

## Community Bill of Rights

### ESTABLISHING A COMMUNITY BILL OF RIGHTS FOR THE PEOPLE OF BARRINGTON WHICH PROHIBITS ACTIVITIES AND PROJECTS THAT WOULD VIOLATE THE BILL OF RIGHTS, AND WHICH PROVIDES FOR ENFORCEMENT OF THE BILL OF RIGHTS AGAINST CORPORATIONS ENGAGED IN THOSE ACTIVITIES AND PROJECTS

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 Barrington, in the State of New Hampshire, reaffirm Article 1 of Part First of the New Hampshire constitution, 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 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: *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 Barrington 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 it is rendered unable to secure the people's rights.

And since all power of governance is inherent in the people, we, the People of Barrington, New Hampshire, declare and enact the following civil rights law:

*We the People of Barrington, 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 Barrington*, 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 Barrington*, 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 Barrington*, New Hampshire hereby declare that our current system of government is illegitimate and that 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 Barrington*, New Hampshire find that commercial resource extraction and toxic waste disposal are economically and environmentally unsustainable, in that they damage property values and the natural environment, place the health of residents at risk, 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 Barrington*, New Hampshire find that commercial resource extraction and toxic waste disposal violate the rights of Barrington residents, including our right to make decisions about what happens to the places where we live.

*Therefore*, We the People of Barrington hereby exercise our inherent and inalienable right of local community self-governance to adopt 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) “Ecosystem” includes, but is not limited to, 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.

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

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

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

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

(d) *Right to Peaceful Enjoyment of Home.* Residents of Barrington 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 Barrington possess rights to exist, flourish, and naturally evolve. Residents of Barrington shall possess legal standing to enforce those rights on behalf of those ecosystems.

(f) *Right to Scenic Preservation.* All residents of Barrington 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 Barrington 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 Barrington 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 Barrington, the residents of Barrington, 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 Barrington for any corporation or government to engage in resource extraction or toxic waste disposal as defined by this Ordinance.

(i) “Resource extraction” includes, but is not limited to, the physical extraction of water, minerals, gravel, sand, or other minerals and mineral products. This phrase does not include the removal of timber.

(ii) “Toxic waste disposal” includes, but is not limited to, the physical deposition of toxic waste

onto the land, or into waterways within Barrington. "Toxic waste" includes, but is not limited to, waste products from petroleum refining or pesticide manufacturing, discarded pesticides or pharmaceuticals, sediment sludge, wastewater treatment sludge, heavy metals, chemical residue from manufacturing processes, biomedical wastes, mining residuals, radioactive wastes, or any other waste material that poses substantial present or potential hazard to human health or the environment.

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

(c) 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 Ordinance, the New Hampshire Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Barrington.

#### **Section 4 - Exceptions**

The People of Barrington 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 Barrington and those utility corporations providing water, for the provision of water within the Town of Barrington.

(b) Corporations operating under valid and express contractual provisions in agreements entered into between residents of the Town of Barrington and those corporations for water, when the withdrawn water is used solely for on-site residential, household, agricultural or commercial facilities within the Town of Barrington, as long as such commercial facilities do not withdraw water for sale outside of the Town of Barrington, or purchase water withdrawn from the Town of Barrington for sale outside of the Town.

(c) The City of Rochester operating under valid and express contractual agreements entered into between that municipality and the Town of Barrington for water used solely for on-site residential, household, agricultural or commercial facilities within the City of Rochester, as long as such extraction does not withdraw water for sale outside of the City of Rochester.

(d) Sand or gravel extraction from existing, permitted gravel and sand extraction operations located within the Town of Barrington, which were operating prior to the date of enactment of this Ordinance.

(e) Future sand and gravel extraction operations operating under valid and express contractual provisions with the Town of Barrington, when the extracted gravel or sand is used solely for municipal, on-site residential, household, agricultural or commercial facilities within the Town of Barrington, as long as such commercial facilities do not extract sand or gravel for sale outside of the Town of Barrington, or purchase sand or gravel from the Town of Barrington for sale outside the town.

## **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 Barrington, or any resident of Barrington, 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 Barrington. In such an action, the Town of Barrington 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 Barrington may enforce their rights, and this law's prohibitions, through an action brought by the Town of Barrington or residents of Barrington in any court possessing jurisdiction over activities occurring within the Town of Barrington, 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 Barrington to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(d) If the Town of Barrington 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 Barrington 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 Barrington 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.

### **Section 9 – State and Federal Constitutional Changes**

Through the adoption of this law, the People of Barrington 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 Barrington 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 Barrington, New Hampshire.

By:

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