

GOOD NEIGHBORS GUIDE:

Reducing conflict between homeowners, developers, farmers and forest owners

The character of Kootenai County is changing as residential development moves closer and closer to established agricultural, timber and mixed ag-timber operations. With forethought, consideration and understanding of existing law, there need not be conflict between new residential owners and existing farmers or forest owners.

If you are considering moving near or next to undeveloped land, it is important to realize that land is likely managed to provide a living for those who own and manage it. Many of those management practices are part of a proud heritage deeply rooted in this region's agricultural and forest product industries that have been handed down for several generations. It is wise to familiarize yourself with those management practices and, if you find them offensive, strongly consider purchasing a different parcel of land.



The State of Idaho, through its **Right to Farm** (*Idaho Statutes Title 22, Chapter 45*) and **Right to Conduct Forest Practices** (*Idaho Statutes Title 38, Chapter 14*) laws, is both supportive and protective of farm and forestry interests. Neither farming nor forestry practices are considered a nuisance when surrounding areas change to residential when the practices were not previously a nuisance. In other words, a housing development springing up close to a farm or forest operation cannot change a practice from acceptable to unacceptable. Protected practices include the harvest of timber, road construction, animal breeding, application of chemicals such as herbicides and pesticides, and customary practices that can produce noise, dust, odors, light, and animal waste. The potential buyer of property near a farm or forest operation should read these laws carefully and honestly assess his or her tolerance for the permitted practices.

If you decide that living near farm or forest land is for you, here are a few tips for getting along with your new neighbors:

- ▶ The open or forested land near your new home belongs to someone – a private family, a timber company, the State of Idaho, the United States Forest Service or other government agency. Find out who the owner is and identify property lines. Be conscious of the fact that the owner may not live on the land and you may have to research where he/she resides. Seek permission if you wish to hike, bike, 4 wheel, hunt, fish, swim, ride horses, collect mushrooms, firewood or antler sheds, cut Christmas trees, or recreate in any way on the property of another. Even government land does not offer unfettered access at all times and for all activities. If granted access, get written permission or a signed Idaho Fish & Game Courtesy Card from the owner, as required by the 2018 revision to the **Idaho Trespass Law** (*Idaho Statutes Title 18, Chapter 70*). If an owner declines access, respect the decision, because the trespass law carries significant penalties for trespass.
- ▶ Fencing around land is a definite signal that the land is privately owned and managed. Orange paint on trees or fence posts is a designated and legally recognized “No Trespassing” sign.
- ▶ An open gate is **not** an invitation to enter. Farmers often leave gates open to accommodate wildlife like deer and elk and save fence repair. Driving on cropped or fallow land is not only trespass, it can damage crops and soil.
- ▶ Other kinds of trespass may seem innocuous, but are trespass just the same. Unless you've been given permission, it is not OK to exercise or train your dog, train falcons, take wedding or graduation photos, unload your horse from a trailer, practice archery or sharpen your drone operating skills in the neighbor's field, etc. And shooting into or across a field from the road is not only illegal but dangerous, as residences and outbuildings are often not visible from the road.

- ▶ Google Maps, onX maps, and consumer-grade GPS devices are not reliably accurate ways for determining property boundaries. Cell phone compasses are not accurate enough to run property boundaries. The best way to be assured you are not trespassing is to talk to your neighboring landowner and/or have boundaries surveyed.
- ▶ If a neighbor grants you access to his/her land for recreational purposes and does not charge you for the privilege, Idaho law protects the landowner. He owes you no duty of care to keep the premises safe for recreational purposes or to give you any warning of a dangerous condition. He or she assumes no liability for your safety. For complete information see **Landowner Liability Limited** (*Idaho Statutes Title 36, Chapter 16*).
- ▶ If a neighbor gives you permission to hunt on private ground, let the landowner know exactly when you will be hunting and be aware of the location of residences and outbuildings. In the thrill and action of the hunt, it is easy to forget or lose track of which way your shots are aimed.
- ▶ The beautiful trees you see on your neighbor's property from your kitchen window may well be a crop for him or her. They are his to harvest if he wishes, whether or not they are part of your view-shed, and whether or not you consider them beautiful. Conversely, you may consider those trees to be blocking your view, but if you harvest them to improve your view, you are guilty of timber theft.
- ▶ Forest owners are allowed to clear cut tracts of land as long as they do so in compliance with **Idaho Forest Practices Act** reforestation requirements.
- ▶ During a timber harvest, loggers sometimes start at daybreak. They don't do this to annoy the neighbors, but because their hours in the field are limited, especially when fire danger is high, and they are required to close down daily operations in early afternoon. The same applies to farmers and ranchers, who may need to operate heavy machinery at odd or early hours.
- ▶ By law, timber owners who harvest trees **must** dispose of slash residue that meets certain criteria. Currently, the only viable way to do so is to burn the slash. Slash burning, like agricultural field burning, generates smoke, but they are legal activities when done in compliance with local and state rules and procedures regarding fire safety and smoke management.
- ▶ Farmers and timber owners worry a lot about fire, especially in the dry summer months. Farmers and ranchers also worry about the safety and comfort of their animals. Neighborhood fireworks are particularly worrisome. A discussion with your neighbor about your 4th of July plans goes a long way toward neighborly peace.
- ▶ Part of rural living is having a dog, but dogs also need to observe property lines. Loose running dogs can panic cattle, horses, and other livestock, injuring them, especially those pregnant or young animals. And panicked stock can easily injure or kill a dog. Remember, there is a **county-wide leash law** that applies to rural areas.

If you are considering residential development of land near existing farming or timber operations, here are a few tips for facilitating the favorable reception of your project by neighboring landowners:

- ▶ Conduct a neighborhood meeting early in the development process to hear and address landowner concerns.
- ▶ Plan for adequate buffers such as berms and vegetation in your project to minimize dust, odors, noise etc. for your home buyers
- ▶ Plan to maintain adequate separation of your home buyers' properties from nearby properties by such means as fencing or breaks.
- ▶ Where possible, provide green space in your planned development.
- ▶ Provide notification of existing neighboring timber and agricultural uses and their implications in advertisements, property deeds and other formal documents.

If you are an existing farm or forest owner and a new development is proposed near you, here are a few tips for minimizing conflict and helping to make your needs understood:

- ▶ Attend neighborhood meetings with an open mind and concrete suggestions to make a proposed development compatible with the area if that is possible.
- ▶ The **Idaho Trespass Law** (*Title 18, Chapter 70*) has very specific posting requirements. If you specifically do not want to allow others on your land, the surest way is to post the land in accordance with provisions of the law.
- ▶ Once a development is in place, if you plan an activity such as logging or slash or field burning which you know will generate for example, more noise, dust, road usage or smoke than usual, talk to your neighbors ahead of time about the activity and its implications. Your activity is protected by law, but a little neighborliness goes a long way toward easing tensions.