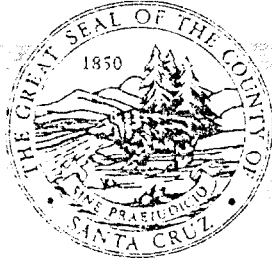


BOARD OF SUPERVISORS



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060-4069
(408) 454-2200 ATSS 564-2200 FAX (408) 454.3282 TDD (408) 454-2123

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SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

RAY BELGARD
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 8/11/98

August 6, 1998

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: RIGHT TO FARM ORDINANCE

Dear Members of the Board:

Over the past six months I have been working closely with the Santa Cruz County Farm Bureau regarding an ordinance to protect farming in Santa Cruz County.

The attached draft model Right to Farm Ordinance (Exhibit 1) builds upon the State of California's Right to Farm Law (Civil Code Section 3482.5, Exhibit 2). Both the State law and the model ordinance seek to provide some shield from nuisance complaints about agricultural operations. Most of the complaints arise due to the fact that the area around the farming operations has changed and the new inhabitants do not want to accept the harsh realities of operating an agricultural business. In addition, the model includes preventive measures such as disclosure requirements and other mechanisms. Although much of what is proposed in the model ordinance is already included throughout various County Codes and laws, there are some distinctions and reasons to have them all in one place. My office has been in contact with County Counsel and we are working with them to assure consistency with the General Plan and to determine all appropriate procedural steps to be followed.

Throughout my almost eight years in office, I have observed that the ability to farm has often been severely impacted by our antiquated regulations that impede the viability of farming. It is also important to plan for the changes that farming will go through in the future. Modern farming produces a highly perishable product and it is necessary to deliver it quickly to market, while protecting the safety of the consumer. For example, specialty products such as organic baby vegetables and designer lettuce need to have ease of transport. With emerging organic farming operations, there will be changes that may not fit our regulations, along with the additional land that will be put into production.

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BOARD OF SUPERVISORS
August 6, 1998
Page 2

Farmers are subject to market forces as well as the forces of nature. They must be able to make quick decisions regarding crop choice, crop rotation, utilization of new technologies that conserve water, control erosion, respond to new research and development in plant management, and for improved pest management as alternatives to conventional agricultural practices. Some of these choices involve greenhouses, hydroponics, sheds, electricity, refrigeration, use of recycled water, packing in the fields, modular offices on site, frost protection and equipment storage, etc.

New expanding markets in Santa Cruz County include, but are not limited to, viticulture, horticulture, livestock and livestock byproducts, apiculture, dairying, and aquaculture.


Farming today is faced with urban conflict. My office receives calls on a regular basis from neighbors who do not want the farmer to plow, spray, prune or harvest his crops. The neighbors really want the 'open space' of farming, not the business of farming.

Beyond the scenic value of agriculture, it represents an expandable, clean industry that offers employment at all levels of the economic strata. Given encouragement, ancillary agricultural industries will prosper, such as research facilities, transport, farm machinery manufacturing, computer-based data management technology, global agricultural information resources, etc.

Santa Cruz County, I believe, must pay more than lip service to the preservation of agriculture. We must support the science of cultivating the ground.

It is therefore recommended that the Board of Supervisors refer the attached draft Right to Farm Ordinance to the Agricultural Policy Advisory Commission to be reviewed and returned with their recommendations.

Sincerely,


RAY BELGARD, Supervisor
Fourth District

RB:ted
Attachment

cc: Santa Cruz County Farm Bureau
Planning Department
Agricultural Policy Advisory Commission
County Counsel

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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 Santa Cruz 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, hortitulturt, 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. Finding and Policy.

Alternative I

- (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 operators 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

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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 Mater 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 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 Santa Cruz 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 Santa Cruz 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, 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 proper and accepted customs and standards and with all chapters of the Santa Cruz County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Santa Cruz County Code, if it was not a nuisance when it began.

Section 4. Disclosure.

(a) The disclosure statement required by this chapter shall be used under the following circumstances and in the following manners:

(1) The county of Santa Cruz shall mail a copy of the disclosure set out at subpart (b) 1 to all owners of real property in Santa Cruz County with the annual tax bill.

(2) Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or residential stock cooperative improved with dwelling units, the transferor shall require that a statement containing the language set forth in subpart (b) shall be signed by the purchaser or lessee and recorded with the County Recorder in conjunction with the deed or lease conveying the interest in real property.

(3) Upon the issuance of a discretionary development permit, including but not limited to subdivision permits and use permits, for use on or adjacent to lands zoned for agricultural operations. The discretionary development permit shall include a condition that the owners of the property shall be required to sign a statement of acknowledgment containing the Disclosure set out in subpart (b) 1, on forms provided by the Planning Department, which form shall then be recorded with the County Recorder.

(b) The disclosure required by Section 4(a) (2) is set forth herein, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE COUNTY CODE AS OF _____, 1990. 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 INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I.

SELLERS 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 deciding whether and on what terms to purchase 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 REPRESENTATION MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF SANTA CRUZ 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.

1. The County of Santa Cruz permits operation of properly conducted agricultural operations within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to 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, 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. If you live near an agricultural area, 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.

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 INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE /INSPECTIONS/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)

State of) _____
County of) _____

On this the _____ day _____ of _____,
55. before me, the undersigned Notary
Public, personally appeared

_____ Personally Known to me. _____
Provided to me on the basis of satisfactory evidence to be the person (s)
whose name (s) _____ subscribed to the within
instrument and acknowledged that _____
executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

Present A. P. No. _____

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

Section 5. Refusal to Sign Disclosure Statement.

If a Buyer refuses to sign the disclosure statement set forth in Section 4
(b) the transferor may comply with the requirements of this chapter by
delivering the statement to the Buyer as provided 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.

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I declare the foregoing to be true.

Date: _____

(Sign) _____

Print Name:

Section 6. Penalty for Violation.

Noncompliance with any provision of this chapter shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this chapter is guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100.00).

Section 7. 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.

Section 6. 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.

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§ 3482.5. Agricultural activity not a nuisance; exceptions; construction with other laws

(a) (1) 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, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

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§ 3482.5

NUISANCE

Div. 4

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

(Added by Stats.1981, c. 545, p. 2192, § 1. Amended by Stats.1991, c. 828 (S.B.1093), § 1; Stats.1992, c. 97 (A.B.1190), § 1.)

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SANTA CRUZ COUNTY
Farm Bureau

July 28, 1998

Santa Cruz County Board of Supervisors
701 Ocean St.
Santa Cruz, CA 95060

Dear Memters of the Board:

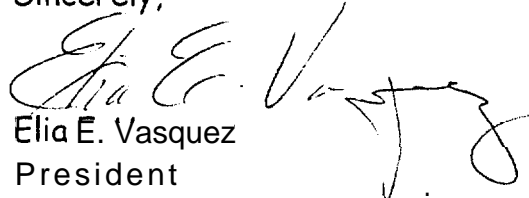
The Santa Cruz County Farm Bureau Board of Directors unanimously supports the Right to Farm Ordinance being submitted to you by Supervisor Ray Belgard. The board of supervisors has always been supportive of agriculture and this ordinance clearly shows that commitment. There are many County ordinances and regulations which govern agriculture but none totally encompassing many of the issues that agriculture has recently faced, especially in urbanized areas close to agriculture.

We encourage you to send this proposed ordinance to the County Agricultural Policy Advisory Commission for its review.

Our attorney, Karen Mills at (916) 561-5655, is available for assistance on this matter. She has expertise on right to farm ordinances that have been adopted throughout California.

Thank you for considering this very important ordinance.

Sincerely,


Elia E. Vasquez
President

EEV/rk

CC: Karen Mills
Dave Moel ler