

***PROPOSED***  
**HOME RULE CHARTER OF THE TOWNSHIP OF HIGHLAND,**  
**ELK COUNTY, PENNSYLVANIA**

**WE THE PEOPLE OF HIGHLAND TOWNSHIP, IN ORDER TO SECURE AND PROTECT OUR CIVIL RIGHTS AND THE RIGHTS OF OUR COMMUNITIES, AND TO SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY, DO ORDAIN AND ESTABLISH THIS HOME RULE CHARTER FOR THE TOWNSHIP OF HIGHLAND:**

**ARTICLE I – BILL OF RIGHTS**

**Section 101. Governmental Legitimacy.** All legitimate governments in the United States owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the people and those communities. Any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional, and the people have the right to change, alter, or abolish that system of government.

**Section 102. Right of Local Community Self-Government.** The people of Highland Township possess both a collective and individual right of self-government in their local community, a right to a system of government that embodies that right, and the right to a system of government that protects and secures their human, political, civil, and environmental rights.

**Section 103. Right to Exercise the Right of Self-Government.** The people of Highland Township possess the right to exercise their right of local community self-government in any manner as to them seems effective. This includes the right to use their municipal corporation, home rule charter, initiative lawmaking, and other institutions or mechanisms to make and enforce law. The making and enforcement of law by the people through such institutions and mechanisms shall not nullify, infringe, or otherwise affect the people's right of local community self-government. This right shall include the right of the people of Highland Township, their government, and their elected officials to be free from civil and criminal liability for making and enforcing laws pursuant to their right of local community self-government.

**Section 104. Right to Clean Air, Water, and Soil.** All residents of Highland Township, along with natural communities and ecosystems within the Township, possess the right to clean air, water, and soil; and that right shall include the right to be free from activities that may pose potential risks to clean air, water, and soil within the Township, including the depositing of waste from oil and gas extraction.

**Section 105. Rights of Ecosystems and Natural Communities.** Ecosystems and natural communities within Highland Township possess the right to exist, flourish, and naturally evolve; and that right shall include the right to be free from activities that may pose potential risks to that right, including the depositing of waste from oil and gas extraction.

**Section 106. Right to a Sustainable Energy Future.** All residents of Highland Township possess the 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, the right to establish local sustainable energy policies to further secure that right, and the right to be free from energy extraction, production, and use that may adversely impact the rights of human communities, natural communities, or ecosystems. The right to a sustainable energy future shall include the right to be free from activities related to fossil fuel extraction and production, including the depositing of waste from oil and gas extraction.

**Section 107. Right to Fair and Equal Taxation.** All residents of Highland Township possess the right to be fairly and equally taxed. That right shall include, but not be limited to, the right to be assessed taxes that do not exceed the rates previously established for the Township by the Local Tax Enabling Act and the Second Class Township Code; and Township Supervisors shall not possess any additional authority or power under this Charter to levy taxes at rates that exceed those limitations.

**Section 108. Right to Public Control of Municipal Water Supplies.** The residents of Highland Township possess the right to publicly control all municipal water supplies and the infrastructure for the delivery of those water supplies; and that right shall include the right not to have those supplies or infrastructure sold, leased, or otherwise transferred to any non-governmental entity.

**Section 109. Right to Enforce.** All residents of Highland Township possess the right to enforce the rights and prohibitions secured by this Charter; and that right shall include the right of natural persons domiciled in Highland Township to intervene on behalf of themselves and on behalf of ecosystems and natural communities to assert and defend the validity of this Charter in judicial or other governmental proceedings.

**Section 110. Rights as Self-Executing.** All rights secured by this Charter are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors. Further implementing legislation shall not be required for Highland Township, natural persons domiciled in Highland Township acting either individually or collectively, or the ecosystems and natural communities protected by this Charter, to enforce all of the provisions of this Charter. The rights secured by Article One of this Charter shall only be enforceable against actions specifically prohibited by this Charter.

## **ARTICLE II – GENERAL POWERS OF THE MUNICIPALITY**

**Section 201. Status and Title.** The name of the municipality created by this Home Rule Charter shall be “Highland Township” and it shall operate as a Home Rule municipality, and possess the powers and authority of a Home Rule municipality. The creation of the new municipality, through the popular adoption of this Charter, terminates the existence of the prior municipality and supersedes it in all respects.

**Section 202. Boundaries.** The boundaries of the Township shall be the actual boundaries of the Township at the time this Charter takes effect and as they may be lawfully changed thereafter.

**Section 203. Rules of Operation.** Unless expanded, altered, or otherwise changed by the provisions of this Charter, the rules of operation for the Highland Township Home Rule municipal corporation shall be the ones provided to second class Townships pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania.

**Section 204. Legal Claims of the Township.** Upon enactment of this Charter, the Township shall continue to own, possess, and control all legal claims, power, and property of every kind and nature, owned, possessed, or controlled by it prior to when this Charter takes effect.

**Section 205. Pending and Past Actions and Proceedings.** No enforcement action or proceeding, civil or criminal, which was brought by the Township or any office, department, agency, or officer thereof, pending at the time this Charter takes effect, shall be affected by the adoption of this Charter or by anything herein contained. No prior rulings or decisions by any court, or consent decrees or other settlement agreements entered into between any party and the prior municipality – or the elected or appointed officials of the prior municipality – shall bind the new government established by this Charter, nor shall those rulings, decisions, consent decrees, or other settlement agreements limit the ability, authority, or power of the residents of Highland Township to enforce the rights and prohibitions secured by their Charter.

**Section 206. Repeals and Continuation of Ordinances.** All Ordinances, resolutions, rules, and regulations, or portions thereof in force when this Charter takes effect, which have been directly incorporated into this Charter, shall be deemed to have been repealed or amended to the extent that they duplicate provisions of this Charter. Other Ordinances, resolutions, rules, and regulations, or portions thereof in force when this Charter takes effect, shall temporarily be continued in force and effect until the Board of Supervisors has reviewed them, and determined to re-adopt them as Ordinances of the Home Rule municipality, or determined that they should be repealed or amended.

**Section 207. Adoption of Budget.** The Board of Supervisors shall be required to adopt a budget in accordance with the provisions of Section 3202 of the Pennsylvania Second Class Township Code (or the relevant sections of any future code). In the event the Board of Supervisors are unable to adopt an annual budget, the annual budget from the previous fiscal year shall serve as the operating budget until the Board of Supervisors fulfills its duty to adopt a new annual budget.

### **ARTICLE III – GOVERNING BODY**

**Section 301. Board of Supervisors.** The governing body of the Highland Township Home Rule municipality shall be a Board of Supervisors, acting under the authority of, and with the consent of, the people of Highland Township. The Board of Supervisors shall consist of three Supervisors, elected from the Township at-large.

**Section 302. Vacancies.** If a vacancy occurs on the Board of Supervisors, the remaining Supervisors shall appoint a successor who is an elector of Highland Township, who has resided within the Township continuously for at least one year prior to the appointment, and who appeared on the ballot for the position of Supervisor in Highland Township at the most recent election for Supervisor within the Township. The appointment of any Supervisor shall only be effective until the next available primary, municipal, or general election, at which point a new Supervisor shall be elected to fill the original vacancy for the remainder of the term. If the Board of Supervisors fails to make an appointment within thirty days after a vacancy occurs, the vacancy shall be filled at the next available primary, municipal, or general election, in accordance with regular election procedures, provided that there has been time for the completion of such election procedures.

**Section 303. Term of Office.** The term of office for newly-elected Supervisors shall be four years.

**Section 304. Authority of Existing Officers.** The Supervisors in office at the time this Charter takes effect shall remain in office for the full terms for which they were originally elected, and shall receive the same compensation until their terms expire. However, they shall have the responsibilities, duties, and authority only as set forth in, and pursuant to, this Charter. All other elected officials of the Township in office at the time this Charter takes effect shall remain in office for the full term for which they were elected, and shall receive the same compensation that they received prior to the adoption of this Charter.

**ARTICLE IV – PROHIBITIONS AND ENFORCEMENT**

**Section 401. Depositing of Waste from Oil and Gas Extraction.** It shall be unlawful within Highland Township for any corporation or government to engage in the depositing of waste from oil and gas extraction.

**Section 402. Limitations on Taxation.** It shall be unlawful within Highland Township for taxes to be levied at rates that exceed the rates previously established for the Township by the Local Tax Enabling Act and the Second Class Township Code.

**Section 403. Public Control of Municipal Water Supplies.** It shall be unlawful within Highland Township for municipal water supplies, and the infrastructure for the delivery of those water supplies, to be sold, leased, or otherwise transferred to any non-governmental entity.

**Section 404. State and Federal Authority.** No permit, license, privilege, charter, or other authorization, issued by any state or federal governmental entity, that would enable any corporation or person to violate the rights or prohibitions of this Charter, shall be lawful within Highland Township.

**Section 405. Offenses.** Any corporation or government that violates any provision of this Charter shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law. Each day or portion thereof, and each violation of a section of this Charter, shall count as a separate offense.

**Section 406. Standing for Township Residents.** Highland Township, or any natural person domiciled in Highland Township, may enforce all the provisions of this Charter through an action brought in any court possessing jurisdiction over activities occurring within Highland Township. In such an action, Highland Township, or the natural person, shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

**Section 407. Enforcement of Natural Community and Ecosystem Rights.** Ecosystems and natural communities within Highland Township may enforce all the provisions of this Charter through an action brought by Highland Township, or any natural person domiciled in Highland Township, in the name of the ecosystem or natural community as the real party in interest. Actions may be brought in any court possessing jurisdiction over activities occurring within Highland 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 Highland Township to be used exclusively for the full and complete restoration of the ecosystem or natural community.

**Section 408. Right to Direct Enforcement.** If a court fails to uphold this Charter's limitations on corporate power, or otherwise fails to uphold the rights secured by Article One of this Charter, the rights and prohibitions secured by this Charter shall not be affected by that judicial failure, and any natural person may then enforce the rights and prohibitions of this Charter through nonviolent direct action. If enforcement through nonviolent direct action is commenced, this Charter shall prohibit any private or public actor from bringing criminal charges or filing any civil or other criminal action against anyone participating in nonviolent direct action. If an action is filed in violation of this provision, the applicable court must dismiss the action promptly, without further filings being required of nonviolent direct action participants. "Nonviolent direct action" as used by this provision shall mean any nonviolent activities or actions carried out to directly enforce the rights and

prohibitions contained within this Charter, provided that those nonviolent activities or actions do not impede or obstruct the movement of emergency vehicles, such as fire trucks or ambulances.

**Section 409. Intervention in Lawsuits.** As the Highland Township government might be subject to political forces beyond the control of natural persons domiciled in Highland Township or natural communities and ecosystems located within Highland Township, the Highland Township government's support for, or defense of, this Charter in any lawsuit shall not be deemed to render the Highland Township municipal corporation adequate to represent fully the interests of persons, natural communities, or ecosystems seeking intervention, and so shall not be a ground upon which to deny such intervention by such persons or by ecosystems or natural communities.

**Section 410. Enforcement of State Laws.** All laws adopted by the legislature of the State of Pennsylvania or by Congress, and rules adopted by any State or federal agency, shall be the law of Highland Township only to the extent that they do not violate the rights or prohibitions of this Charter, or limit the authority of Highland Township or the people of Highland Township to adopt and enforce greater protections for these rights than afforded by the Pennsylvania legislature or by Congress.

**Section 411. Interpretation.** Any reviewing court shall liberally interpret this Charter's provisions to protect the rights secured in Article One. Nothing in this Charter shall be interpreted to restrict fundamental rights of individuals, their communities, or nature already secured by the Pennsylvania constitution, the United States constitution, or international law; and nothing in this Charter shall be interpreted to weaken protections for individuals, their communities, or nature, as provided by state, federal, international, or constitutional law.

#### **ARTICLE V – CORPORATE POWERS**

**Section 501. Corporate Privileges.** Corporations that violate this Charter or the laws of the Township, or that seek to violate this Charter or those laws, shall not be deemed to be "persons" to the extent that such treatment would infringe the rights or prohibitions enumerated by this Charter or those laws, nor shall they possess any other legal rights, powers, privileges, immunities, or duties that would infringe the rights or prohibitions enumerated by this Charter or those laws, including the power to assert state or federal preemptive laws in an attempt to overturn this Charter or those laws, or the power to assert that Highland Township, or the people of Highland Township, lack the authority to adopt this Charter or those laws, or the power to assert that Highland Township, its officials, or any resident of Highland Township are liable for damages to the corporation as a result of provisions of this Charter or Township laws.

#### **ARTICLE VI – EMERGENCY TOWN MEETING**

**Section 601. Emergency Town Meeting.** In the event of a substantial public emergency affecting the health, safety, and welfare of the residents of Highland Township, or an event or activity that would infringe on the rights of the residents of Highland Township, the electors of the Township may call an Emergency Town Meeting whereby the electors of the Township may adopt a proposed Ordinance. If adopted, that Ordinance shall remain valid until the next available election at which the electors of the Township shall have the opportunity to make the Ordinance permanent by amending the Township's Home Rule Charter with the substance of the Ordinance.

**Section 602. Initiation and Petition Form.** To call an Emergency Town Meeting, a petition must be created by the petition filer. Each petition shall bear the name of the petition filer. The petition filer shall deliver written notice, along with a copy of the proposed Ordinance, to the Township Secretary during the hours that the Township office is officially open, and the Township Secretary shall post a copy of that notice and the proposed Ordinance at the Township Building the same day upon receiving that notice. No signatures may be affixed to the petitions until notice of the petition is posted at the Township Building. Each signature shall be in ink and shall be accompanied by the signer's address, signer's printed name, and the date of signing. Only registered electors who are residents of the Township are eligible to sign the petition. The petition shall contain the full text of the proposed Ordinance if that text can fit on a single page. If the text cannot fit on a single page, then circulators shall have full copies of the proposed Ordinance in their possession for inspection by potential signers, and the petition shall identify the Ordinance by declaring that "The signers below call for an Emergency Town Meeting to be held to consider the adoption of the Ordinance filed with the Secretary of the Township on [date] by [petition filer]." On the back of each page of the petition there shall be an attached affidavit executed by the circulator verifying the authenticity of the signers, and affirming that the signers are registered electors who are residents of the Township to the best of the circulator's knowledge. Only registered electors who are residents within the Township may circulate petitions.

**Section 603. Timeline.** Petition circulators shall have fifteen calendar days to collect the required signatures, commencing on the date that the Township Secretary posts the petition. The date that the Township Secretary posts the petition shall be included as one of the fifteen days that circulators may collect signatures. Petition circulators must gather valid signatures equal to at least thirty percent of the number of registered electors within the Township. Petitions bearing the requisite number of signatures must then be filed with the Secretary of the Township during the hours that the Township office is officially open, and the Secretary shall issue a written notice of receipt, and then send the signatures to the Emergency Town Meeting Committee for verification. If the fifteen day window for signature gathering expires on a day that the Township office is not officially open, the signatures may be submitted to the Township Secretary on the next day that the Township office is officially open; no signatures shall be gathered on the day(s) that fall between the date that the signature gathering window expires and the next day that the Township office is officially open.

**Section 604. Verification and the Emergency Town Meeting Committee.** The Emergency Town Meeting Committee shall verify the accuracy and sufficiency of the petition signatures within ten days of the date upon which the petitions are submitted to the Township Secretary, and the Committee shall issue a final determination based on its review. Upon receipt of the petitions from the Secretary, the Chairman of the Board of Supervisors shall schedule and advertise, as a special meeting, a meeting of the Emergency Town Meeting Committee. The Emergency Town Meeting Committee shall consist of the Township Secretary, the Chairman of the Board of Supervisors, the Township Auditor who has served for the longest period of time in the capacity of Auditor within the Township, the petition filer, and the Township Tax Collector. A quorum of the Emergency Town Meeting Committee shall consist of three of those individuals. The number of required signatures shall be calculated using current records from the County Board of Elections; the validity of signatures shall be verified using current records from the County Board of Elections. Disputes over the validity of any individual signature shall be resolved by a majority vote of the Emergency Town Meeting Committee.

**Section 605. Judicial Review.** The petition filer shall be notified of the final determination of the Emergency Town Meeting Committee within one day of the final determination. The final determination of whether the petition satisfies the requirements for the calling of an Emergency Town Meeting shall be subject to judicial review. An appeal of the final determination of the Emergency Town Meeting Committee shall be filed to the

Elk County Court of Common Pleas, and such appeal must be filed within ten days of the final determination of the Emergency Town Meeting Committee. Filing of the appeal shall not prejudice the ability of the original petitioner to create, circulate, and qualify a new petition, following the procedures contained within this Article.

**Section 606. Emergency Town Meeting Preparation.** If the Emergency Town Meeting Committee determines that the petitions meet the requirements imposed by this Article of the Charter, it shall issue a final determination to that effect, and the Committee shall set a date for the Emergency Town Meeting, which must occur no later than fifteen days after the Emergency Town Meeting Committee has made its final determination. Notices shall be sent via U.S. Mail to all registered electors who are residents of the Township, informing those electors of the date of the Emergency Town Meeting. The Notices shall also contain a brief summary of the proposed Ordinance, and also a brief overview of the nature of the Emergency Town Meeting, including informing electors that they will have the opportunity to cast a vote on the proposed Ordinance. The Notices shall be sent out no later than seven days before the date of the Emergency Town Meeting. Two advertisements, containing the summary of the proposed Ordinance and the date of the Emergency Town Meeting, shall also be published on two consecutive days in a newspaper of general circulation within the Township before the meeting is held.

**Section 607. Running of the Meeting.** The Chairman of the Board of Supervisors shall facilitate the Emergency Town Meeting. All Township electors shall be issued a ballot upon arrival at the Emergency Town Meeting. The ballots shall be created and printed by the Emergency Town Meeting Committee. The ballot shall contain the summary of the proposed Ordinance, the question "Shall this Ordinance become law within Highland Township?" and a space for the elector to vote "yes" or "no" on the question. Sufficient copies of the full text of the Ordinance shall be available for inspection at the Emergency Town Meeting. The Chairman of the Board of Supervisors shall call the meeting to order. The petitioner shall have ten minutes to present the proposed Ordinance. Public comment shall follow, with registered Township electors having three minutes each to speak. Following public comment, electors shall individually deliver their ballots to the Chairman of the Board of Supervisors; and the Chairman, upon receiving each ballot, shall direct the Township Secretary to verify the name of the elector on records obtained from the Elk County Board of Elections. Once verified, the Chairman shall place the ballot into a container overseen by the Emergency Town Meeting Committee.

**Section 608. Ballot Counting.** When all the votes have been cast, the Emergency Town Meeting Committee shall, in the open and during the Emergency Town Meeting, immediately sort and count the ballots. Only the Emergency Town Meeting Committee shall be involved in the sorting and counting of ballots; no other person shall in any manner interfere. After counting, the Emergency Town Meeting Committee shall make a public declaration of the outcome of the vote. No ballot shall be received and counted after the outcome of the vote has been declared. A tie vote shall be resolved by a majority vote of the Emergency Town Meeting Committee. In the event of a tie vote of the Emergency Town Meeting Committee, the Ordinance shall be deemed to have been defeated.

**Section 609. Effect of the Vote.** If a majority of registered electors casting votes at the Emergency Town Meeting vote "no," the proposed Ordinance shall not take effect in Highland Township. If a majority of registered electors casting votes at the Meeting vote "yes," the proposed Ordinance shall immediately take effect in Highland Township. If a majority of registered electors casting votes at the Meeting vote "yes," the Township Board of Supervisors shall then take the necessary steps for the Ordinance to appear as a proposed amendment to the existing Highland Township Home Rule Charter at the next available general, municipal, or

primary election. If a majority of registered electors casting votes at the Meeting vote "yes," the Ordinance shall remain in effect only until the electors in Highland Township have the opportunity to vote on whether or not to amend the existing Charter with the Ordinance.

#### **ARTICLE VII – CHARTER AMENDMENT**

**Section 701. Amendment.** No proposed amendment to this Charter shall be withheld from the people's consideration on the basis that existing legal authority may consider the substance of the amendment to be "illegal" or "unconstitutional." Proposed amendments may only be withheld from the people's consideration if they have the effect of denying, abridging, or removing the rights of people, natural communities, or ecosystems, as recognized by this Charter. Amendments to this Charter shall be adopted pursuant to Pennsylvania law governing the amendment of Home Rule Charters.

**Section 702. Severability.** The provisions of this Charter are severable. If any court decides that any section, clause, sentence, part, or provision of this Charter 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 Charter. This Charter would have been enacted without the invalid sections.

#### **ARTICLE VIII – CALL FOR CONSTITUTIONAL CHANGES**

**Section 801. State and Federal Constitutional Changes.** Through the adoption of this Charter, the people of Highland Township call for amendment of the Pennsylvania Constitution and the federal Constitution to expressly recognize a right of local community self-government free from governmental restriction, certain types of governmental preemption, or nullification by corporate "rights" and powers.

#### **ARTICLE IX – DEFINITIONS**

The following terms shall have the meanings defined in this section wherever they are used in this Charter:

**"Charter"** means the Highland Township Home Rule Charter.

**"Corporation"** includes any corporation, or any other business entity, organized under the laws of any State or country.

**"Depositing of waste from oil and gas extraction"** includes, but is not limited to, the depositing, disposal, storage, beneficial use, treatment, recycling, injection, or introduction of materials including, but not limited to, brine, "produced water," "frack water," tailings, flowback, or any other waste or by-product of oil and gas extraction, by any means. The phrase shall also include the issuance of, or application for, any permit that would purport to allow these activities. This phrase shall not include temporary storage of oil and gas waste materials in the Township at existing well sites.

**"Person"** means a natural person, or an association of natural persons that is not a corporation.

**"Township"** means Highland Township in Elk County, Pennsylvania, its Township Board of Supervisors, or its representatives or agents.