Town of Alexandria, Grafton County, New Hampshire
Ordinance No. _____ of 2014

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS AND ECOSYSTEMS OF ALEXANDRIA, NEW HAMPSHIRE BY ESTABLISHING A COMMUNITY BILL OF RIGHTS; AND BY PROHIBITING THE SITING OF NEW ENERGY PROJECTS THAT WOULD VIOLATE THOSE RIGHTS.

Whereas, this community finds that certain commercial energy projects are economically and environmentally unsustainable, in that they damage property values and the natural environment, place the health of residents at risk, threaten the quality of natural systems within the Town, while failing to provide real benefits to the people of this community; and

Whereas, this community finds that unsustainable energy projects violate the rights of Alexandria residents, including our right to make decisions about what happens to the places where we live; and

Whereas, current environmental laws allow state-chartered corporations to inflict damage on local ecosystems that cannot be reversed, violating the rights of residents to protect their community and the rights of ecosystems to exist; and

Whereas, private corporations engaged in the siting of unsustainable energy projects are wrongly recognized by the federal and state government as having more "rights" than the people who live in our community, and that recognition of corporate "rights" is therefore, a denial of the rights of the residents of Alexandria; and

Whereas, such a denial violates the New Hampshire Constitution's recognition that "all government of right originates from the people, is founded in consent and instituted for the general good;" and the Declaration of Independence's recognition that governments are instituted to secure and protect the rights of people and communities;

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

Section 1 - Definitions

(a) "Corporations," for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, business entity, 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) "Ecosystem" shall include but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, people, flora and fauna, soil dwelling or aquatic organisms.

(c) "Energy Systems" means those systems producing, generating, distributing, transmitting, or transporting energy and power.

(d) "Unsustainable energy systems" means those systems that are controlled by state and federal energy policies, rather than community controlled energy policies; hydroelectric power and industrial scale wind power when it is not locally or municipally owned and operated; energy systems using fossil fuels, including but not limited to coal, natural gas, petroleum products, nuclear and radioactive materials, and other fuel sources that are non-renewable, or which produce toxins and substances that cause injury to humans or ecosystems, or that are in violation of residents' right to a sustainable energy future. The phrase shall also include any energy system which violates the rights secured under this Ordinance or under other laws. The term shall not include combustion of wood and wood products or the use of propane, kerosene, heating oil, coal, or natural gas when combustion of those fossil fuels is used solely to generate on-site heat or power and the energy produced is not commercially sold, transmitted, or distributed.

Section 2- Statements of Law - Rights of Residents and the Natural Environment

(a) *Right to a Sustainable Energy Future.* All residents of Alexandria have a right to a sustainable energy future in which energy decisions are made by the community, and in which fuel sources used to generate energy are renewable and sustainable.

(b) *Right to Scenic Preservation.* All residents of the town of Alexandria possess a fundamental and inalienable right to protect and preserve the scenic, historic and aesthetic values of the town, including clean air, pure water, healthy soil, and unspoiled vistas that provide the foundation for tourism and economic sustainability for local businesses. Residents and local representatives have the authority to enact and enforce legislation that guarantees an exercise of local self-government that is protective of these rights.

(c) *Right to Water.* All residents and ecosystems of the Town of Alexandria possess a right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life within the Town.

(d) *Rights of Ecosystems.* Ecosystems, including but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess rights to exist and flourish within the Town of Alexandria. Residents of the Town shall possess legal standing to enforce those rights on behalf of those ecosystems.

(e) *Right to Self-Government.* All residents of Alexandria possess the 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. Use of the "Town of Alexandria" municipal corporation by the sovereign people 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 3--Statements of Law--Prohibitions Necessary to Secure Bill of Rights Protections

(a) It shall be unlawful within the Town of Alexandria for a corporation or any person using a corporation, to engage in land acquisition necessary for the construction of an unsustainable energy system, or to engage in construction or siting of any structure to be used in the operation of an unsustainable energy system.

(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 agency, which would violate the prohibitions of this Ordinance or deprive any Town resident, of any rights, privileges, or immunities secured by this Ordinance, the New Hampshire Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Alexandria.

Section 4---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 Alexandria may enforce this Ordinance through an action in equity brought in any court possessing jurisdiction over activities occurring within the Town of Alexandria. In such an action, the Town of Alexandria 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 in equity brought in any court possessing jurisdiction over activities occurring within the Town of Alexandria. In such an action, the resident shall be entitled to recover of all costs of litigation, including, without limitation, expert and attorney's fees.

(d) Any person who brings an action to secure the rights of natural communities or ecosystems within the Town of Alexandria shall bring that action in the name of the ecosystem in any court possessing jurisdiction over activities occurring within the Town of Alexandria. 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 Alexandria to be used exclusively for the full and complete restoration of the ecosystem.

Section 5 – Corporate Powers

(a) Corporations and other business entities which violate this Ordinance, or which seek to 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 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 New Hampshire, and rules adopted by any State agency, shall be the law of the Town of Alexandria only to the extent that they do not violate this Ordinance.

Section 6---Sustainable Energy Policy

The Town shall implement a Sustainable Energy Policy following the adoption of this Ordinance that provides a plan for the community's reduction in use of power from unsustainable energy systems, within a time frame agreed to by the residents, to be decided by popular vote.

Section 7---Effective Date and Existing Permit Holders

This Ordinance shall be effective five (5) days after the date of its enactment, regardless of the date of any applicable local, state, or federal permits.

Section 8---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 insulate the Town from interference with the right of residents to local self-government.

Section 9---New Hampshire Constitutional Changes

The people of the Town of Alexandria call for changes to the New Hampshire Constitution to secure within it explicitly a community right to local self-government free from preemption by State government. The people of Alexandria 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 10---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 Alexandria 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 11---Repealer

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

ENACTED AND ORDAINED this _____ day of _____, 2014, by the Town of Alexandria, in Grafton County, New Hampshire.

By:

_____

_____

_____

Town of Alexandria

Town Clerk / Tax Collector
47A Washburn Road
Alexandria, NH 03222

Phone: 603-744-3288
Fax: 603-744-8577

This is to certify that on March 11,2014 the Warrant Article # 16 passed by SB2 ballot vote as written with
320 YES and **119 NO.**

Barbara M. Emery
Alexandria Town Clerk