

Hancock County Unorganized Territory Water Quality Protection and Community
Bill of Rights for Local Self-Governance Ordinance

BE IT ORDAINED BY THE COMMISSIONERS OF HANCOCK COUNTY, MAINE.

AN ORDINANCE PROTECTING WATER QUALITY AND ECOSYSTEMS IN THE
UNORGANIZED TERRITORIES OF HANCOCK COUNTY BY ESTABLISHING LOCAL
SELF-GOVERNANCE OVER THE CONSTRUCTION OF THE EAST WEST CORRIDOR, BY
AFFIRMING THE RIGHT TO LOCAL AUTONOMY AND SELF GOVERNANCE, AND BY
ELIMINATING LEGAL PRIVILEGES AND POWERS FROM CORPORATIONS VIOLATING
THIS ORDINANCE.

Section 1. Purpose

Section 1.1.: To Prohibit Private Multi-Use Transportation and Distribution Corridors that would violate the Maine Constitution's Declaration of Rights, which declares that "all power is inherent in the people" and that the people have an "unalienable and inalienable right to alter, reform, or totally change government." This Ordinance upholds the Rights of Territorial Residents to make decisions about what happens to their properties, water, and ecosystems; and provides for enforcement of this Ordinance against Corporations engaged in the Construction and Operation of those Corridors.

Section 1.2.: The People of the Unorganized Territories of Hancock County further recognize that water is essential for the life, prosperity, sustainability, and health of their community and that damage to natural groundwater and surface water sources by construction of the private multi-use transportation and utilities East West Corridor imposes great tangible loss, to the People, and ecosystems of the Unorganized Territories of Hancock County, not just for today but for future generations. The People recognize that they may be forced, without their consent, to endure or attempt to repair harm inflicted on their vital water supplies and property values, by the construction of the East West Corridor, which they have no equivalent governing authority to prevent under current state and federal law because private corporations engaged in the construction and operation of entities such as the East West Corridor are wrongly recognized by the federal and state government as having more "rights" than the people who live in the Unorganized Territories; that recognition of corporate "rights" is therefore a denial of the rights of Territorial Residents. The Hancock County Commissioners adopt this Ordinance to overcome that deficiency; to provide for community health and safety; to protect the People, water, and ecosystems.

Section 2. Definitions

Section 2.1: “East West Corridor” shall mean any multi-use corridor, path or way, which contains roadways, pipelines, or utility communication and transmission lines, and which is built, managed, owned and maintained by a private developer using private investor capital.

Section 2.2: “Corporation” shall mean any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers.

Section 2.3: “Ecosystems” shall mean the watersheds, habitat, and wildlife that sustains us.

Section 3. Statements of Law- Bill of Rights of Hancock County Unorganized Territory Residents and Ecosystems.

Section 3.1. Right to Water Quality: All residents, natural communities and ecosystems in the Unorganized Territories of Hancock County 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 County.

Section 3.2. Rights of Ecosystems: Ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within the Unorganized Territories of Hancock County against construction of the East West Corridor. Residents of the Unorganized Territories of Hancock County, along with the Hancock County Commission, shall possess legal standing to enforce those rights on behalf of those ecosystems. Ecosystems protected by this ordinance shall be protected on all lands within the Unorganized Territories of Hancock County, including those owned by the state and federal government

Section 3.3. Right to Scenic Preservation: All Hancock County Unorganized Territory Residents possess a fundamental and inalienable right to the scenic, historic and aesthetic values of the Unorganized Territories, including unspoiled vistas and a rural quality of life.

Section 3.4. Right to Self-Governance: All residents of the Unorganized Territories of Hancock County 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 entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

Section 3.5. People are Sovereign: The People at all times enjoy and retain an inalienable and infeasible right to local self-governance in the Unorganized Territories where they reside.

Section 3.6. County Commissioners: The Hancock County Commission is the governing authority responsible to, and elected by, the residents of the Unorganized Territories of Hancock County. Use of the Hancock County Commissioners by the Sovereign People of the Unorganized Territories of Hancock County to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to the County Commission that is subordinate to them in all respects at all times.

3.7. Native American Tribes: Nothing in this Ordinance is construed to supersede, or in any way impact, the lands and resources of a Tribe, or the authority or jurisdiction of the Tribe, with respect to its lands and resources.

Section 3.8. Rights are Self-Executing: All rights delineated and secured by this ordinance shall be self-executing and these rights shall be enforceable against both public and private actors, and shall not require implementing legislation for their enforceability.

Section 4. Statements of Law - Prohibitions Necessary to Secure Bill of Rights

Section 4.1: It shall be unlawful for any corporation to engage in land acquisition for, or engage in, construction of the East West Corridor, or any private multi-use transportation and utility distribution path or way within the Unorganized Territories of Hancock County.

Section 4.2: It shall be unlawful for any corporation or government to violate the rights recognized and secured by this Ordinance. Corporations in violation of the rights enacted by this ordinance, or seeking to engage in activities prohibited by this ordinance, shall not have the rights of "persons" afforded by the United States and Maine Constitutions, nor shall those corporations be afforded rights, privileges, powers, or protections under the 1st or 5th amendments to the United States Constitution or corresponding sections of the Maine Constitution, nor shall those corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the

Maine Constitution.

Section 4.3: Individuals or corporations in violation of the prohibitions enacted by this ordinance, or seeking to engage in activities prohibited by this ordinance, shall not possess the authority or power to enforce State or Federal preemptive law against the people of Hancock County, or to challenge the authority of the Hancock County Commissioners, or nullify County ordinances adopted by the Hancock County Commission, or deprive Territorial Residents any of the rights secured by this Ordinance, when that enforcement or challenge interferes with the rights asserted by this Ordinance or interferes with the authority of the County Commissioners to protect the health, safety, and welfare of Hancock County Residents.

Section 4.4: No permit, license, privilege or charter issued by any state or federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this Ordinance or deprive any County resident(s), or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Maine Constitution, the United States Constitution, or other laws, shall be deemed valid within the Unorganized Territories of Hancock County.

Section 4.5: The Maine Constitution and Bill of Rights, and the United States Constitution and Bill of Rights and amendments thereto, shall be recognized as preemptive law within the County of Hancock only to the extent that their interpretation and application are not inconsistent with the provisions of this Ordinance regarding the powers and "rights" of corporations, and to the extent that they do not otherwise elevate property interests over rights secured by this Ordinance.

Section 4.6: Laws adopted by the legislature of Maine and rules adopted by any State agency, and laws adopted by the United States Congress and rules adopted by any federal agency, shall be recognized as preemptive law within the Unorganized Territories of the County of Hancock only if those laws and rules both expressly preempt County ordinances and charters, AND provide greater protections for the health, safety, and welfare of the people of Hancock County than County ordinances and charters.

Section 4.7.: It shall be unlawful for any corporation to contact or communicate with any Resident or Elected Official concerning any issue related to this Ordinance, either prior to or after the adoption of this Ordinance.

Section 5. Strict Liability

Persons using corporations to engage in the construction of the East West Corridor in a neighboring municipality shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the Unorganized Territories of Hancock County from those activities, and for all harms caused to ecosystems within the Unorganized Territories of Hancock County.

Section 6. Future Lost Profits

Within the Unorganized Territories of Hancock County, corporate claims to "future lost profits" shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

Section 7. Enforcement

Section 7.1. 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 each section of this Ordinance shall count as separate violations.

Section 7.2: Hancock County may enforce this Ordinance through an action brought in any court of competent jurisdiction. In such an action, Hancock County, shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees, in addition to damages caused by the violation of this ordinance.

Section 7.3: Any Hancock County resident shall have the authority to enforce this Ordinance through an action brought in a court of competent jurisdiction. In such an action, the resident, shall be entitled to recover all costs of litigation, including, without limitation, damages, expert and attorney's fees.

Section 7.4: Any person who brings an action to secure or protect the rights of ecosystems against construction of the East West Corridor within the Unorganized Territories of Hancock County shall bring that action in the name of the ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the ecosystem to its pre-damaged state, and shall be paid to the County of Hancock, to be used exclusively for the full and complete restoration of the ecosystem.

Section 7.5: Reinstatement of Moratorium on construction of the East West Corridor. In the event that this ordinance is overturned or nullified, for any reason, a moratorium on the construction of the East West Corridor within the

Unorganized Territories of Hancock County shall become effective on the date that this ordinance becomes inactive. That temporary moratorium shall have a duration of no more than six months, during which the County Commissioners shall adopt another ordinance which permanently bans construction of the East West Corridor within the Unorganized Territories of Hancock County.

Section 8. Corporate Powers

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 in an attempt to nullify this Ordinance, and the authority to assert that the People of the Unorganized Territories lack the authority to adopt this Ordinance.

Section 9. Effective Date and Existing State Permit Holders

This Ordinance shall be effective five (5) days after 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 permits.

Section 10. County Commission Action and Voter Referenda to Repeal Ordinance

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and the pursuit of happiness. Accordingly, this Ordinance automatically suspends the operating rules of the Hancock County Commission when the question of repealing this Ordinance is introduced. Repeal of this Ordinance shall require both a vote of the Hancock County Commissioners voting in favor of the repeal of the Ordinance, and a voter referenda following that vote which shall make the repeal effective only if two thirds of the Unorganized Territory of Hancock County electorate vote to repeal the ordinance.

Section 11. People's Right to Self-Government

Use of the courts or the legislature to attempt to nullify the provisions of this

Ordinance shall require community meetings focused on changes to county government that would insulate the Territorial residents from interference with the right of residents to local self-governance.

Section 12. Maine Constitutional Changes

Through the adoption of this local law, the people of the Unorganized Territories of Hancock County call for amendment of the Maine Constitution to explicitly secure a community right to local self-governance that cannot be preempted by the State if the community's laws enforce rights or standards more protective of the health, safety, and welfare of the people of Unorganized Territories of Hancock County and ecosystems. The people of the Unorganized Territories of Hancock County also call for a state constitutional amendment that explicitly elevates community rights above corporate property rights, and that recognizes the rights of ecosystems enforceable by the residents of a community.

Section 13. 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 Hancock County Commissioners hereby declare 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.

Adopted this _____ Day of _____, 2017.

County Seal

Antonio Blasi, Commissioner

Percy L. Brown, Commissioner

William Clark, Commissioner

