

ORDINANCE NO. 9539 (NEW SERIES)

AN ORDINANCE AMENDING SECTIONS
63.401 AND 63.404 OF THE SAN DIEGO
COUNTY CODE RELATING TO NOTIFICATION
BY OWNERS SELLING REAL PROPERTY
OF CONDITIONS ASSOCIATED
WITH AGRICULTURAL OPERATIONS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that agricultural operations are located throughout the unincorporated area of San Diego County and are often conducted on relatively small parcels. The Board further finds that non-agricultural uses, including residential uses, are being developed in the unincorporated area and are often located near agricultural operations. The Board further finds that those who purchase real property in the unincorporated area are often unaware that agricultural operations may be located nearby and may cause conditions that the purchasers may find to be irritating, unpleasant and inconvenient. The Board further finds that owners should notify prospective purchasers that agricultural operations are located throughout the unincorporated area, may be located nearby and may cause conditions that the purchaser finds to be irritating, unpleasant and inconvenient.

Section 2. Section 63.401 of the San Diego County Code is hereby amended to read as follows:

SEC. 63.401 STATEMENT OF PURPOSE.

The purpose and intent of this Chapter is, in accordance with State law, to define and limit the circumstances under which agricultural enterprises, activities, operations, and facilities shall constitute a nuisance. It is also the purpose of this Chapter to recognize that the commercial agricultural industry in the County of San Diego is a significant element of the County's economy and a valuable open space/greenbelt resource for San Diego County residents and that agricultural operations are located throughout the unincorporated area and are predominately family operations conducted on smaller parcels. To further this purpose, it is the intent of this Chapter to recognize that conflicts can occur between agriculture and certain other land uses; and to provide a procedure which will enhance the County's ability to identify and evaluate the potential conflicts between a land use proposal and an agricultural enterprise when the land use proposal is adjacent to, or in close proximity of, an agricultural enterprise. Finally, it is the objective of this Chapter to require owners to notify prospective purchasers of property of the inherent potential conditions associated with agricultural operations found throughout the unincorporated area. Conditions associated with agriculture include, but are not limited to, noise, odors, dust, insects, rodents, and chemicals. This ordinance is not to be construed to in any way modify or abridge the State law set out in California Civil Code, Section 3482.5, relative to agricultural nuisances.

Section 3. Section 63.404 of the San Diego County Code is hereby amended to read as follows:

SEC. 63.404. NOTICE TO PROSPECTIVE BUYERS.

- (a) Any owner selling real property in the unincorporated area of the County shall notify each prospective purchaser of such real property in writing as follows:

Agricultural operations are located throughout the unincorporated area of San Diego County and are often conducted on relatively small parcels. The subject property is also located in the unincorporated area and, as such, is likely to be located near an agricultural enterprise, activity, operation, or facility or appurtenances thereof (collectively, "agricultural use"). Occupants of the property to be purchased may be exposed to inconveniences, irritations or discomforts arising from the agricultural use, including but not limited to noise, odors, fumes, dust, smoke, insects, rodents, the operation of machinery of any kind (including aircraft) during any 24 hour period, the storage and disposal of manure, and the application by spraying or other means of agricultural chemicals, such as pesticides and fertilizers. Purchasers of the property may be required to accept such inconveniences, irritations and discomforts, unless the agricultural use constitutes a public or private nuisance under the provisions of Section 3482.5 of the Civil Code or Section 63.403 of the San Diego County Code. The agricultural use may be altered or expanded in the future.

- (b) The owner shall provide the written notice required by subsection (a) on the disclosure form specified in Civil Code section 1102.6a.

Section 4. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary thereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 5th day of March 2003