

Ordinance 95-02
City of Winters

AN ORDINANCE OF THE CITY COUNCIL AMENDING THE WINTERS MUNICIPAL CODE TO ESTABLISH THE RIGHT TO FARM, TO PROVIDE A PROCESS FOR RESOLVING DISPUTES OVER CERTAIN AGRICULTURAL OPERATIONS, AND TO PROVIDE FOR PROPERTY TRANSFER NOTICE

Whereas, agriculture is an historically and economically important component of the City of Winters; and

Whereas, it is the City's stated goal in the 1992 General Plan to "promote the continued productivity of agricultural land surrounding Winters and to prevent the premature conversion of agricultural land to urban uses; "and

Whereas, the annexation and development of new residential land areas may foster rise of nuisance complaints against existing adjacent agricultural activities and operations; and

Whereas, such complaints may cause curtailment of agricultural operations and discourage investments for improvement of agricultural land.

THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDIAN AS FOLLOWS:

Section I. Article ____ is added to Title VIII, Chapter 1 of the Winters Municipal Code to read as follows:

Chapter 1. Zoning Ordinance

Article ____

8-1.x0 RIGHT TO FARM, DISPUTE RESOLUTION, NOTICE TO PURCHASERS OF NEARBY PROPERTIES.

8-1.x1 DEFINITIONS

8-1.X101 "Agricultural Land"

This term refers to those land areas of any category listed in the Zoning Ordinance within the City's Sphere of influence on which agricultural activities, operations, or facilities exist at the time of the adoption of this ordinance.

8-1.x102 "Agricultural Operation"

This term refers to, but is not limited to, the cultivation and tillage of soil; the production, irrigation, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including farming, dairying, pasturage, agriculture, husbandry, and timber; the lawful application of chemicals including, but not limited to, the application of pesticides; the

raising of livestock, fish or poultry, and any practices performed by a farmers on a farm incidental to or in market, or to carriers for transportation to market, and all activities or facilities related thereto. Such operations may occur during and 24-hour period of the day.

8-1.x2 ESTABLISHMENT OF THE RIGHT TO FARM

8-1.x201 Properly Operated Farm Not a Nuisance

No agricultural operation conducted or maintained on commercial agricultural lands, and 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, public or private, due to any changed condition to a non-agricultural use in or about the locality. Proper and accepted customs and standards shall mean those followed on agricultural lands not adjacent to non-agricultural uses.

8-1.x3 RESOLUTION OF DISPUTES

8-1.x301 Establishment of Grievance

Any dispute or controversy regarding inconveniences or discomforts from agricultural operations and the interpretation and application of the Article shall be resolved through the following procedure. Inquires should be submitted in writing to the City Zoning Administrator. The written grievance shall state in detail the basis for such a grievance and identify the properties and owner(s) involved. The party filing the written grievance shall provide a copy of the grievance to all other parties by certified mail within five (5) working days of the date of the grievance is filed.

8-1.x302 Timetable for submission of Grievance

Any grievance shall be submitted in writing within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

8-1.x303 consideration of Grievance by the Zoning Administrator

Upon receipt of a written grievance, the Zoning Administrator shall investigate the facts of the controversy, but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within twenty (20) days after the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the Zoning Administrator for resolution may be represented by counsel unless the opposing party is also represented by counsel.

8-1.x304 Appeals

The Planning Commission shall have the power to hear and decide appeals based on the enforcement of this title, or the interpretation of the provisions thereof. Applications with the required fee for appeal shall be made in writing to the planning commission within fifteen (15) days. No further appeal of Planning Commission decisions will be considered.

8-1.x4 NOTICE TO PURCHASERS OF REAL PROPERTY

8-1.x401 Requirement of Notice

Upon and subdivision or later transfer of real property within five hundred (500) feet of agricultural land or land annexed to the City after the establishment of this Ordinance, the party requesting subdivision, transfer, or annexation shall give notice of the Article to prospective transferees of said real property prior to the transfer as part of all disclosures required by law as authorized by Civil Code 1102.6a in the form set forth in Civil Code 1102.6a. In addition, notice of said Article shall be recorded with any deed, land sale, contract, and lease of any said property. Said notice shall be in the form set forth in Section 8-1.8402.

8-1.x402 Description of Notice

The notice described in Section 8-1.8401 shall read as follows:

“The City of Winters supports the operation of agricultural and related uses on lands within its City limits and Urban Limit Line. To this ends, the City of Winters has enacted Article 8 of the Zoning Ordinance which provides that properly conducted agricultural operations, or the discomforts arising from them, will not be deemed a nuisance. The Article further requires transferors of real property located within 500 feet of an agricultural operation to give notice of the ordinance and its provisions to transferees of said real property.”

“Accordingly, you are hereby notified that if the property in which you are acquiring an interest is located within 500 feet of an agricultural operation, you may be subject to inconvenience or discomfort arising from such operations including, but not limited to: noise, odors, fumes, smoke, dust, traffic, the operation of machinery of any kind, the storage and disposal of manure, and the ground or aerial application of fertilizers, soil amendments, herbicides and pesticides. These operations may take place during any 24- hour period.”

“If you live near or otherwise occupy property near agricultural lands, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a city with a strong agricultural heritage.”

The City has established a grievance process to assist in the resolution of any dispute which might arise between residents and farmers living or operating in the City's Sphere of Influence regarding

agricultural operations. For information about this process or the location of agricultural lands and operations in relationships to your property, please contact the Winters Community Development Department.”

8-1.x5 CONSTRUCTION WITH OTHER LAWS

This article shall take precedence over all ordinance or parts of ordinances or resolutions in conflict herewith.

Section II. Effective Date/ Publication.

This ordinance shall take effect and be in force thirty (30) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, it shall be published in The Winters Express, a newspaper of general circulation, printed and published in the City of Winters.

Section III. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the remaining portions of this ordinance.