

## FREEDOM FROM CHEMICAL TRESPASS RIGHTS-BASED ORDINANCE

### ESTABLISHING A COMMUNITY RIGHTS-BASED ORDINANCE FOR NEWMARKET, NH, WHICH PROHIBITS ACTIVITIES AND PROJECTS THAT WOULD VIOLATE THE ORDINANCE

#### **Preamble**

We hold these truths to be self-evident, that all people are created equal, that they naturally are endowed with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, the people institute governments, which derive their just powers from the consent of the governed.

Further, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

This right of self-government, as stated in the Declaration of Independence, is natural, fundamental, and unalienable. It is also secured to us by the United States Constitution and the Constitution of the State of New Hampshire.

Pursuant to that right of self-government, if our current system of local government infringes our rights, we, the people of Newmarket, have the right to alter or replace that system with one that secures and protects our rights, as long as that new system does not infringe other rights guaranteed to us by state or federal law.

It is our legislative determination that chemical trespass resulting from the following corporate activities including but not limited to physical deposition or disturbance of petroleum refining wastes, coal combustion wastes, sewage sludge, heavy metals, chemical residue from manufacturing processes, mining residuals, radioactive wastes, or any other waste that poses a present or potential hazard to human health or ecosystems is detrimental to our rights, health, safety, and welfare, for the following reasons: Newmarket is a bordering community to the Great Bay and its tributaries comprise a unique and sensitive estuarine ecosystem within the Great Bay Watershed upon which hundreds of thousands of people and countless species depend for health, drinking water and survival.

As we are purportedly constrained by state and federal law, which courts interpret to dictate that we must accept that harmful corporate activity, we the people of Newmarket are unable to secure our rights by banning the following corporate activities including but not limited to chemical trespass resulting from the physical deposition or disturbance of petroleum refining wastes, coal combustion wastes, sewage sludge, heavy metals, chemical residue from manufacturing processes, mining residuals, radioactive wastes, or any other waste that poses a present or potential hazard to human health or ecosystems.

Therefore, we deem it necessary to alter our system of local government, and we do so by adopting this Freedom from Chemical Trespass Rights-based Ordinance.

## **Section 1 – Statements of Law**

(a) Right of Self-Government. All residents of Newmarket possess a right of self-government, which includes, but is not limited to, the following rights: first, the right to a system of local government founded on the consent of the people of the municipality; second, the right to a system of local government that secures their rights; and third, the right to alter any system of local government that lacks consent or fails to secure and protect the people's rights, health, safety, and happiness. Any action to annul, amend, alter, or overturn this Ordinance shall be prohibited unless such action is approved by a prior Town vote at which a majority of the residents of the Town voting, approve such action.

(b) Right to a Healthy Climate. All residents of Newmarket possess a right to a climate system capable of sustaining human societies, which shall include the right to be free from all corporate activities that infringe that right, including chemical trespass resulting from the physical deposition or disturbance of toxic wastes, which, for purposes of this ordinance, includes petroleum refining wastes, coal combustion wastes, sewage sludge, heavy metals, chemical residue from manufacturing processes, mining residuals, radioactive wastes, or any other waste that poses a present or potential hazard to human health or ecosystems.

(c) Right to Clean Air, Water, and Soil. All residents of Newmarket possess the right to clean air, water, and soil, which shall include the right to be free from all corporate activities that release toxic contaminants into the air, water, and soil, including chemical trespass resulting from the physical deposition or disturbance of toxic wastes.

(d) Rights of Ecosystems and Natural Communities. Ecosystems and natural communities within Newmarket possess the right to naturally exist, flourish, regenerate, evolve, and be restored, which shall include the right to be free from all corporate activities that threaten these rights, including chemical trespass resulting from the physical deposition or disturbance of toxic wastes.

(e) Right to Protection from Governmental and Corporate Interference. All residents of Newmarket and the Town of Newmarket possess the right to enforce this Ordinance free of interference from corporations, other business entities, and governments. That right shall include the right of residents to be free from ceiling preemption, because this Ordinance expands rights-protections for people and nature above those provided by less-protective state, federal, or international law.

## **Section 2 – Enforcement**

(a) Any business entity or government that willfully violates any provision of this Ordinance shall be subject to a civil penalty in an amount of \$1,000 per day of violation or the maximum allowable penalty by state statute, whichever is higher.

(b) Any business entity or government that willfully violates any provision of this Ordinance also shall be liable for any damages to an ecosystem or natural community caused by the violation. 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 Newmarket to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(c) Ecosystems and natural communities within Newmarket may enforce or defend this Ordinance through an action brought in the name of the ecosystem or natural community as the real party in interest.

(d) Any resident of Newmarket may enforce or defend this Ordinance through an action brought in the resident's name. Any resident, and any ecosystem or natural community, also shall have the right to intervene in any action concerning this Ordinance in order to enforce or defend it, and in such an action, the Town of Newmarket shall not be deemed to adequately represent their particularized interests.

**Section 3 – State and Federal Constitutional Changes**

Through the adoption of this Ordinance, the people of Newmarket call for amendment of the New Hampshire Constitution and the federal Constitution to expressly recognize a right of local self-government free from governmental restriction, ceiling preemption, or nullification by corporate "rights."

ENACTED AND ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Town of Newmarket, in Rockingham County, New Hampshire.

By:

Signature \_\_\_\_\_ Print \_\_\_\_\_

Attest: \_\_\_\_\_