

Bill No. 12-07  
Concerning: Real Property -  
Agricultural Zones - Disclosure  
Revised: 10/2/2007 Draft No. 3  
Introduced: June 12, 2007  
Enacted: October 2, 2007  
Executive: October 15, 2007  
Effective: January 14, 2008  
Sunset Date: None  
Ch. 13, Laws of Mont. Co. 2007

## 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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 40-12B is added as follows:**

2    40-12B. Real Property Sold in Agricultural Zones.

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

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

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

26           (1) has continued for at least 1 year;

- 27 (2) complies with applicable health, environmental, zoning,
- 28 and permit requirements; and
- 29 (3) is not conducted negligently.

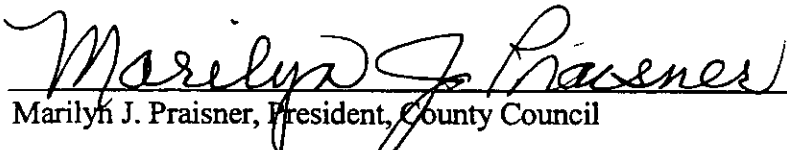
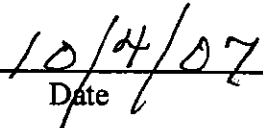
30 County law may provide additional protections for agricultural uses on  
 31 agricultural-zoned land. For further information, contact the  
 32 Montgomery County Department of Economic Development.

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

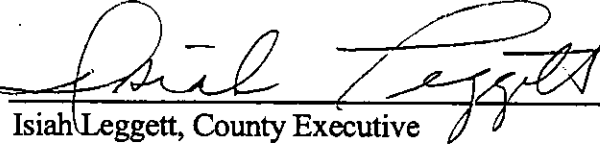
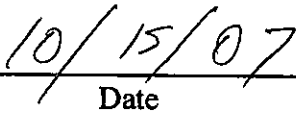
- 36 (1) the seller has provided the information required by subsection (a); and
- 37 (2) the buyer understands that:
  - 38 (A) adjacent property may be the source of agricultural-related
  - 39 nuisances; and
  - 40 (B) the buyer may obtain more information about these nuisances
  - 41 from the County Department of Economic Development.

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

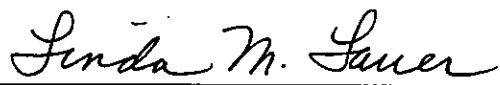
44 *Approved:*

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 47 Marilyn J. Praisner, President, County Council  
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 50 \_\_\_\_\_  
 51 Date

48 *Approved:*

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 51 Isiah Leggett, County Executive  
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 54 \_\_\_\_\_  
 55 Date

52 *This is a correct copy of Council action.*

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 55 Linda M. Lauer, Clerk of the Council  
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 Date