

A Community Bill of Rights Ordinance for the Town of Parkman, Maine

ESTABLISHING A COMMUNITY BILL OF RIGHTS FOR THE PEOPLE OF PARKMAN WHICH PROHIBITS PRIVATE AND PUBLIC-PRIVATE TRANSPORTATION AND DISTRIBUTION CORRIDORS THAT WOULD VIOLATE THE BILL OF RIGHTS, AND WHICH PROVIDES FOR ENFORCEMENT OF THIS ORDINANCE AGAINST CORPORATIONS ENGAGED IN THE CONSTRUCTION AND OPERATION OF THOSE CORRIDORS.

Whereas, this community finds that private and public-private transportation and distribution corridors are economically and environmentally unsustainable, in that they damage property values and the natural environment while failing to provide real benefits to the people of this community;

Whereas, this community finds that private and public-private transportation and distribution corridors violate the rights of Parkman residents, including our right to make decisions about what happens to the places where we live;

Whereas, private corporations engaged in the construction and operation of those corridors are wrongly recognized by the federal and state government as having more “rights” than the people who live in our community, and thus, that recognition of corporate “rights” is a denial of the rights of the residents of Parkman; and

Whereas, such a denial violates the Maine Constitution’s Declaration of Rights, which declares: “All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.”

Therefore, We the People of Parkman hereby adopt this Community Bill of Rights Ordinance.

Section 1 - Statements of Law – A Local Bill of Rights

(a) *Right to Sustainable Infrastructure.* All residents of the Town of Parkman possess the right to infrastructure which is integrated into the community as part of the Town’s planning processes, which benefits the residents of the Town, and which does not damage the natural environment.

(b) *Right to a Healthy Climate.* All residents of the Town of Parkman, along with ecosystems within the Town, possess a right to a healthy climate, and a right to be free from infrastructure projects that significantly contribute to climate change.

(c) *Right to Clean Air and Water.* All residents of the Town of Parkman, along with ecosystems within the Town, possess a right to clean air and water.

(d) *Right to Scenic Preservation and Quiet Enjoyment.* All residents of the Town of Parkman possess a right to the scenic, historic and aesthetic values of the Town, including unspoiled vistas and a traditionally quiet, rural quality of life.

(e) *Right to Self-Government.* All residents of the Town of Parkman possess the right to a form of governance where they live which recognizes that all power is inherent in the people and that all free governments are founded on the people's consent. Use of the "Town of Parkman" municipal corporation by the people of Parkman shall not be deemed, by any authority, to eliminate or reduce that self-governing authority.

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

Section 2 -- Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful within the Town of Parkman for any corporation or governmental agency to engage in land acquisition for, or engage in the construction of, any private or public- private transportation and distribution corridor.

(b) It shall be unlawful for any corporation or government to violate the rights recognized and secured by this ordinance.

(c) No permit, license, privilege, charter, or other authority issued by any State or federal entity which would violate the prohibitions of this Ordinance or deprive any Town resident of any rights secured by this Ordinance, the Maine Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Parkman.

Section 3—Enforcement

(a) Any corporation that violates any prohibition 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 separate violations.

(b) The Town of Parkman may enforce this Ordinance through an action brought in any court of competent jurisdiction. In such an action, the Town of Parkman shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any Town resident shall have the authority to enforce this Ordinance through an action brought in any court of competent jurisdiction. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(d) Any person who brings an action to secure the rights of ecosystems shall bring that action in the name of the ecosystem in any court of competent jurisdiction. Damages shall be measured by the cost of restoring the ecosystem to its state before the injury, and shall be paid to the Town of Parkman to be used exclusively for the full and complete restoration of the ecosystem.

Section 4 – Corporate Powers

(a) Corporations and other business entities which violate this Ordinance shall not be deemed to be “persons,” nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights or prohibitions enumerated by this Ordinance. Such powers shall include the authority to assert state or federal preemptive laws against the municipality in an attempt to overturn this Ordinance, and the authority to assert that the people of the Town lack the authority to adopt this Ordinance.

(b) All laws adopted by the legislature of the State of Maine, and rules adopted by any State agency, shall be the law of the Town of Parkman only to the extent that they do not violate the rights or prohibitions of this Ordinance.

Section 5—Effective Date and Existing Permit holders

This Ordinance shall be effective immediately on the date of its enactment, 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.

Section 6—People’s Right to Self-Government

Use of the courts or the legislature to attempt to overturn the provisions of this Ordinance shall require community meetings focused on changes to Town government that would secure the rights of the people, and of the Town, from interference with the right of residents to local self-government.

Section 7 – Maine and Federal Constitutional Changes

The people of the Town of Parkman call for amendment of the Maine Constitution to secure within it explicitly a community right to local self-government free from preemption by State government. The people of the Town of Parkman also call for a state constitutional amendment, and federal constitutional changes, that explicitly elevate community rights above corporate property rights, and that recognize the rights of nature enforceable by the residents of a community.

Section 8—Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction 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. The Town of Parkman hereby declares that in the event of such a decision, and the determination that the court’s ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 9 - Repealer

All inconsistent provisions of prior Ordinances adopted by the Town of Parkman are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 10 – Definitions

(a) “Corporations,” for purposes of this ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, public benefit corporation, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) “Driveway” shall mean a place in private ownership for vehicular travel by the owner and those having express or implied permission from the owner but not by other members of the public.

(c) “Private Transportation and Distribution Corridors” shall mean any corridor which contains roadways, pipelines, or utility communication and transmission lines, and which is built, managed, owned or maintained by any private developer using private investor capital. The phrase shall not include the development of driveways or access roads to local property within the Town of Parkman, or existing utility or telecommunications agreements, as long as the development and the agreements do not violate the rights secured by this Ordinance.

(d) “Public-Private Transportation and Distribution Corridors” shall mean any corridor which contains roadways, pipelines, or utility communication and transmission lines, and which is built, managed, owned or maintained by a public-private partnership using any private investor capital. The phrase shall not include the development of driveways or access roads to local property within the Town of Parkman, or existing utility or telecommunications agreements, as long as the development and the agreements do not violate the rights secured by this Ordinance.

ENACTED AND ORDAINED this ____ day of _____, 2013, by the Town of Parkman, Maine.

By: _____

Board of Selectmen of the Town of Parkman