

SECTION THREE

ordinances

The City of Santa Cruz Local Control, Pesticide and Chemical Trespass Ordinance

Anatomy of the Ordinance

Section 1 **Name** - the name by which the ordinance will be referred.

Section 2 **Authority** - outlines CA and U.S. constitutional authority for the adoption of this Ordinance.

Section 3 **Findings and Purpose** - summarizes the reasons the ordinance is needed.

Section 4 **Interpretation** - requires those interpreting the Ordinance to base that interpretation on the Findings and Purposes stated in Section 3.

Section 5 **Definitions** - defines important terms and their meaning as used in the Ordinance.

Section 6 **Statements of Law: Specific Rights of the City of Santa Cruz Residents and Communities** - a partial enumeration of applicable rights retained by the people and their community.

Section 7 **Statement of Law: Prohibitions, Culpability, Corporate Powers and City Duties** - strips corporations of certain legal privileges and protections that would normally be used to challenge the Ordinance; makes government agencies culpable for enabling chemical trespass; requires City to protect citizens.

Section 8 **Administration** – defines the administering body.

Section 9 **Enforcement** - provides for monetary fines for violation of the Ordinance, and provides a mechanism for citizen enforcement of the Ordinance.

Section 10 **Civil Rights Enforcement** - provides for recovery of damages and costs through legal action brought by the City on behalf

Anatomy of the Ordinance (Continued)

of residents and the environment, and empowers citizens to bring an action for violations of enumerated rights.

Section 11 **Effective Date** - for implementation immediately after adoption of the Ordinance.

Section 12 **People's Right to Self-Government** - asserts the right of the people to enact this Ordinance and to protect the community against usurpation of this right.

Section 13 **Severability** - provides that striking of one section by a court will not invalidate other sections of the law.

Section 14 **Repealer** - repeals those provisions of other Ordinances in conflict with this Ordinance.

The City of Santa Cruz, California
Ordinance No. _____ of 2009

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS AND ENVIRONMENT OF THE CITY OF SANTA CRUZ BY BANNING CORPORATIONS FROM ENGAGING IN THE BULK APPLICATION OF PESTICIDES; BY BANNING PERSONS FROM USING CORPORATIONS TO ENGAGE IN THE BULK APPLICATION OF PESTICIDES; BY ESTABLISHING STRICT LIABILITY AND BURDEN OF PROOF STANDARDS FOR CHEMICAL TRESPASS; BY REMOVING CLAIMS TO LEGAL RIGHTS AND PROTECTIONS FROM CORPORATIONS APPLYING PESTICIDES WITHIN THE CITY; BY RECOGNIZING AND ENFORCING THE RIGHTS OF RESIDENTS TO DEFEND THE RIGHTS OF NATURAL COMMUNITIES AND ECOSYSTEMS; AND BY SUBORDINATING PESTICIDE MANUFACTURING, DISTRIBUTING AND APPLYING CORPORATIONS TO THE PEOPLE OF THE CITY OF SANTA CRUZ.

Section 1—Name

This Ordinance shall be known and may be cited as the “The City of Santa Cruz Local Control, Pesticide and Chemical Trespass Ordinance.”

Section 2—Authority

This Ordinance is enacted pursuant to the authority of the City of Santa Cruz, as recognized by all relevant Federal and State laws and their corresponding regulations, and by the inherent right of the citizens of the City of Santa Cruz to self-government, including, without limitation, the following:

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

The Tenth Amendment of the U.S. Constitution, which declares that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;”

The California Constitution, Article 1, Section 1, which declares that “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy;”

The California Constitution, Article 1, Section 24, which declares that “Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution;”

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE (CONTINUED)

The California Constitution, Article I, Section 24, which further provides that "This declaration of rights may not be construed to impair or deny others retained by the people;"

The California Constitution, Article II, Section 1, which asserts that "All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require;"

The California Constitution, Article XI, Section 11(a), which declares that "The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions."

Section 3—Findings and Purpose

In support of enactment of this Ordinance, the City Council of Santa Cruz, on behalf of the people, finds and declares that:

The bulk application of pesticide by corporations in the City of Santa Cruz poses a significant threat to the health, safety, and welfare of the citizens and environment of the City of Santa Cruz.

The City Council of the City of Santa Cruz on behalf of the City residents, recognizes that over eighty thousand (80,000) corporate-produced chemicals are currently used in the United States, and that scientists estimate that over seven hundred (700) of those corporate-produced chemicals are now found within the body of every human. Many of these chemicals can be identified as Pesticides and their ingredients, including "inert" ingredients used in combination with biological pest control substances. Only a small percentage of those chemicals has ever been screened for even one potential health effect, such as cancer, reproductive toxicity, developmental toxicity, or injury to the immune system. Many such chemicals, which are deposited in bulk onto our fields, forests, waterways and communities, are hidden from scrutiny, undisclosed, and sheltered by federal and state laws that shield "proprietary" interests from public knowledge and public governance. Among the approximately fifteen thousand (15,000) chemicals tested, few have been studied enough to conclude that there are no risks from exposure. Even when testing is done, each chemical is tested individually rather than in synergistic combinations that reflect actual human exposure in the real world.

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE (CONTINUED)

The Council, on behalf of the City residents, recognizes that one thousand eight hundred (1,800) new chemicals enter the stream of commerce annually – thus entering into the waste stream, the air, soil and water, as well as the bodies of people – with few of those chemicals tested for adverse impacts on human health or ecosystems. The Council, on behalf of the City residents also recognizes that sufficient data and experience exist for a reasonable person to conclude that a significant percentage of both currently used and newly manufactured chemicals are harmful to humans, animals, and ecosystems. In spite of these risks, the City of Santa Cruz has been rendered powerless by the state and federal government to prohibit the aerial bulk application of Pesticide by corporations—that comply with all applicable state and federal laws and regulations, or by corporations engaged in the bulk application of chemicals for pest control under state sanction.

One purpose of this Ordinance is to recognize that it is an inviolate, fundamental, and inalienable right of each person residing within the City of Santa Cruz to be free from involuntary invasions of their bodies by the bulk application of corporate chemicals, by any means. Since government is the People's means of protecting rights and enforcing laws that have that effect, and since it is the City's responsibility to protect the health, safety, and welfare of the residents and natural community, it is inextricably the essence of that responsibility for the City to protect residents, City property, and the local natural environment against chemical trespass. Therefore, the City Council of Santa Cruz, on behalf of City residents and the entire community, declares that persons owning and managing corporations that manufacture, distribute, sell and deposit chemicals and chemical compounds found to be trespassing on the bodies of residents of the City, or into the ecosystems within the City of Santa Cruz, must be held liable for those trespasses. The City Council, on behalf of the City residents also declares that the failure and refusal of the United States government and the government of the State of California to ensure that corporate chemicals do not trespass on the residents of the City of Santa Cruz makes them jointly and severally liable for those trespasses.

In order to protect the health, safety, and welfare of the residents of the City of Santa Cruz, the soil, groundwater, and surface water, the environment and its flora and fauna, and the practice of sustainable agriculture, the City finds it necessary to ban corporations and other limited liability entities from engaging in the bulk application of Pesticide, by any means. It is recognized that a small number of corporations control the vast majority of pesticide manufacture, sale, distribution and application, and that corporate concentration enables those corporations to define pest management

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practices at the State level to the detriment of municipal communities. It is also recognized that limited liability shields prevent financial recovery (and accountability) for damages caused by business entities because limited liability insulates the persons managing the corporation from harms caused by their decisions. Finally, the City recognizes that those corporations wielding government-conferred constitutional powers against the municipal government renders the City Council unable to guarantee to its citizens self-government or the protection of their health, safety, and welfare.

In order to protect the health, safety, and welfare of the residents of the City of Santa Cruz, the soil, groundwater, and surface water, the environment and its flora and fauna, and the practice of sustainable agriculture, it is necessary to prohibit corporations from engaging in the bulk application of Pesticide by any means within the City.

The California Department of Food and Agriculture cannot ensure the people of Santa Cruz that applying pesticide within the City is safe, healthy and efficacious to the people and their natural environment. The State of California has bestowed legal protections and immunities upon corporations and those who benefit from them, and has disallowed the people from making those persons reaping financial benefits from the corporate application of pesticide bear responsibility for harms inflicted. In light of this fundamental denial of the right of the people to self-determination, freedom from chemical trespass, and the right to demand restitution for harms, the City of Santa Cruz, under authority of the people, enacts this Ordinance.

Section 4—Interpretation

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Section 3 over such considerations as economy, efficiency, national security and scheduling factors.

Section 5—Definitions

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

Bulk application: The spraying, spreading, injection, incorporation, introduction or deposition by any means of pesticide by a corporation or an agent of a corporation, onto or into a land surface, body of water, air space, residential area, structure, fixture, public space, or natural feature within the

City which occurs on more than one property, or which affects more than one property. This term shall not include use of pesticides by residents of the City when applied to their own property, nor shall it include pesticides applied by the City as part of the Integrated Pest Management (IPM) program.

Cause damage to natural communities and ecosystems: This term and equivalent terms shall include but not be limited to alteration, removal, destruction, eradication, or other actions inflicted upon natural communities and ecosystems, in whole or in part, that bring about the cessation of the ability of natural communities and ecosystems to exist and flourish independent of human intervention. The term and equivalent terms shall also include the deposition of toxic substances or potentially toxic substances, manufactured chemicals and toxins, genetically engineered life forms, and radioactive substances and their progeny, whether synthetic or of altered or engineered natural origin, within, upon, or adjacent to human and natural communities and ecosystems in the City of Santa Cruz.

City: The City of Santa Cruz in Santa Cruz County, California, its City Council, or its representatives or agents.

City resident: A natural person who maintains a primary residence within the City of Santa Cruz.

Corporation: Any corporation organized under the laws of any state of the United States or under the laws of any country. The term shall also include any limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers. The term shall also include any business entity in which one or more owners or partners is a corporation or other entity in which owners, directors, officers and/or managers possess limited liability attributes.

Culpable Parties: Persons owning or managing corporations which manufacture, generate, transport, sell, dispose of, or by any means apply toxic or potentially toxic substances detected within the body of any resident of the City of Santa Cruz or within any natural community or ecosystem within the City.

CDFA: The California Department of Food and Agriculture.

Deposition: The placement of a toxic chemical or potentially toxic chemical within the body of a person. The act of deposition shall be assumed if a toxic chemical or potentially toxic chemical is detected within the body of a person.

Ecosystem: The term shall include but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, flora and fauna, soil-dwelling or aquatic organisms.

Exist and flourish: The term shall include but not be limited to, the ability of natural communities and ecosystems to sustain and continue to exercise natural tendencies to promote life, reproduction, non-synthetic interactions and interdependencies among proliferating and diverse organisms; the term shall also include the ability of natural communities and ecosystems to establish and sustain indefinitely the natural processes and evolutionary tendencies that promote well-being among flora, fauna, aquatic life, and the ecosystems upon which their mutual benefit depends.

Genetically engineered life forms: Organisms in which genetic material or inherited genetic material has been directly altered through recombinant DNA technology, genetic modification, genetic manipulation (GM) or gene splicing. The term shall not refer to traditional breeding where the organism's genes are manipulated indirectly.

Natural Communities: Wildlife, flora, fauna, soil-dwelling, aerial, and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a proliferating and diverse matrix of organisms, within a natural ecosystem.

Ordinance: The City of Santa Cruz Local Control, Pesticide and Chemical Trespass Ordinance.

Person: A natural person, or an association of natural persons that does not qualify as a corporation under this Ordinance.

Pesticide: Any chemical, compound, pheromone, biological agent or substance that is spread, dropped, applied or sprayed for the eradication or control of organisms identified as "pests" by any agency of a state or federal government.

Pesticide Applicant: Any person responsible for complying with all Federal, State, and local laws and regulations concerning the application of Pesticide.

Substantially Owned or Controlled: A person, corporation, or other entity substantially owns or controls another person, corporation, or other entity if it has the ability to evade the intent of Section 9.6 of this Ordinance by using that person, corporation, or other entity to apply pesticide in the City of Santa Cruz.

Sustainable Interdependencies: Co-existence of human and non-human organisms and communities, where human health and survival can be maintained and where human activities do not cause damage to natural communities and ecosystems.

Toxic substances and potentially toxic substances: The phrase shall include chemicals or chemical compounds, pesticides, sludges and waste, radioactive ores, mine tailings, millings, waste liquors and radioactive progeny, particulate matter and gasses, genetically modified organisms, biological agents and derivatives, and "inert" substances associated with pest control that have been found to cause or are suspected of causing adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic, neurotoxic, carcinogenic, teratogenic, reproductive or developmental toxicants, or any other toxic chemical or hazardous substance identified by the City of Santa Cruz by resolution as subject to this Ordinance. The phrase shall specifically include, but shall not be limited to, chlorinated solvents, polychlorinated biphenyls, organophosphate pesticides, organochlorine pesticides, carbamate insecticides, polybrominated diphenyl ethers (PBDEs), polychlorinated dioxins and dibenzofurans, pyrethroid pesticides, polynuclear aromatic hydrocarbons, cyanide, arsenic, cadmium, chromium, lead, mercury, asbestos, petroleum products, and industrial solvents.

Trespass: as used within this Ordinance, the deposition of toxic or potentially toxic chemicals or a genetically modified organism within a human body, natural community or ecosystem.

Section 6— Statements of Law: Specific Rights of the City of Santa Cruz

Residents and Communities

Section 6.1: Right to Water. All residents, natural communities and ecosystems in the City of Santa Cruz possess a fundamental and inalienable right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life within the City.

Section 6.2: *Rights of Natural Communities.* Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within the City of Santa Cruz.

Section 6.3: *Right to Self-Government.* All residents of the City of Santa Cruz possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them, nor shall any class of people enjoy such privileges or powers.

Section 6.4: *Right to a Healthy Environment.* All residents of the City of Santa Cruz possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna, and to protect the rights of natural communities and ecosystems, of which each resident is both intrinsically a part and extrinsically dependent.

Section 6.5: *Right to Self.* All residents of the City of Santa Cruz possess a fundamental and inalienable right to the integrity of their bodies, and to be free from unwanted invasions of their bodies by manufactured chemicals and toxins, including but not limited to toxic substances and potentially toxic substances as well as genetically engineered life forms, bacterial and viral pathogens, radioactive substances and their progeny.

Section 6.6: *Right to Livelihood and Home.* All residents of the City of Santa Cruz possess a fundamental and inalienable right to their livelihood, homes and land, and a right to enjoy those homes and land uncompromised by the bulk application of Pesticide.

Section 6.7: *People as Sovereign.* The City of Santa Cruz shall be the governing authority responsible to, and governed by, the residents of the city. Use of the "the City of Santa Cruz" municipal corporation by the sovereign people of the City to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and indefeasible right to self-governance in the community where they reside.

Section 7—Statements of Law: Prohibitions, Culpability, Corporate Powers and City Duties

Section 7.1: It shall be unlawful for any corporation to engage in the bulk application of pesticide within the City of Santa Cruz. It shall be unlawful for any person to assist a corporation to engage in the bulk application of pesticide within the City of Santa Cruz.

Section 7.2: It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to engage in the bulk application of pesticide within the City of Santa Cruz.

Section 7.3: The deposition of toxic substances or potentially toxic substances within the body of any resident of the City of Santa Cruz, or into any natural community or ecosystem, which results from the corporate bulk application of pesticides, is declared a form of trespass and is hereby prohibited.

Section 7.4: Persons owning or managing corporations which manufacture, generate, sell, transport, apply or dispose of toxic or potentially toxic substances intended for use as pest control, which are detected within the body of any resident of the City of Santa Cruz or within any natural community or ecosystem within the City, shall be deemed culpable parties, along with the corporation itself, for the recovery of trespass damages, compensatory damages, punitive damages, and the instatement of permanent injunctive relief. If more than one corporation manufactured or generated the detected substance, persons owning and managing those corporations, along with the corporations themselves, shall be held jointly and severally liable for those damages, in addition to being subject to injunctive relief.

Section 7.5: Corporations manufacturing or generating toxic or potentially toxic substances used as pesticides in the bulk application of pesticides, or included as ingredients in the bulk application of pesticides, that are detected within the body of a City resident shall provide information about the manufacture or generation of those substances to the municipality sufficient for a determination by the municipality of the culpability of that particular corporation for the manufacturing or generation of a particular toxic or potentially toxic substance.

Section 7.6: It shall be the duty of the City to protect the right of City residents, natural communities and ecosystems to be free from trespass under the provisions of this Ordinance, and to obtain damages for any violation of that right. If the presence of toxic and/or potentially toxic substance is detected within the body of any City resident, or within a natural

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community or ecosystem within the City, the municipality shall initiate litigation to recover trespass, compensatory, and punitive damages – and permanent injunctive relief - from all culpable parties. If a significant number of City residents have been similarly trespassed against, the municipality shall select representative plaintiffs and file a class action lawsuit on behalf of all City residents to recover trespass, compensatory, and punitive damages – and permanent injunctive relief - from all culpable parties.

Section 7.7: Persons or corporations engaged in the bulk application of pesticide within the City shall be strictly liable for the deposition of toxic substances and potentially toxic components of the pesticide into the bodies of residents of the City and within natural communities and ecosystems within the City. Culpable parties shall be deemed strictly liable if one of their toxic or potentially toxic substances or chemical compounds is discovered within the body of a City resident or into any natural community or ecosystem within the City. The municipality's showing of the existence of that substance or chemical compound within the body of a resident living in the City or within a natural community or ecosystems within the City, and the municipality's showing that the Defendant(s) are responsible for the manufacture, generation, sale, or deposition of that substance within the City, shall constitute a *prime facie* showing of causation under a strict liability standard. Current and future damages resulting from the culpable parties' trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the substance or chemical compound could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the culpable parties are not responsible for the trespass of that particular substance into the body of residents of the City or within a natural community or ecosystems within the City.

Section 7.8: The City of Santa Cruz shall select a laboratory with expertise in the testing for toxic substances and potentially toxic substances and chemical compounds, including, but not limited to, those listed in Section 5 of this Ordinance. The City shall provide financial resources for the first ten residents, determined by postage mark, who request in writing to be tested for the presence of toxic substances and potentially toxic substances and chemical compounds within their bodies, and make all reasonable efforts to provide financial resources for the testing of additional residents.

Section 7.9: Within the City of Santa Cruz, corporations shall not be "persons" under the United States or California Constitutions, or under the laws of the United States, California, or the City of Santa Cruz, and so shall not have the rights of persons under those constitutions and laws. Nor shall they be afforded the protections of the Contracts Clause or Commerce Clause of the United States Constitution, or similar provisions from the California Constitution, within the City of Santa Cruz, nor shall those corporations possess the authority to enforce State or federal preemptive

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law against the people of the City of Santa Cruz. Within the City of Santa Cruz, corporations shall be prohibited from denying the rights of residents and natural communities and shall be liable for any such deprivation or denial of rights. Additionally, within the City of Santa Cruz, corporate claims to "future lost profits" as a result of the enactment, implementation or enforcement of this Ordinance shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages as a result of the enforcement of this Ordinance within the City.

Section 7.10: Corporations and persons using corporations to engage in the bulk application of toxic or potentially toxic substances in a neighboring municipality, county or state shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the City of Santa Cruz from those activities, and for all harms caused to ecosystems and natural communities within the City of Santa Cruz.

Section 7.11: It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the existence and flourishing of natural communities or ecosystems, or to cause damage to those natural communities and ecosystems. Such interference shall include but not be limited to the deposition of toxic substances and potentially toxic substances into natural communities and ecosystems in the City. The City of Santa Cruz, along with any resident of the City, shall have standing to seek declaratory, injunctive, and compensatory relief for damages caused to natural communities and ecosystems within the City, regardless of the relation of those natural communities and ecosystems to City residents or the City itself. City residents, natural communities, and ecosystems shall be considered to be "persons" for purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems.

Section 7.12: No permit, license, privilege or charter issued by any State or federal Regulatory Agency, Commission or Council to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions and provisions of this Ordinance or deprive any City resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Santa Cruz. Additionally, any employee, agent or representative of any State or federal Regulatory Agency, Commission or Council who issues a permit, license, privilege or charter to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the provisions of this Ordinance or deprive any City resident(s), natural community, or ecosystem

of any rights, privileges, or immunities secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the City of Santa Cruz for restoration of those natural communities and ecosystems.

Section 8—Administration

This Ordinance shall be administered by the City of Santa Cruz.

Section 9—Enforcement

Section 9.1: The City of Santa Cruz shall enforce this Ordinance by an action brought before a court of competent jurisdiction.

Section 9.2: Any person, corporation, or other entity that violates any provision of this Ordinance shall be guilty of a summary offense and, upon conviction thereof by a court of competent jurisdiction, shall be sentenced to pay the maximum allowable fine for first-time and for each subsequent violation, and shall be imprisoned to the extent allowed by law.

Section 9.3: A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance that is found to be violated.

Section 9.4: The City of Santa Cruz may also enforce this Ordinance through an action in equity brought in a court of competent jurisdiction. In such an action, the City of Santa Cruz shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 9.5: All monies collected for violation of this Ordinance shall be paid to the Treasurer of the City of Santa Cruz.

Section 9.6: Any person, corporation, or other entity chartered, permitted or licensed by the State, or acting under authority of the State or any government agency, that violates, or is convicted of violating this Ordinance, two or more times shall be permanently prohibited from business activities in the City of Santa Cruz. This prohibition applies to that person's, corporation's, or other entity's parent, sister, and successor companies, subsidiaries, and alter egos, and to any person, corporation, or other entity substantially owned or controlled by the person, corporation, or other entity (including its officers, directors, or owners) that twice violates this Ordinance, and to any

person, corporation, or other entity that substantially owns or controls the person, corporation, or other entity that twice violates this Ordinance.

Section 9.7: Any City resident shall have the authority to enforce this Ordinance through an action in equity brought in a court of competent jurisdiction. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 10—Civil Rights Enforcement

Section 10.1: Any person acting under the authority of a permit issued by a government agency, any corporation operating under a State charter, any person acting on behalf of the State or any government agency, or acting under the authority of the State, or any director, officer, owner, or manager of a corporation operating under a State charter, who deprives any City resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the City of Santa Cruz for restoration of those natural communities and ecosystems.

Section 10.2: Any City resident shall have standing and authority to bring an action under this Ordinance's civil rights provisions, or under state and federal civil rights laws, for violations of the rights of natural communities, ecosystems, and City residents, as recognized by this Ordinance.

Section 11—Effective Date

This Ordinance shall be effective immediately upon its enactment.

Section 12—People's Right to Self-Government

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves in the community where they live, and thereby secure their rights to life, liberty, and pursuit of happiness. Any attempts to use other units and levels of government to preempt, amend, alter, or overturn this Ordinance, or parts of this Ordinance, shall require the City Council to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government.

Section 13—Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The City Council of the City of Santa Cruz hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 14—Repealer

All inconsistent provisions of prior Ordinances adopted by the City of Santa Cruz are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this ____ day of _____, 2009, by the City Council of Santa Cruz

By: _____

Attest: _____