

# Strengthening Farming Program ..... an Overview

Strengthening Farming provides an opportunity to merge provincial agricultural objectives with local government land use, environmental and economic goals and initiatives. The program contributes to the sustainability of BC's farming sectors and the land and water upon which it relies.

The Strengthening Farming Program has two broad components that will be discussed in more detail below:

- Farm Practices Protection; and
- Planning for Agriculture

Local and provincial governments have greater opportunity to work together to protect and enhance farming, address unreasonably restrictive land use regulations, and implement means to strengthen land use compatibility. Effective planning for agriculture and aquaculture can help ensure that farming is fully integrated as part of complete communities and will continue to play an important role in British Columbia.

The legislative context for the Strengthening Farming Program rests in the enactment of the *Farm Practices Protection (Right to Farm) Act* (FPPA) and consequential amendments to the *Municipal Act* (now *Local Government Act*) and the *Land Title Act* in 1996. The *Agricultural Land Commission Act* and the designation of the Agricultural Land Reserve (ALR) in the mid-1970s, also provides an important underpinning to the Program.

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## 1. Farm Practices Protection (Right to Farm) Act

### What Does the Act Do?

The guiding principle of the *Farm Practices Protection (Right to Farm) Act* (FPPA) is that farmers have a right to farm in BC's important farming areas, particularly the ALR, provided they use "normal farm practices" and comply with other legislation listed in the Act. A normal farm practice is defined as 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 business under similar

circumstances.” Farm practices may be further defined by regulations and may vary among different commodities and with local or regional conditions across the province.

Where a farm operation is conducted with normal farm practices in the ALR, on land zoned for farm use, or in a licensed aquaculture area and is not in contravention of other legislation noted in the *FPPA*<sup>1</sup>, a farmer is not liable in nuisance to any person and cannot be prevented by an injunction or court order from conducting the farm operation for any odour, noise, dust or other disturbance from the farm operation. In addition, where a farm operation is in the ALR or in a licensed aquaculture area, is using normal farm practices and is not acting contrary to other legislation indicated in the Act, it does not contravene local government nuisance and animal control bylaws.

While providing farmers protection from unwarranted nuisance complaints, the FPPA offers a balanced approach to resolving concerns about farm operations for people living near farms. The Strengthening Farming legislative package includes amendments to the *Local Government Act* and *Land Title Act* which provide linkage between farm practices protection and planning and bylaw powers of local governments. For example, focused “edge planning” can provide opportunities to ensure greater land use compatibility between urban and agricultural uses. In doing so, the potential for nuisance complaints can be reduced and the operating climate for farmers improved, translating into benefits for the community as a whole.

### How Does the Act Benefit Farmers and Residents Who Live Near Farms?

- protects farmers who use normal farm practices from unwarranted nuisance complaints
- creates a process to resolve complaints about farm practices

### Resolving Concerns and Complaints

The FPPA establishes an improved complaint resolution process for people who live near farms and have concerns about farm practices related to dust, odour, noise or other disturbances.

The process is intended to resolve concerns in order to:

- let farmers farm;
- keep people out of court;
- deal fairly with people’s concerns and complaints; and
- deal with poor farm practices when they occur.

A person with a concern or complaint about farm practices has a choice of engaging in an informal or formal process to address their issue.

### Farm Practices Reference Guide

The Ministry of Agriculture, Food and Fisheries has developed a comprehensive Farm Practices in BC Reference Guide.

<http://www.agf.gov.bc.ca/resmgmt/fppa/refguide/intro.htm>

Currently the Guide includes 62 factsheets describing many of British Columbia’s diverse farm practices. The factsheets are grouped under the headings of:

- Commodity Specific;
- Farm Activity; and
- Farm Nuisance.

The Guide also references pertinent legislation, industry guidelines and other sources of information related to farm practices in BC.

The Guidelines are of value to local governments, the BC Farm Industry Review Board and interested individuals.



<sup>1</sup> Section 2(2)(c) of the FPPAct makes reference to the following legislation - *Health Act*, *Pesticide Control Act*, *Waste Management Act*, associated regulations to these Acts or any land use regulation.

## ► Informal Process to Help Resolve Farm Practice Concerns

### Local Governments

As in the past, people with a concern about farm practices often turn to their local government for information and advice. Steps have been taken to provide improved information to local governments about farm practices in order to help them when addressing concerns, as well as making them aware of the overall process.

### The Ministry of Agriculture, Food and Fisheries (MAFF)

Ministry staff throughout the province represent an important informal avenue that people can turn to when they have a concern about a farm practice. MAFF staff have been dealing with these types of inquiries for many years, but the FPPA provides additional focus on these efforts.

### Peer Advisors

In some areas of the province, peer advisors, drawn from industry, investigate nuisance concerns when requested to do so. The peer advisory program is currently a voluntary program offered by some commodity groups.

These informal approaches to handling concerns may not always satisfactorily resolve the situation. At any time in the process, a person may direct their complaint to the Farm Industry Review Board.

## ► Formal Process to Resolve Farm Practice Complaints

### British Columbia Farm Industry Review Board

The BC Farm Industry Review Board is an independent body responsible for the general supervision of British Columbia's commodity marketing boards and commissions. Under their mandate, the Board also acts as a quasi-judicial body empowered to hear complaints from persons that feel aggrieved by odour, noise, dust or other disturbances from a farm. Complaints are dealt with in a fair, equitable manner and the Board provides a cost-effective alternative (for all parties) to the court system. The Board may also study and report on farm practices. Utilizing the services of the Board constitutes the more formal means to resolve complaints about farm practices.

Web link -  
BC Farm Industry Review Board  
<http://www.firb.gov.bc.ca/>

For farmers, local governments and the public, the BC Farm Industry Review Board is an impartial body that can determine whether a farmer follows "normal farm practices." The Board adheres to the principles of natural justice and administrative law in this quasi-judicial role. Where possible, the Board uses various forms of alternative dispute resolution processes to resolve issues by agreement without the need for formal panel hearings. If these processes are not used, or are unsuccessful, a hearing is convened. After hearing a complaint, the Board must dismiss the complaint if the farm operation is determined to be following normal farm practices; or order the farm to cease or modify its practices if they are not following normal farm practices.

The BC Farm Industry Review Board's farm practice decisions may be appealed to the Supreme Court of British Columbia, but only on a question of law or jurisdiction. Farm practice decisions by the Board are posted on their website.

The BC Farm Industry Review Board is accountable to the provincial government for its administrative operations, but is independent of government in its decision-making with regard to regulated marketing and farm practice functions. As an independent tribunal, the Board ensures that the public interest is served and protected.

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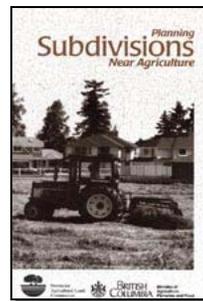
## 2. Planning for Agriculture

Along with the FPPA, amendments were also made at the same time to the *Land Title Act* and *Municipal Act* (now *Local Government Act*) to encourage local governments to support farming in their official community plans and bylaws.

### Land Title Act Changes

Approving officers under the *Land Title Act* have the ability to assess impacts on farmland when they consider applications for subdivision. Essentially, approving officers may refuse a subdivision if it is felt that the subdivision will unreasonably interfere with a nearby farming operation due to a lack of buffering or separation of the development from the farming operation. In addition, approving officers can refuse a subdivision if the plan of subdivision includes unnecessary road access into the ALR.

Support material to assist approving officers has been developed including [Subdivision Near Agriculture...a Guide for Approving Officers](#) and a brochure [Planning Subdivisions Near Agriculture](#). The brochure is designed to inform persons planning to subdivide near farmland about the provisions of the *Land Title Act* and explain the contribution that sensitive subdivision design along the farm edge can make to lessening land use conflict. The *Land Title Act* provisions are essentially designed as urban-side planning tools.



### Local Government Act (LGA) Changes

A number of changes were made in 1996 to the *Municipal Act* (now the *Local Government Act*).

- **Policy Statements in Community Plans - [LGA Sec. 878 \(1\)\(c\)](#)**

There is explicit language in the Act indicating that official community plans may include policies that help to maintain and enhance farming. For example, official community plans may include policies that relate to farmland preservation and provide for the protection of

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farming through the designation of a development permit area. The plans may also include policies associated with the undertaking of an agricultural area plan or focused edge planning work.

The Agricultural Land Commission (ALC) has also prepared a parallel guide publication “[Planning for Agriculture – Resource Materials](#)” that provides practical information that local governments can use to plan for farming at the local level. The Commission published the “[ALR & Community Planning Guidelines](#)” which provides information for local governments who are preparing official plans that involve land in the ALR.

- **Development Permit Areas for the Protection of Farming** - LGA [Sec. 919.1\(1\)\(c\)](#) & [920\(10\)](#)

Local governments may, within official community plans, designate development permit areas to protect farming. This may include requirements for screening, landscaping, fencing, water detention and siting of buildings and structures to provide buffering or separation of development from farming. A development permit area for the protection of farming is essentially an urban-side planning tool.

- **Use of Land for Agricultural Operations** - LGA Part 26, Div. 8, Secs: [903\(5\) & \(6\)](#), [915 to 919](#)

Division 8 of the LGA provides for the establishment of **bylaw standards** by the Minister of Agriculture, Food and Fisheries which can be found in the publication [Guide for Bylaw Development in Farming Areas](#). Local governments, the farm community and the Agricultural Land Commission assisted in the development of this document. The Guide is intended to assist local governments when zoning bylaws are being developed or reviewed to ensure bylaw regulations applied to the ALR support farming.

The LGA also enables the implementation of **zoning bylaw review** processes (Sec. 903(5) & (6), 918 & 919). The timing of bylaw reviews will largely be based on local governments' own planning and bylaw review timetables. Future changes to zoning bylaws that restrict or prohibit farming must be approved by the Minister of Agriculture, Food and Fisheries, once these provisions are implemented. The general purpose of reviewing a zoning bylaw is to provide an opportunity for local governments and the Province to work together to ensure that bylaw regulations applied to affected farming areas are as positive as possible and provide appropriate opportunities for industry growth. It is also important that bylaw review processes are implemented from the perspective of ensuring agriculture's place in the local community while fully considering a variety of other issues important to the overall well being of the community.

Division 8 of the LGA includes provisions regarding **intensive agriculture** (Sec. 915) which is permitted within the ALR despite local zoning bylaw provisions unless the Minister of Agriculture, Food and Fisheries has approved the zoning bylaw through the bylaw review process as outlined in Section 918 and 919 of the LGA.

- **Farm Bylaws** - LGA - [Sec. 917](#)

Farm bylaws allow for greater flexibility in the application of local government regulatory standards in farming areas. However, the Minister of Agriculture, Food and Fisheries must approve all farm bylaws. It is also strongly encouraged that the development of farm bylaws coincide with zoning bylaw reviews and the process of bylaw development including early participation by MAFF and ALC staff.

**All farm bylaws must be approved by the Minister of Agriculture, Food and Fisheries prior to adoption.**

Zoning bylaws have relatively specific parameters within which they function. The farm bylaw can deal with matters that normally cannot be regulated by zoning bylaws. Farm bylaws may consider:

- the conduct of farm operations;
- the types of buildings/structures, facilities, machinery, and equipment that are used to conduct farm operations;
- the siting of stored materials, waste facilities, and stationary equipment; and
- the prohibition of specified farm operations.

Farm bylaw provisions also provide opportunity for flexibility. Farm bylaw regulations may differ depending on: the size or type of farm operation; the site conditions; and adjoining land uses. It is expected that farm bylaws will be an important tool for planning on the farm-side of the urban/rural interface.

## ► Agri-Teams

A significant change that resulted from the implementation of the Strengthening Farming Program was the development of provincial Agri-Teams. Each ‘team’ consists of at least one MAFF and ALC staff person assigned to work on an ‘as needed’ basis with local governments. While only a portion of their responsibilities, about 25 MAFF and ALC staff, including support staff with the Resource Management Branch of MAFF are involved.

As a result, each municipality and regional district with land in the ALR can call upon one or both of their Agri-Team members to discuss agricultural issues, provide links with the farm community, assist with local agricultural awareness efforts, respond to questions about local agriculture and assist with the development of agricultural area plans, farm bylaws and official community plan and bylaw updates.

The Agri-Teams assigned to work with each local government can be found at: <http://www.agf.gov.bc.ca/resmgmt/sf/contacts.htm>

