



# **Development of “Accepted Customs & Standards” for Wind Machines & Frost Protection Devices**

**Agricultural Liaison Advisory Board  
April 3, 2023**

# County of San Luis Obispo- Right to Farm Ordinance

- 5.16.030 (1): No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar Agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.
- Similar language for Agricultural Processing
- 5.16.080: Penalty for Violation: Any violation of any of the requirements of this chapter shall be handled as a civil matter between the parties affected and shall not be a misdemeanor or infraction.



# County of San Luis Obispo- Right to Farm Ordinance

Department of Agriculture: process when responding to noise complaints/Right to Farm complaints

- Contact complainant for details
- Contact grower: learn about their needs for certain activities and inform them of their roles, rights, and responsibilities
- Follow-up with complainant
- Do not officially determine if activity qualifies for Right to Farm protection, but are often asked for our assessment of the case
- If applicable or appropriate, will contact Planning's Code Enforcement Division or rural Sheriff Deputy



# Recent Neighbor Complaints Concerning Wind Machines

- Most noise complaints stem from “bird frightening devices”.
- Recent increase in complaints regarding wind machines. Repeated complaints for the same locations.
- Spring 2021 – North Coast: complaints regarding wind machines being used in recently planted avocado orchard.
- Fall 2022 – North County: portable wind machines being used in newly established vineyard. Not in accordance with “accepted customs and standards”. Vineyard not established for three years without being a nuisance.
- Winter 2022/Spring 2023 – Edna Valley: permanent, permitted wind machine being used in citrus orchard. Residential area pre-dates citrus.



## County of San Luis Obispo – Title 22.10.120 - Noise Standards

- 22.10.120 (A): Exceptions to noise standards: The standards of this Section are not applicable to noise from the following sources.
- 22.10.120 (A) 6: Noise sources associated with agricultural land uses as listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements), including but not limited to wind machines used for direct climate control, water well pumps and pest-repelling devices, provided that the pest-repelling devices are used in accordance with accepted standards and practices.



# Accepted Customs and Standards for Bird Frightening Devices

- Administered by the County of San Luis Obispo Department of Agriculture
- Two slightly different versions have been developed for use in (1) Commercial Vineyards and in (2) Vegetable and Berry Crops
- Developed and approved by Agricultural Liaison Advisory Board
- If a grower does not appear to be meeting those standards, then complaint is forwarded to Planning's Code Enforcement Division



# Accepted Customs and Standards for Bird Frightening Devices

Key Concepts Include:

- Use in a manner that is actually effective, e.g. only use when birds are present and damage is anticipated, use during daylight hours, and use at a proper frequency interval
- Use in accordance with manufacturers' specifications
- Grower must provide sufficient monitoring of devices to ensure proper use



# Accepted Customs and Standards for Wind Machines

## Potential Standards:

- Only use when needed to avoid crop damage, e.g. make sure thermometer is properly calibrated to limit fan operation to the temperature range appropriate for the crop being protected.
  - Should specific temperature thresholds be included for different crops or keep language broad and speak to potential for crop damage?
- Use in accordance with manufacturers' specifications
- Grower must provide sufficient monitoring of devices to ensure proper use



# Accepted Customs and Standards for Wind Machines

## Potential Standards (continued):

- Operation of frost fans during the night period shall be for protection of crops from frost only. Any other operation, such as for the purposes of maintenance, shall be undertaken during the day.
- The activity shall adopt the best practicable option to ensure that noise does not exceed a reasonable level.
- A legible notice is to be fixed to the road frontage of the property on which it is being used, giving the name, address and telephone number of the person responsible for the operation.
- Include language on the use of noise barriers or noise attenuating housing?



# Potential Next Steps

- Formalize “accepted customs and standards” and include on future ALAB Agenda for official member vote
- County Department of Planning & Building, in conjunction with County Counsel, will take the lead on the noise ordinance language changes

