

KINGS COUNTY

RIGHT TO FARM

ORDINANCE

Kings County Code of Ordinances

Sections 14-35 and 14-36.1
of Article III of Chapter 14

As Amended by:

ORDINANCE NO. 546.1

Effective

May 30, 1996

KINGS COUNTY RIGHT TO FARM ORDINANCE

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ORDINANCE NO. 546
(as amended by Ordinance No. 546.1)

AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS AMENDING SECTION 14-35 AND
ADDING NEW SECTION 14-36.1 TO ARTICLE III, CHAPTER 14,
OF THE CODE OF ORDINANCE, THE PUBLIC NUISANCE ORDINANCE, PERTAINING TO
THE RIGHT TO FARM

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

Section 1. Section 14-35 of Article III, Chapter 14 of the Code of Ordinances is hereby amended to read as follows:

Section 14-35. Definitions.

Except where the context otherwise requires, the following definitions shall govern the construction of the Public Nuisance Ordinance:

(a) "Agent" means a person or entity acting on behalf of and subject to the control of the owner of real property or of a person legally in possession of the real property.

(b) "Agricultural activity, operation, or facility, or appurtenances thereof" includes, but is not be limited to, the cultivation and tillage of the soil; dairy operations; the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, aquaculture, or horticulture; the raising of livestock, fur bearing animals, fish, or poultry; and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

(c) "Board" means the Board of Supervisors of the County of Kings.

(d) "Cost of abatement" means the direct cost to the County of abating a public nuisance.

(e) "Cost of administration" means the cost to the County of performing the various administrative acts required to abate a public nuisance, including, without limitation, the costs of investigating such nuisance, but not including the actual cost of abatement.

(f) "County" means the County of Kings, acting by and through the Board of Supervisors, the County Administrative Officer, or any appropriate County department.

(g) "Owner" means the person in whom is vested the ownership, dominion, or title of real property.

(h) "Real property" includes all the surface or subsurface areas described in the most recently recorded deed or deeds relating to such property and all improvements on the real property.

Section 2. Section 14-36.1 of Article III, Chapter 14 of Code of Ordinances is hereby added to read as follows:

Section 14-36.1. Agricultural Land Use Protection.

(a) Policy

Notwithstanding any other provision in this Chapter, agricultural operations are the principal and favored uses of land in the areas of Kings County designated "Agricultural" in the Kings County General Plan and included in the Agricultural zone districts of the Kings County Zoning Ordinance. In order to implement Goals 5 and 6 of the Kings County General Plan and Section 401 of the Kings County Zoning Ordinance, there is hereby adopted in Kings County a policy to (1) protect agricultural land, operations, and facilities from conflicting uses due to the encroachment of incompatible, non-agricultural uses of the land in agricultural areas of the county, and (2) to advise developers, owners, and subsequent purchasers of property in the County of the inherent potential inconveniences and discomforts often associated with agricultural activities and operations, including, but not limited to, equipment and animal noise; farming activities conducted on a 24-hour a day, 7-day a week basis; odors from manure, fertilizers, pesticides, chemicals, or other sources; the aerial and ground application of chemicals and seeds; dust; flies and other insects; and smoke from agriculture operations.

(b) Lawful Customary Agricultural Operations not a Nuisance

No lawfully established and otherwise lawful agricultural activity, operation, or facility, or appurtenances thereto, conducted or maintained for commercial agricultural 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, including, but not limited to, the encroachment of non-agricultural uses such as rural residences.

(c) Exceptions.

Subsection (b), above, shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof, 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. Subsection (b) shall not invalidate any provision of California State Law, if the agricultural activity, operation, or

facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any such provision.

(d) Disclosure and Recordation Requirements.

In order to carry out the goals and policies of the Kings County General Plan, the purposes of the Kings County Zoning Ordinance, and the provisions of this Ordinance, the following notices and disclosures shall be required:

(1) All approvals of applications for rezonings, land divisions, zoning permits, and residential building permits, on property in the unincorporated territory of Kings County, shall include a condition that notice and disclosure of this agricultural land use Policy be given by the applicant, or the owner if different from the applicant, to subsequent owners and occupants of the property. The applicant, or owner if different from the applicant, shall also acknowledge the contents of the notice and disclosure themselves, by signing and recording the written notice and disclosure, which includes a description of the property the notice and disclosure pertains to, in the Official Records of the Kings County Recorder, and recorded at the applicant's own expense.

(2) Upon any transfer of real property within the unincorporated territory of Kings County, including, but not limited to, the sale, exchange, installment land sale contract, contract of sale, lease with an option to purchase, any other option to purchase, ground lease, or action coupled with the actual or potential for improvements with dwelling units, the transferee shall ensure that the same statement required in subsection (1) above, shall be signed by the transferee and recorded in the Official Records of the Kings County Recorder in conjunction with the deed, or other document, conveying the real property.

Failure of the transferee to sign and/or record said statement shall not interfere in any way with recording the deed, or other documents, conveying the real property, but failure to comply with this Section may constitute an infraction under Section 1-8.1 of this Code. (See note at the end)

(3) Notice of this land use policy shall be published by the Kings County Zoning Administrator, in a minimum one-eighth page advertisement, in a newspaper of general circulation in Kings County, twice each year on or about the first of March and September.

(4) On or about the first of March and September of each year, the Kings County Zoning Administrator shall also send to each title company and real estate sales company in the County, as

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE, DISCLOSURE AND ACKNOWLEDGMENT OF AGRICULTURAL LAND USE PROTECTION AND RIGHT TO FARM POLICIES OF THE COUNTY OF KINGS

NOTICE IS HEREBY GIVEN pursuant to Kings County Ordinance No. 546, adopted on April 30, 1996, that the County of Kings has adopted policies which establish agriculture and agricultural facilities and operations as priority uses on productive agricultural lands within the County, and residents and other occupants of property in the agricultural zone districts should be prepared to accept inconveniences or discomfort from normal, usual, and customary agricultural operations, facilities, and practices.

ASSESSOR'S PARCEL NUMBER: _____ - _____ - _____

LEGAL DESCRIPTION OF PROPERTY:

is recognized to be in the vicinity of, or adjacent to, land designated and utilized for agricultural uses, facilities, and operations, and may be subject to inconveniences or discomforts arising from the pursuit of those agricultural operations, including but not limited to land preparation, cultivation, growing and harvesting of crops, raising of livestock, dairy production, processing of agricultural commodities, viticulture, apiculture, horticulture, aquaculture, poultry and other agricultural operations. Said inconvenience or discomforts may include, but shall not be limited to: equipment and animal noises; farming activities conducted on a 24-hour, 7-day a week basis; odors from manure, fertilizers, pesticides, chemicals, or other sources; the aerial and ground application of chemicals and seeds; dust; flies and other insects; and smoke from such agricultural operations.

I\WE HEREBY ACKNOWLEDGE AND UNDERSTAND the agricultural land use protection and right to farm policies of Kings County and declare that non-agricultural uses of the subject land, including any residential uses, are secondary and subservient to normal, usual, and customary agricultural activities and operations in the vicinity of this property, and **HEREBY NOTIFY AND PASS ON** said acknowledgment to all subsequent owners and occupants of the above described property.

Owner's Signature _____
Print or Type Owner's Name _____ Date _____

Owner's Signature _____
Print or Type Owner's Name _____ Date _____

(attach Notary acknowledgment)

PUBLIC NOTICE OF AGRICULTURAL LAND USE PROTECTION AND RIGHT TO FARM POLICIES OF THE COUNTY OF KINGS

The County of Kings has adopted certain policies in its General Plan and Zoning Ordinance which establishes agriculture and agricultural facilities and operations as normal uses on productive agricultural lands. Residents, businesses, and other occupants of property that is in, nearby, or adjacent to land in the agricultural zone districts should be prepared to accept some inconveniences or discomforts which can be expected to occur as part of normal, usual, and customary agricultural operations, facilities, and practices. Kings County has determined that these agricultural activities are a high priority and favored use of the land, and will not be considered a nuisance for those inconveniences or discomforts arising from normal, usual, and customary agricultural operations as such.

THE COUNTY OF KINGS HEREBY ADVISES AND NOTIFIES all residents, businesses, and other occupants of property in, nearby, or adjacent to land designated and utilized for agricultural facilities and purposes, you may be subject to inconveniences or discomforts arising from the pursuit of those agricultural operations, including but not limited to land preparation, cultivation, growing and harvesting of crops, raising of livestock, dairy production, processing of agricultural commodities, viticulture, apiculture, horticulture, aquaculture, poultry and other agricultural operations. Said inconvenience or discomforts may include, but shall not be limited to: equipment and animal noises; farming activities conducted on a 24-hour, 7-day a week basis; odors from manure, fertilizers, pesticides, chemicals, or other sources; the aerial and ground application of chemicals and seeds; dust; flies and other insects; and smoke from such agricultural operations.