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Initiative 2015-2016 #77

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

Mandatory Setback from Oil and Gas Development

Section 1. Purposes and findings. 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, WELFARE, AND THE ENVIRONMENT;

(b) SUCH IMPACTS ARE REDUCED BY LOCATING OIL AND GAS DEVELOPMENT FACILITIES AWAY FROM OCCUPIED STRUCTURES AND AREAS OF SPECIAL CONCERN; AND

(c) TO PRESERVE PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT, THE PEOPLE DESIRE TO ESTABLISH A SETBACK REQUIRING ALL NEW OIL AND GAS DEVELOPMENT FACILITIES IN THE STATE OF COLORADO TO BE LOCATED AWAY FROM OCCUPIED STRUCTURES, INCLUDING HOMES, SCHOOLS AND HOSPITALS, AS WELL AS AREAS OF SPECIAL CONCERN.

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

(1) "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, PRODUCTION, AND PROCESSING. "OIL AND GAS DEVELOPMENT" INCLUDES HYDRAULIC FRACTURING.

(2) "OIL AND GAS DEVELOPMENT FACILITY" INCLUDES THE SITE OF OIL AND GAS WELLS, PITS AND WELLS FOR THE DISPOSAL OF ASSOCIATED WASTE PRODUCTS, INCLUDING UNDERGROUND INJECTION WELLS, AND ASSOCIATED PRODUCTION AND PROCESSING FACILITIES.

(3) "OCCUPIED STRUCTURE" MEANS ANY BUILDING OR STRUCTURE THAT REQUIRES A CERTIFICATE OF OCCUPANCY, OR BUILDING OR STRUCTURE INTENDED FOR HUMAN OCCUPANCY, INCLUDING HOMES, SCHOOLS, AND HOSPITALS.

(4) "AREA OF SPECIAL CONCERN" INCLUDES PUBLIC AND COMMUNITY DRINKING WATER SOURCES, LAKES, RIVERS, PERENNIAL OR INTERMITTENT STREAMS, CREEKS, IRRIGATION CANALS, RIPARIAN AREAS, PLAYGROUNDS, PERMANENT SPORTS FIELDS, AMPHITHEATERS, PUBLIC PARKS, AND PUBLIC OPEN SPACE.

(5) "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.

Section 3. Grant of authority. THE PEOPLE OF THE STATE OF COLORADO HEREBY ESTABLISH THAT ALL NEW OIL AND GAS DEVELOPMENT FACILITIES, INCLUDING THOSE THAT USE HYDRAULIC FRACTURING, MUST BE LOCATED AT LEAST FOUR THOUSAND FEET FROM AN OCCUPIED STRUCTURE OR AREA OF SPECIAL CONCERN. FOR PURPOSES OF THIS ARTICLE, RE-ENTRY OF AN OIL OR GAS WELL PREVIOUSLY PLUGGED OR ABANDONED SHALL BE CONSIDERED A NEW WELL.

Section 4. Prohibition of new occupied structures within drilling setbacks. A LOCAL GOVERNMENT SHALL NOT ALLOW THE BUILDING OF A NEW OCCUPIED STRUCTURE OR THE BUILDING OR DESIGNATION OF A NEW AREA OF SPECIAL CONCERN CLOSER TO AN ACTIVE OIL AND GAS DEVELOPMENT FACILITY THAN GRANTED IN SECTION 3 OF THIS ARTICLE. FOR PURPOSES OF THIS ARTICLE, THE RECONSTRUCTION OR REMODEL OF AN EXISTING OCCUPIED STRUCTURE IS NOT CONSIDERED A NEW OCCUPIED STRUCTURE.

Section 5. Ability of the state or a local government to establish larger setbacks. THE STATE OR A LOCAL GOVERNMENT MAY REQUIRE THAT NEW OIL AND GAS DEVELOPMENT FACILITIES BE LOCATED A LARGER DISTANCE AWAY FROM OCCUPIED STRUCTURES THAN GRANTED IN SECTION 3 OF THIS ARTICLE. IN THE EVENT THAT TWO OR MORE LOCAL GOVERNMENTS WITH JURISDICTION OVER THE SAME GEOGRAPHIC AREA ESTABLISH DIFFERENT SETBACK DISTANCES, THE LARGER SETBACK SHALL GOVERN.

Section 6. Self-executing - severability - conflicting provisions. ALL PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING, ARE SEVERABLE, AND SHALL SUPERSEDE CONFLICTING STATE AND LOCAL LAWS AND REGULATIONS. LAWS AND REGULATIONS MAY BE ENACTED TO FACILITATE THE OPERATION OF THIS ARTICLE, BUT CANNOT IN ANY WAY REDUCE THE SETBACK STANDARD OR THE POWERS AND RIGHTS ESTABLISHED IN THIS ARTICLE.