



Maryland's Right to Farm

Statute and County Ordinances



Right-to-Farm

Right-to-Farm statutes gained popularity across the country in the 1970s, as state lawmakers became more aware of and concerned about the loss of agricultural land. The intent of right-to-farm laws are to discourage neighbors from pursuing nuisance lawsuits against farmers because of odor, dust, noise from field work, spraying of farm chemicals, slow moving farm equipment or other occasional effects of agricultural production.

Right-to-farm laws provide a measure of security for the established farmer who practices sound best management principles in the day-to-day operation of his/her farm. The laws also put non-farming communities on notice that agriculture is a vital component of the region's economy, character and culture. In this way, right-to-farm laws serve as an educational tool for rural residents who might be new to the area and unaccustomed to living near production agriculture. The laws establish methods by which new residents are notified that their home in the country is in close proximity to a living, working and sometimes fragrant farm.

Right-to-Farm in Maryland

Maryland laws related to nuisance suits against agricultural operations are found in the Maryland Annotated Code, Courts and Judicial Proceedings Article, Section 5-403. The law applies to "agricultural operation" which is defined as "an operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised or cultivated by the farmer."

The law states that if an agricultural operation has been

- ✓ Underway for a period of one year or more;
- ✓ Is in compliance with applicable federal, state, and local health, environmental, zoning and permit requirements related to any nuisance claim; and,
- ✓ Is not conducted in a negligent manner;

Then:

- ✓ The operation, including any noise, dust, or insects from the operation, may not be deemed to be a private or public nuisance; and,
- ✓ A private action may not be sustained on the grounds that the operation interferes with the use or enjoyment of other property, whether public or private.

State law does not:

- ✓ Prohibit a federal, state, or local government from enforcing health, environmental, zoning or any other applicable law;
- ✓ Relieve any agricultural operation from the responsibility of complying with the terms of any applicable federal, state, and local permit required for the operation;
- ✓ Relieve any agricultural operator from the responsibility to comply with any federal, state, or local health, environmental and zoning requirement;

- ✓ Relieve any agricultural operation from liability for conducting an agricultural operation in a negligent manner or
- ✓ Apply to any agricultural operation that is operating without a fully and demonstrably implemented nutrient management plan for nitrogen and phosphorus if otherwise required by law.

Effective October 1, 2006 the state law related to nuisance suits against agricultural operations was amended. The amendment added subsection "e" which states:

- ✓ This subsection does not apply to an action brought by a government agency.
- ✓ If a local agency is authorized to hear a nuisance complaint against an agricultural operation, a person may not bring a nuisance action against an agricultural operation in any court until:
 - The person has filed a complaint with the local agency; and
 - The local agency has made a decision or recommendation on the complaint.
- ✓ If there is no local agency authorized to hear a nuisance complaint against an agricultural operation, a person may not bring a nuisance action against an agricultural operation in any court until:
 - The person had referred a complaint to the state agricultural mediation program in the Department of Agriculture under Title 1, subtitle 1A of the agricultural article; and
 - The department certifies that mediation has concluded.



The following chart provides a general overview of the key elements found in the various county 'right-to-farm' ordinances, and highlights some of their similarities and differences.

	Good Neighbor Policy	Standard "4" Definitions	Additional Definitions	Limitations of Actions	Resolution of Disputes Process and Procedures	Agriculture Reconciliation Board/ Local Agency	No Standing Clause	Bad Faith Clause	Transfer Disclosure Statement	Right-to-Farm Notice	Transfer Disclosure Statement-Text Inc.	Right-to-Farm Notice-Text Inc	Local Ordinances Available Online
Allegany		•											•
Anne Arundel			•	•									•
Baltimore	•			•	•	•			•				•
Calvert	•	•		•	•	•	•	•			•	•	•
Caroline	•		•	•	•	•		•		•	•	•	•
Carroll	•	•		•	•	•	•	•	•	•	•	•	•
Cecil					•	•	•			•	•		•
Charles	•	•	•	•	•	•	•	•			•	•	•
Dorchester	•	•		•	•	•	•	•	•	•			•
Frederick	•	•		•	•	•	•	•			•	•	
Garrett		•	•										
Harford			•							•		•	•
Howard			•	•				•					•
Kent	•	•	•	•	•	•	•	•	•	•			
Montgomery													•
Prince George's			•	•	•	•	•	•	•		•		•
Queen Anne's				•	•	•	•			•			•
Saint Mary's	•	•		•	•	•	•	•	•	•	•	•	
Somerset	•	•		•	•	•	•	•			•	•	
Talbot			•	•	•	•	•				•	•	•
Washington	•	•		•	•	•	•	•	•		•	•	•
Wicomico	•	•		•	•	•	•	•			•	•	•
Worcester		•		•	•	•	•	•		•		•	•

¹ Zoning issues

NOTE: Information was provided by the counties and compiled by the Maryland Farm Bureau updated by Maryland Department of Agriculture in June 2012. We provide no warranty expressed or implied, as to the accuracy, reliability or completeness of furnished data. While we make every effort to provide accurate and complete information, information may change. Contact the individual counties for the most recent information.

Local Right-to-Farm Ordinances

In addition to the state right-to-farm statute, there are a number of county right-to-farm ordinances. Several key elements that are often included in a county's right-to-farm ordinances include the following:

1 A Good Neighbor Policy is generally a statement that pertains to those normal activities associated with agricultural or forestry production that are performed during various times of the year. Statements will often provide that such daily activities shall be performed in a manner that will have minimal impact on the environment as well as human health.

2 Key Definitions often include the "Standard 4 Definitions" which are the most commonly included definitions in comprehensive ordinances. These include definitions for agricultural land, agricultural operations, forestry operations, and generally accepted agricultural and forestry practices.

3 Limitation of Action set forth the circumstances wherein the agricultural or forestry operation is protected from nuisance complaints.

4 Resolution of Disputes and Procedures details the procedures that are in place to file a complaint with the appropriate agency. This section also often provides the processes and procedures used to investigate and resolve a complaint.

5 An Agricultural Reconciliation Board is a five or seven member committee of appropriate members of the

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community who mediate and sometimes arbitrate disputes between parties resulting from perceived or real nuisance complaints. Authority granted to the committee varies from county to county, but the overall goal of the committee is to resolve the dispute before it reaches the courts.

6 A No Standing Clause is a provision that states the plaintiff would have no standing in court if he/she did not seek and/or obtain a decision on the dispute from the county's Agricultural Resolution Board or from the State Agricultural mediation program.

Mediate, Don't Litigate

Many counties have an Agricultural Reconciliation Board or similar local agency in place to help resolve agricultural disputes (see chart). County ordinances typically require that a person must contact the local board before bringing a nuisance action against an agricultural operation in any court.

State law provides that if there is no local agency authorized to hear a nuisance complaint against an agricultural operation, a person may not bring a nuisance action against an agricultural operation in any court until the person has referred a complaint to the state agricultural mediation program in the Department

Maryland's Agricultural Mediation Program

Maryland Agricultural Conflict Resolution Service (ACReS) is the official U.S. Department of Agriculture (USDA)- certified agricultural mediation program for Maryland. The program offers confidential assistance to Maryland to help resolve agricultural related disputes before they end up in court.

Mediation is a process in which a neutral third party (the mediator) assists farmers, agricultural lenders, agencies, families and citizens to resolve disputes in a non-adversarial setting outside the traditional legal and regulatory processes.

Agricultural mediation may involve conflicts between neighbors or communities, family farm issues and estate planning, agricultural credit issues between the borrower and

7 A Bad Faith Clause states that the plaintiff can be found liable for any/all expenses incurred by the defendant if the Agricultural Resolution Board finds that he/she brought the case in bad faith or without substantive justification.

8 Method of Notice refers to the method in which the law is communicated to both new arrivals and those already living in an agricultural area. The most common methods are a notice sent out with the yearly property tax bill and a Transfer Disclosure Statement signed when a property is purchased.

of Agriculture, and the department certifies that mediation has concluded. In accordance with state law, cases brought in counties that do not have provisions for an Agricultural Reconciliation Board, or there are provisions for a board but members have not been appointed, nuisance complaints shall be referred to the state agricultural mediation program in the Department of Agriculture.

Maryland citizens may also contact the state agricultural mediation program directly for assistance in resolving agricultural related concerns or conflict.

creditor, adverse decisions by USDA agencies, or any dispute affecting the profitability of an agricultural operation.

ACReS has a roster of skilled mediators trained to serve as non-adversarial, neutral, third parties to help resolve disputes. An initial consultation with program staff and initial mediation session is provided at no charge. If additional mediation sessions are needed, costs are shared by the parties. Full or partial waivers of fees may be available based on income.

ACReS is a service provided by the Maryland Department of Agriculture. For more information, call 410-841-5770 or toll free 800-492-5590 or visit the website at www.marylandacres.com.



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