

**AN ORDINANCE TO AMEND THE TOWN CODE OF HALIFAX, VIRGINIA ADDING
“ARTICLE VII. CORPORATE MINING AND CHEMICAL AND RADIOACTIVE
TRESPASS” UNDER “CHAPTER 50 ENVIRONMENT”**

At a regular meeting and public hearing of the Council of the Town of Halifax, Virginia, held on the 7th day of February, 2008, after notice was duly given, at the time and place established by the Council for such meetings, at which the Mayor and the following members were present and absent:

PRESENT: R. Leon Plaster
C. W. Daniel
S. J. Dunavant, Jr.
P. D. Hollis
G. F. Moore
C. H. Parker, Jr.
W. A. Stevens

ABSENT: None

The following ordinance was adopted, after a public hearing on the ordinance described therein was held in accordance with Section 15.2-2204 of the Code of Virginia of 1950, as amended, by the affirmative roll-call vote of a majority of all members of the Council, the ayes and nays being recorded in the minutes of the meeting as shown below:

<u>MEMBER</u>	<u>VOTE</u>
C. W. Daniel	Aye
S. J. Dunavant, Jr.	Aye
P. D. Hollis	Aye
G. F. Moore	Aye
C. H. Parker, Jr.	Aye
W. A. Stevens	Aye

NOW THEREFORE BE IT ORDAINED by the Town Council of Halifax, Virginia as follows:

Section 30-81 – 30-150. Reserved

ARTICLE VII. CORPORATE MINING AND CHEMICAL AND RADIOACTIVE TRESPASS

Section 30-152. Authority

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Halifax to democratic self-governance, and their corresponding right to be free from anti-democratic private governments, and by authority granted to the municipal

government of the Town of Halifax by all relevant Federal and State laws and their corresponding regulations, including, without limitation, the following:

The Declaration of Independence, which declares that the people are born with “certain unalienable rights” and that governments are instituted among people to secure those rights;

The Ninth Amendment to the United States Constitution, which declares, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”;

The Fourteenth Amendment to the United States Constitution, which declares in part, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States”;

The Virginia Constitution, Article 1, Section 1, which declares that all people “are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety”;

The Virginia Constitution, Article 1, Section 2, which does not declare that corporations have any rights, but does declare that “all power is vested in, and consequently derived from, the people”;

The Virginia Constitution, Article 1, Section 3, which declares that “government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community. . . and whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and infeasible right to reform, alter, or abolish it”;

The Virginia Constitution, Article 1, Section 4, which declares that “no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community,” and thus, corporations, as sets of men, shall not enjoy special legal privileges under the law;

The Virginia Constitution, Article XI, Section 1, which declares that “it shall be the Commonwealth’s policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth”;

Common law, which recognizes well-settled rules governing the tort of trespass, and which requires injunctive, compensatory, and punitive relief to be assessed for unauthorized intrusions;

The Virginia Code, Section 15.2-1102, which declares that “A municipal corporation shall have and may exercise all powers which it now has or which may hereafter be conferred upon or delegated to it under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of the affairs and functions of the municipal government, the exercise of which is not expressly prohibited by the Constitution and the general laws of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the inhabitants of

the municipality and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce and industry of the municipality and the inhabitants thereof, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power.”

Section 30-153. Findings and purpose

In support of the enactment of this Ordinance, the Town Council of The Town of Halifax, on behalf of the People of the Town, finds and declares that:

Corporations engaged in mining activities in Virginia have damaged and harmed – and continue to damage and harm – people’s lives, properties, livelihood, their pursuit of happiness, and their quality of life.

Corporations engaged in mining have also damaged and harmed – and continue to damage and harm – ecosystems and natural communities. Those ecosystems and natural communities are essential for thriving human and natural communities, for both present and future generations.

Damages and harms to residents and ecosystems include chemical, toxic, radioactive and carcinogenic trespass, subsidence of land and homes, loss of water, property devaluation, devastation of mountains and natural features, and destruction of complex natural communities, hydrological systems, and other ecosystems. In addition, a small number of multinational mining organizations – run by a handful of corporate Directors and Managers – have used accumulated corporate wealth gained from years of destructive corporate mining to enact statewide laws that strip almost all community decisionmaking from the citizens of the Town of Halifax.

The Town Council of The Town of Halifax finds that county, state, and federal governments have failed to protect and preserve either the health, safety, and welfare of residents and natural communities within the Town, or the fundamental right of residents of the Town of Halifax to local control and self-government. The Council finds that the Virginia Department of Environmental Quality – along with the State’s entire environmental regulatory structure – have legalized continuing corporate assaults on life, liberty, and people’s basic rights, contrary to the common-sense understanding of the purpose of the rule of law.

In addition, having examined the legacy of regulatory laws and agencies in Virginia and the United States, the Council clearly understands that the Department of Environmental Quality’s enabling of mining corporations has not been the exception in this State and Nation, but a normal governmental practice.

The Town Council of the Town of Halifax finds that corporate mining in Virginia is incompatible with the protection and preservation of the health, safety, and welfare of residents in the Town of Halifax; and that corporate mining is incompatible with the protection and preservation of the health, safety, and welfare of natural communities and ecosystems within the Town of Halifax. The Town Council of the Town of Halifax finds that corporate mining – backed by laws that empower small numbers of corporate directors and managers to override the wishes and values of majorities

of citizens – destroys the authority and ability of people within the Town of Halifax to govern their communities democratically.

As a community in the path of mining corporations seeking resources from under people's homes and within people's communities, the people of the Town of Halifax find it necessary to take action to prevent the creation of yet one more "sacrifice zone." As we do so, we call for changes in corporate laws and constitutional interpretations regarding legal privileges conferred upon a corporate few, so that people in communities across this nation can take logical steps towards assuring energy needs without subjecting people, communities and nature to long-term destructions and rights-denials.

In order to protect the health, safety, and welfare of the residents of The Town of Halifax, the soil, groundwater and surface water, the people's cultural heritage, the environment and its flora and fauna, rural quality of life, and democratic self-government within the Town, the Town of Halifax finds it necessary to ban corporations from engaging in mining within the Town, to hold strictly liable those corporations, persons, and governmental agencies who are culpable for the deposition of toxic and potentially toxic substances in the bodies of residents of the Town, and to ban corporate ownership of land and mineral estates used for mining within the Town. The Board also finds it necessary to assert the people's inherent power and right of self-government against competing claims to "rights" asserted by mining corporations, and to restore ownership over land and minerals within the Town to non-corporate mining interests.

Section 30-154. Interpretation

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Section 3 over such accounting and business terms characterized as "economy," "efficiency," and "scheduling factors."

Section 30-155. Definitions

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

Corporation: Any corporation organized under the laws of any state of the United States or under the laws of any country. The term shall also include any 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. The term shall also include any business entity in which one or more owners or partners is a corporation or other entity in which owners, directors, officers and/or managers possess limited liability attributes.

Culpable Parties: Persons owning or managing corporations that engage in mining activities that inject or introduce toxic or potentially toxic chemicals or substances, including radiation, into the Town that are detected within the body of any resident of the Town of Halifax.

Deposition: The placement of a toxic substance or potentially toxic substance within the body of a person. The act of deposition shall be assumed if a toxic substance or potentially toxic substance is detected within the body of a person.

DEQ: Virginia Department of Environmental Quality.

Hazardous substance: Waste, garbage, refuse, or sludge from an industrial or other waste water treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above, which, because of its quantity, concentration, or physical, chemical, radioactive or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment.

Mineral Estate: Any interest held in subsurface mineral or fossil fuel resources, which shall include, but not be limited to, interests held in coal, uranium, natural gas, or oil.

Mining: Any commercial activity in which mineral resources, including coal and uranium; or fossil fuel resources, including natural gas and oil, are extracted from the ground.

Mining Corporation: Any corporation engaged in, or planning to engage in, mining activities.

Ordinance: The Town of Halifax Corporate Mining Chemical and Radioactive Bodily Trespass Ordinance.

Person: A natural person, or an association of natural persons that does not qualify as a corporation under this Ordinance.

Substantially Owned or Controlled: A person, corporation, or other entity substantially owns or controls another person, corporation, or other entity if it has the ability to evade the intent of this Ordinance by using that person, corporation, or other entity to conduct mining operations within the Town of Halifax.

Toxic substances and potentially toxic substances: The phrase shall include chemicals or chemical compounds, radioactive ores, particulate matter and gasses, that have been found to cause adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic, neurotoxic, carcinogenic, teratogenic, reproductive or developmental toxicants. The phrase includes, but is not limited to, Thorium-230, radium-226, radon-222, radon progeny including radioactive isotopes of bismuth, polonium and lead, including but not limited to lead-210, polonium-218, polonium-214 and polonium-210. The phrase shall also refer to nonylphenyl-ethoxylates, polycyclic aromatics, phthalates, ethylene glycol monobutyl ether, 2-(2-methoxyethoxy) ethanol, chlorinated solvents, polychlorinated biphenyls, organophosphate pesticides, organochlorine pesticides, carbamate insecticides, polybrominated diphenyl ethers (PBDEs), polychlorinated dioxins and dibenzofurans,

pyrethroid pesticides, cyanide, or any other toxic chemical or hazardous substance identified by the Town Council of the Town of Halifax by resolution as subject to this Ordinance.

Town: The Town of Halifax, Halifax County, Virginia, its Town Council, or its representatives or agents.

Trespass: As used within this Ordinance, the involuntary deposition of toxic or potentially toxic substances within a human body.

Section 30-156. Statements of law – the rights of the Town of Halifax residents and communities

Section 30-156.1. *Right to self-government.* All residents of the Town of Halifax possess the fundamental and inalienable right to a republican form of governance – a form of governance that recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority, and that corporate entities and their directors and managers cannot enjoy special privileges or powers under the law that render community majorities subordinate to them.

Section 30-156.2. *Right to a healthy environment.* All residents of the Town of Halifax possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna.

Section 30-156.3. *Right to self.* All residents of the Town of Halifax possess a fundamental and inalienable right to the integrity of their bodies, and to be free from unwanted invasions of their bodies by manufactured chemicals and toxins, radioactive substances and their progeny, genetically engineered life forms, involuntary biometric or implanted surveillance devices, as well as a right to privacy of their bodies against involuntary searches and inspections, or denial of medical treatment.

Section 30-156.4. *Right to livelihood and home.* All residents of the Town of Halifax possess a fundamental and inalienable right to their livelihood, homes and land, and a right to enjoy those homes and land uncompromised by the removal of earth support from below.

Section 30-156.5. *Right to cultural heritage.* All residents of the Town of Halifax possess a fundamental and inalienable right to their communities’ cultural heritage within the Town. Residents’ right to their own histories shall include a right to the preservation of historic buildings, unaltered rural historic districts and landscapes, and other structures, relationships, and lands that residents of the Town of Halifax consider important to the preservation of their cultural heritage.

Section 30-156.6. *Right to water.* All residents of the Town of Halifax possess a fundamental and inalienable right to access, use, consume, and preserve water drawn from the sustainable natural water cycles that provide water necessary to sustain life within the Town.

Section 30-156.7. *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 Town of Halifax.

Section 30-156.8. *People as sovereign.* The Town of Halifax shall be the governing authority responsible to, and governed by, the residents of the Town. Use of the “Town of Halifax” municipal corporation by the sovereign people of the Town 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.

Section 30-157. Statements of law – scope of corporate powers within the Town of Halifax

Section 30-157.1. *Prohibition of corporate mining:* It shall be unlawful for any corporation to engage in mining activities within the Town of Halifax.

Section 30-157.2. *Prohibition of corporate enablement(a):* It shall be unlawful for any person to assist a corporation to engage in mining activities within the Town of Halifax.

Section 30-157.3. *Prohibition of corporate enablement(b):* It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to engage in mining activities within the Town of Halifax.

Section 30-157.4. *Prohibition of corporate legal protections(a):* Within the Town of Halifax, corporations shall not be “persons” under the United States or Virginia Constitutions, or under the laws of the United States, Virginia, or the Town of Halifax, and so shall not have the rights of persons under those constitutions and laws. It shall be unlawful for any class of individuals upon whom the state has indirectly bestowed those rights – through the conferral of rights upon their corporations – to assert those rights against the Town of Halifax or its residents.

Section 30-157.5. *Prohibition of corporate legal protections(b):* Within the Town of Halifax, no corporation shall be afforded the privileges, powers, and protections of the Contracts Clause or Commerce Clause of the United States Constitution, or of similar provisions within the Virginia Constitution.

Section 30-157.6. *Prohibition of corporate legal protections(c):* Within the Town of Halifax, no corporation shall be afforded the privileges, powers, and protections of the First Amendment or the Fifth Amendment to the United States Constitution, or of similar provisions within the Virginia Constitution.

Section 30-157.7. *Future lost profits:* Within the Town of Halifax, 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 30-157.8. *Corporate violation of natural rights:* It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the rights of natural communities and ecosystems to exist and flourish, or to cause damage to those natural communities and ecosystems.

Section 30-157.9. *Prohibition on corporate participation in elections:* It shall be unlawful for any corporation – or the corporation’s directors, officers, owners, or managers operating in their

corporate capacities – to transfer any monies, services, products, or any other thing of value, to persons serving as candidates for elected or appointed offices within the Town.

Section 30-157.10. *Prohibition on corporate communications*: It shall be unlawful for any corporation – or the corporation’s directors, officers, owners, or managers operating in their corporate capacities – to contact, or to communicate with, any resident of the Town of Halifax concerning any issue related to the substance or enforcement of this Ordinance, prior to or after the adoption of this Ordinance.

Section 30-157.11. *Prohibition on corporate ownership of mineral estates*: It shall be unlawful for any corporation engaging in mining activities, or planning to engage in mining activities, to purchase any land or mineral estates within the Town after the effective date of this Ordinance. Mining corporations holding existing titles to land to be used for surface mining, or holding existing titles to minerals and other resources to be extracted during mining operations, shall divest those titles within sixty (60) days of submitting a permit application to any State agency that seeks a permit to extract minerals or other resources within the Town of Halifax. Persons and entities holding title to surface estates shall possess the right of first refusal to purchase title to minerals and other resources beneath those estates. Titles to those mineral estates shall be available for purchase at the same price that the titles were originally purchased at the time of original severance from the surface estate. Mineral estates not sold to persons or entities holding title to the surface estate must be conveyed to other persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals and other resources within the Town of Halifax. Titles to land to be used for surface mining must be conveyed to persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within the Town of Halifax.

Section 30-157.12. *Strict corporate liability*: It shall be unlawful for corporations to engage in mining in a neighboring municipality in a manner that causes harm to the health, safety, and welfare of the residents of the Town of Halifax, or to the ecosystems and natural communities within the Town. Persons using corporations to engage in that mining activity shall be strictly liable for those harms.

Section 30-157.13. *Bodily trespass*: The deposition of toxic substances or potentially toxic substances within the body of any resident of the Town of Halifax is declared a form of trespass, and is hereby prohibited. No corporation or syndicate shall engage in the production, extraction, generation, disposal, distribution, use, and/or sale of toxic substances and potentially toxic substances within the Town of Halifax.

Section 30-157.14. *Culpable parties*: Persons owning or managing corporations that engage in mining activities resulting in the deposition of toxic substances and potentially toxic substances detected within the body of any resident of the Town of Halifax shall be deemed culpable parties, along with the corporation itself, for the recovery of trespass damages, compensatory damages, punitive damages, and the instatement of permanent injunctive relief. If more than one corporation manufactured or generated or introduced the detected toxic or potentially toxic substance, persons

owning and managing those corporations, along with the corporations themselves, shall be held jointly and severally liable for those damages, in addition to being subject to injunctive relief.

Section 30-157.15. *Obligation to provide information:* Corporations that engage in mining activities that result in the deposition of toxic substances and potentially toxic substances detected within the body of a Town resident shall provide information about the production, extraction, generation, disposal, distribution, use, and/or sale of those toxic substances and potentially toxic substances to the municipality sufficient for a determination by the municipality of the culpability of that particular corporation.

Section 30-157.16. *Town government's duty to protect:* It shall be the duty of the Town to protect the right of Town residents to be free from chemical trespass under the provisions of this Ordinance, and to obtain damages for any violation of that right. If the presence of toxic and/or potentially toxic substances is detected within the body of any Town resident, the municipality shall initiate litigation to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties. If a significant number of Town residents have been similarly trespassed against, the municipality shall select representative plaintiffs and file a class action lawsuit on behalf of all Town residents to recover trespass, compensatory, and punitive damages – and permanent injunctive relief – from all culpable parties.

Section 30-157.17. *Strict liability for deposition of toxic substances:* Persons who engage in mining activities that result in the deposition of toxic substances and potentially toxic substances shall be strictly liable for the deposition of those substances into the bodies of residents of the Town. Culpable parties shall be deemed strictly liable if one of their toxic or potentially toxic substances or chemical compounds is discovered within the body of a Town resident. The municipality's showing of the existence of that toxic or potentially toxic substance within the body of a resident living in the Town, and the municipality's showing that the Defendant(s) are responsible for the production, extraction, generation, disposal, distribution, use, and/or sale of that substance, shall constitute a *prime facie* showing of causation under a strict liability standard. Current and future damages resulting from the culpable parties' trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the toxic and/or potentially toxic substances could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the culpable parties are not responsible for the trespass of that particular substance into the body of residents of the Town.

Section 30-157.18. *Neighboring jurisdictions:* Corporations and persons using corporations to engage in mining in a neighboring municipality, county or state shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the Town of Halifax from those activities, and for all harms caused to ecosystems and natural communities within the Town of Halifax.

Section 30-157.19. *Testing for toxic substances:* The Town of Halifax shall select a laboratory with expertise in the testing for toxic substances and potentially toxic substances and toxic chemical compounds, including, but not limited to, those toxic substances listed in Section 30-155 of this Ordinance. The Town shall provide financial resources for the first ten residents who request to be tested for the presence of toxic substances and potentially toxic substances and chemical

compounds within their bodies, and make all reasonable efforts to provide financial resources for the testing of additional residents.

Section 30-157.20. Governmental liability: It shall be unlawful for any permit, license, privilege or charter issued by any municipal, county, state or federal regulatory agency, commission, or board, to any person or any corporation operating under a State-issued charter – or any director, officer, owner, or manager of a corporation operating under a State-issued charter – to violate the provisions of this Ordinance or deprive any Town of Halifax resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. This prohibition shall also apply to permits issued to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state. Accordingly, such permit, license, privilege, or charter shall not be deemed valid within the Town of Halifax.

Section 30-157.21. Governmental agents: It shall be unlawful for any employee, agent, or representative of any municipal, county, state or federal regulatory agency, commission, or board to issue a permit, license, privilege, or charter to any person or any corporation operating under a State charter – or to any director, officer, owner, or manager of a corporation operating under a State-issued charter – that would violate the provisions of this Ordinance, or deprive any resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. This prohibition shall also apply to permits issued to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state.

Section 30-157.22. Governmental agent liability: Any governmental agent violating the preceding section of this Ordinance shall be liable to any parties injured by the agent's actions and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the Town of Halifax for restoration of those natural communities and ecosystems.

Section 30-158. Administration

This Ordinance shall be administered by The Town of Halifax.

Section 30-159. Enforcement

Section 30-159.1: The Town of Halifax shall enforce this Ordinance by an action brought in the same manner as provided in the Code of Virginia, §18.2-11 for the punishment of a class 3 Misdemeanor.

Section 30-159.2: Any person, corporation, or other entity that violates any provision of this Ordinance shall, upon conviction be imprisoned to the extent allowed by law for the punishment of a class 3 Misdemeanor.

Section 30-159.3: A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance that is found to be violated.

Section 30-159.4: The Town of Halifax may also enforce this Ordinance through an action in equity brought in the appropriate Circuit Court. In such an action, the Town of Halifax shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees. Such an action to enforce this Ordinance may also be brought by any resident of the Town of Halifax, and that resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 30-159.5: All monies collected for violation of this Ordinance shall be paid to the Treasurer of the Town of Halifax.

Section 30-159.6: Any person, corporation, or other entity that violates, or is convicted of violating this Ordinance, two or more times shall be permanently prohibited from doing business within the Town of Halifax. This prohibition applies to that person's, corporation's, or other entity's parent, sister, and successor companies, subsidiaries, and alter egos; and to any person, corporation, or other entity substantially owned or controlled by the person, corporation, or other entity (including its officers, directors, or owners) that twice violates this Ordinance, and to any person, corporation, or other entity that substantially owns or controls the person, corporation, or other entity that twice violates this Ordinance.

Section 30-159.7: Any Town resident shall have the authority to enforce this Ordinance through an action in equity 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, expert and attorney's fees.

Section 30-160. Civil rights enforcement

Section 30-160.1: Any person acting under the authority of a permit issued by the Department of Environmental Quality, any corporation operating under a State charter or certificate of authority to do business, or any director, officer, owner, or manager of a corporation operating under a State charter or certificate of authority to do business, who deprives any Town resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation to satisfy that liability, including, without limitation, expert and attorney's fees. These liabilities shall also apply to corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state, and to governmental agencies and agents issuing permits that allow a corporation in a neighboring municipality, county, or state to deprive any Town resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Virginia Constitution, the United States Constitution, or other laws. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the Town of Halifax for restoration of those natural communities and ecosystems.

Section 30-160.2: Any Town resident shall have standing and authority to bring an action under this Ordinance's civil rights provisions, or under state and federal civil rights laws, for violations of the rights of natural communities, ecosystems, and Town residents, as recognized by this Ordinance.

Section 30-161. Effective date and existing DEQ permitholders

This Ordinance shall be effective immediately, at which point the Ordinance shall apply to any and all mining corporations, mining corporation employees, directors, officers, and governmental agents making decisions affecting the people and natural communities within the Town of Halifax, regardless of the date of the applicable DEQ permits.

Section 30-162. People's right to self-government

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure our rights to life, liberty, property, and pursuit of happiness. Any attempts to use county, state, or federal levels of government – judicial, legislative, or executive – to preempt, amend, alter, or overturn this Ordinance or parts of this Ordinance, or to intimidate the people of the Town of Halifax or their elected officials, shall require the Town Council of the Town of Halifax to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of the Town of Halifax or their elected officials.

Section 30-163. 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 Council of the Town of Halifax 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 30-164. Repealer

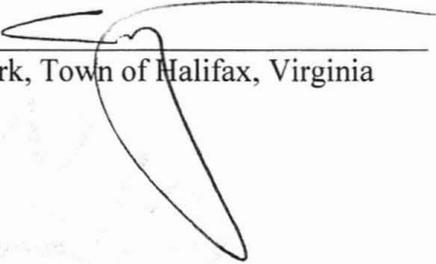
All inconsistent provisions of prior Ordinances adopted by the Town of Halifax are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 30-165 – 30-180. Reserved

The undersigned Town Clerk of the Town of Halifax, Virginia, certifies that the foregoing constitutes a true and correct extract from the minutes of a regular meeting and public hearing of the Council of the Town of Halifax, Virginia, held on the 7th day of February, 2008, and of the whole thereof so far as applicable to the matters referred to in such extract in addition to being a true copy of the ordinance passed therewith

WITNESS my signature and seal of the Town of Halifax, Virginia, this 20th day of February, 2008.

(SEAL)



Town Clerk, Town of Halifax, Virginia