

## **FREEDOM FROM CHEMICAL TRESPASS RIGHTS-BASED ORDINANCE**

### ESTABLISHING A COMMUNITY RIGHTS-BASED ORDINANCE FOR NOTTINGHAM, NH, THAT PROHIBITS ACTIVITIES AND PROJECTS THAT WOULD VIOLATE RIGHTS SECURED BY 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 Nottingham, have the right to alter or replace that system with one that secures and protects our rights, as long as the new system does not infringe other rights protected for us by state or federal law.

It is our legislative determination that chemical trespass resulting from the following corporate activities, namely the physical deposition or disturbance of toxic wastes, including 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.

As we are purportedly constrained by state and federal law, which courts interpret to require us to accept such harmful corporate activity, we the people of Nottingham are unable under our current system of local government to secure our rights by banning said activity.

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 Nottingham 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 of the people or fails to secure and protect the people's rights, health, safety, and welfare.

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 Nottingham 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 Nottingham 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 Nottingham 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 Nottingham and the Town of Nottingham 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 and legal 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.

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

(c) Ecosystems and natural communities within Nottingham 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 Nottingham 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 Nottingham shall not be deemed to adequately represent their particularized interests.

(e) If the Town of Nottingham fails to enforce or defend this law, or a court fails to uphold this law or purports to declare it unlawful, the law shall not be affected, and any resident may then enforce the rights and prohibitions of the law through non-violent direct action. If enforcement through non-violent direct action is commenced, this law shall prohibit any private or public actor from filing a civil or criminal action against those participating in such non-violent direct action. If an action is 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 non-violent activities or actions carried out to directly enforce the rights and prohibitions contained within this law.

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

Through the adoption of this Ordinance, the people of Nottingham call for amendment of the New Hampshire Constitution and the federal Constitution to recognize expressly 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 Nottingham, in Rockingham County, New Hampshire.

By:

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

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

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