

**CHAPTER 14.05**

**RIGHT TO FARM**

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**14.05.010 INTENT.** Ordinance 231 that was adopted in 1990 was intended to reflect the local importance of agricultural activities and convey the same degree of protection to such activities from nuisance lawsuits as the state legislature gave to agricultural activities and forest practices. The intent of the repeal of Ordinance 231 and the adoption of this chapter is to clarify and confirm that the intent of the local legislative authority is to grant the same degree of protection to agricultural activities as Chapter 7.48 RCW and not to grant protection beyond what state law allows.

[Ord. 403 (2004) § 2; Ord. 403 (2004) § 3]

**14.05.020 APPLICABILITY.** This chapter shall apply to the unincorporated areas of Benton County.

[Ord. 403 (2004) § 2; Ord. 403 (2004) § 4]

**14.05.030 FINDINGS AND PURPOSE.** The Benton County Board of Commissioners finds that agricultural activities conducted on

farmland and forest practices in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses and timber production. It is therefore the purpose of this chapter to provide that agricultural activities conducted on farmland and forest practices be protected from nuisance lawsuits. [Ord. 403 (2004) § 2; Ord. 403 (2004) § 5]

**14.05.040 ACTIVITIES PRESUMED REASONABLE--NOT A NUISANCE--EXCEPTION--DAMAGES.** Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If those agricultural activities and forest practices are undertaken in conformity with all applicable laws and rules, the activities are presumed to be good agricultural and forest practices not adversely affecting the public health and safety for purposes of BCC 14.05.040 and BCC 14.05.030. An agricultural activity that is in conformity with such laws and rules shall not be restricted as to the hours of the day or day or days of the week during which it may be conducted.

Nothing in this BCC 14.05.040 shall affect or impair any right to sue for damages.  
[Ord. 403 (2004) § 2; Ord. 403 (2004) § 6]

**14.05.050 DEFINITIONS.** When used in this chapter, the definitions in BCC 14.05.050 shall apply.

(a) "Agricultural Activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce

at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another.

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

(c) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other agricultural commodities.

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

[Ord. 403 (2004) § 2; Ord. 403 (2004) § 7]

**14.05.060 SEVERABILITY.** If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 403 (2004) § 2; Ord. 403 (2004) § 8]

**14.05.070 EFFECTIVE DATE.** This chapter shall take effect and be in full force upon its passage and adoption.  
[Ord. 403 (2004) § 2; Ord. 403 (2004) § 9]