

APPENDIX F - SAMPLE RIGHT-TO-FARM LAW

DESCRIPTION

Right-to-farm laws are designed to accomplish one or both of the following objectives: (1) to strengthen the legal position of farmers when neighbors sue them for private nuisance; and (2) to protect farmers from anti-nuisance ordinances and unreasonable controls on farming operations. Most laws include a number of additional protections. Right-to-farm provisions may also be included in state zoning enabling laws, and farmers with land enrolled in an agricultural district may have stronger right-to-farm protection than other farmers. A growing number of counties and municipalities are passing their own right-to-farm legislation to supplement the protection provided by state law.

California Farm Bureau Model Right-to-Farm Ordinance

Section 1. Definitions.

As used in this Ordinance No. _____:

(a) "Agricultural Land" shall mean all that real property within the boundaries of _____ County currently used for agricultural operations or upon which agricultural operations may in the future be established.

(b) "Agricultural Operation" shall mean and include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Section 2. Findings and Policy

Alternative 1

(a) It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to farm.

(b) Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subjects of nuisance complaints due to lack of information about such operations. As a result agricultural operations are forced to cease or curtail their operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a nuisance. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food

and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of the code and county regulations.

(c) An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke, and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

or

Alternative 2

(a) The Board of Supervisors of _____ County finds that commercially viable agricultural land exists within the County, and that it is in the public interest to enhance and encourage agricultural operations within the County. The Board of Supervisors of _____ County also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole.

(b) The purposes of the chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations in the County. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

Section 3. Nuisance.

No agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards and with all chapters of _____ County Code, as established and followed by similar agricultural operation, shall be or become a nuisance, public or private, pursuant to the _____ County Code, if it was not a nuisance when it began.