

GOOD NEIGHBOUR FARMING

B.C.'s New *Farm Practices Protection (Right to Farm) Act*

77% of B.C.'s farm cash receipts come from 2.7% of B.C.'s land base — the same area where 77% of British Columbians live.



This new legislation benefits farmers and residents who live in or near farming communities by:

- *Protecting farmers who use normal farm practices;*
- *Creating a new process to resolve complaints about farm practices; and*
- *Encouraging local governments to support farming in their local plans and bylaws.*

FARMERS & NEIGHBOURS- *Respecting Each Others Needs*

As B.C.'s population grows, many citizens are moving into new neighbourhoods adjacent to traditional farming areas. Some non-farm residents may have concerns about farm practices which create dust, odour, noise or other disturbances.

The fundamental policy of the new act is that farmers have a right to farm in B.C.'s important farming areas, particularly the Agricultural Land Reserve, provided they use "normal farm practices" and follow other legislation listed in the act (*Waste Management Act, Pesticide Control Act, Health Act*).

A normal farm practice is defined in the act to include an activity "that is conducted by a farm business in a manner consistent with proper and accepted customs and standards as established and followed by similar farm businesses under similar circumstances." Regulations may also be enacted to further define normal farm practices. These farm practices vary among different commodity groups and with local or regional conditions across the province.



**IRRIGATION:
 AN EXAMPLE
 OF A FARM
 PRACTICE**

- Introduction: What is irrigation? Why is it required?
- How is it done? What types of irrigation practices are used by B.C. farmers? (i.e. types of equipment used, sources of water) What government guidelines or regulations exist regarding irrigation practices?
- References: What publications or other sources of information describe irrigation practices? What other federal or provincial legislation or local government bylaws apply to irrigation in B.C.?

Farm practice guidelines

The ministry, in co-operation with B.C.'s farm community, local governments and other ministries is developing a comprehensive guide to farm practices. This guide describes existing farm practices and references ministry and government guidelines.

Poor farm practices not protected

A farmer not using normal farm practices would not be protected from nuisance lawsuits or the enforcement of a local government's nuisance bylaw.

RESOLVING PUBLIC CONCERNS & COMPLAINTS

Continuing role of local governments

Local governments are often the first point of contact for a person who has a concern with a farm practice. Local government staff may be able to resolve a concern by explaining the legislation, or refer the person to the ministry for more information about farm practices. If the concern is not related to a farm practice, other local bylaws would apply.

Regional ministry staff: informal concern resolution process

The ministry is committed to find quick, efficient and reasonable solutions to concerns about farm practices. By explaining what farm practices are normally used on farms in B.C., many concerns can be resolved to the person's satisfaction.

Ministry staff may use other resources such as peer advisors — farmers and ranchers in the area who are familiar with the farm practice in question — to decide whether the farm practice is normal for that type of farming. If it is not, the farmer will be encouraged to change the practice.

Every attempt will be made to resolve a concern at the local "neighbour" level and solutions will be discussed with both the farmer and the concerned individual. This informal approach offers a low-cost, efficient alternative to formal complaints to the board or the courts.

The Farm Practices Board: formal complaint resolution process

A person does not have to use the informal ministry process. They can file a complaint directly with the Farm Practices Board. A person may also take a concern to the board if they are not satisfied with the outcome of the informal ministry process.

The Farm Practices Board is the statutory body established under the act to provide a fair and equitable process for resolving farm practice disputes out of court.

Complaints must be made in writing and be accompanied by a filing fee.

The board includes members from the B.C. Marketing Board (currently six people), and up to 10 other members who may be appointed by the Minister of Agriculture, Fisheries and Food. Board members will have a wide range of experience including farming, local government, and dispute resolution.





Changes to the *Municipal Act*

encourage local governments to plan

for farming in their community plans

The board may initially try to resolve a complaint through a settlement process which may include the use of ministry experts, peer advisors, mediators and other knowledgeable persons.

If a formal hearing is required, the chair will appoint three members of the board to sit as a panel to hear the matter. The panel will determine whether the practice in question is a normal farm practice. If not, the panel can order the farmer to stop or modify the practice.

Decisions of the board can be appealed to the Supreme Court of British Columbia, but only on a question of law or jurisdiction.

The board may also study and make recommendations on any matter related to normal farm practices. Board members have powers under the Inquiry Act to assist them in those studies.

Public concerns about farm practices can be resolved either informally through ministry staff and farm peer advisors or formally through the Farm Practices Board.

PROMOTING FARMING IN LOCAL PLANS & BYLAWS

The new act, which replaces the former *Agriculture Protection Act*, is unique in Canada because it links the right to farm concept with planning and bylaw powers of local governments.

This new legislation represents a new partnership between local governments and the province and affects our most important farming areas — primarily the ALR.

Changes to other legislation

Approving officers under the *Land Title Act* will have new powers to assess impacts of new subdivisions on farmland when they consider applications for subdivision. A guide for subdivision approving officers is being developed by the Agricultural Land Commission.

Changes to the *Municipal Act* state that community plans may include policies that help to maintain and enhance farming and may now designate development permit areas to protect farming (e.g. buffering to separate farming and residential areas). The ALC is preparing a “Planning For Agriculture” guide to suggest practical ways that local governments throughout B.C. can plan for farming at the local level.

Of particular importance is a new division in the *Municipal Act* which provides for development of bylaw standards by the ministry. The standards, which will be developed with the assistance of local governments, the farm community and the ALC, will help local governments prepare zoning and rural land-use bylaws which support farming.

This new division of the act enables the regional implementation of a three-year process to review zoning and rural land-use bylaws to meet the minister's standards. The timing of regional implementation will be based in part on local governments' own planning timetables.

Changes to zoning and rural land-use bylaws affecting farming must be approved by the Minister of Agriculture, Fisheries and Food, once these provisions are implemented in a region.

Special farm bylaws

The "right to farm" part of the act exempts farm practices from certain nuisance and miscellaneous bylaws. However, local government bylaws will continue to apply to farmers' non-farm activities such as loud parties or barking dogs.

Sometimes, certain farm operations may be inappropriate for a specific area. The ministry and a local government may agree to use the new special farm bylaw under the *Municipal Act* to directly regulate or prohibit farm operations in a manner consistent with the minister's standards.

A farm bylaw will set special rules for farm practices in that area that can then be enforced directly by local governments just like any other local bylaw.

Farm bylaws must be approved by the Minister of Agriculture, Fisheries and Food.



The future

As British Columbia continues to grow and develop these new planning and bylaw procedures and conflict resolution processes will help to avoid future conflicts between farmers and their neighbours.

This new legislation is one tool in an overall agri-food strategy being developed by the ministry to strengthen farming in B.C. This strategy will help to increase certainty for B.C. food producers and raise public understanding of the needs of farmers and the valuable role of farming in society.

B.C.'s agri-food industry: supports 19,000

farm families, provides for 1 in 7 B.C. jobs,

generates food sales of \$14 billion and

exports \$2.6 billion in commodities to

markets around the world.

For More Information

Contact your local Ministry of Agriculture, Fisheries and Food office, or:

The ministry's Resource Management Branch

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Or visit the ministry's home page on the Internet:
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