

Chapter 18.04

RIGHT TO AGRICULTURAL ACTIVITY

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18.04.010 Definitions.

A. "Agricultural land" shall mean all that real property within the boundaries of Mariposa County currently used for agricultural activities or operations or upon which agricultural activities or operations may in the future be established.

B. "Agricultural activity or operation" shall mean any activity or operation which has to do with agriculture and shall 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.

C. "Commercial purposes" shall mean an activity or operation that is primarily conducted for commercial use or sale of an agricultural product or commodity on the activity or operation site with financial gain as the primary aim.

D. "Nuisance" shall mean anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

E. "Private nuisance" shall mean every nuisance which is not included in the definition of a public nuisance.

F. "Public nuisance" shall mean a nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (Ord. 888 Exh. "A", 1995).

18.04.020 Findings and policy.

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 conduct agricultural activity.

B. Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subject of nuisance complaints due to lack of information about such operations. As a result, agricultural operators are forced to cease or curtail their operations. Such actions discourage investment 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 this 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 effects associated with such purchase or residence. Such concerns may include, but are not limited to, the noise, odor, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosure, 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. (Ord. 888 Exh."A", 1995).

18.04.030 Nuisance.

No existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. The provisions of this section shall not apply whenever a nuisance results from agricultural operations inconsistent with accepted customs, standards, and practices or contrary to local, state, or federal ordinances, laws, and regulations. (Ord. 888 Exh."A", 1995).

18.04.040 Disclosure.

A. Pursuant to Section 1102.6a of the California Civil Code, it is intended by this Section to require disclosures in addition to those disclosures required by Section 1102.6 of the California Civil Code.

B. Upon any transfer of real property by gift, sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or transfer of residential stock cooperative improved with dwelling units, the transferor shall require that the disclosure statement set forth in Section 18.04.040(C) shall be signed by the grantee, purchaser, or lessee.

C. The disclosure required by Section 18.04.040(B) is set forth herein, and shall contain, and be in the form of, the following:

"REAL ESTATE TRANSFER DISCLOSURE STATEMENT"

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF MARIPOSA, STATE OF CALIFORNIA, DESCRIBED AS

_____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED PROPERTY IN COMPLIANCE WITH MARIPOSA COUNTY CODE SECTION _____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTION OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

(I)

SELLER INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in a real estate transaction dealing with the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF MARIPOSA AND ARE NOT THE REPRESENTATIONS 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.

The County of Mariposa permits properly conducted agricultural operations within the county. You may be subject to inconveniences or discomfort arising from such operations including but not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. You should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong

rural character and an active agricultural sector. **Mariposa County has determined that no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code,** after the same has been in operation for more than one year if it was not a nuisance at the time it began. If you have any questions concerning this policy, please contact the Mariposa County planning and building departments.

Seller certifies that the information herein is true and correct to the best of seller's knowledge as of the date signed by the seller.

Seller _____ Date _____

Seller _____ Date _____

(II)

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTION/DEFECTS.

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

Seller _____ Date _____ Buyer _____ Date _____

Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker representing Seller):

_____ By _____ Date _____

(Associate licensee or Broker signature)

Agent (Broker obtaining the offer):

_____ By _____ Date _____

(Associate licensee or Broker signature)

Present Assessors Parcel No. _____

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY."

D. If a buyer refuses to sign the disclosure statement set forth in Section 18.04.040(C), the transferor may comply with the requirements of this ordinance by delivering the statement to the buyer as provided in Section 18.04.040(C) and affixing and signing the following declaration to the statement:

I, (name), have delivered a copy of the foregoing disclosure statement as required by law to (buyer's name), who has refused to sign.

I declare the foregoing to be true.

Date: _____

Signature

Print Name: _____

E. Forms for the disclosure statement set forth in section 18.04.040(C) shall be printed and made available to property owners and real estate agents by the Mariposa County planning and building department. (Ord. 1018 Sec.I, 2005; Ord. 888 Exh."A", 1995)

18.04.050 Notice.

A. The Mariposa County planning and building department shall provide all applicants for building permits for new residential construction or mobile home installation with a "Right-to-Agricultural Activity Notice" in substantially the form provided in section 18.04.050(B).

B. To provide all property owners with constructive notice of Mariposa County's right-to-agricultural activity policy, this chapter of county code shall be recorded with the Mariposa County recorder.

"Mariposa County Right-to-Agricultural Activity Ordinance"

"The County of Mariposa permits properly conducted agricultural operations within the county and 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 of those persons' and/or entities' right to conduct agricultural activity. Residents of property on or near agricultural land should be prepared to accept the inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. You should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

Mariposa County has determined that no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code,

as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. If you have any questions concerning this policy, please contact the Mariposa County planning and building department." (Ord. 888 Exh."A", 1995)

18.04.060 Penalty for violation.

Noncompliance with any provision of this ordinance shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this ordinance is guilty of an infraction punishable pursuant to County Code section 1.20.030. (Ord. 888 Exh."A", 1995).

18.04.070 Separability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance. (Ord. 888 Exh."A", 1995).

18.04.080 Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances, or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance they are hereby repealed with respect to the conflict and no more. (Ord. 888 Exh."A", 1995).