

COUNTY ORDINANCE NO. 99-08

A BILL ENTITLED

AN ACT Concerning the Right to Farm

FOR THE PURPOSE OF protecting the right to farm or engage in agriculture operations within Queen Anne's County and furthering the efficient regulation of land use in Queen Anne's County and the resolution of disputes between agriculture land owners and their neighbors by the establishment of a Board to resolve disputes concerning alleged agricultural nuisances, by adopting a new Subtitle 5 to Title 19 of the Code of Public Local Laws of Queen Anne's County, (1996 Edition).

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY that the Code of Public Local Laws of Queen Anne's County read as follows:

Title 19. Nuisance Regulations

...

Subtitle 5. Right To Farm

19-501. Findings and Policy.

It is the declared policy of the County to preserve, protect, promote 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 law 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; provided that nothing in the law shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety and welfare.

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

19-502. 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 practice.

(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 Action 19-503 herein.

19-503. Creation of Queen Anne's County Agricultural Reconciliation Committee.

(a) 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 concerning whether or not such agricultural operations are conducted in a manner consistent with generally accepted agricultural practices.

(b) The Agricultural Reconciliation Committee shall be composed of five persons appointed by the Queen Anne's County Commissioners. The Committee shall be composed of:

At least two members from the agricultural community;
At least one member from a municipality;
At least one member from a real estate interests;
One other member from the community not actively engaged in agriculture.

A representative of the University of Maryland Cooperative Extension Service and a member of the Queen Anne's County Soil

Conservation District shall be appointed by the Commissioner to serve as ex-officio, non-voting members of the Committee. In any dispute, if requested by the Committee, or if in their own opinions their participation is helpful, they may present facts and educational information to the Committee and make recommendations. Their recommendations shall be considered by the Committee.

(c) The Committee members shall serve a four year term, however, the initial appointments shall be staggered.

(d) The Committee shall meet at least one time per year. Members shall serve as volunteers with no monetary compensation.

19-504. Resolution of Disputes and Procedure for Complaints. Investigation and Declaration.

(a) Nuisances which Affect Public Health.

(1) Complaints. A person may complain to the Queen Anne's County Health Department to declare that a nuisance exists which affects public health.

(2) Investigations. The County Health Officer or his agent or designee may investigate any complaint of nuisance received against an agricultural operation. When a previous complaint involving the same condition resulted in a determination by the health officer that a nuisance condition did not exist, the health officer may investigate the complaint but the health officer may also determine not to investigate such a complaint. The Queen Anne's County Health Department may initiate any investigation without a citizen complaint.

(3) Declaration of Nuisance. If the health officer determines that a nuisance exists, the health department may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation the health officer shall apply the criteria provided in this ordinance. Further, the health officer may consider the professional opinion of the Queen Anne's County Cooperative Extension Service of the University of Maryland, or other qualified expert in the relevant field in determining whether the agricultural operation

being investigated is conducted in accordance with accepted agricultural practices.

(b) Resolution of Disputes Regarding Agricultural Operations.

(1) Should any controversy arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties to that controversy shall submit the controversy to the agricultural reconciliation committee.

(2) Any such controversy may be submitted in writing to the agricultural reconciliation committee within one (1) year of the alleged adverse impacts.

(3) The agricultural reconciliation committee will conduct its proceedings in an informal manner. The committee has the power but is not required hereunder to hold hearings, to compel testimony under oath and to compel the production of documents. In each case, the Agricultural Reconciliation Committee shall issue orders settling or otherwise resolving controversy arising out of agricultural operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land.

(4) 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 thirty days of the date of the committee's judgment, a party appeals such order to the Circuit Court for Queen Anne's County.

INTRODUCED BY: Jorge M O'Donnell

DATE: 6-1-99

PUBLIC HEARING HELD: June 29, 1999 - 9:30 a.m.

VOTE: 3 YEA NAY

DATE: 7-6-99

Effective date - 8-20-99