ORDINANCE NO.4459

ORDINANCE ADDING CHAPTER 10A.15A TO THE MENDOCINO COUNTY CODE ESTABLISHING ADDITIONAL PROHIBITIONS ON THE PROPAGATION, CULTIVATION, RAISING AND GROWING OF GENETICALLY MODIFIED ORGANISMS IN MENDOCINO COUNTY

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

Section 1. Chapter 10A.15A is hereby added to the Mendocino County Code to read as follows:

Chapter 10A.15A – Additional Prohibitions on the Propagation, Cultivation, Raising and Growing of Genetically Modified Organisms in Mendocino County

Sec. 10A.15A.010 Intent
Sec. 10A.15A.020 Prohibition
Sec. 10A.15A.030 Definitions
Sec. 10A.15A.040 Penalties

Sec. 10A.15.010 - Finding.

The people of Mendocino County adopted Measure H in 2004, which is codified at Chapter 10A.15, for the purpose of protecting the County's agriculture, environment, economy, and private property from genetic pollution by genetically modified organisms. The purpose of this Chapter 10A.15A is to broaden the definitions of Measure H in order to account for the creation of additional means of modifying organisms since the passage of Measure H, honoring the spirit and intent of the voters in enacting Measure H.

Sec. 10A.15A.020 – Prohibition.

It shall be unlawful for any person, firm, or corporation to propagate, cultivate, raise, or grow genetically modified organisms in Mendocino County.

Sec. 10A.15.030 - Definitions.

(A) "Agricultural Commissioner" means the Agricultural Commissioner of Mendocino County.

(B) "DNA" or "deoxyribonucleic acid" means a complex protein that is present in every cell of an organism and is the "blueprint" for the organism's development.

(C) "Genetically modified organism" means an organism, or the genetic descendant of an organism, which has been altered by genetic engineering, including, but not limited to, organisms whose native intrinsic DNA has been intentionally altered or amended with non-species specific DNA.

(D) "Genetic engineering" means altering or amending the genetic material of an organism by using (1) methods such as cell fusion, microencapsulation and macroencapsulation, and technology such as gene deletion, gene doubling, introducing a foreign gene, or changing the position of genes, and other similar processes, or (2) gene editing systems, such as CRISPR-Cas9, which directly edits DNA within an organism without necessarily inserting new genes. For purposes of this Chapter, genetic engineering does not include organisms created by traditional breeding or hybridization, or to microorganisms created by moving genes or gene segments between unrelated bacteria.

(E) "Organism" means any living thing.

Sec. 10A.15.A.040 - Penalties

(A) The Agricultural Commissioner shall notify any person, firm, or corporation that may be in violation of Section 10A.15A.020 of this Chapter, that any organisms in violation of this Chapter are subject to confiscation and destruction.

(B) Any person, firm, or corporation that receives notification under subsection (A) shall have five (5) days to respond to such notification with evidence that such organisms are not in violation of this Chapter.

(C) Upon receipt of any evidence under subsection (B), the Agricultural Commissioner shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. The Agricultural Commissioner shall make such determination as soon as possible, but at least before any genetic pollution may occur.

(D) Upon making a determination that a violation of this Chapter exists, the Agricultural Commissioner shall cause to be confiscated and destroyed any such organisms that are in violation of this Chapter before any genetic pollution may occur.

(E) If the Agricultural Commissioner determines there has been a violation of this Chapter, in addition to confiscation and destruction of any organisms that are found to be in violation, the Agricultural Commissioner shall impose a monetary penalty on the person, firm, or corporation responsible for the violation, taking into account the amount of damage, any potential damage, and the willfulness of the person, firm, or corporation.

Section 2. CEQA. This ordinance is categorically exempt from the California Environmental Quality Act under (a) section 15060(c)(2) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; (b) section 15060(c)(3) of the State CEQA Guidelines because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment; (c) section 15061(b)(3) since there is no possibility the activity in question may have a significant effect on the environment; and (d) section 15308 since the action is a local ordinance adopted to assure protection of the environment and there are no unusual circumstances under section 15300.2 of the State CEQA Guidelines. These findings are based on the staff memorandum accompanying this ordinance.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 25th day of February, 2020, by the following roll call vote:

AYES: Supervisors Brown, McCowen, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

JOHN HASCHAK, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy