

CHARTER OF THE COUNTY OF FULTON, OHIO

We, the people of the County of Fulton, Ohio, by this Charter secure the right of all County residents to participate in local government, which right is presently unavailable to residents under the statutory form of County government.

The Ohio Constitution, Article I, Section 2 declares that *“All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary”* By this Charter, we exercise this right.

We hereby declare that we deem it necessary to alter the current County government in order to institute one that will guarantee to all of the people their equal protection and benefit. We secure for ourselves and for our successors the right of self-determination, by establishing a County government that provides for initiative and referendum rights, the exercise by the people of the County through their local representatives of all powers vested in but not limited to municipalities, and the power to articulate and protect fundamental rights free from preemption by other levels of government. Therefore, in accordance with Article X, Section 3 of the Ohio Constitution, as well as our inherent right of local, community self-government, we form this Charter so that the people in all incorporated and unincorporated parts of the county may exercise all powers including, but not limited to, those vested by the Constitution and laws of Ohio in home rule municipalities.

We, the people, adopt this home rule Charter to secure the right of local, community self-government for all residents of the County, to elevate the consent of the governed above administrative dictates and preemptions that serve special privileges rather than general rights, to secure fundamental rights, and to end the violation of those rights by private and public entities.

Article I—COMMUNITY BILL OF RIGHTS (Community Rights)

Section 1.01 Rights Unalienable, Self-Executing, and Enforceable. All rights delineated and secured by this Charter are inherent, fundamental, irrevocable, unalienable, and shall be self-executing and enforceable against private and public entities. Every resident of the County of Fulton shall be secure in these rights, and may bring an action to enforce these rights. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney’s fees. These costs and fees shall not be awarded against the resident.

Section 1.02 Rights Retained by People. The enumeration of rights in this Charter and elsewhere shall not be construed as a limitation upon rights of the people of the County of Fulton, and rights not enumerated are retained by the people. The rights of the people shall not be limited, infringed, or abridged by any law, judicial ruling, preemption, regulation, process, permit, license, Charter, or delegation of privilege or authority.

Section 1.03 Governmental Legitimacy. All governments in the United States owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the people and those communities. Any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional.

Section 1.04 Right of Local, Community Self-Government. The people of the County of Fulton possess both a collective and individual right of self-government in their community, a right to a system of government that embodies that right, and the right to a system of government that protects and secures their human, civil, and collective rights.

Section 1.05 Right to Assert the Right of Self-Government. The people of the County of Fulton possess the right to use their local government to make law, and the making and enforcement of law by the people through a municipal corporation or any other institution shall not eliminate, limit, or reduce their sovereign right of local, community self-government.

Section 1.06 Right to Municipal Autonomy. The residents of every municipality (incorporated City, Village, and Township) in the County of Fulton shall retain the right to local self-government and other rights as secured by this Charter. The adoption of this Charter shall not preempt the exercise of power by the people within any municipality in the County, and in case of conflict between the exercise of powers granted by this Charter and the exercise of powers by municipalities, the powers of the municipality shall prevail within its jurisdiction.

Section 1.07 Right to Untainted Elections, Initiative, Referendum, and Recall. Elections shall be free and equal, and no power or association, civil or military – including chartered corporations – shall at any time interfere to prevent or influence the free exercise of the right of suffrage or the outcomes of elections. The people at all times retain the right to exercise direct democratic action, including participation in democratic decision-making by initiative, referendum, and recall.

Section 1.08 Right to Clean Air, Water, and Soil. All residents of the County of Fulton, along with ecosystems within the County, possess the right to clean air, water, and soil.

Section 1.09 Rights of Nature. Ecosystems within the County of Fulton, including, but not limited to, rivers, streams, wetlands, and aquifers, possess the right to exist, flourish, and naturally evolve, free from activities prohibited by this Charter and other local enactments.

Section 1.10 Right to be Free from Chemical Trespass. All residents of the County of Fulton, along with ecosystems within the County, possess the right to be free from chemical trespass by toxic substances introduced into the environment by processes and activities prohibited by this Charter and other laws of the County.

Section 1.11 Right to Govern Corporate Activities. As corporations are chartered and licensed by the State in the name of the people, and as all political power is inherent in the people, the people of this County retain the power to make laws, rules, and regulations directly, or through their local representatives, to modify the rights, powers, privileges, immunities, or duties of corporations that act within the County when those corporate rights, powers, privileges, immunities, or duties conflict with the rights of the people.

Section 1.12 Rights Secured against Corporations. As corporations are created and empowered to act through the State's issuance of charters, licenses, and permits, and thus are creatures of the State and state actors, corporations and other business entities that violate rights secured by this Charter or other local enactment, or seek to violate those rights or enactments, shall not be deemed to be "persons" to the extent that such treatment would interfere with the rights, or protections of rights, secured by this Charter or other local enactments, nor possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights enumerated for people and nature by State and federal constitutions, this Charter, or other local enactments. "Rights, powers, privileges, or immunities" shall include standing to challenge this Charter or other local enactments, the power to assert state or federal preemptive laws in an attempt to overturn this Charter or other local enactments, and the power to assert that the people of the County lack the authority to adopt this Charter or other local enactments. In addition, no permit, license, privilege, charter, or other authority issued by any state, federal, or international entity shall be deemed

valid within the County if it: (i) violates any rights, (ii) purports to legalize the violation of rights, or (iii) limits or reverses the prohibitions and regulations secured by this Charter or enacted by the County to protect rights.

Section 1.13 Right to a Sustainable Community. All residents of the County of Fulton possess the right to a sustainable community, which includes, but is not limited to, the right to establish local laws establishing policies and prohibitions concerning energy, water, construction, transportation, and other activities in order to further secure this right, and the right to be free from activities that may adversely impact the rights of human and natural communities.

Section 1.14 Right to Own Property. Each of the residents of the County of Fulton possess a right to own property, subject to the rights and privileges of human and natural communities as recognized by this Charter, other local enactments, or by state and federal law.

Section 1.15 Rights against Eminent Domain. All residents of the County of Fulton have the right to hold private property without threat of expropriation or taking by corporate entities for purposes of private gain rather than public use. The power of taking private property shall not be delegated. The taking of private property by the County for economic development does not constitute public use.

Section 1.16 Right to Peaceful Enjoyment of Home. Residents of Fulton County possess a fundamental and unalienable right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to the right of residents to access, occupy and enjoy their homes from activities prohibited by this Charter and other local enactments.

ARTICLE II—PROTECTION OF RIGHTS

Section 2.01 Prohibitions Necessary to Protect Rights. It shall be unlawful for any private or public entity to violate the rights recognized and secured by this Charter and its amendments, by engaging in the activities herein enumerated and activities as may be further provided by ordinance or resolution by the County Commissioners, by the people through initiative, or by Charter amendment. Accordingly, it shall be unlawful for any private or public entity to:

Section 2.01.1. Engage in any new exploration for or extraction of gas or oil, within the County of Fulton, provided that the extraction of gas or oil from those existing wells does not involve any practice or process not previously used for the extraction of gas or oil from those wells and providing that those wells are securely and properly capped when production ceases.

Section 2.01.2 Engage in the siting or operation of equipment to support extraction of oil or gas, including pipelines, compressors, or other infrastructure, within the County of Fulton. This prohibition shall not apply to the construction, maintenance or repair of infrastructures used for delivery to retail end-users of gas or oil.

Section 2.01.3. Deposit, store, treat, inject, dispose of, or process wastewater, produced water, "frack" water, brine or other substances, chemicals, or by-products that have been used in, or result from, the unconventional extraction of gas and oil, including but not limited to high volume hydraulic fracturing, acidification, and other techniques on or into the land, air or waters of the County of Fulton.

Section 2.01.4. Engage in the procurement or extraction of any water from any source, including public water sources, within the County of Fulton for use in unconventional extraction of gas and oil or for export out of the county for any commercial use.

ARTICLE III—COUNTY BOUNDARIES, POWERS, AUTHORITIES, RESPONSIBILITIES

Section 3.01 Name, Boundaries and Powers. The County of Fulton, as its boundaries now are, or hereafter may be, shall be a body politic representative of and directly responsible to the residents of this county to be known by the name of “County of Fulton” with all the powers, authorities, and responsibilities granted by this Charter and by general law, including but not limited to all or any powers vested in municipalities by the Ohio Constitution or by general law.

The County of Fulton is responsible within its boundaries for the exercise of all powers vested in, and the performance of all duties imposed upon, counties and County officers by general law, provided that general law does not violate the rights of county residents, their County Charter, or other unalienable rights. In addition, the County may exercise all powers specifically conferred by this Charter or incidental to powers specifically conferred by this Charter, including, but not limited to, the concurrent exercise of all or any powers vested in municipalities by the Ohio Constitution or by general law. The County may create or recognize greater protections for human and natural communities than provided by state law.

All such powers shall be exercised and enforced by ordinance or resolution of the County Commissioners, through exercise of the initiative and referendum powers by the people, or by Charter amendment by the people.

When not prescribed by the Charter or by amendment to this Charter, by ordinance or resolution of the County Commissioners, or by ordinance enacted by the people, such powers shall be exercised in the manner prescribed by general law.

Section 3.02 Powers Limited. This Charter does not empower the County to exercise exclusively any municipal powers nor to provide for the succession by the County to any property or obligation of any municipality or township without the consent of the legislative authority of such municipality or township. In case of conflict between the exercise of powers granted by this Charter and the exercise of powers by municipalities or townships granted by the Constitution or general law, the exercise of powers by the municipality or township shall prevail. The County shall have power to levy only those taxes that counties are by general law authorized to levy.

Section 3.03 Construction. The powers of the County under this Charter shall be construed liberally in favor of the County, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general powers granted under this Charter. The rules for statutory construction contained in the Ohio Revised Code shall govern the interpretation of the provisions of this Charter.

ARTICLE IV—FORM OF GOVERNMENT AND ELECTIONS

Section 4.01 County Officers, Duties, Powers, and Manner of Election. The offices and duties of those offices, as well as the manner of election to and removal from County offices, and every other aspect of county government not prescribed by this Charter, or by amendments to it, shall be continued without interruption or change in accord with the Ohio Constitution and the laws of Ohio that are in force at the time of the adoption of this Charter and as they may subsequently be modified or amended.

Section 4.02 Initiative, Referendum and Recall. The right of initiative and referendum is reserved to the people of the County on all matters that the County may now or hereafter be authorized to control by legislative action. The provisions of general law relating to such right applicable to municipalities in effect at the time of the adoption of this Charter shall govern the exercise of such right in the County of Fulton, provided that all powers and duties respecting initiative or referendum petitions by general law shall be ministerial and mandatory and shall be exercised by the County Commission or its designee.

The power of recall shall be exercised in the manner of an initiative as herein defined, under the same obligatory conditions as outlined above.

Section 4.03 Charter Amendment. Proposed amendments to this Charter shall be submitted to the electors of the County in the manner provided by the Ohio Constitution, Article X.

ARTICLE V—CONTINUANCE OF GOVERNMENT

Section 5.01 Pending Matters. All rights, claims, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to this Charter, and in each case shall be maintained, carried out, or dealt with by the County department, office, or agency as shall be appropriate under this Charter.

Section 5.02 Laws in Force. All County resolutions, orders and regulations that are in force when this Charter becomes fully effective are repealed only to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions enacted pursuant hereto. All laws relating to or affecting the County or its officers, agencies, departments, or employees that are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions enacted pursuant hereto. The authority and power to enforce county laws, protect rights established by this Charter, and prosecute offenders shall not be abridged.

ARTICLE VI—SEVERABILITY

Section 6.01 Severability of Sections or Subsections. The provisions of this Charter are severable. If any court decides that any section, subsection, clause, sentence, part, or provision of this Charter is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, subsections, clauses, sentences, parts, or provisions of the Charter.