

Chapter 5.20

RIGHT TO FARM

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5.20.010 Citation. This chapter shall be known and may be cited as the "Tuolumne County Right to Farm Ordinance." (Ord. 2233 § 1, 1998; Ord. 1883 § 1 (part), 1992).

5.20.020 Findings and policy. It is the declared policy of this county to conserve, protect and encourage the development and improvement of its agricultural land and encourage agricultural operations within the county and to specifically protect those lands for exclusive agricultural use or uses which do not interfere with agricultural operations. Where nonagricultural land uses, especially residential development, extend into agricultural areas or exist side by side, agricultural operations have often become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to cease or curtail farm improvements to the detriment of adjacent agricultural uses and economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this chapter to reduce the loss to the county of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance. This chapter 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, or Division 7 of the Water Code relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this code and county regulations.

The further purpose of this code is to promote a good neighbor policy between agriculturalists and residents by advising purchasers and residents of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence, including, but not limited to, the sounds, odors, dust and

chemicals that may accompany agricultural operations so that such purchasers and residents will understand the inconveniences that accompany living side by side to agriculture and be prepared to accept such problems as the natural result of living in or near rural areas. (Ord. 1883 § 1 (part), 1992).

5.20.030 Nuisance. No preexisting or future agricultural operation, including the management and harvesting of timber, or any of its appurtenances conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards on agricultural land, shall become or be a nuisance, private or public, due to any changed condition of adjacent land uses in or about the locality thereof, provided that the provisions of this chapter shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances; or if the agricultural activity of appurtenances obstructs the free passage or use in the customary manner of any navigable lake, river, stream, canal or basin or any public park, square, street or highway. (Ord. 2233 § 2, 1998; Ord. 1883 § 1 (part), 1992).

5.20.040 Notice of this chapter shall be given to purchasers of real property in the county by including the following notice with any grant deed or land sale contract returned to the grantee by the recorder after recording:

Notice to Purchasers of Real Property

Tuolumne County is an agricultural county with many areas zoned for agricultural operations, including the management and harvesting of timber. The presence of farms and ranches yields significant aesthetic and economic benefits to the residents of the County. Thus, the County's agriculture must

be protected, including areas where it is near residential development. Tuolumne County has enacted an ordinance which provides that properly conducted agricultural operations will not be deemed a nuisance.

The ordinance further requires the County to give notice of the ordinance and its provisions to buyers of real property located in Tuolumne County. Accordingly, YOU ARE HEREBY NOTIFIED THAT IF THE PROPERTY YOU ARE PURCHASING IS LOCATED CLOSE TO AGRICULTURAL LANDS OR OPERATIONS INCLUDING THE MANAGEMENT AND HARVESTING OF TIMBER, YOU MAY BE SUBJECT TO INCONVENIENCE OR DISCOMFORT FROM THE FOLLOWING AGRICULTURAL OPERATIONS: cultivation and tillage of the soil; burning of agricultural waste products; lawful and proper use of agricultural chemicals including, but not limited to, the application of pesticides and fertilizers; and production, irrigation, pruning, growing, harvesting and processing of any agricultural commodity, including horticulture, timber, apiculture, the raising of livestock, fish, poultry, and commercial practices performed as incident to, or in conjunction with, such agricultural operation, including truck traffic, preparation for market, delivery to storage or market, or to carriers or transportation to market. These operations may generate dust, smoke, noise and odor.

If you live near an agricultural area, including areas used for timber production, 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 a healthy agricultural sector.

To assist in resolving problems between residential and agricultural land use, an Agricultural Grievance Committee has been created in Tuolumne County to arbitrate and mediate disputes concerning agricultural operations including the management and harvesting of timber.

For information concerning where agricultural operations are located in relation to your property, you may contact the Tuolumne County Community Development Department. For questions concerning the specific kinds of agricultural operations in your area, including their use of fertilizers and pesticides, and information on the Agricultural

Grievance Committee, you should contact the Tuolumne County Agricultural Commissioner.

This notice is given for information purposes only and nothing in the Ordinance, or this Notice, should be deemed to prevent you from complaining to any appropriate agency or taking any other available remedy concerning any unlawful or improper agricultural practice. (Ord. 2314 § 23, 1999; Ord. 2233 §3, 1998; Ord. 1883 § 1 (part), 1992).

5.20.050 Agricultural grievance committee.

There is established the Tuolumne County agricultural grievance committee which shall arbitrate and mediate disputes involving agricultural land and activities and issue opinions on whether agricultural operations, including the management and harvesting of timber, constitute a nuisance. The Board of Supervisors shall appoint seven regular and seven alternate members to the committee by majority vote of the Board. Two regular and two alternate members familiar with agricultural practices shall be appointed from persons recommended by the board of directors of the Tuolumne County farm bureau who shall be persons receiving not less than a majority of their income from farming. Two regular and two alternate members who shall be California Registered Professional Foresters shall be appointed. One regular and one alternate member familiar with rural residential living, and one regular and one alternate member familiar with urban living shall be appointed who shall be County residents. One regular and one alternate public member shall be appointed by the Board of Supervisors to represent the general public. The committee shall consist of five members. When the committee meets, the two members recommended by the Tuolumne County farm bureau shall serve when issues involving farming or ranching are considered. The two members recommended by the Tuolumne County farm bureau shall be replaced by the two members who are California Registered Professional Foresters when issues involving timber management are considered. Four members shall constitute a quorum. Alternates shall replace only their associate regular member when absent. The members shall draw lots to determine the expiration date of the term of each member so that four terms of regular and associate

alternate members, including one member recommended by the Tuolumne County farm bureau, one member who is a California Registered Professional Forester, the member familiar with rural residential living and the member familiar with urban residential living, expire on December 31, 1999, and three terms of regular and associate alternate members, including one member recommended by the Tuolumne County farm bureau, one member who is a California Registered Professional Forester and the member representing the general public, shall expire on December 31, 2000. The committee shall select a chairman who shall preside over meetings. The agricultural commissioner shall be the secretary who shall call meetings when the need arises, or as determined by the chairman, and shall maintain minutes of each meeting. A farm advisor from the University of California Cooperative Extension Service, Tuolumne County, may serve as technical advisor to the committee. Any interested party may apply to the committee for mediation and arbitration involving disputes over agricultural operations, including the management and harvesting of timber, or for an opinion whether agricultural operations constitute a nuisance, by contacting the agricultural commissioner. (Ord. 2233 § 4, 1998; Ord. 1883 § 1 (part), 1992).