

**RESOLUTION #R-\_\_\_\_\_-2013**

**A RESOLUTION OF THE LOVELAND CITY COUNCIL  
SUBMITTING PURSUANT TO C.R.S. SECTION 31-11-104(1) A  
CITIZEN-INITIATED 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, Larry Sarner, a Loveland registered elector, (the "Protestor") timely filed under 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 constitute the "final determination of petition sufficiency," as defined in C.R.S. §31-11-103(2), unless an appeal of the Determination is timely filed in Larimer County District Court as authorized in C.R.S. § 31-11-110(3); and

**WHEREAS**, the time period for filing an appeal to the Determination is set out in Rule 106(b) of the Colorado Rules of Civil Procedure and requires that an appeal be filed

no later than 28 days after the Determination and, since the Determination was issued on August 27, 2013, the deadline to file an appeal will be September 24, 2013; and

~~WHEREAS, the Protestor has today filed an~~~~undecided not to~~ appeal of the Determination in Larimer County District Court (the "Appeal"); and has provided to the City his written waiver of his right to appeal the Determination, thereby allowing the City Council to consider the Determination as a "final determination of petition sufficiency" as defined in § 31-11-10\_3(2); and

~~WHEREAS, C.R.S. Section 31-11-104 provides that within twenty (20) days following the "final determination of petition sufficiency," the City Council may either adopt without alteration the initiated ordinance or publish the proposed ordinance as other ordinances are published and refer the proposed ordinance, in the form petitioned for, to the City's registered electors at a regular or special election; and~~

~~WHEREAS, notwithstanding the Appeal, the City Council has decided not to adopt the initiated ordinance as proposed in the Citizen Initiative and, therefore, by this Resolution~~ isto referring and submitting to Loveland's registered electors the Citizen Initiative~~initiated ordinance~~ at the City's regular election on November 5, 2013; and

WHEREAS, since the City's regular election on November 5, 2013, will be conducted as a coordinated mail-ballot election with the Larimer County Clerk and Recorder (the "County Clerk"), this will require the City Clerk to certify the ballot title for this Citizen Initiative to the County Clerk no later than September 6, 2013, in order for it to be considered at the November 5, 2013, election; and

WHEREAS, pursuant to C.R.S. Section 31-11-111, the City Council is also required to fix the ballot title for the ordinance proposed in the Citizen Initiative; and

WHEREAS, the City Council intends this referral of the Citizen Initiative to the voters to be a referral of a citizen initiative under C.R.S. § 31-11-104(1) and not an exercise of the Council's independent referral authority under C.R.S. § 31-11-111(2); and

WHEREAS, as such, the City Council adopts this Resolution with the understanding and intention that this referral of the Citizen Initiative to Loveland's voters and the outcome of the vote on the ballot title hereafter fixed, shall be subject to the Appeal to the extent required by law.

**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. § 31-11-104(1) 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 citizen-initiated ordinance:

**CITIZEN-INITIATED ORDINANCE No. 1, 2013**

## **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 pursuant to C.R.S. Section 31-11-104(1), the City Clerk is hereby directed to publish the proposed ordinance in Section 1 as other ordinances are required to be published under the City's Charter.

Section 3. That the ballot title for the proposed ordinance in the Citizen Initiative shall be as follows:

QUESTION NO. \_\_\_\_: CITIZEN-INITIATED 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 4. 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 5. That this Resolution shall be effective as of the date and time of its adoption.

Signed this 3<sup>rd</sup> day of September, 2013.

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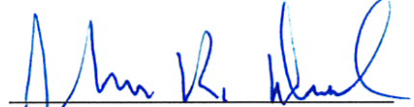
Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:



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City Attorney