

CHAPTER 19. NUISANCES;
CONDUCT OF AGRICULTURAL AND SEAFOOD OPERATIONS

PART 2
RIGHT TO FARM

ARTICLE V
Conduct of Agricultural Operations

§19-8. Findings and policy.

A. It is the declared policy of the county to preserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations can become the subject of lawsuits. As a result, agricultural operators are sometimes forced to cease or curtail their operations. Others are discouraged from making investments in agricultural improvements to the detriment of the economic viability of the County's agricultural industry as a whole. It is the purpose of this chapter to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land, including, but not limited to, smoke, odors, flies, dust, noise, chemicals, or vibration, providing that nothing in this chapter shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety, and welfare.

B. It is in the public interest to promote a more clear understanding between agricultural operations and nonagricultural residential neighbors concerning the normal inconveniences of agricultural operations which follow generally accepted agricultural practices and do not endanger public health or safety.

C. This chapter is not intended to and shall not be construed as in any way modifying or abridging local, state, or federal laws relating to health, safety, zoning, licensing requirements, environmental standards and the like.

D. An additional purpose of this chapter 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 use. These potential problems include, but are not limited to, noises,

odors, dust, flies, chemicals, smoke, vibration, 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. However, this Article V shall be effective regardless of whether disclosure was made in accordance with §19-11.1.

§19-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL LAND -- All real property within the boundaries of Queen Anne's County that is lying in the Agricultural District, or that is lying in other zoning districts if carried on the tax rolls of the State Department of Assessments and Taxation as agricultural or that is lying in other zoning districts if it has been used as an agricultural operation continuously for one year.

AGRICULTURAL OPERATION -- Includes, but is not limited to, all matters set forth in the definition of "operation" in the Courts and Judicial Proceedings Article of the Annotated Code §5-403(a), as amended from time to time; the production of all matters encompassed within the definition of "farm product" in the Agriculture Article of the Annotated Code §10-601(c), as amended from time to time; the cultivation and tillage of the soil; composting; production, harvesting, and processing of agricultural crops; raising poultry; production of eggs; production of milk and dairy products; production of livestock, including pasturage and equine enterprises; production of bees and their products; production of fish; production of fruit, vegetables, and other horticultural crops; production of aquatic plants; agricultural; production of timber and any commercial agricultural procedure 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; and usage of land in furtherance of educational and social goals, such as 4-H, Future Farmers of America, and the like.

GENERAL ACCEPTED AGRICULTURAL PRACTICES -- Those methods used in connection with agricultural operations which do not violate applicable federal, state, or local laws or public health, safety and welfare and which are generally accepted

agricultural practices in the agricultural industry. "Generally accepted agricultural practices" includes but is not limited to practices which are recognized as best management practices and those methods which are authorized by various governmental agencies, bureaus, and departments, such as the Queen Anne's County Cooperative Extension Service of the University of Maryland, and the like. If no generally accepted agricultural practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted agricultural practice.

§19-10. Limitation of actions.

A. A private action may not be sustained with respect to an agricultural operation conducted on agricultural land on the grounds that the agricultural operation interferes or has interfered with the use or enjoyment of property, whether public or private, if the agricultural operation was, at the time the interference is alleged to arise, conducted substantially in accordance with generally accepted agricultural practices.

B. Notwithstanding any provision of this section, no action alleging that an agricultural operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought and obtained a final judgment of the agricultural reconciliation committee, as defined in §19-11 herein.

§19-11. Resolution of disputes and procedure for complaints; investigation and declaration.

A. Nuisances which affect public health.

(1) Complaints. A person may complain to the Agricultural Reconciliation Committee to declare that a nuisance which affects public health exists.

(2) Investigations. The Agricultural Reconciliation Committee may investigate all complaints of nuisance received against an agricultural operation. When a previous complaint involving the same condition resulted in a determination by the Agricultural Reconciliation Committee that a nuisance condition did not exist, the Agricultural Reconciliation Committee may investigate the complaint, but the Agricultural Reconciliation Committee may also determine not to investigate such a complaint. The Agricultural Reconciliation Committee may initiate any investigation without citizen complaint.

(3) Declaration of nuisance. If the Agricultural Reconciliation Committee determines that a nuisance exists, the Agricultural Reconciliation Committee may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, the Agricultural Reconciliation Committee shall apply the criteria provided in this chapter. Further, the Agricultural Reconciliation Committee may consider the professional opinion of the Queen Anne's County Cooperative Extension Service of the University of Maryland, or other qualified experts in the relevant field in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.

B. Resolution of disputes regarding agricultural operations.

(1) Should any matter arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties (not to include third parties other than counsel) to that matter shall submit the matter to the Agricultural Reconciliation Committee by first contacting the Agricultural Land Preservation Program Administrator, Queen Anne's County Department of Economic Development, Agricultural and Tourism.

(2) There is hereby established the Queen Anne's County Agricultural Reconciliation Committee, which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands and issue opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices.

(3) The Agricultural Reconciliation Committee shall be composed of six persons, that reside in Queen Anne's County. The Queen Anne's County Board of County Commissioners shall appoint the members of the Agricultural Reconciliation Committee. One member shall be from a municipality, one member shall be involved in the real estate industry, one member shall be the Queen Anne's County Environmental Health Officer, one member shall be a person who is not engaged or otherwise has a pecuniary interest in the commercial practice of agriculture, and 2 members shall be from the agricultural community.

(4) The Agricultural Reconciliation Committee will conduct its proceedings in an informal manner, and the rules of evidence shall not apply. The Agricultural Reconciliation Committee has

the power, but is not required hereunder, to hold hearings, to compel testimony under oath and the production of documents. In each case before it the Agriculture Reconciliation Committee shall issue orders settling or otherwise resolving controversies arising out of agriculture operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land. Proceedings shall be conducted in accordance with the duly adopted Rules of Procedure for the Agricultural Reconciliation Committee which may be amended from time to time. The Agricultural Reconciliation Committee will render a written decision within 30 days of the final proceedings and may extend the decision deadline for one additional 30 day period.

(5) Orders of the Agricultural Reconciliation Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Queen Anne's County. Appeal from orders of the Committee shall be by a trial de novo.

(6) If the Agricultural Reconciliation Committee or a Court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land was in bad faith or without substantial justification, the Agricultural Reconciliation Committee or Court may require that party to pay to the owner of the agricultural operation the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by that party in defending against the action.

§19-11.1. Right to farm notice and real estate transfer disclosure.

A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this Article V which shall be in substantially the form set forth in Appendix A at the end of this chapter.

B. Any person who violates any provision of this section is guilty of an infraction punishable by a civil penalty not exceeding \$100.00. Failure to comply with any provision of this right to farm notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this chapter.

APPENDIX A
REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY LOCATED IN QUEEN ANNE'S COUNTY, STATE OF MARYLAND, DESCRIBED AS _____ . THIS STATEMENT IS A DISCLOSURE OF THE EXISTENCE OF THE QUEEN ANNE'S COUNTY RIGHT TO FARM ORDINANCE IN COMPLIANCE WITH CHAPTER 19 OF THE CODE OF PUBLIC LOCAL LAWS AND ORDINANCES OF QUEEN ANNE'S COUNTY (RIGHT TO FARM) .

SELLER'S INFORMATION

THE FOLLOWING ARE REPRESENTATIVES MADE BY THE SELLER AND ARE NOT THE REPRESENTATIVES OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

AGRICULTURAL OPERATIONS (as defined in the Queen Anne's County Right to Farm Ordinance) LAWFULLY EXIST IN ALL ZONING DISTRICTS WITHIN THE COUNTY. You may be subject to inconveniences or

discomforts arising from such operations, including but not limited to noise, odors, fumes, dust, flies, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides, Queen Anne's County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural management practices. Queen Anne's County has established a reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the Agricultural

Reconciliation Committee, please contact the Queen Anne's County Department of Economic Development, Agricultural and Tourism for additional information.

Seller Date

Seller Date

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT:

Buyer Date

Buyer Date

IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

APPENDIX B
QUEEN ANNE'S COUNTY RIGHT TO FARM NOTICE

Queen Anne's County recognizes and supports the right to farm agricultural lands in a manner consistent with generally accepted agricultural management practices. Residents of property on or near agricultural land should be prepared to accept the inconveniences or discomforts associated with agricultural operations, including but not limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Queen Anne's County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural practices. Queen Anne's County has established an agricultural reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the reconciliation committee, please contact the

Department of Economic Development Agricultural and Tourism.