

RESOLUTION #R-_____-2013

**A RESOLUTION OF THE LOVELAND CITY COUNCIL
SUBMITTING PURSUANT TO C.R.S. SECTION 31-11-111(2) A
PROPOSED ORDINANCE TO A VOTE OF THE CITY'S
REGISTERED ELECTORS AT THE CITY'S REGULAR ELECTION
ON NOVEMBER 5, 2013**

WHEREAS, under Section 7-1(a) of the Loveland Charter, the registered electors of the City have the power to propose an ordinance, pursuant to the initiative power reserved by Article V, Section 1(9) of the Colorado Constitution, which ordinance must be initiated pursuant to the Colorado statutes which establish the procedure for municipal initiatives, except as otherwise provided by the City Charter; and

WHEREAS, a citizen-initiative petition proposing an ordinance for the imposition of a two-year moratorium on the use of hydraulic fracturing within the City to extract oil, gas or other hydrocarbons and on the storage and disposal of its waste in order to fully study the impacts of hydraulic fracturing on property values and human health has been submitted to the City Clerk (the "Citizen Initiative"); and

WHEREAS, on July 23, 2013, the City Clerk issued her statement, pursuant to C.R.S. Section 31-11-109(2), that said petitions contained a sufficient number of valid signatures for the referral and submission of the proposed ordinance in the Citizen Initiative to a vote of the people at a regular or special City election (the "Statement of Sufficiency"); and

WHEREAS, on August 16, 2013, a Loveland registered elector timely filed, pursuant to C.R.S. § 31-11-110(1), his written protest to the Statement of Sufficiency (the "Protest"); and

WHEREAS, the City Clerk noticed and held on August 22, 2013, the hearing required by C.R.S. § 31-11-110(3) to consider the Protest; and

WHEREAS, on August 27, 2013, the City Clerk issued her written determination, as required in § 31-11-110(3), upholding her previously issued Statement of Sufficiency with a few modifications (the "Determination"); and

WHEREAS, the Determination will not constitute the "final determination of petition sufficiency," as defined in C.R.S. §31-11-103(2), until the time period for appealing the Determination in Larimer County District Court as authorized in C.R.S. § 31-11-110(3) has expired without an appeal being filed or until a final court decision is issued if an appeal is filed; and

WHEREAS, the time period for appealing the Determination is set out in Rule 106(b) of the Colorado Rules of Civil Procedure and requires that the appeal be filed no

later than 28 days after the Determination was issued and, since the Determination was issued on August 27, 2013, the deadline to file an appeal will be September 24, 2013; and

WHEREAS, since C.R.S. Section 31-11-104 provides that within twenty (20) days following the “final determination of petition sufficiency” that the City Council either adopt without alteration the initiated ordinance or refer the proposed ordinance, in the form petitioned for, to the City’s registered electors at a regular or special election, the Council cannot refer the Citizen Initiative to the November 5, 2013, ballot until there is a “final determination of petition sufficiency”; and

WHEREAS, while the City Council could on its own authority adopt at any time the ordinance proposed in the Citizen Initiative, it chooses not to do so; and

WHEREAS, instead the Council has decided to exercise its independent authority under C.R.S. § 31-11-111(2) to submit this proposed ordinance to the voters in time to be certified on September 6, 2013, to the Larimer County Clerk and Recorder (the “County Clerk”) for the coordinated November 5, 2013, election, which will not occur if the Council waits until after September 24, 2013, to refer this ordinance to the voters at a special election under § 31-11-104, provided an appeal of the Determination has not been filed by September 24, 2013; and

WHEREAS, pursuant to C.R.S. Section 31-11-111(2), the City Council is required to fix the ballot title for the ordinance proposed in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND as follows:

Section 1. That there is hereby referred and submitted [pursuant to C.R.S. § 31-11-111\(2\)](#) to the registered electors of the City of Loveland at the City’s regular election to be held on Tuesday, November 5, 2013, as a coordinated mail-ballot election with the County Clerk, the following proposed ordinance:

LOVELAND PUBLIC HEALTH, SAFETY AND WELLNESS ACT

Section 1. Purpose. To protect property, property values, public health, safety and welfare by placing a moratorium on the use of hydraulic fracturing to extract oil, gas, or other hydrocarbons within the City of Loveland in order to study the impacts of the process on the citizens of the City of Loveland.

Section 2. Findings. The people of Loveland hereby make the following findings with respect to the process of hydraulic fracturing within the City of Loveland:

- The Colorado Constitution confers on all individuals in the state, including the citizens of Loveland, certain inalienable rights, including “the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness,” Colo. Const. Art. II, Sec. 3;

- The Colorado Oil and Gas Act requires oil and gas resources to be extracted in a “manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources,” Colo. Rev. Stat. § 34-60-102;
- The well stimulation process known as hydraulic fracturing is used to extract deposits of oil, gas, and other hydrocarbons through the underground injection of large quantities of water, gels, acids or gases; sands or other proppants; and chemical additives, many of which are known to be toxic;
- The people of Loveland seek to protect themselves from the harms associated with hydraulic fracturing, including threats to public health and safety, property damage and diminished property values, poor air quality, destruction of landscape, and pollution of drinking and surface water;
- Representatives from the State of Colorado have publicly stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development.

Section 3. Moratorium. Therefore, the people of Loveland have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as provided under the Colorado Oil and Gas Act, is to place a moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Loveland for a period of two years in order to fully study the impacts of this process on property values and human health. The moratorium can be lifted upon a ballot measure approved by the people of the City of Loveland.

Section 4. Retroactive Application. In the event this measure is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

Section 2. That the ballot title for the proposed ordinance shall be as follows:

QUESTION NO. ____: ORDINANCE TO PLACE A TWO-YEAR MORATORIUM ON THE USE OF HYDRAULIC FRACTURING WITHIN THE CITY OF LOVELAND TO FULLY STUDY THE IMPACTS OF HYDRAULIC FRACTURING ON PROPERTY VALUES AND HUMAN HEALTH

SHALL AN ORDINANCE BE ADOPTED THAT PLACES A TWO-YEAR MORATORIUM ON THE USE OF HYDRAULIC FRACTURING WITHIN THE CITY OF LOVELAND TO EXTRACT OIL, GAS OR OTHER HYDROCARBONS AND ON THE STORAGE AND DISPOSAL OF ITS WASTE PRODUCTS IN ORDER TO FULLY

STUDY THE IMPACTS OF HYDRAULIC FRACTURING ON
PROPERTY VALUES AND HUMAN HEALTH?

_____ Yes _____

_____ No _____

(To be endorsed on back of ballot)

OFFICIAL BALLOT FOR THE REGULAR MUNICIPAL ELECTION
HELD IN THE CITY OF LOVELAND, COLORADO, ON TUESDAY,
NOVEMBER 5, 2013.

Teresa G. Andrews, City Clerk

Section 3. That the City Clerk is hereby directed to certify no later than September 6, 2013, to the County Clerk the ballot title above to be presented to the City's registered electors as part of the County Clerk's coordinated mail ballot election to be held on November 5, 2013.

Section 4. That this Resolution shall be effective as of the date and time of its adoption.

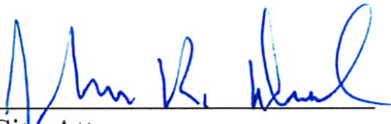
Signed this 3rd day of September, 2013.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney