

Town of Montville

Genetically Modified Organisms Ordinance

TITLE:

This ordinance shall be known and cited as the Town of Montville Genetically Modified Organisms Ordinance.

PURPOSE:

The purpose of this Ordinance is to ensure the right of Montville's residents to equitable access to life-giving seed; to protect Montville's native plants and trees from cross-contamination by genetically modified plants and to protect garden varieties bred using traditional plant propagation methods from genetically engineered or genetically modified organisms; to protect the health of Montville's inhabitants by ensuring they are confident of the integrity of the plants they grow and eat; and to defend the economy of the farmers, gardeners, and foresters in the Town of Montville. Therefore, the Town of Montville deems it necessary to prevent the cultivation of genetically modified crops in Town.

AUTHORITY:

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Montville to self-government, and by authority granted to the municipal government of Montville by all relevant Federal and State laws and their corresponding regulations, including, but not limited to, the following:

The Declaration of Independence, which declares that the people of Montville are born with "certain unalienable rights" and that governments are instituted among people to secure those rights;

The Maine Constitution, which declares in its preamble that governments are created to "establish justice, insure tranquility . . . promote our common welfare, and secure to ourselves and our posterity the blessings of liberty";

The Maine Constitution, Article I, Section 1, which declares that "All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness";

The Maine Constitution, Article 1, Section 2, which declares that "All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and inalienable right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it";

Maine Statute Title 7, Section 1-A which states: "The Legislature finds agriculture to be a major industry in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of this State."

"The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, Food and Rural Resources."

Maine Statute Title 7, Section 1-B which states: “agriculture is significant to the State's economy and that a prospering, stable rural community contributes to the rural quality of life, the preservation of productive farm, farmlands and open space.”

“The Legislature finds that programs that improve the employment opportunity, rural skills, food supply, health and nutrition of the rural people of Maine will improve the economy of Maine and improve the rural quality of life and the health of people and are therefore in the public interest.”

“The Legislature further finds the preservation of rural life and values in the State to be the joint responsibility of all public agencies, local, state and federal, whose policies and programs substantially impact the economy and general welfare of people who reside in rural Maine, such as the development and implementation of programs that assist in the maintenance of family farms...”

The provisions of Title 30-A of the Maine Revised Statutes, which recognizes the authority of Maine municipalities to adopt any Ordinance or Bylaw on any subject not expressly prohibited by the Maine legislature, and which establishes a presumption that all Ordinances are valid as adopted pursuant to a municipality’s inherent home rule authority.

DEFINITIONS:

- A. “*Crop*” means a living, growing agricultural or forest product.
- B. “*DNA*”, or deoxyribonucleic acid, means a complex protein that is present in every living cell of an organism. It contains the genetic code for the organism’s development and transmits hereditary patterns.
- C. “*Genetically modified organisms*” (sometimes referred to as “*GMOs*”) means a specific organism or offspring of an organism containing DNA which has been altered or amended through genetic engineering. Such organisms are also sometimes referred to as “*genetically engineered organisms*.” Through pollination, the DNA of GMOs may crossover to non-GMO crops. Subsequent generations of the non-GMO crop will contain the genetically altered DNA and may or may not exhibit GMO traits.
- D. “*Genetic engineering*” (as defined by the USDA as part of the National Organic Program) “refers to a variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods would include recombinant DNA, cell fusion, and micro- and macroencapsulation, and the following results when achieved by recombinant techniques: gene deletion and doubling, introducing a foreign gene, and changing the positions of genes. Such methods would not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.”
- E. “*Organism*” means any living thing.
- F. “*Produce*” means “to bring forth; bear; yield” (from Webster’s New World Dictionary, third college edition).

FINDINGS:

- A. 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. There are inadequate long-term studies on the impact of genetically modified foods and their impact on humans and non-human organisms. It is necessary to protect Montville's agricultural industry, forest industry, natural environment, private property rights of our citizens, and the health and safety of our people by restricting the introduction of genetically altered crops, and other organisms.
- B. The impact on our natural environment from genetically engineered organisms and contamination from such is unpredictable, ultimately uncontrollable, and has received little study. It is undeniable that genetically engineered crops have the potential to contaminate other crops, plants, and trees at a distance, through cross-pollination. This may alter or displace existing species of plants (both native plants and those varieties grown by gardeners, farmers, nurserymen, and foresters), thereby threatening historically important preserved and cultivated varieties of food crops, potentially destroying local ecosystems and potentially irreparably and dramatically altering biodiversity.
- C. The planting of genetically modified crops may accelerate the development of resistant pest populations, thus limiting the types of pesticides and herbicides that can be used in the future to control those pests. Therefore, these crops may have the potential to produce "super weeds" and "super insects" that are difficult and expensive for gardeners, farmers, foresters, and communities to control.
- D. It is impossible for a farmer or forester who grows genetically engineered seed to contain the pollen (reproductive cells containing genetically altered material) from those crops, and to prevent the contamination of conventionally propagated crops belonging to others at a distance.
- E. The unintended presence of genetically modified plant material in agricultural products can have significant economic impacts for farmers and others who sell in organic markets and in other domestic and foreign markets that prohibit or reject products containing such material.
- F. Agricultural impacts related to the release of genetically modified plants into the open environment also effect non-commercial gardens, including but not limited to, residential gardens, community gardens, school gardens, and others. Many Montville residents sustain their families with produce grown in their home gardens. Sound human health and food quality concerns deserve the utmost protection in our community.

STATEMENT OF LAW:

- A. It shall be unlawful for a person, partnership, firm, or organization of any kind to produce genetically modified organisms in the Town of Montville for a period of ten (10) years.
- B. A person growing genetically modified crops at the time this Ordinance is enacted may not expand production of GMO crops and will have a period of two (2) years to phase out the growing of all GMO crops.
- C. Within thirty (30) days of the enactment of this Ordinance, a grower using GMO seeds must sign an agreement with the Health Officer that the phase-out process has begun.

- D. As they continue to grow GMO crops during the phase out period, the grower must register with the Health Officer the number of acres, seed variety or number, and seed source of GMO crops still under cultivation.
- E. At the end of two (2) years, the grower will cease to grow GMO crops as long as the moratorium outlined in the Ordinance is in effect and will provide proof to the Health Officer that he/she has transitioned to growing non-GMO crops.

SUNSET:

A. ~~The legal enforceability of this Ordinance shall expire ten (10) years after its date of passage.~~

B. ~~At any time previous to the expiration date of, or within thirty (30) days of the expiration date of this Ordinance, the issue of extending its expiration date shall be considered by the Town of Montville. At that time, the Town may, by majority vote, extend the legal enforceability of this Ordinance for another ten (10) year term.~~

ENFORCEMENT:

- A. The Code Enforcement Officer is hereby designated to enforce this Ordinance and shall exercise such powers as are legal and necessary to carry out and effectuate its purpose.
- B. If a person currently growing GMO crops does not phase out such crops in the time specified in this Ordinance and an agreement cannot be negotiated with the Code Enforcement Officer, the grower may make an appeal to the Board of Appeals.

ADMINISTRATION:

This Ordinance shall be administered by the Select Board of Montville.

SEVERABILITY:

If any portion of this Ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

EFFECTIVE DATE:

The effective date of the Ordinance is the date of the adoption by vote at a Town Meeting, March 29, 2008.