

# COLUMBIA COUNTY SUSTAINABLE ENERGY FUTURE ORDINANCE

## ESTABLISHING A COMMUNITY BILL OF RIGHTS FOR THE PEOPLE OF COLUMBIA COUNTY PROVIDING FOR A SUSTAINABLE ENERGY FUTURE

### **Section 1. Purpose**

**Whereas**, the people of Columbia County recognize that the extraction, transportation, production, and use of fossil fuels has furthered global climate change, with that climate change threatening the very survival of human and natural communities; and

**Whereas**, the people of Columbia County recognize that our current dependence on fossil fuels is a major cause of pollution – locally and globally – and so find it necessary to make new law that recognizes that residents and ecosystems of Columbia 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 Columbia 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**, the people of Columbia County do not recognize the legal creation of corporate “persons” nor any other corporate “rights” when exploitive corporate actions, like unsustainable energy system projects, violate the rights of people and natural communities for the sake of profits, while corporate “persons” assume no responsibility for those impacts; and

**Whereas**, the people of Columbia County hereby declare that our current municipal system of governance is unable to protect and secure our rights to a sustainable energy future; and

**Now, therefore**, the people of Columbia County hereby adopt this Ordinance, which shall be known and may be cited as “The Columbia County Sustainable Energy Future Ordinance.”

### **Section 2. Definitions**

(a) “Corporation” means 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, utility districts, municipal corporations, federal and state agencies, and federal and state entities.

(b) “Energy systems” means those systems extracting, producing, generating, distributing, transmitting, or transporting energy and power, or fuel for the production of energy and power. The term “extracting” means the physical extraction of fuel to be used in the production of energy or power, and all activities associated with that activity.

(c) “Engage in 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 does not include the transportation of fossil fuels to natural gas-fired power stations currently in operation within Columbia County, until the year 2025, when that transportation shall be included within the phrase. The phrase does not include the transportation into, through, or within Columbia County of fossil fuels 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.

(d) “Renewable energy sources” means energy sources other than fossil fuels and nuclear fission, and the phrase does not include any energy sources that generate toxins, carcinogens, and other harmful byproducts during their use. The phrase includes, but is not limited to, solar energy, closed and open loop geothermal systems, or wind flows.

(e) “Sustainable energy systems” means any energy system that (1) uses renewable energy sources, (2) provides direct, in-community access to energy and power from energy systems that are constructed, sited, or operating within the County, and (3) is controlled locally by individuals or the community. The term also includes existing energy systems of any sort within the County, and their regular maintenance and upkeep.

(f) “Unsustainable energy system” means any energy system that is not a sustainable energy system as defined by this ordinance.

### **Section 3. Statements of Law – Community Bill of Rights**

(a) *Right to a Sustainable Energy Future.* All residents, natural communities, and ecosystems in Columbia County possess a right to a sustainable energy future, and a right to adopt laws and policies to protect and secure that right. That right shall include the right to the development, production, and use of energy from renewable energy sources.

(b) *Right to Climate.* All residents, natural communities, and ecosystems in Columbia County possess a fundamental and inalienable right to a healthy, natural climate unaffected by unsustainable energy systems.

(c) *Rights of Natural Communities and Ecosystems.* Natural communities and ecosystems within Columbia County, including but not limited to, forests, rivers, streams, wetlands, and aquifers, possess the right to exist, flourish, and naturally evolve free from unsustainable energy systems.

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

(e) *Right to Assert the Right to Self-Government.* The people of Columbia County possess the right to use their local government to enact this ordinance that creates and secures a sustainable energy future for Columbia County, and the making and enforcement of this ordinance by the people through the municipal corporation or any other institution shall not eliminate, limit, or reduce their right to local, community self-government as stated in subsection 3(d).

(f) *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. Statements of Law - Prohibitions Necessary to Secure the Community Bill of Rights**

- (a) It shall be unlawful for any corporation to engage in fossil fuel transportation.
- (b) It shall be unlawful within Columbia County for a corporation to engage in 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.
- (c) No permit, license, privilege, charter, or other authority issued by any State or federal entity that would violate the rights of this ordinance shall be deemed valid within Columbia 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) Columbia County or any resident of Columbia County may enforce the rights and prohibitions of this ordinance through an action brought in any court possessing jurisdiction over activities occurring within Columbia County. In such an action, Columbia 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 Columbia County or by Columbia 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 Columbia 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 Columbia County to be used exclusively for the full and complete restoration of the ecosystem or natural community.

#### **Section 6. Enforcement - Corporate Powers**

- (a) For the limited purpose of creating and securing a sustainable energy future for Columbia County, corporations that violate this ordinance, or seek to violate this ordinance, shall not be deemed "persons," nor possess any other legal rights, privileges, powers, or protections that would interfere with the enforcement of rights and prohibitions 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 "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 Columbia County only to the extent that they do not violate the rights or prohibitions of this ordinance.

#### **Section 7. Authority**

This ordinance, which creates and secures a sustainable energy future for Columbia County, is enacted under the authority of the people's inherent and inalienable right to local, community self-government as secured by the Declaration of Independence, the Oregon Constitution, and the United States Constitution.

**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. Effect**

This ordinance shall take effect thirty (30) days from the date of adoption.