

## **KENT COMMUNITY BILL of RIGHTS**

**Section 4. A. Rights Enumerated, Reserved, Self-Executing and Enforceable.** The rights enumerated herein are in addition to, and shall not limit or abridge, other rights retained by the people. All rights delineated and secured by this Charter shall be fundamental, unalienable, and self-executing and these rights shall be enforceable against private and public entities.

- (a) **Right to Local Community Self-Government.** All residents of the City of Kent possess the right to a form of governance where they live which recognizes that all power is inherent in the people and that all free governments are founded on the people's consent. Use of the "City of Kent" municipal corporation by the people of Kent for the making and enforcement of this law shall not be deemed, by any authority, to eliminate, limit, or reduce that self-governing authority.
- (b) **Right to Pure Water.** All residents, natural communities and ecosystems in the City of Kent possess the right to sustainably access, use, consume, and preserve water from natural sources which is untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.
- (c) **Right to Clean Air.** All residents, natural communities and ecosystems in the City of Kent possess the right to breathe air untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.
- (d) **Right to Peaceful Enjoyment of Home.** Residents of the City of Kent possess the right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.
- (e) **Right to be Free from Toxic Trespass.** All residents, natural communities and ecosystems in the City of Kent possess the right to be free from toxic trespass resulting from corporate or government engagement in the extraction of hydrocarbons, including but not limited to, trespass by manufactured chemicals, toxins, pathogens, or radioactive substances and their progeny.
- (f) **Rights of Natural Communities.** Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems possess the rights to exist and flourish within the City of Kent.
- (g) **Right to a Sustainable Energy Future.** All residents in the City of Kent possess the right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable, non-polluting, and sustainable fuel sources, as well as the authority to establish local sustainable energy policies to further secure this right, and the right to be free from energy development, production, and use that may adversely impact the rights of human or natural communities.

**Section 4. B. Securing and Protecting Rights.** To further secure and protect the rights enumerated by the Community Bill of Rights, the following shall apply:

- (a) It shall be unlawful within the City of Kent for any corporation or government to engage in the extraction of hydrocarbons.
- (b) Corporations and governments that engage in the extraction of hydrocarbons in a neighboring municipality, county or state shall be strictly liable for all rights violations within the City of Kent which occur as a result of those activities.
- (c) No permit, license, privilege, charter, or other authority issued by any state, federal, or international entity which would violate the prohibitions of this Charter or any rights secured by this Charter, the Ohio Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Kent.

**Section 4. C. Definitions.** As used in this Charter these terms shall have the following meaning:

- (a) "Corporations," shall include any corporation, partnership, limited liability partnership, business trust, public benefit corporation, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.
- (b) "Extraction of hydrocarbons" shall include, but not be limited to, all extraction of oil and gas by hydraulic fracturing, vertical, directional or horizontal drilling, and associated activities.
- (c) "Engage in the extraction of hydrocarbons" shall include, but not be limited to, the extraction of hydrocarbons, the siting or use of infrastructure or transportation supporting the extraction of hydrocarbons - including but not limited to processing facilities, pipelines, compressor stations, storage facilities, recycling and disposal facilities. The term shall also include the extraction of water from any source for use in extraction of oil and gas; the deposit, disposal, storage, processing, beneficial use or transport by vehicle or pipeline of any liquid or solid waste, produced water, frack water, brine or other materials, chemicals, or by-products used in, or resulting from, the extraction of gas and oil; and the application for, or issuance of, a permit to engage in these activities. The phrase shall not apply to the use of gas and oil wells installed and operating at the time of enactment of this Charter provision, provided that the extraction of gas or oil from those existing wells does not involve any practice or process not previously used for the extraction of gas or oil from those wells, and providing that those wells are securely and properly capped when production ceases. This phrase shall not apply to the manufacture, production, sale or distribution of materials and components used in the extraction of

hydrocarbons, nor to the construction of infrastructures or manufacture of transport systems, but only to the actual siting and use of such items in support of the extraction of oil and gas within the City of Kent. This phrase shall not apply to the construction, maintenance or repair of residential or business infrastructures used for delivery to retail end-users of gas or oil.

**Section 4. D. Enforcement.** These enforcement provisions shall be in force:

(a) Any corporation or government that violates any provision of this Community Bill of Rights shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section and subsection of this Community Bill of Rights, shall count as a separate violation.

(b) The City of Kent, or any resident of the City of Kent, may enforce the rights and prohibitions of this Community Bill of Rights through an action brought in any court possessing jurisdiction over activities occurring within the City. In such an action, the City or the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any action brought by either a resident of the City, or by the City, to enforce or defend the rights of ecosystems or natural communities secured by this Charter shall bring that action in the name of the ecosystem or natural community in a court possessing jurisdiction over activities occurring within the City of Kent. Damages shall be measured by the cost of restoring the ecosystem or natural community to its state before the injury, and shall be paid to the City of Kent to be used exclusively for the full and complete restoration of the ecosystem or natural community.

**Section 4. E. Enforcement and Corporate Powers.** These enforcement provisions regarding powers of private corporations shall be in force:

(a) Corporations which violate or seek to violate the Charter of the City of Kent, or which are alleged to have violated this Community Bill of Rights, shall not be deemed to be "persons," nor possess any other legal rights, privileges, powers, or protections which would interfere with the rights or prohibitions enumerated by this Charter. "Rights, privileges, powers, or protections" shall include the power to assert state or federal preemptive laws in an attempt to overturn this Community Bill of Rights, and the power to assert that the people of this municipality lack the authority to adopt this Community Bill of Rights.

(b) All laws adopted by the legislature of the State of Ohio, and rules adopted by any State agency, shall be the law of the City of Kent only to the extent that they do not violate the rights or prohibitions of this Community Bill of Rights.

#### **Section 4. F. People's Right to Self-Government**

Use of the courts or the Ohio legislature in attempts to overturn the provisions of this Charter or any of its sections shall require the city to convene community meetings focused on changes to local governance until the right of the people to local self-government is achieved.

#### **Section 4. G. State and Federal Constitutional Changes**

Through the adoption of this Charter and its sections, the people of the City of Kent call for amendment of the Ohio Constitution and the federal Constitution to recognize a right to local self-government free from governmental preemption and or nullification by corporate "rights."

**Section 4. H. Provisions Severable.** The provisions of this Community Bill of Rights section and its subsections are severable. If any court decides that any section, clause, sentence, part, or provision of this section 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 Community Bill of Rights.

#### **Section 4. I. Repealer**

All inconsistent provisions of prior Ordinances, Charter sections and laws adopted by the City of Kent and its people are hereby repealed, but only to the extent necessary to remedy the inconsistency.