

Proposed Amendment to the Charter of the City of Mansfield

Adding Section 1.03 BILL OF RIGHTS to Article 1 “Name; Boundaries ; Form of Government”

ARTICLE I. NAME; BOUNDARIES; FORM OF GOVERNMENT; **BILL OF RIGHTS**

Section 1.03. Bill of Rights

The rights of the citizens of the “home rule” municipality of the City of Mansfield and the corporate City of Mansfield are derived and flow directly by and from the Ohio Constitution and its “Bill of Rights,” and are secured by the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. These rights include, but are not limited to, the Ohio Constitution’s proclamation that:

§ 1.01 Inalienable Rights (1851)

All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

and

§ 1.16 Redress in courts (1851, amended 1912)

All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

[Suits against the state.] Suits may be brought against the state, in such courts and in such manner, as may be provided by law.

(As amended September 3, 1912.)

and

§ 1.19b Property rights in ground water, lakes, and other watercourses

[including but not limited to]

(E) Ground water underlying privately owned land and nonnavigable waters located on or flowing through privately owned land shall not be held in trust by any governmental body. The state, and a political subdivision to the extent authorized by state law, may provide for the regulation of such waters. An owner of land voluntarily may convey to a governmental body the owner’s property interest held in the ground water underlying the land or nonnavigable waters located on or flowing through the land.

and

§ 1.02 Right to alter, reform, or abolish government, and repeal special privileges (1851)

All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

IT IS FURTHER HEREBY PROCLAIMED BY THE HOME RULE MUNICIPALITY OF THE CITY OF MANSFIELD AND FOR THE PROTECTION OF ITSELF AND ITS CITIZENS AND FUTURE GENERATIONS, THAT EACH AND ALL SHALL POSSESS THE FOLLOWING INALIENABLE RIGHTS:

(A) Right to Sustainable Water. All residents, natural communities and ecosystems in the City of Mansfield 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 City.

(B) Right to Clean Air. All residents, natural communities and ecosystems in the City of Mansfield possess a fundamental and inalienable right to breathe air untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.

(C) Right to Peaceful Enjoyment of Home. Residents of the City of Mansfield possess a fundamental and inalienable right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.

(D) Right to a Sustainable Energy Future. All residents in the City of Mansfield possess a right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable fuel sources.

(E) Right to Self-Government. All residents of the City of Mansfield possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate or other entities and their directors and managers shall not enjoy special privileges or powers under the law which make municipal community majorities subordinate to them.

(F) People as Sovereign. The City of Mansfield shall be the governing authority responsible to, and governed by, the residents of the City. Use of the "City of Mansfield" municipal corporation by the sovereign people of the City 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.

(G) Rights as Self-Executing. All rights delineated and secured by this Charter shall be self-executing and these rights shall be enforceable against corporations and governmental entities.

(H) Securing and Protecting Rights. To further secure and protect the rights enumerated by the Bill of Rights:

(1) It shall be unlawful for any person or corporation, or any director, officer, owner, or manager of a corporation **or government or any entity** to use a corporation **or government or entity**, to inject, deposit, store or transport waste water, “produced” water, “frack” water, brine or other materials, chemicals or by-products from the development of natural gas from shale formations, within, upon or through the land, air or waters of the City of Mansfield, **without the written legislative consent of the City of Mansfield.**

(2) No permit, license, privilege or charter issued by any State or government agency, Commission or Board to any person or any corporation **or government or any entity** operating under State laws, or any director, officer, owner, or manager of a corporation **or government or any entity** operating under State laws, which would violate the prohibitions of this Charter provision or deprive any City resident(s), of any rights, privileges, or immunities secured by this Charter, the Ohio Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Mansfield, **without the written legislative consent of the City of Mansfield.**

(3) The provisions of this section are severable. If any court of competent jurisdiction decides that any sub-section, clause, sentence, part, or provision of this section is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sub-sections, clauses, sentences, parts, or provisions of this Bill of Rights and its prohibitions. The People of the City of Mansfield hereby declare that in the event of such a decision, and the determination that the court’s ruling is legitimate, they would have enacted this amendment even without the sub-section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional. All inconsistent provisions of prior Ordinances and zoning Ordinances adopted at any time by the City of Mansfield are hereby held in abeyance, but shall take immediate effect in the event this Bill of Rights and its protective prohibitions are overturned.