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Initiative 2015-2016 #80

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 Wells

**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 WELLS AND WELLS USED FOR THE DISPOSAL OF WASTE PRODUCTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT 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 OR RE-ENTERED OIL AND GAS WELLS AND WELLS USED FOR THE DISPOSAL OF WASTE PRODUCTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT 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, 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 THE USE OF HYDRAULIC FRACTURING.
- (2) "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.
- (3) "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.
- (4) "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 A STATEWIDE SETBACK THAT ALL NEW OR RE-ENTERED OIL AND GAS WELLS, INCLUDING THOSE THAT USE HYDRAULIC FRACTURING, AND WELLS USED FOR THE DISPOSAL OF WASTE PRODUCTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT MUST BE LOCATED AT LEAST TWO THOUSAND FIVE HUNDRED FEET FROM AN OCCUPIED STRUCTURE OR AREA OF SPECIAL CONCERN.

**Section 4. Prohibition of new occupied structures within drilling setbacks.** A LOCAL GOVERNMENT SHALL NOT ALLOW THE BUILDING OF NEW OCCUPIED STRUCTURES OR THE BUILDING OR DESIGNATION OF NEW AREAS OF SPECIAL CONCERN CLOSER TO AN ACTIVE OIL AND GAS WELL OR WELL USED FOR THE DISPOSAL OF WASTE PRODUCTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT, 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 WELLS, OR WELLS USED FOR THE DISPOSAL OF WASTE PRODUCTS ASSOCIATED WITH OIL AND GAS DEVELOPMENT, 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.