

**RIGHT TO A SUSTAINABLE ENERGY FUTURE AND
COMMUNITY SELF-GOVERNMENT ORDINANCE**

A Rights-based Ordinance to protect the health, safety and welfare of residents and ecosystems of Mason, New Hampshire by establishing a Community Bill of Rights, which elevates the rights of natural persons over those of corporations and over government preemption when these rights are violated, and calls for state and constitutional amendments to further these rights.

When people and communities find that laws ostensibly enacted to protect them and to foster their health, prosperity and fundamental rights, do neither; and that the very air, land, and water – on which their lives and happiness depend – are threatened; it becomes necessary for the people to reaffirm, reclaim and assert their inalienable rights.

Therefore, we the People of Mason, reaffirm the principles of the Declaration of Independence, which established that governments are instituted to secure people's rights, and derive their just powers from the consent of the governed; and we incorporate these principles into the provisions of this local Community Bill of Rights.

We see these same principles reflected in the Constitution of the State of New Hampshire, Article 1 of Part First, which declares that: *All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.*

We reaffirm Article 12a of Part First of the New Hampshire constitution, which declares that: *No part of a person's property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property.*

We reaffirm Article 14 of Part First of the New Hampshire constitution, which declares that: *Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.*

We reaffirm Article 8 of Part First of the New Hampshire constitution, which declares in part: *All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.*

We further reaffirm Article 10 of Part First of the New Hampshire constitution, which declares that: *Government being instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.*

We also declare, following upon these first principles of state government, that the People of Mason

possess the constitutional right to alter or abolish our current system of municipal governance if it either fails to recognize the authority of the people to self-govern or if such system is rendered unable to secure the people's rights.

And, since all power of governance is inherent in the people, we, the People of Mason, New Hampshire, declare and enact this civil rights law to correct the errors of government, declaring the following:

We the People of Mason, New Hampshire find that our current system of government fails to recognize our self-governing authority because corporations may assert their "rights" to override our laws; our local government and elected representatives can be preempted by state or federal government even when our elected representatives act to protect our community's health, safety and welfare; and our local government is banned from adopting and enforcing laws that have not been authorized by the state; and

We the People of Mason, New Hampshire assert that the operation of those legal doctrines renders our local government unable to protect our rights, and the application of those doctrines renders us powerless to exercise our self-governing authority; and

We the People of Mason, New Hampshire possess the constitutional right to change our current system of government because that system of government fails to recognize our self-governing authority and it has been rendered unable to secure our rights; and

We the People of Mason, New Hampshire hereby declare that our current system of government is illegitimate and we adopt this law to create a new system of local governance that recognizes our self-governing authority while securing and protecting our rights; and

We the People of Mason, New Hampshire find that commercial extraction, processing, transportation and distribution of unsustainable energy sources and the deposition of associated toxins are economically and environmentally unsustainable in that they damage property values and the natural and human environment, place the health of residents at risk, and threaten the quality and quantity of the natural water systems within the Town, while failing to provide real benefits to the people of this community; and

We the People of Mason, New Hampshire find that the siting of infrastructure to support these unsustainable activities violates the rights of Mason residents, including our right to make decisions about what happens to the places where we live,

Therefore, We the People of Mason hereby exercise our inherent and inalienable right of local community self-governance by adopting this Community Bill of Rights law in order to assert and enforce our fundamental civil, human and environmental rights.

Section 1 – Definitions

(a) "Corporation" for purposes of this law, includes any corporation, or other business entity organized under the laws of any state or any country.

(b) “Deposition of Toxins” includes, but is not limited to, the physical deposition, emission, leakage, disposal or placement of toxins into the land, air, or waterways within Mason, whether intentional or unintentional.

(c) “Ecosystem” includes, but is not limited to, woodlands, wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, people, flora and fauna, soil-dwelling or aquatic organisms.

(d) “Extraction” includes, but is not limited to, the physical extraction of fossil fuels.

(e) “Toxin” includes, but is not limited to, fossil fuels, by-products and waste products from fossil fuel extraction, refining, manufacture, transportation and distribution, as well as herbicides used to maintain pipeline rights of way, or any other material associated with unsustainable energy infrastructure that poses substantial present or potential hazard to human health or the environment.

(e) “Unsustainable Energy Infrastructure” includes, but is not limited to, pipelines or other vehicles of conveyance of fossil fuels, and any compressors or machinery used in the movement of fossil fuels through pipelines or other conduits. The term also includes any machinery or mechanism used in or supporting the conveyance of fossil fuels which results in the deposition of toxins.

Section 2 – Statements of Law – A Community Bill of Rights

(a) *Right to Access Water.* All residents and ecosystems in Mason possess a right to sustainably access, use, consume, and preserve water drawn from natural water cycles to provide water necessary to sustain life within Mason.

(b) *Right to Pure Water.* All residents and ecosystems in Mason possess a right to pure water untainted by toxic waste.

(c) *Right to Clean Air.* All residents and ecosystems in Mason possess a right to clean air untainted by toxic waste.

(d) *Right to Peaceful Enjoyment of Home.* Residents of Mason possess a right to the peaceful enjoyment of our homes, free from interference, intrusion, nuisances, or impediments to access and occupation, caused by corporations.

(e) *Rights of Ecosystems.* Ecosystems in Mason possess rights to exist, flourish, and naturally evolve. Residents of Mason shall possess legal standing to enforce those rights on behalf of those ecosystems.

(f) *Right to Scenic Preservation.* All residents of Mason possess a right to protect and preserve the scenic, historic, and aesthetic values of the town, including clean air, pure water, healthy soil, and unspoiled vistas that provide the foundation for a rural quality of life and economic sustainability for local businesses.

(g) *Governmental Legitimacy.* All legitimate governments in the United States owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the people and those communities. Any system of government that becomes destructive of

those ends is not legitimate, lawful, or constitutional.

(h) Right of Local Community Self-Government. The People of Mason possess both a collective and individual right to self-government in their local community, a right to a system of government that embodies that right, and the right to a system of government that protects and secures their human, civil, and collective rights.

(i) Right to Assert the Right of Self-Government. The People of Mason possess the right to use their local government to make law, and the making and enforcement of law by the people through a municipal corporation, or any other institution, shall not eliminate, limit, or reduce their sovereign right of local community self-government.

(j) Rights as Self-Executing. All rights secured by this law are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors. Further implementing legislation shall not be required for the Town of Mason, the residents of Mason, or the ecosystems and natural communities protected by this law, to enforce all of the provisions of this law.

Section 3 – Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful within Mason for any corporation or government to engage in the acquisition of land in any manner for use in unsustainable energy extraction, production, transportation or distribution.

(b) It shall be unlawful within Mason for any corporation or government to engage the siting or operation of unsustainable energy infrastructure.

(c) It shall be unlawful for any corporation or government to violate the rights recognized and secured by this law.

(d) No permit, license, privilege, charter, or other authority issued by any state or federal entity that would violate the prohibitions of this Ordinance or any rights secured by this law, the New Hampshire Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Mason.

Section 4 - Exceptions

The People of Mason hereby allow the following exceptions to the Statements of Law contained within Section 3 of this Ordinance:

(a) Utility corporations operating under valid and express contractual provisions in agreements entered into between the Town of Mason and those utility corporations.

(b) Corporations operating under valid and express contractual provisions in agreements entered into between residents of the Town of Mason and those corporations for fossil fuels when they are used solely for on-site residential, household, agricultural or commercial facilities within the Town of Mason.

Section 5 – Enforcement

(a) Any corporation or government that violates any provision of this law 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 of this law, shall count as a separate violation.

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

(c) Ecosystems and natural communities within Mason may enforce their rights, and this law's prohibitions, through an action brought by the Town of Mason or residents of Mason in any court possessing jurisdiction over activities occurring within the Town of Mason, in the name of the ecosystem or natural community as the real party in interest. 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 Town of Mason to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(d) If the Town of Mason fails to enforce or defend this law, or a court fails to uphold this law's limitations on corporate power, the law shall not be affected by the failure to enforce or defend, or by the failure to uphold the limitations on corporate power, and any person may then enforce the rights and prohibitions of the law through direct action. If enforcement through direct action is commenced, this law shall prohibit any private or public actor from filing a civil or criminal action against those participating in direct action. If filed in violation of this provision, the applicable court must dismiss the action promptly, without further filings being required of direct action participants. "Direct action" as used by this provision shall mean any activities or actions carried out to directly enforce the rights and prohibitions contained within this law.

Section 6 – Enforcement – Corporate Powers

(a) Corporations that violate this law, or that seek to violate this law, shall not be deemed to be "persons" to the extent that such treatment would interfere with the rights or prohibitions enumerated by this law, nor shall they possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights or prohibitions enumerated by this law, including standing to challenge this law, the power to assert state or federal preemptive laws in an attempt to overturn this law, or the power to assert that the People of Mason lack the authority to adopt this law.

(b) All laws adopted by the legislature of the State of New Hampshire, and rules adopted by any State agency, shall be the law of the Town of Mason only to the extent that they do not violate the rights or prohibitions of this law.

Section 7 – Effective Date and Existing Permit Holders

This law shall be effective immediately on the date of its enactment, at which point the law shall apply to any and all actions that would violate this law regardless of the date of any applicable local, state, or

federal permit.

Section 8 – People’s Right of Self-Government

Use of the courts or the New Hampshire legislature in attempts to overturn the provisions of this law shall require community meetings focused on changes to local governance that would secure the people's right of local community self-government. Any changes proposed to this Ordinance by the Mason Board of Selectmen or by citizen petition shall require public notice of the changes, and a public meeting held for the purpose of discussing those changes, at least thirty (30) days prior to either the meeting of the Selectmen where those changes are made or the appearance of the changes on the Town Meeting warrant. Any proposed changes to the Ordinance shall not be valid until ratified by a Town Meeting vote.

Section 9 – State and Federal Constitutional Changes

Through the adoption of this law, the People of Mason call for amendment of the New Hampshire Constitution and the federal Constitution to expressly recognize a right of local community self-government free from governmental preemption and nullification by corporate “rights.”

Section 10 – Severability

The provisions of this law are severable. If any court decides that any section, clause, sentence, part, or provision of this law 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 law. This law would have been enacted without the invalid sections.

Section 11 – Repealer

All inconsistent provisions of prior laws adopted by the Town of Mason are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 12 – Interpretation

Any reviewing court must liberally interpret this law’s provisions to achieve the goals stated in the preamble.

ENACTED AND ORDAINED this ___ day of _____, 2016, by the Town of Mason, New Hampshire.

By:

Signature _____ Print Name _____

Signature _____ Print Name _____

Signature _____ Print Name _____