

Changes RECEIVED

APR 04 2008

Proposed Initiative
2007-0008
#84

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

SECTION 1. Article XVI of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

SECTION 9. Sufficient and sustainable water supply act. (1) A LOCAL GOVERNMENT SHALL NOT APPROVE AN APPLICATION FOR A DEVELOPMENT PERMIT THAT INCLUDES MORE THAN FIFTY HOUSING UNITS UNLESS IT DETERMINES, AFTER CONSIDERING THE APPLICATION AND ALL THE EVIDENCE ON THE RECORD, THAT THE APPLICANT HAS DEMONSTRATED THAT THE PROPOSED WATER SUPPLY IS SUFFICIENT AND SUSTAINABLE TO SERVE THE PEAK DAILY, MONTHLY, AND YEARLY WATER SUPPLY REQUIREMENTS OF THE DEVELOPMENT PROPOSED IN THE APPLICATION.

(2) AN APPLICANT FOR A DEVELOPMENT PERMIT THAT INCLUDES MORE THAN FIFTY HOUSING UNITS SHALL SUBMIT ESTIMATED PEAK DAILY, MONTHLY, AND YEARLY WATER SUPPLY REQUIREMENTS FOR THE PROPOSED DEVELOPMENT IN A REPORT PREPARED BY A REGISTERED PROFESSIONAL ENGINEER. THE REPORT SHALL IDENTIFY ALL WATER NEEDS FOR THE PROPOSED DEVELOPMENT THROUGH BUILD-OUT CONDITIONS. THE REPORT MAY INCLUDE IMPLEMENTATION OF REASONABLE CONSERVATION MEASURES AND DRY-YEAR WATER DEMAND MANAGEMENT MEASURES.

(3) THE LOCAL GOVERNMENT'S DETERMINATION AS TO WHETHER AN APPLICANT HAS DEMONSTRATED THAT A WATER SUPPLY IS SUFFICIENT AND SUSTAINABLE TO MEET THE WATER SUPPLY REQUIREMENTS OF A PROPOSED DEVELOPMENT THAT INCLUDES MORE THAN FIFTY HOUSING UNITS SHALL BE BASED ON CONSIDERATION OF THE FOLLOWING EVIDENCE:

(a) THE PROPOSED PHYSICAL SOURCES OF THE WATER SUPPLY;

(b) A REPORT PREPARED BY A PROFESSIONAL ENGINEER STATING THAT THE PROPOSED WATER SUPPLY IS PHYSICALLY AVAILABLE TO THE PROPOSED DEVELOPMENT AND IS SUFFICIENT AND SUSTAINABLE TO MEET THE DAILY, MONTHLY, AND YEARLY WATER SUPPLY REQUIREMENTS OF THE DEVELOPMENT, AS SUCH REQUIREMENTS ARE IDENTIFIED PURSUANT TO SUBSECTION (2) OF THIS SECTION;

(c) A LETTER FROM THE STATE ENGINEER:

(I) COMMENTING ON THE REPORT BY THE PROFESSIONAL ENGINEER REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3);

(II) DETERMINING WHETHER THE PROPOSED WATER SUPPLY IS SUFFICIENT AND SUSTAINABLE TO SERVE THE PEAK DAILY, MONTHLY, AND YEARLY WATER SUPPLY REQUIREMENTS OF THE DEVELOPMENT PROPOSED IN THE APPLICATION, AS SUCH REQUIREMENTS ARE IDENTIFIED IN SUBSECTION (2) OF THIS SECTION; AND

(III) DETERMINING IF IRRIGATION WATER PRIORITIES FOR AGRICULTURAL PURPOSES ARE REASONABLY FULFILLED AND REQUIRING SUCH;

(d) IF WATER IS TO BE PROVIDED BY A WATER SUPPLY ENTITY, A LETTER FROM THE WATER SUPPLY ENTITY STATING THE WATER SUPPLY ENTITY'S COMMITMENT AND ABILITY TO SATISFY THE WATER SUPPLY REQUIREMENTS OF THE PROPOSED DEVELOPMENT. THE LETTER SHALL INCLUDE A DESCRIPTION OF THE PHYSICAL SOURCE OF SUPPLY THAT WILL BE USED TO SERVE THE PROPOSED DEVELOPMENT, THE PRESENT WATER DEMAND ON THE WATER SUPPLY ENTITY, THE PROJECTED DEMAND ON THE WATER SUPPLY ENTITY BASED ON COMMITMENTS FOR SERVICE THAT ARE NOT YET SUPPLIED, AND THE AMOUNT OF UNCOMMITTED FIRM SUPPLY THE WATER SUPPLY ENTITY HAS AVAILABLE FOR FUTURE COMMITMENTS; AND

(e) ANY OTHER EVIDENCE DEEMED RELEVANT BY THE LOCAL GOVERNMENT TO DETERMINING WHETHER THE WATER SUPPLY FOR THE PROPOSED DEVELOPMENT IS SUFFICIENT AND SUSTAINABLE, INCLUDING, WITHOUT LIMITATION, ANY INFORMATION REQUIRED TO BE SUBMITTED BY THE APPLICANT PURSUANT TO APPLICABLE LOCAL GOVERNMENT LAND USE REGULATIONS OR STATE STATUTES.

(4) LEGISLATION MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS SECTION, BUT IN NO WAY SHALL SUCH LEGISLATION LIMIT OR RESTRICT THE PROVISIONS OF THIS SECTION OR THE POWERS HEREIN GRANTED.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AGRICULTURAL PURPOSES" MEANS SUCH USE IS FOR THE CULTIVATING, FEEDING, OR RAISING OF FOOD PRODUCTS.

(b) "DEVELOPMENT PERMIT" MEANS ANY PRELIMINARY OR FINAL APPROVAL OF AN APPLICATION FOR REZONING, PLANNED UNIT DEVELOPMENT OR SITE PLAN, OR SIMILAR APPLICATION FOR NEW CONSTRUCTION.

(c) "HOUSING UNIT" MEANS A BUILDING OR ANY PORTION OF A BUILDING DESIGNED FOR OCCUPANCY AS COMPLETE, INDEPENDENT LIVING QUARTERS FOR ONE OR MORE PERSONS, HAVING DIRECT ACCESS FROM THE OUTSIDE OF THE BUILDING OR THROUGH A COMMON HALL AND HAVING LIVING, SLEEPING, KITCHEN, AND SANITARY FACILITIES FOR THE EXCLUSIVE USE OF THE OCCUPANTS.

(d) "LOCAL GOVERNMENT" MEANS A CITY, TOWN, CITY AND COUNTY, OR COUNTY, WHETHER STATUTORY OR HOME RULE.

(e) "WATER SUPPLY ENTITY" MEANS A MUNICIPALITY, COUNTY, SPECIAL DISTRICT, WATER CONSERVANCY DISTRICT, WATER CONSERVATION DISTRICT, OR OTHER PUBLIC OR PRIVATE WATER SUPPLY COMPANY WITH THE LEGAL AUTHORITY TO SUPPLY, DISTRIBUTE, OR OTHERWISE PROVIDE WATER AT RETAIL TO DOMESTIC, COMMERCIAL, INDUSTRIAL, IRRIGATION, OR PUBLIC FACILITY CUSTOMERS.

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