

ORDINANCE NO. 1032

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON,
PROVIDING FOR RIGHT-TO-FARM PROTECTION WITHIN THE CITY
LIMITS, ADDING A NEW CHAPTER, 17.102 TO THE STANWOOD
MUNICIPAL CODE; AMENDING CHAPTERS 3.30, 16.20, 17.30, AND 17.145;
AND AMENDING ORDINANCE 929.**

WHEREAS, agricultural activities have been associated with Stanwood and its surrounding areas throughout the city's history; and

WHEREAS, many farms, both large and small, continue in operation inside the city limits and in the city's urban growth area; and

WHEREAS, the City wishes to acknowledge and preserve the rural agricultural nature of the surrounding area; and

WHEREAS, the City wishes to limit the conflicts that can arise when urban level developments locate near operating farms; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on October 22, 2001, and recommended approval to the City Council concerning amendments to the Stanwood Municipal Code; and

WHEREAS, the City Council considered the planning commission's recommendation at public meetings on December 4, 2001; January 7, 2002; and January 22, 2002;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD DO
ORDAIN AS FOLLOWS:

Section 1. SMC Section 17.30.025 amended. SMC Section 17.30.025(3) is added to allow farms as a conditional use as follows:

(3) Farms. Any property to be newly used as a hobby or working farm meeting the definitions of SMC 17.102.020 may be allowed subject to the following conditions:

- (a) New farms shall register with the city for the right to farm per SMC 17.102.
- (b) New farms shall meet all other requirements of SMC 17.102 and dimensional requirements of SMC 17.30.040.

Section 2. SMC Section 17.30.040 amended. SMC Section 17.30.040 Table of Dimensional and Density Requirements is amended to add requirements for new farms, as shown by the underscored text:

Use	Maximum Units/ Acre	Min. Lot Dimensions	Area Width (ft.)	Depth (ft.)	Min. Yard Setbacks(ft.)	Max. Bldg. Height (ft.)	Max. Bldg. Coverage (%)
Farm	-----	2.5 ac	100'	100'	25' 25' 25'	40'	20% ⁸

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⁸Maximum building coverage does not include green-houses.

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[▲]**Section 3. New Chapter 17.102 established.** Chapter 17.102 is hereby established as follows:

Chapter 17.102

RIGHT TO FARM REGISTRATION

Sections:

- 17.102.010 Purpose.
- 17.102.020 Definitions.
- 17.102.030 Permitted uses.
- 17.102.040 Approval requirements.
- 17.102.050 Standards.
- 17.102.060 Bulk and dimensional requirements.
- 17.102.070 Notification requirements.
- 17.102.080 Notification text.
- 17.102.090 Limits to protection.
- 17.102.100 Appeals.

17.102.010 Purpose.

The purpose of this chapter is to encourage the preservation of farms and protect the rural agricultural character of Stanwood and its surrounding area. This chapter provides a process for registering existing and new farms that apply for right-to-farm protection and notifying neighbors of the right to farm.

17.102.020 Definitions.

- (1) "Agricultural activity" means an activity associated with the production of crops, animal husbandry, horticulture, aquaculture, and viticulture, including the normal operation, repair, maintenance of related structures, facilities, implements, and machinery, as well as construction of new farms, buildings, and facilities consistent with this code.
- (2) "Animal husbandry" means an agricultural activity in which animals and/or livestock are reared, lodged, bred, or are kept in order to sell the products they produce.
- (3) "Aquaculture" means the farming of food fish, shellfish, or other aquatic plants or animals of commercial and/or recreational purposes.

- (4) "Crops" means all plants grown for human or animal consumption or use.
- (5) "Farms" means property being used for on-going agricultural activity at the date this chapter is adopted, as well as properties newly converted for agricultural activities consistent with this code.
- (6) "Floriculture" means the cultivation and management of ornamental and flowering plants.
- (7) "Horticulture" means the cultivation of vegetables, fruit, grains, field crops, floriculture, Christmas trees, and nursery products. The term includes, but is not limited to:
 - (a) Soil preparation such as plowing, fertilizing, or weed control before planting;
 - (b) Crop cultivation, such as planting, thinning, pruning, or spraying, consistent with federal, state, and local standards; and
 - (c) Crop harvesting activities, such as threshing grain, mowing, baling, or picking.
- (8) "Livestock" means all animals traditionally or commonly raised on farms, whether now or in the future, and includes such animals as emus, ostriches, buffaloes, llamas, and the like, which are not traditional farm animals, but are raised on farms throughout the nation. "Livestock" does not include dogs, cats, or exotic animals as defined by city ordinance or state statute.
- (9) "Viticulture" means cultivation of grapes.

17.102.030 Permitted uses.

The following uses may be permitted on any farm registered under this chapter:

- (1) Agricultural activities;
- (2) Animal husbandry;
- (3) Aquaculture;
- (4) Christmas tree farming;
- (5) Floriculture;
- (6) Horticulture;
- (7) Production of seed, hay, and silage;
- (8) One single family detached dwelling unit per parcel, together with one accessory unit or other structures accessory to a dwelling unit; and
- (9) Viticulture.

17.102.040 Approval requirements.

Administrative approval for right-to-farm protection may be requested by the property owner and shall be granted by the planning director if the following requirements are met:

- (1) The minimum parcel size shall be 2.5 acres. Smaller tracts shall be permitted if such tracts were in existence and in agricultural use on the date this ordinance is enacted.
- (2) The use of the property involves one or more agricultural activity(ies), as defined in SMC Section 17.102.030.
- (3) The applicant pays a registration fee as provided in SMC Section 3.30.060.
- (4) The property owner provides the legal description, street address, and description of the type of agricultural activities associated with the property.

- (5) The property owner/farm operator implements agricultural best management practices and submits a notarized statement of intent to implement the practices with a list of the practices.
- (6) The property owner provides a site plan that shall include at a minimum:
 - (a) Existing and/or proposed structures and distances from property lines;
 - (b) Drainage channels, water courses, lakes, and ponds;
 - (c) Grazing areas and fences;
 - (d) Distance of adjacent dwellings to the subject property boundaries and buildings;
 - (e) Method of manure disposal; and
 - (f) Any sensitive area, such as wetlands, streams, shorelines, or steep slopes.

17.102.050 Standards.

- (1) All existing agricultural activities as defined in SMC 17.102.030, when conducted with agricultural best management practices and this code, are declared to be a permitted activity if granted right to farm protection under this code, notwithstanding any other section of this code.
- (2) Normal farm machinery and animal noise and odors emanating from a registered farm shall be exempt from SMC 9.50 Public Nuisance and Disturbance Noises.
- (3) New development occurring next to registered farms shall provide adequate fencing along adjacent property lines as follows:
 - (a) A minimum 6-foot wood or wood-slat fence if the neighboring farm contains livestock.
 - (b) A minimum 4-foot fence of any type if the neighboring farm does not contain livestock.
 - (c) All fences shall be constructed with posts placed 8-feet on center, sunk a minimum of 3 feet into the ground, and surrounded by crushed rock, unless a suitable and equally effective alternative is approved by the Planning Director.
 - (d) Long subdivisions shall provide fencing with a 10-foot wide screen of evergreen trees planted no more than 15 feet on center, and shrubs planted no more than 10 feet on center.
 - (e) New farms locating adjacent to existing residentially developed properties shall provide the appropriate fence as defined in subsection (3) above with the 10-foot buffer as defined in subsection (4) above.

17.102.060 Bulk and dimensional requirements.

Bulk and dimensional requirements for new structures shall be as set forth in SMC Section 17.30.040.

17.102.070 Notification requirements.

The notification requirements of this section shall apply to existing and ongoing agricultural activities and new farms for which the property owner is applying for right-to-farm registration.

- (1) Upon receipt of a complete application, the city shall send written notice to adjacent property owners within 300 feet of any portion of the subject property. Notice is deemed properly sent once placed in the U.S. mail, First Class, postage prepaid.

- (2) Upon receipt of a complete application, the city shall cause a notice of application to be published in an official city newspaper as designated in SMC 1.08.010.
- (3) Upon receipt of a complete application, at least one copy of a notice of application shall be posted on the site for each boundary abutting a right-of-way. The notice(s) shall remain posted for a minimum of 14 days prior to issuance of a decision.

17.102.080 Notification text.

- (1) The following shall constitute the disclosure required by this section when right-to-farm registration is applied for:

“Your real property is adjacent to or within 300 feet of property registered as a farm with on-going agricultural activities. Therefore, you or tenants on your property may be subject to inconveniences or discomforts arising from agricultural activities, including but not limited to NOISE, ODORS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY, THE STORAGE AND DISPOSAL OF MANURE, THE LEGAL APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL OR ORGANIC FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES, HOURS OF OPERATION, AND OTHER AGRICULTURAL ACTIVITIES.

“Agricultural activities conducted on a farm registered under Section 17.102 of the Stanwood Municipal Code, and in compliance with agricultural best management practices and with federal, state, and local laws, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activities have a substantial adverse effect on the public health, safety, and welfare or are clearly not related to the small farm activities as determined by the Stanwood Community Development Director.

“This disclosure applies to any real property that is subject to a development or building permit as of the date of the permit issuance, or in the case of real property transfers, the disclosure applies to the subject property as of the date of the transfer. This disclosure may not be applicable thereafter if a farm ceases agricultural activities or operations.”

- (2) Prior to the closing of a transfer of real property within 300 feet of a registered farm, by deed, exchange, gift real estate contract, lease with option to purchase, or any other means of transfer or conveyance (except transfers made by testamentary provisions or the laws of descent), the transferor shall provide the transferee a copy of the disclosure text as shown in SMC 17.102.080(1) and shall record the same with the county auditor.
- (3) Building permits, site development permits, land use permits and approvals, and subdivisions applying to properties within 300 feet of a registered farm shall include the disclosure text shown in SMC 17.102. 080(1) as a condition of permit or subdivision approval. Subdivision approvals shall require that the disclosure text be recorded on each affected new parcel with the county auditor.

17.102.090 Limits to protection.

The intent of the right-to-farm registration is to reduce the likelihood of conflicts related to incompatible land uses. Registration of a farm under the provisions of 17.102 shall not be construed to guarantee protection from third party lawsuits for nuisance abatement or damages. In the event of a lawsuit, the city shall not be held liable because of the registration.

17.102.100 Appeals.

- (1) All appeals of right-to-farm decisions shall be made to the hearing examiner. Such appeals must be made in writing and filed with the City Clerk’s office per SMC 17.80.140 within 14 calendar days from the date of the decision. The decision of the hearing examiner shall constitute a final decision.
- (2) The written appeal shall explain in detail the reason(s) for the appeal.
- (3) Standing to appeal is limited to the following:
 - (a) The applicant or owner of the property applying for the right-to-farm designation; and
 - (b) Any aggrieved person that will thereby suffer a direct and substantial impact from the proposed designation.

Section 4. Section 17.80.160, Table of Land Use Procedures, amended. The following row shall be added to the Type II section of the Land Use Procedures Table, as shown by the underscored text:

TYPE OF APPLI-CA-TION	PUB-LIC COM-MENT/ NO-TICE PER-IOD	PRE-APPLIC-ATION MEET-ING	PUBLIC MEET-ING/ RECOM-MEN-DTN	OPEN REC-ORD HEAR-ING	DECI-SION	OPEN RE-RE-CORD AP-PEAL	CLOS-ED RE-CORD AP-PEAL	JUDI-CIAL AP-PEAL
Right-to-farm registra-tion	14-day posted notice of applica-tion	None	None	None	PD	HE	No	No

Section 5. SMC Section 17.145.100 amended. The following section shall be added to SMC 17.145.100, as follows:

- (5) See also SMC 17.102.050(3) for developments adjacent to registered farms.

Section 6. SMC Section 3.30.060 amended. Fees for a right-to-farm application shall be added to Section 3.30.060 as follows:

Right-to-farm application (under 10 acres) \$50
Right-to-farm application (10 acres or greater) \$100

Section 7. SMC Section 16.20.060 amended. The following underlined text shall be added to SMC Section 16.20.060, as follows:

(2) If the public works director and planning director determine that the final plat conforms fully with all applicable regulations and standards, they shall then affix their signatures thereto. See also SMC 17.102.080(3).

Section 8. SMC Section 16.20.110 amended. The following underlined text shall be added to SMC Section 16.20.110, as follows:

(8) If necessary, the applicant shall also meet the requirements of SMC 17.102.080(3).

Section 9. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

PASSED by the City Council of the City of Stanwood this 22nd day of January, 2002.

CITY OF STANWOOD:

Matthew J. McCune, Mayor

ATTEST:

APPROVED AS TO FORM:

Lynda J. Reep, City Clerk

William M. Zingarelli, City Attorney