

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Commissioners of St. Mary's County will hold a public hearing on May 2 at 10:00 a.m. in the Chesapeake Building located at 41770 Baldrige Street in Leonardtown, Maryland to consider amendments to Chapter 254 of the Code of St. Mary's County, Maryland to amend Section 254-2. Definitions for agriculture operation and forestry; Section 254-4. RESOLUTIONS OF DISPUTES AND PROCEDURE FOR COMPLAINTS; INVESTIGATIONS AND DECISION, AND TO SECTION 254-6. Effect of other laws.

Citizens are encouraged to attend and participate in the public hearing. Note that as a result of the evidence and comments made at the public hearing, amendments may be made to the proposed amendment to Chapter 254 of the Code of St. Mary's County, Maryland. Written comments, questions and suggestions may be submitted on or before May 11 to: Commissioners of St. Mary's County, P. O. Box 653, Leonardtown, MD 20650.

Copies of the proposed amendment to Chapter 254 of the Code of St. Mary's County, Maryland are available at the St. Mary's County Department of Economic Development, Agriculture and Seafood Division's office located in the Agriculture Service Center, 26737 Radio Station Way, Suite E-1, Leonardtown, MD or at <http://www.stmarysmd.com/publichearings.asp>. Any reasonable accommodation for persons with disabilities should be requested by contacting the St. Mary's County Public Information Officer at 301-475-4200, ext. *1342.

By: Chris Kaselemis, Director, St. Mary's County Department of Economic Development

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ORDINANCE

TO AMEND CHAPTER 254 OF THE *CODE OF ST. MARY'S COUNTY, MARYLAND (RIGHT TO FARM ORDINANCE)*

RECITALS

WHEREAS, pursuant to Chapter 108 of the *Code of St. Mary's County, Maryland*, the Commissioners of St. Mary's County are authorized to adopt an ordinance or regulation and take any other action that the Commissioners consider necessary to protect a person's right to farm or engage in agricultural or forestry operations; and

WHEREAS, a notice of a public hearing was advertised on _____, and _____, in *The Enterprise*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on _____, to receive public comment and consider the amendment of Chapter 254 of the *Code of St. Mary's County, Maryland (Right to Farm Ordinance)*; and

WHEREAS, the Commissioners of St. Mary's County find that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to amend Chapter 254 of the *Code of St. Mary's County, Maryland (Right to Farm Ordinance)*,

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of St. Mary's County, pursuant to Chapter 108 of the *Code of St. Mary's County, Maryland*, that:

SECTION I. Chapter 254 of the *Code of St. Mary's County, Maryland*, is amended to read as follows:

Sec. 254-1. - Findings and policy.

- A. It is the declared policy of St. Mary's County to preserve, protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural or forestry products. It is the purpose of this chapter to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operation, or forestry operation 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, dust, noise, chemicals or vibration, provided that nothing, in this chapter shall in any way restrict or impede the authority of the State and of the County to protect the public health, safety and welfare of the citizens of St. Mary's County.

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- B. It is in the public interest to promote a clearer understanding between agricultural and forestry operations and residential neighbors concerning the normal inconveniences of agricultural operations or forestry operations which follow generally accepted agricultural or forestry practices and which do not endanger public health or safety.
- C. An additional purpose of this Ordinance is the promotion of a good-neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations or forestry operations of the inherent potential problems associated with such purchase or use.

Sec. 254-2. - Definitions.

Except as otherwise provided herein, as used in this Ordinance, the following terms shall have the meanings indicated:

- A. **Agricultural Land** means all real property within the boundaries of St. Mary's County that is assessed by the Maryland State Department of Assessments and Taxation as agricultural; and all other land that is currently used for agricultural operations and has been used, or is under preparation for use as an agricultural operation continuously for at least one (1) year.
- B. **Agriculture** means the use of land for the production and initial processing of food and fibers for sale, including cultivating, dairying, horticulture, pasturing, floriculture, silviculture, viticulture, aquaculture, animal and poultry husbandry, and for such incidental accessory facilities as greenhouses and nurseries, provided that the operation of such accessory facilities shall be clearly secondary to agricultural activities. Agriculture includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.
- C. **Agricultural Activity** means farming activities, including but not limited to plowing, tillage, cropping, installation of best management practices, seeding, cultivating and harvesting for production of food and fiber products, grazing and raising of livestock, manure storage, composting of natural organic material, aquaculture, sod production, orchards, nursery, and cultivation of products as part of a recognized commercial enterprise. The application of odor producing fertilizers must be in compliance with applicable state and county regulations.

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- D. **Agricultural Operation** means and includes, but is not limited to:
1. all matters set forth in the definition of "agricultural operation" in the §5-403(a) of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, as may be amended from time to time;
 2. the production of all matters encompassed within the definition of "farm product" in §10-601(c) of the *Agriculture Article* of the *Annotated Code of Maryland*, as may be amended from time to time; and
 3. cultivation and tillage of the soil, dairying, spreading of manure, lime, fertilizer, composting, spraying, producing, irrigating, protecting from frost, cultivating, rowing, harvesting and processing of any agricultural crops or commodities, including viticulture, horticulture, timber or apiculture, raising fish or poultry and other fowl, production of eggs, production of milk and dairy products, equine activities, production of livestock, pasturage, fur bearing animals, production of bees and their products, production of fruit, vegetables and other horticultural crops, production of wine, production of spirits, production of beer, production of aquatic plants, aquaculture, production of timber, production of wool and fleece, and any commercial agricultural practices or procedure performed as incident to or in conjunction with such operations, including on farm processing and preparation for market, delivery to storage or to market or to carriers for transportation to market, equine activities, usage of land in furtherance of educational and social goals, including but not limited to 4-H clubs and Future Farmers of America, agro-tourism, and alternative agricultural enterprises, occurring at any time.
- E. **Forestry Operation** is any activity included within the definition of "silvicultural operation" in §5-403(a) of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, as amended from time to time.
- F. **Generally Accepted Agricultural Land Management Practices** shall mean those methods used in connection with agricultural operations, which do not violate applicable federal, State or local laws or public health, safety and welfare and which are generally accepted practices in the agricultural industry. Generally accepted agricultural management practices include practices that are recognized as generally accepted management practices and those methods that are authorized by various governmental agencies, bureaus, and departments, including but not limited to the University of Maryland Extension St. Mary's County, and the St. Mary's County Soil Conservation District. If no generally accepted agricultural management practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the

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practice is presumed to not be a generally accepted agricultural management practice.

Sec. 254-3. - Establishment of Agricultural Reconciliation Committee; membership.

- A. There is hereby established the St. Mary's County Agricultural Reconciliation Committee.
- B. Composition.
 - (1) The Agricultural Reconciliation Committee shall be composed of five (5) persons appointed by the Commissioners of St. Mary's County and shall include:
 - a) Two (2) members from the agricultural community;
 - b) One (1) member from the forestry community;
 - c) One (1) member from the real estate community; and
 - d) One (1) other member from the community not actively engaged in agriculture.
 - (2) A representative of the University of Maryland Extension and a member of the St. Mary's County Soil Conservation District may be appointed by the Commissioners of St. Mary's County to serve as ex officio, nonvoting members of the Committee. They may present facts and educational information to the Committee and make recommendations. Their recommendations shall be considered by the Committee.

Sec. 254-4. - Resolution of disputes and procedure for complaints; investigation and decision.

- A. The St. Mary's County Agricultural Reconciliation Committee is a "local agency authorized to hear a nuisance complaint" within the provisions of §5-403(e) of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, as amended from time to time.
- B. Any person alleging that an agricultural or forestry operation conducted in St. Mary's County constitutes a nuisance shall file a complaint with the Agricultural Reconciliation Committee. This provision shall not apply to a government agency.
- C. Should any controversy arise regarding an interference with the use or enjoyment of property by an agricultural or forestry operations conducted in St. Mary's County, the parties to that controversy may submit the controversy to the Agricultural Reconciliation Committee.

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- D. The Agricultural Reconciliation Committee may conduct such an investigation as the complaint or controversy may require.
- E. The Agricultural Reconciliation Committee may recommend agricultural mediation by a mediator as defined in § 1-1A-01 of the *Agriculture Article* of the *Annotated Code of Maryland*, as amended from time to time, or refer a complaint or controversy to the agricultural mediation program of the Maryland Department of Agriculture as established by § 1-1A-02 of the *Agriculture Article* of the *Annotated Code of Maryland*, as amended from time to time.
- F. If a complaint or controversy has not been resolved by mediation, the Agricultural Reconciliation Committee shall conduct such proceedings as the complaint or controversy may require in an informal manner, providing all parties an opportunity to be heard. The rules of evidence shall not apply. The committee shall render a recommendation or decision within a reasonable time.

Sec. 254-5. – Right to Farm notice and real estate transfer disclosure.

- A. The Commissioners of St. Mary's County recommend that all persons and real estate professionals append the Real Estate Transfer Disclosure Statement (Appendix A) to any proposed contract for the purchase and sale of residential real estate located in proximity to an agricultural or forestry operation.
- B. The Commissioners of St. Mary's County adopt the Right to Farm Notice (Appendix B) as a statement of public policy to be distributed by public agencies to owners and users of residential real estate located in proximity to an agricultural or forestry operation.

Sec. 254-6. - Effect of other laws.

- A. The provisions of §5-403(b) through §5-403(c) of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*, as amended from time to time, are incorporated herein. This section shall be construed and applied in consonance with § 5-403 of the *Courts and Judicial Proceedings Article* of the *Annotated Code of Maryland*.
- B. This chapter is not intended to, and shall not be construed in any way so as to, modify or abridge local, state or federal laws relating to health, safety, zoning, required licensing, or environmental standards (including those standards which relate to air and water quality).

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Sec. 254-7. - Existing liabilities.

Except to the extent specifically provided herein, this chapter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing on the date of its enactment.

Sec. 254-8. - Section headings and titles.

Section headings, chapter headings and titles are for the purpose of description or ease of use and do not form a part of the text of this chapter or any code or text adopted.

APPENDIX A

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY LOCATED IN ST. MARY'S COUNTY, MARYLAND, DESCRIBED AS:

This statement is a disclosure of the existence of the St. Mary's County Agricultural Reconciliation Committee and Chapter 254 of the Code of St. Mary's County, Maryland (St. Mary's County Right to Farm Ordinance).

ST. MARY'S COUNTY ALLOWS AGRICULTURAL OR FORESTRY OPERATIONS, as defined in the St. Mary's County Right to Farm Ordinance. You may be subject to inconveniences or discomforts arising from such operations, including, but not limited to, noise, odors, fumes, dust, flies, the operation of machinery of any kind (including aircraft) during any twenty-four-hour period, vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. St. Mary's County has determined that inconveniences or discomforts associated with such agricultural or forestry operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural or forestry management practices. St. Mary's County has established an Agricultural Reconciliation Committee to assist in the resolution of disputes or controversies which might arise between persons in this county regarding whether the conduct of agricultural or forestry operations are causing an interference with the reasonable use and enjoyment of land or personal well-being and whether those operations are being conducted in accordance with generally accepted agricultural or forestry practices. If you have any questions concerning this policy or the Agricultural Reconciliation Committee, please contact the St. Mary's County Department of Land Use and Growth Management for additional information.

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APPENDIX B

RIGHT TO FARM NOTICE

St. Mary's County recognizes and supports the right to farm or practice forestry in a manner consistent with generally accepted agricultural or forestry operations management practices. Residents of property on or near an agricultural or forestry operations should be prepared to accept the inconveniences or discomforts associated with agricultural or forestry operations, including, but not limited to, noise, odors, flies, fumes, dust, the operation of machinery of any kind (including aircraft) during any twenty-four-hour period, vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. St. Mary's County has determined that inconveniences or discomforts associated with such agricultural or forestry operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural or forestry practices. St. Mary's County has established an Agricultural Reconciliation Committee to assist in the resolution of disputes or controversies which might arise between persons in this county regarding whether the conduct of agricultural or forestry operations are causing an interference with the reasonable use and enjoyment of land or personal well-being and whether those operations are being conducted in accordance with generally accepted agricultural or forestry practices. If you have any questions concerning this policy or the Reconciliation Committee, please contact the St. Mary's County Department of Land Use and Growth Management.

SECTION II. This Ordinance shall be effective upon the date written below.

Those voting Aye: _____

Those voting Nay: _____

Those Abstaining: _____

Date of Adoption: _____

Effective Date: _____

ATTEST:

COMMISSIONERS OF ST. MARY'S COUNTY

Rebecca B. Bridgett

James R. Guy, Commissioner President

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County Administrator

Michael L. Hewitt, Commissioner

Approved as to form and legal
sufficiency:

Tom Jarboe, Commissioner

George R Sparling

George R. Sparling
County Attorney

Todd B. Morgan, Commissioner

John E. O'Connor, Commissioner