

County Ordinance # 2014-007

Section 1. Title

This Ordinance shall be known as the Josephine County Genetically Engineered Plant Ordinance

Section 2. Purpose and Findings

(A) The purpose of this Ordinance is to:

- a. Maintain and protect seed sovereignty and local control, free from outside corporate interests and unnecessary and overreaching preemption by the state and federal governments, of this County's agriculture, environment, public health, economy and private property rights as they pertain to genetic contamination from genetically engineered plants;
- b. Prohibit any person, corporation or entity from propagating, raising, or growing genetically engineered plants in Josephine County; and
- c. Enable Josephine County to enforce the genetically engineered plant ban and recover the costs of such enforcement.

(B) This Ordinance supports the health, welfare and economic viability of the citizens of Josephine County, who desire to:

- a. Maintain and protect their inherent sovereign right to grow crops from natural seeds, in order to sustain their families and communities as they have already successfully done for generations;
- b. Protect the County's agriculture, environment, public health, economy and private property from the physical, environmental and monetary damages linked to genetically modified organisms; and
- c. Support the right to farm and garden in this County, as the citizens of Josephine County assert that the propagation, cultivation, growing and dispersal of genetically modified organisms are not reasonable or prudent farming practices and instead threaten the health, welfare and economic viability of that inherent right to farm and garden.

Section 3. Definitions.

(A) "DNA" means "deoxyribonucleic acid," which is the genetic material that is present in every cell of an organism and is the "blueprint" for the organism's development.

(B) "Genetic contamination" means the dispersal or spread of altered genetic information from genetically engineered organisms into the genomes of organisms in which such genes are not present in nature, such as by cross-pollination.

(C) "Genetically engineered" or "genetically modified" means modification of living plants and other organisms by genetic engineering, and "genetically modified organisms" or "GMOs" means any living organism that possesses a novel combination of genetic material produced through the use of modern biotechnology techniques. Examples of genetic engineering and modification include, but are not limited to: altering or amending DNA using recombinant DNA technology such as gene deletion, gene doubling, introducing a foreign gene, or changing the position of genes, and includes cell fusion (including protoplast fusion), microencapsulation, macroencapsulation, gene splicing,) or hybridization techniques that overcome natural physiological, reproductive or recombination barriers, where the donor cells/protoplasts do not fall within the same taxonomic species and in a way that does not occur by natural multiplication or natural recombination. "In vitro nucleic acid techniques" include but are not limited to recombinant DNA or RNA techniques that use vector systems and techniques involving the

direct introduction into the organisms of hereditary materials prepared outside the organism such as microinjection, macro-injection, chemoporation, electroporation, microencapsulation and liposome fusion, and any other technology or technique that results in an organism that contains genes from more than one species, or genes that are not naturally occurring. For purposes of this Ordinance, genetically engineered or modified organisms do not include organisms created by traditional selective breeding, fermenting, conjugation, normal in vitro fertilization or hybridization, or to microorganisms created by moving genes or gene segments between unrelated bacteria.

(D) “Natural seeds” or “natural organisms” means seeds or organisms that do not possess a novel combination of genetic material obtained through the use of modern biotechnology and have not been genetically modified or engineered. Natural seeds or organisms include those seeds or organisms created by traditional selective breeding or hybridization methods.

(E) “Organism” means any living thing.

Section 4. Reservation of Authority to Regulate Genetically Modified Organisms.

Josephine County hereby reserves the authority to regulate genetically modified organisms. This authority is construed to allow regulations and amendments, or delayed provisions, implementation, or enforcement of this law without limitation in time. Future laws that may preempt local regulations of genetically modified organisms, or any future regulation or amendments occurring under the authority provided by this Ordinance, shall not be construed to retroactively apply to affect the authority in this ordinance.

Section 5. Prohibition.

It shall be unlawful for any person, corporation or other entity to:

(A) Propagate, cultivate, raise, or grow genetically modified organisms in Josephine County, or to knowingly or negligently allow such activities to occur on one’s land, except as provided in Section 6 below.

(B) Intentionally or negligently cause or allow any genetically modified organisms or materials from within or outside of the jurisdiction of Josephine County to substantially enter, drift or be dispersed into and within Josephine County, in such a way as to risk genetic contamination of natural organisms within the jurisdiction of Josephine County. Josephine County may enforce such violations to the extent possible pursuant to applicable laws.

Section 6. Exceptions to Prohibition.

(A) State or federally licensed medical research institutions, medical laboratories, or medical manufacturing facilities engaged in licensed medical production, or medical research involving genetically modified organisms are exempt from this Ordinance provided that such activities are conducted under secure, enclosed indoor laboratory conditions with the utmost precautions to prevent release of any part of genetically engineered organisms, especially but not limited to pollen, to the outside environment.

(B) Educational or scientific institutes, including but not limited to Oregon State University Extension, working with genetically engineered organisms are exempt from this Ordinance provided that such activities are conducted under secure, enclosed indoor laboratory conditions with the utmost precautions to prevent release of any part of genetically engineered organisms, especially but not limited to pollen, to the outside environment.

(C) Any institution listed in (A) or (B) above that intentionally or negligently allows release of any part of genetically engineered organisms into the outside environment is in violation of this Ordinance and subject to enforcement as set forth herein.

Section 7. Code Enforcement Officer, Disclosure, Phase-In and Transition.

(A) Code Enforcement Officer. The Josephine County Board of Commissioners may designate one or more persons to administer and enforce the provisions of this Ordinance, herein referred to as the Code Enforcement Officer.

(B) Upon enactment, the Code Enforcement Officer shall make reasonable efforts to provide initial notification of this ordinance to farming operations within Josephine County.

(C) Every person, corporation or entity cultivating, raising and growing genetically modified organisms, including those institutions set forth in Section 6 above, must disclose to the Code Enforcement Officer within thirty (30) days of enactment of this Ordinance the location and description of existing or planned genetically engineered crop(s) or materials involved, in order to develop a transition plan to phase out such organisms.

(D) The Code Enforcement Officer shall make reasonable efforts to notify farming operations of technical assistance and resources that may be available to assist with the transition from genetically engineered to natural organisms.

(E) Farming operations with genetically engineered crops shall have up to twelve (12) months from the date of enactment to phase out planting and harvesting of genetically modified organisms.

(F) Actions required of the Code Enforcement Officer in this section are intended to assist farming operations with compliance and assistance. Failure to receive notification does not waive or otherwise affect requirements for compliance with the provisions of this Ordinance.

Section 8. Enforcement and Remedies.

(A) Notification. The Code Enforcement Officer shall notify any person, corporation or entity that may be in violation of this Ordinance that any organisms in violation of this Ordinance are subject to confiscation and destruction, in accordance with due process.

(B) Response. Any person, corporation or entity that receives notification under subsection (B) shall have fifteen (15) days to respond to such notification with evidence that such organisms are not in violation of this Ordinance. Time for response may be shortened upon a showing of current, ongoing and/or imminent harm or risk of genetic contamination.

(C) If the notified party does not provide such evidence, or if there is probable cause to believe genetically engineered plants are present, the Code Enforcement Officer may take necessary actions required by law (such as obtaining a search warrant) to obtain access to the property and obtain samples of materials, in accordance with due process.

(D) Determination. Upon receipt of any evidence under subsection (D), the Code Enforcement Officer shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. The Code Enforcement Officer shall act in good faith to make such determination as soon as possible, and before any genetic contamination may occur. If genetic contamination has already occurred or cannot be prevented before the determination is completed, Code Enforcement Officer shall make efforts to abate and prevent further contamination.

(E) Remedies. In addition to any remedies and penalties provided that may be available by law, the following remedies and penalties may be imposed:

a. Any organisms that are the subject of violation of this Ordinance may be confiscated, quarantined, and destroyed before any genetic contamination may occur. If genetic contamination has already occurred, the contaminated organisms may be confiscated, quarantined, and destroyed, in accordance with due process.

b. Administrative and abatement costs associated with the confiscation and destruction of organisms may be imposed on responsible parties (namely the person(s), corporation(s) or other entities responsible for the violation). If contamination has already occurred, costs for remediation of contamination may be imposed on responsible parties.

c. In imposing administrative and abatement costs on the responsible parties, the Code Enforcement Officer shall take into account the amount of actual and reasonably foreseeable damage, and the degree of willfulness, reckless disregard or negligence of the person, corporation or entity involved.

(F) Any individual citizen of Josephine County shall have standing to assert any rights secured by this ordinance that have been violated or are threatened with violation, and may seek injunctive and/or compensatory relief from a court of competent jurisdiction.

Section 9. Severability.

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed from the Ordinance, and the balance of the Ordinance shall remain valid.

===== End of Ordinance =====