

ORDINANCE NO. _____
ADDING CHAPTER 8.25 OF THE TRINITY COUNTY CODE
PERTAINING TO GENETICALLY ENGINEERED ORGANISMS

The Board of Supervisors of the County of Trinity State of California, ordains as follows:

SECTION I: That Title 8 of the County Code be amended by adding a new Chapter 8.25 as follows:

Chapter 8.25
GENETICALLY ENGINEERED ORGANISMS

Sections:

Article I. Genetically Engineered Organisms

- 8.25.010 Title.
- 8.25.020 Findings and Purpose.
- 8.25.030 Prohibitions.
- 8.25.040 Definitions.
- 8.25.050 Violation – Penalties.
- 8.25.060 Nuisance – Remedies.
- 8.25.070 Enforcement.
- 8.25.080 Abatement of Immediate Hazard.
- 8.25.090 Abatement of Nuisance.
- 8.25.100 Petition for Abatement of Nuisance.
- 8.25.110 Hearing on Petition and Order to Show Cause.
- 8.25.120 Order for Removal or Destruction.
- 8.25.130 Noncompliance with Order; Contempt; Additional Penalty
- 8.25.140 Severability.

Article I. Genetically Engineered Organisms

8.25.010. Title. This article shall be known as the Trinity County Genetically Engineered Organisms Ordinance.

8.25.020. Findings and Purpose. It is necessary, in the county, to protect our agricultural industry, our natural environment, the private property rights of our citizens, and the health and safety of our people by restricting the introduction into our county of genetically engineered crops, livestock and other organisms. Genetically engineered life forms and products are being developed with precipitous speed, and have been introduced into the marketplace before the potential risks and long-term effects of these products have been studied. Many companies and foreign markets do not accept genetically engineered food products, so the danger of contaminating and thereby

reducing the value of neighboring crops by genetically engineered crops creates a serious economic threat to farmers and ranchers. The impact on our natural environment from genetically engineered organisms and contamination from such is unpredictable, ultimately uncontrollable, and has received little study. For all of these reasons, the propagation, cultivation, raising, and growing of genetically engineered organisms in Trinity County constitutes a public nuisance under Chapter 8.64 of the Trinity County Code, and shall not be deemed legitimate agricultural operations.

8.25.030. Prohibitions. It is unlawful for any person to propagate, cultivate, raise, or grow genetically engineered organisms in Trinity County, and any act in violation of this provision is declared to constitute a public nuisance.

8.25.040. Definitions. (a) “Genetically engineered organism” means an organism or the offspring of an organism the DNA of which has been altered or amended through genetic engineering. Such organisms are also sometimes referred to as “genetically modified organisms” or “GMOs”.

(b) “Genetic engineering” means 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, microencapsulation, macroencapsulation, gene splicing, and other similar processes. Genetic engineering does not include traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

(c) “DNA” means deoxyribonucleic acid, the material naturally found within living cells which contains the genetic code and transmits hereditary patterns.

(d) “Organism” means any living thing, exclusive of human beings and human fetuses.

(e) “Commissioner” means the Agricultural Commissioner of Trinity County.

(f) “Person” means an individual, partnership, corporation, or organization of any kind.

8.25.050. Violation – Penalties. Any person who violates the provisions of this Ordinance shall be guilty of a misdemeanor. The person shall be deemed to be guilty of a separate offense for each and every day a violation of this Ordinance is committed, continued or permitted. Further, and in addition to the above penalties, said person shall be civilly liable in damages in an amount not to exceed five thousand dollars for each day in which such violation occurs.

8.25.060. Nuisance – Remedies. It is declared that any propagation, cultivation, raising or growing of genetically engineered organisms is a public nuisance and the county may cause proceedings to be brought to abate or otherwise remedy the nuisance.

8.25.070. Enforcement. (a) The Agricultural Commissioner is hereby designated to enforce this Ordinance and may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Ordinance.

(b) Whenever the Commissioner has reason to suspect a violation of this provision, he or she shall give notice to the person alleged to be responsible for the violation, for a hearing to be set no less than 14 days, and no more than 21 days from the date of notice. Five days prior to the date set for hearing, the suspected violator shall submit to the Commissioner any documentary evidence the person would like to have considered in the person's defense.

(c) The Commissioner shall serve as the hearing officer regarding whether probable cause exists to believe that a violation of this ordinance has occurred, and shall make a decision no later than 15 days after the hearing.

(d) Upon final determination that there is probable cause to believe that there has been a violation of this Ordinance, the Commissioner shall immediately thereafter cause to be confiscated for the public safety any such organisms as are determined to have been propagated, cultivated, raised or grown in violation of this Ordinance, and shall take such other measures as the Commissioner may deem necessary or appropriate to (1) prevent human or animal consumption of the genetically engineered organisms or any products derived from the genetically engineered organisms, (2) prevent contamination of the gene pool by genetic material from the genetically engineered organism, and (3) ameliorate any other harmful effects which might result from the violation.

(e) Any person or persons knowingly and willfully responsible for a violation of this Ordinance shall be responsible for administrative and abatement costs. Costs of enforcement shall not be imposed upon any person whose violation is not knowing and willful.

(f) 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.

8.25.080. Abatement of Immediate Hazard. If, after service of the notice pursuant to this Chapter, the Commissioner determines that the nuisance constitutes an immediate hazard to adjoining or nearby property, and that great or irreparable injury would result from delay until expiration of the time required by law for constructive notice, he or she may forthwith abate the nuisance by eradicating, controlling, or destroying the organism.

8.25.090. Abatement of Nuisance. If the Commissioner determines by inspection that there is a condition arising from a violation of this Ordinance which constitutes a nuisance, he or she shall make a report of his inspection to the district attorney or to the county counsel. The Commissioner in the report shall do all of the following:

- (a) State that the property owner has been notified.
- (b) Describe the property upon which the nuisance exists.
- (c) Name the genetically engineered organism or related condition which in his opinion is dangerous to the agriculture of the county.
- (d) State, if his or her findings justify such a statement, that the removal or destruction of the genetically engineered organism will provide the best means for the elimination of the menace to the agriculture of the county.

8.25.100. Petition for Abatement of Nuisance. Whenever the district attorney or county counsel (if county counsel is authorized by the Board of Supervisors to proceed) receive a report from the Commissioner, he or she shall, on the basis of the report, prepare a petition, and order to show cause why the condition should not be abated, to the Superior Court of Trinity County, praying for an order to remove or destroy the genetically modified organism or related condition. Service of the petition and order to show cause shall be by personal delivery or other means authorized by the Code of Civil Procedure for service of summons.

8.25.110. Hearing on Petition and Order to Show Cause. On the day on which the order to show cause is set for hearing, the court shall hear the cause and decide whether or not the genetically engineered organisms or related conditions shall be destroyed or removed. The hearing shall have precedence over all matters other than injunctions, older matters of the same character, and matters which are otherwise given precedence by law.

8.25.120. Order for Removal or Destruction. If the court is satisfied that the removal or destruction of the genetically engineered organism or related condition is necessary and essential for the welfare of the agriculture of the county, it shall order the removal or destruction, within a certain time, of said organism or condition.

The order shall specify the organism or condition to be removed or destroyed and shall state the date by which said removal or destruction shall be completed.

If the order is not complied with within the time which is specified in the order, the Commissioner shall cause the removal or destruction of the genetically engineered organism or related condition which is mentioned in the order.

The Commissioner shall keep an account of the cost of the removal or destruction. The cost and expense of such removal or destruction shall be a cost charged to the party violating this Ordinance. This penalty is in addition to any other penalty which is provided for in this Ordinance.

8.25.130. Noncompliance with Order; Contempt; Additional penalty. Any person who fails to comply with any lawful order of the court which is made and served

pursuant to the provisions of this Article is in contempt of court and shall be punished accordingly. The punishment is in addition to any other penalty which is provided for in this Ordinance.

8.25.140. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION II: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 20th day of July 2004, and passed and adopted by the Board of Supervisors of the County of Trinity State of California, on the ___ day of August 2004, by the following roll call vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAINING:

ROBERT A. REISS
Chairman of the Board of Supervisors
of the County of Trinity, State of California

ATTEST:

Dero B. Forslund, County Clerk and Ex-Officio
Clerk of the Board of Supervisors, County of
Trinity, State of California

By _____
Kelly Frost, Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

Jeanette Palla, County Counsel
Dated: _____

BOS/JP/wt