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Blaine Township Community Self-Governance and Corporate Takings Prohibition Ordinance

Blaine Township, Washington County, Pennsylvania
Ordinance No. ____ of 2008

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS AND NATURAL ENVIRONMENT OF BLAINE TOWNSHIP, PENNSYLVANIA BY BANNING CORPORATIONS FROM TAKING PRIVATE PROPERTY WITHIN THE TOWNSHIP; BY BANNING THE EXERCISE OF CERTAIN POWERS BY CORPORATIONS; BY RECOGNIZING THE RIGHTS OF PEOPLE, ECOSYSTEMS AND NATURAL COMMUNITIES, AND BY PROVIDING FOR ENFORCEMENT OF THOSE RIGHTS.

Section 1—Name

This Ordinance shall be known and may be cited as the “Blaine Township Community Self-Governance and Corporate Takings Prohibition Ordinance.”

Section 2—Authority

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Township of Blaine to democratic self-governance and their right to be free from anti-democratic private governments, and by authority granted to the municipal government of Blaine Township by all relevant Federal and State laws and their corresponding regulations, including, without limitation, the following:

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

The Ninth Amendment to the United States Constitution, which declares, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”;

The Fourteenth Amendment to the United States Constitution, which declares in part, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States”;

The Pennsylvania Constitution, Article 1, Section 2, which declares that “all power is inherent in the people and all free governments are instituted for their peace, safety, and happiness;”

The Pennsylvania Constitution, Article 1, Section 25, which reserves power in the People by declaring that "To guard against the transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate;"

The Pennsylvania Constitution, Article 1, Section 26, which declares that "neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right;"

The Pennsylvania Constitution, Article I, Section 27, which provides for the "preservation of the natural, scenic, historic, and esthetic values of the environment;"

The Pennsylvania Constitution, Article 3, Section 31, which declares that "The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever."

The provisions of The Second Class Township Code, as codified at 53 P.S. § 65101 et seq., which authorizes the Board of Supervisors of Blaine Township to provide for the protection and preservation of natural and human resources, to promote, protect, and facilitate public health, safety, and general welfare, and to preserve and protect farmland, woodland, and the recreational uses of land within the Township;

The provisions of The Second Class Township Code, Article XV, as codified at 53 P.S. § 66506, which authorizes the Board of Supervisors of Blaine Township to enact ordinances necessary for the proper management, care, and control of the township and its finances and the maintenance of peace, good government, health, and welfare of the township and its citizens, trade, commerce, and manufacturers;

The provisions of The Second Class Township Code, Article XV, as codified at 53 P.S. § 66527, which empowers the Board of Supervisors of Blaine Township to adopt ordinances to secure the safety of persons or property within the township; and

The provisions of The Second Class Township Code, Article XV, as codified at 53 P.S. § 66529, which empowers the Board of Supervisors of Blaine Township to prohibit nuisances on private and public property and the carrying on of any offensive manufacture or business.

Section 3—Findings and Purpose

In support of the enactment of this Ordinance, the Board of Supervisors of Blaine Township, on behalf of the People of the Township, finds and declares that:

The Pennsylvania Constitution recognizes that residents of Blaine Township are born "equally free and independent and have certain inherent rights," which include the rights of life and liberty, and the right to acquire and possess property. Despite the plain meaning of these words, it required centuries of struggle by people in communities to drive meaning into them.

The Pennsylvania Constitution recognizes that all power is inherent in, and consequently derived from, the people, and that governments are established to protect the rights of people, and are established for the common benefit, protection, and security of the people. The Board of Supervisors finds that it would be illogical for people to establish governments that then act to deny the people's own fundamental and inalienable rights.

The General Assembly of the Commonwealth of Pennsylvania has granted certain corporations the authority to take private property, and authorized the Boards of Directors of those corporations to determine when that taking of private property is appropriate. The Board of Supervisors finds that, in so doing, the legislature has illegitimately conferred special legal powers and privileges upon a corporate minority – what American Revolutionaries regarded as dreaded private governments – enabling that minority to nullify democratic self-governance.

The Board declares that the conferral of those special legal powers and privileges onto a corporate few violates the framework of government established by the Pennsylvania Constitution, because under that framework of law – which grants the authority to a corporate minority to take people's property - government is denying rights indirectly when it is prohibited under that structure of law from denying people's rights directly.

The Board of Supervisors of Blaine Township finds that the power of eminent domain can only rightfully be asserted by democratically elected governments, and then only for a "public use," as determined by democratic decision-making. The Board of Supervisors finds that the legislature's conferral of the power of eminent domain upon corporations is an illegal, illegitimate, and improper delegation. The Board finds that conferral of the power of rights-denying eminent domain upon corporations violates the rights secured to the people of Blaine Township by the Pennsylvania Constitution, and subordinates the people to a privileged few.

The Board of Supervisors of Blaine Township finds that the conferral of the power of eminent domain upon corporations represents just one more power that federal and state governments have conferred upon corporations over the past century,

including certain and that the conferral of those "rights" and privileges upon fictional "entities" not answerable to the people endangers the ability and authority of the Board of Supervisors to fairly and adequately represent the majority of the residents of Blaine Township.

In order to vindicate republican self-governance, protect the health, safety, and welfare of the residents of Blaine Township, the soil, groundwater and surface water, cultural heritage, the environment and its flora and fauna, and preserve the quality of life defined by the exercise of self-governance within the Township, the Township finds it necessary to declare and recognize certain rights of people, communities, and nature and ban corporations from taking private property within this Township. The Board also finds it necessary to assert its inherent power and fundamental right of self-governance by eliminating competing claims to "rights" asserted by corporations against the residents of Blaine Township.

Section 4—Interpretation

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Sections 2 and 3 over such accounting and business terms characterized as "economy," "efficiency," and "scheduling factors."

Section 5—Definitions

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

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 that take private property or initiate eminent domain proceedings to take property within the Township of Blaine, and persons enabling corporations to engage in these activities within the Township.

Ordinance: The Blaine Township Community Self-Governance and Corporate Takings Prohibition Ordinance.

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

Resident: A natural person residing in Blaine Township, Pennsylvania.

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 this Ordinance by using that person, corporation, or other entity to violate this Ordinance.

Township: Blaine Township, Pennsylvania, its Board of Supervisors, or the Board's representatives or agents.

Section 6—Statements of Law – Rights of Blaine Township Residents and Communities

Section 6.1. Right to Self-Government. All residents of Blaine Township possess the fundamental and inalienable right to a republican form of governance – a form of governance which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority, and that corporate entities and their directors and managers cannot enjoy special privileges or powers under the law which make community majorities subordinate to them.

Section 6.2. Right to a Healthy Environment. All residents of Blaine Township possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna.

Section 6.3. Right to Self. All residents of Blaine Township 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, genetically engineered life forms, and radioactive substances and their progeny, as well as a right to privacy of their bodies against involuntary surveillance, searches and inspections, or denial of medical treatment.

Section 6.4. Right to Livelihood and Home. All residents of Blaine Township possess a fundamental and inalienable right to their livelihood, homes and land, and a right to enjoy those homes and land uncompromised by the removal of materials from

below.

Section 6.5. Right to Cultural Heritage All residents of Blaine Township possess a fundamental and inalienable right to their communities' cultural heritage within the Township. Residents' right to their own histories shall include a right to the preservation of historic buildings, unaltered rural historic districts and landscapes, and other structures, relationships, and lands that residents of Blaine Township consider important to the preservation of their cultural heritage.

Section 6.6. Right to Water. All residents of Blaine Township 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 Township.

Section 6.7. 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 Township of Blaine.

Section 6.8. People as Sovereign. The Township of Blaine shall be the governing authority responsible to, and governed by, the residents of the Township. Use of the "Blaine Township" municipal corporation by the sovereign people of the Township 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 infeasible right to self-governance in the community where they reside.

Section 6.9. Township Government's Duty to Protect. It shall be the duty of the Township to protect the right of Township residents to be free from corporate takings of property and the private exercise of state-conferred eminent domain powers under the provisions of this Ordinance, and to obtain damages for any violation of that right. If a private corporation violates rights of any Township resident, natural community or ecosystem recognized by the provisions of this Ordinance, the municipality shall initiate litigation to secure immediate injunctive relief and to recover trespass, compensatory, and punitive damages from all culpable parties. If the rights of a significant number of Township residents have been similarly violated, the Township shall select representative plaintiffs and file a class action lawsuit on behalf of all Township residents to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties.

Section 7—Statements of Law

Section 7.1. Prohibition of Corporate Takings. It shall be unlawful for any corporation to take private property in Blaine Township or initiate eminent domain proceedings intended to enable the taking of property within the Township of Blaine.

Section 7.2. Prohibition of Corporate Enablement: It shall be unlawful for any person to assist a corporation to take private property in Blaine Township or initiate eminent domain proceedings intended to enable the taking of property within the Township of Blaine.

Section 7.3. Prohibition of Corporate Enablement: It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to take private property in Blaine Township or initiate eminent domain proceedings intended to enable the taking of property within the Township of Blaine.

Section 7.4. Prohibition of Corporate Legal Protections. Within Blaine Township, corporations shall not be "persons" under the United States or Pennsylvania Constitutions, or under the laws of the United States, Pennsylvania, or Blaine Township, and so shall not have the rights of persons under those constitutions and laws. It shall be unlawful for any class of individuals upon whom the state has indirectly bestowed those rights – through the conferral of rights upon their corporations – to assert those rights.

Section 7.5. Prohibition of Corporate Legal Protections. Within the Township of Blaine, no corporation shall be afforded the privileges, powers, and protections of the Contracts Clause or Commerce Clause of the United States Constitution, or of similar provisions within the Pennsylvania Constitution.

Section 7.6. Prohibition of Corporate Legal Protections. Within the Township of Blaine, no corporation shall be afforded the privileges, powers, and protections of the First Amendment or the Fifth Amendment to the United States Constitution, or of similar provisions within the Pennsylvania Constitution.

Section 7.7. Future Lost Profits. Within the Township of Blaine, corporate claims to "future lost profits" shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

Section 7.8. Corporate Violation of Natural Rights: It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the rights of natural communities and ecosystems to exist and flourish, or to cause damage to those natural communities and ecosystems.

Section 7.9. Prohibition on Corporate Participation in Elections: It shall be unlawful for any corporation - or the corporation's directors, officers, owners, or managers operating in their corporate capacities – to transfer any monies, services, products, or any other thing of value, to persons serving as candidates for elected or appointed offices within the Township.

Section 7.10. Prohibition on Corporate Communications: It shall be unlawful for any corporation – or the corporation's directors, officers, owners, or managers operating in their corporate capacities – to contact, or to communicate with, any

resident of Blaine Township concerning any issue related to the substance or enforcement of this Ordinance, prior to or after the adoption of this Ordinance.

Section 7.11. Governmental Liability. It shall be unlawful for any permit, license, privilege, approval or charter issued by any State or federal regulatory agency, commission, or board, to any person or any corporation operating under a State-issued charter - or any director, officer, owner, or manager of a corporation operating under a State-issued charter - to violate the provisions of this Ordinance or deprive any Blaine Township resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Pennsylvania Constitution, the United States Constitution, or other laws. Accordingly, such permit, license, privilege, approval or charter shall not be deemed valid within the Township of Blaine.

Section 7.12. Governmental Agents. It shall be unlawful for any employee, agent, or representative of any State or federal regulatory agency, commission, or board to issue a permit, license, privilege, or charter to any person or any corporation operating under a State charter - or to any director, officer, owner, or manager of a corporation operating under a State-issued charter - that would violate the provisions of this Ordinance, or deprive any resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Pennsylvania Constitution, the United States Constitution, or other laws.

Section 7.13. Governmental Agent Liability. Any governmental agent violating the preceding section of this Ordinance shall be liable to any parties injured by the agent's actions 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 Township of Blaine for restoration of those natural communities and ecosystems.

Section 8—Administration

This Ordinance shall be administered by the Blaine Township Board of Supervisors.

Section 9—Enforcement

Section 9.1. Blaine Township shall enforce this Ordinance by an action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. (See 53 P.S. § 66601(c.1)(2).)

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 district justice, shall be sentenced to pay a fine of \$750 for first-time violations, \$1000 for second-time violations, and \$1000 for each subsequent violation, and shall be imprisoned to the extent allowed by law for the punishment of summary offenses. (See 53 P.S. § 66601(c.1)(2).)

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. (See 53 P.S. § 66601(c.1)(5).)

Section 9.4. Blaine Township shall enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Washington County. (See 53 P.S. § 66601 (c.1)(4).) In such an action, Blaine Township 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 Blaine Township.

Section 9.6. Any person, corporation, or other entity that violates, or is convicted of violating this Ordinance, two or more times shall be permanently prohibited from doing business within the Township of Blaine. 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 Township resident shall have the authority to enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Washington County. 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 corporation operating under a State charter or certificate of authority to do business, or any director, officer, owner, or manager of a corporation operating under a State charter or certificate of authority to do business, who deprives any Township resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Pennsylvania 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 to satisfy that liability, 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 Blaine Township for restoration of those natural communities and ecosystems.

Section 10.2: Any Township 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 Township residents, as recognized by this Ordinance.

Section 11—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, and thereby secure their rights to life, liberty, property, and pursuit of happiness. Any attempts to use Township, state, or federal levels of government – judicial, legislative, or executive - to preempt, amend, alter, or overturn this Ordinance or parts of this Ordinance, or to intimidate the people of Blaine Township or their elected officials by threatening to sue or by suing, shall require the Board of Supervisors of Blaine Township to hold Township-wide 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-governance. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of Blaine Township or their elected officials.

Section 12—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 Board of Supervisors of Blaine Township 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 13—Repealer

All inconsistent provisions of prior Ordinances adopted by the Blaine Township Board of Supervisors are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this ___ day of _____, 2008, by the Board of Supervisors of Blaine Township, Washington County, in the Commonwealth of Pennsylvania.

By: _____

Attest: _____