



# Butte County Measure

Arguments in Support of, or in opposition to, the proposed laws are the opinions of the authors.

## G

### REFERENDUM ON AMENDMENTS TO THE “RIGHT TO FARM ORDINANCE”.

Shall Ordinance No. 4106, an Ordinance of the County of Butte amending Sections 35-2 and 35-5 to Chapter 35 of the Butte County Code entitled the “Right to Farm Ordinance” be adopted? Yes or No

#### IMPARTIAL ANALYSIS OF MEASURE G

Measure G is a referendum on Ordinance 4106 adopted by the Butte County Board of Supervisors. A referendum submits a Board-adopted ordinance to a vote of the County’s registered voters. On January 26, 2016, the Board of Supervisors adopted Ordinance 4106, amending Chapter 35 of the Butte County Code. A referendum petition to either repeal Ordinance 4106 or submit it to the voters received the required number of signatures. On March 8, 2016, the Board of Supervisors chose to submit the Ordinance to the voters. If approved by the voters, Ordinance 4106 would:

Clarify that the cultivation of marijuana is not an agricultural operation that is subject to the benefits of Chapter 35 of the Butte County Code, known as the “Right to Farm Ordinance.”

In 2015, the California Legislature adopted the Medical Marijuana Regulation and Safety Act (the “Act”), which added Section 11362.777 to the Health & Safety Code, which provides that for purposes of the Act only, “medical cannabis is an agricultural product.” The County of Butte has not implemented the provisions of the Act. Therefore, to avoid any confusion, the Board of Supervisors adopted Ordinance 4106, to confirm that the cultivation of marijuana is not an agricultural operation that is subject to the benefits of the Right to Farm Ordinance.

A “yes” vote means you support implementing these provisions.

A “no” vote means you do not support implementing these provisions.

If a majority of the votes cast on the measure are “yes”, then the measure will be approved and Ordinance 4106 will become effective ten days after the vote is declared by the Board of Supervisors. If a majority of the votes cast on the measure are “no”, then the measure will not

be approved and Ordinance 4106 will not become effective.

s/Bruce S. Alpert  
Butte County Counsel

#### COUNTY AUDITOR-CONTROLLER’S FISCAL IMPACT STATEMENT OF MEASURE G

The Butte County Auditor-Controller has prepared the following fiscal impact analysis of Measure “G” (Medical Marijuana Cultivation Ordinance) pursuant to Election Code Section 9160. This analysis of the resulting costs and revenues of the proposed measure is based on projected requirements to fulfill the intent of the measure.

#### Fiscal Impact:

This Measure would have no direct effect on revenues of the County. However, there is an indirect effect on County’s expenditures.

In previous public meetings regarding marijuana-related ordinances, individuals reported that marijuana grown in residential backyards resulted in an invitation to criminal activity for persons who would steal marijuana plants out of backyards. County law enforcement continues to respond to numerous calls for service that involve the illegal cultivation, distribution, use, and sale of marijuana; and the County continues to expend resources to arrest and prosecute those involved. If cultivation of marijuana is categorized as an agricultural commodity, it could reasonable be suspected that crops targeted for thefts would result in increased law enforcement costs.

For the reasons described above, Ordinance 4106 - confirming cultivation of marijuana is not an agricultural operation subject to the benefits of the Right to Farm Ordinance - would indirectly affect County’s enforcement costs.



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## ARGUMENT IN FAVOR OF MEASURE G

Pot is not the same as peaches – Vote Yes on G.

Commercial Marijuana Growers want you to believe that marijuana is “just like peaches, walnuts or rice” and want “right-to-farm” protection. We strongly disagree!

Marijuana already has a special status – it can be grown for medicinal use in California. It is not a major food crop and does not deserve right-to-farm protections.

Marijuana is still considered a Schedule 1 drug by the Federal government and therefore cannot be treated like other plants. It is still a federal felony to cultivate marijuana.

The right-to-farm for marijuana cultivation could potentially protect growers from nuisance complaints if they are “adjacent” (within 300 feet) of your residence.

A right-to-farm for marijuana cultivation could potentially require Property Sellers to disclosure and require Buyers to acknowledge Marijuana Cultivation within 300 feet of the property being sold.

A right-to-farm for marijuana cultivation could potentially require Land Developers to sign a Declaration Acknowledging the Right To Conduct Marijuana Cultivation Operations within 300 feet.

Don’t Allow Marijuana to hide under the umbrella of “Right-To-Farm.” Commercial pot farmers want marijuana to enjoy equal protection under the “right-to-farm” laws. Commercial pot growers may use this as a tactic to avoid nuisance claims.

The current right-to-farm ordinance protects legitimate agriculture from being displaced or forced out as residential developments encroach upon farmlands. Without these protections, farms could be cited for nuisance (noise, dust, smells) even if they were in place well before residential areas moved next to them.

The right-to-farm laws protect agriculture, our food supply and our way of life. Marijuana does not deserve the same protections.

Vote Yes on G to Exclude Marijuana from the Right-To-Farm Ordinance.

s/Michael L. Ramsey, Butte County District Attorney  
s/Jerry W. Smith, Retired Sheriff  
s/David Daley, Vice President – California Cattlemen’s Association  
s/Sean P. Earley, President, Butte County Cattlemen’s Association  
s/Kory L. Honea, Butte County Sheriff-Coroner

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE G

Vote No on G.

Measure G is an empty gesture.

Measure G achieves nothing for Butte County or its citizens.

Measure G has no impact at all on whether or not cannabis farmers deserve, or receive, right-to-farm protection. It only causes needless and costly lawsuits.

Chapter 35-6 of the Right to Farm ordinance allows agricultural operations to avoid being classed as a nuisance so long as “such operation complies with the requirements of all Federal, state and county statutes...” Cannabis farming is already excluded from such protections.

What does passage of Measure G mean for you, as a taxpaying citizen of Butte County today?

Nothing. However, it means potential lawsuits to be defended, at your expense, once cannabis becomes federally legal. The state of California, in the laws passed last October, acknowledged cannabis as an agricultural commodity. Once the federal government follows suit, and they will, cannabis will become a crop. At that point, further attempts to exclude it will become discrimination, and subject to costly legal action.

Right now, Measure G is simply an Empty, Unnecessary exercise that achieves no benefit for Butte County or its citizens.

Supporters of a yes vote would have you believe that if this measure is defeated, cannabis farmers will somehow gain additional rights and protections. They will not.

We think the public is Smarter than that.



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We think they will Vote No on frivolous, unnecessary legislation, on empty gestures, on using the ballot to create a set of second-class citizens.

Vote No on G.

s/Jessica MacKenzie

## ARGUMENT AGAINST MEASURE G

The Right to Farm is a long-standing cherished set of protections for farming operations in rural agricultural counties. It protects farmers who conduct themselves and their operations in a manner similar to other like-kind operations. As an example, almond farmers cannot be deemed nuisances simply because their typical harvesting processes may cause increased dust and airborne debris that some people may find troublesome. Neighbors to rice farms may be subject to the possibility of increased mosquito populations yet cannot declare such operations a nuisance. Harvesting, and its attendant noise and dust, are appreciated as part of the agricultural industry that fuels and sustains our local economy.

The proposed amendment to our Right to Farm ordinance is unnecessary and ill-advised. It does not benefit the County, is an unnecessary expense, and puts the County at risk for future liability. It is unnecessary, as Cannabis is already excluded from these protections and will remain so until it becomes federally legal. And at such time as it does become federally legal, the County will either need to once again modify the ordinance, incurring additional unneeded expenses, or leave itself open to adverse legal action for the discrimination against a class of legal, compliant farmers of a now fully legitimate agricultural commodity.

So...this amendment has no benefit other than to further stigmatize a group of Butte County farmers, and places the county at fiscal risk in the future. We recommend a No vote.

s/ Jessica MacKenzie

## REBUTTAL TO ARGUMENT AGAINST MEASURE G

Measure G will protect Butte County now and in the future. Some commercial marijuana operators may attempt to circumvent County enforcement against their illicit pot cultivation activities by falsely claiming legal protection under Butte County's Right-to-Farm ordinance.

Measure G makes it clear that marijuana cultivation is not an agricultural activity for the purposes of right-to-farm. Commercial marijuana cultivation has nothing in common with traditional agriculture or farming.

Marijuana grows are frequently associated with criminal activities such as gang violence; narcotics trafficking; water theft and the invasion of public lands. Marijuana grows are creating all manner of public safety concerns including physical intimidation of neighbors; the use of armed gang members as guards; and the operation of dangerous "Butane Honey-Oil" drug labs. Giving these activities legal protection under "right-to-farm" defies all common sense and is against the public good.

Measure G will prevent commercial marijuana operators from hijacking our Right-to-Farm ordinance and using it as a Trojan Horse to hide their dangerous criminal activities.

By distinguishing marijuana cultivation from agriculture, Measure G will also help to preserve right-to-farm protections for legitimate Butte County Farmers.

Vote Yes on Measure G – protect Butte County.

s/Joan C. Townsend, Retired Medical Clinic Director, Del Norte Clinics

s/Lawrence C. Grundmann, Jr., Retired Entergy Utility Executive

s/Sean P. Earley, President, Butte County Cattlemen's Association

s/David Daley, Vice-President, California Cattlemen's Association

s/Ed McLaughlin, Farmer – Retired Butte County Supervisor



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## FULL TEXT OF MEASURE G

Ordinance No. \_\_\_\_\_

### AN ORDINANCE OF THE COUNTY OF BUTTE AMENDING SECTIONS 35-2 AND 35-5 TO CHAPTER 35 OF THE BUTTE COUNTY CODE ENTITLED THE "RIGHT TO FARM ORDINANCE."

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Section 35-2 of the Butte County Code is amended by adding the following:

#### 35-2 Findings.

(e) In 2015, the California Legislature enacted Senate Bill 643, and Assembly Bills 243 and 266, which, among other things, established the Medical Marijuana Regulation and Safety Act (codified as California Business and Professions Code sections 19300 et seq.).

(f) As part of Assembly Bill 243, section 11362.777 was added to the California Health and Safety Code, subdivision (a) of which provides as follows: "The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary, except as specified in subdivision (c), shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of the Business and Professions Code, medical cannabis is an agricultural product."

(g) Although the statement in Section 11362.777 of the Health and Safety Code that medical cannabis is an agricultural product is limited to Section 11362.777 of the Health and Safety Code and Chapter 3.5 of the California Business and Professions Code, to avoid any confusion, it has been recommended that Butte County's Right to Farm Ordinance be amended to confirm that for purposes of the Right to Farm Ordinance, set forth in Chapter 35 of the Butte County Code, the cultivation of marijuana is not an agricultural operation.

(h) Marijuana is unlike other crops that are cultivated and harvested in Butte County. In previous public meetings regarding marijuana-related ordinances, which were well-attended by hundreds of Butte County

residents, individuals reported that marijuana grown in residential backyards results in an invitation to criminal activity for persons who would steal marijuana plants out of backyards. Some marijuana growers would live in a tent in their backyard, carrying firearms and utilizing guard dogs to protect their marijuana plants. Residents reported they were uncomfortable allowing their children to play outside in their neighborhood due to such dangerous activity. Cultivators of medical marijuana stated that they would not grow medical marijuana at their own residence to protect their children. Butte County law enforcement continues to respond to numerous calls for service that involve the illegal cultivation, distribution, use, and sale of marijuana, and continues to expend County resources to arrest and prosecute those involved.

Section 2. Section 35-5 of the Butte County Code is hereby amended only by strikeout and/or underline as follows:

#### 35-5 Definitions.

"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. The cultivation of marijuana is not an agricultural operation, subject to the benefits of the Right to Farm Ordinance.

Section 3. The County finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c) (2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b) (3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency,



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including by direct referral to the County Counsel as appropriate for judicial enforcement).

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court of competent jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the Ordinance which can be given effect without the invalid provision or application thereof.

Section 5. Effective Date and Publication. This Ordinance shall take effect thirty (30) days after the date of its passage. The Clerk of the Board of Supervisors is authorized and directed to publish this ordinance before the expiration of fifteen (15) days after its passage. This Ordinance shall be published once, with the names of the members of the Board of Supervisors voting for and against it, in the Enterprise Record a newspaper of general circulation published in the County of Butte, State of California.

PASSED AND ADOPTED by the Board of Supervisors of the County of Butte, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

- AYES:
- NOES:
- ABSENT:
- NOT VOTING:

\_\_\_\_\_  
Bill Connelly, Chair of the Butte County Board of Supervisors

ATTEST:  
PAUL HAHN, Chief Administrative Officer  
and Clerk of the Board

By: \_\_\_\_\_  
Deputy