

Right to a Healthy Climate - Model Law

Developed by the Center for Democratic and Environmental Rights

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BY-LAW 2022-_____

RIGHT TO A HEALTHY CLIMATE BY-LAW

A BY-LAW OF THE CITY OF _____, SECURING RIGHTS TO A HEALTHY AND LIVABLE CLIMATE FOR THE RESIDENTS, SPECIES, AND ECOSYSTEMS OF _____; PROHIBITING CERTAIN ACTIVITIES WHICH VIOLATE THOSE RIGHTS AND PROVIDING FOR ENFORCEMENT OF THOSE RIGHTS; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

Whereas, human-induced global climate change is touching every aspect of our world by altering the earth's chemical and physical cycles, and those changes are now causing global temperatures to rise; and

Whereas, the recently released Intergovernmental Panel on Climate Change (IPCC) report ("Working Group III Sixth Assessment Report") warns of irreparable impacts from human-induced global climate change if immediate action is not taken to reduce carbon emissions; and

Whereas, the global rise in temperatures will have a substantial impact in Canada, posing acute and lasting risks for communities, businesses, and natural ecosystems, which will include damages from extreme weather, threats to human health and

wellbeing, economic disruption, food and water insecurity, forced migration, and social instability, while threatening all other life on earth and the richness and complexity of natural biodiversity; and

Whereas, these forecasted impacts have the potential to change the very character and integrity of _____, and impact every person living in _____ along with the natural environment; and

Whereas, this crisis requires harnessing our political and legal institutions to limit those emissions contributing to climate change by elevating climate protections to the highest level available under law; and

Whereas, the highest level of protections available under law are legally-enforceable rights which belong to people and to nature; therefore,

The City Council of the Corporation of the City of _____ hereby adopts this Right to a Healthy Climate By-Law:

A. Statement of Law: Climate Rights.

Every resident, species, and ecosystem of the City of _____ has a legally-enforceable civil right to a healthy and livable climate.

B. Statement of Law: Prohibitions.

It shall be unlawful for any business entity, government, or governmental agency, individually or in concert with or contemporaneously with others, to engage in new or ongoing activities which substantially infringe, or are substantially detrimental to, the rights secured by this By-Law.

C. Statement of Law: Jurisdiction and Right to Enforce.

Every resident, species, and ecosystem of the City of _____ has the right to enforce their right to a healthy and livable climate against activities which violate this By-Law's rights and prohibitions, regardless of where such activities occur.

D. Implementation and Enforcement.

- (1) **Implementation and Enforcement by the City of _____.** The City of _____ shall take all necessary actions to implement and enforce this By-Law.

(2) **Enforcement by Residents, Species, and Ecosystems of the City of** _____ . Any resident of the City of _____ may enforce and defend the rights and provisions of this By-Law, either in the resident's name or in the name of the affected species or ecosystem in the City of _____ as the real party in interest, in any appropriate court, which shall issue injunctive relief to enjoin any activity which violates this By-Law.

(3) **Contributory Impleader.** In any action involving industrial activity (including, without limitation, power generating facilities), business entities, governments, and governmental agencies may implead others in the same industry that are violating this By-Law, to achieve equitable enforcement against contributory business entities, governments, or governmental agencies operating in that industry.

E. Recitals of Authority. This By-Law is adopted pursuant to the powers vested in the Corporation of the City of _____ under and by virtue of the Ontario Municipal Act, 2001, and specifically, pursuant to 10(2)(5) of the Act which provides that a single-tier municipality may adopt a By-Law for the "economic, social and environmental well-being of the municipality, including respecting climate change," and for the purpose of protecting the "health, safety, and well-being of persons," and by virtue of all other powers enabling the municipality, and through the inherent right of the people of the City of _____ to make and enforce laws, through their duly-elected Council, which recognize and expand civil and environmental rights at the municipal level.

F. Severability. If any word, phrase, clause, sentence, paragraph, section, or subsection of this By-Law is declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs, sections, or subsections of this By-Law.

G. Effective Date. This By-Law shall take effect immediately upon adoption by the City Council of the Corporation of the City of _____.

H. Definitions.

- a. "Healthy and Livable Climate," as used within this By-Law, shall mean an atmosphere in which carbon dioxide exists in less than 350 parts per million.
- b. "Substantially detrimental to," as used within this By-Law, shall mean activities which are likely to contribute substantially to the maintenance or worsening of human-induced global climate changes and their impacts, as a result of carbon dioxide emissions into the atmosphere.
- c. "Substantially infringe," as used within this By-Law, shall mean activities which substantially contribute to a climate in which carbon dioxide levels exceed 350 parts per million in the atmosphere.
- d. An "industry," as used within this By-Law, shall be defined by the two-digit division level of the United Nation's "International Standard Industrial Classification of All Economic Activities (ISIC), Revision 4" (2008), and any revisions or later editions thereof.