

ESTABLISHING A COMMUNITY BILL OF RIGHTS FOR THE PEOPLE OF DOUGLAS COUNTY, OREGON, WHICH PROHIBITS ACTIVITIES AND PROJECTS THAT WOULD VIOLATE THE BILL OF RIGHTS, AND WHICH PROVIDES FOR ENFORCEMENT OF THE BILL OF RIGHTS AGAINST CORPORATIONS AND GOVERNMENTS

Section 1—Purpose

Whereas, the people of Douglas County recognize and secure a right to a sustainable energy future for Douglas County residents; and

Whereas, the people of Douglas County recognize that attaining a sustainable energy existence will take time, this ordinance does allow for certain fossil fuel use to continue, such as the operation of vehicle refueling stations, delivery and use of propane and home heating oil, fossil fuel delivery and storage tanks for agricultural and other commercial vehicle and machinery operations, maintenance of existing fossil fuel infrastructure, and expansion of fossil fuel infrastructure - like new refueling stations - where necessary; and

Whereas, the people of Douglas County also recognize that our current dependence on fossil fuels is a major cause of pollution and climate change, and find it necessary to create new law, one that recognizes that residents and ecosystems of Douglas County have the right to a healthy, natural climate unaltered by the extracting, transporting, handling, production, and burning of fossil fuels and other unsustainable energy systems that threaten our right to a sustainable energy future; and

Whereas, the people of Douglas County, through this ordinance prohibit the land acquisition necessary for the construction, siting, or operation of unsustainable energy systems, as such actions would violate the rights of Douglas County residents to a sustainable energy future; and

Whereas, the people of Douglas 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 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 they have at all times a right to alter, reform or abolish the government in such a manner as they think proper,”; and

Whereas, the people of Douglas County recognize that the current system of municipal governance fails to recognize the self-governing authority of the people of Douglas County to secure and protect the right to a sustainable energy future because corporations may assert their “rights” to override the people’s laws, their municipal government can be preempted by state or federal legislators and agencies, and their municipality is banned from adopting laws that have not been authorized by the state; and

Whereas, the people of Douglas County understand that the operation of those legal doctrines renders the municipal government unable to protect and secure the right to a sustainable energy future; and

Now, therefore, the people of Douglas County hereby adopt this ordinance, which shall be known and may be cited as “Douglas County’s Right to a Sustainable Energy Future” ordinance.

Section 2—Definitions

(a) “Corporation” refers to any corporation, limited partnership, limited liability partnership, business trust, business entity, or limited liability company organized under the laws of any State of the United States or under the laws of any country. The term includes all public corporations, municipal corporations, state or federal agencies, and state or federal entities.

- (b) “Energy systems” mean those systems extracting, producing, generating, distributing, transmitting, or transporting energy and power, or fuel for the production of energy and power. The phrase shall include pipelines and other energy infrastructure used as part of those systems.
- (c) “Fossil fuel transportation” means transportation of coal, natural gas, liquefied natural gas, or other fossil fuels, by road, rail, pipeline, waterway, or other modes of transportation. The phrase includes fossil fuel transportation to power stations that distribute fossil fuel-generated power.
- (d) “Engage in land acquisition” means the purchase, rent, lease, taking by eminent domain, or control of land by any means, and shall include the application for any permit necessary to engage in land acquisition.
- (e) “Natural Communities” means communities of wildlife, flora, fauna, soil-dwelling, aerial, and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a proliferating and diverse matrix of organisms, within a natural ecosystem.
- (f) “Renewable energy sources” means energy sources other than fossil fuels, nuclear fission, or other sources that generate any toxins, carcinogens, or other harmful byproducts during their use. The phrase includes, but is not limited to, energy derived from the sun, closed and open loop geothermal systems, or wind flows.
- (g) “Sustainable energy systems” means any energy system that (1) uses renewable energy sources and (2) either (i) provides in-County access to energy and power from energy systems that are constructed, sited, or operating within the County or (ii) is approved by a vote of the people of Douglas County. The term shall also include existing energy systems of any sort within the County, and their regular maintenance and upkeep.
- (h) “Unsustainable energy system” means any energy system that is not a sustainable energy system as defined by this ordinance.

Section 3—Statements of Law – A Community Bill of Rights

(a) Right to a Sustainable Energy Future. All residents of Douglas County possess the right to a sustainable energy future, which includes, but is not limited to, the development, production, transportation, and use of energy from sustainable energy systems, the right to establish local sustainable energy policies that prohibit unsustainable energy systems in order to further secure this right, and the right to be free from energy systems that adversely impact the rights of human and natural communities.

(b) Right to Clean Air, Water, Soil and Natural Climate. All residents of Douglas County, along with natural communities and ecosystems within the County, possess the right to clean air, water, soil, and a natural climate unaffected by unsustainable energy systems; and that right shall include, but is not limited to, the right to be free from any fossil fuel transportation and other unsustainable energy system activities that may pose potential risks to the air, water, soil, and climate within the County.

(c) Right to Rural Preservation. All residents of Douglas County possess a right to the scenic, historic, and aesthetic values of the County unaffected by unsustainable energy systems, including unspoiled vistas and rural quality of life. That right shall include, but is not limited to, the right of the residents of the County to be free from fossil fuel transportation and other unsustainable energy system activities that threaten scenic, historic, and aesthetic values.

(d) Rights of Natural Communities and Ecosystems. Natural communities and ecosystems within Douglas County, including, but not limited to, forests, rivers, streams, and aquifers, possess the right to exist, flourish, and naturally evolve unaffected by fossil fuel transportation and other unsustainable energy systems.

(e) Governmental Legitimacy. To the extent necessary to secure this ordinance, all 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; and further, any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional.

(f) Right to Local, Community Self-Government. For the limited purpose of creating and securing a sustainable energy future for Douglas County, the people of Douglas 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.

(g) Right to Assert the Right to Self-Government. The people of Douglas County possess the right to use their local government to enact this ordinance that creates and secures a sustainable energy future for Douglas County, and the making and enforcement of this ordinance 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 as stated in subsection 3(f).

(h) Right to Enforce. All residents of Douglas County possess the right to enforce the rights and prohibitions secured by this ordinance, which shall include the right of County residents to intervene in any legal action involving the rights and prohibitions of this ordinance.

(i) Rights as 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—Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful within Douglas County for any corporation to engage in planning, construction, or siting of any structure to be used in the operation of an unsustainable energy system, or to engage in land acquisition necessary for the construction of an unsustainable energy system, except for necessary infrastructure to provide either (1) energy consumption (including electricity and heat) on the property where the fossil fuel is delivered, or (2) vehicle refueling.

(b) It shall be unlawful within Douglas County for any corporation to engage in fossil fuel transportation to be used in the operation of an unsustainable energy system, except for fossil fuel transportation into, through, or within Douglas County whose sole use is for either (1) energy consumption (including electricity and heat) on the property where the fossil fuel is delivered, or (2) vehicle refueling.

(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 shall be deemed valid within Douglas County.

Section 5—Enforcement

(a) Any corporation 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) Douglas County, or any resident of Douglas County, may enforce the rights and prohibitions of this ordinance through an action brought in any court possessing jurisdiction over activities occurring within the County. In such an action, the 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 Douglas County or by Douglas 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 the Douglas County. 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 Douglas County to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(d) If Douglas County fails to enforce or defend this ordinance, or a court fails to uphold this ordinance's limitations on corporate power, the ordinance 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 ordinance through direct action. If enforcement through direct action is commenced, this ordinance 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 ordinance.

Section 6—Enforcement - Corporate Powers

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

(b) Corporate claims to "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 statutes and regulations shall be the law of Douglas County only to the extent that they do not violate the rights or prohibitions of this ordinance.

Section 7—State and Federal Constitutional Changes

Through the adoption of this ordinance, the people of Douglas County call for amendment of the Oregon Constitution and the Federal Constitution to explicitly recognize a right to local community self-government free from governmental preemption and nullification by corporate "rights."

Section 8—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 9—Repealer

All inconsistent provisions of prior ordinances adopted by Douglas County are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 10—Effective Date and Existing Permit Holders

This ordinance shall take effect thirty (30) days after adoption, at which point the ordinance shall apply to any and all actions that would violate this ordinance regardless of the date of any applicable local, state, or federal permit.