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# Nockamixon Township Corporate Mining, Bodily Trespass and Democratic Self-Government Ordinance

Nockamixon Township, Bucks County, Pennsylvania  
Ordinance No. \_\_\_\_\_ of 2008

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS AND NATURAL ENVIRONMENT OF NOCKAMIXON TOWNSHIP BY BANNING CORPORATIONS FROM ENGAGING IN MINING WITHIN THE TOWNSHIP; BY BANNING CORPORATE OWNERSHIP OF LAND AND MINERAL ESTATES USED FOR MINING WITHIN THE TOWNSHIP; BY BANNING PERSONS FROM USING CORPORATIONS TO ENGAGE IN MINING; BY PROHIBITING CHEMICAL AND RADIOACTIVE BODILY TRESPASS WITHIN THE TOWN; BY BANNING THE EXERCISE OF CERTAIN POWERS BY MINING 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 “Nockamixon Township Corporate Mining, Bodily Trespass and Democratic Self-Government Ordinance.”

### Section 2—Authority

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Township of Nockamixon to self-government, and by authority recognized to be possessed by the municipal government of Nockamixon 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 Nockamixon Township are born with “certain unalienable rights” and that governments are instituted among people to secure those rights;

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 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;”

Common law, which recognizes well-settled rules governing the tort of trespass, and which requires injunctive, compensatory, and punitive relief to be assessed for unauthorized intrusions;

The provisions of The Second Class Township Code, as codified at 53 P.S. § 65101 et seq., which authorizes the Board of Supervisors of Nockamixon 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 Nockamixon 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 Nockamixon 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 Nockamixon 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 Nockamixon Township, on behalf of the People of the Township, finds and declares that:

Corporations engaged in mining activities in Pennsylvania have damaged and harmed - and continue to damage and harm - people's lives, properties, livelihood, their pursuit of happiness, and their quality of life.

Corporations engaged in mining have also damaged and harmed - and continue to damage and harm - ecosystems and natural communities. Those ecosystems and natural communities are essential for thriving human and natural communities, for both present and future generations.

Damages and harms to residents and ecosystems, particularly from oil and gas mining, include chemical pollution of ground water with acids, corrosion inhibitors, surfactants, biocides, organo-metallic crosslinkers, solvents and other toxins through stimulation (e.g., hydraulic fracturing); introduction of toxins to the soil, water and air through pit spills, evaporation, and other means, including the release of H<sub>2</sub>S gas, heavy metals such as magnesium, barium, chromium, strontium, radium, lead, arsenic, manganese, iron, antimony, and calcium; disruption of human endocrine systems from nonylphenyl-ethoxylates, polycyclic aromatics, and phthalates, and other harms caused by chemical and radioactive trespass. Damages and harms to residents and ecosystems from ore, gas and oil extraction and transportation also include explosions; land subsidence; loss of water; property devaluation; devastation of natural features, and destruction of complex natural communities, hydrological systems, and other ecosystems. In addition, a small number of multinational mining organizations – run by a handful of corporate Directors and Managers – have used accumulated corporate wealth gained from years of destructive corporate mining to enact statewide laws that strip almost all community decisionmaking from the citizens of Nockamixon Township.

The Board of Supervisors of Nockamixon Township finds that county, state, and federal governments have failed to protect and preserve either the health, safety, and welfare of residents and natural communities within the Township, or the fundamental right of Nockamixon Township residents to local control and self-government. The Board finds that the Pennsylvania Department of Environmental Protection – along with the State's entire environmental regulatory structure – have legalized continuing corporate assaults on life, liberty, and people's basic rights, contrary to the common-sense understanding of the purpose of the rule of law.

In addition, having examined the legacy of regulatory laws and agencies in Pennsylvania and the United States, the Board clearly understands that the Department of Environmental Protection's enabling of mining corporations has not been the exception in this State and Nation, but a normal governmental practice.

The Board of Supervisors of Nockamixon Township finds that corporate mining in Pennsylvania is incompatible with the protection and preservation of the health, safety, and welfare of residents in Nockamixon Township; and that corporate mining is incompatible with the protection and preservation of the health, safety, and welfare of natural communities and ecosystems within Nockamixon Township. The Board of Supervisors of Nockamixon Township finds that corporate mining – backed by laws which empower small numbers of corporate directors and managers to override the wishes and values of majorities of citizens – destroys the authority and ability of people within Nockamixon Township to govern their communities democratically.

As a community in the path of mining corporations seeking oil, gas and ore from under people's homes and within people's communities, the people of Nockamixon Township find it necessary to take action to prevent the creation of yet one more

"sacrifice zone." As we do so, we call for changes in corporate laws and constitutional interpretations regarding legal privileges conferred upon a corporate few, so that people in communities across this nation can take logical steps towards assuring energy needs without subjecting people, communities and nature to long-term destructions and rights-denials.

In order to protect the health, safety, and welfare of the residents of Nockamixon Township, the soil, groundwater and surface water, cultural heritage, the environment and its flora and fauna, rural quality of life, and democratic self-government within the Township, the Township finds it necessary to ban corporations from engaging in mining within the Township, and to ban corporate ownership of land and mineral estates used for mining. The Board also finds it necessary to assert its inherent power and right of self-government against competing claims to "rights" asserted by mining corporations, and to restore ownership over land and minerals within the Township to non-corporate mining interests.

#### 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," ["national security"] 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 engage in mining activities that inject or introduce toxic or potentially toxic chemicals or substances, including radiation, into the Town that are detected within the body of any resident of the Township.

**Deposition:** The placement of a toxic substance or potentially toxic substance within the body of a person. The act of deposition shall be assumed if a toxic substance or potentially toxic substance is detected within the body of a person.

**DEP:** The Pennsylvania Department of Environmental Protection.

**Hazardous substance:** Waste, garbage, refuse, or sludge from an industrial or other waste water treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above, which, because of its quantity, concentration, or physical, chemical, radioactive or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment.

**Mineral Estate:** Any interest held in subsurface mineral or fossil fuel resources, which shall include, but not be limited to interests held in coal, uranium, natural gas, or oil.

**Mining:** As used in this Ordinance, the term shall refer to any commercial activity in which mineral resources intended for energy production, including coal and uranium; or fossil fuel resources, including natural gas and oil, are extracted from the ground.

**Mining Corporation:** Any corporation engaged in, or planning to engage in, mining activities.

**Ordinance:** The Nockamixon Township Corporate Mining, Bodily Trespass and Democratic Self-Government Ordinance.

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

**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 conduct mining operations within Nockamixon Township.

**Toxic substances and potentially toxic substances:** The phrase shall include chemicals or chemical compounds, radioactive ores, particulate matter and gasses, that have been found to cause adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic,

neurotoxic, carcinogenic, teratogenic, reproductive or developmental toxicants. The phrase includes, but is not limited to, Thorium-230, radium-226, radon-222, radon progeny including radioactive isotopes of bismuth, polonium and lead, including but not limited to lead-210, polonium-218, polonium-214 and polonium-210. The phrase shall also refer to nonylphenyl-ethoxylates, polycyclic aromatics, phthalates, ethylene glycol monobutyl ether, 2-(2-methoxyethoxy) ethanol, chlorinated solvents, polychlorinated biphenyls, organophosphate pesticides, organochlorine pesticides, carbamate insecticides, polybrominated diphenyl ethers (PBDEs), polychlorinated dioxins and dibenzofurans, pyrethroid pesticides, cyanide, or any other toxic chemical or hazardous substance identified by the Board of Supervisors of the Township of Nockamixon by resolution as subject to this Ordinance.

Township: Nockamixon Township, Bucks County, Pennsylvania, its Board of Supervisors, or its representatives or agents.

Trespass: As used within this Ordinance, the involuntary deposition of toxic or potentially toxic substances within a human body.

#### Section 6—Statements of Law – The Rights of Nockamixon Township Residents and Communities

Section 6.1. Right to Self-Government. All residents of Nockamixon 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 Nockamixon 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 Nockamixon 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 biometric surveillance, searches and inspections, or denial of medical treatment.

Section 6.4. Right to Livelihood and Home. All residents of Nockamixon 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 Nockamixon 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 Nockamixon Township consider important to the preservation of their cultural heritage.

Section 6.6. Right to Water. All residents of Nockamixon 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 Nockamixon.

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

#### Section 7—Statements of Law – Scope of Corporate Powers Within Nockamixon Township

Section 7.1. Prohibition of Corporate Mining: It shall be unlawful for any corporation to engage in mining activities within the Township of Nockamixon.

Section 7.2. Prohibition of Corporate Enablement: It shall be unlawful for any person to assist a corporation to engage in mining activities within Nockamixon Township.

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 engage in mining activities within the Township of Nockamixon.

Section 7.4. Prohibition of Corporate Legal Protections. Within Nockamixon Township, corporations shall not be "persons" under the United States or Pennsylvania Constitutions, or under the laws of the United States, Pennsylvania, or Nockamixon

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 Nockamixon, 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 Nockamixon, 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 Nockamixon, 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 Nockamixon 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. Prohibition on Corporate Ownership of Mineral Estates. It shall be unlawful for any corporation engaging in mining activities, or planning to engage in mining activities, to purchase any land or mineral estates within the Township after the effective date of this Ordinance. Mining corporations holding existing titles to land to be used for surface mining, or holding existing titles to minerals and other resources to be extracted during mining operations, shall divest those titles within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within Nockamixon Township. Persons and entities holding title to surface estates shall possess the right of first refusal to purchase title to minerals and other resources beneath those estates. Titles to those mineral estates shall be available for purchase at the same price that the titles were originally purchased at the time of original severance from the surface estate. Mineral estates not sold to persons or entities holding title to the surface estate must be conveyed to other persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals and other resources within Nockamixon Township, or within sixty days of adoption of this Ordinance, if permit applications have already been filed, or permits issued based on such application. Titles to land to be used for surface mining must be conveyed to persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within Nockamixon Township or within sixty days of adoption of this Ordinance, if permit applications have already been filed, or permits issued based on such application.

Section 7.12. Strict Corporate Liability: It shall be unlawful for corporations to engage in mining in a neighboring municipality in a manner which causes harm to the health, safety, and welfare of the residents of Nockamixon Township, or to the ecosystems and natural communities within the Township. Persons using corporations to engage in that mining activity shall be strictly liable for those harms.

Section 7.13. Bodily Trespass. The deposition of toxic substances or potentially toxic substances within the body of any resident of the Township is declared a form of trespass, and is hereby prohibited. No corporation or syndicate shall engage in the production, extraction, generation, disposal, distribution, use, and/or sale of toxic substances and potentially toxic substances within the Township.

Section 7.14. Culpable Parties. Persons owning or managing corporations that engage in mining activities resulting in the deposition of toxic substances and potentially toxic substances detected within the body of any resident of the Township shall be deemed culpable parties, along with the corporation itself, for the recovery of trespass damages, compensatory damages, punitive damages, and the instatement of permanent injunctive relief. If more than one corporation manufactured or generated or introduced the detected toxic or potentially toxic substance, persons owning and managing those corporations, along with the corporations themselves, shall be held jointly and severally liable for those damages, in addition to being subject to injunctive relief.

Section 7.15. Obligation to Provide Information. Corporations that engage in mining activities that result in the deposition of toxic substances and potentially toxic substances detected within the body of a Township resident shall provide information

about the production, extraction, generation, disposal, distribution, use, and/or sale of those toxic substances and potentially toxic substances to the municipality sufficient for a determination by the municipality of the culpability of that particular corporation.

Section 7.16. Town Government's Duty to Protect. It shall be the duty of the Township to protect the right of Town residents to be free from chemical trespass under the provisions of this Ordinance, and to obtain damages for any violation of that right. If the presence of toxic and/or potentially toxic substances is detected within the body of any Township resident, the municipality shall initiate litigation to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties. If a significant number of Township residents have been similarly trespassed against, the municipality 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 7.17. Strict Liability for Deposition of Toxic Substances. Persons who engage in mining activities that result in the deposition of toxic substances and potentially toxic substances shall be strictly liable for the deposition of those substances into the bodies of residents of the Township. Culpable parties shall be deemed strictly liable if one of their toxic or potentially toxic substances or chemical compounds is discovered within the body of a Township resident. The municipality's showing of the existence of that toxic or potentially toxic substance within the body of a resident living in the Township, and the municipality's showing that the Defendant(s) are responsible for the production, extraction, generation, disposal, distribution, use, and/or sale of that substance, shall constitute a *prima facie* showing of causation under a strict liability standard. Current and future damages resulting from the culpable parties' trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the toxic and/or potentially toxic substances could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the culpable parties are not responsible for the trespass of that particular substance into the body of residents of the Town.

Section 7.18. Neighboring Jurisdictions. Corporations and persons using corporations to engage in mining in a neighboring municipality, county or state shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the Township from those activities, and for all harms caused to ecosystems and natural communities within the Township.

Section 7.19. Testing for Toxic Substances. The Township of Nockamixon shall select a laboratory with expertise in the testing for toxic substances and potentially toxic substances and toxic chemical compounds, including, but not limited to, those toxic substances listed in Section 5 of this Ordinance. The Township shall provide financial resources for the first ten residents who request to be tested for the presence of toxic substances and potentially toxic substances and chemical compounds within their bodies, and make all reasonable efforts to provide financial resources for the testing of additional residents.

Section 7.20. Governmental Liability. It shall be unlawful for any permit, license, privilege 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 Nockamixon 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, or charter shall not be deemed valid within the Township of Nockamixon.

Section 7.21. 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 7.22. 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 Nockamixon for restoration of those natural communities and ecosystems.

#### Section 8—Administration

This Ordinance shall be administered by Nockamixon Township.

#### Section 9—Enforcement

Section 9.1. Nockamixon 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. Nockamixon Township may also enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Bucks County. (See 53 P.S. § 66601 (c.1)(4).) In such an action, Nockamixon 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 Nockamixon 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 Nockamixon. 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 Bucks 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 person acting under the authority of a permit issued by the Department of Environmental Protection, 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 Nockamixon 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—Effective Date and Existing DEP Permitholders

This Ordinance shall be effective immediately, at which point the Ordinance shall apply to any and all mining corporations, mining corporation employees, directors, officers, and governmental agents in Nockamixon Township, and making decisions affecting Nockamixon Township, regardless of the date of the applicable DEP permits.

#### Section 12—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 our rights to life, liberty, property, and pursuit of happiness. Any attempts to use county, 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 Nockamixon Township or their elected officials, shall require the Board of Supervisors of Nockamixon Township to hold 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-government. 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 Nockamixon Township or their elected officials.

#### Section 13—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 Nockamixon 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 14—Repealer

All inconsistent provisions of prior Ordinances adopted by the Township of Nockamixon 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 Nockamixon Township, Bucks County.

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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