

APPENDIX B

RIGHT TO FARM ORDINANCE NO. 1031

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(From Division 2, Title 6 of the Codified Ordinances of the County of Imperial)

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§62950. Findings and Policy.

(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 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 ordinance to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a 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 Water 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 ordinance 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 agricultural operations. Such concerns may include, but are not limited to, noises, odors, light, fumes, insects, dust, chemicals, smoke, the operation of machinery of any kind during any 24 hour period (including aircraft), the storage and disposal of manure, and the application of chemical fertilizers, soil amendments, and pesticides. 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.

§ 62951. Definitions.

As used in this Chapter No. 1.

(a) "Agricultural Land" shall mean all that real property within the boundaries of Imperial 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, application of agricultural chemicals, frost protection, cultivation, growing, harvesting, packing and processing of any agricultural commodity, including production of vegetables, fruits, forage, grain seeds, fiber and all other plants; viticulture, horticulture, apiculture, aquaculture; the raising of livestock, fur bearing animals, game birds and all other kinds of animal husbandry; the culture or breeding of livestock, poultry, fish, marine life, and all other types of animal or plant life; and commercial practices performed as incident to or in conjunction with such agricultural operations, inclusive of the operation of equipment (including agricultural aircraft, and machinery); selling, processing, packing, preparation for market, delivery to storage or market or to carriers for transportation to market. Agricultural operations shall also include innovative and experimental methods of accomplishing agricultural operations when such methods are found and determined to be a reasonable alternative, or improvement, to currently accepted methods of operation.

§ 62952. Nuisance.

No present or future lawful 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 Imperial County, shall be or become a nuisance, public or private, if it was not a nuisance when it began. Provisions of this ordinance shall not apply whenever a nuisance results from the negligent, unlawful or improper operation of any such agricultural operation or if the agricultural operation obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal, basin; any public park, square street or highway.

§ 62953. Disclosure.

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

(1) The County of Imperial Tax Collector shall mail a copy of the disclosure set forth in subpart (b) to all owners of real property in Imperial County with the annual 1990-1991 tax bill.

(2) The County of Imperial Recorder shall mail a copy of the disclosure set forth in subpart (b) with all real property conveyances returned by mail.

(3) The Planning Director/Building Official shall cause the notice described in subsection (b) to be included and/or attached to all building permits issued in Imperial County for projects on land that lies partly or wholly within, or within 1/4 of a mile of agricultural land.

(b) The disclosure required by subsection (a) shall be the following:

"The County of Imperial permits operation of properly conducted agricultural operations within the County. If the property you are purchasing or own 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: noises, odors, light, fumes, dust, smoke, insects, chemicals, 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, herbicides 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. Imperial County has established a grievance committee to assist in the resolution of any disputes which might arise between residents of this County regarding agricultural operations. If you have any questions concerning this policy or the grievance committee, please contact the Agricultural Commissioner's Office at 339-4314."

§ 62954. Resolution of Disputes.

(a) Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations, including, but not limited to, noises, odors, fumes, light, dust, the operation of machinery of any kind during any 24 hour period (including aircraft), the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, the parties may submit the controversy to a grievance committee ("County Agricultural Grievance Committee") as set forth below in an attempt to resolve the matter prior to the filing of any court action.

(b) Any controversy between the parties may be submitted in writing to the Imperial County Agricultural Commissioner within 15 calendar days of the occurrence of the particular activity giving rise to the dispute. The Agricultural Commissioner, within 15 calendar days, will review the written complaint and attempt to mediate the dispute. If mediation is not achieved, the Agricultural Commissioner shall notify the County Agricultural Grievance Committee within 15 days, of his determination. The County Agricultural Grievance Committee, whose decision

shall be advisory only, shall meet within thirty (30) days of the date the Committee receives the notice of determination by the Agricultural Commissioner.

(c) The County Agricultural Grievance Committee shall be composed of three (3) members selected from the community by the Imperial County Board of Supervisors, and may include representatives from the County Agricultural Commissioner's Office, a local real estate association, local pest control operators association and/or representatives of other county offices.

(d) The effectiveness of the County Agricultural Grievance Committee as a forum for resolution of disputes is dependent upon a full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

(e) The controversy shall be presented to the Committee by written requests of one of the parties or the County Agricultural Commissioner within the time limits specified. Thereafter the Committee may investigate the facts of the controversy, but must, within thirty (30) days, from receipt of the request, hold a meeting to consider the merits of the matter. At the time of the meeting both parties shall have an opportunity to present what each considers to be pertinent facts. Within twenty (20) days of the meeting, the Committee shall render a written decision to the parties.

(f) Any costs of the grievance, including the investigative costs, shall be borne by the losing party or in such proportion as the County Agricultural Grievance Committee shall decide.

§ 62955. Severability.

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.

Adopted by the County Board of Supervisors on August 7, 1990, as Ordinance 1031.