COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Ad Hoc Agricultural Policy Working Group

AN ACT to:

(1) require sellers of real property in agricultural zones to notify potential buyers that state and county laws protect owners and operators of agricultural uses from certain lawsuits; and

(2) generally amend the law governing real property disclosures.

By adding
Montgomery County Code
Chapter 40, Real Property
Section 40-12B

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 40-12B is added as follows:

40-12B. Real Property Sold in Agricultural Zones.

(a) If any real property is located in, adjoins, or confronts an area zoned agricultural, as defined in Section 59-C-9.1, the seller must disclose to each prospective buyer, before the buyer signs a contract for the sale of the property, that existing County and State law is intended to discourage owners of real property adjacent to agricultural-zoned land from filing certain lawsuits against an owner or operator of an agricultural use in those areas. The following text must be substantially included in the disclosure:

As required under Montgomery County Code §40-12B, you are hereby notified that the state of Maryland and Montgomery County have enacted laws that establish agriculture as the preferred use on land zoned Rural Density Transfer and as a permitted use in other agricultural zones, as defined in Section 59-C-9.1 of the County Code. The property subject to this contract is located in, adjoins, or confronts an area zoned agricultural. Residents and other occupants of property near land in agricultural zones should be prepared to accept effects of usual and customary agricultural operations, facilities, and practices, including noise, odors, dust, smoke, insects, operation of machinery, storage and disposal of manure, unusual hours of operation, and other agricultural activities.

Under Maryland law, an agricultural operation is not a nuisance, and a lawsuit may not be successful alleging that an agricultural operation interferes with the use or enjoyment of other property, if the agricultural operation:

(1) has continued for at least 1 year;
(2) complies with applicable health, environmental, zoning, and permit requirements; and

(3) is not conducted negligently.

County law may provide additional protections for agricultural uses on agricultural-zoned land. For further information, contact the Montgomery County Department of Economic Development.

(b) A prospective buyer must indicate, by signing an addendum to the contract or a separate section of the contract printed in boldface type in a clearly demarcated box, that:

(1) the seller has provided the information required by subsection (a); and

(2) the buyer understands that:

(A) adjacent property may be the source of agricultural-related nuisances; and

(B) the buyer may obtain more information about these nuisances from the County Department of Economic Development.

Sec. 2. Effective Date. Section 40-12B, inserted by Section 1 of this Act takes effect on March 1, 2008.

Approved:

Marilyn J. Praisner, President, County Council

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council