

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

LEGISLATIVE SESSION, 2025

BILL No. 2025-04

Introduced: March 4, 2025

BY: The Council President

AN ACT TO AMEND CHAPTER 186 OF THE WICOMICO COUNTY CODE, titled "RIGHT TO FARM," to include the Right to CONDUCT A COMMERCIAL Seafood OPERATION, establish new membership positions on the Right to Farm AND COMMERCIAL SEAFOOD OPERATION RECONCILIATION COMMITTEE, and expand the notification requirement to include the Right to CONDUCT COMMERCIAL SEAFOOD OPERATIONS.

WHEREAS, the Wicomico County Council seeks to support and protect traditional agricultural and COMMERCIAL SEAFOOD practices in the County; and

WHEREAS, the Wicomico County Farm Bureau, along with members of the agricultural and COMMERCIAL seafood OPERATION communities, supports the inclusion of the Right to CONDUCT COMMERCIAL SEAFOOD OPERATIONS in CHAPTER 186 OF THE WICOMICO COUNTY CODE; and

WHEREAS, the Wicomico County Farm Bureau has recommended that two additional positions be added to the existing Right to Farm Committee to represent the WATERMAN community; and

WHEREAS, it is deemed beneficial to inform property owners about both the Right to Farm and the Right to CONDUCT COMMERCIAL SEAFOOD OPERATIONS through notifications on property tax bills and upon the sale of property.

SECTION 1: BE IT ENACTED AND ORDNANIED BY THE COUNTY COUNCIL OF WICOMCO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 186, titled "Right to Farm AND COMMERCIAL SEAFOOD OPERATIONS" shall be amended as follows:

CHAPTER 186

ARTICLE I.

General Provisions

§ 186-1. Findings and purpose.

- A. ~~In recognition that Agriculture is the largest industry in Wicomico County and that it adds many positive benefits to the quality of life, FOR THE RESIDENTS OF WICOMICO COUNTY. COMMERCIAL SEAFOOD OPERATIONS ARE A HISTORICALLY IMPORTANT INDUSTRY IN WICOMICO COUNTY AND ALSO ADDS POSITIVE BENEFITS TO THE QUALITY OF LIFE FOR RESIDENTS OF WICOMICO COUNTY. THEREFORE, it is the declared policy of the county to preserve, protect and encourage the development and improvement THE COUNTY of its agricultural land for the production of food and other agricultural products. When non agricultural land uses extend into agricultural areas, agricultural operations can become the subject of lawsuits. As a result, agricultural operators are~~

~~sometimes forced to cease or curtail their operations. Others are discouraged from making investments in agricultural improvements to the detriment of the economic viability of the county's agricultural industry as a whole. It is the purpose of this chapter to reduce the loss to the county of its agricultural resources~~ AND SEAFOOD INDUSTRIES by limiting the circumstances under which agricultural AND COMMERCIAL SEAFOOD operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land, including, but not limited to, smoke, odors, flies, dust, noise, chemicals, or vibration, provided that nothing in this chapter shall, in any way, restrict or impede the authority of the state and of the county to protect the public health, safety, and welfare, nor shall it restrict or impede private covenants.

- B. It is in the public interest to promote a ~~more clear~~ BETTER understanding between agricultural AND COMMERCIAL SEAFOOD operations and ~~nonagricultural~~ THEIR NONCOMMERCIAL neighbors, concerning the ~~normal~~ POSSIBLE inconveniences of agricultural AND COMMERCIAL SEAFOOD operations which follow generally accepted agricultural OR COMMERCIAL SEAFOOD practices and do not endanger public health or safety.
- C. An additional purpose of this chapter is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural OR COMMERCIAL SEAFOOD operations of the inherent potential problems associated with such ~~purchase or~~ use. These potential problems include, but are not limited to, noises, odors, dust, flies, chemicals, smoke, vibration and hours of operation that may accompany agricultural OR COMMERCIAL SEAFOOD operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural OR COMMERCIAL SEAFOOD operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas AND WATERWAYS. However, this chapter shall be effective regardless of whether disclosure was made in accordance with §186-7 herein (~~Right To Farm~~ AND COMMERCIAL SEAFOOD OPERATION notice and real estate transfer disclosure).

§ 186-2. Interpretation.

This chapter is not intended to and shall not be construed as in any way modifying or abridging local, state or federal laws, including, but not limited to, laws relating to public health, safety or welfare, trespass onto agricultural property OR COMMERCIAL SEAFOOD OPERATION, zoning, licensing requirements, environmental standards (including those standards which relate to air and water quality and pesticide use), and the like.

§ 186-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Agricultural Land — All real property within the boundaries of Wicomico County that is:

- A. Lying in the Agricultural-Rural Residential District; or
- B. Carried on the tax rolls of the State Department of Assessments and Taxation as agricultural; or
- C. All other land that has been used as an agricultural operation continuously for one year.

Agricultural Operation — Includes, but is not limited to, all matters set forth in the definition of "operation" in § 5-308(a) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, as amended from time to time; the production of all matters encompassed within the definition of "farm product" in § 10-601(C) of the Agriculture Article, as amended from time to time; the cultivation and tillage of the soil; the spreading of manure, lime, fertilizer and the like; composting; spraying; production, harvesting and processing of agricultural crops; raising poultry and other fowl; production of eggs; production of milk and dairy products; production of livestock, including pasturage; production of bees and their products; production of fruit, vegetables and other horticultural crops; production of aquatic plants; aquaculture; production of timber; any commercial agricultural procedure performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market; usage of land in furtherance of educational and social goals, (including, but not limited to 4-H clubs and Future Farmers of America), agrotourism and alternative agricultural enterprises; and the like.

COMMERCIAL SEAFOOD OPERATION – AN OPERATION FOR THE HARVESTING, STORAGE, PROCESSING, MARKETING, SALE, PURCHASE, TRADE OR TRANSPORT AND ASSOCIATED ACTIVITIES OF ANY SEAFOOD PRODUCT, INCLUDING THE DELIVERY, STORAGE AND MAINTENANCE OF BOATS, SUPPLIES AND EQUIPMENT AND CHARTER BOAT FISHING AND RELATED ARRIVAL AND DEPARTURE ACTIVITIES, EQUIPMENT AND SUPPLIES.

Generally Accepted Agricultural AND COMMERCIAL SEAFOOD Management Practices — Those methods used in connection with agricultural OR COMMERCIAL SEAFOOD operations which do not violate applicable federal, state or local laws or public health, safety and welfare and which are GENERALLY ACCEPTED agricultural practices in the agriculture industry OR GENERALLY ACCEPTED PRACTICES IN THE COMMERCIAL SEAFOOD INDUSTRY. Generally accepted agricultural AND COMMERCIAL SEAFOOD management practices include practices which are recognized as generally accepted management practices and those methods which are authorized by various governmental agencies, bureaus and departments, such as the Wicomico County Cooperative Extension Service of the University of Maryland, the Wicomico County Soil Conservation Districts and the like. If no generally accepted agricultural OR COMMERCIAL SEAFOOD management practice exists or if there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted agricultural OR COMMERCIAL SEAFOOD management practice.

§ 186-4. Limitation of actions.

- A. A private action may not be sustained with respect to an agricultural operation OR COMMERCIAL SEAFOOD OPERATION conducted on agricultural land on the grounds that the agricultural operation OR COMMERCIAL SEAFOOD OPERATION interferes or has interfered with the use or enjoyment of property, whether public or private, if the agricultural operation OR COMMERCIAL SEAFOOD OPERATION was, at the time the interference is alleged to arise, conducted substantially in accordance with generally accepted agricultural OR COMMERCIAL SEAFOOD management practices.
- B. Notwithstanding any provision of this section, no action alleging that agricultural OR COMMERCIAL SEAFOOD operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought and obtained a final judgment of the Agricultural AND COMMERCIAL SEAFOOD OPERATION Reconciliation Committee, as defined in § 186-5 herein.

ARTICLE II.

Wicomico County Agricultural AND COMMERCIAL SEAFOOD OPERATION Reconciliation Committee

§ 186-5. Establishment; membership; terms of office; meetings.

- A. There is hereby created and established the Wicomico County Agricultural AND COMMERCIAL SEAFOOD OPERATION Reconciliation Commission, hereinafter referred to as ~~"WCARC"~~ "WCACSOC," which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands AND COMMERCIAL SEAFOOD OPERATION PRACTICES and issue opinions on whether such agricultural AND COMMERCIAL SEAFOOD operations are conducted in a manner consistent with generally accepted agricultural AND COMMERCIAL SEAFOOD management practices.
- B. Membership.
- (1) The ~~WCARC~~ WCACSOC shall be composed of ~~seven~~ NINE residents of the County, all of whom shall be appointed by the County Executive and confirmed by the County Council. The County Executive shall designate the chairman. The Committee shall be composed of THE FOLLOWING REPRESENTATIVES ~~one representative from each of the following~~:
- (a) The Wicomico County Farm Bureau;
 - (b) The Coastal Board of Realtors;
 - (c) The Wicomico County Soil Conservation District;
 - (d) The Agricultural Preservation Advisory Board;
 - (e) The Delmarva Poultry Industry-Growers Committee;
 - (f) Chamber of Commerce - AG Committee;
 - (g) Homeowner's Association, who is a resident of Wicomico County.
 - (h) TWO REPRESENTATIVES FROM THE WATERMAN COMMUNITY TO REPRESENT COMMERCIAL SEAFOOD OPERATION INTERESTS.
- (2) A municipality representative shall serve as an alternate member to the ~~WCARC~~ WCACSOC. This representative shall be rotated between the incorporated municipalities of Wicomico County on a yearly basis.
- (3) The County extension agent shall serve as an ex-officio member.
- C. Terms.
- (1) The Committee members shall serve a four-year term, except the municipality representative who shall serve a one-year term; however, the initial appointments shall be as follows:
- (a) ~~THREE Two~~ members shall be chosen to serve four-year terms;

- (b) ~~THREE~~ ~~Two~~ members shall be chosen to serve three-year terms;
 - (c) Two members shall be chosen to serve two-year terms;
 - (d) One member shall be chosen to serve a one-year term; and
 - (e) The municipality alternate member shall be chosen to serve a one-year term.
- (2) After these initial appointments, all terms, except the municipal representative, shall be for a full four-year term.
- D. ~~The Committee shall meet at least one time per year, and its members shall serve as volunteers, with no monetary compensation.~~

§ 186-6. Resolution of disputes; procedure for complaints; investigation; declaration.

A. Nuisances which affect public health.

- (1) Complaints. A person may complain to the Wicomico County Health Department to declare that a nuisance which affected public health exists.
- (2) Investigations. The Health Officer may investigate all complaints of nuisance received against an agricultural OR COMMERCIAL SEAFOOD operation. When a previous complaint involving the same condition resulted in a determination by the Health Officer that a nuisance condition did not exist, the Health Officer may investigate the complaint, but the Health Officer may also determine not to investigate such a complaint. ~~The Wicomico County Health Department may initiate any investigation without citizen complaint.~~
- (3) Declaration of a nuisance. If the Health Officer determines that a nuisance exists, the Health Department may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation OR COMMERCIAL SEAFOOD OPERATION the Health Officer shall apply criteria provided in this chapter. Further, the Health Officer may consider the professional opinion of the Wicomico County Cooperative Extension Service of the University of Maryland or other qualified experts in the relevant field in determining whether the agricultural operation OR COMMERCIAL SEAFOOD OPERATION being investigated is conducted in accordance with generally accepted management practices.

B. Resolution of disputes regarding agricultural OR COMMERCIAL SEAFOOD operations.

- (1) Should any controversies arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land OR COMMERCIAL SEAFOOD OPERATIONS, the parties to that controversy shall submit the controversy to the Agricultural Reconciliation Committee, in writing, through the Wicomico County Department of Planning, Zoning and Community Development. The Secretary of the Department shall then notify all Committee members in writing at least 10 days prior to any scheduled hearing.
- (2) The ~~WCARE~~ WCACSOC will conduct its proceedings in an informal manner and the rules of evidence shall not apply. The ~~WCARE~~ WCACSOC has the power, but is not required hereunder, to hold hearings, and to compel testimony under oath and the production of

documents. In each case before it, the ~~WCARC~~ WCACSOC shall issue orders settling or otherwise resolving controversies arising out of agricultural OR COMMERCIAL SEAFOOD operations, including, but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land OR COMMERCIAL SEAFOOD OPERATIONS.

- (3) ~~FIVE~~ ~~Four~~ ~~WCARC~~ WCACSOC members shall constitute a quorum for purposes of holding a hearing.
- (4) If a hearing ends in a tie vote, no action shall be taken on the complaint that formed the basis of the hearing.
- (5) Orders of the ~~WCARC~~ WCACSOC shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Wicomico County. Appeals from orders of the Committee shall be by a trial de novo.
- (6) If the ~~WCARC~~ WCACSOC or a court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land OR COMMERCIAL SEAFOOD OPERATION was in bad faith or without substantial justification, the ~~WCARC~~ WCACSOC or court may require that party to pay the owner of the agricultural OR COMMERCIAL SEAFOOD operation (or any other party opponent) the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by that party in defending against the action.

ARTICLE III. Legal Provisions

§ 186-7. Right to farm AND COMMERCIAL SEAFOOD OPERATION notice and real estate transfer disclosure; penalties.

A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this Right to Farm AND COMMERCIAL SEAFOOD OPERATION Chapter which shall be in a form substantially the same as the following:

Real Estate Transfer Disclosure Statement

This disclosure statement concerns the real property located in the County of Wicomico, State of Maryland, described as _____. This statement is a disclosure of the existence of the Wicomico County Right to Farm AND COMMERCIAL SEAFOOD OPERATION Law in compliance with Wicomico County Code Chapter **186** (the Wicomico County Right To Farm AND COMMERCIAL SEAFOOD OPERATION).

Seller's Information

The following are representations made by the seller and are not the representations of the agent(s), if any. This information is a disclosure and is not intended to be part of any contract between the buyer and seller.

Wicomico County allows agricultural AND COMMERCIAL SEAFOOD operations (as defined in the Wicomico County Right to Farm Law) within the county. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, fumes, dust, flies, the operation of machinery of any kind during any twenty-four-hour period (including aircraft), the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments and pesticides. Wicomico County has determined that inconveniences or discomforts associated with such agricultural OR COMMERCIAL SEAFOOD operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are consistent with generally accepted agricultural AND COMMERCIAL SEAFOOD management practices. Wicomico County has established a Reconciliation Committee to assist in the resolution of any disputes which might arise between persons in this county regarding agricultural AND COMMERCIAL SEAFOOD operations. If you have any questions concerning this policy or the Reconciliation Committee, please contact the Wicomico County Department of Planning, Zoning and Community Development for additional information.

Seller: _____ Date: _____

Seller: _____ Date: _____

I/we acknowledge receipt of a copy of this statement:

Buyer: _____ Date: _____

Buyer: _____ Date: _____

If you desire legal advice, consult your attorney.

- B. In addition, because of the county's desire to maintain a good neighbor policy and the county's desire to provide this information to county real property owners, the Wicomico County Director of Finance shall mail a copy of the right to farm AND COMMERCIAL SEAFOOD OPERATION notice to all owners of real Property in Wicomico County with the annual tax bill, beginning in fiscal year ~~1998-99~~ 2025-2026, in a form substantially the same as the following:

Wicomico County Right to Farm AND COMMERCIAL SEAFOOD OPERATION Notice

Wicomico County recognizes and supports the right to farm agricultural lands AND COMMERCIAL SEAFOOD OPERATIONS in a manner consistent with generally accepted agricultural AND COMMERCIAL SEAFOOD management practices. Residents of property on or near agricultural land OR COMMERCIAL SEAFOOD OPERATIONS should be prepared to accept the inconveniences or discomforts associated with agricultural OR COMMERCIAL SEAFOOD operations, including but not limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any twenty-four-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Wicomico County has determined that inconveniences or discomforts associated with such agricultural OR COMMERCIAL SEAFOOD operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural OR COMMERCIAL SEAFOOD practices. Wicomico County has established an Agricultural AND COMMERCIAL SEAFOOD OPERATION

~~CAPITAL STRIKE OUT~~ indicates matter stricken from Bill by Amendment.
Underlining indicates Amendments to Bill.

Reconciliation Committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands OR COMMERCIAL SEAFOOD ACTIVITY are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural OR COMMERCIAL SEAFOOD practices. If you have any questions concerning this policy or the Reconciliation Committee, please contact the Department of Planning, Zoning and Community Development.

- C. Penalty for violation. Any person who violates any provision of this section is guilty of a civil infraction punishable by a fine not exceeding \$100. Failure to comply with any provision of this right to farm AND COMMERCIAL SEAFOOD OPERATION notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith, or for value, and it shall not affect the application of this chapter. The Director of the Department of Planning, Zoning and Community Development or his designee is hereby authorized to issue citations for civil infractions of this subsection.

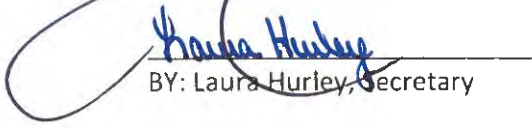
* * *

SECTION II: BE IT ENACTED that this Legislative Bill shall be known 2025-04 of Wicomico County, Maryland, and shall take effect sixty (60) days after its final passage, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of Wicomico County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 1st day of April, 2025.

WICOMICO COUNTY, MARYLAND


BY: John T. Cannon, President


BY: Laura Hurley, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.


Laura Hurley, Secretary

Explanation:

~~Strike Out indicates matters deleted from existing law,~~
CAPITALS INDICATE MATTERS ADDED TO EXISTING LAW.

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

2025 Legislative Session

Legislative Day No. 05

LEGISLATIVE BILL NO. 2025-04

INTRODUCED BY: The Council President

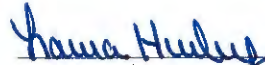
Legislative Bill No. 2025-04: AN ACT TO AMEND CHAPTER 186 OF THE WICOMICO COUNTY CODE, titled "RIGHT TO FARM," to include the Right to Conduct a Commercial Seafood Operation, establish new membership positions on the Right to Farm and Commercial Seafood Operation Reconciliation Committee, and expand the notification requirement to include the Right to Conduct Commercial Seafood Operations.

Introduced and read first time on March 4, 2025. Ordered posted and public hearing scheduled for April 1, 2025, at 6:00 p.m.



Laura Hurley, Council Administrator

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing held on April 1, 2025.



Laura Hurley, Council Administrator

CERTIFICATION: The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 1st day of April 2025.



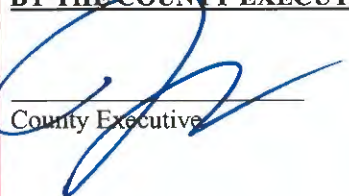
Laura Hurley, Council Administrator

Presented to the County Executive for approval this 2nd day of April, 2025, at 11:00 a.m./p.m. (5 days §411)



Laura Hurley, Council Administrator

BY THE COUNTY EXECUTIVE:



County Executive

APPROVED

Date: 4/8/25

(21 days §411)

VETOED

Date: _____

BY THE COUNCIL:

Option One: This Bill, having been approved by the County Executive and returned to the Council, becomes law on April 8, 2025 and effective on: June 7, 2025.
(60 days §311)

Option Two: This Bill, having received neither the approval nor the disapproval of the County Executive with 21 days of its presentation, stands enacted on _____ and becomes effective on _____.
(60 days §311)

Option Three: This Bill, being exempt from the Executive Veto stands enacted on _____ and becomes effective on _____. (Charter Section 305)

ENROLLMENT: Legislative Bill No. 2025-04 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.



Laura Hurley, Council Administrator