

# **Asheville, North Carolina, Climate Bill of Rights and Protections**

## **§1.0 Findings**

*Whereas*, the 1776 North Carolina Constitution established certain rights that can never be surrendered or confiscated, including these first three provisions in the Declaration of Rights:

- I. That all political power is vested in and derived from the people only.
- II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.
- III. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; and

*Whereas*, North Carolina General Statute § 160A-174 (General ordinance-making power) subsection (a) states that “A city may by ordinance define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances”; and

*Whereas*, the same statute, under subsection (b) states: “The fact that a State or federal law, standing alone, makes a given act, omission, or condition unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition. (1971, c. 698, s. 1.)”; and

*Whereas*, the state of North Carolina has not, in General Statute § 160A-174 or in any other law declared the violation of unalienable rights to be legal, nor would such a statute be legal; so it is resolved:

*We the People of Asheville, North Carolina*, find that global environmental destruction, which includes degradation to the climate, ecosystems, flora, fauna, land, water, as well as people and communities, constitutes an emergency that threatens our very survival;

*We the People of Asheville, North Carolina*, find that continued dependence on fossil fuels significantly contributes to global environmental destruction; and therefore,

*We the People of Asheville, North Carolina*, declare that within the City we have a right to a healthy climate, and that right is violated by the extraction, production, waste disposal, distribution, sale and contracting related to fossil fuels.

## **§2.0 Asheville, North Carolina, Climate Bill of Rights**

- (a) **Right of Self-Government**. All residents of The City of Asheville possess a right of self-government, which includes, but is not limited to, the following rights: first, the right to a system of local government founded on the consent of the people of the municipality; second, the right to a system of local government that secures their rights; and third, the right to alter any system of local government that lacks consent or fails to secure and protect the people's rights, health, safety, and happiness.
- (b) **Right to a Healthy Climate**. All residents of the City of Asheville possess a right to a climate system capable of sustaining human societies, which includes the right to be free from all activities that infringe that right, including the installation of any new infrastructure that produces or uses energy derived from fossil fuels or nuclear fuels, which allows an increase in transportation, distribution, or consumption of

energy derived from these sources. The purchase of and contracting for energy by the City from fossil and nuclear fuels produced by and supported by infrastructure not already in place or under construction shall be deemed a violation of this right, as will any mandate to purchase energy from a particular supplier.

- (c) Right to Clean Air, Water, and Soil. All residents of the City of Asheville possess the right to clean air, water, and soil, which includes the right to be free from the deposition of toxic contaminants into the air, water, and soil, resulting from transporting, processing, or depositing waste from fossil fuel exploration, extraction, production, transportation, development, and distribution, or from nuclear fission power production. Use of fossil fuels by residents and local business for normal activities such as fueling vehicles and equipment shall not be deemed to be a violation of this right..
- (d) Rights of Ecosystems and Natural Communities. Ecosystems and natural communities within the City of Asheville possess the right to naturally exist, flourish, regenerate, evolve, and be restored, which includes the right to be free from all activities that threaten these rights, including the extraction, processing, production, transportation, investment in or contracting for energy produced with fossil or nuclear fuels.
- (e) Right to a Sustainable Energy Future. All residents of the City of Asheville possess the right to a sustainable energy future, which includes, but is not limited to, the production, distribution, and use of energy from renewable and sustainable fuel sources, the control of production, distribution, and pricing of sustainable energy, the right to establish local sustainable energy policies to further secure this right, and the right to be free from energy extraction, production, distribution, and use, that may adversely impact the rights of human or natural communities. This right shall also include the establishment of a Sustainable Energy Policy by the City of Asheville to reach 100% use of renewable energy by 2030.
- (f) Right to Protection from Governmental and Corporate Interference. All residents of the City of Asheville and the City of Asheville possess the right to enforce this law free of interference from corporations, other business entities, and governments. That right includes the right of residents to be free from ceiling preemption, because this law expands rights-protections for people and nature above those provided by less-protective state, federal, or international law.

### **§3.0 Enforcement**

- (a) The violation of any provision of this law is subject to a civil penalty in an amount of \$ 10,000 per day of violation.
- (b) Any business entity or government that willfully violates any provision of this law also must be liable for any damages to an ecosystem or natural community caused by the violation. Damages must be measured by the cost of restoring the ecosystem or natural community to its state before the injury, and must be paid to The City of Asheville to be used exclusively for the full and complete restoration of the ecosystem or natural community.
- (c) Ecosystems and natural communities within The City of Asheville may enforce or defend this law through an action brought in the name of the ecosystem or natural community as the real party in interest.
- (d) Any resident of The City of Asheville may enforce or defend the provisions of this law in any appropriate court. Any resident, and any ecosystem or natural community, also has the right to intervene in any action concerning this law in order to enforce or defend it, and in such an action, The City of Asheville must not be deemed to adequately represent their particularized interests.

### **§4.0 Direct Enforcement**

- (a) Direct Action Enforcement. If the City of Asheville fails to enforce or defend this law, or a court fails to uphold this law, any person may enforce this law through nonviolent direct action. “Nonviolent direct

action” as used by this provision means any activities carried out to directly enforce the prohibitions of this law.