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PROPOSED CITY CHARTER AMENDMENT

To be presented to the electors of the City of Lafayette, Colorado,

at the next regular election

Adding Section 2.3 to Chapter II of the Lafayette City Charter as Follows:

Section 2.3. – COMMUNITY BILL of RIGHTS and OBLIGATIONS -

THE PROTECTION OF THESE RIGHTS

BY PROHIBITING NATURAL GAS AND OIL EXTRACTION

The rights secured here are not mere privileges; they are obligations justly placed on government and on each member of the community to respect freedoms held individually and collectively by every member of the community. The protection of these rights constitutes the highest and best use of the police powers that this municipality possesses.

Throughout this Section, the term “ecosystem” shall include, but not be limited to, air, soil, independent (non-corporate centrally controlled or contracted) agriculture, naturally occurring plants, animals, wetlands, streams, rivers, aquifers, and other water systems.

All rights secured by this Charter and this Section shall be self-executing. These rights shall be enforceable against private and public entities. The rights specifically enumerated by this Community Bill of Rights Section are enforceable exclusively with regard to the extraction of natural gas and oil, as prohibited by this charter provision. The expansion of protections of the rights herein enumerated, and the further enumeration of rights, as well as additional prohibitions against rights-denying behavior, through citizen use of the initiative process, is hereby encouraged.

The Community Bill of Rights and Obligations is law, as follows:

a. *Right to Community Self-Government.* All residents of the City of Lafayette possess the fundamental and unalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

b. *People as Sovereign.* The City of Lafayette shall be the governing authority responsible to, and governed by, the residents of the City. Use of the “City of Lafayette” municipal corporation by the sovereign people of the City to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an unalienable and inalienable right to self-governance in the community where they reside.

c. *Right to Clean Water.* All residents and ecosystems in the City of Lafayette possess a fundamental and unalienable right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life—free from toxins, carcinogens, particulates, nucleotides, hydrocarbons and other substances introduced into the environment.

d. *Right to Clean Air.* All residents and ecosystems in the City of Lafayette possess a fundamental and unalienable right to breathe air untainted by toxins, carcinogens, particulates, nucleotides, hydrocarbons and other substances introduced into the environment.

e. *Right to be Free from Chemical Trespass.* All residents and ecosystems within the City of Lafayette possess a fundamental and unalienable right to be free from involuntary chemical trespass including toxins, carcinogens, particulates, nucleotides, hydrocarbons and other substances introduced into the environment.

f. *Right to Peaceful Enjoyment of Home.* Residents of the City of Lafayette possess a fundamental and unalienable right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.

g. *Rights of Ecosystems.* Ecosystems possess unalienable and fundamental rights to exist and flourish within the City of Lafayette. Residents of the City shall possess legal standing to enforce those rights on behalf of those ecosystems.

h. *Right to a Sustainable Energy Future.* All residents in the City of Lafayette possess a right to a sustainable, healthy energy future, which includes, but is not limited to, the development, production, and use of energy from renewable, healthy, and sustainable fuel sources, exclusive of fossil and nuclear fuels, and the right to establish local sustainable energy policies to further secure this right.

i. *Securing and Protecting Rights.* To further secure and protect the rights enumerated by the Community Bill of Rights:

1. It shall be unlawful for any corporation or any person using a corporation to engage in the extraction of gas or oil within the City of Lafayette, with the exception of wells active and producing at the time this Charter Provision is enacted, and with the restriction and prohibition against the activation of inactive wells and the prohibition against the use of extraction technologies not in use in existing and producing wells at the time of enactment of this Charter provision.

- 2.** It shall be unlawful for any corporation or any person using a corporation to deposit, store or transport waste water, “produced” water, “frack” water, brine or other materials, chemicals or by-products used in or resulting from the extraction of gas or oil, within, upon or through the land, air or waters of the City of Lafayette.
- 3.** It shall be unlawful for any corporation, or person using a corporation, to engage in the creation of fossil fuel, nuclear or other non-sustainable energy production and delivery infrastructures, such as pipelines, processing facilities, compressors, or storage and transportation facilities that support or facilitate industrial activities related to the extraction of natural gas and oil.
- 4.** It shall be unlawful for any corporation or person using a corporation to extract water from surface or sub-surface sources in the City of Lafayette for use in the extraction of gas or oil.
- 5.** Corporations and persons using corporations to engage in gas or oil extraction in a neighboring municipality, county or state shall be strictly liable for all harms caused to natural water sources, ecosystems, people and human communities within the City of Lafayette.
- 6.** Corporations in violation of the prohibition against gas and oil extraction, or seeking to engage in gas or oil extraction shall not have the rights of “persons” afforded by the United States and Colorado constitutions, nor shall those corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the Colorado Constitution.
- 7.** Corporations engaged in the extraction of gas or oil shall not possess the authority or power to enforce State or federal preemptive law against the people of the City of Lafayette, or to challenge or overturn municipal ordinances or Charter provisions.
- 8.** No permit, license, privilege or charter issued by any State or federal agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the prohibitions of this Charter provision or deprive any City resident(s) or ecosystem of any rights, privileges, or immunities secured by this Charter, the Colorado Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of Lafayette.
- 9.** Any person, corporation, or other entity that violates any prohibition of this Ordinance shall be guilty of a summary offense and, upon conviction, shall be sentenced to pay the maximum fine allowable under State law for that violation, and shall be subject to imprisonment to the extent allowed by law. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance found to be violated. Enforcement of this article may be initiated by the Lafayette Police Department, the Director of Public Safety, or other designee of City Council. Lafayette may also enforce this Ordinance through an action in equity. In such an action, Lafayette shall be entitled to recover damages and all costs of litigation, including, without limitation, expert and attorney’s fees.

10. Any City resident shall have the authority to enforce this Ordinance through an action in equity. In such an action, the resident shall be entitled to recover damages and all costs of litigation, including, without limitation, expert and attorney's fees. Any person who brings an action to secure or protect the rights of ecosystems within Lafayette shall bring that action in the name of the ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the ecosystem to its pre-damaged state, and shall be paid to Lafayette or other applicable governmental entity, to be used exclusively for the full and complete restoration of the ecosystem.

11. The provisions of this section are severable. If any court of competent jurisdiction decides that any sub-section, clause, sentence, part, or provision of this section is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sub-sections, clauses, sentences, parts, or provisions of this Community Bill of Rights and its prohibitions. The People of the City of Lafayette hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, they would have enacted this amendment even without the sub-section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.