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Initiative 2015-2016 #75

Colorado Secretary of State

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In the constitution of the state of Colorado, **add** article XXX as follows:

### ARTICLE XXX

#### Local Government Control of Oil and Gas Development

**Section 1. Purposes and findings.** (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) OIL AND GAS DEVELOPMENT, INCLUDING THE USE OF HYDRAULIC FRACTURING, HAS DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT;

(b) THESE DETRIMENTAL IMPACTS ARE EXPERIENCED MOST DIRECTLY IN LOCAL COMMUNITIES;

(c) THE STATE OF COLORADO HAS A COMPELLING INTEREST TO PREVENT AND MITIGATE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, AND MUST NOT IMPEDE EFFORTS BY LOCAL GOVERNMENTS TO PREVENT AND MITIGATE THESE DETRIMENTAL IMPACTS;

(d) LOCAL GOVERNMENTS HAVE BROAD AUTHORITY TO PLAN FOR AND REGULATE LAND USE WITHIN THEIR JURISDICTIONS, INCLUDING THE AUTHORITY TO REGULATE LAND USE TO LIMIT ANY DETRIMENTAL IMPACT ON THEIR COMMUNITY;

(e) IMPLIED OR EXPRESSED THREATS OF LEGAL ACTION TO INVOKE STATE PREEMPTION RESTRICT THE ABILITY OF LOCAL GOVERNMENTS TO PREVENT AND MITIGATE THE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT IN LOCAL COMMUNITIES, AND TO PROTECT THE NATURAL, ESSENTIAL AND INALIENABLE RIGHTS ESTABLISHED IN THIS CONSTITUTION; AND

(f) TO PRESERVE THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, THE PEOPLE DESIRE TO EXPRESSLY GRANT TO LOCAL GOVERNMENTS THE AUTHORITY TO PREVENT OR MITIGATE DETRIMENTAL IMPACTS ON PUBLIC HEALTH, SAFETY, GENERAL WELFARE, AND THE ENVIRONMENT, WITHOUT RISK OF STATE PREEMPTION, EVEN IF SUCH ACTS IMPOSE RESTRICTIONS ON OIL AND GAS DEVELOPMENT.

**Section 2. Definitions.** FOR PURPOSES OF THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "LOCAL GOVERNMENT" MEANS ANY STATUTORY OR HOME RULE COUNTY, CITY AND COUNTY, CITY, OR TOWN, LOCATED IN THE STATE OF COLORADO, NOTWITHSTANDING ANY PROVISION OF ARTICLE XX OR SECTION 16 OF ARTICLE XIV OF THE COLORADO CONSTITUTION.

(2) "OIL AND GAS DEVELOPMENT" MEANS EXPLORATION FOR, AND DRILLING, PRODUCTION, AND PROCESSING OF OIL, GAS, OTHER GASEOUS AND LIQUID HYDROCARBONS, AS WELL AS THE TREATMENT AND DISPOSAL OF WASTE ASSOCIATED WITH SUCH EXPLORATION, DRILLING, STORAGE, PRODUCTION AND PROCESSING. "OIL AND GAS DEVELOPMENT" INCLUDES THE USE OF HYDRAULIC FRACTURING.

**Section 3. Grant of authority.** (1) THE PEOPLE OF THE STATE OF COLORADO HEREBY VEST IN LOCAL GOVERNMENTS THE POWER AND AUTHORITY TO ADOPT LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS CONCERNING OIL AND GAS DEVELOPMENT WITHIN THEIR GEOGRAPHIC BORDERS; THIS POWER, AND AUTHORITY INCLUDES THE ABILITY TO ENACT PROHIBITIONS, MORATORIA, OR LIMITS ON OIL AND GAS DEVELOPMENT. SUCH LOCAL LAWS, REGULATIONS, ORDINANCES, OR CHARTER PROVISIONS MAY BE MORE RESTRICTIVE OF OIL AND GAS DEVELOPMENT THAN LAWS ENACTED BY THE GENERAL ASSEMBLY OR REGULATIONS ADOPTED BY EXECUTIVE AGENCIES OF THE STATE, BUT SHALL NOT BE LESS PROTECTIVE OF A COMMUNITY'S HEALTH, SAFETY, GENERAL WELFARE, AND ENVIRONMENT THAN LAWS ENACTED BY THE GENERAL ASSEMBLY OR REGULATIONS ADOPTED BY EXECUTIVE AGENCIES OF THE STATE.

(2) IN MATTERS OF LOCAL, STATEWIDE, OR MIXED LOCAL AND STATE CONCERN, LOCAL LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS THAT ARE ENACTED TO PREVENT OR MITIGATE LOCAL IMPACTS FROM OIL AND GAS DEVELOPMENT ARE NOT SUBJECT TO PREEMPTION BY THE STATE OR AN AGENCY OF THE STATE, EVEN IF SUCH LOCAL LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS CONFLICT WITH A STATE STATUTE, ARE MORE RESTRICTIVE ON OIL AND GAS DEVELOPMENT THAN A STATE STATUTE, AND WOULD MATERIALLY IMPEDE A STATE INTEREST IN REGULATING OIL AND GAS DEVELOPMENT.

**Section 4. Self-executing – severability - conflicting provisions.** ALL PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING, ARE SEVERABLE, AND SUPERSEDE CONFLICTING STATE AND LOCAL LAWS AND REGULATIONS. LAWS, REGULATIONS, ORDINANCES OR CHARTER PROVISIONS MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS ARTICLE, BUT MAY NOT LIMIT OR RESTRICT THE PROVISIONS OF THIS ARTICLE OR THE POWERS AND RIGHTS HEREIN GRANTED.