

**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

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**Creation Date:** 7/25/06

**Source Code:** HSAXX

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**INVENUM:** 58015

**Resolution(s):**

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**Ordinance(s):** 4830

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**Contract(s):**

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**Index:** --Letter of Health Services Agency  
--Ordinance No. 4830

**Item: 30.** ADOPTED ORDINANCE NO. 4830 adding Chapter 7.31 to the County Code relating to the establishment of a moratorium on Genetically Engineered Crops, as recommended by the Health Services Agency Director



# County of Santa Cruz

## HEALTH SERVICES AGENCY

P.O. BOX 962, 1080 EMELINE AVENUE  
SANTA CRUZ, CA 95061  
(831) 454-4000 FAX: (831) 454-4770

HEALTH SERVICES AGENCY  
ADMINISTRATION

### APPROVED AND FILED BOARD OF SUPERVISORS

DATE: August 1, 2006

COUNTY OF SANTA CRUZ

SUSAN A. MAURIELLO

EX-OFFICIO CLERK OF THE BOARD

July 13, 2006

BY Sharon Mitchell DEPUTY

AGENDA: August 1, 2006

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street, 5<sup>th</sup> Floor  
Santa Cruz, CA 95060

### Re: AMENDMENT TO SANTA CRUZ COUNTY CODE ADDING CHAPTER 7.31 ESTABLISHING A MORATORIUM ON GENETICALLY ENGINEERED ("GE") CROPS

Dear Members of the Board:

On June 20, 2006 an ordinance was introduced that would amend the Santa Cruz County Code by adding Chapter 7.31. This Chapter would establish a moratorium prohibiting the planting and production of genetically engineered crops in Santa Cruz County. Following a public hearing, your Board unanimously approved the ordinance in concept and directed staff to return the Ordinance for final consideration on August 1, 2006. The Ordinance for your approval is attached hereto as Attachment A. Previously, your Board accepted the final report of the GE Subcommittee of the Public Health Commission that detailed the need for a GE moratorium.

County Counsel has corrected one typographical error in the Ordinance that your Board introduced for first reading. The section number 7.30.020 contained in the draft of the Ordinance approved for first reading was corrected to read 7.31.020.

Finally, at the previous public hearing on June 20, 2006, County Counsel initially advised that the Ordinance would not apply to trees used for non-food related purposes. Upon further review of the Ordinance, County Counsel has concluded that the Ordinance does not make the distinction between food and non-food crops. Consequently, it is now the opinion of the County Counsel that the Ordinance would apply to all genetically engineered crops, as defined by the Ordinance.

It is, therefore, RECOMMENDED that your Board adopt the Ordinance adding Chapter 7.31 to the County Code relating to the establishment of a moratorium on Genetically Engineered Crops.

Sincerely,

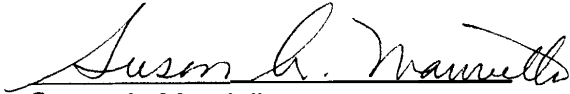


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Rama Khalsa Ph.D.,  
Health Services Agency Director

Attachment: Ordinance

RECOMMENDED:



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Susan A. Mauriello  
County Administrative Officer

cc: County Administrative Office  
Auditor-Controller  
County Counsel  
HSA Administration  
Public Health Commission  
GE Subcommittee

**ORDINANCE NO. 4830**

**ORDINANCE ADDING CHAPTER 7.31 TO THE SANTA CRUZ COUNTY CODE RELATING TO THE ESTABLISHMENT OF A MORATORIUM ON GENETICALLY ENGINEERED CROPS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

The Santa Cruz County Code is hereby amended by adding Chapter 7.31 to read as follows:

Chapter 7.31

**GENETICALLY ENGINEERED CROP MORATORIUM**

Sections:

- 7.31.010 Findings.
- 7.31.020 Definitions.
- 7.31.030 Prohibition.
- 7.31.040 Exemptions.
- 7.31.050 Revaluation by board of supervisors.
- 7.31.060 Enforcement.
- 7.31.070 Severability.

7.31.010 Findings.

A. There is inadequate regulatory monitoring and oversight of genetically engineered crops by the federal and state government necessary to ensure public health and environmental safety. The planting of genetically engineered crops is not required to be publicly disclosed to any federal, state or county agency.

B. Health testing of the effects of exposure to genetically engineered organisms in food is not required by any government agency. The lack of comprehensive safety testing leaves a potentially dangerous scientific void in the knowledge available about the short and long-term health effects of genetically engineered foods.

C. Farmers and gardeners who choose not to grow genetically engineered crops currently have no clear legal recourse if their non-genetically engineered crops are contaminated by genetically engineered pollen or seeds.

D. There is currently no legal requirement to label genetically engineered seeds or rootstock, thus limiting farmers' or gardeners' choices.

E. Currently, adequate safeguards do not exist to prevent genetically engineered contamination of non-genetically engineered crops, plants, insects, domesticated animals, wildlife and wildlands, that can result from forces of nature and human causes. The resulting impacts on ecosystems are unknown.

#### 7.31.020 Definitions.

For the purposes of this chapter, unless the context otherwise indicates, certain words and phrases used in this chapter are defined as follows:

A. “Genetically engineered crop” means a crop that has been created or modified through genetic engineering. It does not include nonliving or nonreproducing organisms or products.

B. “Genetic engineering” means a process or technology employed whereby the hereditary apparatus of a living cell is altered, modified or changed so that the cell can produce more or different chemicals or perform completely new functions.

C. “Person” means any individual, firm, partnership, trust, corporation, company, estate, public or private institution, association, organization or group, and any representative, officer, employee or agent of any of the foregoing.

D. “Release” means to discharge, emit or liberate any genetically engineered organism, or the product of a genetically engineered organism into the open environment.

#### 7.31.030 Prohibition.

It is unlawful for any person to propagate, cultivate, raise, or grow any genetically engineered crop. Any act in violation of this prohibition is declared to constitute a public nuisance.

#### 7.31.040 Exemptions.

The prohibition contained in this chapter shall not apply to the planting or production of genetically engineered pharmaceuticals and industrial compounds done in state or federally licensed medical research institutions, medical laboratories, or medical manufacturing facilities engaged in a licensed medical production, and medical research involving genetically modified organisms provided such activities are conducted under secure, enclosed indoor laboratory conditions, with utmost precautions to prevent release of genetically modified organisms into the outside environment.

#### 7.31.050 Reevaluation by Board of Supervisors.

In its discretion, the Board of Supervisors may consider the on-going need for the prohibition on genetically engineered food crops contained in section 7.31.030. If the board of supervisors determines that the prohibition is no longer necessary it shall amend this chapter in a manner consistent with that determination. The Board of Supervisors may consider, including but not limited to, the following factors:

A. If the State of California and or the Federal Government has implemented and effectively enforced its own regulatory system that regulates genetically engineered crops.

B. If field trials of genetically engineered crops are required to be contained to prevent contamination of organic and non-genetically engineered crops and weedy relatives.

C. If liability regulations are promulgated that protect organic and conventional farmers and gardeners from contamination by genetically engineered crops, where the financial costs of contamination are borne by the producer of genetically engineered seeds and, only if negligence is found, by the grower of the genetically engineered crops.

D. If genetically engineered seeds and root-stock shall be required to be labeled so that farmers and gardeners can choose whether or not they want to grow genetically engineered crops.

E. If the types and location of the genetically engineered crops currently being grown and tested in Santa Cruz County shall be communicated to the Agricultural Commissioner and available to the public upon request.

#### 7.31.060 Enforcement.

A. It shall be the duty of the Agricultural Commissioner to enforce this chapter, and all designated officers of the Agricultural Commissioner are charged with the enforcement of this chapter and each and every provision thereof.

B. Any person, whether as principal or agent, employee or otherwise, who knowingly violates or causes or permits the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the county jail of the county of a term not exceeding six months or by both such fine and imprisonment. Such person shall be deemed to be guilty of a separate offense for each day during any portion of which any violation of this chapter is committed, continued or permitted by such person and shall be punishable as herein provided.

C. Any use of the land, building or premises, established, conducted, operated or maintained contrary to the provisions of this chapter, shall be, and the same is declared to be a violation of this chapter and a public nuisance.

D. The County may summarily abate, or abate pursuant to Chapter 1.14 of this code, any public nuisance and the County Counsel or the District Attorney, upon order of the Board of Supervisors, may bring civil suit, or other action, to enjoin or abate the nuisance.

E. Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and not exclusive.

F. Any person who creates or maintains a public nuisance in violation of this chapter shall be liable for the costs of abatement that shall include, but not be limited to:

1. Costs of investigation;
2. Costs of removing genetically engineered crops from the open environment, cleanup and restoration of the environment;
3. Cost of county employee enforcement time;
4. Court costs; and
5. Costs of monitoring compliance.

G. Should an enforcement action be filed by the County pursuant to this chapter, no action shall be taken on any application relating to the property upon which the GE crops were located until the violation has been resolved.

7.3 1.070 Severability.

The provisions of this chapter are severable. If any section, paragraph, sentence, phrase or word of this chapter is declared invalid for any reason, that decision shall not affect any other portion of this chapter, which shall remain in full force and effect.

**SECTION II**

This ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage.

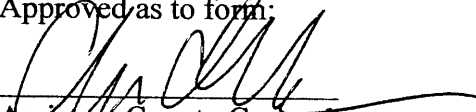
PASSED AND ADOPTED this 1st day of August, 2006, by the Board of Supervisors of the County of Santa Cruz by the following vote:

<b>AYES:</b>	SUPERVISORS	Wormhoudt, Pirie, Beautz, Campos and Stone
<b>NOES:</b>	SUPERVISORS	None
<b>ABSENT:</b>	SUPERVISORS	None
<b>ABSTAIN:</b>	SUPERVISORS	None

Attest: GAIL T. BORKOWSKI  
Clerk of the Board

MARK W. STONE  
Chairperson of the Board of Supervisors

Approved as to form:

  
Assistant County Counsel

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE ATTEST MY HAND AND SEAL THIS 1st DAY OF August 2006  
SUSAN A. MALRUELLO, COUNTY ADMINISTRATIVE OFFICER AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.

BY Sharon Mitchell DEPUTY