

# Model Rights of Soil Law

Developed by the Center for Democratic and Environmental Rights

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## ORDINANCE 2022-\_\_\_\_\_

### A CITY OF PETALUMA SOIL RIGHTS ORDINANCE

**AN ORDINANCE OF THE CITY OF PETALUMA, CALIFORNIA, RECOGNIZING THE RIGHTS OF THE SOIL ECOSYSTEM; BANNING PRACTICES THAT VIOLATE THOSE RIGHTS; PROVIDING FOR ENFORCEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Whereas**, soil is a complex and biodiverse living system, and its capacity to thrive is integral to human, climate and environmental health; and

**Whereas**, adequate protections for soil ecosystems have lagged far behind legal protections for water, air, and other ecosystems; and

**Whereas**, healthy soils perform necessary ecosystem services such as water filtration, drought resilience, reducing runoff and erosion, and mitigating climate change by maintaining or increasing soil carbon content; and

**Whereas**, soil and the biodiversity it encompasses face significant threats in the form of erosion, nutrient imbalances, extinction of soil biota, and loss of biodiversity, due to certain forms of agriculture, chemical usage, and land conversion; all of which also compound and accelerate the climate crisis; and

Whereas, the highest level of protection afforded under our system of law is the recognition of rights, and there is a growing movement around the world to recognize nature and ecosystems as having legally enforceable rights;

Therefore, the City Council of the City of Petaluma adopts this Soil Rights Ordinance:

**A. Rights of the People of the City of Petaluma.**

The people of the City of Petaluma possess the right to a healthy soil ecosystem.

**B. Rights of the Soil Ecosystem.**

The soil ecosystem of the City of Petaluma possesses the right to exist, flourish, and maintain soil health.

**C. Prohibitions.**

It shall be unlawful for any business entity, government, or governmental agency to engage in certain practices that violate the rights of the soil ecosystem as established by this Ordinance. Those activities include, but shall not be limited to:

1. The application of synthetic herbicides, synthetic pesticides, or synthetic fertilizers to land within the City of Petaluma;
2. Significant activities causing soil erosion, which have the potential to affect the health of the soil ecosystem within the City of Petaluma as a whole;
3. Significant activities causing climate change, which have the potential to affect the health of the soil ecosystem within the City of Petaluma as a whole;
4. Any project or activity which has the potential to adversely impact the health of the soil ecosystem as a whole, or which has the potential to violate the rights of the soil ecosystem as recognized by this ordinance, within the City of Petaluma.

**D. Implementation and Enforcement.**

(1) **Implementation and Enforcement by the City of Petaluma.** The City of Petaluma shall take all necessary actions to implement, defend, and enforce the provisions of this Ordinance.

(2) **Enforcement by Residents.** Any resident of the City of Petaluma may enforce the provisions of this Ordinance through legal actions filed in any appropriate court.

(3) **Enforcement by the Soil Ecosystem.** The soil ecosystem, as protected by this Ordinance, may defend or enforce the provisions of this Ordinance through a legal action filed by any resident of the City of Petaluma in the name of the soil ecosystem as the real party in interest, in any court with jurisdiction over the subject matter. In such an action, the court shall issue injunctive relief to prohibit any project, activity, or practice which will adversely impact the soil ecosystem as a whole within the City of Petaluma. The court shall also have the authority to require restoration of the soil ecosystem back to its pre-damaged state, following a finding that the rights of the soil ecosystem have been violated by a project, activity, or practice.

E. **Authority.** This Ordinance is adopted pursuant to the authority provided to municipalities as recognized by the California Constitution and implementing statutes, and by the inherent right of the people of the City of Petaluma to make laws which recognize and expand civil and environmental rights at the municipal level, under the authority of Article II, §1 and Article I, §24 of the California Constitution; and pursuant to rights secured by prior California constitutions.

F. **Severability.** If any phrase, clause, sentence, paragraph, section, or subsection of this Ordinance shall be declared unconstitutional or illegal by a court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections, or subsections of this Ordinance.

G. **Effective Date.** This Ordinance shall take effect immediately upon adoption by the City Council of the City of Petaluma.

H. **Definitions.**

- a. "Engage in" as used within this Ordinance, shall include a direct action taken, or an action taken by a governmental entity to license or permit an action, practice, or project.
- b. "Soil ecosystem" shall include the soil itself, as well as inorganic components, waters, gases, and various flora and fauna, which interact with the soil to create the soil ecosystem.
- c. "Soil erosion" shall mean the form of soil degradation characterized by the denudation of the upper layer of soil.

- d. "Synthetic Fertilizers" shall include, but not be limited to, those fertilizers that are man-made, inorganic, and derived from by-products of the petroleum industry.
- e. "Synthetic Herbicides" shall include, but not be limited to, glyphosate, 2,4-D, and Dicamba (3,6-dichloro-2-methoxybenzoic acid).
- f. "Synthetic Pesticides" shall include, but not be limited to, organochlorines, organophosphates, carbamates, and pyrethroids.

Signed:

Attest: