

1/9/18 Public
Consent

**LANE COUNTY FREEDOM FROM AERIAL SPRAYING OF HERBICIDES
BILL OF RIGHTS ORDINANCE**

Preamble

We the people of Lane County assert that the practice of aerial spraying of herbicides on Lane County's forests is causing serious chemical contamination of our county's people, wildlife, ecosystems, air, and watersheds, as well as terminal degradation of our soil. A large number of herbicides being used, among them, but not limited to, 2,4-D, glyphosate, and atrazine, have been proven harmful to both humans and the environment;

We the people of Lane County acknowledge that the World Health Organization recently determined that glyphosate is "probably carcinogenic to humans" and that 2,4-D is "possibly carcinogenic to humans", and there is mounting evidence linking a wide variety of herbicides to many significant negative health effects;

We the people of Lane County assert that the practice of aerial spraying of herbicides leads to considerable airborne drift, diffusion, disbursement, and volatilization that ultimately exposes residents and their property, crops, livestock, pets, landscaping, and edible food gardens to toxic chemicals;

We the people of Lane County assert that the practice of aerial spraying endangers our local economy. Successful wineries and organic farming operations depend on our fertile valley, and the drift from aerial-sprayed herbicides put their products at risk, lose market value, or become unsalable if they become contaminated by those herbicides;

We the people of Lane County assert that the people's authority to recognize and secure these rights, and enforce these prohibitions, is anchored by the inherent right of local community self-government in Lane County, which is also secured by the Declaration of Independence, the Oregon Constitution, and the United States Constitution.

Now, therefore, the people of Lane County hereby adopt this Ordinance, which shall be known and may be cited as the "Lane County Freedom from Aerial Spraying of Herbicides Bill of Rights Ordinance."

Section 2. Definitions

- (a) "Chemical Trespass" means exposure to toxic chemicals without the subject's consent.
- (b) "Corporations" refers to any corporation, limited partnership, limited liability partnership, business trust, business entity, or limited liability company organized under the laws of any State of the United States or under the laws of any country. The term includes all public corporations and municipal corporations.
- (c) "Governmental entities" refers to state or federal agencies, and state or federal entities.
- (d) "Engage in aerial spraying," means the physical deposition of herbicides into the land, water, or air by any aerial method, including, but not limited to, all actions taken to prepare for that physical deposition.
- (e) "Herbicides" means any chemical that is toxic to plants and is used to destroy or inhibit the growth of unwanted vegetation.

Section 3. Statements of Law – Freedom from Aerial Spraying of Herbicides Bill of Rights

(a) Right to be Free from Chemical Trespass. All people of Lane County possess the right to be free from chemical trespass of aerial sprayed herbicides.

(b) Right to Clean Air, Water, and Soil. All people of Lane County possess the right to clean air, water, and soil free from chemical trespass of aerial sprayed herbicides within Lane County

(c) Rights as Self-Executing. All rights delineated and secured by this Ordinance are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors. They shall not require any enabling or implementing legislation to be enforced by the County or any resident of Lane County.

Section 4. Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful for any corporation or governmental entity to violate any right secured by this Ordinance.

(b) It shall be unlawful for any corporation or governmental entity to engage in aerial spraying of herbicides within Lane County.

(c) Corporations and governmental entities engaged in aerial spraying of herbicides in Lane County shall be strictly liable for damages caused by those herbicides to the people and property within Lane County.

Section 5. Authority and Enforcement

(a) This Ordinance is enacted under the authority of the people's inherent and inalienable right of local community self-government exercised to protect our community from the aerial spraying of herbicides.

(b) Lane County or any resident of Lane County may enforce this Ordinance through an action brought in any court possessing jurisdiction over activities occurring within Lane County, including, but not limited to, seeking an injunction to stop prohibited practices. In such an action, Lane County or the resident of Lane County shall be entitled to recover damages and all costs of litigation, including, without limitation, expert, and attorney's fees.

Section 6. Self-Execution

This Ordinance is self-executing.

Section 7. Severability

The provisions of this Ordinance are severable. If any court 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 this Ordinance.

Section 8. Effect

This Ordinance shall take effect thirty (30) days after adoption.

LANE COUNTY COMMUNITY SELF-GOVERNMENT ORDINANCE

Whereas, we the people of Lane County possess an inalienable and fundamental right of local community self-government that includes a right to a system of government that recognizes that right, and a right to a system of local government within Lane County that secures and protects the fundamental rights of every resident in the County;

Whereas, we the people of Lane County recognize that this individual right – exercised collectively – empowers us to enact laws that protect and secure our rights and our health, safety, and welfare, free from corporate and governmental interference;

Whereas, we the people of Lane County recognize that the current Lane County system of government fails to recognize fully our self-governing authority because corporations may assert their “rights” to override our laws; and our municipal “home rule” authority can be preempted by state or federal legislators and agencies even when our elected representatives and citizens act to protect the community’s health, safety, and welfare;

Whereas, we the people of Lane County recognize that the operation of these legal doctrines renders our municipal government unable to protect our rights, and the application of those doctrines renders us powerless to exercise fully our self-governing authority;

Whereas, we the people of Lane County possess the constitutional right to change our current system of government because it fails to recognize our self-governing authority and it has been rendered unable to secure our rights;

Whereas, we the people of Lane County hereby declare that our current system of government is inadequate, and therefore, we adopt this ordinance to establish a system of municipal governance that recognizes our inalienable self-governing authority, and that is empowered to secure and protect our rights;

Whereas, we the people of Lane County acknowledge that a right of local community self-government is secured by the Declaration of Independence, the Oregon Constitution, and the United States Constitution, and includes the authority to change the government when it becomes destructive to the people’s fundamental rights and well-being; and

Whereas, we the people of Lane County acknowledge that Article I, Section 1 of the Oregon Constitution provides: “all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.”

Therefore, we the people of Lane County assert our inalienable and fundamental right of local community self-government, and hereby adopt this “Community Self-Government Ordinance.”

Section 1 – Statements of Law – Local Community Self-Government.

(a) Governmental Legitimacy and Right of Local Community Self-Government. All political power is inherent in the people, all government of right originates from the people, and the people have the right to alter, reform, or abolish their governmental system whenever they deem it necessary to protect their liberty and well-being; therefore, the people of Lane County possess an inherent and inalienable right of local community self-government in Lane County, and in each municipality within the County.

(b) Power to Assert the Right of Local Community Self-Government. The right of local community self-government shall include the power of the people, and the power of their governments, to enact and enforce local laws that protect health, safety, and welfare by recognizing or establishing the rights of natural persons, their local communities, and nature; and by securing those rights using prohibitions and other means deemed necessary by the community, including measures to establish, define, alter, or eliminate competing rights, powers, privileges, immunities, or duties of corporations and other business entities operating, or seeking to operate, in the community.

Section 2 – Statement of Law – Enforcement. Local laws adopted pursuant to this Ordinance shall not be subject to preemption or nullification by state law, federal law, or international law, unless the local laws restrict fundamental rights of natural persons, their local communities, or nature secured by local, state, or federal constitutions, or by international law, or unless the local laws weaken protections for natural persons, their local communities, or nature provided by state law, federal law, or international law.

Section 3 – Severability and Effect. The provisions of this Ordinance are severable, and this Ordinance shall take effect thirty (30) days from the date of adoption.