

TG

11-26-14A10:56 RCVD

ESTABLISHING A COMMUNITY BILL OF RIGHTS PROVIDING FOR A SUSTAINABLE ENERGY FUTURE

Section 1. Purpose

Whereas, we the people of Coos County possess the inherent and inalienable right to govern our own community, as secured by the Declaration of Independence's reaffirmation of the right of people to alter or abolish their government if it renders self-government impossible, and of the Oregon Constitution's recognition that —"All power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness;" and

Whereas, we the people of Coos County understand the current system of municipal governance fails to recognize the self-governing authority of the people of Coos County because corporations may assert their "rights" to override our laws, our local government operates on the assumption that corporate rights trump those of the people, our municipal government can be preempted by state or federal legislators and agencies, and our municipality is banned from adopting laws which have not been authorized by the state; and

Whereas, we the people of Coos County have experienced substantial population loss in recent decades due to ill-advised and non-sustainable development policies; and

Whereas, we the people of Coos County have experienced firsthand the harmful effects of unchecked resource extraction, and recognize that the pace and scope of extraction, transportation, production and use of hydraulically fractured fossil fuels in this country along with investments in other non-sustainable energy systems violate the right of Coos County residents to a sustainable energy future; and

Whereas, we the people of Coos County recognize the importance of healthy and thriving natural communities and ecosystems and that non-sustainable energy system projects threaten those natural systems; and

Whereas, we the people of Coos County, in recognition of our current dependence on fossil fuels, find it necessary to halt irresponsible energy resource extraction, transportation, and management – locally and globally – by asserting our inherent right to local self-government by enacting law which recognizes that the residents and ecosystems of Coos County have the right to a healthy, natural climate unaltered by the transporting, handling, production, and burning of fossil fuels and other non-sustainable energy systems; and

Whereas, we the people of Coos County see the need to build energy independence – independence from the vicissitudes of the electrical grid, especially the vicissitudes of price and availability – freeing the county from centralized energy systems which produce non-sustainable power; and

Whereas, we the people of Coos County hereby declare that our current municipal system of governance is illegitimate and that we adopt this ordinance to create a new system of municipal

governance which recognizes our self-governing authority and which secures and protects our rights to a sustainable energy future;

Now, therefore, the people of Coos County hereby adopt this Ordinance, which shall be known and may be cited as "The Coos County Right to Sustainable Energy Future Ordinance."

Section 2. Definitions

(a) "Corporation," means any corporation, limited partnership, limited liability partnership, business trust, public benefit corporation, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) "Energy systems" means those systems producing, generating, distributing, transmitting, or transporting energy and power.

(c) "Engage in fossil fuel transportation" means transportation of fossil fuels, including but not limited to, coal, natural gas, liquid natural gas, and oil by road, rail, pipeline, or waterway destined for energy production. It shall not include the transportation of fossil fuels for residential, commercial, or industrial use for on-site power, heat consumption and vehicle fuels.

(d) "Non-sustainable energy systems" means those systems that are controlled by state and federal energy policies, rather than community controlled energy policies; hydroelectric power and industrial scale wind power when it is not locally or municipally owned and operated; energy systems using fossil fuels, including but not limited to coal, natural gas, petroleum products, nuclear and radioactive materials and other fuel sources that are non-renewable, or which produce toxins and substances that cause injury to humans or natural communities and ecosystems, or that are in violation of resident's right to a sustainable energy future. The phrase shall also include any energy system which violates the rights secured under this Ordinance or under other laws. The term shall not include the combustion of wood or wood products, propane, kerosene, heating oil, coal, or natural gas when those fuels is used solely to generate on-site heat or power and the energy produced is not commercially sold, transmitted, or distributed.

Section 3. Statements of Law – Community Bill of Rights

(a) *Right to a Sustainable Energy Future.* All residents in Coos County possess a right to a sustainable energy future, and the people of Coos County have the right to adopt laws and policies to secure that right. That right shall include the authority to require the development, production, and use of sustainable energy.

(b) *Right to Scenic and Recreational Preservation.* All residents of Coos County possess a right to the preservation and enhancement of the scenic, historic and aesthetic values of the County, including unspoiled vistas and outdoor recreational opportunities, thereby improving the area's appeal to tourists and future residents. That right shall include the right of the residents of the County to be free from activities which threaten scenic, historic, and aesthetic values as related to the construction, siting, or operation of non-sustainable energy systems.

(c) *Rights of Natural Communities and Ecosystems to Thrive.* Natural communities and ecosystems within Coos County, including but not limited to, forests, rivers, streams, wetlands, aquifers, near shore habitats, and intertidal zones possess the right to exist, flourish, and naturally evolve unaffected by the construction, siting, or operation of non-sustainable energy systems.

(d) *Governmental Legitimacy.* All governments 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.

(e) *Right to Local, Community Self-Government.* The people of Coos County possess both a collective and individual right to self-government in their 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.

(f) *Right to Assert the Right to Self-Government.* The people of Coos County 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 to local, community self-government.

(g) *Rights are Self-Executing.* All rights delineated and secured by this ordinance are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors.

Section 4. Statement of Law - Prohibitions Necessary to Secure the Community Bill of Rights

(a) It shall be unlawful for any corporation or governmental entity to violate any right secured by this ordinance.

(b) It shall be unlawful for any corporation or governmental entity to engage in fossil fuel transportation through or into Coos County except the transportation of fossil fuels intended for residential, commercial, or industrial use for on-site power, heat consumption and vehicle refueling.

(c) It shall be unlawful within Coos County for a corporation or governmental entity to engage in land acquisition necessary for the construction of a non-sustainable energy system, or to engage in construction or siting of any structure to be used in the operation of a non-sustainable energy system.

(d) No permit, license, privilege, charter, or other authority issued by any State or federal entity which would violate the rights of this ordinance, shall be deemed valid within Coos County.

Section 5. Enforcement

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

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

(c) Any action brought by either a resident of Coos County or by Coos County to enforce or defend the rights of ecosystems or natural communities secured by this ordinance shall bring that action in the name of the ecosystem or natural community in a court possessing jurisdiction over activities occurring within Coos County.

(d) Damages shall be measured by the cost of restoring the natural community or ecosystem to its state before the injury, and shall be paid to Coos County to be used exclusively for the full and complete restoration of the natural community or ecosystem.

Section 6. Enforcement - Corporate Powers

(a) Corporations which violate this ordinance, or which seek to violate this ordinance, shall not be deemed "persons," nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights enumerated by this ordinance. Such powers shall include the ability to assert federal or state preemptive law in an attempt to overturn this ordinance, and the ability to assert that the people of the county lack the authority to adopt this ordinance.

(b) Corporate claims to "regulatory takings" or "future lost profits" shall not be considered property interests under this ordinance, and thus, shall not be recoverable by corporations seeking those damages.

(c) All laws adopted by the legislature of the State of Oregon, rules adopted by any State agency, laws adopted by the United States Congress, and rules adopted by any federal or international agency, shall be the law of Coos County only to the extent that they do not violate the rights or prohibitions of this ordinance.

Section 7. People's Right to Local Self-Government

Use of the courts or the Oregon legislature in attempts to overturn the provisions of this ordinance shall require the County to organize community meetings focused on changes to local governance that would secure the right of the people to local self-government.

Section 8. State and Federal Constitutional Changes

Through the adoption of this ordinance, the people of Coos County call for an amendment of the Oregon Constitution and the federal Constitution to confirm the existing right to local self-

TLT

11-25-14P02:29 RCVD

government free from governmental preemption and or nullification by corporate "rights."

Section 9. Severability

The provisions of this ordinance are severable. If any court 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.

Section 10. Effect

This ordinance shall take effect on the date of adoption.