

**Ordinance Governing the Planting and Cultivation of
Glyphosate-Resistant Genetically-Engineered Alfalfa in Lake
County:**

Section 1. Name:

Lake County, California glyphosate-resistant genetically-engineered alfalfa planting and cultivation ordinance.

Section 2. Authority:

The California Constitution, Article XI, section 7, states: "A county or city may make and enforce within its limits all, police, sanitary, and other ordinances and regulations not in conflict with general laws".

Section 3. Findings:

It is the intent of the Lake County Board of Supervisors to uphold the public health, safety, and welfare of the citizens of Lake County and to prevent the potential agricultural and environmental contamination of Lake County by genetically engineered glyphosate-resistant alfalfa.

- (a) A genetically engineered organism known generically as glyphosate-resistant genetically engineered alfalfa is now available for use in Lake County without state or federal regulation. With this Lake County ordinance, glyphosate-resistant genetically engineered alfalfa will be introduced into Lake County only with careful consideration of its impact on human and animal health, the environment, and the agricultural economy of Lake County.
- (b) The state of California does not regulate genetically engineered crops to ensure that they do not cause severe or irreparable harm to human beings, the environment, or farmlands within California.
- (c) The u.S. Food and Drug Administration does not provide for independent research, testing or monitoring of genetically engineered crops with respect to animal or human safety before their introduction to the marketplace or after they are in widespread commercial use.
- (d) The u.s. Department of Agriculture analysis of the environmental impacts of deregulating glyphosate-resistant genetically engineered alfalfa was not based on an environmental impact statement and was

inadequate; further, the general approach of the USDA in assessing such environmental impacts has been directly criticized by the U.S. "National Academy of Sciences as lacking scientific rigor. Thus the responsibility for adequately protecting the people, environment and farms of Lake County from potential harm from genetically engineered alfalfa is left up to the citizens and government of Lake County.

- (e) No independent long-term studies have been conducted on the effect of glyphosate-resistant genetically engineered alfalfa on the food supply. Alfalfa is an important feed for horses, cattle, and the dairy industry. Time is needed to evaluate whether this newly invented form of alfalfa can be considered a safe component in the food chain. As evidence that Lake County should take a conservative approach to the introduction of glyphosate-resistant genetically engineered alfalfa, previously unpublished and withheld studies by a manufacturer of a genetically engineered corn revealed statistically significant negative health impacts on laboratory rats fed that food product.
- (f) The introduction of glyphosate-resistant genetically engineered alfalfa into the farmlands and environment of Lake County will increase the use of a material (glyphosate) on Lake County farmlands that recent studies on human health and the environment suggest may be much more harmful than previously believed. The overuse of glyphosate has been shown to hasten the creation of glyphosate-resistant weedy varieties. This would increase the use of toxic herbicides and accelerate the emergence of glyphosate-resistant weeds. This does not constitute "sustainable" agriculture or the good stewardship of farmlands and the environment expected by the residents of Lake County.
- (g) A recent peer-reviewed scientific study links the use of glyphosate and Roundup (which includes glyphosate as the active ingredient) to reproductive toxicity in mammals. Exposing farm families and rural residents to the increased use of glyphosate would be plainly contrary to the safety, health, and welfare of the people of Lake County.
- (h) Lake County has already spent millions of dollars to address the problem of invasive weed species. Glyphosate-resistant genetically engineered alfalfa could easily become feral or cross with already weedy

- alfalfa; eradicating feral genetically engineered alfalfa would require using herbicides that are even more toxic and persistent than glyphosate.
- (i) At this time the marketplace acceptance of glyphosate-resistant genetically engineered alfalfa is uncertain, and with many domestic and foreign markets closed to genetically engineered alfalfa, this new product may have a lower value for Lake County growers who wish to sell. their crop in adjacent counties or beyond. Pollen drift or seed dispersal by wind, birds, bees, farm trucks and equipment is likely to contaminate natural alfalfa crops with glyphosate-resistant genetically engineered alfalfa. Therefore it is important to take measures to prevent potential loss of markets or premium selling prices due to contamination of natural alfalfa crops by genetically engineered alfalfa.
 - (j) If glyphosate-resistant genetically engineered alfalfa is introduced into Lake County, growers of natural alfalfa could become vulnerable to lawsuits if their fields are accidentally contaminated by this patented product. To date, one biotech company alone has brought 90 such lawsuits, involving 147 farmers and 39 small businesses or farm companies, in 25 U.S. states. Lake County alfalfa growers deserve protection from lawsuits against victims of unintended contamination.
 - (k) The people of Lake County have a right to know what crops are being grown within their county, particularly if they involve the use of new technologies that could have unknown and unanticipated consequences.
 - (l) It is reasonable and prudent that the Lake County Board of Supervisors delay the introduction of glyphosate-resistant genetically engineered alfalfa in Lake County in order that the County has time to evaluate how this new technology will impact the environment and agricultural economy of Lake County.

Section 4. Provisions:

- (a) For a period of thirty months, the planting of glyphosate-resistant genetically engineered alfalfa within Lake County shall be prohibited, including, but not limited to, all test and research plots. Within thirty days of the conclusion of this moratorium, the Lake County Board of Supervisors shall consider the

question of extending the moratorium on glyphosate-resistant genetically engineered alfalfa. The moratorium shall expire at the end of the thirty month period unless extended by the Lake County Board of Supervisors.

- (b) At such time as the moratorium set out in paragraph (a) expires, and continuing for five years following the expiration of that moratorium, any planting of glyphosate-resistant genetically engineered alfalfa shall be located at least 2:5 statute miles from the nearest boundary of any existing natural alfalfa planting(s).
- (c) Within thirty days of the expiration date of the provisions of paragraph (b), the issue of extending its expiration date shall be considered by the Lake County board of supervisors, who may extend the provisions of paragraph (b) to such time and under such conditions as they may' provide in order to protect the health and welfare of the inhabitants, environment, and economy of Lake County.
- (d) For a period of ten years starting at the end of the moratorium set out in paragraph (a), if any, the Agricultural Commissioner shall maintain a publicly accessible registry of glyphosate-resistant genetically engineered alfalfa plantings, including proposed or ongoing field trials. This registry shall include the name of the grower and the size and location of planting(s) of glyphosate-resistant genetically engineered alfalfa. For all test and research plots the name of the patent-holding company shall also be, reported.
- (e) Any person or legal entity intending to grow glyphosate-resistant genetically engineered alfalfa shall provide to the Agricultural Commissioner their identity, planting acreage and location at least 90 days prior to commencement of actual planting. The Agricultural Commissioner shall update the registry within five (5) working days of receiving such notice from intended grower(s).
- (f) The Agricultural Commissioner shall submit an annual report to the Lake County Board of Supervisors describing all complaints received and enforcement actions taken under this Ordinance, including information regarding the quantity of glyphosate-resistant genetically engineered alfalfa involved, the locations of any violations, and the steps that have been taken to destroy or remove the genetically

engineered alfalfa., This provision shall have no effect when the Agricultural Commissioner is bound by a court order or by state law to not disclose facts in an ongoing investigation.

- (g) Planting glyphosate-resistant genetically engineered alfalfa in Lake County in violation of this ordinance shall constitute a public nuisance.

Section 5. Enforcement:

- (a) The Agricultural Commissioner is hereby designated to enforce this Ordinance and shall exercise such powers as are legal and necessary to carry out and effectuate its purposes and provisions.
- (b) Within five (5) working days of having reason to suspect that a violation of this Ordinance has occurred, the Agricultural Commissioner shall serve the suspected person or legal entity by mail with written notice of the following: that the person or legal entity may be in violation of the ordinance, that any violation constitutes a public nuisance, that any glyphosate-resistant genetically engineered alfalfa is subject to confiscation and destruction, and that a violation would subject the violator to administrative and abatement costs and civil penalties as set forth in this Ordinance.
- (c) Any person or legal entity receiving notification under paragraph (b) shall have seven (7) business days from the date the notice was mailed to either 1) cure the violation to the Agricultural Commissioner's satisfaction by showing that the glyphosate-resistant genetically engineered alfalfa has been destroyed or removed from Lake County entirely, or 2) file a written request for an administrative hearing before the Agricultural Commissioner.
- (d) A hearing requested in paragraph (c) shall be held within ten business days of the date the request for hearing is filed, and shall be conducted with the same due process safeguards as are used generally in public nuisance abatement proceedings before the Board of Supervisors.
- (e) No later than fifteen business days after serving written notice under paragraph (b), or no later than five business days after any hearing requested in paragraph (c) is concluded, the Agricultural Commissioner shall determine if the glyphosate-resistant genetically engineered alfalfa has been

- planted in violation of this Ordinance, or if same been destroyed or removed from Lake County entirely.
- (f) Upon making a determination under paragraph (e) that a violation of this Ordinance has occurred, the Agricultural Commissioner shall thereafter promptly take all actions necessary to ensure that such glyphosate-resistant genetically engineered alfalfa is confiscated and/or destroyed by a method that will not result in genetic contamination of the soil. If necessary the Agricultural Commissioner may gain access to the property where the glyphosate-resistant genetically engineered alfalfa is located under the procedures applicable to the abatement of a public nuisance.
 - (g) The provisions in section 4 of this Ordinance regarding the planting and cultivation of glyphosate-resistant genetically engineered alfalfa shall supersede any privileges and immunities set forth in the Lake County code which may exempt agricultural or other activities from public nuisance abatement.
 - (h) Any person or legal entity found responsible by the Agricultural Commissioner for violation of this Ordinance shall be liable for administrative and abatement costs associated with actions taken by the Agricultural Commissioner as mandated by this Ordinance, including but not limited to:
 1. Cost of investigation.
 2. Costs of removing and destroying glyphosate-resistant genetically engineered alfalfa, and cost of cleanup and restoration of the environment.
 3. Cost of county employee enforcement time.
 4. Costs' of administrative hearing(s), Court and legal costs, including reasonable attorneys' fees.
 5. Costs of monitoring compliance.
 - (i) Any person or legal entity found responsible by the Agricultural Commissioner for violation of this Ordinance may be fined a civil penalty of \$1,000 for each violation, payable to the County of Lake for each

incident of planting ordinance-resistant genetically engineered alfalfa.

- (j) The provisions of this Ordinance are cumulative, and nothing in this ordinance affects any other remedies any individual or government entity may have against any person resulting from a violation of this Ordinance.

Section 6. Definitions:

- (a) The term "Agricultural Commissioner" shall refer to the Agricultural Commissioner of Lake County.
- (b) The term "Genetically engineered" shall mean the application of:

a. In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles as well as recombinant DNA techniques that use vector systems and techniques involving the direct introduction in the organism of hereditary materials prepared outside the organism such as micro-injection, macro-injection, chemoporation, electroporation, micro-encapsulation and liposome fusion.

b. Fusion of cells (including protoplast fusion) beyond the taxonomic family that overcome natural physiological, reproductive or recombination barriers and that are not techniques used in traditional breeding and selection.

(c) The term "genetically engineered alfalfa" shall refer to glyphosate-resistant genetically engineered alfalfa.

(d) The term "natural alfalfa" shall refer to alfalfa that has not been altered by genetic engineering.

(e) The term "glyphosate" (N-phosphonomethyl glycine) shall refer to nonselective herbicides and plant growth regulators as salts in either the technical isopropylamine salt (IPA) or the technical sodium salt as

defined by the u.s. Environmental Protection Agency as the pesticide glyphosate.

(f) The term "person" shall mean a human being.

(g) The term "legal entity" shall mean a corporation, limited liability company, partnership, sole proprietorship, firm, club, government agency, or other form of legal organization used by persons to engage in the activity of farming, ranching, or any other activity.

Section 7. Severability:

The provisions of this Ordinance are severable. If any section, clause, sentence, word, part or provision of this Ordinance is held illegal, invalid or unconstitutional, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.