Consider including some method to periodically readjust the definition in light of changing industry practices or changing societal attitudes towards the activities protected.

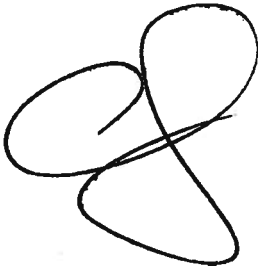
Rationale: Standards, Laws and BMPs change. As written and as defined, the concepts of “generally accepted” and “historic practices” create a vague standard.

Section 5.28.030 Conformity to Accepted Practices Consider amending to include some method to periodically readjust the definition in light of changing industry practices or changing societal attitudes towards the activities protected.

Rationale: Same as preceding comment

Section 5.28.040 Effect of Adjacent Land Use.... Consider amending to include protect existing established adjacent uses from expansions or changes in agricultural use that increase potential nuisance impacts (for example conversion from grazing land to a Confined Animal Feed Operations).

Rationale: Such conversions or expansions should not be allowed without careful review and balancing of the private property rights of adjacent established uses

A handwritten signature consisting of several overlapping loops and a central vertical stroke, resembling a stylized 'S' or 'G'.

May 3, 2010

Ben Rough

From: jessica mcnamara [jessmcna@yahoo.com]
Sent: Wednesday, May 19, 2010 2:05 PM
To: Ben Rough
Subject: RE: REvised code amendments

Ben,

Well, the SEPA checklists really fall short. Have you already prepared the staff reports on these 2 amendments? If so, I would like to have copies of these; if not, could you please send them on when completed?

thanks,

Jessica

--- On Tue, 5/18/10, Ben Rough <brough@co.okanogan.wa.us> wrote:

> From: Ben Rough <brough@co.okanogan.wa.us>
> Subject: RE: REvised code amendments
> To: "jessica mcnamara" <jessmcna@yahoo.com>
> Date: Tuesday, May 18, 2010, 2:05 PM
> They are attached.
>
> Ben Rough
> Senior Planner
> Office of Planning and Development
> Okanogan County
> Phone: (509) 422-7122
> Fax: (509) 422-7349
> -----Original Message-----
> From: jessica mcnamara [mailto:jessmcna@yahoo.com]
>
> Sent: Tuesday, May 18, 2010 1:51 PM
> To: Ben Rough
> Subject: REvised code amendments
>
> Ben,
> Could you send me the SEPA docs for the revised right to farm and
> water adequacy code amendments?
> Thanks,
> Jessica Mcnamara
>

Methow-Okanogan Irrigation District
Okanogan Irrigation District
Oroville-Tonasket Irrigation District
Pateros Irrigation District
Whitestone Reclamation District
Wolf Creek Reclamation District

Advisory Committees

Mazama Advisory Committee
Lake Osoyoos Association
Barnholt Loop Advisory Committee

Miscellaneous Agencies

W.S.D.O.E. (Yakima & Olympia)
W.S.D.O.T.
W.S. Department of Fish & Wildlife
W.S.D.N.R.
Natural Resource Conservation Service
Colville Confederated Tribe (Planning and Archaeology)
Bureau of Land Management
U.S. Forest Service
Horticulture Association (Jon Wyss)

Public

Michael & Kathyrn Corrigan
Bernard and Dianne Thurlow
Chris Johnson
Isabelle Spohn
Jessica McNamara
Marcy Stamper

Attachment D
Agency Comments & Notification Lists

D - Agency Comments



Mazama Advisory Committee

Doug Devin John Sunderland
Jim Gregg Terry Karro
Phil Heitman Clair Bunney
Karen Reneau Midge Cross
Andy Kindig

Heidi Dexter - Advisor

May 6, 2010

**Okanogan County Office of Planning and Development
123 5th Avenue N, Suite 130
Okanogan, WA 98840**

RE: Right-to-Farm Code Amendment 2010-1 Public Comment

Dear Office of Planning and Development,

The members of the Mazama Advisory Committee thank you for an opportunity to comment and express our support of the Right-to-Farm code amendment. Our Committee vigorously supports and promotes the inclusion of the Right-to-Farm proposal in Okanogan County's land use code to help keep agriculture a viable land use.

We have seen the balance tip against continued viable agricultural production in other areas of our state where "nuisance" has ruled in favor of complaining residential owners over sensible agricultural practices. We do not want that to happen here.

Thank you for proposing a sound method to protect agriculture that we welcome in our portion of the Methow Valley, and county-wide.

Sincerely,

Jim Gregg on behalf of the Mazama Advisory Committee.



OKANOGAN COUNTY
 OFFICE OF PLANNING AND DEVELOPMENT
 123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
 (509) 422-7160 • FAX: (509) 422-7349 • TTY/Voice Use 800-833-6388
 email: planning@co.okanogan.wa.us

COMMENT SHEET

Project Name: **Right-to-Farm**
 Application Number: **Code Amendment 2010-1**
 Out For Comment: **April 29, 2010**
 Project Comment Due: **Public Hearing**
 SEPA Comments Due: **May 13, 2010**
 Project Planner: **Ben Rough**
 E-Mail: **brough@co.okanogan.wa.us**

- * The enclosed application and supporting documentation is being sent to your agency for review and comment
- * Written comments can be returned using one of the following methods to the:

OKANOGAN COUNTY OFFICE OF PLANNING AND DEVELOPMENT:
 Via USPS Mail: 123 5th Avenue N, Suite 130, Okanogan, WA 98840
 Via Fax: 509.422.7349
 Via Email: to the Planners email address

- * Comments are due by the date specified above
- * All comments received during the comment period will be forwarded to the project applicant
- * All comments received during the comment period are appreciated and will be considered in the review of the application
- * If this proposal is deemed significant and/or controversial by your agency, please contact the Project Planner listed above
- * Any questions you may have about the project should be referred to the Project Planner as soon as possible

Comments:

*Allowing this would cause no significant impact to Okanogan County
 Fire District 6 resources.*

(If needed, use reverse side of this sheet for additional comments)

[Handwritten Signature]

 (Signature)

 Division Chief
 (Title)

05/12/2010

Ben Rough

From: Frank Sautell
Sent: Thursday, June 03, 2010 7:59 AM
To: Ben Rough
Subject: FW: CA 2010-1 "Right to Farm"/CA 2010-2 "Subdivision Water Certification"
FYI

From: Verlene Hughes
Sent: Thursday, June 03, 2010 7:44 AM
To: Frank Sautell
Subject: RE: CA 2010-1 "Right to Farm"/CA 2010-2 "Subdivision Water Certification"

Frank,

Also no comments on "Right-to-Farm" Code Amendment 2010-1.

Verlene

From: Frank Sautell
Sent: Wednesday, June 02, 2010 3:36 PM
To: Bob Breshears; Bob Parten; Verlene Hughes; Shelley Tugaw; Don Motes
Subject: FW: CA 2010-1 "Right to Farm"/CA 2010-2 "Subdivision Water Certification"

From: Ben Rough
Sent: Wednesday, June 02, 2010 2:50 PM
To: Frank Sautell; Dave Hilton; Janet Nelson; Scott Furman; Dan Higbee; Frank Rogers; 'derekm@okpud.org'; 'Chris Branch'; 'tonasket@nvinet.com'; 'Christian Johnson (Oro)'; 'Chris Johnson'; 'jdsmithpwd@verizon.net'; 'townplanner@townoftwisp.com'; 'Craig Raymond'; 'rocklynn@townofwinthrop.com'; 'jimgregg@methownet.com'; 'Peggy Plummer (SEPAUNIT@ecy.wa.gov)'; 'northeast.region@dnr.wa.gov'; 'pete.palmer@colvilletribes.com'; 'crosepacoordinator@ecy.wa.gov'; 'itencri@dfw.wa.gov'; 'Isabelle Spohn'; 'camille.pleasants@colvilletribes.com'; 'randy.kelley@wa.usda.gov'; 'McGlothern, Cynthia'; 'William_Schurger@or.blm.gov'; 'pchristy@fs.fed.us'; 'avanderwoude@fs.fed.us'; 'wysjsj@gebbarsfarms.com'; 'Marcy Stamper'; 'thurlowsean@yahoo.com'; 'thurlowranch@yahoo.com'; 'michael833@centurytel.net'; 'jessica mcnamara'; 'sustainableok@gmail.com'; 'Jason Paulsen'; 'John Sunderland'; 'sunnypine@centurytel.net'
Subject: CA 2010-1 "Right to Farm"/CA 2010-2 "Subdivision Water Certification"

To Whom It May Concern:

I have attached the notice of public hearing and final SEPA determination for two proposed amendments to Okanogan County Code. The projects are titled "Code Amendment 2010-1, Right to Farm" and "Code Amendment 2010-2, Subdivision Water Certification". The attachments for both projects include:

- 1) Notice of public hearing and final SEPA determination
- 2) Final SEPA Determination
- 3) SEPA Checklist

Please let me know if you have any questions.

6/3/2010

Code Amendment 2010-1

Notification List

Notification of Public Hearing & Threshold SEPA Determination

Date Sent: B.R.

Sent By: 4-29-10

Commenting Agencies

Newspaper

Oroville Gazette Tribune

County Agencies

Okanogan County Public Works
Okanogan County Assessors Office
Okanogan County Health District
Okanogan County Noxious Weed
Okanogan County Sheriff
Okanogan County Building Dept.
Okanogan County Pest Control
Ok. Co. PUD
Ok. Co. Electric Co-op

Cities

Oroville
Tonasket
Riverside
Conconully
Omak
Okanogan
Brewster
Pateros
Twisp
Winthrop
Nespelum
Coulee Dam
Elmer City

Fire Districts

1-4, 6-16

Irrigation Districts

Aeneas Lake Irrigation District
Aston Irrigation Association
Brewster Flat Irrigation District
Duck Lake Water Users Association
Helensdale Reclamation District
Methow Valley Irrigation District

Methow-Okanogan Irrigation District
Okanogan Irrigation District
Oroville-Tonasket Irrigation District
Pateros Irrigation District
Whitestone Reclamation District
Wolf Creek Reclamation District

Advisory Committees

Mazama Advisory Committee
Lake Osoyoos Association
Barnholt Loop Advisory Committee

Miscellaneous Agencies

W.S.D.O.E. (Yakima & Olympia)
W.S.D.O.T.
W.S. Department of Fish & Wildlife
W.S.D.N.R.
Natural Resource Conservation Service
Colville Confederated Tribe (Planning and Archaeology)
Bureau of Land Management
U.S. Forest Service
Horticulture Association (Jon Wyss)

Attachment E
Public & Agency Notifications

E - Notifications



OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT
 123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
 (509) 422-7160 • FAX: (509) 422-7349 • TTY/Voice Use 800-833-6388
 email: planning@co.okanogan.wa.us

COMMENT SHEET

Project Name: Right-to-Farm
Application Number: Code Amendment 2010-1
Out For Comment: April 29, 2010
Project Comment Due: Public Hearing
SEPA Comments Due: May 13, 2010
Project Planner: Ben Rough
E-Mail: brough@co.okanogan.wa.us

- * The enclosed application and supporting documentation is being sent to your agency for review and comment
- * Written comments can be returned using one of the following methods to the:

OKANOGAN COUNTY OFFICE OF PLANNING AND DEVELOPMENT:
 Via USPS Mail: 123 5th Avenue N, Suite 130, Okanogan, WA 98840
 Via Fax: 509.422.7349
 Via Email: to the Planners email address

- * Comments are due by the date specified above
- * All comments received during the comment period will be forwarded to the project applicant
- * All comments received during the comment period are appreciated and will be considered in the review of the application
- * If this proposal is deemed significant and/or controversial by your agency, please contact the Project Planner listed above
- * Any questions you may have about the project should be referred to the Project Planner as soon as possible

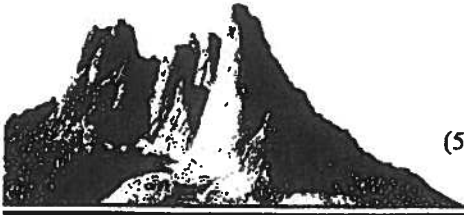
Comments:

(If needed, use reverse side of this sheet for additional comments)

 (Signature)

 (Title)

 (Date)



OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT
PLANNING · GIS · WATER RESOURCES
123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
(509) 422-7160 • FAX: (509) 422-7349 • TTY/Voice Use 800-833-6388
email: planning@co.okanogan.wa.us

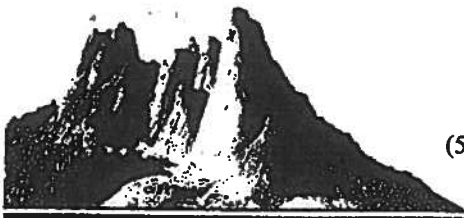
PUBLIC HEARING AND THRESHOLD SEPA DETERMINATION

Right-to-Farm *Code Amendment 2010-1*

Okanogan County is amending OCC 5.28 "Farm Operations". This is Okanogan County's Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

Project comments must be submitted in writing or attend the public hearing. Project comments and SEPA comments will be reviewed separately. SEPA Comments must be submitted in writing, no later than 5:00 p.m., May 13, 2010. In accordance with RCW 43.21C, WAC 197-11, and OCC 14.04, Okanogan County Planning and Development issued a SEPA environmental determination of non-significance (DNS) for this proposal. Failure to comment by this date denies a party standing to appeal the final determination.

The Okanogan County Regional Planning Commission scheduled a public hearing on June 28, 2010 at 7:00 p.m., in the Commissioners Hearing Room at the Virginia Grainger Administration Building, 123 5th Ave. North, Okanogan, WA 98840. Information is available to the public. Direct questions and comments to Okanogan County Planning and Development, Ben Rough, 123 5th Ave. N, Suite 130, Okanogan, WA 98840, (509) 422-7160.



OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT
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email: planning@co.okanogan.wa.us

PUBLIC HEARING – THRESHOLD SEPA DETERMINATION – EXTENDED COMMENT PERIOD

Right-to-Farm

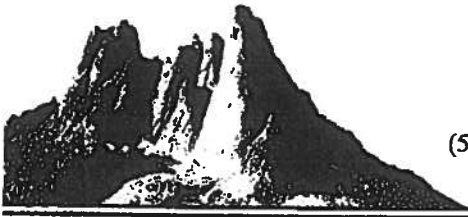
Code Amendment 2010-1

Note: Due to publication error, Okanogan County's SEPA Responsible Official has extended the SEPA comment period to May 28, 2010.

Okanogan County is amending OCC 5.28 "Farm Operations". This is Okanogan County's Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

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OKANOGAN COUNTY
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email: planning@co.okanogan.wa.us

PUBLIC HEARING – FINAL SEPA DETERMINATION

Right-to-Farm *Code Amendment 2010-1*

Okanogan County is amending OCC 5.28 “Farm Operations”. This is Okanogan County’s Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

Project comments must be submitted in writing or attend the public hearing. The Okanogan County Regional Planning Commission scheduled a public hearing on June 28, 2010 at 7:00 p.m., in the Commissioners Hearing Room at the Virginia Grainger Administration Building, 123 5th Ave. North, Okanogan, WA 98840. The SEPA Responsible Official issued a final determination of non-significance (DNS). The final determination may be appealed by those with standing. SEPA appeals must be filed in writing and must be received, or postmarked, no later than 5:00 pm, June 18, 2010. Submit appeals to the Clerk of the Board of Okanogan County Commissioners at 123 5th Ave. North, Suite 110, Okanogan, WA 98840.

Information is available to the public. Direct questions and comments to Okanogan County Planning and Development, Ben Rough, 123 5th Ave. N, Suite 130, Okanogan, WA 98840, (509) 422-7160.

**Code Amendment 2010-1
Public Hearing & Final SEPA Determination**

Okanogan County is amending OCC 5.28 "Farm Operations". This is Okanogan County's Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

Project comments must be submitted in writing or attend the public hearing. The Okanogan County Regional Planning Commission scheduled a public hearing on June 28, 2010 at 7:00 p.m., in the Commissioners Hearing Room at the Virginia Grainger Administration Building, 123 5th Ave. North, Okanogan, WA 98840. The SEPA Responsible Official issued a final determination of non-significance (DNS). The final determination may be appealed by those with standing. SEPA appeals must be filed in writing and must be received, or postmarked, no later than 5:00 pm, June 18, 2010. Submit appeals to the Clerk of the Board of Okanogan County Commissioners at 123 5th Ave. North, Suite 110, Okanogan, WA 98840.

Information is available to the public. Direct questions and comments to Okanogan County Planning and Development, Ben Rough, 123 5th Ave. N, Suite 130, Okanogan, WA 98840, (509) 422-7160.

Please publish the above notice in the LEGAL SECTION of your June 3, 2010 paper.

Furnish an affidavit of publication to Okanogan County Office of Planning & Development. Send the bill to:

Director
Okanogan County Office of Planning & Development
123 5th Avenue North, Suite 130
Okanogan, WA 98840

Code Amendment 2010-1

Public Hearing/Threshold SEPA Determination/Extended Comment Period

Note: Due to publication error, Okanogan County's SEPA Responsible Official has extended the SEPA comment period to May 28, 2010.

Okanogan County is amending OCC 5.28 "Farm Operations". This is Okanogan County's Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

Project comments must be submitted in writing or attend the public hearing. Project comments and SEPA comments will be reviewed separately. SEPA Comments must be submitted in writing, no later than 5:00 p.m., May 28, 2010. In accordance with RCW 43.21C, WAC 197-11, and OCC 14.04, Okanogan County Planning and Development issued a SEPA environmental determination of non-significance (DNS) for this proposal. Failure to comment by this date denies a party standing to appeal the final determination.

The Okanogan County Regional Planning Commission scheduled a public hearing on June 28, 2010 at 7:00 p.m., in the Commissioners Hearing Room at the Virginia Grainger Administration Building, 123 5th Ave. North, Okanogan, WA 98840. Information is available to the public. Direct questions and comments to Okanogan County Planning and Development, Ben Rough, 123 5th Ave. N, Suite 130, Okanogan, WA 98840, (509) 422-7160.

Please publish the above notice in the LEGAL SECTION of your May 13, 2010 paper.

Furnish an affidavit of publication to Okanogan County Office of Planning & Development. Send the bill to:

Director
Okanogan County Office of Planning & Development
123 5th Avenue North, Suite 130
Okanogan, WA 98840

Attachment F
SEPA Determinations (threshold & final)

F - SEPA Determinations

**State Environmental Policy Act (SEPA) WAC 197-11-340
Threshold Determination of Non-Significance (DNS)**

Project Name: Code Amendment 2010-1 "Right-to-Farm"

Proponents: Okanogan County Planning and Development
123 5th Avenue North, Suite 130
Okanogan, WA 98841
(509) 422-7060

Project Description:

Okanogan County is amending OCC 5.28 "Farm Operations". This is Okanogan County's Right-to-Farm ordinance. The amendment will make the ordinance consistent with case law and the Okanogan County Comprehensive Plan. This amendment is being processed by direction of the Board of Okanogan County Commissioners.

Project Location:

This ordinance is administered within unincorporated areas of Okanogan County.

Threshold Determination:

DNS - The Okanogan County Office of Planning & Development has made a Threshold Determination that this proposal would *not* have a probable significant adverse impact on the environment according to WAC 197-11-340. This decision was made after a review of a completed environmental checklist and other information on file. This information is available to the public on request.

MDNS - The Okanogan County Office of Planning & Development has made a Threshold Determination that this proposal does *not* have a probable significant adverse impact on the environment if mitigating conditions for the proposal are met according to WAC 197-11-350. This decision was made after review of a completed environmental checklist and other information on file. This information and the list of proposed mitigation is available to the public on request.

DS - The Okanogan County Office of Planning & Development has made a Threshold Determination that this proposal *would* have a probable significant adverse impact on the environment according to WAC 197-11-360. This decision was made after a review of a completed environmental checklist and other information on file. This information is available to the public on request.

Comments must be made in writing to the Okanogan County Office of Planning & Development, 123 5th Ave N Ste. 130, Okanogan, WA 98840, no later than **May 13, 2010**. Failure to comment by the due date above shall be determined to deny a party standing to appeal the final determination. The date of publication is April 29, 2010.

Administrative Approval:

Lead Agency:	Responsible Official:	Perry Huston
	Position/Title:	Director
	Phone:	(509) 422-7160
	Address:	123 5th Avenue North, Suite 130 Okanogan, Washington 98840

Signature:

Perry D. Huston

(Perry Huston, Director)

4-26-10

Date

Attachment G
SEPA Checklist

G - SEPA Checklist

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:
Code Amendment 2010-1 "Right to Farm"

The proposal is a legislative action proposal prepared by the Okanogan County Planning Dept at the direction of the Okanogan County Board of County Commissioners. The action amends Okanogan County Code 5.28 Farm Operations. More specific code amendment information is listed later in this document.

2. Name of applicant:
Okanogan County Planning Department

3. Address and phone number of applicant and contact person:
**Okanogan County Planning and Development/ Perry Huston, Director
123 5th Ave Ste 130
Okanogan, WA 98840
509-422-7218 (fax 509-422-7349) (e-mail: phuston@co.okanogan.wa.us)**

4. Date checklist prepared:
April 26, 2010

5. Agency requesting checklist:
Okanogan County Planning

6. Proposed timing or schedule (including phasing, if applicable):

The amendment is scheduled to be presented to the Okanogan County Regional Planning Commission during a public hearing most likely in late June of 2010. The amendments will be scheduled for consideration before the Okanogan County Board of County Commissioners soon thereafter. The Board of County Commissioners will schedule a public hearing to consider the recommendations of the Planning Commission once the recommendation has been transmitted.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
No.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
No environmental information has been prepared regarding this proposal.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
This is a general legislative proposal which will be applied to all areas in the county. No specific site will be impacted.

10. List any government approvals or permits that will be needed for your proposal, if known.
The proposed amendments must be reviewed by the Planning Commission and then adopted by the Board of County Commissioners before they become effective.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Farm Operations: OCC 5.28

Okanogan County is amending its Farm Operations Code by repealing the existing code and proposing the draft code attached to this checklist. The proposed amendment adopts updated language regarding the legality of nuisance complaints to accepted farming operations and practices. The proposed code amendment continues the requirement that plats contain a disclosure regarding the potential impacts of moving into an area where farming operations are conducted. All other regulation that applies to farming operations remains unchanged.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

This ordinance is administered within unincorporated areas of Okanogan County.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other

The proposed amendments would be enforced throughout all of Okanogan County. No specific site is impacted.

- b. What is the steepest slope on the site? (approximate percent slope)

The proposed amendments would be enforced throughout all of Okanogan County. No specific slope is impacted.

- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

The proposed amendments would be enforced throughout all of Okanogan County. No specific soil areas or types would be impacted.

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

The proposed amendments would be enforced throughout all of Okanogan County. No specific area of unstable soil would be impacted.

- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

The proposed amendments involve no grading or fill.

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

The proposed amendments involve no activities that could create erosion.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The proposed amendments contain no changes regarding allowed or prohibited areas of impervious surfaces.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

No impacts are identified.

1. Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

The proposed amendments involve no activities that could create a result in air emissions.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

The proposal contains no elements that would be affected by off-site emissions.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:
There are no impacts to air emissions caused by the proposal.

3. Water

a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No specific site is impacted.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No specific site is impacted.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
The proposal involves no fill or dredge activity.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No specific site or amount is impacted.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No specific site is impacted.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No specific site or amount is impacted.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No ground water impacts will occur.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to
The proposal is a general legislative action that will be enforced throughout Okanogan County. No ground water impacts will occur.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No water flow impacts will occur.

2) Could waste materials enter ground or surface waters? If so, generally describe.
The proposal is a general legislative action that will be enforced throughout Okanogan County. The proposal would generate no waste materials.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
The proposal is a general legislative action that will be enforced throughout Okanogan County. The proposal causes no impacts to surface water, ground water, or water run off.

4. Plants

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

The proposal is a general legislative action that will be enforced throughout Okanogan County. No vegetation will be impacted.

- b. What kind and amount of vegetation will be removed or altered?
The proposal is a general legislative action that will be enforced throughout Okanogan County. No vegetation will be removed or altered.
- c. List threatened or endangered species known to be on or near the site.
The proposal is a general legislative action that will be enforced throughout Okanogan County. No threatened or endangered species will be impacted.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
The proposal is a general legislative action that will be enforced throughout Okanogan County. No vegetation will be impacted.

5. Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other:

The proposal is a general legislative action enforced throughout the county so no wildlife will be impacted

- b. List any threatened or endangered species known to be on or near the site.
The proposal is a general legislative action enforced county wide so no threatened or endangered species will be impacted.
- c. Is the site part of a migration route? If so, explain.
The proposal is a general legislative action enforced county wide so no migration routes will be impacted.
- d. Proposed measures to preserve or enhance wildlife, if any:
The proposal is a general legislative action enforced county wide so no impacts to wildlife will result from this action.

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

The proposal is a general legislative action enforced throughout the county so no increased density or settlement patterns is expected. No impacts to energy sources or types of energy used will result.

- b. Would your project affect the potential use of solar energy by adjacent properties?
If so, generally describe.
The proposal is a general legislative action enforced throughout the county this proposal will not affect the use of solar energy on any properties.
- c. What kinds of energy conservation features are included in the plans of this proposal?
List other proposed measures to reduce or control energy impacts, if any:
The proposal is a general legislative action enforced throughout the county the proposal does not create any impacts to energy uses.

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?
If so, describe.

The proposal would not create any exposure to these things.

- 1) Describe special emergency services that might be required.

The proposal is a general legislative action that does not increase potential density or change potential settlement patterns. No need for special emergency services will be created.

- 2) Proposed measures to reduce or control environmental health hazards, if any:

The proposal will not create any environmental health hazards.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

The proposal is a general legislative action that is enforced county wide. No noise impacts will occur as a result of this proposal.

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

The proposal is a general legislative action that is enforced county wide. No noise impacts will occur as a result of this proposal.

- 3) Proposed measures to reduce or control noise impacts, if any:

The proposal is a general legislative action that is enforced county wide. No noise impacts will occur as a result of this proposal.

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties?

The proposal is a general legislative action enforced county wide. No specific site will be identified.

- b. Has the site been used for agriculture? If so, describe.

The proposal is a general legislative action so no specific site will be identified.

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c. Describe any structures on the site.

The proposal is a general legislative action so no specific structures will be identified.

d. Will any structures be demolished? If so, what?

The proposal is a general legislative action so no specific structures will be identified.

e. What is the current zoning classification of the site?

The proposal is a general legislative action so no specific site will be identified.

f. What is the current comprehensive plan designation of the site?

The proposal is a general legislative action so no specific site will be identified.

g. If applicable, what is the current shoreline master program designation of the site?

The proposal is a general legislative action enforced county wide. No specific site will be identified.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

The proposal is a general legislative action applied county-wide. No specific site will be identified.

i. Approximately how many people would reside or work in the completed project?

The proposal is a general legislative action applied county wide. The proposal will not create additional housing or work.

j. Approximately how many people would the completed project displace?

The proposal will displace no people.

k. Proposed measures to avoid or reduce displacement impacts, if any:

The proposal will displace no people.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposal is a general legislative action that will be enforced county-wide. The action does not alter potential density nor potential settlement patterns nor do they affect current land use so the comprehensive plan will not be impacted.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

The proposal is a general legislative action that does not change potential densities or potential settlement patterns. No housing units will be provided.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

No housing units will be eliminated.

- c. Proposed measures to reduce or control housing impacts, if any:

The proposal will generate no housing impacts.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

There are no proposed structures with this action.

- b. What views in the immediate vicinity would be altered or obstructed?

The proposal is a general legislative action enforced county wide. No specific site is impacted.

- c. Proposed measures to reduce or control aesthetic impacts, if any:

There are no aesthetic impacts generated by this proposal.

11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

The proposal will produce no light or glare.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

The proposal will generate no light or glare.

- c. What existing off-site sources of light or glare may affect your proposal?

The proposal is a general legislative action enforced county wide. No specific site will be identified.

- d. Proposed measures to reduce or control light and glare impacts, if any:

There are no light or glare impacts created by this proposal.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

The proposal is a general legislative action applied county wide. No specific site will be identified.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

The proposal does not impact any current recreational uses.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

There are no recreational impacts generated by this proposal.

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

The proposal is a general legislative proposal enforced county wide. No specific site will be identified.

- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

The proposal is a general legislative action enforced county wide. No specific site will be identified.

- c. Proposed measures to reduce or control impacts.

There are no impacts created by this proposal.

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

The proposal is a general legislative action enforced county wide. No specific site will be identified so no increased impact to the road systems will be created.

- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

The proposal is a general legislative action that is enforced county wide. No specific site will be identified.

- c. How many parking spaces would the completed project have? How many would the project eliminate?

The proposal does not create or eliminate parking spaces.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

The proposal is a general legislative action that does not increase potential density nor alter a need for additional roads or streets nor improvements to existing ones.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

The project is a general legislative action. No specific site will be identified.

- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

The proposal will generate no vehicular trips.

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- g. Proposed measures to reduce or control transportation impacts, if any:
The proposal does not create any transportation impacts.

15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.
The proposal is a general legislative action that does not increase the need for any public services.
- b. Proposed measures to reduce or control direct impacts on public services, if any.
The proposal will not create any impacts on public services.

16. Utilities

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
The proposal is a general legislative action enforced county wide. No specific site will be identified.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
The proposal is a general legislative action enforced county wide. No specific site will be identified.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Perry D. Huston

Date Submitted: 4-26-10

D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal is a general legislative which will be enforced county-wide. The proposal will not create or increase these items.

Proposed measures to avoid or reduce such increases are:

The proposal does not create any impacts.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposal is a general legislative which will be enforced county-wide. The proposal will not create or increase these items. The proposal does not impact plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

The proposal does not create any impacts to plants, animals, fish, or marine life.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is a general legislative which will be enforced county-wide. The proposal will not create any impacts to energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:

The proposal will not create any impacts to energy or natural resources.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposal is a general legislative action that will be enforced county wide. The proposal will not create impacts to these areas.

Proposed measures to protect such resources or to avoid or reduce impacts are:

The proposal does not create impacts in these areas.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE ONLY

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The purpose of the proposal is to protect on-going agricultural operations from litigation for nuisance complaints.

The use of land for agricultural activities in those areas where agricultural activities are permitted should be enhanced as a result of this proposal.

Proposed measures to avoid or reduce shoreline and land use impacts are:

The proposal does not create any impact to shorelines or land uses.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposal is a general legislative action that will be enforced county wide. The proposal will not create greater demands for transportation, public services, or utilities.

Proposed measures to reduce or respond to such demand(s) are:

The proposal does not generate impacts to these services or infrastructure.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposal is a general legislative action that will be enforced county wide. Each amendment is reviewed for consistency with other local, state, and federal laws.

Attachment H Findings of Fact

The following are findings of fact:

1. The proposed code amendment amends Okanogan County Code title 16 “Subdivisions”.
2. On April 29, 2010, notice of the proposed code amendment and threshold SEPA determination was forwarded to agencies.
3. On May 12, 2010, notice of the proposed code amendment, threshold SEPA determination, and extended SEPA comment period was forwarded to agencies.
4. On May 13, 2010, notice of the proposed code amendment, threshold SEPA determination, and extended SEPA comment period was published in the Oroville Gazette-Tribune, Okanogan County’s legal periodical of record.
5. May 28, 2010, The SEPA comment period ended on this day at 5:00 p.m.
6. On June 2, 2010, notice of the proposed code amendment, final SEPA determination, and public hearing was forwarded to agencies and specific members of the public.
7. On June 3, 2010, notice of the proposed code amendment, final SEPA determination, and public hearing was published in the Oroville Gazette-Tribune, Okanogan County’s legal periodical of record.
8. June 18, 2010, The SEPA appeal period ended on this day at 5:00 p.m. No appeals were received. The determination stands.
9. June 28, 2010, the Okanogan County Regional Planning Commission conducted a public hearing for this project. At this time, the Planning Commission heard public testimony. The Okanogan County Regional Planning Commission offered a recommendation to the Board of Okanogan County Commissioners.
10. The Board of Okanogan County Commissioners conducted a public hearing for this project. At this time, the Board heard public testimony.

H - Findings of Fact

Attachment I Conclusions of Law

The following are conclusions of law:

1. The proposed amendment applies to all property designated under the “Okanogan County Comprehensive Plan”, the “Methow Valley Addendum to the Okanogan County Comprehensive Plan”, and the “Upper Methow Valley Comprehensive Plan”. The proposed code amendment is consistent with the goals and policies of these plans.
2. The proposed amendment applies to land and property located within Okanogan County.
3. The proposed code amendment does not pose any significant adverse environmental impacts as a non-project action. Specific development proposals will be reviewed individually for environmental impacts, where applicable.
4. Approval of the proposed code amendment is in the interest of public health, safety and general welfare of the citizens of Okanogan County.
5. All comments received have been reviewed by staff, reviewed by the hearing bodies, and considered in analysis of the proposed amendment.
6. All public testimony has been considered for this code amendment.

I - Conclusions of Law

Attachment J
Draft Ordinance

Note: The draft ordinance is on to the next page

J - Ordinance

AN ORDINANCE AMENDING OKANOGAN COUNTY CODE 5.28, "FARM OPERATIONS"

SECTION 1: FINDINGS AND RECITALS

WHEREAS, The amendment modifies Okanogan County Code 5.28 "Farm Operations"

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

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

WHEREAS, Amendments to OCC 5.28 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.

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.

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

WHEREAS, The Board of Okanogan County Commissioners conducted a public hearing.

SECTION 2: FARM OPERATIONS ORDINANCE

Be it Therefore Ordained: The Board of Okanogan County Commissioners do hereby adopt amendments to Okanogan County Code 5.28 "Farm Operations" as identified in exhibit A.

DATED at Okanogan, Washington this _____ day of _____, 2010.

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

Mary Lou Peterson, Member

Don (Bud) Hover, Member

ATTEST:

Brenda Crowell, Clerk of the Board

Andrew Lampe, Chair

Exhibit A

OCC Chapter 5.28 Farm Operations

Sections:

<u>5.28.005</u>	Short Title
<u>5.28.010</u>	Purpose
<u>5.28.020</u>	Definitions
<u>5.28.030</u>	Conformity to Accepted Practices
<u>5.28.040</u>	Effect of Adjacent Land Use or Occupancy on Preexisting Farm
<u>5.28.050</u>	Time Restrictions Prohibited
<u>5.28.060</u>	Varying Conditions-Consideration of Effects on Management Practices
<u>5.28.070</u>	Posting of Caution Signs
<u>5.28.080</u>	Designations
<u>5.28.090</u>	Interpretation of provisions
<u>5.28.100</u>	Subdivisions
<u>5.28.110</u>	Severability

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.

5.28.020 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, pesticides, herbicides, fungicides, 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 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 or those innovative practices as defined or recommended by the state of Washington

Department of Agriculture, Washington State or Okanogan County Horticulture Association, Washington State Cooperative Extension Services in Okanogan County, conservation district(s), and other agricultural organizations and field technicians.

E. "Person" means an individual, corporation, partnership, association, or other legal entity.

5.28.030 Conformity to 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.

5.28.040 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.

5.28.050 Time Restrictions Prohibited

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

5.28.060 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.

5.28.070 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 Designations

A. Okanogan County is hereby designated as Open Range Land with the exception of incorporated municipalities, areas designated as future expansion areas as identified by the Okanogan County Comprehensive Plan, and areas designated as stock restricted areas in accordance with section B herein.

B. Okanogan County shall adopt and maintain a map depicting all lands which are designated as Stock Restricted Area. Okanogan County shall adopt stock restricted areas in accordance with procedures defined by RCW 16.24 "Stock Restricted Areas".

5.28.090 Interpretation of provisions

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

5.28.100 Subdivisions

All final short plats and long plats, in accordance with OCC Title 16, shall include the following plat disclaimer: *“Okanogan County maintains a Farm Operations Ordinance (Okanogan County Code, Chapter 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.”*

5.28.110 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.