

## Chapter 35 - PROTECTION OF AGRICULTURAL LAND\*

### Sections:

[35-1 - Short title.](#)

[35-2 - Findings.](#)

[35-3 - Relationship to other laws.](#)

[35-4 - Schedule of fees and charges.](#)

[35-5 - Definitions.](#)

[35-6 - Nuisance—Agricultural operation.](#)

[35-7 - Disclosure of this chapter to current owners.](#)

[35-8 - Disclosure of this chapter in development approvals.](#)

[35-9 - Disclosure of this chapter to buyers of real property.](#)

[35-10 - Noncompliance with this chapter.](#)

### 35-1 - Short title.

This chapter shall be known and may be cited as the Butte County Right to Farm Ordinance or the Right to Farm Ordinance.

(Ord. No. 3965, § 1, 6-12-07)

### 35-2 - Findings.

(a) It is the declared policy of this county to conserve, protect, enhance, and encourage agricultural operations on agricultural land within the unincorporated area of the county. Further, it is the intent of this county to provide its residents proper notification of the county's recognition and support, through this chapter, of the right to farm;

(b) Where nonagricultural land uses, particularly residential and commercial development, extend onto agricultural land or exist side by side with agricultural operations, agricultural operations are frequently the subject of nuisance complaints. As a result, some agricultural operations are forced to cease or curtail their operations and many others are discouraged from making investments in improvements to their operations, all to the detriment of adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this chapter to reduce the loss to the county of its agricultural resources by limiting the circumstances under which properly conducted agricultural operations on agricultural land may be considered a nuisance;

(c) It is the further purpose and intent of this chapter to promote a good-neighbor policy by requiring notification of owners, purchasers, residents, and users of property adjacent to or near agricultural operations on agricultural land of the inherent potential problems associated with being located near such operations, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds and pesticides. It is intended that, through mandatory disclosures, owners, purchasers, residents and users will better understand the impact of living or

working near agricultural operations and be prepared to accept attendant conditions from properly conducted agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector;

(d) It is the further purpose and intent of this chapter to carry out and advance the goals, objectives, policies, and implementation programs of the agricultural element of the general plan.

(Ord. No. 3965, § 2, 6-12-07)

### **35-3 - Relationship to other laws.**

This chapter is not intended to, and shall not be construed or given effect in a manner so as to modify or abridge federal law or regulation, or state law as set out in the Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of state law relative to nuisances; instead, this chapter is only to be utilized in the interpretation and enforcement of provisions of this code and county regulations. Further, this chapter is not intended to, and shall not be construed or given effect in a manner so as to, limit or restrict the county's authority to review and approve or disapprove proposals for agricultural operations on agricultural land in accordance with other provisions of this code or other laws.

(Ord. No. 3965, § 3, 6-12-07)

### **35-4 - Schedule of fees and charges.**

The board of supervisors may from time to time establish a schedule of fees and charges following the procedures required by law to recover the reasonable cost of providing services, issuing permits, recording documents, and enforcing regulations pursuant to this chapter.

(Ord. No. 3965, § 4, 6-12-07)

### **35-5 - Definitions.**

Unless the provision or context otherwise requires, the definitions contained in this section shall govern the construction of this chapter. The definition of a word or phrase applies to any of that word's or phrase's variants.

"Adjacent to agricultural land" means within three hundred (300) feet of agricultural land.

"Agricultural land" means all that real property within the unincorporated area of the county with a general plan land use designation of Grazing and Open Lands and Orchard and Field Crop and areas abutting those two land use designations along the interior three hundred (300) feet of community boundaries and spheres of influence lines.

"Agricultural operation" means and includes, but shall not be limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, processing and storing of any agricultural commodity, including viticulture, horticulture, timber or apiculture, the raising of livestock, fur bearing animals, fish or poultry, and any commercial agricultural practices performed incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

"Development approval" means all of the following:

(a) Any discretionary approval granted pursuant to Chapters 13, 20, 24 and 26 of this code to allow residential or commercial development of land, including, without limitation, any approval of a zone change, tentative map, lot line adjustment, use permit, or design review.

(b) Any building permit issued pursuant to Chapter 26 of this code to allow construction of a new single-family dwelling, enlargement of an existing single-family dwelling by six hundred forty (640) square feet or more of floor area, or installation of a manufactured home.

"Director of Development Services" means and includes his or her authorized representative.

"General plan" means the Butte County general plan.

"Properly conducted agricultural operation" means an agricultural operation that is in conformance with existing laws and regulations and proper and accepted customs and standards.

"Treasurer/tax collector" means the treasurer/tax collector of the county or his or her authorized representative.

"Zoning ordinance" means the Butte County zoning ordinance set forth in Chapter 24 of this code.

(Ord. No. 3965, § 5, 6-12-07)

### **35-6 - Nuisance—Agricultural operation.**

No agricultural operation conducted or maintained on agricultural land in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the county, shall be or become a nuisance for purposes of this code or county regulations if it was not a nuisance when it began, provided that such operation complies with the requirements of all applicable federal, state, and county statutes, ordinances, rules, regulations, approvals and permits. The provisions of this section shall not apply where a nuisance results from the negligent or improper management or operation of an agricultural operation.

(Ord. No. 3965, § 6, 6-12-07)

### **35-7 - Disclosure of this chapter to current owners.**

The treasurer/tax collector shall cause the following notice to be mailed to all owners of real property within the county with the annual tax bill:

The County of Butte permits the operation of properly conducted agricultural operations on agricultural land within the unincorporated area of Butte County and has declared this County policy in the Butte County Right to Farm Ordinance (Butte County Code, Chapter 35) to conserve, protect, enhance, and encourage such operations. Residents or users of property located near an agricultural operation on agricultural land may at times be subject to inconvenience or discomfort arising from that operation, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds, and pesticides. One (1) or more of these inconveniences or discomforts may occur as result of any properly conducted agricultural operation on agricultural land. The County of Butte has determined in the Butte County Right to Farm Ordinance that inconvenience or discomfort arising from a properly conducted agricultural operation on agricultural land will not be considered a nuisance for purposes of the Butte County Code or County regulations, and that residents or users of nearby property should be prepared to accept such inconvenience or discomfort as a normal and

necessary aspect of living in a county with a strong rural character and an active agricultural sector. For more information about the Butte County Right to Farm Ordinance, please contact the Butte County Agricultural Commissioner's office at 316 Nelson Ave., Oroville, CA 95965 or the Department of Development Services at 7 County Center Drive, Oroville, CA 95965.

(Ord. No. 3965, § 7, 6-12-07)

**35-8 - Disclosure of this chapter in development approvals.**

Where a development approval is sought on or adjacent to agricultural land, the property owner, as part of the application for the development approval, shall execute a declaration acknowledging the right to farm. The director of development services shall cause the declaration to be recorded in the office of the county recorder upon granting of the development approval, unless a declaration acknowledging the right to farm has already been recorded for the property pursuant to this section, in which case the declaration need not be recorded. The declaration shall be in substantially the following form:

**DECLARATION ACKNOWLEDGING RIGHT TO FARM**

The undersigned do hereby certify to be the owner(s) of certain real property located in Butte County, California, and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference ("the subject property").

The undersigned do hereby acknowledge that the subject property is located on or adjacent to agricultural land, as defined in the Butte County Right to Farm Ordinance (Butte County Code, Chapter 35). The undersigned do hereby further acknowledge that the County of Butte permits the operation of properly conducted agricultural operations on agricultural land within the unincorporated area of Butte County and has declared it County policy in the Butte County Right to Farm Ordinance to conserve, protect, enhance, and encourage such operations. The undersigned do hereby further acknowledge that if the subject property is located near an agricultural operation on agricultural land, residents or users of the subject property may at times be subject to inconvenience or discomfort arising from that operation, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds, and pesticides. The undersigned do hereby further acknowledge that one or more of these inconveniences or discomforts may occur as a result of any properly conducted agricultural operation on agricultural land. The undersigned do hereby further acknowledge that the County of Butte has determined in the Butte County Right to Farm Ordinance that inconvenience or discomfort arising from a properly conducted agricultural operation on agricultural land will not be considered a nuisance for purposes of the Butte County Code or County regulations, and that residents or users of nearby property should be prepared to accept such inconvenience or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

This Declaration shall run with the subject property in perpetuity and shall be binding upon the undersigned and the undersigned's heirs, personal representatives, lessees, executors, successors, and assigns. This Declaration and the acknowledgments contained herein shall be disclosed to prospective transferees of any interest in the subject property, including, without limitation, a leasehold interest, prior to any such transfer.

**IN WITNESS WHEREOF**, the undersigned has/have executed this Declaration this ;#rule; day of \_\_\_\_\_, 20;yr;rule;.

**DECLARANT(S)**

Dated:;daterule;

Dated:;daterule;

**NOTE: ACKNOWLEDGMENTS MUST BE ATTACHED FOR ALL SIGNATORIES.**

(Ord. No. 3965, § 8, 6-12-07)

**35-9 - Disclosure of this chapter to buyers of real property.**

(a) Where a transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or residential stock cooperative improved with one (1) to four (4) dwelling units is proposed for any real property within the unincorporated area of the county, the transferor shall disclose this chapter and the nature of its provisions to the prospective transferee in one (1) of the following ways:

- (1) Deliver a general disclosures and disclaimers advisory to the prospective transferee pursuant to local real estate practice that includes a statement disclosing this chapter and the nature of its provisions. The statement shall be in substantially the following form:

The County of Butte permits the operation of properly conducted agricultural operations on agricultural land within the unincorporated area of Butte County, and has declared it County policy in the Butte County Right to Farm Ordinance (Butte County Code, Chapter 35) to conserve, protect, enhance, and encourage such operations. If the property you are purchasing is located near an agricultural operation on agricultural land, residents or users of the property may at times be subject to inconvenience or discomfort arising from that operation, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds, and pesticides. One (1) or more of these inconveniences or discomforts may occur as a result of any properly conducted agricultural operation on agricultural land. The County of Butte has determined in the Butte County Right to Farm Ordinance that inconvenience or discomfort arising from a properly conducted agricultural operation on agricultural land will not be considered a nuisance for purposes of the Butte County Code or County regulations, and that residents or users of nearby property should be prepared to accept such inconvenience or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector. For more information about the Butte County Right to Farm Ordinance, please contact the Butte County Agricultural Commissioner's office at 316 Nelson Ave., Oroville, CA 95965 or the Department of Development Services at 7 County Center Drive, Oroville, CA 95965.

- (2) Deliver a disclosure statement to the prospective transferee pursuant to Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code disclosing this chapter and the nature of its provisions. The disclosure statement shall be in substantially the following form:

**LOCAL OPTION**

**REAL ESTATE TRANSFER DISCLOSURE STATEMENT**

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, DESCRIBED AS (Address and Assessor's Parcel Number(s)). THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 35-9 OF THE BUTTE COUNTY CODE AS OF (date). IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

#### SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF BUTTE, 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.

The County of Butte permits the operation of properly conducted agricultural operations on agricultural land within the unincorporated area of Butte County, and has declared it County policy in the Butte County Right to Farm Ordinance (Butte County Code, Chapter 35) to conserve, protect, enhance, and encourage such operations. If the property you are purchasing is located near an agricultural operation on agricultural land, residents or users of the property may at times be subject to inconvenience or discomfort arising from that operation, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds, and pesticides. One or more of these inconveniences or discomforts may occur as a result of any properly conducted agricultural operation on agricultural land. The County of Butte has determined in the Butte County Right to Farm Ordinance that inconvenience or discomfort arising from a properly conducted agricultural operation on agricultural land will not be considered a nuisance for purposes of the Butte County Code or County regulations, and that residents or users of nearby property should be prepared to accept such inconvenience or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector. For more information about the Butte County Right to Farm Ordinance, please contact the Butte County Agricultural Commissioner's office at 316 Nelson Ave., Oroville, CA 95965 or the Department of Development Services at 7 County Center Drive, Oroville, CA 95965.

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller\_\_\_\_\_ Date;daterule;

Seller\_\_\_\_\_ Date;daterule;

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller\_\_\_\_\_ Date;daterule;

Seller\_\_\_\_\_ Date;daterule;

Buyer\_\_\_\_\_ Date;daterule;

Buyer\_\_\_\_\_ Date;daterule;

Agent (Broker

Representing Seller) \_\_\_\_\_ By\_\_\_\_\_ Date;daterule;

(Associate Licensee

or Broker-Signature)

Agent (Broker

Obtaining the Offer)\_\_\_\_\_ By\_\_\_\_\_ Date;daterule;

(Associate Licensee or Broker-Signature)

**A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.**

(b) If a prospective transferee refuses to sign the general disclosures and disclaimers advisory or disclosure statement required by subsection (a), the transferor may comply with the requirements of this section by delivering the advisory or statement to the prospective transferee as provided in subsection (a) and affixing and signing the following declaration to the advisory or statement:

"I, (name), have delivered a copy of the foregoing (general disclosures and disclaimers advisory/disclosure statement) as required by Section 35-9 of the Butte County Code to (transferee's name), who has refused to sign.

I declare the foregoing to be true.

Date;;daterule; Signature:\_\_\_\_\_ Print Name:\_\_\_\_\_

(Ord. No. 3965, § 9, 6-12-07)

**35-10 - Noncompliance with this chapter.**

Noncompliance with any provision of this chapter shall not affect title to real property, nor prevent the recording of any document.

(Ord. No. 3965, § 10, 6-12-07)