

Conestoga Township, Lancaster County, Pennsylvania
Community Bill of Rights Ordinance

**ESTABLISHING A COMMUNITY BILL OF RIGHTS FOR THE PEOPLE OF CONESTOGA TOWNSHIP,
LANCASTER COUNTY, PENNSYLVANIA, WHICH PROHIBITS ACTIVITIES AND PROJECTS THAT
WOULD VIOLATE THE BILL OF RIGHTS, AND WHICH PROVIDES FOR ENFORCEMENT OF THE
BILL OF RIGHTS AGAINST CORPORATIONS ENGAGED IN THOSE ACTIVITIES AND PROJECTS**

Whereas, this Ordinance recognizes and secures a right to a sustainable energy future for Conestoga Township residents; and

Whereas, this Ordinance then prohibits the land acquisition necessary for the construction, siting, or operation of unsustainable energy systems, because such actions would violate the right of Conestoga Township residents to a sustainable energy future; and

Whereas, the 1776 Pennsylvania Constitution recognized the inherent right of Pennsylvanians to local self-government by declaring that “all government ought to be instituted and supported for the security and protection of the community as such;” and

Whereas, that right to local self-government, now recognized and secured by Article 1, Section 2 of the current Pennsylvania Constitution, declares 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 Conestoga Township possess the constitutional right to amend or reject their current system of municipal governance if it either fails to recognize the authority of the people to self-govern or if it is rendered unable to secure the peoples’ rights; and

Whereas, the current system of municipal governance fails to recognize the self-governing authority of the people of Conestoga Township because corporations may assert their “rights” to override their laws, their municipal government can be preempted by state or federal legislators and agencies, and their municipality is banned from adopting laws which have not been authorized by the state; and

Whereas, the operation of those legal doctrines renders the municipal government unable to protect and secure the rights of the people; and

Whereas, the people of Conestoga Township hereby declare that their current municipal system of governance is unable to protect and secure their rights to a sustainable energy future, and that they adopt this ordinance to create an amended system of municipal governance which recognizes their self-governing authority and which secures and protects their rights;

Therefore, We the People of Conestoga Township 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, public benefit corporation, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.
- (b) “Energy systems” shall 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) “Engage in land acquisition” shall mean 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.
- (d) “Renewable energy sources” shall mean energy sources other than fossil fuels, nuclear fission, or other sources which generate toxins and harmful byproducts. The phrase shall include, but not be limited to, energy derived from the sun, closed and open loop geothermal systems, or wind flows.
- (e) “Sustainable energy systems” shall mean any energy system which uses renewable energy sources, which provides direct, in-community access to energy and power from energy systems which are constructed, sited, or operating within the Township, and which is controlled locally by individuals or the community. The term shall also include existing energy systems of any sort within the Township, and their regular maintenance and upkeep.
- (f) “Unsustainable energy system” shall mean any energy system which is not a sustainable energy system as defined by this ordinance.

Section 2 - Statements of Law – A Community Bill of Rights

(a) Right to a Sustainable Energy Future. All residents of Conestoga Township 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 Conestoga Township, along with natural communities and ecosystems within the Township, possess the right to clean air, water, soil, and a natural climate; and that right shall include the right to be free from any activities which may pose potential risks to the air, water, soil and climate within the Township, including but not limited to, the construction, siting, or operation of unsustainable energy systems.

(c) Right to Rural Preservation. All residents of Conestoga Township possess a right to the scenic, historic and aesthetic values of the Township, including unspoiled vistas and a rural quality of life. That right shall include the right of the residents of the Township to be free from activities which threaten scenic, historic, and aesthetic values, including but not limited to, the construction, siting, or operation of unsustainable energy systems.

(d) Governmental Legitimacy. All governments in the United States owe their existence to the people of the community which those governments serve, and governments exist to secure and protect the rights of the people and those communities. Any system of government which becomes destructive of those ends is not legitimate, lawful, or constitutional.

(e) Right to Local, Community Self-Government. The people of Conestoga Township possess both a collective and individual right to self-government in their community, a right to a system of government which embodies that right, and the right to a system of government which protects and secures their human, civil and collective rights.

(f) Right to Assert the Right to Self-Government. The people of Conestoga Township possess the right to use their local government to make law, and the making and enforcement of law 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.

(g) Rights of Natural Communities and Ecosystems. Natural communities and ecosystems within Conestoga Township, including but not limited to, rivers, streams, and aquifers, possess the right to exist, flourish, and naturally evolve.

(h) Right to Enforce. All residents of Conestoga Township possess the right to enforce the rights and prohibitions secured by this Ordinance, which shall include the right of Township 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 3 -- Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful within Conestoga Township for a corporation or governmental entity to engage in land acquisition for use in the construction, siting or operation of an unsustainable energy system.

(b) It shall be unlawful for any corporation or governmental entity 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 any rights secured by this Ordinance, the Pennsylvania Constitution, the United States Constitution, or other laws, shall be deemed valid within Conestoga Township.

Section 4—Enforcement

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

Section 5 – Enforcement - Corporate Powers

(a) Corporations 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 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) All laws adopted by the legislature of the State of Pennsylvania, and rules adopted by any State agency, shall be the law of Conestoga Township only to the extent that they do not violate the rights or prohibitions of this Ordinance.

Section 6—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 7—People’s Right to Self-Government

Use of the courts or the Pennsylvania legislature in attempts to overturn the provisions of this Ordinance shall require community meetings focused on changes to local governance that would secure the right of the people to local self-government.

Section 8 – State and Federal Constitutional Changes

Through the adoption of this Ordinance, the people of Conestoga Township call for amendment of the Pennsylvania Constitution and the federal Constitution to recognize a right to local self-government free from governmental preemption and nullification by corporate “rights.”

Section 9—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 10 - Repealer

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

ENACTED AND ORDAINED this ____ day of _____, 2014, by Conestoga Township, Lancaster County, Pennsylvania.

By:

