

ARTICLE XV

COMMUNITY BILL OF RIGHTS

a. **Right to Pure Water.** All residents, natural communities and ecosystems the City of Broadview Heights 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 City.

b. **Right to Clean Air.** All residents, natural communities and ecosystems in The City of Broadview Heights possess a fundamental and inalienable right to breathe air untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.

c. **Right to Peaceful Enjoyment of Home.** Residents of The City of Broadview Heights possess fundamental and inalienable right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.

d. **Rights of Natural Communities.** Natural communities and 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 City of Broadview Heights. Residents of the City shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.

e. **Right to a Sustainable Energy Future.** All residents in The City of Broadview Heights possess a right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable and sustainable fuel sources.

f. **Right to Self-Government.** All residents of The City of Broadview Heights 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.

g. **People as Sovereign.** The City of Broadview Heights shall be the governing authority responsible to, and governed by, the residents of the City. Use of the "City of Broadview Heights" municipal corporation by the sovereign people of the City to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and indefeasible right to self- governance in the community where they reside.

h. **Right as Self-Executing.** All rights delineated and secured by this Charter shall be self-executing and these rights shall be enforceable against private and public entities.

i. **Securing and Protecting Rights.** To further secure and protect the rights enumerated by the Bill of Rights.

1. It shall be unlawful for any person or corporation to engage in the extraction of gas or oil within the City of Broadview Heights, with the exception of gas and oil wells installed and operating at the time of enactment of this Charter provision, provided that the extraction of gas or oil from those existing wells does not involve a practice or process not previously used for the extraction of gas or oil from those wells and providing those wells are capped securely when production ceases.

2. It shall be unlawful for any person or corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to deposit, store or transport waste water, "produced" water, "frack" water, brine, or other materials, chemicals or by-products used in the extraction of gas or oil, within, upon or through the land, air or waters of the City of Broadview Heights.

3. It shall be unlawful for any person or corporation, or any director, officer, owner, or manager of a corporation to use a corporation to engage in the creation of fossil fuel, nuclear or other non-sustainable energy production and delivery infrastructures, such as pipelines, processing facilities, compressors, or storage and transportation facilities of any sort that would violate the right to a sustainable energy future for the City of Broadview Heights.

4. Corporations and persons using corporations to engage in gas or oil extraction in a neighboring municipality, county or state shall be strictly liable for all harms caused to natural water sources, ecosystems, human and natural communities within the City of Broadview Heights.

5. Corporations in violation of the prohibition against gas and oil extraction, or seeking to engage in gas or oil extraction shall not have the right of "persons" afforded by the United States and Ohio Constitutions, nor shall those corporations be afforded the protections of the commerce or contracts clauses with the United States Constitution or corresponding sections of the Ohio Constitution.

6. Corporations engaged in the extraction of gas or oil shall not possess the authority or power to enforce State or federal preemptive law against the people of the City of Broadview Heights, or to challenge or overturn municipal ordinances or Charter provisions adopted by the City of Broadview Heights Council.

7. 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 Charter provision or deprive any City resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Charter, the Ohio Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Broadview Heights.

8. Any person, corporation, or other entity that violates any prohibition of this Ordinance shall be guilty of a summary offense and, upon conviction shall be sentenced to pay the maximum fine allowable under State law for that violation, and shall be imprisoned to the extent allowed by law. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance found to be violated. Enforcement of this article may be initiated by the Broadview Heights Police Department, the Director of Public Safety, or other designee of City Council. Broadview Heights may also enforce this Ordinance through an action in equity. In such an action, Broadview Heights shall be entitled to recover damages and all costs of litigation, including limitation, expert and attorney's fees.

9. Any City resident shall have the authority to enforce this Ordinance through an action in equity. In such an action, the resident shall be entitled to recover damages and all costs of litigation, including, without limitation, expert and attorney's fees. Any person who brings an action to secure or protect the rights of natural communities or ecosystems within Broadview Heights shall bring that action in the name of the natural community or ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the natural community or ecosystem to its pre-damaged state, and shall be paid to Broadview Heights or other applicable governmental entity, to be used exclusively for the full land complete restoration of the natural community or ecosystem.

10. The provision of this section are severable. If any court of competent jurisdiction decides that any sub-section, clause, sentence, part, or provision of this section is illegal, invalid, or unconstitutional, such decision shall not affect, impair or invalidate any of the

remaining subsections, clauses, sentences, parts, or provisions of this Bill of Rights and its prohibitions. The people of the City of Broadview Heights hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, they would have enacted this amendment even without the sub-section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional. All inconsistent provisions of prior Ordinances and zoning Ordinances adopted at any time by the City of Broadview Heights are hereby held in abeyance, but shall take immediate effect in the event this Bill of Rights and its protective prohibitions are overturned.

(Approved Nov. 6, 2012)