

ORDINANCE NO. 4151

**AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS TO PROTECT COMMERCIAL AGRICULTURE FROM NUISANCE CLAIMS, TO REQUIRE NOTIFICATION OF SUCH PROTECTION, AND TO PROVIDE FOR MEDIATION OF DISPUTES**

The Board of Supervisors of the County of Ventura ordains as follows:

1. The following findings and policy statements are hereby adopted:
  - (a) It is the 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 persons' and entities' rights 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 Ordinance to reduce the loss to the County of its agricultural

resources by clarifying the circumstances in which agricultural operations may be considered a nuisance.

- (c) This ordinance shall not be construed as in any way modifying or abridging state law as set forth in the California Civil Code, Health and Safety Code, Fish & Game Code, Food and Agricultural Code, Water Code (Division 7) or any other applicable provision of state law relative to nuisances, other than those portions of Civil Code sections 3482.5 and 3482.6 that address the length of time a properly conducted commercial agricultural operation must have been in existence to be protected from a nuisance claim, and the definition of “agricultural activity, operation, or facility.”
- (d) 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.

2. Section 8114-2.1.1 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8114-2.1.1 - Exception - Agricultural Operations Protection - No agricultural activity, operation, or facility that is consistent with this Chapter and the General Plan, and is conducted or maintained for commercial purposes 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 one year if it was not a nuisance at the time it began.

- a. Exception - This section shall not apply if the agricultural activity, operation, or facility, obstructs 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.
- b. Definition - For purposes of this section, the term “agricultural activity, operation, or facility” shall include, but not be limited to, the cultivation and tillage of the soils, dairying, the production, irrigation, frost protection, cultivation, growing, pest and disease management, harvesting and field processing of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or market, or delivery to carriers for transportation to market.

3. Section 8183-4.1 of the Ventura County Ordinance Code is hereby amended to read as follows:

**Sec. 8183-4.1 - Exception - Agricultural Operations Protection -**

No agricultural activity, operation, or facility that is consistent with this Chapter and the General Plan, and is conducted or maintained for commercial purposes 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 one year if it was not a nuisance at the time it began.

- a. This exception shall not apply if the agricultural activity, operation, or facility, obstructs 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.
- b. For the purposes of Section 8183-4.1, the term "agricultural activity, operation, or facility" shall include, but not be limited to, the cultivation and tillage of the soils, dairying, the production, irrigation, frost protection, cultivation, growing, pest and disease management, harvesting and field processing of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or market, or delivery to carriers for transportation to market.

4. Section 9112 of the Ventura County Ordinance Code is hereby amended to read as follows:

**Sec. 9112 - FEE SCHEDULE -** The Commissioner may, upon making such inspections or issuing such certificates and permits or providing such services as are authorized or permitted by the California Food and Agricultural Code or this Chapter, charge a fee therefor in accordance with fee schedules which may from time to time be adopted by resolution of the Board of Supervisors and made available for public inspection during regular working hours on scheduled working days in the office of the Commissioner.

5. A new Article 2 is hereby added to Chapter 1 of Division 9 of the Ventura County Ordinance Code to read as follows:

ARTICLE 2 - RIGHT-TO-FARM

Sec. 9121 - AGRICULTURAL OPERATIONS PROTECTED -

Sections 8114-2.1.1 and 8183-4.1 of this Code, and section 3482.5 of the Civil Code, protect certain agricultural operations against claims that they constitute a nuisance.

Sec. 9122 - REAL ESTATE TRANSFER DISCLOSURE STATEMENT -

In addition to those disclosures required by section 1102.6 of the Civil Code, a disclosure on the form set forth below is required in connection with all transactions that are subject to the disclosure requirements of section 1102.6 of the Civil Code and that pertain to real property located in the unincorporated portion of Ventura County.

//

//

//

//

//

//

//

//

//

//

//

//

//

LOCAL OPTION  
REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRIBED AS \_\_\_\_\_ THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 9122 OF THE VENTURA COUNTY ORDINANCE CODE AS OF \_\_\_\_\_, 19\_\_\_. 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

SELLER'S 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 REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF VENTURA 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.

Section 3482.5 of the Civil Code, and sections 8114-2.1.1 and 8183-4.1 of the Ventura County Ordinance Code protect properly conducted commercial agricultural operations against claims that they constitute a nuisance. If the property you are purchasing is located near or adjacent to agricultural lands or agricultural operations, or is included within areas used for agricultural purposes, you may be subject to inconveniences or discomfort arising from agricultural operations. Such discomfort or inconven-

iences may include, but are not limited to: frost protection measures, noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft), at any hour of the day or night, storage of equipment and materials necessary for normal agricultural practices, slow moving farm implements, and the application by spraying or otherwise of chemical fertilizers, soil amendments (such as manures, compost materials and mulches), and pesticides (such as herbicides, insecticides and fumigants). 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. Ventura County Ordinance Code sections 9131 through 9137 provide a procedure for mediating disputes concerning agricultural operations.

Substantial pesticide drift is illegal under section 12972 of the Food and Agricultural Code. Any concerns regarding substantial pesticide drift should be referred to the office of the Agricultural Commissioner.

Seller certifies that the information herein is true and correct to the best of the 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)

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

6. A new Article 3 is hereby added to Chapter 1 of Division 9 of the Ventura

County Ordinance Code to read as follows:

### ARTICLE 3 - MEDIATION SERVICES

Sec. 9131 - PURPOSE - The purpose of this Article is to provide for mediation by the office of the Commissioner of disputes, between persons conducting agricultural operations in the unincorporated territory of the County and persons owning or occupying property affected by such operations, respecting any and all of the issues listed in Section 9132.

Sec. 9132 - ISSUES - The following issues are subject to mediation under this Article:

- a. Whether the operation that is the subject of the dispute --
  - (1) is an "agricultural activity, operation, or facility";
  - (2) is "conducted or maintained for commercial purposes";  
or
  - (3) is conducted or maintained "in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality" --

within the meaning of section 3482.5 of the Civil Code and Sections 8114-2.1.1 and 8183-4.1 of this Code.

- b. Such other and related issues as may be within the special expertise of the office of the Commissioner.

Sec. 9133 - APPLICATION - Any two or more parties to a dispute respecting one or more issues listed in Section 9132 may apply to the Commissioner for mediation of the dispute between and amongst the applicants. The application shall be made on such form as the Commis-



sioner may prescribe; provided, however, that the application shall include a partial waiver of confidentiality, signed by all the applicants, in the form specified in Section 9134. The Commissioner shall grant an application only if, in his or her judgment, the dispute appears to include one or more of the issues listed in Section 9132 and the office of the Commissioner has adequate resources to provide the requested mediation services.

**Sec. 9134 - PARTIAL WAIVER OF CONFIDENTIALITY -**

The application form shall be signed by all the applicants and shall contain the following statement:

“The applicants understand that the Agricultural Commissioner has responsibility for the enforcement of various laws, regulations and ordinances pertaining to agricultural operations and that such responsibility may be inconsistent with the maintenance of full confidentiality with respect to matters disclosed in mediation. Accordingly, the applicants agree that the Agricultural Commissioner and any other employee of the office of the Agricultural Commissioner may, notwithstanding the provisions of sections 703.5, 1152.5 and 1152.6 of the Evidence Code, testify in any subsequent civil proceeding about, and otherwise disclose to any person, any communication or document obtained in the course of the mediation to the extent such testimony or other disclosure is reasonably necessary for the proper performance of the Agricultural Commissioner’s duties.”

**Sec. 9135 - MEDIATOR -** The mediator shall be the Commissioner or an employee of the office of the Commissioner who is acceptable to the applicants and, in the opinion of the Commissioner, available and competent to provide the requested mediation services.

**Sec. 9136 - MEDIATION PROCESS -** Mediation is a process in which a neutral mediator facilitates communication between disputants to assist them in reaching a mutually acceptable resolution of the dispute. The mediation shall be conducted in such manner as the mediator deems efficacious. The applicants are expected to cooperate in the exchange and presentation of pertinent information. If jointly requested by all the applicants, the mediator shall, within 15 calendar days of the joint request, render a written opinion as to how the issues in dispute should be resolved. Any written opinion rendered by the mediator shall be nonbinding upon any applicant

who does not consent to be bound by it. The applicants may mutually agree to enter into a written settlement agreement respecting the dispute. If a written settlement agreement so provides, it shall be binding on the parties and be enforceable in a court of law.

Sec. 9137 - FEES - For services rendered by the office of the Commissioner pursuant to this Article, the Commissioner shall charge the applicable fee, if any, adopted by the Board of Supervisors pursuant to Section 9112.

7. Section 3 of this Ordinance shall become operative 30 days after certification by the California Coastal Commission pursuant to section 30514 of the Public Resources Code. All other sections of this Ordinance shall become operative 30 days after adoption by the Board of Supervisors.

PASSED AND ADOPTED this 7<sup>th</sup> day of October, 1997, by the following

vote:

AYES: Supervisors Schillo, Long, Mikels  
and Flynn

NOES: None

ABSENT: Supervisor Lacey

John K. Flynn  
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk  
County of Ventura, State of California,  
and ex officio Clerk of the Board of  
Supervisors thereof.

By Lucy Hillard  
Deputy Clerk

