

County Right-to-Farm Ordinances in California: An Assessment of Impact and Effectiveness

Matthew Wacker, Alvin D. Sokolow and Rachel Elkins¹

When first adopted by California local governments in the 1980s, right-to-farm ordinances were seen by many farm leaders, real estate people, and public officials as an easy response to the problem of urban growth encroaching on adjacent farm operations. Such measures have little regulatory effect, but seek to reduce the opposition of urban neighbors to commercial agriculture as a nuisance generator. Most ordinances require that homebuyers who move to parcels adjacent to or near working farms and ranches be notified about the possible negative impacts of agricultural activities. In this way, the theory goes, new residents—especially those unfamiliar with rural living—would effectively learn about the realities of modern farming and would be less inclined to complain, or even go to court, about sprays, dust, odors, noise and other aspects of agricultural activities. The normal practices of farmers and ranchers would thus be protected.

The local ordinances are now widespread throughout California's agricultural regions. About 40 counties

and 50 cities currently have these measures. Despite their popularity, questions are frequently raised about the effectiveness of right-to-farm ordinances in protecting agricultural operations and reducing farm-urban edge conflicts. The two principal reasons are: (1) considerable variation in implementation from one jurisdiction to another, and (2) the generally benign and undemanding character of disclosure requirements, as compared to the more stringent regulatory tools of zoning, buffers, and subdivision review.

This assessment is based on a comparative study of county-adopted ordinances and their implementation in 15 agricultural counties² located in Central Valley and coastal regions³. (This study does not cover city ordinances which apply just to areas within incorporated boundaries.) We examined each of the county ordinances and conducted phone interviews with about 40 knowledgeable local persons, including agricultural commissioners, county planners, agricultural (Farm Bureau) leaders, real estate representatives, and UC Cooperative Extension staff.

¹Matthew Wacker is a graduate student in the Department of City and Regional Planning and Department of Environmental Science, Policy, and Management at UC Berkeley; Al Sokolow is a Cooperative Extension Public Policy Specialist in the Department of Human and Community Development at UC Davis; and Rachel Elkins is a Cooperative Extension Farm Advisor in Lake County, California.

² The counties are Butte, Colusa, Fresno, Mendocino, Merced, Monterey, Napa, San Benito, San Joaquin, Solano, Sonoma, Stanislaus, Sutter, Tulare, and Yolo.

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Following a description of ordinances, this Issues Brief summarizes local perceptions about the performance of the ordinances in the 15 sample counties and then examines in greater detail the provisions that deal with grievance procedures and disclosure requirements.

Origins and Content

As a tool to protect farmers from nuisance lawsuits by neighbors, right-to-farm ordinances have existed for almost 40 years in the United States. Local ordinances in California date from the early 1980s. Although they fall within the regular police powers (the ability to regulate) of county and city governments, the local measures were partly stimulated by passage in 1981 of a state statute (Sect. 3482.5 of the California Civil Code) that declares that a farm in operation for more than three years is not to be considered a nuisance due to changed conditions (urbanization) in the area. In 1989 the legislature went further by allowing counties and cities to require realtors to disclose to property buyers particular conditions of the property, including the possible negative impacts of nearby farming (Civil Code Section 1102.6a). The California Farm Bureau prepared a model right-to-farm ordinance at about that time, and most counties and cities have since followed the model language in adopting their own ordinances.

Most county right-to-farm ordinances thus have similar contents. Four major provisions are common: (1) a statement of purpose, (2) definitions of agricultural operations and farmland, (3) limitation on agricultural nuisances, and (4) agricultural disclosure requirements. A few ordinances also provide for a formal grievance procedure. Box 1 describes these ordinance provisions, and Box 2 (page 8) shows a sample disclosure requirement from the Farm Bureau model.

Within this common framework, ordinances differ from county to county in detail and added topics. Disclosure provisions, for example, vary a great deal according to when and how notification about nearby agricultural conditions is supposed to be provided. As adopted and sometimes changed by boards of

Box 1

Common Ordinance Provisions

Statement of Purpose

Generally a policy statement outlining the intent of the ordinance—to preserve agricultural operations, promote a good-neighbor policy between farm and other landowners, or to affirm the county’s commitment to agriculture as a component of the local economy.

Definitions

For legal clarity, an agricultural operation is defined according to the state code. Farmland is defined by location in an agricultural zone; a few counties define it more broadly as land that currently or potentially supports active agricultural operations.

Nuisance

Usually a reference to the state code that prohibits a nuisance finding if the agricultural operation is conducted according to established farming practices, has existed at the same location for more than three years, and does not infringe upon a public right-of-way. Some counties reduce the time requirement to one year.

Disclosure

A requirement that a potential purchaser of property near farming or the developer of residential property in such an area be notified of the impacts of the agricultural operation.

Grievance Procedures

Formal procedures in some counties for resolving complaints against agricultural operations, usually involving mediation by a committee whose organization and timing may be specified.

supervisors—county legislative bodies— ordinance language is a product of local priorities and political pressures.

Perceived Impacts

What do county officials and others say about the operations and impacts of the right-to-farm ordinances in their communities? In brief phone interviews, we asked 40 persons in the 15 sample counties about their understanding of the provisions of the local ordinance, their perceptions of the impacts, benefits, and limitations of the ordinance, and their views of how it related to land use issues pertaining to the agricultural-urban edge. Here is a summary of their comments about several key aspects of the ordinances and their implementation.

Right-to-farm ordinances are primarily education tools.

The ordinances mainly serve to inform and educate residents about the local value of agriculture, according to the great majority of persons we interviewed. The major intention is to tell homebuyers about the consequences of locating in agricultural areas, but the audiences of the information also include the community at large and farmers themselves. The ordinances generally seem to accomplish this purpose, although their informational impacts vary by county and depend on specific provisions and implementation. A county agricultural commissioner and a Farm Bureau leader, respectively, described the benefits in these terms:

“(The ordinance) reminds the public and the Board of Supervisors that the county wishes to preserve agriculture. It sets the tone, raises awareness.”

“It puts buyers on notice that the county values agriculture and there are certain things they have to be prepared to accept.”

Ordinances are a useful tool for county officials who deal with complaints about agricultural practices.

The local public officials we interviewed liked that the ordinances asserted as a policy matter the importance of agriculture in their counties. This gave county officials a firm factual basis on which to respond to complaints from residential neighbors, when combined with the nuisance and disclosure

language. An agricultural commissioner noted:

“It gives me a way to frame the discussion between growers and residents....to try to get people to talk as neighbors.”

Often this meant that minor complaints could be prevented from escalating into major issues and even lawsuits.

A right-to-farm ordinance is not a substitute for good land use planning.

Whatever its benefits, none of our respondents believed that a right-to-farm ordinance was a technique for determining land uses or defining urban-agricultural edges. The ordinances are not regulatory tools; they lack the planning and urban development power of agricultural zoning, general plans, and subdivision controls.

Right-to-farm ordinances do not insulate farmers from lawsuits nor do they provide farmers with rights not already codified in state law.

While a right-to-farm ordinance may serve to resolve many small complaints, it will not prevent a farmer from being sued over an agricultural practice, even one that is covered under the ordinance as a normally accepted farming practice. As a Farm Bureau representative indicated, if a neighbor wants to sue a farmer over an agricultural nuisance complaint, there is nothing a right-to-farm ordinance can do to prevent that action. We also heard from local officials who believed the term “right-to-farm” was a misnomer, wrongly implying that farmers have all the rights and homeowners have none in edge conflicts. One Farm Bureau leader suggested “agricultural awareness” as a more appropriate label.

There is no clear evidence that the right-to-farm ordinances have reduced the volume of litigation and complaints.

Our respondents were not able to give us a definitive answer to the question of whether lawsuits or other complaints directed against agricultural practices in their counties have decreased in number since the ordinances were adopted. No one could detect a decrease in litigation, although several respondents

said they thought formal complaints to county bodies had declined, but without providing specific information. In fact, lawsuits on agricultural nuisances in California have been rare, whether before or after the appearance of right-to-farm ordinances. Respondents in only six of our 15 sample counties could recall such cases. According to staff attorneys for the California Farm Bureau Federation, only one farm nuisance suit has been decided by a California appellate court in recent years, and that case involved farm operators as both plaintiff and defendant.

County governments exercise little oversight over the implementation of ordinances.

While boards of supervisors enact and revise right-to-farm ordinances, county governments pay little attention to how their provisions are carried out. Respondents were especially critical of the implementation of disclosure requirements for real estate transactions, which is left largely to realtors and title companies. None of the county agencies in our 15 sample counties regularly monitors this process. When disclosure is applied to development approvals or building permits, however, planning and building departments are usually involved. A more general comment about limited oversight concerns the lack of coordination among different county departments. At one time or another, the various county agencies that may be involved in ordinance creation, revision, and execution include the board of supervisors, agricultural commissioner, planning and building, assessor, county counsel, and sheriff.

Grievance Procedures, Formal and Informal

Formal mediation procedures for handling complaints against farm practices are found in the ordinances of six (Colusa, Monterey, San Benito, Solano, Stanislaus, Yolo) of the 15 counties we surveyed. The grievance-handling bodies outlined in these ordinances are either committees drawn from citizens appointed by the board of supervisors, ex officio bodies (agricultural commissioner, planning director, etc.), or a combination of the two. The exception in one county is the planning commission.

At least one county (San Joaquin) uses its agricultural advisory committee for this purpose, although it is not designated in the right-to-farm ordinance.

The formal mediation bodies in the six counties have had little work. Respondents in only two of the counties could recall instances of committee activity in recent years. Solano's group last handled a complaint in 1994, one involving a noisy diesel pump. The committee in Yolo has had only one case, also a noise issue, since it was established in 1991.

Complaints from residential neighbors about agricultural practices actually are more frequent than these committee records suggest. They are handled and usually resolved in the course of the routine business of county departments. Most come to the agricultural commissioners because of their heavy involvement in the agricultural sector through the regulation of chemical use on farms. In the process of dealing with objections to the pesticide spray practices of particular farmers, the commissioners also pick up complaints about noise, dust, odor, and other nuisances. The standard approach is to resolve these complaints through informal methods. One agricultural commissioner explained:

“A lot of my efforts in these issues go to trying to get people to talk as neighbors and work things out like most civilized people should be able to. Often the urban resident just wants to know what's going on. When they hear a noise at night they will know what's going on, or they will know to close their windows at certain times of the day to avoid sprays and dust.”

Variations in Disclosure Requirements

Most discussion about the performance of right-to-farm ordinances in individual counties is focused on the disclosure requirements. How thoroughly affected residents are informed about the consequences of living near agricultural operations depends on the audience and the manner in which notices are distributed. According to the ordinances we reviewed, there are three general approaches to providing disclosure:

- In the annual tax bills sent to all or a portion (typically just in unincorporated areas) of a county’s property owners;
- In connection with new development located near agricultural activity, usually when subdivision or parcel maps are approved or building permits are issued by county government;
- As part of a real estate transaction in which residential or other property located near agricultural activity is sold, generally at the time escrow is closed signifying the completion of the purchase.

The notified audience differs—a countywide one composed of all or many property owners in the case of tax bill statements, primarily developers or builders in the instance of development-related notification, and new purchasers of property in the case of real estate transactions. Likewise, the location or degree of responsibility within county government for administering these processes varies. Assessors’ offices send out the annual property tax bills and planning and building departments manage development approvals and building permits. For notification through property sales, however, there is no clear county government involvement or oversight. In these cases realtors and title companies handle agricultural disclosures as part of their normal process of working with sellers and buyers to complete transactions.

Ordinances also differ in whether or not they require that the developer/builder or purchaser sign the disclosure notice and it is recorded in the county recorder’s office as a designation attached to the property deed. Recordation provides a formal record of the disclosure and ensures that the information will be transmitted to future buyers of the property through the title search process.

As Table 1 (page 7) shows, the 15 county ordinances we reviewed vary greatly in the mix of disclosure methods used. Most employ only one or two of the methods, although recordation is required by 10 of the ordinances. All three approaches are used by three sample counties—Napa, Stanislaus, and Sonoma, with Napa and Sonoma also requiring

recording. Sonoma and Napa counties have had additional, unique components in their disclosure programs. Sheriff’s deputies in Sonoma distribute pamphlets about county agriculture to residents, while the Napa Farm Bureau has sent pamphlets to new residents.

Two counties have substantially revised the disclosure requirements in their right-to-farm laws in recent years. In 1994 the Monterey County Board of Supervisors eliminated entirely the disclosure provisions of its ordinance, at the urging of the local real estate industry. On the other hand, the Sonoma County Board of Supervisors in 1999 added disclosure requirements for both development actions and real estate transactions to the original tax bill provision, primarily at the request of the local Farm Bureau.

Illustrated here are the ongoing differences between the views of real estate and farm interests in many agricultural counties over the extent of disclosure requirements. Farmers generally support strong and mandated forms of notification as a way of heading off problems with urban neighbors. Realtors, on the other hand, generally see required notification as discouraging potential home sales and adding to their paperwork burdens, and so prefer minimal or non-mandated disclosure provisions. In at least six of the sample counties, according to respondents, the local real estate industry successfully opposed more detailed or stronger disclosure provisions when the ordinances were first adopted or at later times when changes were proposed. Some title companies also have been reluctant to get involved in the disclosure process because of perceived procedural burdens.

The concerns revolve largely around how disclosures are inserted into real estate transactions. Several of the county officials we interviewed worried about the lack of county government oversight over the private actions of realtors and title companies. A few respondents, however, noted that realtors were obligated under state law and their licenses to disclose such information in the case of other property-related conditions such as potential hazards. They suggested that even in the absence of local ordinance requirements, many realtors would

voluntarily reveal to property buyers the nature of nearby agricultural operations as legal protection against future lawsuits from dissatisfied homebuyers. This seems to be the case in Lake County where most realtors use disclosure statements when selling residential properties in rural areas, although few seem to be aware of a county requirement for agricultural notices.

Timing is also an issue in the adequacy of agricultural disclosures in real estate sales. Disclosures are usually provided at the completion of a transaction, when escrow is closed. Many of our respondents said this was too late in the transaction for new information to have much impact, since it comes some time after the basic decision to buy has been made. The impact of the information is further diluted by the numerous other documents purchasers must read and sign at this stage, making it difficult to highlight the importance of the agricultural disclosure. Noted an agricultural commissioner:

“People when they are buying real estate are really stressed, and they don’t pay much attention to the disclosure. They have lots of forms to look at.”

As a result, other respondents said, some homeowners who later come before county bodies to complain about nearby agricultural nuisances have to be reminded about the agricultural disclosure forms they signed.

Conclusions

What makes for an effective county right-to-farm ordinance? Judging from the comments of the persons we interviewed in 15 counties, the key lies in specific disclosure requirements and how they are implemented. Formal grievance procedures are far less essential, considering their limited use in the counties that have them and the greater importance of informal methods for resolving farmer-resident conflicts.

An effective ordinance is one that fully informs both directly affected parties and the community at large about the importance of maintaining productive agriculture in the face of urban growth. For homeowners and other residents in edge areas, those considering purchase and those already living there, this means acquiring a full appreciation of the consequences of residing next to commercial farm operations that from time to time generate noise, dust, odor, and other negative effects. Prospective home buyers then can consider the pertinent tradeoffs, weighing the negative impacts against the scenic, cost, and other benefits of living in the rural community.

Right-to-farm ordinances are a limited answer to the problems of conflict and incompatible land uses at the agricultural-urban edge. The solution also depends on other and more active measures, especially the planning and design of urban development that is sensitive to agricultural operations and appropriate modifications in farm practices at the edge. But as an informational technique, the ordinances are an important part of the overall strategy for achieving a more peaceful coexistence of agricultural and urban neighbors. ■

Table 1. Disclosure Requirements in Right-to-farm Ordinances

County	Property Tax Bill	Development Approval	Real Estate Transaction
San Benito	Mailed annually to all real property owners in unincorporated county.	Not required.	Required for all real property transfers. Disclosure must be signed by buyer and seller and recorded with the County Recorder's office. All leases must also incorporate the disclosure statement.
Solano	Not required.	Not required.	Disclosure statement included with any property deed and recorded with County Recorder. Buyer/seller are not required to physically sign disclosure statement.
Monterey	Not required.	Not required.	Not required.
Merced	Not required.	Notice required on all final parcel maps for all parcels within 1000 feet of an ag zone and dwelling unit over 500 square feet. Acknowledgment required for building permit.	Not required.
Tulare	Not required.	Notice must be recorded for all parcel/subdivision maps; notice provided to all applicants for building permits; County Recorder includes notice with any deed or land sale contract.	Signed disclosure between buyer and seller.
Stanislaus	Mailed annually to all real property owners in unincorporated county.	Notice must be recorded for all parcel/subdivision maps; notice provided to all applicants for building permits; County Recorder includes notice with any deed or land sale contract.	Signed disclosure between buyer and seller.
San Joaquin	Not required.	County provides building permit applicants with copy of disclosure statement. Not a condition of development approval. Builder's responsibility to deliver copy to owner of building.	Not required.
Butte	Not required.	Acknowledgment must be signed and recorded as a condition of obtaining a building permit.	Not required.
Sutter	Not required.	Acknowledgment must be signed and recorded as a condition of obtaining a building permit.	Disclosure required between buyer and seller. No form to sign.
Colusa	Not required.	Disclosure required on all building permits and other development approval documents.	Disclosure must be signed by buyer and seller and recorded with the County Recorder's office.
Mendocino	Not required.	Acknowledgment must be signed and recorded as a condition of obtaining a building permit.	Disclosure required between buyer and seller. No form to sign.
Yolo	One-time mailing.	County-prepared notice included with preliminary title reports.	Not required.
Napa	Mailed annually to all real property owners in unincorporated county.	Signed form filed with Planning Department for all subdivision approvals and development permits.	Disclosure required between buyer and seller. No form to sign.
Sonoma	Mailed annually to all real property owners in unincorporated county.	Disclosure required for all development approvals and recorded with County Recorder.	Signed disclosure between buyer and seller.
Fresno	Not required.	Notice must be filed with County Recorder for subdivision map approvals.	Not required.

Disclosure Notice–Farm Bureau Model Ordinance, Section 4 (b)

The County of ____ permits operation of properly conducted agricultural operations within the County. If the property you are purchasing 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: noise, odors, fumes, dust, smoke, insects, 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.

University of California
Agricultural Issues Center
One Shields Avenue
Davis, CA 95616-8514

- E-mail: agissues@ucdavis.edu
- Internet: <http://aic.ucdavis.edu>
- Phone: 530-752-2320
- Fax: 530-752-5451

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