

CHAPTER 160: RIGHT TO FARM

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§ 160.01 FINDINGS AND POLICY.

It is the declared policy of the county to preserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural 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 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 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.

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

This chapter is not intended to and shall not be construed as in any way modifying or abridging local, state, or federal laws relating to health, safety, zoning, licensing requirements, environmental standards (including those standards which relate to air and water quality), etc.

An additional purpose of this chapter 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 use. These potential problems include but are not limited to noises, odors, dust, flies, chemicals, smoke, vibration, 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. However, this chapter shall be effective regardless of whether disclosure was made in accordance with §160.05.

§ 160.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL LAND. All real property within the boundaries of the county that is lying in the “A” and “C” Districts, or that is lying in other zoning districts if carried on the tax rolls of the State Department of Assessments and Taxation (SDAT) as agricultural or that is lying in other zoning districts if it has been used as an agricultural operation continuously for one year.

AGRICULTURAL OPERATION. Includes but is not limited to all matters set forth in the definition of “operation” in Md. Code, Courts and Judicial Proceedings Article, § 5-308(a), as amended from time to time; the production of all matters encompassed within the definition of “farm product” in the Md. Code, Agriculture Article, § 10-601(c), as amended from time to time; the cultivation and tillage of the soil; composting; production, harvesting, and processing of agricultural crops; raising poultry; production of eggs; production of milk and dairy products; production of livestock, including pasturage; production of bees and their products; production of fish; production of fruit, vegetables, and other horticultural crops; production of aquatic plants; aquaculture; production of timber, and any commercial agricultural procedure 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; and usage of land in furtherance of educational and social goals, such as 4-H, Future Farmers of America, etc.

COMMITTEE. Carroll County Agricultural Reconciliation Committee appointed by the Carroll County Board of Commissioners to fulfill the purpose described in §160.04 (B) of this chapter.

GENERALLY ACCEPTED AGRICULTURAL PRACTICES. 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 agricultural practices in the agriculture industry. **GENERALLY ACCEPTED AGRICULTURAL PRACTICES** includes practices which are recognized as best management practices and those methods which are authorized by various governmental agencies, bureaus, and departments, such as the Carroll County Cooperative Extension Service of the University of Maryland, the Carroll County Natural Resource Conservation Service, etc. If no generally accepted agricultural practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a **GENERALLY ACCEPTED AGRICULTURAL PRACTICE**.

§ 160.03 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 practices.

(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 Carroll County Agricultural Reconciliation Committee (Committee), as defined in § 160.04.

§ 160.04 RESOLUTION OF DISPUTES AND PROCEDURE FOR COMPLAINTS; INVESTIGATION AND DECLARATION.

(A) **Nuisances which affect public health.**

(1) **Complaints.** A person may complain to the Carroll County Health Department to declare that a nuisance which affects public health exists.

(2) **Investigations.** The Health Officer may investigate all complaints 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 Carroll County Health Department may initiate any investigation without 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 chapter. Further, the Health Officer may consider the professional opinion of the Carroll County Cooperative Extension Service of the University of Maryland, or other qualified experts in the relevant field, in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.

(B) Resolution of disputes regarding agricultural operations; Agricultural Reconciliation Committee.

(1) Should any matter arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties to that matter shall submit the matter to the Committee by first contacting the Agricultural Land Preservation Program Manager, Carroll County Department of Land and Resource Management, or its successor agency.

(2) There is hereby established the Committee, which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands and issue opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices.

(3) The Committee shall be composed of seven persons appointed by the County Commissioners. The Committee members shall be composed of representatives from each of the following:

- (a) One member the Carroll County Chapter of the Maryland Municipal League,
- (b) One member shall be a member of the Carroll County Association of Realtors,
- (c) One member who is a resident of the county and who is not engaged or otherwise has a pecuniary interest in the commercial practice of agriculture,
- (d) One member of the Carroll County Farm Bureau,
- (e) One member of the Carroll County Soil Conservation District,
- (f) Two members of the Carroll County Agricultural Commission. The Agricultural Commission shall select from among its members, on a case-by-case basis, two people with competence in the subject matter of the dispute at issue, whose names shall be submitted to the County Commissioners and upon the County Commissioners' approval shall serve as members of the Committee.
- (g) One member of the Carroll County Agricultural Land Preservation Advisory Board to serve as an alternate.

(4) The Committee will conduct its proceedings in an informal manner, and the rules of evidence shall not apply. The Committee has the power but is not required hereunder to hold hearings, to compel testimony under oath and the production of documents. In each case before it the Committee shall issue orders settling or otherwise resolving controversies arising out of agricultural operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land. Proceedings shall be conducted in accordance with the duly adopted Rules of Procedure for the Committee which may be amended from time to time. The Committee will render a written decision within 30 days of the final proceedings and may extend the decision deadline for one additional 30-day period.

(5) Orders of the Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Carroll County. Appeal from orders of the Committee shall be by a *de novo* hearing.

(6) If the Committee or a Court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land was in bad faith or without substantial justification, the Committee or Court may require that party to pay to the owner of the agricultural operation (or any other party opponent) the costs of the proceeding and the reasonable expenses, including reasonable attorneys' fees, incurred by that party in defending against the action.

§ 160.05 RIGHT TO FARM NOTICE AND REAL ESTATE TRANSFER DISCLOSURE.

Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this chapter which shall be in substantially the form set forth in the "Real Estate Transfer Disclosure Statement."

§ 160.99 PENALTY.

Any person who violates any provision of § 160.05 is guilty of an infraction punishable by a civil penalty not exceeding \$100. Failure to comply with any provision of this right to farm notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this chapter.