

2023-2024 # 292 – Final with Technical Corrections

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

SECTION 1. In the Constitution of the state of Colorado Article XVIII, **add** Section 17, as follows:

Section 17. Local control of land use regulations or decisions. (1) IN RECOGNITION OF THE BENEFITS OF LOCAL CONTROL OVER LAND USE REGULATIONS OR DECISIONS WITH LOCALIZED IMPACTS, ESPECIALLY FOR LAND USE DECISIONS WITH EFFECTS ON QUALITY OF LIFE, HOUSING, ENERGY, COMMERCIAL AND INDUSTRIAL DEVELOPMENT, AND PUBLIC HEALTH AND SAFETY, AND SO THAT LOCAL GOVERNMENTS CAN CHOOSE EITHER STRICTER OR MORE RELAXED APPROACHES DEPENDING ON THEIR LOCAL NEEDS, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT LOCAL GOVERNMENTS SHALL HAVE PLENARY AND EXCLUSIVE CONTROL OVER LAND USE REGULATIONS OR DECISIONS WITHIN THEIR JURISDICTIONS, SUCH THAT THE STATE GOVERNMENT MAY NOT SPECIFY MORE OR LESS RESTRICTIVE LAND USE REQUIREMENTS THAN THE LOCAL GOVERNMENT SPECIFIES, AND IF SUCH STATE GOVERNMENT DOES SPECIFY A MORE RESTRICTIVE REQUIREMENT IN CONFLICT WITH A LOCAL GOVERNMENT’S LAND USE REGULATIONS OR DECISIONS, SUCH REQUIREMENT WILL HAVE NO EFFECT. THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT LOCAL LAND USE REGULATIONS OR DECISIONS ARE CATEGORICALLY A MATTER OF LOCAL CONCERN AND THAT LOCAL GOVERNMENTS HAVE THE ABILITY TO MAKE EVIDENCE-BASED DETERMINATIONS WITHOUT INTERFERENCE BY STATE GOVERNMENT AND WITHOUT REGARD TO CONFLICT WITH STATE STATUTES, REGULATIONS, OR DECISIONS.

(2) AS USED IN THIS SECTION 17, UNLESS CONTEXT OTHERWISE REQUIRES:

(a) “LAND USE REGULATION OR DECISION” MEANS ANY ZONING LAW OF GENERAL APPLICABILITY ADOPTED BY A LOCAL GOVERNMENT OR ANY ZONING OR DEVELOPMENT REGULATION THAT HAS BEEN ADOPTED FOR A PARTICULAR PARCEL, ANY APPROVED PLAN OR PERMIT DESCRIBING WITH REASONABLE CERTAINTY THE TYPE AND INTENSITY OF LAND USE FOR A SPECIFIC PARCEL OR PARCELS OF PROPERTY ADOPTED PURSUANT TO SUCH ZONING LAW OR ZONING OR DEVELOPMENT REGULATION, OR ANY DECISION TO GRANT OR DENY A USE OR SITING PERMIT. AN APPROVED PLAN OR PERMIT INCLUDES, BUT IS NOT LIMITED TO, AN APPROVED PLANNED UNIT DEVELOPMENT PLAN, SUBDIVISION PLAT, SPECIALLY PLANNED AREA, PLANNED BUILDING GROUP, GENERAL SUBMISSION PLAN, PRELIMINARY OR GENERAL DEVELOPMENT PLAN, CONDITIONAL OR SPECIAL USE PLAN, DEVELOPMENT AGREEMENT, VARIANCE, OR ANY OTHER LAND USE APPROVAL DESIGNATION AS MAY BE UTILIZED BY A LOCAL GOVERNMENT. LAND USE REGULATION OR DECISION DOES NOT INCLUDE MATTERS COVERED BY TITLE 37 OF THE COLORADO REVISED STATUTES OR ANY SUCCESSOR STATUTE.

(b) “LOCAL GOVERNMENT” MEANS ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN, WHETHER STATUTORY OR HOME RULE, INCLUDING WHEN A COUNTY, CITY AND COUNTY, CITY, OR TOWN ACTS THROUGH ITS GOVERNING BODY OR ANY BOARD, COMMISSION, OR AGENCY THEREOF, HAVING ULTIMATE AUTHORITY OVER A LAND USE REGULATION OR DECISION.

(c) “STATE GOVERNMENT” OR “STATE GOVERNMENT ENTITY” MEANS THE STATE OF COLORADO, INCLUDING ITS REGULATORY AGENCIES OR DIVISIONS THEREOF WITH STATEWIDE JURISDICTION.

(3) LOCAL GOVERNMENTS SHALL HAVE PLENARY AND EXCLUSIVE CONTROL OVER LAND USE REGULATIONS OR DECISIONS WITHIN THEIR JURISDICTIONS, INCLUDING, WITHOUT LIMITATION, REGULATION OF THE SITING, LOCATION OF DEVELOPMENTS ON, AND TYPES AND INTENSITIES OF USES OF LAND WITHIN THEIR JURISDICTIONS. A LAND USE REGULATION OR DECISION SHALL HAVE PRIMACY AND PRESUMPTIVE EFFECT OVER A STATE GOVERNMENT ENTITY’S CONFLICTING DETERMINATION, RULE, REGULATION, APPROVAL, PERMIT, OR STATUTE REGARDING THE SAME SITING, LOCATION, AND OPERATIONS OF DEVELOPMENT, OR TYPE OR INTENSITY OF USE OF LAND. STATE GOVERNMENT SHALL TAKE NO ACTION ADVERSE TO A LOCAL GOVERNMENT IN RESPONSE TO A LOCAL GOVERNMENT’S DECISION OR AUTHORITY UNDER THIS SECTION.

(4) IF A LOCAL GOVERNMENT APPROVES A LAND USE REGULATION OR DECISION APPLICABLE TO A SPECIFIC PARCEL OR PARCELS OF PROPERTY, NO STATE GOVERNMENT ENTITY MAY WITHHOLD OTHER PERMITS OR APPROVALS THAT MAY BE NECESSARY FOR THE CONTEMPLATED SITING, LOCATION, AND OPERATIONS OF DEVELOPMENT ON, OR TYPE AND INTENSITY OF USE OF SUCH PROPERTY.

(5) THIS SECTION IS SELF-EXECUTING AND SHALL SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATUTORY, AND REGULATORY PROVISIONS, TO THE EXTENT THAT SUCH PROVISIONS ADDRESS LAND USE AUTHORITY.

SECTION 2. Effective date.

This initiative shall become effective and apply to conduct occurring on or after the earlier of the official declaration of the vote hereon by proclamation of the governor or thirty days after the vote has been canvassed, pursuant to section 1 (4) of article V of the state constitution.