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COMPENSATION - FEES

ARTICLE 1

Fees - General

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30-1-101. Classification of counties - fixing fees.

(1) For the purpose of fixing fees, chargeable and to be collected by county and other officers, and for no other purpose, the several counties of this state are divided into five classes, which classes shall be known as the first, second, third, fourth, and fifth, as follows:

(a) The city and county of Denver is a county of the first class;

(b) The counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Pueblo, and Weld are counties of the second class;

(c) The counties of Delta, Garfield, Larimer, Las Animas, Logan, Mesa, Montezuma, Montrose, Morgan, and Otero are counties of the third class;

(d) The counties of Alamosa, Archuleta, Bent, city and county of Broomfield, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Eagle, Elbert, Fremont, Gilpin, Gunnison, Huerfano, Kit Carson, Lake, La Plata, Lincoln, Ouray, Park, Phillips, Prowers, Rio Grande, Routt, Saguache, San Miguel, Sedgwick, Teller, Washington, and Yuma are counties of the fourth class;

(e) The counties of Baca, Custer, Dolores, Grand, Hinsdale, Jackson, Kiowa, Mineral, Moffat, Pitkin, Rio Blanco, San Juan, and Summit are counties of the fifth class.

Source: L. 1891: p. 200, § 1. **R.S. 08:** § 2521. **L. 13:** p. 276, § 1. **C.L.** § 7869. **L. 25:** p. 243, § 1. **CSA:** C. 66, § 3. **CRS 53:** § 56-4-1. **C.R.S. 1963:** § 56-4-1. **L. 69:** p. 385, § 1. **L. 2001:** Entire section amended, p. 330, § 1, effective April 12; (1)(d) amended, p. 256, § 2, effective November 15. **L. 2009:** (1)(c) and (1)(d) amended, (HB 09-1203), ch. 102, p. 377, § 1, effective August 5.

Editor's note: Amendments to subsection (1)(d) by Senate Bill 01-102 and Senate Bill 01-130 were harmonized.

ANNOTATION

Section 15 of art. XIV, Colo. Const., empowers the general assembly to classify counties according to population for the purpose of fixing fees. Frost v. Pfeiffer, 26 Colo. 338, 58 P. 147 (1899).

Assumed to be classified by population. The assignment of a new county by the act creating it to a certain class for the purpose of fixing the fees of its officers is not special legislation in the meaning of the constitution, and it will be assumed that the general assembly classified the county according to its population. Frost v. Pfeiffer, 26 Colo. 338, 58 P. 147 (1899).

By the Session Laws of 1891 all the counties of the state were divided into five classes, according to population as ascertained by the federal census of the year 1890, and the fees prescribed under each class are different from the fees under any of the others, and a material reduction in the amount of charges was made from that which theretofore prevailed. Airy v. People, 21 Colo. 144, 40 P. 362 (1895).

30-1-102. Fees of county treasurer.

(1) Except as provided in subsection (1.7) of this section, the county treasurer shall charge and receive the following fees:

(a) Upon all money received by him or her for town and city taxes except as otherwise provided in section 42-3-107 (24)(c), whether such towns or cities are incorporated under the general laws or by special charter, and anything in said charter to the contrary notwithstanding, and upon all school taxes in counties of the first class, one percent; in counties of the second class, one percent; in counties of every other class, one percent on school taxes and two percent on town and city taxes; except that a collection fee not exceeding one-quarter of one percent shall be charged as provided in section 22-54-119 and no collection fee shall be charged on other school taxes exempt by law from said collection fees;

(b) Upon all moneys received by him for taxes of every other kind in counties of the first class, one percent; second class, one and one-half percent; third class, two percent; fourth class, three percent; fifth class, five percent;

(c) For receiving all moneys other than taxes, one percent, except moneys received from all federal funds derived from any and all sources. No collection fees shall be charged upon any moneys collected and distributed under the provisions of sections 22-54-106 and 22-54-115, C.R.S., or upon other school moneys exempt by law from said collection fees;

(d) Repealed.

(e) For advertising delinquent personal property taxes, ten dollars or the cost of advertising, whichever is greater;

(f) For certifying the amount of taxes due on any parcel of real estate, and for certifying outstanding sales for unpaid taxes with the amount required for redemption, ten dollars for each certificate;

(g) In connection with a sale for delinquent taxes, for advertising each property description that is separately identified by its own parcel number for general property tax purposes, the estimated cost of advertising but not less than ten dollars;

(h) Repealed.

(i) For each certificate of purchase from a tax lien sale, five dollars;

(j) For endorsing the amount of subsequent taxes paid on tax certificates and the date of payment in the book of tax sales, five dollars for each certificate;

(k) Repealed.

(l) For the assignment of a certificate of purchase, made to the county, city, town, or city and county at any tax sale, to a person desiring to purchase property covered by such certificate, five dollars;

(m) For each notice of purchase required by section 39-11-128 (1), C.R.S., to be served before a treasurer's deed may be issued, the cost of publication in a newspaper where such publication is required;

(n) For each certificate of redemption delivered, ten dollars;

(o) (I) Repealed.

(II) For services in collecting drainage district assessments on and after January 1, 2026, twenty-five hundredths of one percent upon all money received by the county treasurer for assessments levied by the drainage district;

(p) (I) Repealed.

(II) For services in collecting irrigation district assessments on and after January 1, 2026, twenty-five hundredths of one percent upon all money received by the county treasurer for assessments levied by the irrigation district;

(q) For services rendered in handling the payment of principal and interest on bonds of a school district, such amount as the county treasurer and the board of education shall agree upon, which shall be determined in accordance with the prevailing rate charged for similar services rendered by commercial banks in the state of Colorado;

(r) For preparation of a distraint warrant, fifteen dollars, and for delivery of a distraint warrant or posting of a property, fifty dollars, plus mileage or the actual cost of delivery or posting, whichever is greater;

(s) For research, the amounts specified in section 24-72-205;

(t) Repealed.

(u) For each copy of a receipt issued for a prior tax year, no more than five dollars.

(1.5) The county treasurer may charge and receive the fee specified in section 42-4-510 (2)(a) for issuing an authentication of paid ad valorem taxes and a transportable manufactured home permit.

(1.7) (a) The county treasurer is entitled to charge and receive the following fees in administering article 11.5 of title 39:

(I) For processing an application for a treasurer's deed, three hundred dollars;

(II) For processing an assignment of a certificate of purchase, no more than twenty-five dollars;

(III) For accepting and filing an intent to repurchase from a lawful holder in a public auction, one hundred dollars;

(IV) For processing a notice of intent to redeem, no more than twenty-five dollars;

(V) For processing and issuing a certificate of redemption, thirty dollars;

(VI) For the issuance of a treasurer's deed, sixty dollars;

(VII) For processing a withdrawal of an application for treasurer's deed, seventy dollars;

(VIII) For processing an administrative withdrawal, one hundred dollars;

(IX) For processing a rescission of public auction, one hundred dollars;

(X) For recommencing a public auction held in violation of an automatic stay, one hundred dollars;

(XI) For recommencing a public auction after a bankruptcy proceeding where publications were not complete, one hundred fifty dollars;

(XII) For recommencing a public auction after set aside, one hundred dollars;

(XIII) For issuing a certificate of lawful holder repurchase, sixty dollars; and

(XIV) For processing a public auction, if the holder of a certificate of option for a treasurer's deed is not the lawful holder, no more than three hundred dollars.

(b) The county treasurer may charge a lesser fee than is set forth in subsection (1.7)(a) of this section, when the valuation for assessment for the property subject to public auction, as determined at the time of recording the application for public auction, is less than five hundred dollars, or if the property is a mobile home, manufactured home, modular home, or tiny home.

(2) None of the provisions of this section shall be applicable to any moneys received or collected by any county treasurer for any hospital established under the provisions of part 3 of article 3 of title 25, C.R.S., or for any health service district embracing only an entire county established under the provisions of article 1 of title 32, C.R.S.

(3) In addition to any other fees to which the county treasurer is entitled and notwithstanding the provisions of subsection (2) of this section, the county treasurer may charge an administrative fee of five dollars when the payment of any real property tax statement, exclusive of any license fees collected pursuant to sections 35-40-205 and 35-57.5-116, C.R.S., is less than ten dollars. The fee shall be credited to the county general fund, pursuant to section 30-25-105, to cover the cost of processing such tax statement.

(4) (a) On or before December 31, 2026, and by December 31 of every second year thereafter, the director of research of the legislative council appointed pursuant to section 2-3-304 (1) shall adjust the maximum dollar amount of the fees that may be charged by a county treasurer pursuant to subsections (1) and (1.7) of this section, effective January 1, 2027, and on January 1 of every second year thereafter, in accordance with the percentage change over the period in the United States department of labor, bureau of labor statistics, consumer price index, or a successor index, for Denver-Aurora-Lakewood for all items paid for by urban consumers and post the adjusted maximum allowable fee amounts, rounded upward to the nearest whole dollar, on the general assembly's website.

(b) On January 1, 2027, and on January 1 of every second year thereafter, each county treasurer shall post the adjusted fee amounts established by the director of research of the legislative council pursuant to subsection (4)(a) of this section on the county's website.

Source: L. 1891: p. 211, § 6. **L. 1897:** p. 159, § 1. **R.S. 08:** § 2537. **C.L.** § 7887. **CSA:** C. 66, § 25. **CRS 53:** § 56-4-2. **L. 55:** p. 385, § 1. **L. 56:** p. 147, §§ 1, 2. **L. 59:** p. 441, § 1. **L. 63:** p. 490, § 1. **C.R.S. 1963:** § 56-4-2. **L. 71:** p. 325, § 2. **L. 73:** p. 1433, § 1. **L. 75:** (1)(i), (1)(k), and (1)(n) amended, p. 1478, § 1, effective June 26. **L. 79:** (1)(q) added, p. 792, § 2, effective May 22. **L. 81:** (2) amended, p. 1612, § 9, effective July 1. **L. 84:** (3) added, p. 813, § 1, effective March 29. **L. 87:** (3) amended, p. 1202, § 1, effective April 30. **L. 88:** (1)(a) and (1)(c) amended, p. 823, § 35, effective May 24; (1)(d), (1)(f), (1)(g), and (1)(i) to (1)(n) amended and (1)(r) and (1)(s) added, p. 1105, § 1, effective January 1, 1989. **L. 90:** (1)(e) amended, p. 1695, § 15, effective June 9. **L. 91:** (1)(h) repealed, p. 1972, § 1, effective March 27; (1)(t) added, p. 2426, § 7, effective June 8. **L. 94:** (1)(a) and (1)(c) amended, p. 824, § 53, effective April 27. **L. 95:** (3) amended, p. 1105, § 45, effective May 31. **L. 96:** (2) amended, p. 472, § 7, effective July 1. **L. 97:** (3) amended, p. 182, § 13, effective March 31. **L. 99:** (1)(a) amended, p. 177, § 5, effective January 1, 2000. **L. 2020:** (1)(a) and (1)(s) amended, (1)(d) repealed, and (1.5) added, (HB 20-1077), ch. 80, p. 323, § 1, effective September 14. **L. 2023:** (1)(o) and (1)(p) amended, (SB 23-057), ch. 53, p. 188, § 1, effective January 1, 2024. **L. 2026:** IP(1), (1)(i), (1)(l), (1)(n), and (1)(r)

amended, (1)(k) and (1)(t) repealed, and (1)(u), (1.7), and (4) added, (SB 26-144), ch. 135, p. 599, § 2, effective June 1.

Editor's note: (1) Subsections (1)(o)(I) and (1)(p)(I) provided for the repeal of subsections (1)(o)(I) and (1)(p)(I), respectively, effective July 1, 2026. (See L. 2023, p. 188.)

(2) Section 55(1) of chapter 135 (SB 26-144), Session Laws of Colorado 2026, provides that the act changing this section applies to any fee imposed, assessed, or collected by a county treasurer on or after June 1, 2026.

ANNOTATION

Only statutory fees collected. Since the compensation of any public official for services rendered in his official capacity is regulated by statute, he is entitled only to demand and receive fees for those services concerning which compensation by law attaches, because it is an inflexible rule that an official can demand only such fees or compensation as the law has definitely fixed and authorized for the performance of his official duties. Adams-Arapahoe County Sch. Dist. No. 28J v. Wolf, 30 Colo. App. 117, 489 P.2d 348 (1971).

Fees enter fund from which treasurer is compensated. The fees and commissions are to be collected by the treasurer, not as his compensation for the particular work for which the fee may be prescribed, but for the purpose of creating a fund out of which his salary or compensation is to be paid. The annual salary is what the treasurer gets for all the work that he does, it is compensation for his services. Bd. of County Comm'rs v. Otero Irrigation Dist., 56 Colo. 515, 139 P. 546 (1914).

The word "collect" is used to define the power of the county treasurers to gather in or receive money for taxes theretofore assessed, and since the fees provided for in this section are charged upon "all moneys received" by the treasurer, they fall within the above definition and are fees charged for the collection of taxes and are therefore collection fees. Adams-Arapahoe County Sch. Dist. No. 28J v. Wolf, 30 Colo. App. 117, 489 P.2d 348 (1971).

Taxing agencies, other than the state, pay the treasurer for collecting and remitting taxes by them levied. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Commission on collection of irrigation district taxes. The moneys collected by the county treasurer for irrigation district taxes, whether the district was in one or more counties, came clearly within the description of money upon which the county treasurer by virtue of this section was required to charge and receive a commission. Bd. of County Comm'rs v. Otero Irrigation Dist., 56 Colo. 515, 139 P. 546 (1914).

Moneys on account of redemptions from tax sales exempt. The commission of one percent allowed by this section does not apply to moneys paid on account of redemptions from tax sales, but is intended to apply to moneys received by the treasurer on account of licenses, and from other sources of revenue. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

As is entry of assignment of certificate of purchase. This section did not authorize the treasurer to charge any fee whatever for entering on his books an assignment of a certificate of purchase, or for making any charge against a party who was entitled to redemption money on account of such assignment. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

And public school foundation taxes. A county treasurer does not have the right and duty to charge and receive a fee of one percent on taxes paid into his office pursuant to levies made by school districts under the terms of the "Public School Foundation Act of 1969". Adams-Arapahoe County Sch. Dist. No. 28J v. Wolf, 30 Colo. App. 117, 489 P.2d 348 (1971).

The public school foundation act creates an exception to, or amends, the general fees law by exempting the taxes collected under the foundation act from the provisions of this section. Adams-Arapahoe County Sch. Dist. No. 28J v. Wolf, 30 Colo. App. 117, 489 P.2d 348 (1971).

30-1-103. Fees of county clerk and recorders - report - repeal.

(1) Fees collected by county clerk and recorders are as follows: For filing or recording each document for which a fee is not specifically provided, except tax schedules and claims against the county, for which no fee is allowed, in cities and counties and in counties of every class, the fee is forty dollars for each document; except that no fee is allowed for filing or recording a certificate of death, a verification of death document, or a certified copy thereof.

(1.5) Oaths or affirmations for public office filed with county clerk and recorders in accordance with section 24-12-101 (3) are exempt from any fees under this section.

(2) In cities and counties and in every county, the following fees apply:

(a) For taking and certifying each affidavit, two dollars;

(b) For each certificate and seal, one dollar;

(c) Repealed.

(d) For certificate of magistracy under seal, two dollars;

(e) For taking acknowledgments, two dollars;

(f) to (i) Repealed.

(j) For copies of records, a fee in an amount determined pursuant to section 24-72-205 (5), C.R.S.;

(k) to (m) Repealed.

(3) (a) County governments shall be exempt from all fees authorized to be collected under the provisions of this section whenever the county or any agency thereof is the grantor or grantee of the document being recorded or whenever a delegate child support enforcement unit files or records documents for the purpose of collecting child support, child support arrears, maintenance, maintenance when combined with child support, retroactive support, or child support debt.

(b) Surcharges are not applicable by the clerk and recorder if the document is exempted from recording or filing fees.

(4) (Deleted by amendment, L. 2010, (HB 10-1007), ch. 71, p. 243, § 1, effective April 5, 2010.)

(5) The fee described in subsection (1) of this section will be collected on any filing received by the county clerk and recorder as an authorized agent of the executive director of the department of revenue pursuant to section 38-29-128 or 42-6-121.

(6) This section is repealed, effective December 31, 2029.

Source: L. 1891: p. 212, § 7. **L. 07:** p. 404, § 1. **R.S. 08:** § 2538. **C.L.** § 7888. **L. 21:** p. 321, § 2. **CSA:** C. 66, § 26. **L. 51:** p. 382, § 1. **CRS 53:** § 56-4-3. **L. 57:** p. 376, § 1. **L. 58:** p. 239, § 1. **L. 63:** p. 928, § 2. **C.R.S. 1963:** § 56-4-3. **L. 65:** p. 624, § 1. **L. 73:** pp. 631, 633, §§ 2, 7. **L. 77:** (2)(k) repealed, p. 1427, § 1, effective May 26; (3) added, p. 1428, § 1, effective May 26. **L. 81:** (1), (2)(c), (2)(g), (2)(h), (2)(l), and (2)(m) amended, p. 383, § 3, effective May 21. **L. 83:** (2)(a) and (2)(e) amended and (2)(i) and (2)(l) repealed, pp. 1226, 1231, §§ 4, 22, effective July 1. **L. 88:** (2)(m) amended, p. 1107, § 1, effective January 1, 1989. **L. 89:** (1) amended, p. 1271, § 1, effective July 1. **L. 91:** (2)(b) to (2)(d), (2)(g), (2)(h), and (2)(m) amended, p. 708, § 4, effective July 1. **L. 92:** (2)(m.1) added, p. 1106, § 8, effective July 1. **L. 96:** (1), (2)(m), and (3) amended and (4) added, p. 1555, § 2, effective July 1. **L. 97:** (3) amended, p. 565, § 19, effective July 1. **L. 2007:** (2)(j) amended, p. 579, § 2, effective August 3. **L. 2010:** (1) and (4) amended and (5) added, (HB 10-1007), ch. 71, p. 243, § 1, effective April 5. **L. 2024:** (1), IP(2), and (5) amended and (6) added, (HB 24-1269), ch. 394, p. 2716, § 1, effective July 1, 2025; (2)(c)(II), (2)(f)(II), (2)(g)(II), (2)(h)(II), and (2)(m)(II) added by revision, (HB 24-1269), ch. 394, pp. 2716, 2720, §§ 1, 13. **L. 2026:** (1.5) added, (HB 26-1113), ch. 267, p. 1518, § 71, effective June 1; (3) amended, (SB 26-144), ch. 135, p. 601, § 3, effective June 1.

Editor's note: (1) Subsections (2)(c)(II), (2)(f)(II), (2)(g)(II), (2)(h)(II), and (2)(m)(II) provided for the repeal of subsections (2)(c), (2)(f), (2)(g), (2)(h), and (2)(m), respectively, effective July 1, 2025. (See L. 2024, pp. 2716, 2720.)

(2) Section 55(1) of chapter 135 (SB 26-144), Session Laws of Colorado 2026, provides that the act changing this section applies to any fee imposed, assessed, or collected by a county treasurer on or after June 1, 2026.

ANNOTATION

The county clerk's compensation for official acts is regulated by this section, and he is only entitled to charge for those services to which compensation by law attaches, for the rule is inflexible, that an official can only demand such fees or compensation as the law has fixed and authorized for the performance of his official duties. Bd. of Comm'rs v. Leonard, 26 Colo. 145, 57 P. 693 (1899).

Duties separately defined. By this section the charges for recording instruments, making abstracts of title, making copies of records, making tax lists, serving as clerk of the board of county commissioners, and for the performance of other services required of the clerk, are separately defined. Henderson v. Bd. of Comm'rs, 4 Colo. App. 301, 35 P. 880 (1894).

Per diem is unconscionable salary. The sum allowed by law per diem to the county clerk for his services as clerk of the board of commissioners is a fee within the meaning of the salary act, and it is payable to him absolutely, and the board is without authority to annex to its payment any condition whatever. Henderson v. Bd. of Comm'rs, 4 Colo. App. 301, 35 P. 880 (1894).

For required clerical duties. A county clerk, in his capacity as clerk of the board of county commissioners, is required to perform all services clerical in their nature, in connection with matters within the scope of the authority of the board, which are necessary to enable it to perform its duties with respect to such matters, and he is not entitled to fees for such services outside of his compensation as clerk of the board. Bd. of Comm'rs v. Leonard, 26 Colo. 145, 57 P. 693 (1899).

No compensation for services as to matters outside board's authority. A county clerk as clerk of the board of county commissioners is not entitled to compensation for services in relation to matters over which the board attempted to exercise a control, but which were not within the legitimate scope of its authority. Bd. of Comm'rs v. Leonard, 26 Colo. 145, 57 P. 693 (1899).

No fee is provided for the clerk for signing or attesting county warrants. Such work falls within that class of services for which, under the act of 1885, reasonable compensation was allowed by the board of

commissioners. Leonard v. Bd. of Comm'rs, 8 Colo. App. 338, 46 P. 216 (1896).

30-1-104. Fees of sheriff.

(1) Fees collected by sheriffs shall be as follows:

(a) For serving and returning summonses or other writ of process in a criminal action not specified in this section, with or without complaint attached, on each party served, in counties of every class, actual expenses, but not more than fifteen dollars;

(a.5) For serving and returning a summons or other writ of process in other than a criminal action not specified in this section, with or without complaint attached, on each party served, in counties of every class, actual expenses, but not more than thirty-five dollars;

(b) For making a return on a summons in a criminal action not served, for each party, in counties of every class, actual expenses, but not more than five dollars;

(b.5) For making a return on a summons in other than a criminal action not served, for each party, in counties of every class, actual expenses, but not more than twenty dollars;

(c) For serving and returning each subpoena in a criminal action on each witness, in counties of every class, actual expenses, but not more than seven dollars and fifty cents;

(c.5) For serving and returning each subpoena in other than a criminal action on each witness, in counties of every class, actual expenses, but not more than sixty dollars;

(d) For making return on a subpoena in a criminal action not served, in counties of every class, five dollars;

(d.5) For making a return on a subpoena in other than a criminal action not served, in counties of every class, actual expenses, but not more than twenty dollars;

(e) For serving each juror in counties of every class, ten dollars;

(f) For serving and returning writ of attachment or replevin on each party, in counties of every class, mileage, as described in paragraph (h.5) of this subsection (1), and actual expenses;

(g) For serving garnishee summons on each party, in counties of every class, actual expenses, but not more than twenty dollars;

(h) Mileage for each mile actually and necessarily traveled in serving each writ, subpoena, or other process in a criminal action, not less than twelve cents nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county; except that actual and not constructive mileage shall be allowed in all cases; and, where more than one warrant is served by any officer on one trip, the

actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip;

(h.5) For mileage:

(I) Not to exceed the mileage rate authorized for county officials and employees pursuant to section 30-11-107 (1)(t), for each mile actually and necessarily traveled in serving each writ, subpoena, or other process in an action other than a criminal action; or

(II) A sheriff may establish a zone- or zip code-based mileage fee structure. The zone- or zip code-based mileage fee structure shall establish a single mileage fee for the service of any writ, subpoena, or other process in an action, other than a criminal action, in each separate zone or zip code, as applicable, in the county. The applicable single mileage fee for a zone or zip code shall be charged for all papers served in the zone or zip code regardless of the number of attempts or actual mileage traveled by a sheriff within the zone or zip code during a sheriff's operational period. The single mileage fees for each zone or zip code shall be set by resolution of the board of county commissioners for the county and posted pursuant to section 30-1-108.

(i) In making demand for payment on executions when payment is not made, in counties of every class, one dollar;

(j) For levying execution or writ of attachment, besides actual custodial and transportation costs necessarily incurred in counties of every class, mileage, as described in paragraph (h.5) of this subsection (1), and actual expenses;

(k) For levying writ of replevin, besides actual custodial and transportation costs necessarily incurred in counties of every class, mileage, as described in paragraph (h.5) of this subsection (1), and actual expenses;

(l) No custodian shall be appointed by the sheriff to take custody of goods by him or her attached, nor shall any deputy be placed in charge thereof, unless the plaintiff or his or her attorney shall request the appointment of such custodian in writing; such custodian or deputy shall receive twelve dollars per diem of twelve hours, or fraction thereof, which shall be taxed as costs in the case;

(m) For making and filing for record a certificate of levy on attachment or other cases, in counties of every class, actual expenses, but not more than thirty dollars;

(n) For committing and discharging convicted prisoners to and from the county jail, in counties of every class, a reasonable fee, not to exceed thirty dollars, which fee shall be collected directly from prisoners at the time of commitment, but shall be refunded to any prisoner who is not convicted;

(o) For serving writ with aid of posse comitatus with actual expenses necessarily incurred in executing said writ, in counties of every class, actual expenses, but not more than sixty dollars;

for serving same without aid in counties of every class, actual expenses, but not more than four dollars;

(p) For attending before any judge, court not being in session, with prisoners with writ of habeas corpus for each day of twelve hours, or fraction thereof, in counties of every class, twelve dollars;

(q) For attending courts of record when in session, per diem of twelve hours, or fraction thereof, in counties of every class, twelve dollars; but the attendance upon the county court shall be certified by the judge of said court at the close of each month;

(r) For advertising property for sale, besides the actual cost of the advertising, in counties of every class, actual expenses, but not more than thirty dollars;

(s) For making certificates of sale previous to execution of deed, or on sales of personal property, in counties of every class, actual expenses, but not more than thirty dollars;

(t) For executing and acknowledging deed of sale of real estate, in counties of every class, actual expenses, but not more than forty dollars;

(u) For taking, approving, and returning bond in any case, in counties of every class, a reasonable fee, not to exceed ten dollars;

(v) For executing capias or warrant in criminal cases, on each prisoner named therein, in counties of every class, two dollars;

(w) For transporting insane or other prisoners, besides the actual expenses necessarily incurred, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county, and for the service of mittimus or other process order, whether written or otherwise, in transporting prisoners, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county; except that such mileage shall be only by one officer and no mileage shall be charged upon the guards attending the officer having custody of the prisoner and further except that the guards attending the officer in charge of the prisoner shall receive, besides the expenses necessarily incurred, the sum of twelve dollars per diem of twelve hours, or fraction thereof, to be paid out of the county treasury;

(x) For his or her services in sales of real estate on an execution or decree, order of court, or other court process, besides actual expenses, in counties of every class on all bids under three thousand dollars, twenty dollars; and on all sums bid over three thousand dollars, one percent; but such commission shall in no case exceed the sum of one hundred dollars;

(y) For money collected by sale of personal property, in counties of every class, on all sums bid under five hundred dollars, five percent; on all sums bid over five hundred dollars and under one thousand dollars, six percent; and on all sums bid over one thousand dollars, seven percent; but no fee shall be charged for an auctioneer or other person for making sales of personal property; and in no case shall such commission exceed the sum of one hundred dollars;

(z) For money collected or settlements made without sale, after writ of execution, attachment, or replevin has been placed in his or her hands and levy or demand for payment has been made on the proper party, in counties of every class, on all amounts under five hundred dollars, three percent; on all amounts over five hundred dollars and under one thousand dollars, two percent; and on all amounts over one thousand dollars, one and one-half percent; but the fee in no case shall exceed the sum of one hundred and fifty dollars; and the plaintiff or any person making any settlement shall be liable to the sheriff for such fees;

(aa) For pursuing and capturing, or pursuit without capture, when previously authorized by the board of county commissioners, each prisoner charged with the commission of any crime denominated a felony, beyond the limits of said county, in counties of every class, all necessary expenses of such pursuit, upon a verified, itemized account being presented for the same, together with twelve dollars per diem of twelve hours for the time occupied in such pursuit;

(bb) For serving and returning writ of ne exeat or body attachment, in counties of every class, actual expenses, but not more than twenty dollars;

(cc) For serving copy of execution when making levy on shares of stock under execution, on each party served, in counties of every class, actual expenses, but not more than sixty dollars;

(dd) For making certificates of levy on shares, or otherwise, in counties of every class, actual expenses, but not more than thirty dollars;

(ee) For making return on execution, in counties of every class, actual expenses, but not more than sixty dollars;

(ff) For executing certificate of redemption, in counties of every class, actual expenses, but not more than thirty dollars;

(gg) For service and execution of any writ of restitution or order of possession of premises, besides actual transportation costs necessarily incurred in counties of every class, actual expenses not to exceed two hundred dollars; except that a sheriff may charge for actual expenses in excess of two hundred dollars if the work performed exceeds two hours in duration. A sheriff may charge a fee under this paragraph (gg) after the sheriff has provided a detailed accounting of his or her actual expenses to the person requesting such service. Actual transportation costs assessed pursuant to this paragraph (gg) shall only be charged once per location for each service or execution.

(1.5) If the cost of serving any writ of restitution or order of possession of premises may be provided at a lower cost to a county by a private provider, such county shall contract with a private provider pursuant to a competitive bidding system in which a contract to provide the service of such writs is awarded to the lowest bidder. The provisions of this subsection (1.5) shall not be deemed to authorize that services related to the execution of any writ of restitution or order of possession of premises be provided through private contracting.

(2) As used in this section, "actual expenses" means those personnel and processing costs incurred in typing, processing, filing, and serving said process papers but does not include mileage. Subject to the limitations contained in this section, the fee for each type of service shall be fixed by ordinance or resolution.

Source: L. 1891: p. 205, § 4. **R.S. 08:** § 2532. **L. 21:** p. 312, § 1. **C.L.** § 7882. **CSA:** C. 66, § 16. **CRS 53:** § 56-4-7. **L. 55:** p. 390, § 1; **C.R.S. 1963:** § 56-4-8. **L. 69:** p. 386, § 1. **L. 77:** (1)(a), (1)(c), (1)(f), (1)(g), (1)(j), (1)(k), (1)(m) to (1)(t), and (1)(cc) to (1)(ff) amended and (2) added, p. 1429, § 1, effective July 1. **L. 78:** (1)(n) and (1)(w) amended, p. 442, § 1, effective March 3. **L. 84:** (1)(a), (1)(b), (1)(d), (1)(e), and (1)(w) to (1)(z) amended, p. 814, § 1, effective March 16. **L. 88:** (1)(j) and (1)(k) amended and (1)(gg) and (1.5) added, p. 1109, §§ 1, 2, effective July 1. **L. 94:** (1)(u) amended, p. 1238, § 8, effective May 22. **L. 96:** (1) amended, p. 747, § 1, effective July 1. **L. 2001:** (1)(a.5), (1)(b.5), (1)(c.5), (1)(d.5), (1)(e), (1)(f), (1)(g), (1)(h.5), (1)(j), (1)(k), (1)(m), (1)(o), (1)(r), (1)(s), (1)(t), (1)(bb), (1)(cc), (1)(dd), (1)(ee), (1)(ff), and (1)(gg) amended, p. 436, § 1, effective July 1. **L. 2004:** (1)(n) amended, p. 631, § 1, effective July 1. **L. 2005:** (1)(f), (1)(j), (1)(k), and (1)(gg) amended, p. 263, § 2, effective August 8. **L. 2010:** (1)(b.5), (1)(d.5), and (1)(h.5) amended, (HB 10-1057), ch. 118, p. 396, § 1, effective August 11.

ANNOTATION

Law reviews. For article, "Obtaining Costs for Clients — Part 1", see 14 Colo. Law. 1974 (1985).

The provisions of this section are mandatory. Farmers Union Milling & Elevator Co. v. Smith, 79 Colo. 277, 245 P. 346 (1926).

The compensation given a sheriff by this section for serving a special venire for jurors in a court of record is for the service, whether performed by him or by deputy. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

The mileage fee prescribed for the sheriff in this section for serving any process is intended solely as a part of the compensation for such services, all of which is to be applied to the payment of his salary. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

And the evident intent of the general assembly was to create by the fee act a mileage fee, all of which belongs to the officer as part of his compensation for services actually rendered, and no part of which should be applied to the officer's necessary traveling expenses. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

Because by the salary act another mileage fee was provided for, separate and distinct from that in the fee act, out of which the officer was to be repaid his actual traveling expenses, and no more. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

And under this section an officer who serves a number of writs in the same case upon a single journey is entitled to receive but one mileage fee. Bd. of County Comm'rs v. Love, 15 Colo. 430, 25 P. 557 (1890).

Under this section the sheriff conveying several prisoners to the penitentiary or other place of detention is entitled to but one mileage for the service of the mittimus, no matter what may be the number of his prisoners. Bd. of County Comm'rs v. Campbell, 52 Colo. 440, 123 P. 317 (1912).

This section inhibits the appointment of a custodian without request in writing of the plaintiff or his attorney in an attachment suit, and there is no reason apparent why the rule under the statute of frauds, that a subsequent written admission of a previous parol agreement generally takes the case out of the statute, should not be applied to this section regarding appointment of custodians. Farmers Union Milling & Elevator Co. v. Smith, 79 Colo. 277, 245 P. 346 (1926).

But it was held under the facts disclosed that there was a sufficient written recognition of a previous oral request for a custodian at a compensation of one dollar a day. Farmers Union Milling & Elevator Co. v. Smith, 79 Colo. 277, 245 P. 346 (1926).

The mileage fee set in subsection (1)(w) does not place a cap on transportation fees that may be charged to a defendant. People v. Fogarty, 126 P.3d 238 (Colo. App. 2005).

30-1-105. Constructive mileage not allowed. (Repealed)

Source: L. 1891: p. 324, § 2. **R.S. 08:** § 2533. **C.L.** § 7883. **CSA:** C. 66, § 17. **CRS 53:** § 56-4-8. **C.R.S. 1963:** § 56-4-9. **L. 64:** p. 384, § 11. **L. 2010:** Entire section repealed, (HB 10-1057), ch. 118, p. 397, § 2, effective August 11.

30-1-105.5. Two or more papers served on same person or different persons at same time and place in same action.

(1) Except as provided in subsection (2) of this section, when any sheriff serves two or more papers on the same person, or serves papers on different persons at the same time and place in the same action, the sheriff shall charge the highest individual fee allowable pursuant to section 30-1-104 for the first process and an additional ten dollars for each subsequent process served.

(2) If a county has adopted a zone- or zip code-based mileage fee structure, as that term is described in section 30-1-104 (1)(h.5)(II), when any sheriff serves two or more papers on the same person, or serves papers on different persons at the same time and place in the same action, the sheriff shall charge the single zone- or zip code-based mileage fee for the first process and an additional ten dollars for each subsequent process served.

Source: L. 2010: Entire section added, (HB 10-1057), ch. 118, p. 397, § 3, effective August 11.

30-1-106. Service must be made upon offer or tender of fees.

(1) No sheriff shall refuse to serve any writ, summons, or notice requested by any person entitled to such service, when offered or tendered the fees allowed by law for such service; nor shall he or she charge, demand, or receive any greater sum or compensation or allowance.

(2) A sheriff shall have the authority to establish billing accounts for licensed attorneys and licensed collection agencies that have a principal office located in the state.

(3) A sheriff shall have the authority to develop and publish standardized procedures for billing the accounts authorized by subsection (2) of this section. Such procedures may include the ability to suspend the billing privileges of any entity for nonpayment of a fee upon demand or other good cause shown.

Source: L. 1891: p. 324, § 3. **R.S. 08:** § 2534. **C.L.** § 7884. **CSA:** C. 66, § 18. **CRS 53:** § 56-4-9. **C.R.S. 1963:** § 56-4-10. **L. 64:** p. 384, § 12. **L. 2010:** Entire section amended, (HB 10-1057), ch. 118, p. 397, § 4, effective August 11.

30-1-107. Penalty for violation - duties.

Any sheriff who violates section 30-1-106 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five nor more than fifty dollars for each

offense and is liable to any person aggrieved to pay all loss, damage, and expenses, including attorney fees in prosecuting or suing such officer, which such aggrieved person may sustain by reason of such violation. The sheriff and the sheriff's deputies shall be subject to section 30-1-106.

Source: L. 1891: p. 324, § 4. **R.S. 08:** § 2535. **C.L.** § 7885. **CSA:** C. 66, § 19. **CRS 53:** § 56-4-10. **C.R.S. 1963:** § 56-4-11. **L. 64:** p. 384, § 13. **L. 2010:** Entire section amended, (HB 10-1057), ch. 118, p. 398, § 5, effective August 11.

30-1-108. Schedule of fees posted.

All officers of this state who are required to collect fees for their services are required to make fair tables of their respective fees, and keep the same posted in their respective offices in some conspicuous place for the inspection of all persons who have business in such office; and, if any such officer neglects to keep a table of fees posted in his office, such officer, for each day of such neglect, shall forfeit and pay the sum of five dollars, to be recovered by action at law before the county court for the use of the county in which the offense has been committed.

Source: L. 1891: p. 220, § 15. **R.S. 08:** § 2545. **C.L.** § 7893. **CSA:** C. 66, § 32. **CRS 53:** § 56-4-11. **C.R.S. 1963:** § 56-4-12. **L. 64:** p. 384, § 14.

30-1-109. Fee bill.

Any person liable for any costs or fees shall be entitled to receive on demand a certified bill of the same in which the items of service and the charges therefor shall be specifically stated.

Source: L. 1891: p. 220, § 16. **R.S. 08:** § 2546. **C.L.** § 7894. **CSA:** C. 66, § 33. **CRS 53:** § 56-4-12. **C.R.S. 1963:** § 56-4-13.

30-1-110. Penalty for failure to serve.

When any clerk, sheriff, or other officer is required by any person, in good faith, to do any official act, or perform any official duty for which he is entitled to demand and receive a fee established by law, and if required to do so, he shall state to such person the amount which he is allowed by law to collect, and if, upon a tender to him of such amount, such officer willfully

neglects or refuses to perform such act or duty, he is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten nor more than two hundred dollars.

Source: L. 1885: p. 208, § 2. **R.S. 08:** § 2548. **C.L.** § 7896. **CSA:** C. 66, § 35. **CRS 53:** § 56-4-13. **C.R.S. 1963:** § 56-4-14. **L. 64:** p. 385, § 15.

30-1-111. Unauthorized fees - penalty.

If any officer whose fees are expressed and limited in this article takes or demands greater fees than prescribed for any service, or charges for said services and neglects or refuses to enter the same of record, or to perform the same, he shall forfeit to the party injured thereby the sum of fifty dollars to be recovered as actions of debt of the same amount are recoverable by law.

Source: L. 1891: p. 220, § 17. **R.S. 08:** § 2549. **L. 21:** p. 230, § 4. **C.L.** § 7876. **L. 23:** p. 252, § 2. **CSA:** C. 66, § 36. **CRS 53:** § 56-4-14. **C.R.S. 1963:** § 56-4-15.

ANNOTATION

This section is penal and must be strictly construed. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

And it denounces a penalty of 50 dollars against any officer who shall take greater fees for any services to be done by him than those provided by the statute, and a like penalty against any officer who shall charge, demand, or take any of the fees provided by the statute where the services shall not be actually done or performed. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

A treasurer is not liable under this section for taking fees or commissions to which he is not entitled; such acts are not covered by the terms of this section. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

And a complaint was held not sufficient to constitute a cause of action under the provisions of this section, for the reason that there was no allegation that the treasurer had charged a greater fee than was provided for, or that he had charged, demanded, or taken a fee for a service which was not rendered. Mitchell v. Wheeler, 20 Colo. App. 159, 77 P. 361 (1904).

Section not assumed basis of action. In a suit to recover from a police magistrate excess fees collected, the reviewing court will not assume that the action is based on this section where the record does not so

indicate. Cummings v. Aiken, 82 Colo. 391, 260 P. 524 (1927).

30-1-112. Fees paid monthly.

(1) It is the duty of county sheriffs, county clerk and recorders, and all county officials to collect all fees of their respective offices and to pay the same to the county treasurer of their respective counties monthly; also to file monthly with the county treasurer an itemized statement of all fees so collected.

(2) Commencing January 1, 1970, it is the duty of the clerks of district, juvenile, probate, and county courts to transmit monthly all fees to the state treasurer, who shall deposit the same in the state general fund.

Source: L. 19: p. 378, § 10. **C.L.** § 7904. **CSA:** C. 66, § 43. **CRS 53:** § 56-4-15. **L. 58:** pp. 247, 249, §§ 13, 19, 20. **L. 63:** p. 492, §§ 1, 2. **C.R.S. 1963:** § 56-4-16. **L. 64:** p. 462, § 3. **L. 69:** p. 256, § 31. **L. 87:** (2) amended, p. 1582, § 39, effective July 10.

ANNOTATION

Applied in Bd. of County Comm'rs v. Bullock, 122 Colo. 218, 220 P.2d 877 (1950).

30-1-113. Officers to keep account of fees.

Each such officer, in a book provided for the purpose, shall keep a full, true, accurate, and minute account of all fees of his office, designating in corresponding columns the amount of all fees, and all payments received on account thereof, and shall also keep an account of all expenditures made by him on account of clerk hire and other necessary expenses. Such accounts shall always be open to the inspection and examination of the board of county commissioners, and the accounts of the clerks of the district court shall always be open to the inspection and examination of the state treasurer.

Source: L. 1891: p. 313, § 19. **R.S. 08:** § 2551. **C.L.** § 7899. **CSA:** C. 66, § 38. **CRS 53:** § 56-4-16. **L. 58:** pp. 248, 249, §§ 16, 19, 20. **C.R.S. 1963:** § 56-4-17. **L. 69:** p. 386, § 2.

ANNOTATION

Officers required to keep accounts. All of the various officers who collect fees which they are bound to pay into the county treasury, and which make up the fee funds out of which their salaries are to be paid, must keep an account of all fees earned, payments received, and expenditures made on account of clerk hire. Bd. of Comm'rs v. Clapp, 9 Colo. App. 161, 48 P. 157 (1897).

This record is at all times subject to inspection by the board of county commissioners. Frost v. Bd. of Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

A complaint under this section should allege that the officer failed or neglected to keep this book of account, or that the county commissioners were prevented from examining the same. Frost v. Bd. of Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

This section did not authorize a justice to appoint a clerk and compel the county to pay the salary which he should agree to pay him. Bd. of Comm'rs v. Clapp, 9 Colo. App. 161, 48 P. 157 (1897).

30-1-114. Monthly report of officers.

If required by the board of county commissioners, the county treasurer, sheriff, and county clerk and recorder, on the first Monday of each month during the officer's term of office, shall make to the chairman of the board of county commissioners a report in writing under oath of all the fees of the officer's office, of every name and description, and of all necessary expenses of clerk hire and other expenses for the month ending at the time of said report. If required, such report shall state fully the manner in which such fees accrued.

Source: L. 1891: p. 313, § 20. **R.S. 08:** § 2552. **C.L.** § 7900. **CSA:** C. 66, § 39. **CRS 53:** § 56-4-17. **C.R.S. 1963:** § 56-4-18. **L. 64:** p. 385, § 16. **L. 69:** p. 256, § 32. **L. 92:** Entire section amended, p. 964, § 2, effective June 1.

ANNOTATION

The phraseology of this section did not necessarily imply that a justice had authority to appoint a clerk, or if that authority could be therefrom deduced, the court was unable to conclude the clerk's compensation was payable out of any other fund than that which was made up of the fees and emoluments of the office, and since several of the officers named were accorded the right to appoint assistants, deputies and clerks, rebutted the contention that it was the evident intention of the general assembly to confer on the justice the power to appoint a

clerk. Bd. of Comm'rs v. Clapp, 9 Colo. App. 161, 48 P. 157 (1897).

Applied in Henderson v. Bd. of Comm'rs, 4 Colo. App. 302, 35 P. 880 (1894); Hamma v. People, 42 Colo. 401, 94 P. 326 (1908).

30-1-115. Commissioners to audit accounts.

It is the duty of the board of county commissioners to audit such accounts as soon as may be, and correct and adjust the same in accordance with the facts.

Source: L. 1891: p. 314, § 21. **R.S. 08:** § 2553. **C.L.** § 7901. **CSA:** C. 66, § 40. **CRS 53:** § 56-4-18. **C.R.S. 1963:** § 56-4-19.

ANNOTATION

Express duty. This section expressly charges the county commissioners with the duty of auditing the accounts of county officers, and correcting and adjusting the same. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The board had no control of the public examiner, no authority to direct an audit by him of the books of a county officer, and was not charged with notice of his report when made. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The purpose and vital importance of an efficient audit were manifest from the statutory requirement that all prescribed fees had to be collected in advance by county officers, and when collected had to be paid to the county treasurer, and that any balance left to the credit of the several funds in any year after the salaries and compensation provided for had been paid therefrom, would be placed to the credit of the general county fund. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The board is not limited by this section to any specific means or agencies for making the required audit. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The board had the implied power to employ an accountant. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The expense of an examination of the books of the county officers, required by this section, not contemplated at the date of the annual appropriation, may properly be discharged from the contingent fund. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

30-1-116. Officers shall collect fees in advance.

(1) Except as provided in section 30-1-106, every officer shall collect every fee, as prescribed, for services performed by him or her in advance, if the same can be ascertained, and when any officer negligently or willfully fails to collect any such fee, the same shall be charged against his or her salary.

(2) In proceedings where a public administrator, special administrator, receiver, or other person is appointed by the court to take possession of assets of an estate in which there are no funds immediately available to pay fees, the fees need not be paid in advance, but shall be paid as soon as funds become available.

(3) No officer shall collect fees in advance in any collection action initiated pursuant to section 18-1.3-506, C.R.S.

Source: L. 1891: p. 314, § 23. **R.S. 08:** § 2550. **C.L.** § 7898. **CSA:** C. 66, § 37. **CRS 53:** § 56-4-19. **L. 61:** p. 383, § 1. **C.R.S. 1963:** § 56-4-20. **L. 89:** (3) added, p. 887, § 2, effective April 6. **L. 2002:** (3) amended, p. 1542, § 286, effective October 1. **L. 2010:** (1) amended, (HB 10-1057), ch. 118, p. 398, § 6, effective August 11.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (3), see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Law reviews. For article, "Justice Courts", see 24 Dicta 184 (1947).

This section imposing a liability in the nature of a penalty is strictly construed; and the penalty is not to be extended to cases not within the terms of the statute, or increased beyond the limit prescribed. Bd. of Comm'rs v. Law, 3 Colo. App. 328, 33 P. 143 (1893); Colo. Fuel & Iron Co. v. Lenhart, 6 Colo. App. 511, 41 P. 834 (1895); Hazelton v. Porter, 17 Colo. App. 1, 67 P. 170 (1902); Price v. Bd. of County Comm'rs, 22 Colo. App. 315, 124 P. 353 (1912).

By this section the duty of collecting fees in advance is imposed upon the officer where the same can be ascertained. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

This section makes the officers responsible for the collection of their fees. Bransom v. Bd. of County Comm'rs, 5 Colo. App. 231, 37 P. 957 (1894).

Penalty stimulates collection. The fact is recognized that sometimes such prior ascertainment may be impossible, and therefore the fees may not be so collected, and in order to stimulate or coerce the collection of the fees earned and belonging to the county, to wit, the excess above the sums necessary to make up the officer's salary, the penalty of charging the uncollected portion thereof against his salary is provided. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

Negligent or wilful failure results in forfeiture. This section makes it the duty of the clerk to collect every fee for services performed by him, and provides a forfeiture if he shall wilfully or negligently fail to do so. Henderson v. Bd. of Comm'rs, 4 Colo. App. 301, 35 P. 880 (1894).

This penalty is not to be enforced unless the failure to make such collection is due to the negligence or wilfulness of the delinquent official. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

As to uncollected fees, a county judge was only liable for the negligent or wilful failure to collect. Price v. Bd. of County Comm'rs, 22 Colo. App. 315, 124 P. 353 (1912).

In a literal sense, the uncollected fees cannot be charged against the officer's salary, since the county is only entitled to fees collected above the amount necessary to make up the salary. Price v. Bd. of County Comm'rs, 22 Colo. App. 315, 124 P. 353 (1912).

But salary is maximum limit of penalty. The amount of the salary received by the officer must be taken as the maximum limit of the penalty for the negligent or wilful failure to collect. Price v. Bd. of County Comm'rs, 22 Colo. App. 315, 124 P. 353 (1912).

Negligent or wilful failure must be alleged. Under this section a complaint against a county judge for surplus fees uncollected had to allege that his failure to collect the same was negligent or wilful. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

Burden of proof. In a suit against a county judge to recover the surplus uncollected fees of his office, the burden of proof was on the county commissioners to show that the fees were negligently or wilfully left uncollected. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

Slight evidence was sufficient to shift the burden of proof on the officer to establish the exercise of reasonable diligence in endeavoring to collect such unpaid fees. Frost v. Bd. of County Comm'rs, 43 Colo. 43, 95 P. 289 (1908).

Lack of record only affects proof. The alleged neglect to make a record of such fees, as in this case, could only affect the matter of proof. Price v. Bd. of County Comm'rs, 22 Colo. App. 315, 124 P. 353 (1912).

30-1-117. Refusal to pay fees to treasurer - penalty.

Any officer failing or refusing to pay over to the county treasurer or to the state treasurer the fees of the treasurer's office, as provided in section 30-1-112, commits a class 2 misdemeanor.

Source: L. 1891: p. 314, § 24. **R.S. 08:** § 2555. **C.L.** § 7903. **CSA:** C. 66, § 42. **CRS 53:** § 56-4-20. **L. 58:** pp. 248, 249, §§ 17, 19, 20. **C.R.S. 1963:** § 56-4-21. **L. 69:** p. 386, § 2. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3247, § 498, effective March 1, 2022.

ANNOTATION

This section attaches severe penalties to the failure of the officers to pay over the fees. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

It provides a penalty of imprisonment in the county jail, or fine, or both such fine and imprisonment, for failure of the district clerk to pay over to the county treasurer the fees of his office. Adams v. People, 25 Colo. 532, 55 P. 806 (1898).

It had no application whatever to jury fees and witness fees which the clerk collected and disbursed. Adams v. People, 25 Colo. 532, 55 P. 806 (1898).

30-1-118. Mileage allowances. (Repealed)

Source: L. 33: p. 788, § 1. **CSA:** C. 66, § 44. **CRS 53:** § 56-4-21. **C.R.S. 1963:** § 56-4-22. **L. 69:** p. 391, § 1. **L. 73:** p. 628, § 3. **L. 75:** (1) repealed, p. 218, § 60, effective July 16. **L. 78:** Entire section amended, p. 443, § 2, effective March 3. **L. 80:** Entire section repealed, p. 657, effective July 1.

30-1-119. Separate fee funds kept - definition.

(1) Except as otherwise provided in subsection (2) of this section, all fees collected by county officers except those collected pursuant to section 30-1-102 (3) shall be paid over to the county treasurer and shall be kept by him in separate funds to be known as:

(a) The "sheriff's fee fund";

(b) The "county clerk's fee fund";

(c) The "county treasurer's commission and fee fund".

(2) The revenues generated annually from the fee for committing and discharging prisoners authorized pursuant to section 30-1-104 (1)(n) must be distributed as follows:

(a) (I) The county shall expend an amount equal to twenty percent of the revenues generated annually from the fee to administer a community-based treatment program for the treatment of offenders with a behavioral, mental health, or substance use disorder committed or discharged by the county if the county has established, or the board of county commissioners chooses to establish, such a community-based treatment program.

(II) For purposes of this subsection (2)(a), "community-based treatment program" means a community-based program that provides management and treatment services to persons with behavioral, mental health, or substance use disorders in the criminal or juvenile justice system, designed, at a minimum, to reduce recidivism and hospitalization of these persons.

(b) The county shall expend an amount equal to twenty percent of the revenues generated annually from the fee for training of the sheriff and deputy sheriffs and other local law enforcement officers. The training may include a crisis intervention training component to meet the needs of offenders with behavioral or mental health disorders; and

(c) The county shall expend the balance of the revenues generated annually from the fee for law-enforcement-related expenditures to defray the costs of processing prisoners into and out of custody.

Source: L. 45: p. 337, § 16. **CSA:** C. 66, § 58(16). **CRS 53:** § 56-4-22. **L. 58:** pp. 248, 249, §§ 18-20. **C.R.S. 1963:** § 56-4-23. **L. 64:** p. 385, § 17. **L. 69:** p. 256, § 33. **L. 87:** IP(1) amended, p. 1202, § 2, effective April 30. **L. 2004:** Entire section amended, p. 631, § 2, effective July 1. **L. 2017:** IP(2), (2)(a), and (2)(b) amended, (SB 17-242), ch. 263, p. 1378, § 298, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

ANNOTATION

Legislative intent. By enacting this section the general assembly evinced a legislative intent to require all fees, emoluments, perquisites and commissions collected by a county clerk and recorder to be accounted for and placed in the proper fund in the office of the county treasurer, to be withdrawn therefrom only on warrants properly issued in payment of the salaries of such deputies and assistants as are necessary in the performance of their statutory duties.

Flanders v. Kochenberger, 118 Colo. 104, 193 P.2d 281 (1948).

ARTICLE 2

Compensation of County Officers

30-2-101. Classification of counties for salaries.

30-2-102. Categorization of counties for fixing salaries of county officers - salary amounts - legislative declaration.

30-2-103. County commissioners - expenses.

30-2-104. Compensation of deputies and assistants.

30-2-105. Superintendent of schools - mileage. (Repealed)

30-2-106. Undersheriffs and deputies - salaries - report of fees.

30-2-107. Traveling expenses of sheriff.

30-2-108. Coroner - compensation - mileage.

30-2-101. Classification of counties for salaries.

For the purpose of providing for and regulating the compensation of county and other officers, the counties of this state, other than home rule counties or home rule cities and counties, are classified as provided in this article.

Source: L. 52: p. 111, § 1. **CRS 53:** § 56-2-1. **L. 62:** p. 162, § 1. **C.R.S. 1963:** 56-2-1. **L. 81:** Entire section amended, p. 2028, § 32, effective July 14.

30-2-102. Categorization of counties for fixing salaries of county officers - salary amounts - legislative declaration.

(1) For the purpose of establishing the salaries of county officers whose terms of office begin prior to January 1, 2016:

(a) Category I counties shall consist of the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, Pueblo, and Weld;

(b) Category II counties shall consist of the counties of Eagle, Fremont, Garfield, La Plata, Mesa, Pitkin, Routt, and Summit;

(c) Category III counties shall consist of the counties of Alamosa, Archuleta, Chaffee, Clear Creek, Delta, Gilpin, Grand, Gunnison, Las Animas, Logan, Moffat, Montezuma, Montrose, Morgan, Otero, Park, Rio Blanco, San Miguel, and Teller;

(d) Category IV counties shall consist of the counties of Custer, Elbert, Huerfano, Kit Carson, Lake, Ouray, Prowers, Rio Grande, Washington, and Yuma;

(e) Category V counties shall consist of the counties of Baca, Bent, Cheyenne, Conejos, Costilla, Crowley, Dolores, Hinsdale, Lincoln, Mineral, Phillips, Saguache, and San Juan;

(f) Category VI counties shall consist of the counties of Jackson, Kiowa, and Sedgwick.

(1.5) (a) For the purpose of establishing the salaries of county officers whose terms of office begin on or after January 1, 2016:

(I) (A) Category I-A counties consist of the counties of Adams, Arapahoe, Boulder, Douglas, Eagle, El Paso, Jefferson, Larimer, Pitkin, Pueblo, Routt, Summit, and Weld;

(B) Category I-D counties consist of the county of Mesa.

(II) (A) Category II-A counties consist of the counties of Garfield, Grand, and La Plata;

(B) Category II-B counties consist of the county of Fremont.

(C) Repealed.

(III) (A) Category III-A counties consist of the counties of Archuleta, Chaffee, Clear Creek, Delta, Elbert, Gunnison, Moffat, Montezuma, Montrose, Morgan, Ouray, Park, Rio Blanco, San Miguel, and Teller;

(B) Category III-B counties consist of the counties of Alamosa, Gilpin, and Logan;

(C) Category III-C counties consist of the counties of Las Animas, Rio Grande, and Otero.

(D) (Deleted by amendment, L. 2023.)

(IV) (A) Category IV-A counties consist of the counties of Custer, Lake, and Prowers;

(B) Category IV-B counties consist of the counties of Kit Carson and Washington;

(C) Category IV-C counties consist of the counties of Huerfano and Yuma;

(D) Repealed.

(V) (A) Category V-A counties consist of the counties of Baca, Conejos, Costilla, Hinsdale, Lincoln, Mineral, Phillips, Saguache, and San Juan;

(B) Category V-B counties consist of the county of Crowley;

(C) Category V-C counties consist of the counties of Bent and Cheyenne;

(D) Category V-D counties consist of the county of Dolores.

(VI) (A) Category VI-C counties consist of the counties of Jackson and Sedgwick;

(B) Category VI-D counties consist of the county of Kiowa.

(b) On and after January 1, 2016, the general assembly may amend the provisions of paragraph (a) of this subsection (1.5) by bill to move a county to any of the categories for which salaries are specified in subsection (2.3) of this section to another category. Such amendment shall be made only after giving due consideration to the variations among the counties including population, the number of persons residing in unincorporated areas, assessed valuation, motor vehicle registrations, building permits, military installations, and such other factors as may be relevant to reflect the variations in the workloads and responsibilities of county officers and the tax resources of the several counties.

(2) The annual salaries of county officers whose term of office begins prior to January 1, 2002, shall be as follows:

		County Commissioners	**County Sheriffs**	**County Treasurers, Assessors, and Clerks**
(a)	Category I	63,203	71,293	63,203
(b)	Category II	51,827	57,768	51,827
(c)	Category III	41,714	53,091	41,714
(d)	Category IV	35,394	47,782	35,394
(e)	Category V	32,613	36,405	32,613

(2.1) On and after January 1, 2002, but prior to January 1, 2007, the annual salaries of county officers whose term of office begins on or after January 1, 2002, but prior to January 1, 2007, shall be as follows:

County Commiss-ioners	**County Sheriffs**	**County Treasurers, Assessors, and Clerks**	**County Coroners**

(a)	Category I	63,203	95,000	75,500	75,500
(b)	Category II	51,827	75,000	62,000	32,000
(c)	Category III	41,714	65,000	50,000	25,000
(d)	Category IV	35,394	57,000	42,500	17,000
(e)	Category V	32,613	42,000	37,500	6,500

(2.2) On and after January 1, 2007, but prior to January 1, 2016, the annual salary of a county officer whose term of office begins on or after January 1, 2007, but prior to January 1, 2016, is as follows:

		County Commiss-ioners	**County Sheriffs**	**County Treasurers, Assessors, and Clerks**	**County Coroners**	**County Surveyors**
(a)	Category I	87,300	111,100	87,300	87,300	5,500
(b)	Category II	72,500	87,700	72,500	44,200	4,400
(c)	Category III	58,500	76,000	58,500	33,100	3,300
(d)	Category IV	49,700	66,600	49,700	22,100	2,200
(e)	Category V	43,800	49,100	43,800	9,900	1,100
(f)	Category	39,700	46,500	39,700	9,000	1,000

VI

(2.3) (a) Except as provided in subsections (2.3)(b) to (2.3)(f) of this section, on and after January 1, 2016, the annual salary of a county officer whose term of office begins on or after such date is as follows:

	County Commiss-ioners	**County Sheriffs**	**County Treasurers, Assessors, and Clerks**	**County Coroners**	**County Surveyors**
Category I-A	113,490	144,430	113,490	113,490	7,150
Category I-B	104,760	133,320	104,760	104,760	6,600
Category I-C	96,030	122,210	96,030	96,030	6,050
Category I-D	87,300	111,100	87,300	87,300	5,500
Category II-A	94,250	114,010	94,250	57,460 **(94,250)**	5,720
Category II-B	87,000	105,240	87,000	53,040 **(87,000)**	5,280
Category II-C	79,750	96,470	79,750	48,620 **(79,750)**	4,840
Category II-D	72,500	87,700	72,500	44,200 **(72,500)**	4,400
Category III-A	76,050	98,800	76,050	43,030 **(76,050)**	4,290
Category III-B	70,200	91,200	70,200	39,720 **(70,200)**	3,960
Category	64,350	83,600	64,350	36,410	3,630

	County Commiss-ioners	**County Sheriffs**	**County Treasurers, Assessors, and Clerks**	**County Coroners**	**County Surveyors**
III-C				**(64,350)**	
Category III-D	58,500	76,000	58,500	33,100 **(58,500)**	3,300
Category IV-A	64,610	86,580	64,610	28,730 **(64,610)**	2,860
Category IV-B	59,640	79,920	59,640	26,520 **(59,640)**	2,640
Category IV-C	54,670	73,260	54,670	24,310 **(54,670)**	2,420
Category IV-D	49,700	66,600	49,700	22,100 **(49,700)**	2,200
Category V-A	56,940	63,830	56,940	12,870	1,430
Category V-B	52,560	58,920	52,560	11,880	1,320
Category V-C	48,180	54,010	48,180	10,890	1,210
Category V-D	43,800	49,100	43,800	9,900	1,100
Category VI-A	51,610	60,450	51,610	11,700	1,300
Category VI-B	47,640	55,800	47,640	10,800	1,200
Category VI-C	43,670	51,150	43,670	9,900	1,100
Category VI-D	39,700	46,500	39,700	9,000	1,000

(b) Prior to January 1, 2018, and prior to January 1 each two years thereafter, the director of research of the legislative council appointed pursuant to section 2-3-304 (1) shall adjust the amount of each annual salary in each category specified in subsection (2.3)(a) of this section in accordance with the percentage change over the period in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index. The director of research shall post the adjusted annual salary amounts on the website of the general assembly. The annual salary of a county officer whose term of office begins on or after the date the salaries have been adjusted pursuant to this subsection (2.3)(b) must be as adjusted by the director of research.

(c) The annual salaries of full-time coroners for category II, III, and IV counties, as displayed in bold text and within parentheses in the table in subsection (2.3)(a) of this section, apply only to coroners whose terms begin on or after January 1, 2023, and must be adjusted prior to January 1, 2024, and prior to January 1 each two years thereafter in accordance with subsection (2.3)(b) of this section.

(d) The salary of a full-time category II coroner is equal to the salary of a category II county commissioner, category II county treasurer, category II county assessor, and category II county clerk as indicated by the table in subsection (2.3)(a) of this section. The board of county commissioners may decline the full-time status of a category II coroner for cause, but only after the coroner is given notice and an opportunity to be heard by the board of county commissioners in a public hearing.

(e) A coroner in a category III county may, in consultation with and with approval by the board of county commissioners, determine if a full-time position is appropriate. If a full-time position is agreed upon, the salary of a full-time category III coroner is equal to the salary of a category III county commissioner, category III county treasurer, category III county assessor, and category III county clerk as indicated by the table in subsection (2.3)(a) of this section.

(f) A coroner in a category IV county may, in consultation with and with approval by the board of county commissioners, determine if a full-time position is appropriate. If a full-time position is agreed upon, the salary of a full-time category IV coroner shall be equal to the salary of a category IV county commissioner, category IV county treasurer, category IV county assessor, and category IV county clerk as indicated by the table in subsection (2.3)(a) of this section.

(2.5) Repealed.

(2.7) (Deleted by amendment, L. 97, p. 308, § 1, effective August 6, 1997.)

(2.8) The general assembly hereby finds and declares that:

(a) The rate of compensation of elected county officers shall be provided in accordance with the provisions set forth in section 15 of article XIV of the state constitution;

(b) The salaries of county commissioners, sheriffs, treasurers, assessors, clerk and recorders, coroners, and surveyors have been fixed by law through the enactment of this section.

(c) (Deleted by amendment, L. 98, p. 409, § 1, effective April 21, 1998.)

(3)(a) to (d) Repealed.

(e) Except as provided in subsection (3)(f) of this section, no elected county officer shall have his or her compensation increased or decreased during the term of office to which he or she has been elected or appointed. All actual and necessary expenses of an elected officer incurred while engaged in business on behalf of the county may be allowed by the board of county commissioners and paid out of the county treasury.

(f) An elected county officer in a county classified for salary purposes under subsection (1.5)(a)(III), (1.5)(a)(IV), (1.5)(a)(V), or (1.5)(a)(VI) of this section may elect in his or her sole discretion to receive an amount of salary that is lower than the amount provided for in this section. The amount of the lower salary received by an officer shall be fifty percent of the amount of the salary otherwise provided for the officer as set forth in this section. Any such election shall be set forth in writing and recorded with the office of the county clerk and recorder during the month of November. Any additional money available to a county as a result of an elected county officer making an election pursuant to this subsection (3)(f) shall remain available for expenditure in the county general fund. An elected county officer who elects to receive a lower salary pursuant to this subsection (3)(f) may subsequently elect to receive a higher salary so long as the amount of the higher salary does not exceed the amount provided for in this section. In no event shall an elected county officer make more than one election per year pursuant to this subsection (3)(f).

(4) The board of county commissioners may adjust the salaries established in this section pro rata for county officers working part-time.

(5) The salaries established pursuant to this section shall remain in effect until such time that section 15 of article XIV of the constitution of the state of Colorado is amended to authorize or direct the board of county commissioners in each county to fix the compensation of county officers.

(6) If any provision of this section is found to be unconstitutional by a court of competent jurisdiction, the remaining provisions of this section are valid, unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed.

Source: L. 52: p. 111, § 3. **CSA:** C. 66, § 58(7f). **L. 53:** p. 297, § 3. **CRS 53:** § 56-2-4. **L. 57:** p. 372, § 1. **L. 58:** p. 233, § 1. **L. 61:** p. 379, §§1, 2. **L. 62:** p. 163, § 3. **L. 70:** R&RE, p. 192, § 1. **C.R.S. 1963:** § 30-2-102. **L. 73:** p. 624, § 1. **L. 77:** Entire section amended, p. 1432, § 1, effective July 1. **L. 81:** Entire section R&RE, p. 1423, § 1, effective June 6. **L. 86:** (1)(a) to (1)(c), (1)(e), and (1)(f) amended, (2.5) added, and (3)(a) to (3)(d) repealed, pp. 1032, 1033, §§ 1, 2, effective May 5. **L. 87:** (2.5)(b) repealed, p. 1582, § 40, effective July 10. **L. 88:** (3)(e) amended, p. 917, § 3, effective April 14. **L. 89:** (2) R&RE, (2.3) added, and (2.5)(a) amended, p. 1272, §§ 1, 2, effective May 17. **L. 90:** (1) and (2) R&RE and (2.3) and (2.5)(a) repealed, pp. 1442, 1443, §§ 1, 2, effective April 17. **L. 91:** (1)(a) and (1)(b) amended, p. 714, § 1, effective March 28. **L. 92:** (2.7) added, p. 965, § 3, effective June 1. **L. 97:** (1), (2), and (2.7) amended and (2.8) added, p. 308, § 1, effective August 6. **L. 98:** (1) and (2.8)(c) amended, p. 409, § 1, effective April 21. **L. 2000:** (2) amended and (2.1) added, p. 295, § 1, effective July 1. **L. 2001:** (1)(d), (1)(e), (2), and (2.1) amended, p. 449, § 1, effective August 8. **L. 2002:** (1)(d) and (1)(e) amended, p. 7, § 1, effective August 7; (2.1) amended, p. 365, § 1, effective August 7. **L. 2003:** (1)(c) and (1)(d) amended, p. 808, § 1, effective March 28. **L. 2005:** (1)(c) and (1)(d) amended, p. 374, § 1, effective August 8. **L. 2006:** (1)(e), IP(2.1), and (2.8)(b) amended and (1)(f) and (2.2) added, p. 448, §§ 1, 2, effective August 7. **L. 2009:** (1)(c) and (1)(d) amended, (HB 09-1203), ch. 102, p. 377, § 2, effective August 5. **L. 2014:** (1)(e) and (1)(f) amended, (HB 14-1223), ch. 87, p. 332, § 1, effective August 6; (1)(e) and (1)(f) amended, (HB 14-1307), ch. 163, p. 573, § 1, effective August 6. **L. 2015:** (1)(b) and (1)(c) amended, (HB 15-1256), ch. 91, p. 261, § 1, effective August 5; IP(1) and (2.2) amended, (1.5) added, and (2.3) RC&RE, (SB 15-288), ch. 270, p. 1060, § 3, effective January 1, 2016. **L. 2016:** (1.5)(a) amended, (HB 16-1367), ch. 301, p. 1217, § 1, effective June 10. **L. 2017:** (1.5)(a)(IV)(A) and (1.5)(a)(IV)(B) amended, (HB 17-1128), ch. 28, p. 83, § 1, effective March 8. **L. 2018:** (2.3)(b) amended, (HB 18-1375), ch. 274, p. 1715, § 67, effective May 29; (1.5)(a)(III)(B), (1.5)(a)(III)(D), (1.5)(a)(IV)(C), (1.5)(a)(V)(B), (1.5)(a)(V)(D), and (1.5)(a)(VI) amended and (1.5)(a)(IV)(D) repealed, (HB 18-1242), ch. 141, p. 917, § 1, effective August 8. **L. 2020:** (1.5)(a)(III)(A), (1.5)(a)(III)(B), (1.5)(a)(IV)(B), and (1.5)(a)(IV)(C) amended, (HB 20-1281), ch. 136, p. 590, § 1, effective September 14; (3)(e) amended and (3)(f) added, (HB 20-1029), ch. 242, p. 1165, § 1, effective September 14. **L. 2022:** (2.3)(a) amended and (2.3)(c), (2.3)(d), (2.3)(e), and (2.3)(f) added, (SB 22-065), ch. 45, p. 221, § 1, effective August 10. **L. 2023:** (1.5)(a)(I)(A), (1.5)(a)(II), (1.5)(a)(III), (1.5)(a)(IV)(A), (1.5)(a)(V)(A), and (1.5)(a)(V)(B) amended, (HB 23-1139), ch. 38, p. 154, § 1, effective August 7. **L. 2024:** (1.5)(a)(II)(B), (1.5)(a)(III)(A), (1.5)(a)(III)(C), (1.5)(a)(IV)(A), (1.5)(a)(IV)(C), (1.5)(a)(V)(A), and (1.5)(a)(V)(B) amended and (1.5)(a)(II)(C) repealed, (SB 24-138), ch. 57, p. 197, § 1, effective August 7. **L. 2026:** (1.5)(a)(I)(A), (1.5)(a)(II)(B), (1.5)(a)(IV)(A), (1.5)(a)(IV)(B), (1.5)(a)(V)(C), and (1.5)(a)(V)(D) amended, (SB 26-092), ch. 139, p. 670, § 1, effective August 12.

Editor's note: Amendments to subsections (1)(e) and (1)(f) by HB 14-1223 and HB 14-1307 were harmonized.

ANNOTATION

This section calls for payment of salaries in fixed dollar amounts and cost of living increases should not be implied. Hayden v. State, 43 Colo. App. 148, 599 P.2d 979 (1979).

Compensation for county sheriffs is expressly provided for in this section. Van Cleave v. Bd. of County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

But this section does not authorize a county to compensate the sheriff through provision of living quarters or a housing allowance. Van Cleave v. Bd. of County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

Thus elimination of housing allowance not violation of constitution. Because housing allowance paid to sheriff-jailer was unauthorized and illegal, its elimination did not violate constitutional prohibitions against salary or compensation reduction during the term of office of a public official. Van Cleave v. Bd. of County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

30-2-103. County commissioners - expenses.

County commissioners shall be allowed their actual and necessary maintenance expenses, together with such mileage as shall be determined by resolution of the board of county commissioners of the county or as provided by the charter of a home rule county, within the limits provided under section 30-11-107 (1)(t), for each mile actually traveled whether within or without the state when engaged in business on behalf of the county; but no mileage expense shall be allowed while said commissioners are traveling in an automobile furnished by the county.

Source: L. 45: p. 335, § 8. **CSA:** C. 66, § 58(8). **CRS 53:** § 56-2-9. **C.R.S. 1963:** § 56-2-9. **L. 72:** p. 597, § 80. **L. 78:** Entire section amended, p. 443, § 3, effective March 3. **L. 80:** Entire section amended, p. 655, § 2, effective July 1.

30-2-104. Compensation of deputies and assistants.

(1) (a) The county clerk and recorders, county treasurers, county assessors, county coroners, and surveyors of the respective counties may appoint such deputies, assistants, and employees as shall be necessary at the compensation, payable at least once each month, as fixed by the officers with the approval of the boards of county commissioners of their respective counties. Except for

those employees provided for pursuant to article 1 of title 26, C.R.S., boards of county commissioners may adopt a classification and compensation plan for all county employees paid in whole or in part by the county. The classification and compensation plan shall include workweek formulas of not less than forty hours designed to satisfy the varying requirements of each county service and county department as provided in paragraph (b) of this subsection (1). Upon acceptance by an elected official, the plan shall become binding upon the employees of that office. Changes in benefits, pay grades, and job classifications of employees shall thereafter be made in accordance with the plan.

(b) (I) Notwithstanding any other provision of law to the contrary, workweek formulas shall take into account the various services provided by the county, the operation of the various county departments, and the demands which such services and operations have in requiring employees to be on the job in a manner which is not in conformity with the basic forty-hour workweek which generally characterizes office work.

(II) Such workweek formulas may provide for work time in excess of forty hours during consecutive seven-day calendar periods. In such cases, computation of forty-hour pay periods may be based on an averaging formula covering more than such seven-day calendar period.

(III) Authorized overtime work shall relate to such averaged workweeks where determined in the classification and compensation plan applicable to a described department or service.

(IV) All employees who work overtime pursuant to any classification and compensation plan shall receive overtime compensation, either in cash or in compensatory time.

(2) In the event litigation is instituted relating to compensation or classification, the burden of proof shall be upon the plaintiff or the elected official instituting such action. Costs of any litigation instituted by an elected official shall be paid out of the county general fund.

Source: L. 45: p. 336, § 9. **CSA:** C. 66, § 58(9). **CRS 53:** § 56-2-10. **C.R.S. 1963:** § 56-2-10. **L. 73:** p. 629, § 1. **L. 79:** (1) amended, p. 1134, § 1, effective April 25. **L. 81:** (1)(a) amended, p. 1425, § 1, effective May 6. **L. 84:** (1)(a) amended, p. 582, § 3, effective March 19. **L. 2003:** (1)(a) amended, p. 806, § 1, effective July 1. **L. 2006:** (1)(a) amended, p. 449, § 3, effective August 7.

ANNOTATION

Law reviews. For article, "The Fair Labor Standards Act: Criminal and Civil Liability", see 14 Colo. Law. 1802 (1985).

Authority vested in board under phrase "with the approval of the board" does not give board unbridled power to change salaries fixed by treasurer. Kanaly v.

Wadlow, 31 Colo. App. 193, 502 P.2d 83 (1972), modified, 182 Colo. 115, 511 P.2d 484 (1973).

General assembly intended to divest board of exclusive power to fix salaries and to vest some meaningful power and authority in treasurer. Kanaly v. Wadlow, 31 Colo. App. 193, 502 P.2d 83 (1972), modified, 182 Colo. 115, 511 P.2d 484 (1973).

But when the county treasurer and the board of county commissioners are unable to agree on prospective salaries for the treasurer's employees, the burden in a lawsuit brought to resolve the differences lies with the treasurer or the employee bringing the suit to show that the proposal of the treasurer is reasonable under the circumstances. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

The board is vested with the ultimate responsibility for the conduct of the fiscal affairs of the county. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

And the commissioners are charged with the construction of an annual budget from submissions from the various departments of their anticipated financial needs for the ensuing year. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

No authority in county department heads to set salaries. To hold that the heads of the various county departments had the authority to set salaries of their employees, not prescribed by statute, unless clearly exorbitant, would be to seriously compound the problems faced by the commissioners in adopting a balanced budget. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

Board reviews salaries. It seems most consistent with the requirements of county government fiscal planning to allow the board to review salaries proposed by the heads of the various departments serving executive and administrative functions in the county. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

Such an interpretation enables the commissioners to assure a reasonable budgetary process and develop a parity in salary levels throughout these various departments. Wadlow v. Kanaly, 182 Colo. 115, 511 P.2d 484 (1973).

The power to appoint such assistants and employees as are necessary is vested in the county superintendent of schools, who may fix their compensation with the approval of the board of county commissioners. Schroeder v. Bd. of County Comm'rs, 152 Colo. 313, 381 P.2d 820 (1963).

No subsequent authority of board to cut off. Where the county superintendent determined that a clerical assistant was necessary and fixed compensation of such assistant with approval of board of county commissioners, the board was thereafter without unilateral power to diminish or cut off compensation of such assistant. Schroeder v. Bd. of County Comm'rs, 152 Colo. 313, 381 P.2d 820 (1963).

As board cannot substitute its judgment. By eliminating the salary of a clerical assistant the board of county commissioners eliminated the position, and,

in effect, substituted its determination of the necessity for an assistant when that prerogative is vested by law in the duly elected county official. Schroeder v. Bd. of County Comm'rs, 152 Colo. 313, 381 P.2d 820 (1963).

Nor can court. A trial court in entering a finding determining that the assistant of the county superintendent of schools is not necessary invades the province of the executive branch of the government and is powerless to take such action. Schroeder v. Bd. of County Comm'rs, 152 Colo. 313, 381 P.2d 820 (1963).

Award of attorney fees to county sheriff was error because "elected county official" in subsection (2) is limited to those officials specifically enumerated in subsection (1). Johnson v. Bd. of County Comm'rs, 676 P.2d 1263 (Colo. App. 1984).

Section not applicable. The facts of this case do not bring it within the provisions for the payment of costs under this section. Sullivan v. Bd. of County Comm'rs, 692 P.2d 1106 (Colo. 1984).

Applied in Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983); Johnson v. Bd. of County Comm'rs, 676 P.2d 1263 (Colo. App. 1984).

30-2-105. Superintendent of schools - mileage. (Repealed)

Source: L. 45: p. 336, § 10. **CSA:** C. 66, § 58(10). **CRS 53:** § 56-2-11. **C.R.S. 1963:** § 56-2-11. **L. 72:** p. 597, § 81. **L. 78:** Entire section amended, p. 443, § 4, effective March 3. **L. 80:** Entire section amended, p. 656, § 3, effective July 1. **L. 84:** Entire section repealed, p. 582, § 1, effective March 19.

30-2-106. Undersheriffs and deputies - salaries - report of fees.

(1) Undersheriffs and deputy sheriffs shall be appointed by the sheriffs of their respective counties, and their salaries shall be paid at least once each month. In all counties the salaries of the undersheriff and deputy sheriff shall be fixed by the sheriff, with the approval of the board of county commissioners.

(2) The undersheriff and each deputy sheriff shall make to the sheriff a report in writing, under oath, of all fees collected of any description whatsoever and of all expenditures and necessary expenses relating to the discharge of the duties of his office.

(3) In addition thereto such sheriffs, undersheriffs, and deputy sheriffs shall be allowed such mileage as shall be determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county, within the limits provided under

section 30-11-107 (1)(t), for each mile actually and necessarily traveled in the performance of their duties.

Source: L. 45: p. 336, § 13. **CSA:** C. 66, § 58(13). **CRS 53:** § 56-2-12. **C.R.S. 1963:** § 56-2-12. **L. 72:** p. 597, § 82. **L. 78:** (3) amended, p. 444, § 5, effective March 3. **L. 80:** (3) amended, p. 656, § 4, effective July 1. **L. 2003:** (1) amended, p. 806, § 2, effective July 1.

ANNOTATION

Approval of board of county commissioners is discretionary power, not a ministerial duty to rubberstamp a county officer's decision. Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

Circumstances to be considered by board in determining reasonableness of salaries include the amount of revenue available, the needs of other county departments and the ability of the county's taxpayers to fund additional requests, as well as the requesting department's need for the expenditures. Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

30-2-107. Traveling expenses of sheriff.

Sheriffs also shall be allowed actual traveling expenses payable out of the general county fund, upon certified itemized accounts being presented for the same, in the service of all warrants, capiases, mittimuses, commitments, body attachments, and court orders requiring the same and in the performance of the official duties in the investigation and pursuit of law violators throughout the state of Colorado in such amount as shall be determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county, within the limits provided under section 30-11-107 (1)(t); but the actual expenses incurred in the service of executions, writs of attachment, replevins, restitutions, and other process shall be paid by the parties requiring such service. All such accounts shall be subject to the approval of the board of county commissioners.

Source: L. 1891: p. 311, § 11. **L. 1899:** p. 335, § 7. **L. 07:** p. 398, § 1. **R.S. 08:** § 2571. **L. 15:** p. 245, § 1. **L. 17:** p. 227, § 4. **L. 19:** p. 373, § 3. **C.L.** § 7928. **CSA:** C. 66, § 76. **CRS 53:** § 56-2-16. **C.R.S. 1963:** § 56-2-16. **L. 72:** p. 598, § 83. **L. 78:** Entire section amended, p. 444, § 6, effective March 3. **L. 80:** Entire section amended, p. 656, § 5, effective July 1.

ANNOTATION

Expenses and mileage fees differentiated. The actual traveling expenses of the sheriff provided for in this section are to be paid out of and not exceeding a mileage fee at the statutory rate per mile actually and necessarily traveled in the performance of his duty, which fee is separate and distinct from and in addition to that prescribed in the fee act. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

The allowance for traveling expenses is not a payment for services, but it is a reimbursement of money expended, and is in addition to, and independent of, salary, and if the traveling expenses should exceed the amount of mileage, at the rate limited, against which they are chargeable, the full expenses could not be paid, and a proportionate loss would be suffered; but when mileage in either a civil or criminal case has been collected and deposited, it is the duty of the board of commissioners to allow the traveling expenses incurred in the case, payable out of the mileage, if it amounts to so much, or if not, to the extent of the mileage deposited. Bransom v. Bd. of Comm'rs, 5 Colo. App. 231, 37 P. 957 (1894).

Necessary traveling expenses paid by the sheriff in serving a venire for jurors in a court of record should be allowed by the county. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

If a sheriff travels upon a railroad on a free pass, he cannot be allowed the ordinary railroad fare as expenses necessarily incurred, but, notwithstanding he may have such a pass, he may pay the customary fare and include its amount in his expense account. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

The use of a sleeping car by a sheriff upon his return journey from transporting a prisoner was not only customary, but was proper and convenient, and reasonable, within the meaning of this section, as a legitimate part of the necessary expenses incurred by the sheriff. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

But, the liability of the county in such cases depended in part upon the facts and circumstances of each case, and the decision of this particular question was limited to the facts of the case. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

The mileage fees, if earned by the officer, had to be collected by him of litigants if in civil cases, and the various statutory conditions that made the county liable for costs in criminal cases had to have happened before the sheriff got credit from the county therefor; so that, in compensating the sheriff, he was not only limited to his salary and actual traveling expenses, but to get these he had to first have collected from the parties to suits the various items of fees which went to make up, and out of which only, his compensation was paid. Sargent v. Bd. of Comm'rs, 21 Colo. 158, 40 P. 366 (1895).

30-2-108. Coroner - compensation - mileage.

(1) (a) Repealed.

(b) In counties of every class, the coroner shall be reimbursed for such mileage as shall be determined by resolution of the board of county commissioners of the county or as provided by the charter of a home rule county, within the limits provided under section 30-11-107 (1)(t), for each mile actually and necessarily traveled in going to and returning from the place of investigation or the place of inquest, which reimbursement shall be paid out of the county treasury.

(c) In counties of every class, the board of county commissioners shall provide for reimbursement to coroners for expenses related to travel by the coroner for the purpose of testifying as a witness or acting in any other official capacity with respect to any legal proceeding involving a death investigated by that coroner. Such reimbursement may include a mileage allowance for each mile actually and necessarily traveled in an amount determined by the board within the limits provided under section 30-11-107 (1)(t) and actual and necessary lodging, subsistence, and incidental expenses as determined by the board. Such reimbursement shall be paid out of the county treasury.

(d) In counties of every class, the board of county commissioners may provide for additional compensation to be paid to any coroner who performs a post-mortem examination of the body of a deceased person pursuant to section 30-10-606 (2), which compensation shall be paid out of the county treasury.

(2) In addition to the fees provided in subsection (1) of this section, the coroner shall receive the same fees for summoning jurors and witnesses, and swearing jurors and witnesses, as are now allowed by law for like service. For all services performed in place of the sheriff, the coroner shall receive the same fees as are allowed to the sheriff for like service.

Source: L. 1891: p. 214, § 9. **R.S. 08:** § 2577. **L. 15:** p. 238, § 1. **C.L.** § 7935. **CSA:** C. 66, § 85. **CRS 53:** § 56-2-17. **C.R.S. 1963:** § 56-2-17. **L. 70:** p. 195, § 2. **L. 73:** p. 627, § 2. **L. 78:** (1) amended, p. 444, § 7, effective March 3. **L. 80:** (1) amended, p. 656, § 6, effective July 1. **L. 81:** (1) amended, p. 1425, § 2, effective May 6. **L. 89:** (1) amended, p. 1275, § 1, effective April 18. **L. 2002:** (1) amended, p. 365, § 2, effective August 7. **L. 2006:** (1)(a) repealed, p. 450, § 5, effective August 7.

COUNTY ELECTED OFFICIALS' SALARY COMMISSION

ARTICLE 3

County Elected Officials' Salary Commission

30-3-101 to 30-3-107. (Repealed)

Editor's note: (1) This article 3 was added in 2005. For amendments to this article 3 prior to its repeal in 2016, consult the 2015 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 30-3-107 provided for the repeal of this article 3, effective July 1, 2016. (See L. 2015, p. 270.)

LOCATION AND BOUNDARIES

ARTICLE 5

County Boundaries

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30-5-101. Legislative declaration - county boundaries.

(1) The general assembly recognizes that in the establishment of the state of Colorado the counties of the territory of Colorado were adopted as the counties of the new state and that there have been additional counties established by law and in accordance with then current methods of surveying and describing county boundaries. The general assembly finds and declares that it is desirable to revise the descriptions of county boundaries to update and establish by law more precise definitions of the boundaries of the several counties of this state as they are known to exist with the use of modern methods and equipment. It is not the intent of the general assembly to effect the transfer of land from one county to another or to adversely affect the title of any property merely because of the redefinition of county boundaries.

(2) The following shall be the boundaries of the respective counties of this state.

Source: R.S. p. 157, § 1. **G.L.** § 350. **G.S.** § 424. **R.S. 08:** § 1082. **C.L.** § 8559. **CSA:** C. 44, § 1. **CRS 53:** § 34-1-1. **C.R.S. 1963:** § 34-1-1. **L. 81:** p. 1427, § 1.

ANNOTATION

Construction in pari materia inapplicable. The sections defining the county boundaries are not to be construed like different acts passed on the same subject to which the rule of construction in pari materia would be applicable. Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

A county line is not determined by the actions of omission or commission of public officers, but by legislative enactment. Bd. of Comm'rs v. Bd. of Comm'rs, 58 Colo. 67, 143 P. 841 (1914).

Adjustment of property rights. In the absence of a constitutional limitation, it is competent for the general assembly, at the time it carves out a new county from the territory of an old one, or by subsequent legislation, to adjust the property rights and equities existing between the two. City Council v. Bd. of Comm'rs, 33 Colo. 1, 77 P. 858 (1904).

30-5-102. Adams.

Except for those portions that became part of the city and county of Broomfield on November 15, 2001, in accordance with sections 10 to 13 of article XX of the state constitution, all that portion of Arapahoe county, beginning at the northwest corner of Arapahoe county as now constituted, thence east along the north boundary line of said Arapahoe county to the northeast corner of said Arapahoe county, thence south along the east boundary line of said county to the

southeast corner of said county, thence west along the south boundary line of said county to the east boundary line of range fifty-seven west, thence north along the said east boundary line to the intersection of the east boundary line of range fifty-seven and the south boundary line of township three in said range, thence west along the south boundary line of township three to the point of intersection of south boundary line of township three in range fifty-seven west, and the east boundary line of the city of Denver as the same is constituted at the time this section takes effect, thence northerly and westerly, following the easterly and northern boundary lines of said city of Denver as then constituted, to the point of intersection of said boundary lines with the west boundary line of Arapahoe county, thence north to the place of beginning, shall be set apart and is hereby established as a county to be called the county of Adams, which said county shall have the legal capacities and functions of other counties of this state.

Source: L. 01: p. 133, § 1. **R.S. 08:** § 1083. **C.L.** § 8560. **CSA:** C. 44, § 2. **CRS 53:** § 34-1-2. **C.R.S. 1963:** § 34-1-2. **L. 2004:** Entire section amended, p. 639, § 1, effective April 23.

ANNOTATION

For the right of Adams county to receive land from the city and county of Denver, see City Council v. Bd. of Comm'rs, 33 Colo. 1, 77 P. 858 (1904).

30-5-103. Alamosa.

Beginning at the southwest corner of section eighteen, township thirty-six north, range nine east; thence north on the west line of range nine east to its intersection with the tenth standard parallel north; thence east on said parallel to its intersection with the crest of the mountain range that divides the waters of the streams flowing westerly into the San Luis Valley from the waters flowing easterly in the drainage of the Huerfano River; thence southerly along said crest to Blanca Peak; thence southwesterly along the crest of the mountain range that divides the waters of the streams flowing westerly into the San Luis Valley from the waters of the drainage of Blanca Creek to the peak on said crest lying two-tenths of a mile, more or less, southerly of Little Bear Peak, said peak being on the boundary of the Sangre de Cristo Grant; thence along a straight line, on the boundary of said Grant, running south forty-three degrees twenty minutes west, to its intersection with the southern boundary of the northern half of township thirty-six north; and thence west on said southern boundary to the point of beginning. Said public land survey lines are based upon the New Mexico principal meridian.

Source: L. 13: p. 19, § 1. **C.L.** § 8561. **CSA:** C. 44, § 3. **CRS 53:** § 34-1-3. **C.R.S. 1963:** § 34-1-3. **L. 81:** Entire section R&RE, p. 1427, § 2, effective July 1.

30-5-104. Arapahoe.

All that part of Arapahoe county as is included within the following described boundaries shall be set apart and is hereby established as a county, to be called the county of Arapahoe, the boundaries are as follows, to wit:

Beginning at the southwest corner of Arapahoe county; thence east to the intersection of the east boundary line of range fifty-seven west, with the south boundary line of Arapahoe county; thence north to the intersection of the east boundary line of range fifty-seven and south boundary line of township three in said range; thence west to the point of intersection of south boundary line of township three in range sixty-seven west and the east boundary line of the city of Denver as now constituted; thence following the eastern, southern and western boundary lines of the city of Denver as the same are constituted at the time this section goes into effect to a point where said boundary line of the city of Denver intersects the west boundary line of the county of Arapahoe; thence south to the southwest corner of Arapahoe, or place of beginning.

Source: L. 01: p. 138, § 1. **L. 03:** p. 164, § 1. **R.S. 08:** § 1084. **C.L.** § 8562. **CSA:** C. 44, § 4. **CRS 53:** § 34-1-4. **C.R.S. 1963:** § 34-1-4.

ANNOTATION

For the division of the former county of Arapahoe into the city and county of Denver, the county of Adams and the county of South Arapahoe, see City Council v. Bd. of Comm'rs, 33 Colo. 1, 77 P. 858 (1904).

And as to the right of South Arapahoe county to receive from the city and county of Denver a just proportion of the value of the property of old Arapahoe county, see City Council v. Bd. of Comm'rs, 33 Colo. 1, 77 P. 858 (1904).

30-5-105. Archuleta.

All that part of the county of Conejos included within the following described boundaries shall be set apart and is hereby established as a county, to be called the county of Archuleta, the boundaries of which are as follows:

Beginning on the southern boundary line of the state of Colorado at the intersection of said state line and the eastern boundary line of Tierra Amarilla Grant, which is thirty-seven and eleven one-hundredths chains west on said state line from the range line between ranges four and five east of the New Mexico principal meridian, and thence in a northwesterly direction following said east boundary line of the said Tierra Amarilla Grant to the north corner of said Tierra Amarilla Grant, and thence in the same direction until said line intersects with the range line between ranges two and three east of the New Mexico principal meridian, and thence north following said range line to the north boundary line of the county of Conejos, thence west along the southern boundary of the county of Mineral and the county of Hinsdale to the southwest corner of the said county of Hinsdale, thence south to the state line and thence east along the said southern boundary line of the state of Colorado to the place of beginning.

Source: L. 1885: p. 40, § 1. **L. 05:** p. 153, § 1. **R.S. 08:** § 1085. **C.L.** § 8563. **CSA:** C. 44, § 5. **CRS 53:** § 34-1-5. **C.R.S. 1963:** § 34-1-5.

30-5-106. Baca.

Beginning at the intersection of the west line of range fifty west with the north line of township twenty-eight south; thence south along said range line to the southwest corner of township thirty south, range fifty west; thence west on the north line of township thirty-one south, range fifty west, to the northwest corner of said township and range; thence south on the west line of range fifty west to its intersection with the south boundary line of Colorado; thence east on said south boundary line to the southeast corner boundary of Colorado; thence north along the east boundary line of Colorado to its intersection with the north line of township twenty-eight south, range forty-one west; and thence west on the north line of township twenty-eight south to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 26, § 1. **R.S. 08:** § 1086. **C.L.** § 8564. **CSA:** C. 44, § 6. **CRS 53:** § 34-1-6. **C.R.S. 1963:** § 34-1-6. **L. 81:** Entire section R&RE, p. 1428, § 3, effective July 1.

30-5-107. Bent.

The boundary lines of the county of Bent are as follows:

Commencing upon the eastern boundary line of Colorado territory at its intersection with township line between townships thirteen and fourteen south; thence west on said township line

to the range line between ranges fifty-nine and sixty west; thence south on said range line to the township line between townships twenty-seven and twenty-eight south; thence east on said township line to the eastern boundary line of Colorado territory; thence north on said eastern boundary line to the place of beginning.

Source: L. 1874: p. 61, § 1. **G.L.** § 376. **G.S.** § 450. **R.S. 08:** § 1087. **C.L.** § 8565. **CSA:** C. 44, § 7. **CRS 53:** § 34-1-7. **C.R.S. 1963:** § 34-1-7.

30-5-108. Greenwood abolished.

The county of Greenwood is hereby abolished, and that portion of it not included in the county of Elbert shall be for all purposes a part of the county of Bent.

Source: L. 1874: p. 62, § 2. **G.L.** omitted. **G.S.** § 451. **R.S. 08:** § 1088. **C.L.** § 8566. **CSA:** C. 44, § 8. **CRS 53:** § 34-1-8. **C.R.S. 1963:** § 34-1-8.

30-5-109. Boulder.

Boulder county: Except for those portions that became part of the city and county of Broomfield on November 15, 2001, in accordance with sections 10 to 13 of article XX of the state constitution, commencing at a point where the township line between townships one and two south intersects the range line between ranges sixty-eight and sixty-nine; thence west on said township line to the east line of Gilpin county; thence along said line to the South Boulder creek; thence west along the northern boundary line of Gilpin county to the summit of the snowy range; thence along the summit of first range to a point at or near the summit of Long's Peak; thence east on said township line to the range line between ranges sixty-eight and sixty-nine; thence south to the place of beginning.

Source: L. 1861: p. 55, § 22. **R.S.** p. 160, § 25. **G.L.** § 363. **G.S.** § 438. **R.S. 08:** § 1089. **C.L.** § 8567. **CSA:** C. 44, § 9. **CRS 53:** § 34-1-9. **C.R.S. 1963:** § 34-1-9. **L. 2004:** Entire section amended, p. 639, § 2, effective April 23.

ANNOTATION

Meaning of "on summit of the snowy range". In this section and in the sections fixing the boundaries of Boulder, Clear Creek and Gilpin, the western boundaries are fixed "on the summit of the snowy range", and here the continental divide is meant, without dispute. Bd. of County Comm'rs v. Bd. of County Comm'rs, 9 Colo. 268, 11 P. 193 (1886).

30-5-109.5. Broomfield, city and county of.

As of November 15, 2001, the corporate limits of the city and county of Broomfield shall be as follows: Two parcels of land in all or portions of sections one, two, three, four, five, six, seven, eight, and eleven, all in township two south, range sixty-nine west and a portion of section one, township two south, range seventy west; all or portions of sections twelve, thirteen, fourteen, fifteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six all in township one south, range sixty-nine west; all or portions of sections two, three, four, five, six, seven, eight, nine, ten, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-nine, thirty, thirty-one, thirty-two, and thirty-three all in township one south, range sixty-eight west; and all or portions of sections twenty-three, twenty-six, twenty-seven, thirty-one, thirty-two, thirty-three, thirty-four, and thirty-five all in township one north, range sixty-eight west, all of the sixth principal meridian, Broomfield county, Colorado, except for those parcels otherwise remaining in the counties of Adams, Boulder, Jefferson, and Weld on and after November 15, 2001, pursuant to sections 10 to 13 of article XX of the state constitution.

Source: L. 2004: Entire section added, p. 640, § 3, effective April 23.

30-5-110. Chaffee.

Chaffee county: Commencing at a point on the summit of the snowy range, at the northwest corner of the county of Park, and running due west to the western boundary of the state; thence south, on said boundary, to the summit of the Sierra La Plata, or the northwest corner of Conejos county; thence easterly along the northern boundary of Conejos county to the one hundred and seventh degree of longitude; thence north, following said degree, to the northwest corner of Saguache county; thence east, along the north boundary of Saguache county, to the top of the range at the Poncho pass; thence northeasterly along the summit of the range, crossing the Arkansas river, at a point three miles below the mouth of the South Arkansas river; thence easterly to the summit of the range which divides the waters of the Platte and Arkansas rivers, along the summit of the range and western boundaries of the counties of Fremont and Park, in a northwesterly direction to the point of beginning.

Source: L. 1872: p. 82, § 2. **G.L.** § 368. **G.S.** § 443. **R.S. 08:** § 1090. **C.L.** § 8568. **CSA:** C. 44, § 10. **CRS 53:** § 34-1-10. **C.R.S. 1963:** § 34-1-10.

ANNOTATION

In this section the term "snowy range" is applied, without further description, to the continental divide. Bd. of County Comm'rs v. Bd. of County Comm'rs, 9 Colo. 268, 11 P. 193 (1886). Bd. of County Comm'rs v. Bd. of County Comm'rs, 70 Colo. 417, 203 P. 269 (1921).

For a case fixing the point of beginning in the description of Lake (now Chaffee) county, see Bd. of County Comm'rs v. Bd. of County Comm'rs, 70 Colo. 417, 203 P. 269 (1921).

30-5-111. Cheyenne.

So much of the counties of Bent and Elbert as is included within the following described boundaries, shall be set apart and is hereby established as a county, with the legal capacity and functions of other counties of this state, to be called the county of Cheyenne:

Beginning at a point on the eastern boundary line of the state of Colorado, where the same is intersected by the line between townships numbered eleven and twelve south; thence west on said township line to the west side of range fifty-one, west of the sixth principal meridian; thence south on said range line to the township line between townships numbered sixteen and seventeen south; thence east on said township line to the eastern boundary line of the state of Colorado; thence north on said state line to the place of beginning.

Source: L. 1889: p. 56, § 1. **R.S. 08:** § 1091. **C.L.** § 8569. **CSA:** C. 44, § 11. **CRS 53:** § 34-1-11. **C.R.S. 1963:** § 34-1-11.

30-5-112. Clear Creek.

Clear Creek county: Commencing at the junction of North and South Clear creeks, and running thence up the dividing ridge between said streams, to the summit of the snowy range; thence along said summit to the point where the first correction line south, if continued, would intersect said summit; thence east on said correction line to the western boundary of the county of Jefferson; thence north to the place of beginning.

Source: R.S. p. 161, § 29. **G.L.** § 365. **G.S.** § 440. **R.S. 08:** § 1092. **C.L.** § 8570. **CSA:** C. 44, § 12. **CRS 53:** § 34-1-12. **C.R.S. 1963:** § 34-1-12.

30-5-113. Conejos.

Conejos county: Commencing on the southern boundary of the state, in the center of the Rio Grande del Norte; thence up the center of said stream to where it leaves the canyon of the snowy range at the corner of Saguache county; thence in a northwesterly direction along the western boundary of said Saguache county to the Cochetopa pass; thence in a southwesterly direction on the summit of the Uncompahgre mountains and the Sierra La Plata, forming the southern boundary of Lake county, to the western line of the state; thence along the western boundary of the state to its southwest corner; thence along the southern boundary of the state to the place of beginning.

Source: R.S. p. 158, § 6. **G.L.** § 353. **G.S.** § 428. **R.S. 08:** § 1093. **C.L.** § 8571. **CSA:** C. 44, § 13. **CRS 53:** § 34-1-13. **C.R.S. 1963:** § 34-1-13.

30-5-114. Costilla.

Costilla county: Commencing at a point on the southeastern boundary of the state, where the range line between ranges sixty-nine and seventy intersects said boundary; thence north along said range line to the point where the same intersects the Sangre de Cristo pass or road; thence in a southwesterly direction on said road to the summit of the Sangre de Cristo range; thence in a northerly and westerly direction along the summit of said range to the head of the main branch of the Mosco creek; thence in a southwesterly direction down the center of said Mosco creek to where said creek enters into the San Luis valley; thence in a westerly direction to the most easterly point of La Loma del Norte; thence down the center of the Rio Grande del Norte to the southern boundary of the state; thence east along said boundary to the place of beginning.

Source: R.S. p. 157, § 2. **G.L.** § 351. **G.S.** § 425. **R.S. 08:** § 1094. **C.L.** § 8572. **CSA:** C. 44, § 14. **CRS 53:** § 34-1-14. **C.R.S. 1963:** § 34-1-14.

30-5-115. Crowley.

So much of the county of Otero as is included in the following described boundaries shall be set apart and is hereby established, with the legal capacities and functions of other counties in this state, as a county, to be called the county of Crowley:

Beginning at the northwest corner of Otero county; running thence east along the north boundary line of said Otero county to the range line between ranges fifty-four and fifty-five, west of the sixth principal meridian, which range line is the west boundary line of Kiowa county; thence south along said range and county line to the fourth correction line south to a point at the southwest corner of said Kiowa county; thence west along said correction line to the range line between ranges fifty-four and fifty-five west, in township twenty-one south; thence south on said range line to the south line of said township twenty-one south, to a point at the southeast corner of section thirty-six, in said township twenty-one, range fifty-five west; thence west along the south line of said township to the range line between ranges fifty-five and fifty-six west; thence south along said range line, four miles, more or less, to the southwest corner of section twenty-four, township twenty-two, south, range fifty-six west; thence west along the south line of sections twenty-four, twenty-three, twenty-two, twenty-one, twenty and nineteen, in range fifty-six west; thence continuing west on the south line of sections twenty-four, twenty-three, twenty-two and twenty-one in said township twenty-two south, range fifty-seven west, to where said section line intersects the center of the Arkansas river; thence north and northwesterly with the center and meanderings of said river to the west boundary line of said Otero county; thence north along said boundary line to the fourth correction line south; thence east along said correction line to the range line between ranges fifty-nine and sixty, which range line is the west boundary line of said Otero county; thence north along said range line to the place of beginning.

Source: L. 11: p. 277, § 1. **C.L.** § 8573. **CSA:** C. 44, § 15. **CRS 53:** § 34-1-115. **C.R.S. 1963:** § 34-1-15.

ANNOTATION

The boundary between two counties, established by legislative act, could not be changed by an artificial changing of the course of the Arkansas river. Thomson v. Clarks, Inc., 162 Colo. 506, 427 P.2d 314 (1967).

When the Arkansas river channel was altered in 1935-36 it was not a slow and gradual change but a sudden change caused by mechanical or artificial means so as to constitute an avulsion rather than an accretion, and when such a sudden change occurs, there is no alteration in the boundary line; it remains at the location of the river immediately prior to the change. Thomson v. Clarks, Inc., 162 Colo. 506, 427 P.2d 314 (1967).

30-5-116. Custer.

All that section of country now forming a portion of Fremont county, and further described in this section, is hereby created, set apart, and established as the county of Custer, and shall possess all such legal functions and capacities as other counties in this state. The new county of Custer shall be bounded as follows:

Commencing at a point on the summit of the Sangre de Cristo range of mountains where the fourth correction line south, if extended, would cross said range of mountains; thence running east along said fourth correction line to the line between ranges sixty-eight and sixty-nine west of the sixth principal meridian; thence south along said line to the north line of Huerfano county; thence westerly along said north line of Huerfano county to the summit of the Sangre de Cristo range of mountains; thence northerly and northwesterly, along the summit of the Sangre de Cristo range of mountains, to the place of beginning.

Source: G.L. §§ 401, 402. **G.S.** §§ 465, 466. **R.S. 08:** §§ 1095, 1096. **C.L.** §§ 8574, 8575. **CSA:** C. 44, §§ 16, 17. **CRS 53:** § 34-1-16. **C.R.S. 1963:** § 34-1-16.

30-5-117. Delta.

So much of the county of Gunnison as is included within the following described boundaries shall be set apart and is hereby established as a county, with the legal capacity and functions of other counties of this state, to be called the county of Delta:

Beginning at a point two miles south of the third correction line extended west to a point of intersection with the 107 degrees, 30 minutes west longitude; thence due north along said degree of longitude to the divide between the headwaters of the Colorado and North Fork of the Gunnison rivers; thence along said divide in a southwesterly direction to a point on the extreme southwestern extremity of the Grand Mesa; thence in a southwesterly direction to the mouth of the Rio Dominguez; thence due south to a point two miles south of an extension of the third correction line; thence due east parallel with said extension of the third correction line to place of beginning.

Source: L. 1883: p. 124, § 1. **G.S.** § 472. **R.S. 08:** § 1097. **C.L.** § 8576. **CSA:** C. 44, § 18. **CRS 53:** § 34-1-17. **C.R.S. 1963:** § 34-1-17.

30-5-118. Denver, city and county of.

(1) After April 16, 1901, the corporate limits of the city of Denver shall be as follows:

Beginning at the northwest corner of the southwest quarter of section eighteen, in township three south, range sixty-eight west; thence south on the range line between ranges sixty-eight and sixty-nine west, to the southwest corner of section seven, in township four south, range sixty-eight west; thence east on the south line of sections seven and eight, in township four south, range sixty-eight west, to southeast corner of section eight aforesaid; thence south on the west line of section sixteen, in said last mentioned township and range, to the southwest corner of said section sixteen; thence east on the south line of said section sixteen, to the northwest corner of the northeast quarter of section twenty-one, in said last mentioned township and range; thence south on the north and south center line of sections twenty-one and twenty-eight, in the same township and range, to the southwest corner of the southeast quarter of said section twenty-eight; thence east on the south line of sections twenty-eight, twenty-seven, twenty-six, and twenty-five, in the same township and range, to the southeast corner of section twenty-five; thence north on the east line of sections twenty-five, twenty-four and thirteen, in the same township and range, to the southwest corner of section seven, in township four south, range sixty-seven west; thence east on the south line of sections seven, eight and nine, in said last mentioned township, to the southeast corner of said section nine; thence north on the east line of sections nine and four, in said last mentioned township and of sections thirty-three, twenty-eight and twenty-one, in township three south, range sixty-seven west, to the northeast corner of said section twenty-one; thence west on the south line of sections sixteen, seventeen and eighteen, in said last mentioned township, to the southwest corner of section eighteen last aforesaid; thence north on the west line of said last mentioned section eighteen to the northeast corner of the south half of the northeast quarter of section thirteen, in township three south, range sixty-eight west; thence west on the east and west center line of the north half of section thirteen aforesaid, to the easterly line of the right-of-way of the Burlington and Colorado railroad company; thence southeasterly, with the easterly line of said right-of-way, to the north line of the southeast quarter of section fourteen, in township three south, range sixty-eight west; thence west on the east and west center line of section fourteen aforesaid, to a point which is one hundred and twenty-five feet east of the west line of said section fourteen; thence north three hundred feet; thence west one hundred and twenty-five feet to the west line of said section fourteen; thence south three hundred feet, to the northwest corner of the southwest quarter of said section fourteen; thence west on the east and west center line of sections fifteen, sixteen and seventeen, in said last mentioned township, to the center of said section seventeen; thence west on the east and west center line of said section seventeen, thirteen hundred and twenty feet; thence north three hundred and thirty feet; thence west thirteen hundred and twenty feet to the west line of said section seventeen; thence south three hundred and thirty feet to the northwest corner of the southwest quarter of said section seventeen; thence west on the east and west center line of section eighteen, to the place of beginning; the territory included within the last above described boundaries being situated in the

county of Arapahoe, in the state of Colorado; excepting, however, all towns and cities incorporated and now existing or hereafter incorporated under the general laws of the state and situated within said last mentioned boundaries.

(2) Whenever any of said towns or cities, or any town or city existing under general laws of this state and contiguous to the city of Denver, shall, in pursuance of any law of the state, be dissolved or become annexed to the city of Denver, then the territory included within the same shall thereby become part of the city of Denver. If any such territory is so annexed more than six months prior to the next general election of the city of Denver, the city council of the city of Denver shall immediately by ordinance create a new ward or wards of the city, including said territory, and provide for and call a special election in each new ward so created, for the election of an alderman from such ward, in accordance with the provisions of this section and of the general election laws of this state; and the alderman so elected from each new ward shall, upon his election and qualification, be and become a member of the board of aldermen and of the city council of the city of Denver, until the next general election for officers of said city.

Source: L. 01: p. 162, § 2. **R.S. 08:** § 1098. **C.L.** § 8577. **CSA:** C. 44, § 19. **CRS 53:** § 34-1-18. **C.R.S. 1963:** § 34-1-18.

ANNOTATION

Statutory provision (L. 1893, p. 131) attempting to add to city of Denver noncontiguous strip of land in Jefferson county held invalid. City of Denver v. Coulehan, 20 Colo. 471, 39 P. 425 (1894) (decided prior to earliest source, L. 01, p. 162, § 2).

The clause excepting, or withdrawing, from the territory included within the limits of the city of Denver all incorporated cities or towns within "said last mentioned boundaries", does not change or affect such exterior boundaries. They remain just as defined by metes and bounds in the first part of this section, because the office of the exception is to preserve intact these included municipal organizations, and to exclude the territory covered thereby from that which, were it not for the proviso, would be a part of the territory of the city of Denver. Town of Montclair v. Thomas, 31 Colo. 327, 73 P. 48 (1903).

The incorporated town of Montclair, situated within the exterior boundaries of the city of Denver and on the eastern border of said city, was disincorporated and merged into the city and county of Denver. Town of Montclair v. Thomas, 31 Colo. 327, 73 P. 48 (1903).

30-5-119. Dolores.

The county of Dolores is hereby created and established, with the legal capacities and functions of other counties of this state, and with boundaries as follows:

Commencing at the summit of the mountain known as the "Lizard's Head," near the headwaters of the Lake Fork of the San Miguel river, in the present county of Ouray; thence westward from the summit of said mountain along the summit of the range dividing the waters of the San Miguel and Dolores rivers to the summit of Lone Cone mountain; thence west to the western line of the state of Colorado; thence south along said western line to the north line of Montezuma county; thence east along said north line to the southwest corner of San Juan county; thence northeast along the summit of the range dividing the waters of the South Fork of Dolores river from the waters of Hermosa and Cascade creeks to the summit of the range at the head of the East Fork of the Dolores river; thence northeast along the summit of the range dividing the waters of said South Fork of Dolores river from the waters of the Lake Fork of the San Miguel river to the summit of said range south of the pass now crossed by the trail from the Fish lakes to Rico; thence from the summit of said range on a direct line to the summit of said "Lizard's Head" mountain, the place of beginning.

Source: L. 1881: p. 92, § 1. **G.S.** § 473. **R.S. 08:** § 1099. **C.L.** § 8578. **CSA:** C. 44, § 20. **CRS 53:** § 34-1-19. **C.R.S. 1963:** § 34-1-19.

30-5-120. Douglas.

Beginning at the intersection of the center of the South Platte River with the first standard parallel south; thence east on said parallel to its intersection with the eastern boundary of the western half of range sixty-five west; thence south on said eastern boundary to its intersection with the south line of township ten south; thence west on said township line to its intersection with the center of the South Platte River; and thence northeasterly along the center of said river to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: R.S. p. 159, § 17. **G.L.** § 359. **G.S.** § 434. **R.S. 08:** § 1100. **C.L.** § 8579. **CSA:** C. 44, § 21. **CRS 53:** § 34-1-20. **C.R.S. 1963:** § 34-1-20. **L. 81:** Entire section R&RE, p. 1428, § 4, effective July 1.

30-5-121. Eagle.

The county of Eagle is hereby created and established, with the legal capacities and functions of other counties of this state, and with boundaries as follows:

Commencing at a point on the northern boundary of Lake county where the divide between the Eagle river and Ten Mile branches from and leaves the National range; thence along the summit of the said divide and the dividing ridge between the Piney and the Blue rivers to the southern line of Grand county; thence due west to a point six miles west of the 107th degree of west longitude; thence due south to the northern boundary line of Pitkin county; thence east along said boundary line to the summit of the National range; thence in an easterly direction along said summit of the National range to the place of beginning.

Source: L. 1883: p. 127, § 1. **G.S.** § 474. **R.S. 08:** § 1101. **C.L.** § 8580. **CSA:** C. 44, § 22. **CRS 53:** § 34-1-21. **C.R.S. 1963:** § 34-1-21.

30-5-122. Elbert.

So much of the county of Douglas as is included in the following described boundaries shall be set apart and is hereby established with the same legal capacity and functions as other counties of this state, to be called Elbert county:

Beginning at a point where the center of range sixty-five west intersects the first correction line south; thence east on said correction line to the eastern boundary of the state; thence south on said eastern boundary line to the line between townships thirteen and fourteen south; thence west on said line to the line between ranges fifty-nine and sixty west; thence north on said last mentioned line to the second correction line south; thence west on said second correction line to the center of range sixty-five west; thence north through the center of range sixty-five to the place of beginning.

Source: L. 1874: pp. 60, 61, §§ 1, 2. **G.L.** §§ 380, 381. **G.S.** §§ 457, 458. **R.S. 08:** §§ 1102, 1103. **C.L.** §§ 8581, 8582. **CSA:** C. 44, §§ 23, 24. **CRS 53:** § 34-1-22. **C.R.S. 1963:** § 34-1-22.

30-5-123. El Paso.

Beginning at the intersection of the west line of range sixty-seven west with the south line of township seventeen south; thence north on said range line to the northwest corner of section six, township sixteen south, range sixty-seven west; thence east on the north line of said section six

to the southwest corner of section thirty-one, township fifteen south, range sixty-seven west; thence north on the west line of range sixty-seven west to the northwest corner of section thirty-one, township fourteen south, range sixty-seven west; thence west on section lines to the southwest corner of section twenty-five, township fourteen south, range sixty-nine west; thence north on section lines to the northwest corner of section one, township fourteen south, range sixty-nine west; thence east on the north line of township fourteen south to the southwest corner of section thirty-two, township thirteen south, range sixty-eight west; thence north on section lines to the second standard parallel south; thence east on said parallel to its intersection with the east line of range sixty west; thence south on said range line to its intersection with the south line of township seventeen south; and thence west on said township line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: R.S. p. 159, § 15. **G.L.** § 358. **G.S.** § 433. **R.S. 08:** § 1104. **C.L.** § 8583. **CSA:** C. 44, § 25. **CRS 53:** § 34-1-23. **C.R.S. 1963:** § 34-1-23. **L. 81:** Entire section R&RE, p. 1428, § 5, effective July 1.

30-5-124. Fremont.

Beginning at the intersection of the fourth standard parallel south with the east line of range sixty-eight west; thence north on said range line to its intersection with the northern boundary of the southern half of township sixteen south; thence west on said northern boundary to the southeast corner of section seventeen, township sixteen south, range seventy west; thence north on section lines to the third standard parallel south; thence west on said parallel to its intersection with the crest of the divide on the east side of the drainage areas of the Arkansas River, being a point approximately one-half mile east of the southwest corner of section thirty-five, township fifteen south, range seventy-seven west; thence southerly along said crest, via Cameron Mountain, to a point on said crest divide lying north eighty-four degrees twenty-five minutes east, eighty-eight hundred and ninety-seven feet from a point on the Arkansas River three miles below the mouth of the South Arkansas River; thence westerly on a straight line to said point on the Arkansas River; thence on a straight line bearing south forty-five degrees ten minutes west, to the intersection of said line with the crest of the Sangre de Cristo Range; thence southeasterly along said crest to its intersection with the fourth standard parallel south; thence east on said parallel to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: R.S. p. 159, § 12. **G.L.** § 356. **G.S.** § 431. **R.S. 08:** § 1105. **C.L.** § 8584. **CSA:** C. 44, § 26. **CRS 53:** § 34-1-24. **C.R.S. 1963:** § 34-1-24. **L. 81:** Entire section R&RE, p. 1429, § 6.

30-5-125. Garfield.

The county of Garfield is established with the legal capacities and functions of other counties in this state, and with boundaries as follows:

Beginning at the southwest corner of the southeast part of Routt county, or the 107th degree of west longitude; thence running due west six miles; thence running due south to the northern line of Pitkin county; thence running due west on the southern line of Summit county to the Utah line; thence running north on the western line of Summit county to Routt county; thence running east on the north line of Summit county to the 107th degree of west longitude; thence south on the 107th degree of west longitude to the starting point.

Source: L. 1883: p. 130, § 1. **G.S.** § 475. **R.S. 08:** § 1106. **C.L.** § 8585. **CSA:** C. 44, § 27. **CRS 53:** § 34-1-25. **C.R.S. 1963:** § 34-1-25.

30-5-126. Gilpin.

Beginning at the confluence of the center of North Clear Creek with the center of Clear Creek; thence due north to the center of South Boulder Creek; thence up the center of South Boulder Creek to where it intersects the monumented survey line between Gilpin and Boulder counties; thence due west along said monumented survey line to the crest of the continental divide; thence southerly on the continental divide to its intersection with the dividing ridge between North Clear Creek and Clear Creek drainage basins; and thence southeasterly along said ridge to the place of beginning.

Source: R.S. p. 161, § 31. **G.L.** § 366. **G.S.** § 441. **R.S. 08:** § 1107. **C.L.** § 8586. **CSA:** C. 44, § 28. **CRS 53:** § 34-1-26. **C.R.S. 1963:** § 34-1-26. **L. 81:** Entire section R&RE, p. 1429, § 7, effective July 1.

30-5-127. Gilpin and Jefferson counties, boundary between.

That portion of the eastern boundary line of the county of Gilpin and that portion of the western boundary line of the county of Jefferson lying between the northwest corner of the county of Jefferson and the junction of the North and South Clear creeks, is fixed and established as follows:

Beginning at a certain point on the north line of township two south, range seventy-two west of the sixth principal meridian, which point is due north of the junction of the North and South Clear creeks; thence due south to the junction of the North and South Clear creeks; but Jefferson county shall not be liable for any taxes already collected on lands lying west of the boundary hereby established.

Source: L. 13: p. 284, § 1. **C.L.** § 8587. **CSA:** C. 44, § 29. **CRS 53:** § 34-1-27. **C.R.S. 1963:** § 35-1-27.

30-5-128. Grand.

So much of the county of Summit, in the state of Colorado, as is included within the following described boundaries, shall be set apart and is hereby created into a new county, to be called Grand county:

Beginning on the summit of the snowy range of the Rocky mountains, on the west boundary of Clear Creek county, at the point where the dividing range between the waters of Williams Fork and Blue river diverges from the main snowy range; running thence northwest along the summit of said dividing range between Williams Fork and Blue river to a point of intersection with the boundary line between townships one and two, south of the base line; thence west along said township line to the eastern boundary of the Ute Indian reservation; thence north along said boundary to the northeast corner of said reservation; thence west along the north boundary of said reservation to the west boundary of the state; thence north to the northwest corner of the same; thence east along the north boundary of the state to the northwest corner of Larimer county; thence south along the western boundaries of Larimer, Boulder and Gilpin counties, and west, northwest and southwest, along the north and west boundaries of Clear Creek county, to the place of beginning.

Source: L. 1874: p. 70, §§ 1, 2. **G.L.** §§ 382, 383. **G.S.** §§ 459, 460. **R.S. 08:** §§ 1108, 1109. **C.L.** §§ 8588, 8589. **CSA:** C. 44, §§ 30, 31. **CRS 53:** § 34-1-128. **C.R.S. 1963:** § 34-1-28.

30-5-129. Gunnison.

The county of Gunnison is hereby created and established, with the legal capacity and functions of other counties of this state, and with boundaries as follows:

Commencing at a point on the south line of Lake county where the said line crosses the summit of the range of mountains forming the watershed between the waters of the Arkansas

river and the streams draining westward into the Colorado river, known as the Saguache range; thence northward, along the summit of such range, to the north line of said Lake county; thence due west to the western line of the state; thence south along the west line of the state to the point where the north line of the county of Ouray intersects the same; thence east along the north line of Ouray county and the north line of Hinsdale county, to the west line of Saguache county; thence north along said west line to the northwest corner of Saguache county; thence east along the north line of Saguache county to the place of beginning.

Source: G.L. § 411. **G.S.** § 467. **R.S. 08:** § 1110. **C.L.** § 8590. **CSA:** C. 44, § 32. **CRS 53:** § 34-1-129. **C.R.S. 1963:** § 34-1-29.

30-5-130. Hinsdale.

The county of Hinsdale shall be bounded as follows:

Commencing at the point of intersection of the ninth correction line north with the New Mexico principal meridian, and running thence north along said principal meridian to the southern boundary of Saguache county; thence westerly along the southern boundary of Saguache county to the one hundred and seventh meridian of longitude west from Greenwich; thence north along said meridian to a point ten miles north of the thirty-eighth parallel of north latitude; thence west to a point due north of a point six miles west of the mouth of Lost Trail creek, on the Rio Grande river; thence south to the point of intersection with the ninth correction line north; thence east along said correction line to the place of beginning.

Source: L. 1874: p. 66, § 2. **G.L.** § 378. **G.S.** § 454. **R.S. 08:** § 1111. **C.L.** § 8591. **CSA:** C. 44, § 33. **CRS 53:** § 34-1-30. **C.R.S. 1963:** § 34-1-30.

30-5-131. Huerfano.

Beginning at the summit of Greenhorn Mountain; thence following the crest of the main range of mountains around the headwaters of the Huerfano and Cucharas rivers to the summit of the easterly of the two Spanish peaks; thence northeasterly along the dividing ridge between the waters of the Santa Clara and Apishapa rivers to the intersection of said ridge with a straight line from Corral de Toros on the Huerfano River to the Iron Springs; thence northwesterly along said line to the Corral de Toros; and thence on a straight line westerly to the place of beginning.

Source: R.S. p. 164, § 47. **G.L.** § 374. **G.S.** § 446. **R.S. 08:** § 1112. **C.L.** § 8592. **CSA:** C. 44, § 34. **CRS 53:** § 34-1-31. **C.R.S. 1963:** § 34-1-31. **L. 81:** Entire section R&RE, p. 1429, § 8, effective July 1.

30-5-132. Jackson.

Beginning at the intersection of the north boundary line of Colorado with the continental divide; thence along said divide to the point where it intersects the Medicine Bow Mountains; thence northerly along the crest of the Medicine Bow Mountains to the north boundary line of Colorado; and thence west along said Colorado boundary line to the place of beginning.

Source: L. 09: p. 432, § 1. **C.L.** § 8593. **CSA:** C. 44, § 35. **CRS 53:** § 34-1-32. **C.R.S. 1963:** § 34-1-32. **L. 81:** Entire section R&RE, p. 1430, § 9, effective July 1.

30-5-133. Jefferson.

Jefferson county is hereby bounded as follows:

Except for those portions that became part of the city and county of Broomfield on November 15, 2001, in accordance with sections 10 to 13 of article XX of the state constitution, commencing at a point where the township line between townships one and two south intersects the range line between ranges sixty-eight and sixty-nine; thence due west twenty miles; thence due south to the junction of North and South Clear creeks; thence south to the Platte river; thence down the center of said Platte river to the point where said river intersects the first correction line; thence west to the range line between ranges sixty-eight and sixty-nine; thence north to the place of beginning.

Source: G.L. § 364. **G.S.** § 439. **L. 1889:** p. 100, § 1. **R.S. 08:** § 1113. **C.L.** § 8594. **CSA:** C. 44, § 36. **CRS 53:** § 34-1-33. **C.R.S. 1963:** § 34-1-33. **L. 2004:** Entire section amended, p. 640, § 4, effective April 23.

Editor's note: Pursuant to §§ 30-6-105 to 30-6-109, inclusive, there is recorded in the office of the clerk and recorder of Park County in book 70, page 560, and in the office of the clerk and recorder of Jefferson County in book 140, page 400 (indexed in book 2 - Miscellaneous Papers - in the office of the secretary of state), a proclamation showing attachment to Park County and detachment from Jefferson County of territory described as follows:

"Beginning at the intersection of the boundary line between Park and Jefferson Counties with the center line of the South Platte River, about two miles above Lake George, thence down the said Platte River along its center line to intersection of said center line with the Second Correction Line South, thence westerly along said Correction Line to its intersection with the boundary line between Park and Jefferson Counties, thence along said boundary line to point of beginning."

ANNOTATION

This section and § 30-5-153 are to be construed like patents or grants or segregations of a different date where the older in time necessarily concludes, and this principle requires first the determination of Jefferson county's boundaries and the inclusion therein of all territory which its lines would embrace, and the exclusion therefrom of all territory which would otherwise be embraced within the lines of Park county. Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

Wherever a line is run southerly or south, or due south, the result is precisely the same and the line thus stated in a description is to be taken as run due south unless there is some other thing in the description which compels or permits another course in order to work out the description which the grantor has put in a deed or whereby a general assembly has fixed the boundaries of a county. Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

Therefore, the description in the location of Jefferson county "thence south to the Platte river" starts and runs a line from the junction of North and South Clear creeks due south to the Platte river. Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

When the general assembly stated the western boundary of Jefferson county and ran the line south from the junction of North and South Clear creeks it ran a line due south making allowance for the magnetic variation, and it must strike the Platte river at the point where that line thus projected would strike the stream. Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

30-5-134. Kiowa.

Beginning at the point of intersection of the east boundary line of Colorado with the south line of township twenty south; thence west on said township line to its intersection with the west line of range fifty-four west; thence north on said range line to the northwest corner of township twenty south, range fifty-four west; thence west on the south line of township nineteen south,

range fifty-four west, to the southwest corner of said township and range; thence north on the west line of range fifty-four west to its intersection with the south line of township seventeen south; thence east on said township line to its intersection with the west line of range fifty-one west; thence north on said range line to its intersection with the south line of township sixteen south; thence east on said township line to the east boundary line of Colorado; and thence south on the Colorado boundary line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 222, § 1. **R.S. 08:** § 1114. **C.L.** § 8595. **CSA:** C. 44, § 37. **CRS 53:** § 34-1-34. **C.R.S. 1963:** § 34-1-34. **L. 81:** Entire section R&RE, p. 1430, § 10, effective July 1.

30-5-135. Kit Carson.

The county of Kit Carson is hereby established, with the legal capacity and functions of other counties in this state, and the boundaries are as follows:

Beginning at the northeast corner of Elbert county and running west along the north line of said Elbert county to the west line of range fifty-one, west of the sixth principal meridian; thence south on said west line of range fifty-one to the township line between townships eleven and twelve south; thence east along said township line to where it intersects the state line of Kansas; thence north on the east boundary line of Elbert county to the place of beginning.

Source: L. 1889: p. 225, § 1. **R.S. 08:** § 1115. **C.L.** § 8596. **CSA:** C. 44, § 38. **CRS 53:** § 34-1-35. **C.R.S. 1963:** § 34-1-35.

30-5-136. Lake.

Beginning at the point on the continental divide from which the Tenmile Range departs northerly; thence on a due west line to its second intersection with the continental divide; thence westerly and then southerly along the continental divide to its intersection with the section line lying one mile north of the south line of township eleven south; thence east on section lines to an intersection with the range, known as the Mosquito Range, dividing the waters of the Arkansas and South Platte rivers; thence northerly along the crest of said range to its intersection with the continental divide; and thence northeasterly along said divide to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1879: p. 45, § 1. **G.S.** § 468. **R.S. 08:** § 1116. **C.L.** § 8597. **CSA:** C. 44, § 39. **CRS 53:** § 34-1-36. **C.R.S. 1963:** § 34-1-36. **L. 81:** Entire section R&RE, p. 1430, § 11, effective July 1.

30-5-137. Lake and Chaffee - names changed.

The name of the county of Lake is hereby changed to Chaffee, and the name of Carbonate county is changed to Lake county.

Source: L. 1879: p. 48, § 1. **G.S.** § 469. **R.S. 08:** § 1117. **C.L.** § 8598. **CSA:** C. 44, § 40. **CRS 53:** § 34-1-37. **C.R.S. 1963:** § 34-1-37.

30-5-138. La Plata.

The county of La Plata shall be bounded as follows:

Commencing at a point six miles west of the mouth of Lost Trail creek, and running thence north to a point ten miles north of the thirty-eighth parallel of north latitude; thence west to the western boundary of the state; thence south along said western boundary to the southwest corner of the state; thence east along the southern boundary of the state to a point due south of the place of beginning; thence north to the place of beginning.

Source: L. 1874: p. 67, § 3. **G.L.** § 379. **G.S.** § 455. **R.S. 08:** § 1118. **C.L.** § 8599. **CSA:** C. 44, § 41. **CRS 53:** § 34-1-38. **C.R.S. 1963:** § 34-1-38.

30-5-139. Larimer.

Beginning at the intersection of the first standard parallel north with the east line of range sixty-eight west; thence west on said parallel to its intersection with the east line of range sixty-nine west; thence south on said range line to its intersection with the south line of township four north; thence west on said township line to its intersection with the continental divide; thence northwesterly on the continental divide to the point where it intersects the Medicine Bow Mountains; thence northwesterly along the crest of the Medicine Bow Mountains to its intersection with the north boundary line of Colorado; thence east on said north boundary line to its intersection with the east line of range sixty-eight west; and thence south to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: R.S. p. 160, § 23. **G.L.** § 362. **G.S.** § 437. **R.S. 08:** § 1119. **C.L.** § 8600. **CSA:** C. 44, § 42. **CRS 53:** § 34-1-39. **C.R.S. 1963:** § 34-1-39. **L. 81:** Entire section R&RE, p. 1430, § 12, effective July 1.

30-5-140. Las Animas.

The boundaries of the county of Las Animas are as follows:

Commencing at the southeast corner of the county of Pueblo; thence running due west to the Iron Springs; thence westerly along the southern line of Pueblo county, to the dividing ridge between the waters of the Apishapa and Santa Clara rivers; thence southward up the said dividing ridge to the summit of the easterly of the two Spanish peaks; thence westerly along the summit of the mountains to the eastern boundary of the county of Costilla; thence south along said eastern boundary of Costilla county to the southern line of the state; thence east to the southeast corner of the state; thence north to the place of beginning.

Source: R.S. p. 164, § 48. **G.L.** § 375. **G.S.** § 447. **R.S. 08:** § 1120. **C.L.** § 8601. **CSA:** C. 44, § 43. **CRS 53:** § 34-1-40. **C.R.S. 1963:** § 34-1-40.

30-5-141. Lincoln.

Beginning at the intersection of the first standard parallel south with the west line of range fifty-six west; thence south on said range line to its intersection with the second standard parallel south; thence west on said parallel to the northwest corner of section six, township eleven south, range fifty-six west; thence south on the west line of range fifty-six west to its intersection with the south line of township thirteen south; thence west on said township line to its intersection with the west line of range fifty-nine west; thence south on said range line to its intersection with the south line of township seventeen south; thence east on said township line to its intersection with the west line of range fifty-five west; thence south on said range line to the southwest corner of township seventeen south, range fifty-five west; thence east on the south line of said township and range to the southeast corner thereof; thence north on the east line of range fifty-five west to the southwest corner of township seventeen south, range fifty-four west; thence east on the south line of township seventeen south to the southeast corner of township seventeen south, range fifty-two west; thence north on the east line of range fifty-two west to its intersection with the third standard parallel south; thence east on said parallel to the southeast corner of township fifteen south, range fifty-two west; thence north on the east line of range fifty-two west to its intersection with the second standard parallel south; thence east on said

parallel to the southeast corner of township ten south, range fifty-two west; thence north on the east line of range fifty-two west to its intersection with the first standard parallel south; and thence west on said parallel to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 234, § 1. **R.S. 08:** § 1121. **C.L.** § 8602. **CSA:** C. 44, § 44. **CRS 53:** § 34-1-41. **C.R.S. 1963:** § 34-1-41. **L. 81:** Entire section R&RE, p. 1431, § 13, effective July 1.

30-5-142. Logan.

Beginning at the intersection of the east line of range forty-eight west with the north boundary line of Colorado; thence west on said north boundary line to its intersection with the west line of range fifty-five west; thence south on said range line to the southwest corner of township nine north, range fifty-five west; thence west on the north line of township eight north, range fifty-five west, to the northwest corner of said township and range; thence south on the west line of range fifty-five west to its intersection with the south line of township seven north; thence east on said township line to its intersection with the west line of range fifty-four west; thence south on said range line to its intersection with the south line of township six north; thence east on said township line to its intersection with the east line of range forty-eight west; thence north on said range line to the northeast corner of township eight north, range forty-eight west; thence east on the south line of township nine north, range forty-eight west, to the southwest corner of said township and range; and thence north on the east line of range forty-eight west to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1887: p. 247, § 1. **R.S. 08:** § 1122. **C.L.** § 8603. **CSA:** C. 44, § 45. **CRS 53:** § 34-1-42. **C.R.S. 1963:** § 34-1-42. **L. 81:** Entire section R&RE, p. 1431, § 14, effective July 1.

30-5-143. Mesa.

So much of the county of Gunnison as is included within the following described boundaries shall be set apart and is hereby established as a county, with the legal capacity and functions of other counties of this state, to be called the county of Mesa:

Beginning at the northwest corner of Pitkin county, and running thence south along and with the western line of Pitkin county to the divide between the waters of the Grand river, now the Colorado river, and the north fork of the Gunnison river; thence southwesterly along and with said divide to the southwestern extremity of the Grand Mesa; thence southwesterly to the mouth

of the Rio Dominguez; thence due south to the parallel of thirty-eight degrees and thirty minutes of north latitude; thence west to the western boundary line of the state of Colorado; thence north along said boundary line to the northern boundary line of Gunnison county; and thence east along said northern boundary line of Gunnison county to the place of beginning.

Source: L. 1883: p. 133, § 1. **G.S.** § 476. **R.S. 08:** § 1123. **C.L.** § 8604. **CSA:** C. 44, § 46. **CRS 53:** § 34-1-43. **C.R.S. 1963:** § 34-1-43. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1172, § 84, effective August 10.

30-5-144. Mineral.

Beginning at the intersection of the east line of range two east with the south line of township thirty-seven north; thence north on said range line to its intersection with the south line of township forty north, range two east; thence east on said township line to the southeast corner of said township and range; thence north on the east line of range two east to its intersection with the crest of the La Garita Mountains; thence northwesterly along the said crest to its intersection with the continental divide; thence westerly along the continental divide to its intersection with the west line of range two west; thence south on said range line to its intersection with the south line of township forty north, range two west; thence east on said township line to the northwest corner of township thirty-nine north, range two west; thence south on the west line of range two west to its intersection with the south line of township thirty-seven north; and thence east on said township line to the place of beginning. Said public land survey lines are based upon the New Mexico principal meridian.

Source: L. 1893: p. 94, § 1. **L. 1895:** p. 205, § 1. **R.S. 08:** § 1124. **C.L.** § 8605. **CSA:** C. 44, § 47. **CRS 53:** § 34-1-44. **C.R.S. 1963:** § 34-1-44. **L. 81:** Entire section R&RE, p. 1432, § 15, effective July 1.

30-5-145. Moffat.

All that part of Routt county as is included within the following described boundaries shall be set apart and is hereby established as a county, to be called the county of Moffat:

Beginning at a point on the north boundary of the state of Colorado at a point where said state line is intersected by the range line between ranges eighty-eight and eighty-nine west of the sixth principal meridian, known as the eleventh guide meridian; thence south on said range line to its intersection with the township line between township seven and eight; thence west on said

township line to the section line between sections three and four, in township seven north, range eighty-nine west; thence south on said section line to the northeast corner of section twenty-eight in said township seven north, range eighty-nine west; thence west along the north line of sections twenty-eight, twenty-nine and thirty, in township seven north, range eighty-nine west of the sixth principal meridian to its intersection with the range line between ranges eighty-nine and ninety; thence south on said range line to its intersection with the north line of Rio Blanco county; thence west along the said north line of Rio Blanco county to its intersection with the line between the state of Utah and the state of Colorado; thence north on the said line between the state of Utah and the state of Colorado to the northwest corner of the state of Colorado; thence east on the line between the state of Wyoming and the state of Colorado to the point of beginning.

Source: L. 11: p. 516, § 1. **C.L.** § 8606. **CSA:** C. 44, § 48. **CRS 53:** § 34-1-45. **C.R.S. 1963:** § 34-1-45.

30-5-146. Montezuma.

The county of Montezuma is hereby established, with the legal capacity and functions of other counties of this state, and the boundaries are as follows:

Beginning at the southwest corner of La Plata county, in the state of Colorado, and running thence east along the southern boundary line of said La Plata county to a point on the apex of the ridge dividing the waters of the Rio Mancos from the waters of the Rio La Plata; thence in a northeasterly direction along the apex of said ridge to the southern boundary line of Dolores county, in said state of Colorado; thence west along said southern boundary line of Dolores county to the eastern boundary line of the territory of Utah; thence south along said eastern boundary line of Utah to the place of beginning; and including all that portion of La Plata county drained by the waters of the Mancos river, Bear creek and Dolores river.

Source: L. 1889: p. 262, § 1. **R.S. 08:** § 1125. **C.L.** § 8607. **CSA:** C. 44, § 49. **CRS 53:** § 34-1-46. **C.R.S. 1963:** § 34-1-46.

30-5-147. Montrose.

The county of Montrose is hereby established with the legal capacity and functions of other counties in this state, and with boundaries as follows:

Beginning at a point on parallel one hundred and seven degrees and thirty minutes two miles south of the third correction line extended west; thence west to a point due south of the mouth of the Rio Dominguez; thence south to parallel thirty-eight degrees and thirty minutes; thence west along said parallel to the west line of the state; thence south along said line to the northwest corner of Ouray county; thence east along said line to parallel one hundred and eight degrees of west longitude; thence north along said last named parallel to a point ten miles due north of the north line of Ouray county; thence east to parallel one hundred and seven degrees and thirty minutes; thence north along said parallel to the point of beginning.

Source: L. 1883: p. 136, § 1. **G.S.** § 477. **R.S. 08:** § 1126. **C.L.** § 8608. **CSA:** C. 44, § 50. **CRS 53:** § 34-1-47. **C.R.S. 1963:** § 34-1-47.

30-5-148. Morgan.

So much of the county of Weld as is included in the following described boundaries shall be set apart and is hereby established as a county, with the legal capacity and functions of other counties of this state, to be called the county of Morgan:

Beginning at the southeast corner of Weld county, and running thence west along the south line of Weld county to a point at the west line of range sixty, west of the sixth principal meridian; thence north, along the west line of said range sixty, to a point on said range line at the north line of township six, north of range sixty, west; thence east, along said north line of township six, north, and continuing on said course to a point on the east line of said county of Weld and the west line of range fifty-four; thence south, along the east boundary line of said Weld county, to the place of beginning.

Source: L. 1889: p. 267, § 1. **R.S. 08:** § 1127. **C.L.** § 8609. **CSA:** C. 44, § 51. **CRS 53:** § 34-1-48. **C.R.S. 1963:** § 34-1-48.

30-5-149. Otero.

Beginning at the intersection of the south line of township twenty-seven south with the west line of range fifty-nine west; thence north on the west line of range fifty-nine west to the northwest corner of township twenty-six south, range fifty-nine west; thence west on the south line of township twenty-five south, range fifty-nine west, to the southwest corner of said township and range; thence north on the west line of range fifty-nine west to its intersection with the center of the Arkansas River; thence east and southeasterly with the center and meanderings

of said river to its intersection with the north line of section twenty-eight, township twenty-two south, range fifty-seven west; thence east on section lines to the west line of range fifty-five west; thence north on said range line to its intersection with the north line of township twenty-two south; thence east on said township line to its intersection with the west line of range fifty-four west; thence north on said range line to its intersection with the fourth standard parallel south; thence east on said parallel to its intersection with the east line of range fifty-four west; thence south on said range line to the southeast corner of township twenty-five south, range fifty-four west; thence west on the north line of township twenty-six south, range fifty-four west, to the northeast corner of said township and range; thence south on the east line of range fifty-four west to its intersection with the south line of township twenty-seven south; and thence west on said township line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 281, § 1. **R.S. 08:** § 1128. **C.L.** § 8610. **CSA:** C. 44, § 52. **CRS 53:** § 34-1-49. **C.R.S. 1963:** § 34-1-49. **L. 81:** Entire section R&RE, p. 1432, § 16, effective July 1.

30-5-150. Ouray.

The county of Ouray is hereby created, with the legal capacity and functions of other counties in this state, and shall embrace all that territory drained by the Uncompahgre river and its tributaries south of thirty-eight degrees and twenty minutes north latitude and north of the San Juan county line.

Source: L. 1883: p. 139, § 1. **G.S.** § 478. **R.S. 08:** § 1129. **C.L.** § 8611. **CSA:** C. 44, § 53. **CRS 53:** § 34-1-50. **C.R.S. 1963:** § 34-1-50.

30-5-151. Ouray and Montrose - boundary.

That portion of the western boundary line of the county of Ouray and that portion of the eastern boundary line of the county of Montrose lying between the northwest corner of the county of Ouray and the northern boundary line of the county of San Miguel, is hereby fixed and established as follows:

Beginning at the northwest corner of the southwest quarter of the northwest quarter of section eighteen, township forty-seven north, range eleven west, New Mexico principal meridian which point is the northwest corner of Ouray county; thence south three quarters of a mile to the southwest corner of section eighteen, township forty-seven north, range eleven west; thence east

one-half mile to the southwest corner of the southeast quarter of section eighteen, township forty-seven north, range eleven west; thence south to the center of section nineteen, township forty-seven north, range eleven west; thence east one mile to the center of section twenty, township forty-seven north, range eleven west; thence south two miles to the center of section thirty-two, township forty-seven north, range eleven west; thence one mile to the center of section thirty-three, township forty-seven north, range eleven west; thence south two miles to center of section nine, township forty-six north, range eleven west; thence east four miles to center of section seven, township forty-six north, range ten west; thence south one-half mile to the southwest corner of the southeast quarter of said section seven; thence east one and one-half miles to northeast corner of section seventeen, township forty-six north, range ten west; thence south one mile to southwest corner of section sixteen, township forty-six north, range ten west; thence east one mile to southeast corner of section sixteen, township forty-six north, range ten west; thence south one-half mile to the southwest corner of the northwest quarter of section twenty-two, township forty-six north, range ten west; thence east one mile to southeast corner of the northeast quarter of section twenty-two, township forty-six north, range ten west; thence south one-half mile to southeast corner of section twenty-two, township forty-six north, range ten west; thence east one-half mile to northeast corner of the northwest quarter of section twenty-six, township forty-six north, range ten west; thence south three miles to southeast corner of the southwest quarter of section two, township forty-five north, range ten west; thence west one-half mile to northwest corner of section eleven, township forty-five north, range ten west; thence south one and one-half miles to southwest corner of the northwest quarter of section fourteen, township forty-five north, range ten west; which is the north boundary line of San Miguel county.

Source: L. 13: p. 140, § 1. **C.L.** § 8612. **CSA:** C. 44, § 54. **CRS 53:** § 34-1-51. **C.R.S. 1963:** § 34-1-51.

30-5-152. Ouray and San Miguel - boundary.

The state engineer, through the county surveyors of Ouray and San Miguel counties, within six months after this section becomes effective, shall designate the county line between the counties of Ouray and San Miguel, beginning at a point which is the southeast corner of Montrose county, the same being identical with the one-quarter corner between sections fourteen and fifteen, township forty-five north, range ten west, New Mexico principal meridian; thence west one mile to the one-quarter corner of sections fifteen and sixteen; thence south one-half mile to the corner of sections fifteen, sixteen, twenty-one and twenty-two; thence east three-quarters of a mile to the northwest corner of the northeast quarter of the northeast quarter of section twenty-two; thence south two miles to the southwest corner of the southeast quarter of the southeast quarter, section twenty-seven; thence east one-quarter mile to the corner of sections twenty-six, twenty-

seven, thirty-four and thirty-five; all in township forty-five north, range ten west, New Mexico principal meridian; thence east three miles to the corner of sections twenty-nine, thirty, thirty-one and thirty-two, township forty-five north, range nine west, New Mexico principal meridian; thence south one mile to the southwest corner of section thirty-two on the eleventh correction line; all in township forty-five north, range nine west, New Mexico principal meridian; thence along the eleventh correction line to the northeast corner of section six, township forty-four north, range nine west, New Mexico principal meridian; thence west along the north line of section six to the northwest corner of lot one of said section; thence south to the southwest corner of the southeast quarter of the southeast quarter, section six; thence west one-quarter mile to the southwest corner of the southeast quarter of section six; thence south two miles to the southwest corner of the southeast quarter of section eighteen; all in township forty-four north of range nine west; thence east or west to the watershed hereinbefore established as the boundary line between Ouray and San Miguel counties.

Source: L. 17: p. 118, § 1. **C.L.** § 8613. **CSA:** C. 44, § 55. **CRS 53:** § 34-1-52. **C.R.S. 1963:** § 34-1-52. **L. 84:** Entire section amended, p. 816, § 1, effective March 16.

30-5-153. Park.

Park county: Commencing at a point where the second correction line south intersects the Platte river; thence south to the third correction line south; thence west to the summit of the snowy range, east of the Arkansas river; thence in a northerly direction along the divide between the Arkansas and Platte rivers, and around the headwaters of the Platte river and its tributaries; thence easterly along the snowy range dividing the waters of the Platte from the waters of the Blue, to the point of intersection with the first correction line south; thence east on said correction line to the western boundary of Jefferson county; thence south on said boundary to the Platte river; thence up the center of said river to the place of beginning.

Source: R.S. p. 161, § 33. **G.L.** § 367. **G.S.** § 442. **R.S. 08:** § 1130. **C.L.** § 8614. **CSA:** C. 44, § 56. **CRS 53:** § 34-1-53. **C.R.S. 1963:** § 34-1-53.

Editor's note: Pursuant to §§ 30-6-105 to 30-6-109, inclusive, there is recorded in the office of the clerk and recorder of Park County in book 70, page 560, and in the office of the clerk and recorder of Jefferson County in book 140, page 400 (indexed in book 2 - Miscellaneous Papers - in the office of the secretary of state), a proclamation showing attachment to Park County and detachment from Jefferson County of territory described as follows:

"Beginning at the intersection of the boundary line between Park and Jefferson Counties with the center line of the South Platte River, about two miles above Lake George, thence down the said Platte River along its center line to intersection of said center line with the Second Correction Line South, thence westerly along said Correction Line to its intersection with the boundary line between Park and Jefferson Counties, thence along said boundary line to point of beginning."

ANNOTATION

In this section the term "snowy range" is applied to the mosquito spur, but it is designated as "the snowy range east of the Arkansas river". Bd. of County Comm'rs v. Bd. of County Comm'rs, 9 Colo. 268, 11 P. 193 (1886).

The mosquito spur of the snowy range, the park range, is a distinct and continuous range or chain of mountains next and immediately east of the Arkansas river, extending from the snowy range at and between the sources of the Arkansas and Platte rivers southward beyond said third correction line; and the summit of this range is the natural boundary between Chaffee and Park counties. Hollenbeck v. Sykes, 17 Colo. 317, 29 P. 380 (1892).

The continental divide constitutes, in part, the western boundary of the county of Park, at the north, where it is described as "the snowy range, dividing the waters of the Platte from the waters of the Blue". Bd. of County Comm'rs v. Bd. of County Comm'rs, 9 Colo. 268, 11 P. 193 (1886).

It was held that in this section the words "up the river", at the conclusion of the description of Park county's eastern boundary, must be rejected and the call read "thence to the place of beginning", instead of "thence up the river to the place of beginning". Link v. Jones, 15 Colo. App. 281, 62 P. 339 (1900).

30-5-154. Phillips.

Beginning at the intersection of the south line of township six north with the east boundary line of Colorado; thence west along said township line to its intersection with the west line of range forty-seven west; thence north on said range line to its intersection with the second standard parallel north; thence east on said parallel to the southwest corner of township nine north, range forty-seven west; thence north on the west line of range forty-seven west to its intersection with the northern boundary of the southern half of township nine north; thence east on said northern boundary to its intersection with the east boundary line of Colorado; and thence

south on said boundary line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 288, § 1. **R.S. 08:** § 1131. **C.L.** § 8615. **CSA:** C. 44, § 57. **CRS 53:** § 34-1-54. **C.R.S. 1963:** § 34-1-54. **L. 81:** Entire section R&RE, p. 1432, § 17, effective July 1.

30-5-155. Pitkin.

The county of Pitkin is hereby established, with the legal capacity and functions of other counties in this state, and with boundaries as follows:

Beginning at the point on the summit of the survey or National range where the Elk mountain range intersects the same; thence in a westerly and northwesterly direction along the summit of the Elk mountain range to Snow Mass mountain; thence due west to the divide west of Rock creek; thence along said divide in a northwesterly direction to the southern boundary of Summit county; thence east along the southern boundary of Summit county to the top of the National range being the west boundary line of Lake county; thence along the summit of said range in a southeasterly direction to the place of beginning.

Source: L. 1881: p. 89, § 1. **G.S.** § 471. **R.S. 08:** § 1132. **C.L.** § 8616. **CSA:** C. 44, § 58. **CRS 53:** § 34-1-55. **C.R.S. 1963:** 34-1-55.

30-5-156. Prowers.

Beginning at the intersection of the eastern boundary line of Colorado with the south line of township twenty-seven south; thence west on said township line to its intersection with the west line of range forty-seven west; thence north on said range line to its intersection with the fifth standard parallel south; thence east on said parallel to the southwest corner of township twenty-five south, range forty-seven west; thence north on the west line of range forty-seven west to its intersection with the fourth standard parallel south; thence east on said parallel to the eastern boundary line of Colorado; and thence south on said boundary line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 294, § 1. **R.S. 08:** § 1133. **C.L.** § 8617. **CSA:** C. 44, § 59. **CRS 53:** § 34-1-56. **C.R.S. 1963:** § 34-1-56. **L. 81:** Entire section R&RE, p. 1433, § 18, effective July 1.

30-5-157. Pueblo.

The boundaries of the county of Pueblo shall be as follows:

Commencing at a point on the western boundary line of said county, as heretofore constituted, where the fourth correction line south crosses the western boundary of said county, thence running due west six miles; thence due south to the summit of the Greenhorn range of mountains; thence southward along said range of mountains to the summit of the Cuerno Verde peak; thence northeast in a straight line to Corral de Toros on the Huerfano river; thence eastward to the Iron Springs; thence due east to the east line of the state; thence north along said east line of the state to a point due east of the northeast corner of said county, as heretofore constituted; thence west to the northwest corner of said county, as heretofore constituted; and thence south to the place of beginning.

Source: R.S. p. 164, § 46. **G.L.** § 373. **G.S.** § 445. **R.S. 08:** § 1134. **C.L.** § 8618. **CSA:** C. 44, § 60. **CRS 53:** § 34-1-57. **C.R.S. 1963:** § 34-1-57.

30-5-158. Rio Blanco.

So much of the county of Garfield as is included within the following described boundaries shall be set apart and is hereby established as a county, with the legal capacities and functions of other counties of this state, to be called the county of Rio Blanco:

Commencing at a point where the line between townships four and five south intersects the line between the state of Colorado and the territory of Utah; thence east on said township line to the southeast corner of township four south, range one hundred west; thence north three miles to the southeast corner of section thirteen, township four south, range one hundred west; thence east to the corner of sections fifteen, sixteen, twenty-one and twenty-two in township four south, range ninety-four west; thence north nine miles to the northeast corner of section four, township three south, range ninety-four west; thence east to the northeast corner of township three south, range ninety west; thence north six miles to the northeast corner of township two south, range ninety west; thence east to the eleventh guide meridian west; thence north on said eleventh guide meridian line to the base line; thence east on said base line to the southeast corner of township one north, range eighty-nine west; thence north six miles to the northeast corner of said township; thence east to the east boundary line of Garfield county; thence north to the south boundary line of Routt county; thence west on the south boundary line of Routt county to the state line; thence south on said state line to place of beginning.

Source: L. 1889: p. 325, § 1. **R.S. 08:** § 1135. **C.L.** § 8619. **CSA:** C. 44, § 61. **CRS 53:** § 34-1-58. **C.R.S. 1963:** § 34-1-58.

30-5-159. Rio Grande.

Beginning at the intersection of the ninth standard parallel north with the east line of range eight east; thence north on said range line to its intersection with the tenth standard parallel north; thence west on said parallel to its intersection with the west line of range four east; thence north on said range line to its intersection with the north line of township forty-one north; thence west on said township line to its intersection with the west line of range three east; thence south on said range line to the southeast corner of township forty north, range two east; thence west on the south line of said township and range to the northwest corner of township thirty-nine north, range three east; thence south on the west line of range three east to its intersection with the ninth standard parallel north; thence east on said parallel to the place of beginning. Said public land survey lines are based upon the New Mexico principal meridian.

Source: L. 1874: p. 66, § 1. **G.L.** § 377. **L. 1879:** p. 48, § 1. **G.S.** §§ 453, 470. **R.S. 08:** §§ 1136, 1137. **C.L.** §§ 8620, 8621. **CSA:** C. 44, §§ 62, 63. **CRS 53:** § 34-1-59. **C.R.S. 1963:** § 34-1-59. **L. 81:** Entire section R&RE, p. 1433, § 19, effective July 1.

30-5-160. Routt.

Beginning at the intersection of the west line of range eighty-eight west with the north boundary line of Colorado; thence south on said range line to its intersection with the north line of township seven north; thence west on said township line to the section line between sections three and four in township seven north, range eighty-nine west; thence south on said section line to the northeast corner of section twenty-eight in said township seven north, range eighty-nine west; thence west along the north line of sections twenty-eight, twenty-nine, and thirty in township seven north, range eighty-nine west to its intersection with the west line of range eighty-nine west; thence south on the west line of range eighty-nine west to the southwest corner of section eighteen, township three north, range eighty-nine west; thence east on the east-west centerline of said township to the southeast corner of section sixteen in range eighty-six west; thence south on the north-south centerline of said range to the south line of township one south; thence east on said township line to its intersection with the west line of range eighty-two west; thence north along said range line to its intersection with the continental divide in township six north; thence northerly along said divide to its intersection with the north boundary line of Colorado; and thence west on said boundary line to the place of beginning. Said public land surveys are based upon the sixth principal meridian.

Source: G.L. §§ 393, 394. **G.S.** §§ 463, 464. **R.S. 08:** §§ 1138, 1139. **C.L.** §§ 8622, 8623. **CSA:** C. 44, §§ 64, 65. **CRS 53:** § 34-1-60. **C.R.S. 1963:** § 34-1-60. **L. 82:** Entire section R&RE, p. 480, § 1, effective July 1.

30-5-161. Saguache.

Saguache county: Commencing at the most easterly point of La Loma del Norte; thence in an easterly direction to the point where the Mosco creek enters into the San Luis Valley; thence up the center of said creek to the boundary line of Fremont county, on the summit of the Sangre de Cristo range; thence in a northwesterly direction along the summit of said range to the top of the range at the Poncho pass; thence in a direct line west to the one hundred and seventh degree of longitude; thence south, following said degree, to the north boundary line of Conejos county; thence east along the north boundary line of Conejos county to where it intersects the southwest boundary of Saguache county; thence on a produced southeasterly line to the mouth of the canyon of the snowy range, from whence flows the Rio Grande del Norte; thence down the center of said stream to the place of beginning.

Source: L. 1872: p. 81, § 1. **G.L.** § 352. **G.S.** § 427. **R.S. 08:** § 1140. **C.L.** § 8624. **CSA:** C. 44, § 66. **CRS 53:** § 34-1-61. **C.R.S. 1963:** § 34-1-61.

30-5-162. Saguache and Costilla - boundary. (Repealed)

Source: L. 1874: p. 68, § 13. **G.L.** omitted. **G.S.** § 426. **R.S. 08:** § 1141. **C.L.** § 8625. **CSA:** C. 44, § 67. **CRS 53:** § 34-1-62. **C.R.S. 1963:** § 34-1-62. **L. 81:** Entire section repealed, p. 1434, § 22, effective July 1.

30-5-163. San Juan.

The county of San Juan is hereby created and established, with the legal capacity and functions of the other counties of the state, and with boundaries as follows:

Commencing at a point on the western boundary of Hinsdale county, nine miles south of where it intersects the tenth correction line north; running thence due west to the western line of the state; thence north along such line to a point ten miles north of the thirty-eighth parallel of north latitude; thence east to a point on the summit of the main range of mountains, dividing the

waters of the Uncompahgre and Animas rivers from the waters of the Lake Fork of the Gunnison; thence in a southerly direction along the summit of said range to a point at the head of the north fork of Pole creek; thence down said creek to the present boundary line between Hinsdale and La Plata counties; thence due south along said line to the place of beginning; and the boundary lines of La Plata and Hinsdale counties are hereby changed to correspond with the provisions of this section.

Source: L. 1876: p. 58, § 1. **G.L.** § 384. **G.S.** § 461. **R.S. 08:** § 1142. **C.L.** § 8626. **CSA:** C. 44, § 68. **CRS 53:** § 34-1-63. **C.R.S. 1963:** § 34-1-63.

30-5-164. San Miguel.

The county of San Miguel is hereby created and established, with the legal capacity and functions of other counties of this state, and with the boundaries as follows:

Commencing at a point on the boundary line between the counties of Hinsdale and San Juan, due east of the junction of Mineral creek and the main branch of the Uncompahgre river; thence due west through said junction to the summit of the divide between Red Mountain valley and Poughkeepsie gulch; thence southerly along said divide, to the divide between the waters of the Animas river and the Uncompahgre river; thence along the divide separating the waters of the Uncompahgre and San Miguel rivers on the north from those of Animas river on the south, to the north line of La Plata county; thence along the north line of said La Plata county to the western line of the state; thence north to the southwest corner of Lake county; thence east along the south line of Lake county to the western line of Hinsdale county; thence southerly along the western boundary of Hinsdale county to the place of beginning.

Source: G.L. § 385. **G.S.** § 462. **R.S. 08:** § 1143. **C.L.** § 8627. **CSA:** C. 44, § 69. **CRS 53:** § 34-1-64. **C.R.S. 1963:** § 34-1-64.

30-5-165. San Miguel and Dolores - boundary.

The boundary line between San Miguel and Dolores counties is hereby established as follows:

Commencing at the common section corner of sections twenty-seven, twenty-eight, thirty-three and thirty-four, township forty-one north, range nine west, New Mexico principal meridian, being the point of intersection of the said line with the west boundary line of the county of San Juan; thence north and west along the summit of the range dividing the waters of the San Miguel and Dolores rivers to the summit of Lone Cone mountain; thence northwesterly to the northeast

corner of section twenty-three, township forty-two, north, range thirteen west New Mexico principal meridian; thence westerly following the section lines three miles north of the south boundary line of township forty-two to the west bank of the Dolores river on the boundary line between sections fourteen and twenty-three of said township forty-two north range eighteen west New Mexico principal meridian; thence south along the east boundary line of said section twenty-three to the southwest corner of said section twenty-three; thence west along the section lines two miles north of the south boundary of said township forty-two to the west boundary line of the state of Colorado.

Source: L. 27: p. 278, § 1. **CSA:** C. 44, § 70. **CRS 53:** § 34-1-65. **C.R.S. 1963:** § 34-1-65.

30-5-166. San Miguel and Ouray - names changed.

The name of the county of Uncompahgre is hereby changed to Ouray, and the name of Ouray county is hereby changed to San Miguel county.

Source: L. 1883: p. 123, § 1. **G.S.** § 483. **R.S. 08:** § 1144. **C.L.** § 8628. **CSA:** C. 44, § 71. **CRS 53:** § 34-1-66. **C.R.S. 1963:** § 34-1-66.

30-5-167. Sedgwick.

Beginning at the northeast corner boundary of Colorado; thence west on the north boundary line of Colorado to its intersection with the west line of range forty-seven west; thence south on said range line to its intersection with the southern boundary of the northern half of township nine north; thence east on said southern boundary to the east boundary line of Colorado; and thence north on said boundary line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: L. 1889: p. 340, § 1. **R.S. 08:** § 1145. **C.L.** § 8629. **CSA:** C. 44, § 72. **CRS 53:** § 34-1-67. **C.R.S. 1963:** § 34-1-67. **L. 81:** Entire section R&RE, p. 1433, § 20, effective July 1.

30-5-168. Summit.

Summit county: All that portion of the state bounded on the south by the county of Lake, and on the east by the summit of the snowy range, and on the north and west by the state boundary.

Source: R.S. p. 162, § 37. **G.L.** § 369. **G.S.** § 444. **R.S. 08:** § 1146. **C.L.** § 8630. **CSA:** C. 44, § 73. **CRS 53:** § 34-1-68. **C.R.S. 1963:** § 34-1-68.

ANNOTATION

"Snowy range" defined. Every rule of construction requires us to say that the general assembly, in describing the eastern boundary of the county of Summit as the summit of the snowy range, intended the continental divide. Bd. of County Comm'rs v. Bd. of County Comm'rs, 9 Colo. 268, 11 P. 193 (1886).

30-5-169. Teller.

So much of the counties of El Paso and Fremont as is included within the following described boundaries shall be set apart and is hereby established as a county, to be called the county of Teller:

Beginning at the northeast corner of Fremont county at the intersection of the line between ranges sixty-seven and sixty-eight west of the sixth principal meridian, with the line between townships fifteen and sixteen south; thence north on the line between ranges sixty-seven and sixty-eight, seven miles, more or less, to the corner common to sections thirty and thirty-one, township fourteen south, range sixty-seven west, and sections twenty-five and thirty-six, township fourteen south of range sixty-eight west; thence westerly along section lines seven miles, more or less, to the corner common to sections twenty-five, twenty-six, thirty-five and thirty-six, in township fourteen south, range sixty-nine west; thence north on section lines, five miles, more or less, to the corner common to sections one and two, township fourteen south, range sixty-nine west, and sections thirty-five and thirty-six, township thirteen south, range sixty-nine west; thence east two miles along township line to corner common to sections five and six, township fourteen south, range sixty-eight west, and sections thirty-one and thirty-two, township thirteen south, range sixty-eight west; thence north along section lines eighteen miles, more or less, to the north section corner common to sections five and six, township eleven south, range sixty-eight west; thence west along the south boundary line of Douglas county sixteen miles, more or less, to the northwest corner of section three, township eleven south, range seventy-one west, being a point in the easterly boundary line of the county of Park; thence south along the easterly boundary line of Park county thirty miles, more or less, to the line between townships fifteen and sixteen south, being a point on the north boundary line of the county of Fremont; thence east along the north boundary line of Fremont county five miles, more or less, to the northeast corner of section five, township sixteen south, range seventy west; thence south along section lines three miles, more or less, to the corner common to sections sixteen and

seventeen, twenty and twenty-one of township sixteen south of range seventy west; thence east along section lines, sixteen miles, more or less, to line between ranges sixty-seven and sixty-eight west; thence north on said range line, three miles, more or less, to the place of beginning.

Source: L. 1899: p. 359, § 1. **R.S. 08:** § 1147. **C.L.** § 8631. **CSA:** C. 44, 74. **CRS 53:** § 34-1-69. **C.R.S. 1963:** § 34-1-69.

ANNOTATION

Constitutionality. The act of 1899 from which this section derives under the title "to establish the county of Teller and the temporary county seat thereof", is not in contravention of § 21 of art. V, Colo. Const., providing that no bill shall be passed containing more than one subject, which shall be clearly expressed in the title, because the one subject of the act was "to establish the county of Teller", and each of the provisions following as specified in the title relates to the necessary incidents in establishing a new county; and the fact that certain of the incidents to the establishing of a new county are specified in the title does not limit the act to the particular matters detailed and exclude other matters necessary to the general purpose of the act. Frost v. Pfeiffer, 26 Colo. 338, 58 P. 147 (1899).

Section 3 of art. XIV, Colo. Const., which provides that "no part of the territory of any county shall be stricken off, and added to an adjoining county without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off, nor unless a majority of all the qualified voters of said county, voting on the question, shall vote "therefor", does not restrict the power of the general assembly to create new counties from territory embraced in one or more existing counties. Frost v. Pfeiffer, 26 Colo. 338, 58 P. 147 (1899).

30-5-170. Washington.

(1) The county of Washington is hereby established, with the same legal capacity and functions as other counties of this state, and the boundaries are as follows:

Beginning at the southeast corner of Weld county, and running thence west along the south boundary of Weld county to a point at the west line of range fifty-four west of the sixth principal meridian; thence north along the west line of said range fifty-four to a point on said range line at the north line of township five, north of range fifty-four west; thence east along said north line of township five north, and continuing on said course direct to a point on the east boundary line of the state, and of said Weld county; thence south along the east boundary line of the state and Weld county to the place of beginning.

(2) There is hereby stricken from the county of Adams, formerly a part of the county of Arapahoe, and annexed to the county of Washington, all that territory now a part of Adams county, formerly a part of Arapahoe county, described as follows:

Beginning at the intersection of the east boundary line of range forty-nine west and the north boundary line of Adams county; thence west along the north boundary line of said Adams county to the east boundary line of range fifty-seven west; thence south along said line to the south boundary line of said Adams county; thence east along the southern boundary of said Adams county to the east boundary line of range forty-nine west; thence north along said line to the place of beginning.

Source: L. 1887: p. 251, § 1. **L. 03:** p. 169, § 1. **R.S. 08:** §§ 1148, 1149. **C.L.** §§ 8632, 8633. **CSA:** C. 44, §§ 75, 76. **CRS 53:** § 34-1-70. **C.R.S. 1963:** § 34-1-70.

ANNOTATION

Authority of county treasurer as to tax deeds. Where lands situated in Arapahoe county were sold to that county for taxes and afterwards became a part of the county of Adams, after the erection of Washington county and the inclusion therein of the lands, the treasurer of that county was the proper officer to execute tax deeds upon the sales made in Arapahoe, and was authorized to execute a tax deed, in correction of one previously executed by the treasurer of Arapahoe county. Empire Ranch & Cattle Co. v. Howell, 60 Colo. 192, 152 P. 1177 (1915).

30-5-171. Weld.

Except for those portions that became part of the city and county of Broomfield on November 15, 2001, in accordance with sections 10 to 13 of article XX of the state constitution, beginning at the intersection of the west line of range sixty-eight west with the base line; thence north on said range line to its intersection with the north line of township four north; thence east on said township line to its intersection with the west line of range sixty-seven west; thence north on said range line to its intersection with the north boundary line of Colorado; thence east along said north boundary line to its intersection with the west line of range fifty-five west; thence south on said range line to the southeast corner of township nine north, range fifty-six west; thence west on the south line of said township and range to the northeast corner of township eight north, range fifty-six west; thence south on the west line of range fifty-five west to its intersection with the north line of township six north; thence west on said township line to its intersection with the west line of range sixty west; thence south on said range line to the southeast corner of township five north, range sixty-one west; thence west on the south line of said township and range to the

northeast corner of township four north, range sixty-one west; thence south on the east line of range sixty-one west to its intersection with the base line; and thence west on the base line to the place of beginning. Said public land survey lines are based upon the sixth principal meridian.

Source: R.S. p. 160, § 21. **G.L.** § 361. **G.S.** § 436. **R.S. 08:** § 1150. **C.L.** § 8634. **CSA:** C. 44, § 77. **CRS 53:** § 34-1-71. **C.R.S. 1963:** § 34-1-71. **L. 81:** Entire section R&RE, p. 1433, § 21, effective July 1. **L. 2004:** Entire section amended, p. 640, § 5, effective April 23.

30-5-172. Yuma.

(1) The county of Yuma is hereby established, with the same legal capacities and functions as other counties of this state, and the boundaries are as follows:

Beginning at the northeast corner of Washington county; thence running west along the north line of Washington county to the range line between ranges forty-eight and forty-nine west of the sixth principal meridian, in said Washington county; thence south along said range line to the south line of Washington county; thence east along said south line of Washington county to the southeast corner of Washington county; thence north along the east line of said Washington county to the place of beginning.

(2) There is hereby stricken from the county of Adams, formerly a part of Arapahoe county, and annexed to the county of Yuma, all that territory now a part of Adams county described as follows:

Beginning at the northeast corner of Adams county, thence west along the north boundary of said county to the range line dividing ranges forty-eight and forty-nine west; thence along said range line to the south boundary of said county; thence east along the south boundary of said county to the southeast corner of said county; thence north along the eastern boundary of said county to the place of beginning.

Source: L. 1889: p. 476, § 1. **L. 03:** p. 173, § 1. **R.S. 08:** §§ 1151, 1152. **C.L.** §§ 8635, 8636. **CSA:** C. 44, §§ 78, 79. **CRS 53:** § 34-1-72. **C.R.S. 1963:** § 34-1-72.

ARTICLE 6

Location, Change, and Settlement of Boundaries

30-6-100.3. Definitions.

30-6-101. Survey of boundaries - arbitration.

30-6-102. Board of arbitration.
30-6-103. Arbitration - agreements - oaths - expenses.
30-6-104. Boundaries not changed.
30-6-105. Annexation - petition - notice to voters.
30-6-106. Annexation - adjoining county.
30-6-107. Annexation - election result - proclamation.
30-6-108. County clerk and recorders to record.
30-6-109. Liabilities of annexed territory.
30-6-109.5. Annexation - county airports - agreements between governing bodies - approval.
30-6-109.7. Minor boundary adjustments.
30-6-110. Boundaries - survey - action to settle.
30-6-111. State engineer - reimbursement for expenses.
30-6-112. Boundaries - not changed.
30-6-113. Compliance with boundary control commission requirements.

30-6-100.3. Definitions.

As used in this article, unless the context otherwise requires, "county" means any county or city and county.

Source: L. 86: Entire section added, p. 1034, § 1, effective July 1.

30-6-101. Survey of boundaries - arbitration.

Wherever the boundary lines of any county are so indefinite as to make it impossible to determine where such lines are, and when a portion of territory by reason of such indefinite description is claimed by two counties, the board of county commissioners of each county so claiming said territory is authorized to have a survey made to define the boundaries. If it occurs that either county is dissatisfied with the boundary line as thus determined, it may be entitled to require of the other an arbitration for the settlement of the matter, from which arbitration there shall be no appeal, and the decision shall be final.

Source: G.L. § 420. **G.S.** § 479. **R.S. 08:** § 1153. **C.L.** § 8637. **CSA:** C. 44, § 80. **CRS 53:** § 34-2-1. **C.R.S. 1963:** § 34-2-1.

30-6-102. Board of arbitration.

When such arbitration is required, the board of county commissioners of each county shall choose one person from their county, and such persons shall select a third person who shall not be a resident of either county, and such three persons so chosen shall constitute a board of arbitration for the purposes mentioned in section 30-6-101.

Source: G.L. § 421. **G.S.** § 480. **R.S. 08:** § 1154. **C.L.** § 8638. **CSA:** C. 44, § 81. **CRS 53:** § 34-2-2. **C.R.S. 1963:** § 34-2-2.

30-6-103. Arbitration - agreements - oaths - expenses.

All counties, before entering into such arbitration by their boards of county commissioners, shall sign such agreements as required by law concerning arbitrations, and the board of arbitrators, before acting in such capacity, shall take such oath as prescribed by law. The expense of survey and arbitration shall be equally borne by each county, to be paid out of the county general fund.

Source: G.L. § 422. **G.S.** § 481. **R.S. 08:** § 1155. **C.L.** § 8639. **CSA:** C. 44, § 82. **CRS 53:** § 34-2-3. **C.R.S. 1963:** § 34-2-3.

30-6-104. Boundaries not changed.

Nothing in sections 30-6-101 to 30-6-103 shall be construed to authorize a change of county lines.

Source: G.L. § 423. **G.S.** § 482. **R.S. 08:** § 1156. **C.L.** § 8640. **CSA:** C. 44, § 83. **CRS 53:** § 34-2-4. **C.R.S. 1963:** § 34-2-4.

30-6-105. Annexation - petition - notice to voters.

When a majority of the taxpaying electors residing in that portion of the territory of any county proposed to be stricken off and annexed to an adjoining county shall petition the board of county commissioners of the county in which such territory is situate to have such portion stricken off and annexed to the adjoining county, giving the area and general boundaries of such territory by natural objects and monuments as near as may be, and shall deposit with such board of county commissioners an amount of money sufficient to pay the expenses of the surveying and platting of such territory, it is the duty of the said commissioners to have such territory surveyed and platted in a suitable manner and to cause to be submitted to the registered electors of such county at the general election next after the filing of such petition and plat with them the question of whether such portion of the territory of their county shall be so stricken off. The board of county commissioners shall also require the county clerk and recorder, in giving the notice required by law of the general election then next ensuing, to insert therein a notice to said registered electors that the question of striking off such territory from their county, particularly describing such territory by metes and bounds as shown by said survey, will be submitted to them for their approval or rejection and that they should designate on their ballots their approval thereof, which shall be expressed by the words "for the new county line", or their dissent thereto, expressed by the words "against the new county line". The board of county commissioners of the county to which such territory has been annexed may, in their discretion, pay the necessary expenses of such survey and plat by warrant on the treasury as in other cases.

Source: L. 1887: p. 71, § 1. **R.S. 08:** § 1157. **C.L.** § 8641. **CSA:** C. 44, § 84. **CRS 53:** § 34-2-5. **C.R.S. 1963:** § 34-2-5. **L. 85:** Entire section amended, p. 1342, § 4, effective April 30.

ANNOTATION

Timeliness of filing of petition under this section is governed by § 1-1-109 and language of notification requirement in such section is mandatory and thus county board of commissioners has no discretion to shorten notice period. Sellers v. Bd. of County Comm'rs, 682 P.2d 509 (Colo. App. 1984).

30-6-106. Annexation - adjoining county.

Upon the receipt of the said petition and deposit by the board of county commissioners, they shall immediately give notice of the fact to the board of county commissioners of the adjoining county to which the petitioners desire said territory should be annexed, and the board of county commissioners of the adjoining county shall, upon receipt of the same, require the county clerk of that county, in giving notice of the next general election, to notify the electors of that county

of the proposed annexation, particularly setting forth by metes and bounds in said notice the description of the said territory, that the question of such annexation will be submitted to them at said election, and that said electors shall designate on their ballots their dissent from or agreement thereto, which dissent or agreement shall be expressed as is provided in section 30-6-105.

Source: L. 1887: p. 72, § 2. **R.S. 08:** § 1158. **C.L.** § 8642. **CSA:** C. 44, § 85. **CRS 53:** § 34-2-6. **C.R.S. 1963:** § 34-2-6.

30-6-107. Annexation - election result - proclamation.

When the votes cast at the annexation election have been duly canvassed, the county clerk of each of said counties shall transmit the result of said election, as to this question, along with the other returns, to the secretary of state, and if such canvass shows that a majority of the votes cast at said election in each of the said counties was in favor of the question submitted in the respective counties mentioned in section 30-6-106, the secretary of state shall immediately make proclamation thereof, setting forth a description of said territory, as it is described in said notice, plat, and survey, and that by virtue of such majority vote in said counties such territory has been stricken off from the one county, naming it, and annexed to the other county, naming it.

Source: L. 1887: p. 72, § 3. **R.S. 08:** § 1159. **C.L.** § 8643. **CSA:** C. 44, § 86. **CRS 53:** § 34-2-7. **C.R.S. 1963:** § 34-2-7.

30-6-108. County clerk and recorders to record.

It is the duty of the county clerk and recorders of the said counties to record at length said proclamation of the secretary of state, together with said survey and plat, in the deed records of his county, and thereafter the county line so established shall be the lawfully constituted line between said counties, and the said territory so annexed to such county shall be subject to the jurisdiction of the county to which it has been so added, and shall be a part and parcel thereof.

Source: L. 1887: p. 73, § 4. **R.S. 08:** § 1160. **C.L.** § 8644. **CSA:** C. 44, § 87. **CRS 53:** § 34-2-8. **C.R.S. 1963:** § 34-2-8.

30-6-109. Liabilities of annexed territory.

The territory so stricken off from any county and annexed to the adjoining county shall be held to pay its ratable proportion of all then existing liabilities of the county from which it has been taken. Such ratable proportion of liabilities, as soon as the proclamation has been made, shall be fixed by the board of county commissioners of the county from which it is taken, and certified to the board of county commissioners of the county of which it becomes a part; and said board of county commissioners of the last mentioned county shall cause a special tax to be levied upon the property subject to taxation in such annexed territory for one, two, or three years, until such ratable proportion has been fully collected and paid, and the money, when collected, shall be refunded to the county from which the territory has been taken.

Source: L. 1887: p. 73, § 5. **R.S. 08:** § 1161. **C.L.** § 8645. **CSA:** C. 44, § 88. **CRS 53:** § 34-2-9. **C.R.S. 1963:** § 34-2-9.

Cross references: For effect on pending actions of the merger of a municipality into the city and county of Denver, see § 30-11-201.

30-6-109.5. Annexation - county airports - agreements between governing bodies - approval.

(1) Any provision of this article to the contrary notwithstanding, the territory of one county may be stricken off and annexed to an adjoining county, whether such territory is contiguous to such adjoining county or not, for the purpose of building and operating a major air carrier airport if the annexing county has a population of more than four hundred thousand and the boards of county commissioners of the two counties enter into an agreement for such annexation and the annexation agreement is subsequently ratified pursuant to the provisions of this section.

(2) Any such annexation agreement shall include, at a minimum:

(a) A description of the boundaries of the territory to be stricken off and annexed;

(b) A provision for the reversion of such territory to the county from which it is to be stricken off if the purposes of the annexation are not achieved;

(c) A provision that any consideration paid by the annexing county go to or for the benefit of the county and any school district from which the annexed territory is to be stricken off; and

(d) A provision designating either the next general election or a special election on a date certain as the ratification election for the proposed annexation agreement.

(3) In order to enter into such an agreement for the striking off and annexation of territory, each board of county commissioners shall be required to approve the agreement by a majority vote at a regular board meeting after not less than seven days' notice to the public and the opportunity for oral and written public comment on the agreement. Such notice shall be published in at least one newspaper of general circulation in the county or counties involved.

(4) After approval of the annexation agreement pursuant to subsection (3) of this section, the board of county commissioners of the county from which the territory is proposed to be stricken off shall submit such proposed annexation agreement to the registered electors of such county, pursuant to section 3 of article XIV of the state constitution, at the next general election or at a special election. Such election shall be governed by the provisions of the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., and shall be paid for by the county in which it is held.

(5) Failure of the registered electors to ratify the annexation agreement by majority vote shall defeat the proposed annexation, and the territory shall not be stricken off. The agreement shall be null and void.

Source: L. 86: Entire section added, p. 1034, § 1, effective July 1. **L. 92:** (4) amended, p. 873, § 101, effective January 1, 1993.

30-6-109.7. Minor boundary adjustments.

(1) (a) The general assembly hereby finds and declares that:

(I) The existence of certain irregular and irrational boundaries between portions of the city and county of Denver and the neighboring counties of Adams, Arapahoe, and Jefferson has resulted in confusion and inefficiency in the delivery of public services, including police, fire, and emergency medical services, to properties on or near such boundaries; and

(II) Such irregular boundaries jeopardize the ability of landowners to utilize and develop their property and impose increased costs and service delays when those landowners seek development approval.

(b) The general assembly further finds and declares that it is the purpose of this section to:

(I) Create a statutory mechanism, permitted by section 3 of article XIV of the Colorado constitution, that provides landowners with a limited means by which such irregular and irrational boundaries may be corrected for territory located in the city and county of Denver and in the counties of Adams, Arapahoe, and Jefferson;

(II) Limit the minor boundary adjustments under this section to no more than fifty acres per adjustment and to no more than two hundred fifty acres for each such county; and

(III) Permit a minor county boundary adjustment only if such adjustment is requested by one hundred percent of the landowners of property within the territory that is subject to such adjustment and only after the consent of all affected counties, municipalities, and school districts has been obtained.

(2) Any provision of this article to the contrary notwithstanding, a portion of the territory of one county may be stricken off and added to an adjoining county without an election pursuant to the procedure contained in this section.

(3) (a) A petition initiating a minor boundary adjustment that is signed by one hundred percent of the landowners of the territory of a county proposed to be stricken off may be submitted to the board of county commissioners in which such territory is situate. The petition shall include a map, survey, and legal description giving the area and general boundaries of such territory.

(b) Upon receipt of the petition, the board of county commissioners in which such territory is situate shall conduct a hearing on the petition after not less than thirty days' notice to the public and allow the opportunity for oral and written comment on the petition. Such notice shall be published in at least one newspaper of general circulation in such territory. All owners of real property in the territory and any special district organized pursuant to title 32, C.R.S., that serves the territory are to be notified of such hearing by first-class mail not less than ten days and not more than thirty days before the hearing.

(c) Following such hearing, the board of county commissioners in which such territory is situate shall act by resolution to approve or deny the minor boundary adjustment initiated by the petition. In the event the minor boundary adjustment is denied, no further action shall be taken.

(d) As used in this subsection (3), "landowner" means the owner in fee of any undivided interest in a given parcel of land that is within the boundaries of the territory of the county proposed to be stricken off. If the mineral estate has been severed, the landowner is the owner in fee of an undivided interest in the surface estate and not the owner in fee of an undivided interest in the mineral estate.

(4) No resolution approving a boundary adjustment shall be adopted or effective pursuant to this section unless:

(a) The territory to be stricken off and added to an adjoining county is contiguous to such adjoining county;

(b) The total area of the territory to be stricken off and added to an adjoining county does not exceed fifty acres;

(c) Both the county from which such territory is to be stricken off and the adjoining county to which such territory is to be added are represented on the boundary control commission established by section 1 of article XX of the Colorado constitution and the governing bodies of such counties have consented by resolution to the adjustment;

(d) As to any county boundary adjustment under this section which will result in the detachment of area from any school district and the attachment of the same to another school district, the board of directors of the school district to which such area will be attached and the board of directors of the school district from which such area will be detached have consented by resolution to such adjustment;

(e) The governing body of any municipality having incorporated territory contiguous to or contained within any portion of the territory to be stricken off has consented, by ordinance or resolution, to such adjustment.

(5) If a minor boundary adjustment is approved pursuant to this section, the board of county commissioners of the county from which such territory is to be stricken off shall negotiate an intergovernmental agreement with the adjoining county to which such territory is to be added. The intergovernmental agreement shall set forth the terms adjusting the boundary of each county and shall include, but not be limited to, the following:

(a) A description of the purpose of the minor boundary adjustment and of the petition initiating such adjustment;

(b) A provision specifying that obligations that are in any way secured by property taxes or other revenue streams from the territory to be stricken off shall be paid as provided in section 30-6-109.

(6) Upon approval by both counties of an intergovernmental agreement described in subsection (5) of this section, the board of county commissioners of each county that is a party to the agreement shall adopt a resolution approving the minor boundary adjustment. A copy of each resolution shall be recorded in the deed records of each county pursuant to section 30-6-108. Effective upon such recordation, the new county boundary so established shall be the lawfully constituted line between each county, and the territory stricken off from one county and added to the adjoining county shall be subject to the jurisdiction of such adjoining county and a part and parcel of the area of such adjoining county; except that the effective date of such new boundary for the purpose of general taxation shall be on and after the next January 1.

(7) Not more than two hundred fifty acres may be stricken from or added to any county pursuant to the provisions of this section.

(8) Except as provided by subsection (8.5) of this section, no territory of a county that contains an occupied residential unit may be stricken off and added to an adjoining county pursuant to this section. As used in this subsection (8), "occupied residential unit" means a

building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families.

(8.5) Subsections (3) and (8) of this section shall not apply to a minor boundary adjustment if the county to which territory will be added is bound by the intergovernmental agreement negotiated pursuant to subsection (5) of this section to use the territory solely for park and open space purposes.

(9) In addition to any other requirements contained in this section, prior to the initiation of any minor boundary adjustment in which territory is proposed to be stricken off of the counties of Adams, Arapahoe, or Jefferson and added to the city and county of Denver, a decision approving the proposed minor boundary adjustment shall be made by a majority vote of the six-member boundary control commission, established by section 1 of article XX of the state constitution.

(10) (Deleted by amendment, L. 2003, p. 1323, § 1, effective August 6, 2003.)

Source: L. 98: Entire section added, p. 800, § 1, effective August 5. **L. 2003:** (8) and (10) amended and (8.5) added, p. 1323, § 1, effective August 6.

Editor's note: Subsection (10) of this section contained a provision that repealed the entire section effective August 5, 2003. Subsection (10) was deleted by amendment in House Bill 03-1239 to give continuing effect to the section. The bill also amended subsection (8) and added a new subsection (8.5). This bill did not contain a safety clause. A bill without a safety clause usually takes effect on the day following the expiration of the ninety-day period after adjournment of the general assembly. Therefore, House Bill 03-1239 would normally take effect on August 6, 2003, one day after the repeal of the section was to take effect. An argument could be made that the deletion of the repealer and the other amendments to the section were of no effect because the repeal had already taken effect on the previous day. However, such an interpretation would defeat the general assembly's purpose in enacting the bill. For that reason, if a court is asked to address this circumstance, it could reach the conclusion that the amendment deleting the repeal should be given effect as of the date the governor signed the bill on April 22, 2003, rather than the technical effective date (see People v. Tacorante, 624 P.2d 1324 (Colo. 1981), where a similar conclusion was reached). In view of these factors, the repeal of this section is not reflected in the version printed above; rather, the section appears as amended by House Bill 03-1239.

30-6-110. Boundaries - survey - action to settle.

When the boundary lines of any county in this state are so indefinite that a portion of territory, by reason of such indefinite description, is claimed by two counties, and such fact appears by petition of the board of county commissioners of either county to the state engineer, it is the duty of such state engineer, in connection with the county surveyor of each of such counties, to run out and establish such lines as nearly as may be in accordance with such defective description, fix and define such boundary line by monuments in accordance with rules issued by the state board of licensure for architects, professional engineers, and professional land surveyors, and to furnish the board of county commissioners of each of said counties with a description of such line as soon thereafter as may be practical, deposit such survey as a land survey plat in each county, and file a Colorado land survey monument record on each monument found or set, as specified in section 38-53-104. When such line is established it shall be the boundary line between said counties, unless one of said counties, within six months from the day of filing the description of said line by the state engineer with the board of county commissioners of such county, commences an action in a court of competent jurisdiction in this state to determine and settle such disputed line, and prosecute the same with due diligence until its final determination, or has settled such disputed line, within said six months, by arbitration. If the county surveyor of either of such counties shall not appear or assist the state engineer in making such survey after due notice so to do, it shall in no manner affect or invalidate such survey, or the boundary lines as they may be fixed by such state engineer.

Source: L. 1887: p. 238, § 1. **R.S. 08:** § 1162. **C.L.** § 8646. **CSA:** C. 44, § 89. **CRS 53:** § 34-2-10. **C.R.S. 1963:** § 34-2-10. **L. 2017:** Entire section amended, (HB 17-1017), ch. 15, p. 44, § 4, effective August 9.

ANNOTATION

An actual survey and marking of the line upon the ground is intended by this section, and an attempt by the state engineer and county surveyors to fix a disputed county boundary line without going upon the ground and making an actual survey, was unauthorized and their proceedings were without any force or effect whatever. Bd. of Comm'rs v. Bd. of Comm'rs, 25 Colo. 95, 53 P. 383 (1898), reversing 9 Colo. App. 368, 48 P. 675 (1897).

This section is mandatory upon the state engineer when he has received the petition. Commissioners of Routt County v. Commissioners of Grand County, 4 Colo. App. 306, 35 P. 1061 (1894).

Equitable not special action to correct errors of engineer. It was held where the state engineer having, under this section, established the boundary between contiguous counties, a proceeding instituted by one of them, under the statute, to correct

alleged errors of the state engineer, is an equitable action, and not a special proceeding. Bd. of Comm'rs v. Bd. of Comm'rs, 58 Colo. 67, 143 P. 841 (1914).

Proper venue in county where property located. An action to judicially define and settle a boundary line, as fixed by the general assembly, involves an interest in real property, is for the determination of a form of an interest or right in real property, and affects property, and should be tried in the county where the property is situated. People v. District Court, 66 Colo. 40, 179 P. 875 (1919).

Survey without effect if action brought within six months. If within six months of the filing of the report of the state engineer upon his survey of a county boundary, an action is brought, pursuant to this section, to determine such boundary, such survey is without effect for any purpose. People v. District Court, 66 Colo. 40, 179 P. 875 (1919).

And district court of county from which, by survey, territory is taken, has jurisdiction of an action to establish the boundary under this section. People v. District Court, 66 Colo. 40, 179 P. 875 (1919).

Jurisdiction must be affirmatively pled. The complaint in an action under this section to determine and settle a disputed boundary line between counties, after one has been run out and established by the state engineer, must contain affirmative and positive allegations showing the proceedings to have been such as to confer jurisdiction. Commissioners of Routt County v. Commissioners of Grand County, 4 Colo. App. 306, 35 P. 1061 (1894).

As must statute of limitations. In order to confer jurisdiction in an action under the section to determine and settle a disputed boundary line between counties, after one has been run out and established by the state engineer, the complaint must affirmatively show that it was commenced within six months after the filing of the description of the boundary line by the state engineer. Commissioners of Routt County v. Commissioners of Grand County, 4 Colo. App. 306, 35 P. 1061 (1894).

Action under this section and estoppel separate causes. A complaint setting forth (1) the establishment of a county line by the state engineer, and that the plaintiff county is dissatisfied therewith, (2) the long recognition by both counties and the inhabitants and officials thereof, of the particular line for which the plaintiff contends, contains two separate causes of action, one the action authorized by this section and the other an attempt to set up an estoppel. Bd. of Comm'rs v. Bd. of Comm'rs, 58 Colo. 67, 143 P. 841 (1914).

Court renders judgment on evidence. In an action between counties under this section to establish a boundary line, the court has jurisdiction to render judgment upon the evidence, and is not limited to a determination of the accuracy of the line run by the state engineer. Bd. of Comm'rs v. Bd. of Comm'rs, 2 Colo. App. 412, 31 P. 183 (1892).

This section broadly confers upon a court of competent jurisdiction the power

to determine and settle the disputed line, and it must be held that the jurisdiction conferred is ample enough to enable the court, on the testimony before it, to determine what the line is, and where it should be run. Bd. of Comm'rs v. Bd. of Comm'rs, 2 Colo. App. 412, 31 P. 183 (1892).

30-6-111. State engineer - reimbursement for expenses.

The office of the state engineer shall be reimbursed for the expenses of any survey conducted in connection with a boundary dispute pursuant to section 30-6-110, and such expenses shall be borne equally by the counties involved in the boundary dispute.

Source: L. 1887: p. 239, § 2. **R.S. 08:** § 1163. **C.L.** § 8647. **CSA:** C. 44, § 90. **CRS 53:** § 34-2-11. **C.R.S. 1963:** § 34-2-11. **L. 99:** Entire section amended, p. 383, § 1, effective August 4.

30-6-112. Boundaries - not changed.

Nothing in this section and sections 30-6-110 and 30-6-111 shall be so construed as to authorize a change of any county line.

Source: L. 1887: p. 239, § 3. **R.S. 08:** § 1164. **C.L.** § 8648. **CSA:** C. 44, § 91. **CRS 53:** § 34-2-12. **C.R.S. 1963:** § 34-2-12.

30-6-113. Compliance with boundary control commission requirements.

In addition to any other requirements, a decision approving the proposed annexation by a majority vote of the six-member boundary control commission established by section 1 of article XX of the state constitution shall be made prior to the initiation of any annexation procedures pursuant to this article to annex land from the counties of Adams, Arapahoe, or Jefferson to the city and county of Denver.

Source: L. 86: Entire section added, p. 1035, § 1, effective July 1.

ARTICLE 7

County Seats Designated

30-7-101. County seats designated. 30-7-102. Relocation not affected.

30-7-101. County seats designated.

The county seats of the several counties of the state of Colorado as heretofore established by statutes or statutory election proceedings are hereby confirmed, validated, and established from the date of such statutory enactment or proceeding as follows:

County	**County Seat**
(1) Adams	Brighton
(2) Alamosa	Alamosa
(3) Arapahoe	Littleton
(4) Archuleta	Pagosa Springs
(5) Baca	Springfield
(6) Bent	Las Animas
(7) Boulder	Boulder
(8) Broomfield, city and county of	Broomfield
(9) Chaffee	Salida
(10) Cheyenne	Cheyenne Wells
(11) Clear Creek	Georgetown
(12) Conejos	Conejos
(13) Costilla	San Luis
(14) Crowley	Ordway
(15) Custer	Westcliffe
(16) Delta	Delta
(17) Denver, city and county of	Denver
(18) Dolores	Dove Creek
(19) Douglas	Castle Rock
(20) Eagle	Eagle
(21) Elbert	Kiowa

(22) El Paso ..... Colorado Springs

(23) Fremont ..... Cañon City

(24) Garfield ..... Glenwood Springs

(25) Gilpin ..... Central City

(26) Grand ..... Hot Sulphur Springs

(27) Gunnison ..... Gunnison

(28) Hinsdale ..... Lake City

(29) Huerfano ..... Walsenburg

(30) Jackson ..... Walden

(31) Jefferson ..... Golden

(32) Kiowa ..... Eads

(33) Kit Carson ..... Burlington

(34) Lake ..... Leadville

(35) La Plata ..... Durango

(36) Larimer ..... Fort Collins

(37) Las Animas ..... Trinidad

(38) Lincoln ..... Hugo

(39) Logan ..... Sterling

(40) Mesa ..... Grand Junction

(41) Mineral ..... Creede

(42) Moffat ..... Craig

(43) Montezuma ..... Cortez

(44) Montrose ..... Montrose

(45) Morgan ..... Fort Morgan

(46) Otero ..... La Junta

(47) Ouray ..... Ouray

(48) Park ..... Fairplay

(49) Phillips ..... Holyoke

(50) Pitkin ..... Aspen

(51) Prowers ..... Lamar

(52) Pueblo ..... Pueblo

(53) Rio Blanco ..... Meeker

(54) Rio Grande ..... Del Norte

(55) Routt ..... Steamboat Springs

(56) Saguache ..... Saguache

(57) San Juan ..... Silverton

(58) San Miguel ..... Telluride

(59) Sedgwick ..... Julesburg

(60) Summit ..... Breckenridge

(61) Teller ..... Cripple Creek

(62) Washington ..... Akron

(63) Weld ..... Greeley

(64) Yuma ..... Wray

Source: L. 55: p. 244, § 1. **CRS 53:** § 34-4-1. **C.R.S. 1963:** § 34-4-1. **L. 2001:** Entire section amended, p. 256, § 3, effective November 15.

30-7-102. Relocation not affected.

Nothing in this article shall affect the right of any county to change the location of its county seat as provided by law.

Source: L. 55: p. 244, § 1. **CRS 53:** § 34-4-2. **C.R.S. 1963:** § 34-4-2.

ARTICLE 8

Location and Removal of County Seats

30-8-101. County seat - removal - election.
30-8-102. Special registration.
30-8-103. Polling places - special ballot.
30-8-104. Removal - when.
30-8-105. Elections - laws applicable.
30-8-106. Election contests - laws applicable.
30-8-107. County seats - removal - petition - election.
30-8-108. Commissioners' surveys - county buildings.
30-8-109. Attached territory - tax liability.

30-8-101. County seat - removal - election.

When an election is ordered by the board of county commissioners of any county on the question of removal or location of the county seat, it is the duty of such board of county commissioners to appoint special judges and registers of such elections, and to provide a special ballot box in each voting precinct in which shall be deposited all the ballots cast at such election in such precinct on the question of location or removal of the county seat.

Source: L. 1881: p. 103, § 1. **G.S.** § 1284. **R.S. 08:** § 1171. **C.L.** § 8649. **CSA:** C. 44, § 92. **CRS 53:** § 34-3-1. **C.R.S. 1963:** § 34-3-1.

ANNOTATION

The constitutional prohibition against local or special laws in certain enumerated cases, locating or changing county seats being one of those cases, was held to be wholly prospective and intended to affect only future legislation. People v. Bd. of County Comm'rs, 6 Colo. 202 (1882).

Construction with general election laws. Although registration of electors to vote on the question of removal of a county seat is governed by this and the following sections, they are not exclusive but must be construed with the provisions concerning general elections. People ex rel. Roberg v. Bd. of Comm'rs, 86 Colo. 249, 281 P. 117 (1929).

The section governing registration of electors does not repeal this article concerning elections for the removal of county seats. People ex rel. Roberg v. Bd. of Comm'rs, 86 Colo. 249, 281 P. 117 (1929).

In the absence of fraud and where there is a substantial compliance with the statute, informalities and innocent departures on the part of the election board in the matter of an election to remove a county seat, will not render the election void, where it appears that there was a conscientious determination on the part of the election officials to ascertain the will of the electorate on the question submitted, which was carried into effect. People ex rel. Roberg v. Bd. of Comm'rs, 86 Colo. 249, 281 P. 117 (1929).

The act of February 11, 1881, was intended to establish a uniform procedure regulating all elections concerning county seats, and it applies to the conduct of an election for the permanent location of a county seat. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

Since the act of 1881 was inconsistent with and repugnant to former legislation upon this subject, although it contained no repealing clause, it was well settled that, notwithstanding such omission, so much of former legislation as was in conflict with the latter provisions was impliedly repealed. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

30-8-102. Special registration.

It is the duty of the judges and registers so appointed to make a special registration of the voters of each precinct who have resided in the county at least six months, and in such precinct at least ninety days, prior to the day designated for holding such election, which day shall be the day designated by law for holding a general election, and no other.

Source: L. 1881: p. 103, § 2. **G.S.** § 1285. **R.S. 08:** § 1172. **C.L.** § 8650. **CSA:** C. 44, § 93. **CRS 53:** § 34-3-2. **C.R.S. 1963:** § 34-3-2.

ANNOTATION

It was purely a question for the general assembly as to whether the same rule should be adopted as to residence in the case of an election to locate a county seat, as § 2 of art. XIV, Colo. Const., had already adopted in the case of an election upon the question of removal of a county seat, and the length of residence required in the latter case was definitely fixed by the constitution, and the general assembly was left free to determine the qualifications of voters at an election upon the question of the location of a county seat, unquestionably, since there is no specific constitutional inhibition, and the statute is general, applying alike to all similarly situated, the general assembly had the power and authority to enact it. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

30-8-103. Polling places - special ballot.

The election shall be held at the same places at which the general election is ordered to be held, but the vote for or against removal or location of the county seat shall be by a special ballot, separate and distinct from the general ticket voted at said election, which ballot shall be deposited in the special ballot box provided for in section 30-8-101, and no vote shall be counted for or against said removal or location which is not deposited in such special ballot box.

Source: L. 1881: p. 103, § 3. **G.S.** § 1286. **R.S. 08:** § 1173. **C.L.** § 8651. **CSA:** C. 44, § 94. **CRS 53:** § 34-3-3. **C.R.S. 1963:** § 34-3-3.

30-8-104. Removal - when.

No county seat shall be removed until the expiration of thirty days after the canvass of the votes by the county canvassers upon the question of location or removal, nor until the board of county commissioners of such county has made and entered of record on its journal an order directing such removal. The board shall make such order within thirty days after the county canvass is completed, unless enjoined or restrained from so doing by an order of the district court of said county or by the supreme court.

Source: L. 1881: p. 104, § 4. **G.S.** § 1287. **R.S. 08:** § 1174. **C.L.** § 8652. **CSA:** C. 44, § 95. **CRS 53:** § 34-3-4. **C.R.S. 1963:** § 34-3-4.

30-8-105. Elections - laws applicable.

All laws now in force relating to elections shall apply to elections held upon the question of removal or location of county seats, except that the question of location of such county seats shall be contested in the district court of said county in the first instance, but may be removed to the district court of any other county under the provisions of the Colorado rules of civil procedure relating to change of the place of trial, and shall be also subject to appeal as provided by law and the Colorado appellate rules. Not less than two-thirds of all the legal votes cast shall be necessary to effect the removal of the county seat of any county in this state.

Source: L. 1881: p. 104, § 5. **G.S.** § 1288. **R.S. 08:** § 1175. **C.L.** § 8653. **CSA:** C. 44, § 96. **CRS 53:** § 34-3-5. **C.R.S. 1963:** § 34-3-5.

Cross references: For the laws governing elections, see title 1.

ANNOTATION

Section held valid. Alexander v. People ex rel. Schofield, 7 Colo. 155, 2 P. 894 (1883).

Removal of county seats is subject over which general assembly has plenary jurisdiction and control, and in the absence of constitutional restrictions, a removal could be authorized upon any vote, great or small, which the body deemed advisable. Alexander v. People ex rel. Schofield, 7 Colo. 155, 2 P. 894 (1883).

Where two-thirds of electors of county voting on proposition did not vote to remove the county seat of said county, the county seat was not removed. Alexander v. People ex rel. Schofield, 7 Colo. 155, 2 P. 894 (1883).

Where, in an election for the permanent location of a county seat, voters designate on their ballots different places which are substantially in the same locality, the ballots should be counted for the general spot covered by the descriptions. Coleman v. People, 7 Colo. App. 243, 42 P. 1041 (1895).

30-8-106. Election contests - laws applicable.

All laws governing contests of elections shall be applicable to contests of county seat elections; except that the board of county commissioners of the county shall in all cases be the contestee, and that the contest shall be conducted in the district court of the proper county. Such district court may appoint a magistrate to take testimony in relation to the grounds of contest alleged by the contestor, which magistrate may sit to take evidence in any precinct of his county.

Source: L. 1881: p. 104, § 6. **G.S.** § 1289. **R.S. 08:** § 1176. **C.L.** § 8654. **CSA:** C. 44, § 97. **CRS 53:** § 34-3-6. **C.R.S. 1963:** § 34-3-6. **L. 91:** Entire section amended, p. 365, § 40, effective April 9.

Cross references: For the laws governing contests of elections, see part 2 of article 11 of title 1.

ANNOTATION

The territorial statute made no provision for a contest of an election upon the removal of a county seat. People v. Bd. of County Comm'rs, 6 Colo. 202 (1882).

A statement of contest of an election for the removal of a county seat which fails to enumerate a single qualified voter who was denied the right to vote or the name of any person who voted without possessing the necessary qualifications, held bad under the facts and circumstances disclosed. People ex rel. Roberg v. Bd. of Comm'rs, 86 Colo. 249, 281 P. 117 (1929).

30-8-107. County seats - removal - petition - election.

(1) When the taxpaying electors of any county in this state are desirous of changing the county seat of the county in which they reside from the place where such county seat has been permanently located, they may at any time present to the board of county commissioners of such county a petition signed by a majority of such taxpaying electors whose names shall appear on the last tax roll. No names shall be withdrawn from said petition after the same has been presented to the board of county commissioners, except in cases of actual fraud in the procuring of signatures to the same.

(2) Thereupon it is the duty of the board to require the county clerk and recorder, in giving notice for the next general election, to notify the registered voters of said county to designate upon their ballots at such election the place of their choice; and, if upon canvassing the votes polled or given it appears that any one place has two-thirds of all legal votes polled or given, such place shall be the county seat, and notice of any change thereby made shall be given as provided by law. Where there are no county buildings and the petition so states, it shall not be necessary for such majority to be more than a mere majority of all the legal votes cast to effect such removal.

(3) The term "taxpaying electors" as used in this section means only those persons who are qualified voters under the registration and election laws of this state, and who in the calendar year last preceding the year in which such petition is presented as aforesaid have paid a tax, or are liable for the payment of such tax, on real or personal property assessed to them and owned by them in the county in which such petition is presented.

Source: R.S. p. 162, § 42. **G.L.** omitted. **G.S.** § 685. **L. 1885:** p. 163, § 1. **L. 1891:** p. 117, § 1. **R.S. 08:** § 1167. **L. 11:** p. 263, § 1. **L. 13:** p. 229, § 1. **C.L.** § 8655. **CSA:** C. 44, § 98. **CRS 53:** § 34-3-7. **C.R.S. 1963:** § 34-3-7. **L. 85:** (2) amended, p. 1343, § 5, effective April 30.

ANNOTATION

Under the constitution the general assembly has no power to remove a county seat. Coleman v. People, 7 Colo. App. 243, 42 P. 1041 (1895).

Regulated by general law. The constitution deprives the general assembly of power to remove a county seat, but permits the question of such removal to be regulated by general law, with the limitations, that there can be no removal unless a majority of the electors vote for it, and that no proposition on the subject shall be submitted more often than once in four years. Coleman v. People, 7 Colo. App. 243, 42 P. 1041 (1895).

Voting majorities required for placement or removal. The plain meaning of this section is that where the county seat has not been permanently located a majority of all the legal votes upon the proposition must be in favor of some one place, and if it has been permanently established, it requires a two-thirds vote in favor of some one place before a removal can be effected. Bd. of Comm'rs v. People ex rel. Love, 26 Colo. 297, 57 P. 1080 (1899).

Where the relator, in mandamus proceedings to compel the removal of a county seat, has long been a resident of the county, without taking steps to test the legality of its location, he should not be permitted to initiate such proceedings. Coleman v. People, 7 Colo. App. 243, 42 P. 1041 (1895).

30-8-108. Commissioners' surveys - county buildings.

The board of county commissioners has the power to make all needful arrangements for having such county seat surveyed into lots, squares, streets, and alleys, selling and disposing of the same, and erecting a jailhouse, courthouse, or other county buildings as to the board seems best.

Source: R.S. p. 163, § 44. **G.L.** § 372. **G.S.** § 687. **R.S. 08:** § 1169. **C.L.** § 8656. **CSA:** C. 44, § 99. **CRS 53:** § 34-3-8. **C.R.S. 1963:** § 34-3-8.

30-8-109. Attached territory - tax liability.

No tax shall be levied against the people of any county to erect any public building in another county, in the same judicial district.

Source: G.L. § 568. **G.S.** § 561. **R.S. 08:** § 1184. **C.L.** § 8657. **CSA:** C. 44, § 100. **CRS 53:** § 34-3-9. **C.R.S. 1963:** § 34-3-9.

COUNTY OFFICERS

ARTICLE 10

County Officers

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PART 1

GENERAL PROVISIONS

30-10-101. Offices - inspection of records - failure to comply - penalty.

(1) (a) Every sheriff, county clerk and recorder, and county treasurer shall keep his or her respective office at the county seat of the county and in the office provided by the county, if any such has been provided, or, if there is none provided, then at such place as the board of county commissioners shall direct. Subject to the provisions of part 2 of article 72 of title 24, C.R.S., and any judicially recognized right of privacy, all books and papers required to be in such offices shall be open to the examination of any person, but no person, except parties in interest, or their attorneys, shall have the right to examine pleadings or other papers filed in any cause pending in such court.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the sheriff, county clerk and recorder, county treasurer, and clerk of the district and county courts may maintain his or her office at a location other than the county seat when authorized to do so pursuant to part 1 of article 5 of title 13, C.R.S.

(c) Notwithstanding any other provision of law to the contrary, the sheriff, county clerk and recorder, and county treasurer may keep one or more offices outside of the county seat or such other place authorized pursuant to part 1 of article 5 of title 13, C.R.S. Any such office shall be in addition to his or her respective office kept pursuant to paragraph (a) of this subsection (1) and shall be within the same county. Any such additional office may be kept only if the board of county commissioners of such county makes office space or funding available to provide for the office.

(d) As used in this section, "office" shall mean a place where some or all of the duties of a sheriff, county clerk and recorder, county treasurer, or clerk of the district and county courts are conducted.

(2) Subject to the provisions of subsection (2.5) of this section, any person or corporation and their employees engaged in making abstracts or abstract books or in the business of title insurance, as defined in section 10-11-102 (3), C.R.S., shall have the right, during usual business hours and subject to such rules and regulations as the officer having the custody of such records may prescribe, to inspect and make memoranda, copies, or photographs of the contents of all such books and papers for the purpose of their business; but any such officer may make reasonable and general regulations concerning the inspection of such books and papers by the public or by such abstractors or title insurance personnel. If, for the purpose of making such copies, it becomes necessary to remove such records from the room where they are usually kept to some other room in the courthouse where such copying apparatus may be installed for such purpose, the county clerk and recorder, in his or her discretion, may charge to the person or corporation making such copies a fee of ten dollars per hour for the service of the deputy who has charge of such records while they are being so copied; but such fees shall not be charged to one person or corporation unless the same fee is likewise charged to every person or corporation copying such records.

(2.5) (a) In lieu of affording the right of inspection and copying set forth in subsection (2) of this section, any clerk and recorder may make available to abstractors, title insurance personnel, and others, by subscription and on such medium as the clerk and recorder shall determine in accordance with the provisions of section 30-10-407, a daily copy in bulk of all documents recorded and filed in such office or less than all if the clerk and recorder determines it to be feasible to sort the bulk as requested. Such bulk copy shall be available to the subscriber no later than the third business day following the date of recording or filing. The fee to be charged by the clerk and recorder for bulk copies supplied in accordance with this subsection (2.5) shall be sufficient to cover the direct and indirect costs of production incurred by the clerk and recorder.

(b) Upon tender of the appropriate fee as provided in section 30-1-103 (2)(j), the clerk and recorder shall furnish single copies of documents upon demand.

(c) The clerk and recorder shall not be required to conduct a search of the real estate records in order to locate any document for copying or for any other purpose.

(3) If any person or officer refuses or neglects to comply with the provisions of this section, he shall forfeit for each day he so refuses or neglects the sum of five dollars, to be collected by civil action, in the name of the people of the state of Colorado, and pay it into the school fund; but this shall not interfere with or take away any right of action for damages by any person injured by such neglect or refusal.

Source: G.L. § 554. **L. 1885:** p. 157, § 1. **R.S. 08:** § 1352. **L. 13:** p. 227, § 1. **L. 19:** p. 368, § 1. **C.L.** § 8829. **CSA:** C. 45, § 176. **CRS 53:** § 35-1-1. **C.R.S. 1963:** § 35-1-1. **L. 77:** (1) amended, p. 1435, § 1, effective May 26. **L. 83:** (2) amended, p. 1226, § 5, effective July 1. **L. 91:** (2) amended, p. 709, § 5, effective July 1. **L. 93:** (1) amended, p. 91, § 2, effective July 1. **L. 96:** (2) amended and (2.5) added, p. 1556, § 3, effective July 1. **L. 2001:** (1)(c) and (1)(d) added, p. 652, § 1, effective May 30. **L. 2010:** (1)(a) amended, (HB 10-1062), ch. 161, p. 556, § 1, effective August 11. **L. 2014:** (2.5)(a) amended, (HB 14-1073), ch. 30, p. 176, § 4, effective July 1.

ANNOTATION

Law reviews. For note, "One Year Review of Wills, Estates and Trusts", see 41 Den. L. Ctr. J. 118 (1964).

The amendment to art. VI, Colo. Const., transfers most of the former jurisdiction of the then county courts to the district courts, including, among others, the type of matters (juvenile, mental health, domestic relations, probate) intended to be kept private by this section. Times-Call Publ'g Co. v. Wingfield, 159 Colo. 172, 410 P.2d 511 (1966).

Other than "interested" persons allowed access to court records. This section does not mean that judges and clerks of courts of record are prohibited from allowing persons other than parties in interest or their attorneys to examine the pleadings or other papers on file in such courts; however, it does mean that although there is no absolute right to examine such pleadings or other papers, persons could be allowed to do so at discretion of court. Times-Call Publ'g Co. v. Wingfield, 159 Colo. 172, 410 P.2d 511 (1966).

Press not barred from court records. This section, originating in 1885, was certainly not intended to bar the press from access to pleadings and court records in civil actions involving matters of public interest such as school bond election contests. Times-Call Publ'g Co. v. Wingfield, 159 Colo. 172, 410 P.2d 511 (1966).

This section was not designed to allow individuals who wish to abstract the entire records for future profit in their private business, the privilege of using continuously the public property, and of monopolizing from day to day, for months and years, a portion of the time and attention of the county clerk against his will and without recompense. Bean v. People ex rel. Uppercu, 7 Colo. 200, 2 P. 909 (1883).

Mandamus proper remedy. Where a county clerk and recorder refuses to allow abstractors the use of the county records for the purpose of making abstracts, mandamus is a proper remedy for them to resort to. Stocknan v. Brooks, 17 Colo. 248, 29 P. 746 (1892).

Sufficient allegation for mandamus. An allegation by plaintiffs, in their petition for mandamus, that the county clerk and recorder refused to allow them to examine

the records, or make memoranda therefrom, though often requested to do so, is sufficient, since by the terms of this section any person has the right to inspect the records; and it is not necessary to allege that plaintiffs did not have all the information that could be acquired by the enforcement of the writ. Stocknan v. Brooks, 17 Colo. 248, 29 P. 746 (1892).

No mandamus to allow abstracting entire land records. A county clerk is not compellable, by mandamus, to allow abstract makers to use his office and the county records for the purpose of abstracting the entire records of the land titles of the county for sale. Bean v. People ex rel. Uppercu, 7 Colo. 200, 2 P. 909 (1883).

Applied in In re W.D.A. v. City & County of Denver, 632 P.2d 582 (Colo. 1981).

30-10-102. All money delivered to treasurer - penalty for failure.

(1) Except as provided in subsection (2) of this section, every county clerk and recorder, district attorney, sheriff, or other state or county officer appointed by law, required or permitted to receive and pay over to the county treasurer any taxes, fines, fees, or other moneys whatsoever, within thirty days after the receipt of such moneys, shall pay the same over to the county treasurer, and together therewith such officer so paying over the same shall deliver to the county treasurer a statement of the amount of such moneys so collected by him and paid over, which statement shall be signed by the person paying the same, sworn to before the county treasurer, and then filed and preserved in the office of such treasurer. Every person falsely swearing in any such statement is guilty of perjury in the second degree. The county treasurer shall not demand or receive any fee for administering the oath required by this section.

(2) Fines and fees levied and collected in state courts for which no specific disposition is provided shall be paid to the department of the treasury for deposit in the general fund.

Source: G.L. § 558. **G.S.** § 658. **R.S. 08:** § 1356. **C.L.** § 8833. **CSA:** C. 45, § 180. **CRS 53:** § 35-1-2. **C.R.S. 1963:** § 35-1-2. **L. 64:** p. 221, § 46. **L. 72:** p. 556, § 9. **L. 73:** p. 1401, § 24. **L. 2010:** (1) amended, (HB 10-1062), ch. 161, p. 556, § 2, effective August 11.

ANNOTATION

Fees, emoluments, and taxes which were collected by a county clerk as an agent of the motor vehicle department were included in the purview of this section. Flanders v. Kochenberger, 118 Colo. 104, 193 P.2d 281 (1948).

30-10-103. Copies prima facie evidence.

Copies of all documents, writs, proceedings, instruments, papers, and writings duly filed or deposited in the office of any county judge, county clerk and recorder, or county treasurer, and transcripts from books of record or proceedings kept by any of said officers, with the seal of his office affixed, shall be prima facie evidence in all cases.

Source: G.L. § 559. **G.S.** § 659. **R.S. 08:** § 1357. **C.L.** § 8834. **CSA:** C. 45, § 181. **CRS 53:** § 35-1-3. **C.R.S. 1963:** § 35-1-3.

ANNOTATION

Purpose. The plain purpose and effect of this section was to make copies of the writings there specified prima facie evidence of the contents of the original writings, to do nothing more and nothing less. Bd. of Comm'rs v. Keene Five-Cents Sav. Bank, 108 F. 505 (8th Cir. 1901).

The object of this section certainly was not to make mere copies competent, relevant, or material evidence of facts of which the original writings were not evidence. Bd. of Comm'rs v. Keene Five-Cents Sav. Bank, 108 F. 505 (8th Cir. 1901).

Objection not tenable. If the county court permits one of the books of its office to be taken into another court as evidence, the objection that the original, and not a certified copy, is produced is not tenable. McAllister v. People ex rel. Brisbane, 28 Colo. 156, 63 P. 308 (1900).

30-10-104. Resignations of officers, to whom made.

All county officers who hold their office by election shall make their resignation to the officer authorized by law to fill such vacancies in such office, respectively.

Source: G.L. § 560. **G.S.** § 660. **R.S. 08:** § 1358. **C.L.** § 8835. **CSA:** C. 45, § 182. **CRS 53:** § 35-1-4. **C.R.S. 1963:** § 35-1-4.

30-10-105. When office becomes vacant.

(1) Every county office shall become vacant, on the happening of any one of the following events, before the expiration of the term of office:

(a) The death of the incumbent;

(b) The resignation of the incumbent;

(c) The removal of the incumbent;

(d) The incumbent's ceasing to be an inhabitant of the county for which he was elected or appointed;

(e) The incumbent's refusal or neglect to take an oath or affirmation in accordance with section 24-12-101, to give or renew his or her official bond, or to deposit such bond within the time prescribed by law;

(f) The decision of a competent tribunal declaring void his election or appointment;

(g) The incumbent is declared incapacitated in the manner provided in subsection (4) of this section.

(h) Repealed.

(2) In the event a county officer is found guilty of any felony or infamous crime by a court or jury, the board of county commissioners shall immediately suspend such county officer from office without pay until his conviction is final and he has exhausted, or by failure to assert them has waived, all rights to new trial and all rights of appeal. At the time such officer's conviction is final and he has exhausted, or by failure to assert them has waived, all rights to appeal and new trial, the said board shall remove such officer from office and his successor shall be appointed as provided by statute, unless during such period of suspension a successor has been duly elected and qualified and said successor, whether so appointed or elected, shall be the duly constituted officer.

(3) Should the officer suspended from office by the board of county commissioners as provided in this section be found not guilty in a state or federal court either on appeal, original trial, or new trial, the board shall forthwith reinstate such officer and give him his back pay, unless during such period of suspension a successor to such suspended officer has been duly elected and qualified. In the event a successor to such suspended officer has been so elected and qualified, such suspended officer shall receive his back pay only up to the expiration date of his regular term of office and he shall not be reinstated or paid further unless he is such person duly elected and qualified.

(4) (a) Any county officer shall be declared incapacitated when there is a judicial determination that he is unable to routinely and fully carry out the responsibilities of his office by virtue of mental or physical illness or disability and he has been so unable for a continuous period of not less than six months immediately preceding the finding of incapacity. The quantum of proof required, the procedures to be followed, and the rights reserved to the subject of any determination of incapacity under this subsection (4) shall be those specified for the appointment of guardians in part 3 of article 14 of title 15, C.R.S., to the extent applicable.

(b) A proceeding to determine incapacity under this subsection (4) shall be commenced in the district court by a majority of the board of county commissioners. With respect to a county commissioner, proceedings shall be commenced when said commissioner fails to attend any regular meeting of the board of county commissioners for a period of six months. With respect to any county officer other than a county commissioner, proceedings shall be commenced when such officer fails to report to his office or other regular place of business for a period of six months.

(c) In any county having a population of less than one hundred thousand, the county shall be represented in the district court by the district attorney or by a qualified attorney acting for the district attorney who is appointed by the district court for that purpose. In any county having a population of one hundred thousand or more, the county shall be represented by the county attorney or a qualified attorney acting for the county attorney who is appointed by the district court for that purpose.

Source: G.L. § 561. **G.S.** § 661. **R.S. 08:** § 1359. **C.L.** § 8836. **CSA:** C. 45, § 183. **CRS 53:** § 35-1-5. **L. 57:** p. 308, § 1. **C.R.S. 1963:** § 35-1-5. **L. 89:** (1)(g) and (4) added, p. 1277, §§ 1, 2, effective March 9. **L. 90:** (1)(h) added, p. 1445, § 2, effective April 5; (1)(h) repealed, p. 1847, § 43, effective May 31. **L. 2000:** (4)(a) amended, p. 1835, § 15, effective January 1, 2001. **L. 2018:** (1)(e) amended, (HB 18-1138), ch. 88, p. 696, § 20, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

ANNOTATION

No interpretation of vacancy needed. So simple, direct, and integrated is the language of this section that there is no room for interpretation as to when a vacancy occurs. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

Vacancy applies not to the incumbent, but to the term, or to the office, or both, depending generally upon the context. People ex rel. Bentley v. Le Fevre, 21 Colo. 218, 40 P. 882 (1895).

The court said that the word "vacancy" as used in modern times relates not only to the office which is to be filled, but to the term for which the appointment is to be made. Monash v. Rhoades, 11 Colo. App. 404, 53 P. 236 (1898), aff'd, 27 Colo. 235, 60 P. 569 (1900); People ex rel. Calloway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

Conviction works disqualification and vacancy. Conviction under the statute of an infamous crime or of an offense involving

the violation of the oath of office operates as a disqualification so as to create a vacancy forthwith in the office. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

Instant vacancy upon conviction. The happening of the event fixes the time and fulfillment of the vacancy, and the mingling of situations which ordinarily would give rise to vacancies ipso facto with others that do not necessarily create vacancies ipso facto, without difference of treatment in the statute, is significant, thus, among the listed events creating a vacancy in office are three which by their very nature result in termination of office holding, and the statutory declaration that the office becomes vacant upon the happening thereof seems almost surplusage; also reference is made to the provisions relating to the death of an incumbent, or his resignation, or his removal; the occurrence of any of these events establishes instanter a vacancy; and to hold that the death of an incumbent, or his resignation, or his removal effects an immediate vacancy in the office but that the same is not true as to an officer convicted of either of the described offenses would result in a strained, unnatural and illogical construction, in view of the language employed in the statute which makes no such distinction. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

But the mere doing of a prohibited act by an official, without his conviction therefor, does not create a vacancy. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

And in this state all infamous crimes are felonies, but not all felonies are infamous crimes. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

If a county official was convicted of income tax evasion, and if such amounts to conviction of an infamous crime or an offense involving a violation of his official oath, within the purview of this section, the office of sheriff of Jefferson county became vacant by operation of the law on the date of such conviction. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

Effect of out-of-state convictions. The fact that the general assembly has provided in certain statutes that convictions in other jurisdictions shall operate disadvantageously in the state to the convicted person, and did not so provide in this section, requires us to hold that, as to the latter, the general assembly purposely omitted words which would have given effect to foreign convictions, because to ascertain the intent of the general assembly enacting a particular statute, resort may be had to a comparison in language of the statute under study with analogous but unrelated legislation. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

A conviction in the federal court for this state is not conclusive on a question of disqualification to hold an office of honor, trust, or profit under the laws of Colorado. People v. Enlow, 135 Colo. 249, 310 P.2d 539 (1957).

When resignation without effect. The right of any public official to resign cannot be doubted; but when the resignation is predicated upon the premise, stated, or which his conduct may imply, that it is to

avoid performing a specific duty in the interest of a party in whose behalf such official is legally bound to act, his resignation, however formally tendered and accepted, will be regarded as without effect. People ex rel. Rosenburg v. Keating, 112 Colo. 26, 144 P.2d 992 (1944).

Where the county clerk-elect died before qualification, a vacancy in the office occurred on the expiration of the term of the then incumbent, to be filled by appointment of the county commissioners. Gibbs v. People ex rel. Watts, 66 Colo. 414, 182 P. 894 (1919).

Where the sheriff incumbent was reelected but failed to qualify for the second term, and died before his first term expired, one appointed by the board of county commissioners to the vacancy, held only to the second Tuesday of the succeeding January, the day appointed by law for the commencement of the second term of his predecessor, even though by express terms, his appointment was "until the next general election"; that upon the second Tuesday of the succeeding January there was a vacancy, and one then appointed by the county commissioners to fill it was entitled to the office until the next general election. People ex rel. Calloway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

30-10-106. Substitute officers have same powers and compensation.

When any coroner is required to act as sheriff, or any other officer in this state is required to perform any duties belonging to any other office, for the time being, he shall have the same powers in respect to that duty as are given by law to the officer whose duties he performs, and shall be entitled to receive the same compensation for his services.

Source: G.L. § 562. **G.S.** § 662. **R.S. 08:** § 1360. **C.L.** § 8837. **CSA:** C. 45, § 184. **CRS 53:** § 35-1-6. **C.R.S. 1963:** § 35-1-6. **L. 64:** p. 221, § 47.

30-10-107. Penalty for refusing to qualify.

Any person elected or appointed to any county office in any county in this state who refuses to qualify, having consented to such election or appointment, is liable to a fine not exceeding one hundred nor less than twenty-five dollars, at the discretion of any court having competent jurisdiction.

Source: R.S. p. 190, § 1. **G.L.** § 564. **G.S.** § 664. **R.S. 08:** § 1361. **C.L.** § 8838. **CSA:** C. 45, § 185. **CRS 53:** § 35-1-7. **C.R.S. 1963:** § 35-1-7.

30-10-108. Fines appropriated to school fund of county.

All fines contemplated in section 30-10-107 shall be recoverable before any court in this state, in the name of the county in which the case arises, and shall be appropriated to the use of the school fund of said county.

Source: R.S. p. 190, § 10. **G.L.** § 564. **G.S.** § 665. **R.S. 08:** § 1362. **C.L.** § 8839. **CSA:** C. 45, § 186. **CRS 53:** § 35-1-8. **C.R.S. 1963:** § 35-1-8.

30-10-109. Office hours.

All county offices must be kept open for the transaction of county business on the days and during the hours designated by resolution of the board of county commissioners. However, all clerks of court, clerk and recorders, and sheriffs are subject, at all times, to the command of the people, and shall at all hours, night and day, be prepared to attend such duties as may reasonably be required of them.

Source: L. 51: p. 304, § 1. **CSA:** C. 45, § 187(1). **CRS 53:** § 35-1-9. **L. 55:** p. 248, § 1. **L. 59:** p. 344, § 1. **C.R.S. 1963:** § 35-1-9. **L. 77:** Entire section amended, p. 1436, § 1, effective May 26. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3267, § 55, effective June 6.

30-10-110. Bonds or insurance of officers - oath or affirmation.

(1) Except as provided in subsection (2) of this section, every county officer named in section 30-10-101, before entering upon the duties of office, on or before the day of the commencement of the term for which the officer was elected, shall execute and deposit an official bond, as prescribed by law. Any such officer shall also take an oath or affirmation in accordance with section 24-12-101.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of the county officer and county employees to protect the people of the county from any malfeasance on the part of the officer while in office or employees.

Source: G.L. § 555. **G.S.** § 668. **R.S. 08:** § 1353. **C.L.** § 8830. **CSA:** C. 45, § 177. **CRS 53:** § 35-1-10. **C.R.S. 1963:** § 35-1-10. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 557, § 3, effective August 11. **L. 2018:** (1) amended, (HB 18-1138), ch. 88, p. 696, § 21, effective August 8.

Cross references: (1) For oath of office, see §§ 8 and 9 of art. XII, Colo. Const.; for approval and execution of bonds, see §§ 10-4-301 and 24-13-116.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

30-10-111. Oath of deputy.

A deputy appointed to office, before entering upon the deputy's duties under such appointment, shall take and subscribe the like oath of office as that required to be taken by the appointing officer and shall deposit the same in the office where the oath of such officer is deposited.

Source: G.L. § 556. **G.S.** § 669. **R.S. 08:** § 1354. **C.L.** § 8831. **CSA:** C. 45, § 178. **CRS 53:** § 35-1-11. **C.R.S. 1963:** § 35-1-11. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 557, § 4, effective August 11.

30-10-112. Officer to act until successor qualifies.

When the term of office of any sheriff, coroner, county judge, county clerk and recorder, assessor, county treasurer, county surveyor, or other county officer expires, it shall be lawful for such officer, whether reelected or not, and his deputies, to continue to perform all the duties of such office until his successor is duly qualified as required by law.

Source: G.L. § 557. **G.S.** § 657. **R.S. 08:** § 1355. **C.L.** § 8832. **CSA:** C. 45, § 179. **CRS 53:** § 35-1-12. **C.R.S. 1963:** § 35-1-12. **L. 64:** p. 222, § 48.

30-10-113. Contribution limits for county offices - definitions.

(1) The maximum amount of aggregate contributions that a person may make to a candidate committee of a candidate for a county office and that a candidate committee for such candidate

may accept from such person and related requirements governing the disclosure of such contributions are specified in section 1-45-103.7 (1.5).

(2) For purposes of this section:

(a) "County office" means a county commissioner, county clerk and recorder, sheriff, coroner, treasurer, assessor, or surveyor.

(b) "Person" has the same meaning as specified in section 2 (11) of article XXVIII of the state constitution.

Source: L. 2019: Entire section added, (HB 19-1007), ch. 97, p. 357, § 2, effective August 2.

PART 2

RECALL OF COUNTY OFFICERS

30-10-201 to 30-10-210. (Repealed)

Source: L. 92: Entire part repealed, p. 924, § 198, effective January 1, 1993.

Editor's note: This part 2 was numbered as article 2 of chapter 35, C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1993, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions relating to the recall of officers, see part 1 of article 12 of title 1.

PART 3

COUNTY COMMISSIONERS

Cross references: For powers and functions of a board of county commissioners, see part 1 of article 11 of this title.

30-10-301. Oath or affirmation of commissioners.

Each person elected as commissioner, on receiving a certificate of his or her election, shall take an oath or affirmation in accordance with section 24-12-101.

Source: G.L. § 440. **G.S.** § 532. **R.S. 08:** § 1189. **C.L.** § 8667. **CSA:** C. 45, § 10. **CRS 53:** § 35-3-1. **C.R.S. 1963:** § 35-3-1. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 697, § 22, effective August 8.

Cross references: (1) For county commissioners' election and term of office, see § 6 of art. XIV, Colo. Const., and § 1-4-205.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

ANNOTATION

The oath provided by this section obligates the officer to support the federal and state constitutions and to perform the duties of his office to the best of his ability. People v. Schneider, 133 Colo. 173, 292 P.2d 982 (1956).

30-10-302. County seal - open meetings - rules.

The seal of the county shall be the seal of the board of county commissioners. The board of county commissioners shall meet in open session and all persons conducting themselves in an orderly manner may attend its meetings. The board may establish rules and regulations to govern the transactions of its business.

Source: G.L. § 459. **G.S.** § 542. **R.S. 08:** § 1191. **C.L.** § 8669. **CSA:** C. 45, § 12. **CRS 53:** § 35-3-2. **C.R.S. 1963:** § 35-3-2.

Cross references: For public meetings, see part 4 of article 6 of title 24.

ANNOTATION

The language of this section does not require physically open doors, but only free public access. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

And when no intent to exclude the public existed and when no one actually was excluded, no violation of this statute had occurred where the county commissioners sat with the doors closed. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

30-10-303. Meetings of board.

(1) Each board of county commissioners shall meet at the county seat of its county at least one business day of each month and at such other times and locations within the county as in the opinion of the board the public interest may require. Such meetings shall be held on a regular and published schedule, as determined by resolution of the board.

(2) The board may hold such special or emergency meetings and adopt such publication procedure therefor as the public interest may, in the opinion of the board, require.

Source: G.L. § 439. **G.S.** § 531. **R.S. 08:** § 1190. **C.L.** § 8668. **CSA:** C. 45, § 11. **CRS 53:** § 35-3-3. **C.R.S. 1963:** § 35-3-3. **L. 79:** Entire section amended, p. 1141, § 1, effective June 15.

ANNOTATION

The powers of the board of county commissioners are statutory. People ex rel. Jones v. Carver, 5 Colo. App. 156, 38 P. 332 (1894).

No authority is conferred upon it except at meetings held at the times prescribed by statute, or at such other times as in the opinion of the board the public interests may require. People ex rel. Jones v. Carver, 5 Colo. App. 156, 38 P. 332 (1894).

No one member has authority to call such a meeting, and their judgment can be expressed only after they come together. People ex rel. Jones v. Carver, 5 Colo. App. 156, 38 P. 332 (1894).

And to make the meeting one at which such expression can be given, all the members must be present. People ex rel. Jones v. Carver, 5 Colo. App. 156, 38 P. 332 (1894).

Under former section boards of county commissioners were bound to hold their first regular meeting for the year on the first Monday in January. Liggett v. Bd. of Comm'rs, 6 Colo. App. 269, 40 P. 475 (1895).

This section is silent as to the manner of calling special meetings, and there are strong reasons for requiring an order entered of record at a regular meeting, by which the public at large, as well as the members of the board, may have notice of the time and the nature of the business to be transacted; if, however, it should be conceded that the board may meet upon the call of the chairman or otherwise, a sound rule of public policy requires that all members of the board shall have notice of the meeting. Packard v. Bd. of County Comm'rs, 2 Colo. 338 (1874).

And it was not a violation of this statute when county commissioners met and transacted business without notice of a meeting held on a day other than those provided for by the statute, where it was well known throughout the county that the commissioners regularly held their meetings on the first Monday of every month. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

30-10-304. Meetings of board in counties over one hundred thousand.

(1) Except as otherwise permitted under subsection (2) of this section, each board of county commissioners of a county containing more than one hundred thousand inhabitants shall hold at least two meetings in each week of each year; but in the months of July and August of each year the board will not be required to hold more than two meetings in each of those months.

(2) Each board of county commissioners of a county containing more than one hundred thousand inhabitants may hold fewer than two meetings in each week of each year on the basis of, without limitation, the following circumstances:

(a) A lack of a quorum caused by illness;

(b) Scheduling conflicts with meetings of professional organizations whose membership includes county commissioners;

(c) Inclement weather;

(d) Natural disasters or emergency conditions;

(e) Special events; or

(f) Any other circumstance that a majority of the board deems reasonable justification for not holding the meeting in the majority's sole discretion.

(3) The board chair may cancel a regularly scheduled meeting of the board. If the decision to cancel a meeting is made more than twenty-four hours in advance of the meeting, the board shall promptly provide notice to the public of the cancellation in the same manner in which it customarily provides the public notice of its meetings.

Source: L. 07: p. 319, § 3. **R.S. 08:** § 1194. **C.L.** § 8670. **CSA:** C. 45, § 13. **CRS 53:** § 35-3-4. **C.R.S. 1963:** § 35-3-4. **L. 2001:** Entire section amended, p. 653, § 3, effective May 30. **L. 2014:** Entire section amended, (HB 14-1177), ch. 86, p. 330, § 1, effective September 1.

30-10-305. Penalty for absence from meetings in counties over one hundred thousand.

If any member of the board of county commissioners of counties containing more than one hundred thousand inhabitants is absent from any regular meeting thereof without being excused by a majority of the board, he shall forfeit to the county ten dollars for any such absence, which sum so forfeited shall be deducted from the absentee's salary next to be paid.

Source: L. 07: p. 319, § 4. **R.S. 08:** § 1195. **C.L.** § 8671. **CSA:** C. 45, § 14. **CRS 53:** § 35-3-5. **C.R.S. 1963:** § 35-3-5.

30-10-306. Commissioners' districts - vacancies - definitions.

(1) Each county must be divided into three compact districts by the board of county commissioners. Each district must be as nearly equal in population as possible based on the redistricting population data prepared by staff of the legislative council and office of legislative legal services, or any successor offices, in accordance with section 2-2-902. In no event shall there be more than five percent deviation between the most populous and the least populous district in each county, at the time such district boundaries are adopted. Each district must be numbered consecutively and must not be subject to alteration more often than once every two years. One county commissioner must be elected from each of such districts by the voters of the whole county. If any county commissioner, during his or her term of office, moves from the district in which he or she resided when elected, his or her office thereupon becomes vacant. All proceedings by the board of county commissioners in formation of such districts not inconsistent with this section are confirmed and validated.

(2) Each county having a population of seventy thousand or more that has chosen to increase the members of the board of county commissioners from three to five must be divided into three or five districts by the board of county commissioners according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. When applicable, the board of county commissioners shall divide the county into districts in accordance with the final redistricting plan approved in accordance with section 30-10-306.4. The districts must be as nearly equal in population as possible based on the redistricting population data prepared by staff of the legislative council and office of legislative legal services, or any successor offices, in accordance with section 2-2-902. In no event shall there be more than five percent deviation

between the most populous and the least populous district in each county, at the time such district boundaries are adopted. Each district must be numbered consecutively and is not subject to alteration more often than once every two years; except that, notwithstanding subsection (3) of this section, the board may alter the districts to conform to precinct boundaries that are changed in accordance with section 1-5-103 (1), based on the division of the state into congressional districts or an approved plan for redistricting of the members of the general assembly when necessary to ensure that no precinct is located in more than one district. County commissioners are elected at large or from districts according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. If any county commissioner required to be resident in a district moves during his or her term of office from the district in which he or she resided when elected, his or her office thereupon becomes vacant. All proceedings by the board of county commissioners in formation of such districts not inconsistent with this section are confirmed and validated.

(3) When a board of county commissioners determines to change the boundaries of commissioner districts or when new districts are created, such changes or additions must be made only in odd-numbered years and, if made, must be completed by July 1 of such year, except in cases of changes resulting from either changes in county boundaries or from a final redistricting plan in accordance with section 30-10-306.4.

(4) Notwithstanding subsections (1) to (3) of this section, after each federal census of the United States, each commissioner district must be established, revised, or altered to assure that such districts are as nearly equal in population as possible based on the redistricting population data prepared by staff of the legislative council and office of legislative legal services, or any successor offices, in accordance with section 2-2-902. In no event shall there be more than five percent deviation between the most populous and the least populous district in each county, at the time such district boundaries are adopted. The establishment, revision, or alteration of districts required by this subsection (4) must be completed by September 30 of the second odd-numbered year following such census. If a district is revised or altered in accordance with this subsection (4) in a manner that excludes the residence of a county commissioner elected to represent the district, the county commissioner remains eligible and may continue to hold the office of county commissioner until his or her term of office expires.

(5) No less than thirty days before adopting any resolution to change the boundaries of commissioner districts, or create new commissioner districts, unless the board of county commissioners is making such changes in accordance with a final redistricting plan in accordance with section 30-10-306.4, the board of county commissioners shall hold a public hearing on the proposed district boundaries.

(6) As used in this section and sections 30-10-306.1 to 30-10-306.4, unless the context otherwise requires:

(a) Repealed.

(b) "Commission" means an independent county commissioner district redistricting commission created in accordance with section 30-10-306.1 (2).

(c) (I) "Community of interest" means any group in a county that shares one or more substantial interests that may be the subject of action by the board of county commissioners, is composed of a reasonably proximate population, and should be considered for inclusion within a single district for purposes of ensuring its fair and effective representation.

(II) Such interests include but are not limited to matters reflecting:

(A) Shared public policy concerns of urban, rural, agricultural, industrial, or trade areas; and

(B) Shared public policy concerns such as education, employment, environment, public health, transportation, water needs and supplies, and issues of demonstrable regional significance.

(III) Groups that may comprise a community of interest include racial, ethnic, and language minority groups, subject to compliance with sections 30-10-306.3 (1)(b) and (4)(b), which subsections protect against the denial or abridgement of the right to vote due to a person's race or language minority group.

(IV) "Community of interest" does not include relationships with political parties, incumbents, or political candidates.

(d) Repealed.

(d.5) "Independent committee" means a committee composed of an equal number of members who have been affiliated for at least the last three immediately preceding years with the state's largest political party, have been affiliated for at least the last three immediately preceding years with the state's second-largest political party, and have not been affiliated for at least the last three immediately preceding years with any political party. For purposes of this subsection (6)(d.5), the state's two largest political parties are determined by the number of registered electors affiliated with each political party in the state according to voter registration data published by the secretary of state for the earliest day in January of the redistricting year for which such data is published. An independent committee shall not include nonpartisan staff of the county.

(e) "Plan" means a depiction of the boundaries of county commissioner districts.

(f) "Population" means the total population data referenced in section 2-2-901 and prepared by the staff of the legislative council and office of legislative legal services, or any successor offices, in accordance with section 2-2-902 (4).

(g) "Race" or "racial" means a category of race or ethnic origin documented in the federal decennial census.

(h) "Redistricting year" means the second odd-numbered year following the year in which the federal decennial census is taken or the year following a county electing to have any number of its county commissioners not elected by the voters of the whole county.

(i) "Staff" means the nonpartisan staff of the county who are assigned to assist the commission by the board of county commissioners or contractors with the county who are assigned to assist the commission by the board of county commissioners. Staff does not include the county clerk and recorder or any employee of the clerk and recorder who is acting within the scope of election administration, voter registration, election conduct, election security, or maintenance of voter registration or precinct records, unless the clerk and recorder or employee of the clerk and recorder expressly agree in writing to assist the commission.

(7) (a) Any qualified elector of the county may challenge the adoption of a plan to divide the county into as many districts as there are county commissioners elected by voters of their district by an action in the district court for the county.

(b) In an action brought pursuant to subsection (7)(a) of this section, the board of county commissioners and, if applicable, the independent county commissioner district redistricting commission, shall be named as defendants.

(c) The county clerk and recorder is not a necessary or proper party to an action brought pursuant to this subsection (7) unless the action specifically alleges a violation of duties expressly assigned to the clerk and recorder by statute.

Source: G.L. § 438. **L. 1881:** p. 100, § 1. **G.S.** § 530. **L. 01:** p. 144, § 1. **R.S. 08:** § 1196. **C.L.** § 8672. **CSA:** C. 45, § 15. **CRS 53:** § 35-3-6. **L. 63:** p. 262, § 1. **C.R.S. 1963:** § 35-3-6. **L. 75:** Entire section R&RE, p. 190, § 2, effective April 24. **L. 80:** (3) added, p. 424, § 2, effective March 25; (2) amended, p. 411, § 18, effective January 1, 1981. **L. 84:** (3) amended and (4) added, p. 818, § 1, effective March 26. **L. 88:** (2) amended, p. 1113, § 2, effective April 9; (3) amended, p. 298, § 4, effective January 1, 1989. **L. 2002:** (1), (2), and (4) amended and (5) added, p. 135, § 1, effective August 7. **L. 2020:** (2) amended, (SB 20-186), ch. 272, p. 1330, § 17, effective July 11. **L. 2021:** Entire section amended, (HB 21-1047), ch. 70, p. 278, § 2, effective April 29. **L. 2026:** (6)(a) and (6)(d) repealed, (6)(b) and (6)(i) amended, and (6)(d.5) and (7) added, (HB 26-1038), ch. 376, p. 2335, § 3, effective August 12.

Editor's note: Section 8(2) of chapter 376 (HB 26-1038), Session Laws of Colorado 2026, provides that the act changing this section applies to the adoption of a county commissioner district redistricting plan that occurs after August 12, 2026, and does not require the adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of August 12, 2026.

Cross references: (1) For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(2) For the short title ("The County Commissioner Redistricting Integrity Act") and the legislative declaration in HB 26-1038, see sections 1 and 2 of chapter 376, Session Laws of Colorado 2026.

ANNOTATION

Intent of "by the county commissioners". When the general assembly in 1963 amended this statute by adding the words "by the county commissioners", the supreme court believed to be obvious that it was the general assembly's intent to make it clear and unmistakable that the county commissioners henceforth had the duty and responsibility to maintain their commission districts as compact districts with populations as nearly equal as possible. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

This section does, in fact, impose a positive duty upon the commissioners to redistrict. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

When the general assembly used the word "shall", it intended to impose upon the county commissioners a mandatory duty and not suggest merely a permissive or discretionary act. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

This section is tantamount to a command upon the county commissioners to properly apportion their commissioner districts, and either neglecting or refusing to obey this command amounts to a disregard of statutory duty in not taking affirmative action. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

The functions of a board of county commissioners under this section are administrative, and it cannot evade its responsibility to take the necessary affirmative action where such is required to correct malapportionment of commissioner districts. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

This section creates a private right of action for county voters. County voters are within the class of persons intended to benefit from the county commissioner redistricting statutes. The general assembly intended to give county voters a private right of action to ensure compliance with the county commissioner redistricting statutes. An implied civil remedy is consistent with the purposes of the county commissioner redistricting statutes' legislative scheme. League of Women Voters v. Bd. of County. Comm'rs, 2025 CO 8, 563 P.3d 1192.

Failure or refusal to act proper basis for judicial intercession. Either the failure within a reasonable time or the refusal to act upon the petition of citizens when redistricting is required in order to comply with the law, is a proper basis for judicial intercession. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

And mandamus has been upheld as a remedy to require county commissioners to comply with this section. Bd. of County Comm'rs v. Edwards, 171 Colo. 499, 468 P.2d 857 (1970).

There is no reason to distinguish between "compact" in the constitutional provision relating to legislative districts and the same term in the statute concerning commissioner districts. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

And compactness concerns a geographic area whose boundaries are as nearly equidistant as possible from the geographic center. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

Compactness requirement satisfied. Where county was redistricted into three districts, one of which had an area of five square miles and the other two of which had areas of over 1200 square miles, but where the new districts were much more equal in population than the old, the requirement of compactness was satisfied. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

Commissioners may express views privately. Where, at an earlier private meeting, two of the county commissioners agreed to support a redistricting plan when it was proposed by residents of a city in one of the proposed districts, this conduct of the two commissioners did not invalidate the later action of the board in adopting the plan, because it is desirable for commissioners to seek the sentiments of various citizens and it is not improper for them to state their views on matters which will later come before them for action. Allen v. Bd. of County Comm'rs, 178 Colo. 354, 497 P.2d 1026 (1972).

No party affiliation required. The state constitution provides that any qualified voter is eligible to hold the office of county commissioner, and this section additionally requires one commissioner shall be elected from each district by the voters of the entire county, but it is not necessary that one have any party affiliation in order to hold the office of county commissioner. Andersen v. Smyth, 146 Colo. 165, 360 P.2d 970 (1961); Mohler v. Johnson, 196 Colo. 330, 584 P.2d 1218 (1978).

But residency is. A person is not eligible for designation as a candidate for nomination to the office of county commissioner unless at the time of the designation he is a resident of the district he seeks to represent. Spain v. Fischahs, 143 Colo. 464, 354 P.2d 502 (1960).

Under this section, the designee of a political party for nomination to the office of county commissioner must be a resident of the district which he seeks to represent at the time of the county assembly of the political party at which candidates are designated. Spain v. Fischahs, 143 Colo. 464, 354 P.2d

502 (1960); Mohler v. Johnson, 196 Colo. 330, 584 P.2d 1218 (1978).

The "removal" contemplated by former section was not a mere temporary change of place of abode from one district to another, whether it be for pleasure, temporary convenience or for business reasons, and to work a vacancy in the office the removal which the general assembly had in mind must be with a fixed intention by the commissioner who goes from one district to another to give up his legal residence or home in the former, and at the same time to acquire a domicile or legal home in the latter. People v. Espinoza, 81 Colo. 198, 254 P. 778 (1927).

30-10-306.1. Commission created - commission composition and appointment.

(1) The board of county commissioners in each of the following counties must convene a county commissioner district redistricting commission to approve one or more plans to divide the relevant county into as many districts as there are county commissioners elected by voters of their district:

(a) Counties that have any number of their county commissioners not elected by the voters of the whole county;

(b) Counties that have any number of their county commissioners not elected by the voters of the whole county that change the number of county commissioners in the county; and

(c) Counties that have all of their county commissioners elected by the voters of the whole county that then elect to have any number of their county commissioners not elected by the voters of the whole county.

(2) In appointing members to a commission, a board of county commissioners:

(a) and (b) (Deleted by amendment, L. 2026.)

(c) Shall avoid conflicts of interest based on partisan alignments;

(d) Shall ensure that the commission is an independent committee;

(e) Shall either direct the commission to approve one final plan to divide the relevant county into as many districts as there are county commissioners elected by voters of their district, which plan the board of county commissioners shall adopt as the final plan, or direct the commission to approve at least three final plans to divide the relevant county into as many districts as there are county commissioners elected by voters of their district, which plans the board of county commissioners shall select from in deciding which plan to adopt as the final plan;

(f) Shall not appoint any member to a commission who is a currently elected county commissioner;

(g) Shall establish a reasonably accessible public application process for members of the public to apply to be selected by the board of county commissioners to serve on the commission;

(h) Shall select members to the commission only after providing public notice no fewer than thirty days before the date that the board of county commissioners selects members to the commission; and

(i) Is encouraged to appoint persons who accurately reflect the county's racial, ethnic, gender, and geographic diversity.

(2.5) The board of county commissioners may remove any member of the commission for malfeasance in office, for failure to regularly attend meetings, or for preventing the commission from discharging its duties.

(3) The board of county commissioners in a county described by subsection (1) of this section may not revise or alter county commissioner districts, beyond making de minimis revisions or alterations, unless the board of county commissioners makes such revisions or alterations during a redistricting year in accordance with a final redistricting plan pursuant to section 30-10-306.4.

Source: L. 2021: Entire section added, (HB 21-1047), ch. 70, p. 281, § 3, effective April 29. **L. 2026:** IP(1) and (2) amended and (2.5) added, (HB 26-1038), ch. 376, p. 2337, § 4, effective August 12.

Editor's note: Section 8(2) of chapter 376 (HB 26-1038), Session Laws of Colorado 2026, provides that the act changing this section applies to the adoption of a county commissioner district redistricting plan that occurs after August 12, 2026, and does not require the adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of August 12, 2026.

Cross references: (1) For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(2) For the short title ("The County Commissioner Redistricting Integrity Act") and the legislative declaration in HB 26-1038, see sections 1 and 2 of chapter 376, Session Laws of Colorado 2026.

ANNOTATION

This section creates a private right of action for county voters. County voters are within the class of persons intended to benefit from the county commissioner redistricting statutes. The general assembly intended to give county voters a private right of action to ensure compliance with the county commissioner redistricting statutes. An implied civil remedy is consistent with the purposes of the county commissioner redistricting statutes' legislative scheme. League of Women Voters v. Bd. of County. Comm'rs, 2025 CO 8, 563 P.3d 1192.

30-10-306.2. Commission organization - procedures - transparency - voting requirements.

(1) The board of county commissioners shall appoint staff as needed to assist the commission. Staff shall acquire and prepare all necessary resources, including computer hardware, software, and demographic, geographic, and political databases, as far in advance as necessary to enable the commission to begin its work immediately upon convening.

(2) The commission shall not vote upon the approval of a final plan or set of final plans until at least seventy-two hours after it has been proposed to the commission in a public meeting or at least seventy-two hours after it has been amended by the commission in a public meeting, whichever occurs later.

(3) (a) All county residents, including individual members of the commission, may present proposed redistricting plans or written comments, or both, for the commission's consideration.

(b) The commission shall provide meaningful and substantial opportunities for county residents to present testimony, either in person or electronically, at hearings. If the hearings are held in person, each hearing must be held in a different third of the county. If the hearings are held electronically, the board of county commissioners shall either solicit feedback from the whole county for each hearing or solicit feedback from a different third of the county for each hearing. The board of county commissioners shall ensure that these hearings are broadly promoted throughout the county. The commission shall not approve a redistricting plan until at least three hearings have been held. No gathering of members of the commission can be considered a hearing for this purpose unless it is attended, in person or electronically, by at least a majority of the members of the commission. The commission shall establish the necessary elements of electronic attendance at a commission hearing.

(c) The commission shall maintain a website through which any county resident may submit proposed plans or written comments, or both, without attending a hearing of the commission. The commission shall ensure that the website is easily accessible and contains a record of the commission's activities and proceedings, including the commission's directions to staff on proposed changes to any plan and the commission's rationale for such changes.

(d) The commission shall publish all written comments pertaining to redistricting on its website or comparable means of communicating with the public as well as the name of the county resident submitting such comments. If the commission or staff have a substantial basis to believe that a person submitting such comments has not truthfully or accurately identified himself or herself, the commission need not consider and need not publish such comments but must notify the commenter in writing of this fact. The commission may withhold comments, in whole or in part, from the website or comparable means of communicating with the public that do not relate to redistricting plans, policies, or communities of interest.

(e) The commission shall provide simultaneous access to the hearings by broadcasting them via its website or comparable means of communicating with the public, allowing both electronic and in-person public testimony, and maintaining an archive of such hearings for online public review.

(4) (a) Members of the commission are guardians of the public trust and are subject to antibribery and abuse of public office requirements as provided in parts 3 and 4 of article 8 of title 18, as amended, or any successor statute.

(b) To ensure transparency in the redistricting process:

(I) (A) The commission and the members of the commission are subject to open meetings requirements as provided in part 4 of article 6 of title 24, as amended, or any successor statute.

(B) Except as provided in subsections (4)(b)(I)(D) and (4)(b)(I)(F) of this section, a member of the commission shall not communicate with staff or any members of the board of county commissioners, and a member of the board of county commissioners shall not communicate with a member of the commission or staff, on the mapping of county commissioner districts unless the communication is during a public meeting or hearing of the commission.

(C) Except for public input and comment, staff shall not have any communications about the content or development of any plan outside of public hearings with anyone, except other staff members. Communications about the content or development of any plan include communications about how plans will be drawn to satisfy the criteria in section 30-10-306.3, specific parameters related to the interpretation of the criteria in section 30-10-306.3, and requests for the drawing of additional plans. Staff shall report to the commission any attempt by anyone to exert influence over the staff's role in the drafting of plans.

(D) One or more staff may be designated to communicate with members of the commission regarding administrative matters, the definition and scope of which shall be determined by the commission. Any communication that occurs outside of a public meeting or hearing of the commission between staff, serving in their role as staff to the commission, and a member of the commission or board of county commissioners, beyond those allowed by this subsection (4)(b)(I)(D), must be documented and made a part of the public record.

(E) If a member participates in a communication prohibited by this section, the communication and any complaints associated with it must be made part of the public record and documented on the website.

(F) Staff may make a completed proposed plan that staff prepared as a result of a request made in a public hearing available to the public on the commission's website. In addition, staff may communicate with a member of the commission to clarify directions that were given to staff during a public meeting regarding the creation of a proposed plan, so long as staff makes a record of the content of the communication available to the public on the commission's website.

(II) The commission, each member of the commission, and staff are subject to open records requirements as provided in part 2 of article 72 of title 24, as amended, or any successor statute; except that plans in draft form and not submitted to the commission are not public records subject to disclosure. Work product and communications among staff and between staff serving in their role as staff to the commission and a member of the commission or the board of county commissioners are subject to disclosure once a plan is adopted by the board of county commissioners.

(III) Persons who contract for or receive compensation for advocating to the commission, to one or more members of the commission, or to staff for the adoption or rejection of any plan, amendment to a plan, mapping approach, or manner of compliance with any of the mapping criteria specified in section 30-10-306.3 are lobbyists who must disclose to the secretary of state any compensation contracted for, compensation received, and the person or entity contracting or paying for their lobbying services. Such disclosure must be made no later than seventy-two hours after the earlier of each instance of such lobbying or any payment of such compensation. The secretary of state shall publish on the secretary of state's website or comparable means of communicating with the public the names of such lobbyists, as well as the compensation received and the persons or entities for whom they work within twenty-four hours of receiving such information. The secretary of state shall adopt rules to facilitate the complete and prompt reporting required by this subsection (4)(b)(III) as well as a complaint process to address any lobbyist's failure to report a full and accurate disclosure.

Source: L. 2021: Entire section added, (HB 21-1047), ch. 70, p. 282, § 3, effective April 29. **L. 2024:** (4)(b)(I)(B) amended and (4)(b)(I)(F) added, (SB 24-210), ch. 468, p. 3268, § 58, effective June 6. **L. 2026:** (1), (2), (3)(c), (3)(d), (4)(b)(I)(B), (4)(b)(I)(C), (4)(b)(I)(D), (4)(b)(I)(F), (4)(b)(II), and (4)(b)(III) amended, (HB 26-1038), ch. 376, p. 2338, § 5, effective August 12.

Editor's note: Section 8(2) of chapter 376 (HB 26-1038), Session Laws of Colorado 2026, provides that the act changing this section applies to the adoption of a county commissioner

district redistricting plan that occurs after August 12, 2026, and does not require the adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of August 12, 2026.

Cross references: (1) For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(2) For the short title ("The County Commissioner Redistricting Integrity Act") and the legislative declaration in HB 26-1038, see sections 1 and 2 of chapter 376, Session Laws of Colorado 2026.

ANNOTATION

This section creates a private right of action for county voters. County voters are within the class of persons intended to benefit from the county commissioner redistricting statutes. The general assembly intended to give county voters a private right of action to ensure compliance with the county commissioner redistricting statutes. An implied civil remedy is consistent with the purposes of the county commissioner redistricting statutes' legislative scheme. League of Women Voters v. Bd. of County. Comm'rs, 2025 CO 8, 563 P.3d 1192.

30-10-306.3. Criteria for determination of county commissioner districts - definitions.

(1) In approving a county commissioner district redistricting plan, the commission shall:

(a) Make a good-faith effort to achieve mathematical population equality between districts, as required by the constitution of the United States, but in no event shall there be more than five percent deviation between the most populous and the least populous district in each county, at the time such district boundaries are adopted; and

(b) Comply with the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10301, as amended.

(2) (a) As much as is reasonably possible, the commission's plan must preserve whole communities of interest and whole political subdivisions, such as cities and towns; except that a division of such city or town is permitted where, based on a preponderance of the evidence in the record, a community of interest's legislative issues are more essential to the fair and effective representation of residents of the district. When the commission divides a city or town, it shall minimize the number of divisions of that city or town.

(b) Districts must be as compact as is reasonably possible.

(3) (a) (I) After complying with subsections (1) and (2) of this section, the commission shall, to the extent reasonably possible, maximize the number of politically competitive districts.

(II) (A) To comply with the requirements of this subsection (3)(a), the commission shall adopt a composite formula that generates a competitiveness measure expressed as a percentage to measure district competitiveness and may also adopt other measures of district competitiveness.

(B) At least seventy-two hours before adopting a composite formula or other measure of competitiveness, the commission shall make the composite formula or other measure of competitiveness available to the public and shall provide the public sufficient time to review and comment on the composite formula.

(C) Using the results of the composite formula or other measure of competitiveness it adopted, the commission shall first attempt to maximize the number of highly competitive districts and then attempt to maximize the number of moderately competitive districts.

(b) In its hearings in various locations in the county, the commission shall solicit evidence relevant to competitiveness of elections in the county and shall assess such evidence in evaluating proposed plans.

(c) When the commission approves a plan, the staff shall, within seventy-two hours of such action, make publicly available, and include in the commission's record, a report to demonstrate how the plan reflects the evidence presented to, and the findings concerning, the extent to which competitiveness in district elections is fostered consistent with the other criteria set forth in this section.

(d) As used in this subsection (3), unless the context otherwise requires:

(I) "Competitive" means having a reasonable potential for the party affiliation of the district's county commissioner to change at least once between federal decennial censuses. Competitiveness may be measured by factors such as a proposed district's past election results, a proposed district's political party registration data, and evidence-based analyses of proposed districts.

(II) "Composite formula" means a formula that averages the margin of victory across the most representative combination of national, statewide, or local elections, as determined by the commission, to determine a district's competitiveness measure expressed as a percentage.

(III) "Highly competitive district" means a district with a competitiveness measure greater than or equal to negative five percent and less than or equal to five percent.

(IV) "Margin of victory" means, for an election, the difference between the percentage of votes cast for the candidate of the state's largest political party and the percentage of votes cast for the candidate of the state's second largest political party.

(V) "Moderately competitive district" means a district with a competitiveness measure either greater than five percent and less than or equal to ten percent, or less than negative five percent and greater than or equal to negative ten percent.

(4) No plan may be approved by the commission if the plan:

(a) Has been drawn for the purpose of protecting one or more incumbent members, or one or more declared candidates, of the board of county commissioners, or any political party; or

(b) Has been drawn for the purpose of or results in the denial or abridgement of the right of any citizen to vote on account of that person's race or membership in a language minority group, including diluting the impact of that racial or language minority group's electoral influence.

(5) So long as the commission has complied with the requirements of subsections (1) to (4) of this section, in approving a county commissioner redistricting plan, the commission may consider congressional districts, state house of representative districts, and state senate districts to minimize the number of necessary voting precincts in a county.

(6) The board of county commissioners may direct the commission to modify a proposed plan if the board of county commissioners identifies elements of the plan that do not comply with the requirements of this section and why those elements of the plan do not comply with the requirements of this section.

Source: L. 2021: Entire section added, (HB 21-1047), ch. 70, p. 285, § 3, effective April 29. **L. 2026:** IP(1), (3)(a), (3)(c), (3)(d), IP(4), and (5) amended and (6) added, (HB 26-1038), ch. 376, p. 2340, § 6, effective August 12.

Editor's note: Section 8(2) of chapter 376 (HB 26-1038), Session Laws of Colorado 2026, provides that the act changing this section applies to the adoption of a county commissioner district redistricting plan that occurs after August 12, 2026, and does not require the adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of August 12, 2026.

Cross references: (1) For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(2) For the short title ("The County Commissioner Redistricting Integrity Act") and the legislative declaration in HB 26-1038, see sections 1 and 2 of chapter 376, Session Laws of Colorado 2026.

ANNOTATION

This section creates a private right of action for county voters. County voters are within the class of persons intended to benefit from the county commissioner redistricting statutes. The general assembly intended to give county voters a private right of action to ensure compliance with the county commissioner redistricting statutes. An implied civil remedy is consistent with the purposes of the county commissioner redistricting statutes' legislative scheme. League of Women Voters v. Bd. of County. Comm'rs, 2025 CO 8, 563 P.3d 1192.

30-10-306.4. Deadlines for preparation, amendment, and approval of plans.

(1) The board of county commissioners shall establish deadlines to ensure that the board of county commissioners shall adopt a plan for the redrawing of county commissioner districts no later than September 30 of the redistricting year. These deadlines must include dates by which the following must be accomplished:

(a) The designation of a commission, in accordance with section 30-10-306.1;

(b) The appointment of staff as needed to assist the commission and the acquisition of all necessary resources to enable the commission to begin its work, in accordance with section 30-10-306.2 (1);

(c) The creation of a website and a method for county residents to present testimony, in accordance with section 30-10-306.2 (3);

(d) The submission of written comments to staff by any member of the public and any member of the commission on the creation of not less than three plans for county commissioner districts, created by staff alone, and on communities of interest that require representation in one or more specific areas of the county. Staff shall consider such comments in creating the plans, and such comments shall be part of the record of the commission's activities and proceedings. Staff shall keep each plan confidential until it is published online or by a comparable means of communicating with the public using generally available technologies. The commission may provide direction for the development of these plans through the adoption of standards, guidelines, or methodologies to which staff shall adhere; including standards, guidelines, or methodologies to be used to evaluate a plan's competitiveness, consistent with section 30-10-306.3 (3).

(e) The creation, presentation to the commission, and publishing online of the plans. At public hearings at which the plans are presented, staff shall explain how the plans were created, how the plans address the categories of public comments received, and how the plans comply with the criteria prescribed in section 30-10-306.3.

(f) Three public hearings on the plans, in accordance with 30-10-306.2 (3)(b), in which the commission solicits feedback from the county;

(g) The request by any member of the commission or group of members of the commission for staff to prepare additional plans or amendments to plans. Any such request must be made in a public hearing of the commission but does not require commission approval.

(h) The adoption of a final plan by the commission.

(2) The commission may adjust the deadlines specified in subsection (1) of this section, if conditions outside of the commission's control require such an adjustment to ensure that the board of county commissioners can approve a plan for the redrawing of county commissioner districts no later than September 30 of the redistricting year or if the board of county commissioners directed the commission to adjust a plan pursuant to section 30-10-306.3 (6).

(3) The commission may grant its staff the authority to make technical de minimis adjustments to the adopted plan.

(4) Upon adoption of the plan approved by the commission, the commission shall provide copies of the published plan to the secretary of state and the department of local affairs.

(5) Notwithstanding any provision of law to the contrary, a county commissioner may remain on the board of county commissioners, even if he or she no longer resides in the district he or she represents, until the expiration of his or her term of office, so long as the county commissioner resided in the district he or she represented immediately before a plan for the redrawing of county commissioner districts was adopted in accordance with this section.

Source: L. 2021: Entire section added, (HB 21-1047), ch. 70, p. 286, § 3, effective April 29. **L. 2026:** (1)(b), (1)(d), (1)(e), (1)(g), and (2) amended, (HB 26-1038), ch. 376, p. 2341, § 7, effective August 12.

Editor's note: Section 8(2) of chapter 376 (HB 26-1038), Session Laws of Colorado 2026, provides that the act changing this section applies to the adoption of a county commissioner district redistricting plan that occurs after August 12, 2026, and does not require the adjustment or readoption of a county commissioner district redistricting plan that has been adopted as of August 12, 2026.

Cross references: (1) For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(2) For the short title ("The County Commissioner Redistricting Integrity Act") and the legislative declaration in HB 26-1038, see sections 1 and 2 of chapter 376, Session Laws of Colorado 2026.

ANNOTATION

This section creates a private right of action for county voters. County voters are within the class of persons intended to benefit from the county commissioner redistricting statutes. The general assembly intended to give county voters a private right of action to ensure compliance with the county commissioner redistricting statutes. An implied civil remedy is consistent with the purposes of the county commissioner redistricting statutes' legislative scheme. League of Women Voters v. Bd. of County. Comm'rs, 2025 CO 8, 563 P.3d 1192.

30-10-306.5. Procedure to increase number of county commissioners.

(1) In any county having a population of seventy thousand or more, the membership of the board of county commissioners may be increased from three to five members pursuant to this section.

(2) Subject to referral as provided in this subsection (2), a board of county commissioners may pass a resolution increasing its membership to five members and designating not fewer than two of the methods of election set forth in subsection (5) or (6) of this section. The resolution shall be referred to the registered electors of the county at a general election. If a majority of votes cast are in favor of the referred resolution, the board of county commissioners shall take such action as is necessary to assure that the increased number of county commissioners are elected at the next general election according to the procedure for election contained in the referred resolution which received the largest number of votes cast.

(3) (a) In the alternative, a petition signed by at least eight percent of the total number of qualified electors of a county voting for all candidates for the office of secretary of state at the last preceding general election shall be sufficient to place on the ballot at a general election the question of whether to increase the membership to five members with a designation of not fewer than two of the methods of election set forth in subsection (5) or (6) of this section.

(b) If a majority of the votes cast on a question placed on the ballot pursuant to paragraph (a) of this subsection (3) are in favor of increasing the membership, the board of county commissioners shall pass a resolution increasing the membership to five members and providing for the election of the increased number of county commissioners at the next general election according to the procedure for election specified in such question which received the largest number of votes cast.

(4) (Deleted by amendment, L. 94, p. 1269, § 1, effective May 22, 1994.)

(5) (a) If three county commissioners are to be resident in districts and two elected by the voters of the whole county, they shall be elected as set forth in this subsection (5). Members resident in districts elected pursuant to this subsection (5) may be elected by the voters of the whole county or may be elected only by voters resident in the district from which the member runs for election.

(b) If the first general election after the voters' approval of such increase is held in 1976 or any fourth year thereafter, two members resident in districts and one at-large member shall be elected to four-year terms at said election, and one at-large member shall be elected to fill the vacancy until the next general election, and two members, one resident in a district and one at large, shall be elected to four-year terms at said next general election. Thereafter, three members, two resident in districts and one at large, shall be elected at the general elections which occur each four years after the first general election following such resolution, and two members, one resident in a district and one at large, shall be elected at the general election which occurs two years after the first general election following such resolution and every fourth year thereafter.

(c) If the first general election after the voters' approval of such increase is held in 1978 or any fourth year thereafter, two members, one resident in a district and one at large, shall be elected to four-year terms at said election, and one at-large member shall be elected to fill the vacancy until the next general election, and three members, two resident in districts and one at large, shall be elected to four-year terms at said next general election. Thereafter, two members, one resident in a district and one at large, shall be elected at the general elections which occur each four years after the first general election following such resolution, and three members, two resident in districts and one at large, shall be elected at the general election which occurs two years after the first general election following such resolution and every fourth year thereafter.

(d) Prior to March 1 of the election year, the board of county commissioners shall designate the at-large position from which a commissioner is to be elected to a two-year term to fill a vacancy described in paragraph (b) or (c) of this subsection (5).

(6) (a) If five county commissioners resident in districts are to be elected, they shall be elected as set forth in this subsection (6). Members elected pursuant to this subsection (6) may be elected by the voters of the whole county or may be elected only by voters resident in the district from which the member runs for election.

(b) If the first general election after the voters' approval of such increase is held in 1982 or any fourth year thereafter, two members resident in districts shall be elected to four-year terms at said election, and one member resident in a district shall be elected to fill the vacancy until the next general election, and three members resident in districts shall be elected to four-year terms at said next general election. Thereafter, two members resident in districts shall be elected at the general elections which occur each four years after the first general election following such

resolution, and three members resident in districts shall be elected at the general election which occurs two years after the first general election following such resolution and every fourth year thereafter.

(c) If the first general election after the voters' approval of such increase is held in 1984 or any fourth year thereafter, three members resident in districts shall be elected to four-year terms at said election, and one member resident in a district shall be elected to fill the vacancy until the next general election, and two members resident in districts shall be elected to four-year terms at said next general election. Thereafter, three members resident in districts shall be elected at the general elections which occur each four years after the first general election following such resolution, and two members resident in districts shall be elected at the general election which occurs two years after the first general election following such resolution and every fourth year thereafter.

(d) The board of county commissioners shall designate the district from which a commissioner is to be elected to a two-year term to fill a vacancy described in paragraph (b) or (c) of this subsection (6).

(7) Signature requirements governing petitions for a race involving a seat on the board of county commissioners for the next four calendar years immediately following an election at which the voters have approved an increase in the number of county commissioners from three to five under this section are specified in section 1-4-801 (2)(e), C.R.S., for major political party candidates, and section 1-4-802 (2), C.R.S., for candidates who do not wish to affiliate with a major political party. Following the first four calendar years after such a change in the membership of the board of county commissioners has been approved by the voters, the signature requirements for a petition for a county commissioner candidate must follow the procedures specified in section 1-4-801 (2)(a), C.R.S., for major political party candidates, and section 1-4-802 (1)(c)(VI), C.R.S., for candidates who do not wish to affiliate with a major political party, as applicable.

Source: L. 80: Entire section added, p. 411, § 19, effective January 1, 1981. **L. 94:** (2) to (4) amended and (5)(d) added, pp. 1269, 1270, §§ 1, 2, effective May 22. **L. 2013:** (7) added, (SB 13-243), ch. 268, p. 1412, § 3, effective May 24.

ANNOTATION

Law reviews. For article, "Ballot Measures: The Scope of Authority in Statutory Counties", see 52 Colo. Law 22 (May 2023).

30-10-306.7. Procedure for electing county commissioners.

(1) In any county having a population of seventy thousand or more which has increased the membership of the board of county commissioners to five pursuant to sections 1-4-205 (3)(a), C.R.S., and 30-10-306.5, the registered electors may, either by referendum or by initiative, change the method of electing said members or reduce the membership of the board of county commissioners to three, pursuant to the procedures in this section.

(2) (a) In any such county, the method of electing members of the board of county commissioners may be changed to any one of the following methods:

(I) Five commissioners resident in five districts, elected by the voters of the whole county or elected only by voters resident in the district from which the member runs for election. In such case, the procedures for election shall be in accordance with section 30-10-306.5 (6). The county clerk and recorder shall make any other necessary provision to effectuate the change in method of election.

(II) Three commissioners resident in three districts, elected by the voters of the whole county or elected only by voters resident in the district from which the member runs for election. In such case, the procedures for election shall be in accordance with subsection (5) of this section.

(III) Five commissioners elected as follows: Three commissioners resident in three districts and elected by voters resident in those districts and two commissioners elected at large; or three commissioners resident in districts and elected by voters of the whole county and two commissioners elected at large. In such case, the procedures for election shall be in accordance with paragraph (a) of subsection (5) of this section.

(b) The registered electors of such a county may, either by referendum or by initiative, decrease the members of the board of county commissioners from five to three. In such case, the term of office of all members serving on the board shall expire at the time the next duly elected board takes the oath of office following the first general election after the voters' approval of such decrease, and three new members shall be elected in accordance with sections 1-4-205 (2), C.R.S., and 30-10-306. Two seats, as determined by lot, shall be elected for four-year terms and the remaining seat shall be elected for a two-year term of office in accordance with sections 1-4-205 (2), C.R.S., and 30-10-306. The county clerk and recorder shall make any necessary changes to effectuate the decrease in membership.

(3) (a) Subject to referral as provided in this subsection (3), a board of county commissioners may pass a resolution decreasing the membership of the board, as provided in subsection (2) of this section. Prior to the ninetieth day before the next general election, the board of county commissioners shall request that the county clerk and recorder place the resolution on the ballot for referral to the registered electors of the county at the next general election.

(b) Subject to referral as provided in this subsection (3), a board of county commissioners may pass a resolution changing the method of electing the members of the board. The resolution shall be referred to the registered electors of the county at a general election. If any number of the county commissioners are not elected by the voters of the whole county when the board of county commissioners passes this resolution, then the resolution must designate no fewer than two of the methods of election set forth in subsection (2) of this section. If a majority of votes cast are in favor of the resolution, the board of county commissioners shall take such action as is necessary to ensure that the county commissioners are elected at the next general election according to the procedure for election contained in the resolution that received the largest number of votes cast.

(4) In the alternative, a petition signed by at least eight percent of the total number of qualified electors of a county voting for all candidates for the office of secretary of state at the last preceding general election shall be sufficient to place on the ballot at a general election the question of whether to change the method of electing members of the board or to decrease the membership of the board. In the case of a petition to change the method of electing members of the board, such petition shall specify the method of election according to subsection (2) of this section. Such a petition, shall be delivered to the county clerk and recorder prior to the ninetieth day before the next general election with a request that the question be placed on the ballot for referral to the registered electors of the county at the next general election.

(5) (a) If a majority of the votes cast on the question are in favor of changing the method of electing the five commissioners or providing for three commissioners, as provided in subsection (2)(a)(II) or (2)(a)(III) of this section, the board of county commissioners shall change the boundaries of the commissioner districts so as to create three districts as nearly equal in population as possible based on the most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the department of corrections for the most recent fiscal year. The districts must be numbered consecutively and are not subject to alteration more often than once every two years; except that, notwithstanding section 30-10-306 (3), the board may alter the districts to conform to precinct boundaries that are changed in accordance with section 1-5-103 (1), based on the division of the state into congressional districts or an approved plan for redistricting of the members of the general assembly when necessary to ensure that no precinct is located in more than one district. All other provisions of sections 1-4-205 (3)(a) and 30-10-306 (2) and (3) relating to the method of electing members, as provided in this subsection (5)(a), are applicable; except that, when districts are created, such changes must be completed by July 1 of the odd-numbered year immediately preceding the general election.

(b) (I) Upon adoption of the boundaries of the three commissioner districts pursuant to subsection (2) of this section, it shall be decided by lot which of the five presently elected commissioners shall serve each of the three commissioner districts and which two commissioners shall serve the county at large.

(II) If more than one presently elected commissioner resides within the boundaries of the same newly created commissioner district, those commissioners shall first determine by lot which of them will serve that district and which of them will represent the county at large. The remaining commissioners shall then determine by lot which of them will serve the two remaining districts and which of them will serve as the second commissioner at large.

(III) The county clerk and recorder shall establish the time, place, and manner in which such lots shall be conducted and shall declare the official results of such lots immediately thereafter.

(c) In the event that the registered electors of a county vote to change the method of election pursuant to this subsection (5), the terms of office of the five presently elected commissioners shall not be affected.

(d) Thereafter, the method of election in such counties shall be as provided in sections 1-4-205 (3)(a), C.R.S., and 30-10-306.5 (5).

(6) Signature requirements governing petitions for a race involving a seat on the board of county commissioners for the next four calendar years immediately following an election at which the voters have approved a decrease in the number of county commissioners from five to three under this section are specified in section 1-4-801 (2)(e), C.R.S., for major political party candidates, and section 1-4-802 (2), C.R.S., for candidates who do not wish to affiliate with a major political party. Following the first four calendar years after such a change in the membership of the board of county commissioners has been approved by the voters, the signature requirements for a petition for a county commissioner candidate must follow the procedures specified in section 1-4-801 (2)(a), C.R.S., for major political party candidates, and section 1-4-802 (1)(c)(VI), C.R.S., for candidates who do not wish to affiliate with a major political party, as applicable.

Source: L. 88: Entire section added, p. 1111, § 1, effective April 9; (5)(a) amended, p. 1436, § 36, effective June 11. **L. 2002:** (5)(a) amended, p. 136, § 2, effective August 7. **L. 2013:** (6) added, (SB 13-243), ch. 268, p. 1413, § 4, effective May 24. **L. 2020:** (5)(a) amended, (SB 20-186), ch. 272, p. 1330, § 18, effective July 11. **L. 2021:** (3) amended, (HB 21-1047), ch. 70, p. 287, § 4, effective April 29.

Cross references: For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

ANNOTATION

Law reviews. For article, "Ballot Measures: The Scope of Authority in Statutory Counties", see 52 Colo. Law 22 (May 2023).

30-10-307. Chairman - temporary chairman.

At the first meeting after election, the board of county commissioners shall choose one of its number as chairman, who shall preside at such meeting and all other meetings, if present; but, in case of his absence from such meeting, the members present shall choose one of its number as temporary chairman.

Source: G.L. § 460. **G.S.** § 543. **R.S. 08:** § 1199. **C.L.** § 8675. **CSA:** C. 45, § 18. **CRS 53:** § 35-3-7. **C.R.S. 1963:** § 35-3-7.

30-10-308. Oaths administered and orders signed by chairman.

The chairman of said board of county commissioners has the power to administer oaths to any person concerning any matter submitted to the board or connected with its powers and duties, and he shall sign all county orders.

Source: G.L. § 461. **G.S.** § 544. **R.S. 08:** § 1201. **C.L.** § 8678. **CSA:** C. 45, § 21. **CRS 53:** § 35-3-8. **C.R.S. 1963:** § 35-3-8.

ANNOTATION

Power to issue warrant in board alone. While a county warrant is to be signed by the chairman of the board of county commissioners, and also to be signed and attested by the clerk, yet the power to issue a county warrant is vested alone in the board of county commissioners and can be only exercised at a meeting of the board. Stoddard v. Benton, 6 Colo. 508 (1883).

And a warrant drawn and signed without any action of the board is a nullity in the hands of any one chargeable with notice of the irregularity, and in an action against the county treasurer to compel payment, he may allege in his defense the facts which show the warrant to be void. Stoddard v. Benton, 6 Colo. 508 (1883).

30-10-309. County commissioner vacancies. (Repealed)

Source: G.L. §§ 445, 473, 942. **G.S.** §§ 537, 552, 1166. **R.S. 08:** §§ 1202, 1239, 2334. **C.L.** §§ 7822, 8679, 8680. **CSA:** C. 45, §§ 22, 23. **CSA:** C. 59, § 311. **CRS 53:** § 35-3-9. **C.R.S. 1963:** § 35-3-9. **L. 79:** Entire section R&RE, p. 1142, § 1, effective March 13. **L. 80:** Entire section repealed, p. 418, § 38, effective January 1, 1981.

30-10-310. Committee of commissioners - report.

If the board of county commissioners sees fit to refer any matter to a committee of its members, the actions of said committee shall not be final, but shall be reported to the board for its consideration, and the board's action thereon shall be placed in its records.

Source: L. 1891: p. 114, § 1. **R.S. 08:** § 1203. **C.L.** § 8681. **CSA:** C. 45, § 24. **CRS 53:** § 35-3-10. **C.R.S. 1963:** § 35-3-10.

30-10-311. Bonds or insurance of county commissioners.

(1) Except as provided in subsection (2) of this section, each county commissioner of the several counties of this state is required to execute a bond, payable to the people of the state of Colorado, conditioned that the commissioner will faithfully and honestly discharge the duties of the office of county commissioner so long as the commissioner continues in office, and that the commissioner will not, either directly or indirectly, misappropriate, or permit to be misappropriated, any of the funds or property of said county while in office; that the commissioner will not, while in office, be interested or concerned in any manner, directly or indirectly, in any sale, purchase, bargain, or contract whereby any sum of money or thing in action becomes due to such commissioner from such county, or from any person from such county; and that the commissioner will at all times transact the business of such county economically, and to the best of the commissioner's ability, for the best interest of such county.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of the county commissioner to protect the people of the county from any malfeasance on the part of the commissioner while in office.

Source: L. 1881: p. 96, § 1. **G.S.** § 564. **R.S. 08:** § 1244. **C.L.** § 8720. **CSA:** C. 45, § 67. **CRS 53:** § 35-3-11. **C.R.S. 1963:** § 35-3-11. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 557, § 5, effective August 11.

ANNOTATION

The object of this section is to require county commissioners to give bonds for the faithful discharge of their duties, and a provision for the recovery of such damages as the county shall sustain by reason of a breach of the conditions of the bond, and designating who might bring suit for such recovery, is certainly germane to the subject matter of such a title. Patterson v. Watson, 35 Colo. 502, 83 P. 958 (1906).

Subsequent bond not authorized. When a person duly elected to the office of county commissioner has executed his bond as required by law, when said bond has been approved by the judge of the proper district, and when the person so elected and qualified has actually entered upon the duties of his office, the district court or judge, thereafter, has no jurisdiction to order said commissioner to give a new bond with further sureties to be approved by said court or judge, and, in default of compliance with such order, to declare such commissioner's office vacant. People ex rel. Jones v. District Court, 18 Colo. 293, 32 P. 819 (1893).

The approval by the judge of the district court of a bond of a county commissioner-elect, is not to be arbitrarily overturned or disregarded by the board. People ex rel. Pauls v. District Court, 46 Colo. 1, 101 P. 777 (1909).

No forfeiture of bond for compliance with unconstitutional statute. Compliance with the terms of a statute which may be unconstitutional will not, absent other evidence, be grounds for forfeiture of bond required by this section. Bd. of County Comm'rs v. Fifty-First Gen. Ass'y, 198 Colo. 302, 599 P.2d 887 (1979).

Applied in Davison v. Bd. of County Comm'rs, 41 Colo. App. 344, 585 P.2d 315 (1978).

30-10-312. Amount of bond or insurance - county commissioners.

The bond executed by the county commissioners in counties with a population of ten thousand or more persons pursuant to section 30-10-311 (1) or the insurance purchased by the county on behalf of the county commissioners pursuant to section 30-10-311 (2) shall be in the sum of ten thousand dollars and in counties with a population under ten thousand persons shall be in the sum of five thousand dollars.

Source: L. 1881: p. 97, § 2. **G.S.** § 565. **R.S. 08:** § 1245. **C.L.** § 8721. **CSA:** C. 45, § 68. **CRS 53:** § 35-3-12. **C.R.S. 1963:** § 35-3-12. **L. 73:** p. 1401, § 25. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 558, § 6, effective August 11.

30-10-313. Bond executed or insurance purchased before duties assumed.

No county commissioner shall enter upon the duties of the office of commissioner unless the commissioner has executed the bond described in section 30-10-311 (1) or the county has purchased the insurance described in section 30-10-311 (2).

Source: L. 1881: p. 97, § 3. **G.S.** § 566. **R.S. 08:** § 1246. **C.L.** § 8722. **CSA:** C. 45, § 69. **CRS 53:** § 35-3-13. **C.R.S. 1963:** § 35-3-13. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 558, § 7, effective August 11.

30-10-314. Where bond filed.

If a county commissioner executes a bond pursuant to section 30-10-311 (1), the bond, after approval by the judge of the district court, shall be filed by the county clerk and recorder of such county and shall be recorded in the records of the county.

Source: L. 1881: p. 98, § 6. **G.S.** § 569. **R.S. 08:** § 1248. **C.L.** § 8724. **CSA:** C. 45, § 71. **CRS 53:** § 35-3-15. **C.R.S. 1963:** § 35-3-15. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 558, § 8, effective August 11.

30-10-315. Penalty for acting without bond or insurance.

If any county commissioner acts as such officer, performs any of the duties, or exercises any of the rights or privileges of county commissioner without being bonded or insured pursuant to section 30-10-311, or after judgment of removal from such office has been entered, the commissioner commits a class 2 misdemeanor.

Source: L. 1881: p. 98, § 5. **G.S.** § 568. **R.S. 08:** § 1247. **C.L.** § 8723. **CSA:** C. 45, § 70. **CRS 53:** § 35-3-14. **L. 63:** p. 326, § 15. **C.R.S. 1963:** § 35-3-14. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 558, § 9, effective August 11. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3247, § 499, effective March 1, 2022.

30-10-316. Suits on bond or insurance.

Upon default or breach of any of the conditions of either the bond or the insurance policy required by section 30-10-311 by any county commissioner in this state, either the district attorney for the district in which such commissioner resided at the time of such breach, the county attorney of such county, or any taxpayer of the county who will become responsible for the costs of suit, may institute an action in any court of competent jurisdiction in such county in the name of the board of county commissioners of the county and against the principal and sureties upon the bond or the insurance policy for the damages such county has sustained by reason of the breach of any of the conditions contained in the bond or the insurance policy. When a suit is brought by any person other than the district or county attorney, the court may require surety for costs as in other civil cases.

Source: L. 1881: p. 98, § 7. **G.S.** § 570. **L. 1885:** p. 162, § 1. **R.S. 08:** § 1249. **C.L.** § 8725. **CSA:** C. 45, § 72. **CRS 53:** § 35-3-16. **C.R.S. 1963:** § 35-3-16. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 558, § 10, effective August 11.

ANNOTATION

Section germane. The provision for the recovery of such damages as the county shall sustain by reason of a breach of the conditions of a bond, and designating who might bring suit for such recovery, is certainly germane to the subject matter of the title. Patterson v. Watson, 35 Colo. 502, 83 P. 958 (1906).

Unless the right of the taxpayers to sue under this section be put in issue by a special plea, the question is waived. Buckmaster v. Williams, 72 Colo. 593, 212 P. 977 (1923); Wakeman v. Norton, 24 Colo. 192, 49 P. 283 (1897); Hukill v. McGinnis, 70 Colo. 455, 202 P. 110 (1921).

30-10-317. County to recover all damages - execution against body.

In any action filed pursuant to section 30-10-316, the county shall recover all damages, both proximate and remote, that it may have sustained by reason of any breach of the conditions of the bond or the insurance policy required by section 30-10-311, as applicable; and if it appears on the trial of any such case that the breach was tortious, fraudulent, or willful, and that the county shall not be able to recover judgment against the sureties or, having recovered judgment, is unable to collect the same from the principal or the principal's sureties, the county may have execution against the body of such principal, who shall be confined in the county jail of the

county until such judgment and costs are paid; except that such imprisonment shall not exceed one year.

Source: L. 1881: p. 98, § 8. **G.S.** § 571. **R.S. 08:** § 1250. **C.L.** § 8726. **CSA:** C. 45, § 73. **CRS 53:** § 35-3-17. **C.R.S. 1963:** § 35-3-17. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 559, § 11, effective August 11.

ANNOTATION

Body execution statute unconstitutional under the fourteenth amendment of the U.S. constitution as discriminatory against indigent debtors. Kinsey v. Preeson, 746 P.2d 542 (Colo. 1987).

30-10-318. Recovery for all damage - liability.

In all suits upon the official bonds or insurance policies required by section 30-10-311, the recovery against a member of the board of county commissioners shall not be limited to a proportionate amount of the damage proved, but the recovery on the bond of each shall be for the whole amount of damage proved. If any member of a board of county commissioners knowingly acquiesces in any misappropriation of the funds of a county, or in the allowance of bills that are not legally allowable, or in the payment thereof, the sureties or insurer of the county commissioner, as applicable, shall be liable for all damages, both proximate and remote, that the county sustains for reason thereof, to be recovered as provided.

Source: L. 1881: p. 99, § 9. **G.S.** § 572. **R.S. 08:** § 1251. **C.L.** § 8727. **CSA:** C. 45, § 74. **CRS 53:** § 35-3-18. **C.R.S. 1963:** § 35-3-18. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 559, § 12, effective August 11.

ANNOTATION

This section is not to be construed as a penal statute. Morris v. Bd. of Comm'rs, 25 Colo. App. 416, 139 P. 582 (1914); Nordloh v. Bd. of Comm'rs, 25 Colo. App. 457, 139 P. 585 (1914).

A mere mistake of judgment by the commissioners gives no action upon the bond, and tortious or fraudulent conduct of the commissioners must be shown. Morris v. Bd. of Comm'rs, 25 Colo. App. 416, 139 P. 582 (1914).

30-10-319. Clerk of board - duties.

(1) It is the general duty of the clerk of the board of county commissioners:

(a) To record, in a book to be provided for that purpose, all proceedings of the board;

(b) To make regular entries of all their resolutions and decisions on all questions concerning the raising of money;

(c) To record the vote of each commissioner on any question submitted to the board, if required by any member;

(d) Except when specifically provided otherwise by law, sign all orders issued by the board for the payment of money;

(e) To preserve and file all accounts acted upon by the board, with their action thereon, and he shall perform such other duties as are required by law.

Source: G.L. § 469. **G.S.** § 554. **R.S. 08:** § 1252. **C.L.** § 8728. **CSA:** C. 45, § 75. **CRS 53:** § 35-3-19. **C.R.S. 1963:** § 35-3-19. **L. 69:** p. 223, § 1. **L. 71:** p. 324, § 1.

Cross references: For the county clerk being the clerk of the board of county commissioners, see § 30-10-402.

ANNOTATION

Power to issue county warrants only in board. While a county warrant is to be signed by the chairman of the board of county commissioners, and also to be signed and attested by the clerk, yet the power to issue a county warrant is vested alone in the board of commissioners and can be only exercised at a meeting of the board. Stoddard v. Benton, 6 Colo. 508 (1883).

Duty to be available to perform certain functions and duty to attend meetings of board of county commissioners. The responsibilities of the position of the clerk of the board of county commissioners include either being available, or having a deputy available, during regular business hours to perform the constitutional and statutory functions. Bd. of County Comm'rs v. Hatfield, 39 Colo. App. 548, 570 P.2d 1091 (1977).

Duty when clerk fails to attend meeting. Where the clerk is notified of a meeting of the board and fails to attend, the board necessarily has authority to record its own proceedings and thereafter approve those minutes. Upon being tendered such minutes, the clerk must record them in the proper book regardless of the fact that

neither she nor her deputies actually recorded the proceedings. Bd. of County Comm'rs v. Hatfield, 39 Colo. App. 548, 570 P.2d 1091 (1977).

30-10-320. Clerk to designate amount - copies of records.

It is the duty of such clerk to designate upon every account which is audited and allowed by the board the amount so allowed; and he shall also deliver to any person who may demand it a certified copy of any record in his office, or any account on file therein, on receiving from such person the fees prescribed by law.

Source: G.L. § 470. **G.S.** § 555. **R.S. 08:** § 1253. **C.L.** § 8729. **CSA:** C. 45, § 76. **CRS 53:** § 35-3-20. **C.R.S. 1963:** § 35-3-20.

Cross references: For fees of county clerk and recorders for copies of records, see § 30-1-103.

30-10-321. Orders - dated and numbered - records of issuance.

Such clerk shall not sign or issue any county order, unless ordered by the board of county commissioners authorizing the same; and every such order shall be numbered, and the date, amount, and number of the same, and the name of the person to whom it is issued, shall be entered in a book kept by him in his office for that purpose.

Source: G.L. § 471. **G.S.** § 556. **R.S. 08:** § 1254. **C.L.** § 8730. **CSA:** C. 45, § 77. **CRS 53:** § 35-3-21. **C.R.S. 1963:** § 35-3-21.

30-10-322. Penalty for failure to perform duty.

If any commissioner refuses or neglects to perform any of the duties which are required of him by law as a member of the board of county commissioners, without just cause therefor, he shall, for each offense, forfeit a sum not less than twenty-five nor more than one hundred dollars.

Source: G.L. § 468. **G.S.** § 551. **R.S. 08:** § 1238. **C.L.** § 8715. **CSA:** C. 45, § 62. **CRS 53:** § 35-3-22. **C.R.S. 1963:** § 35-3-22.

ANNOTATION

Enforcement of statute which may be unconstitutional is not violation of this section. Bd. of County Comm'rs v. Fifty-First Gen. Ass'y, 198 Colo. 302, 599 P.2d 887 (1979).

PART 4

COUNTY CLERK AND RECORDER

Cross references: For fees of county clerk and recorders, see § 30-1-103.

30-10-400.3. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Document" includes electronic filings.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic filing system" means the document management system used by the clerk and recorder to comply with the statutory requirements set forth in this part 4 for:

(a) Electronic documents received for recording or filing in his or her office; and

(b) Paper documents received for recording or filing in the clerk and recorder's office that are converted from paper, microfilm, or microfiche into an electronic format.

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2086, § 250, effective August 6.

Editor's note: Subsection (3) is similar to former § 30-10-421 (6)(b) as it existed prior to 2025.

30-10-401. County clerk - term - bond - insurance.

(1) A county clerk shall be elected in each county of this state for the term of four years and, except as provided in subsection (2) of this section, before entering upon the duties of the office, shall execute to the people of the state of Colorado, and file with the county clerk then in office,

a bond with two or more sufficient sureties in the sum of not less than five thousand dollars, to be affixed and approved by the board of county commissioners according to law, with conditions in substance as follows: "Whereas, The above bounden ..... was elected to the office of the county clerk of ....., on the ..... day of ....., Now, therefore, if the said ..... shall faithfully perform all the duties of the office, and shall pay over all moneys that may come into the hands of the clerk as required by law, and shall deliver to the clerk's successor in office all the books, records, papers, and other things belonging to said office, then the above obligation to be void, otherwise to remain in full force." The bond, after being recorded, shall be at once deposited with the county treasurer for safekeeping.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage in an amount not less than ten thousand dollars on behalf of the county clerk to protect the people of the county from any malfeasance on the part of the clerk while in office.

Source: G.L. § 478. **G.S.** § 573. **R.S. 08:** § 1256. **C.L.** § 8731. **CSA:** C. 45, § 78. **CRS 53:** § 35-4-1. **L. 56:** p. 128, § 1. **C.R.S. 1963:** § 35-4-1. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 559, § 13, effective August 11.

Cross references: For the oath of civil officers, see § 8 of art. XII, Colo. Const.; for the election, term, and salary of county officers, see § 8 of art. XIV, Colo. Const.; for the election of county clerk, see § 1-4-206; for bonds executed by surety companies, see § 10-4-301; for the approval of official bonds, see § 24-13-116; for bonds of county officers, see § 30-10-110.

30-10-402. Clerk for board of commissioners.

The county clerk shall be, in and for his county, clerk of the board of county commissioners.

Source: G.L. § 479. **G.S.** § 574. **R.S. 08:** § 1257. **C.L.** § 8732. **CSA:** C. 45, § 79. **CRS 53:** § 35-4-2. **C.R.S. 1963:** § 35-4-2.

30-10-403. Deputy clerk - duties.

Every county clerk shall appoint a deputy, in writing, under the county clerk's hand, and shall file such appointment in the office of the county clerk; and such deputy, in case of the absence or disability of the county clerk, or in case of a vacancy in the office thereof, shall perform all the

duties of the county clerk during such absence or until such vacancy is filled. Every county clerk may appoint other deputies and, if the county clerk has executed a bond pursuant to section 30-10-401 (1), the county clerk's sureties shall be responsible under the bond for the acts of all such deputies.

Source: G.L. § 480. **G.S.** § 575. **R.S. 08:** § 1258. **C.L.** § 8733. **CSA:** C. 45, § 80. **CRS 53:** § 35-4-3. **C.R.S. 1963:** § 35-4-3. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 560, § 14, effective August 11.

ANNOTATION

The deputy clerk is authorized to administer all oaths proper to be administered and taken in the transaction of official business pertaining to the office of county clerk and in performing the functions of clerk thereof. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886).

He may take acknowledgment of tax deeds. Waddingham v. Dickson, 17 Colo. 223, 29 P. 177 (1892).

Attestation of a homestead entry, by the deputy county clerk, not using the name of his principal, is effective and sufficient. Edson-Keith & Co. v. Bedwell, 52 Colo. 310, 122 P. 392 (1912).

30-10-404. Vacancy in office - how filled.

If a vacancy in the office of county clerk should occur by death, resignation, or otherwise, the board of county commissioners shall appoint some suitable person to fill such vacancy until a successor is elected according to law.

Source: G.L. § 481. **G.S.** § 576. **R.S. 08:** § 1259. **C.L.** § 8734. **CSA:** C. 45, § 81. **CRS 53:** § 35-4-4. **C.R.S. 1963:** § 35-4-4.

30-10-405. Office at county seat - seal - records.

(1) The county clerk and recorder shall keep his or her office at the county seat. The county clerk and recorder shall attend the sessions of the board of county commissioners either in person or by deputy, keep the county seal, records, and papers of the board of county commissioners, and keep a record of the proceedings of the board, as required by law, under the direction of the

board of county commissioners. Records of such proceedings shall be kept in a visual text format that may be transmitted electronically.

(2) Notwithstanding the provisions of subsection (1) of this section, the county clerk and recorder may maintain his or her office at a location other than the county seat when authorized to do so pursuant to part 1 of article 5 of title 13, C.R.S.

Source: G.L. § 482. **G.S.** § 577. **R.S. 08:** § 1260. **C.L.** § 8735. **CSA:** C. 45, § 82. **CRS 53:** § 35-4-5. **C.R.S. 1963:** § 35-4-5. **L. 93:** Entire section amended, p. 92, § 3, effective July 1. **L. 2009:** (1) amended, (HB 09-1118), ch. 130, p. 561, § 5, effective August 5.

ANNOTATION

Duty of clerk to be available to perform certain functions. The responsibilities of the position of the clerk of the board of county commissioners include either being available, or having a deputy available, during regular business hours to perform the constitutional and statutory functions. Bd. of County Comm'rs v. Hatfield, 39 Colo. App. 548, 570 P.2d 1091 (1977).

Duty to attend meetings of board of county commissioners. Upon receiving notice from the board, the clerk has the constitutional and statutory duty to attend the board's meetings, and she must respond immediately if such is the request of the board. Bd. of County Comm'rs v. Hatfield, 39 Colo. App. 548, 570 P.2d 1091 (1977).

30-10-405.5. Electronic filings.

The county clerk and recorder may accept by electronic filing deeds and all other documents authorized by law to be recorded in his or her office. To the extent the provisions of this part 4 differ from the requirements of the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., the provisions of this part 4 are intended to modify, limit, or supercede the requirements of such act, as provided for in section 7002 (a) of such act.

Source: L. 2002: Entire section added, p. 789, § 1, effective August 7. **L. 2025:** Entire section amended, (SB 25-275), ch. 377, p. 2086, § 251, effective August 6.

30-10-406. County clerk and recorder - duties - filing requirements.

(1) The county clerk shall be ex officio recorder of deeds and shall have custody of and safely keep and preserve all the documents received for recording or filing in his or her office. During the hours the office is open for business, the clerk and recorder shall also record or cause to be recorded in print, or in a plain and distinct handwriting, or electronically, in suitable books or electronic records to be provided and kept in the clerk and recorder's office, all documents authorized by law to be recorded in his or her office and shall perform all other duties required by law.

(2) Upon recording any document to which a documentary fee applies, the clerk and recorder shall forward a clear, complete, and accurate copy of such document to the office of the county assessor. The clerk and recorder may forward the copy electronically to said office.

(3) (a) All documents received for recording or filing in the clerk and recorder's office, except a verification of application form as defined in section 38-29-102 (13), C.R.S., shall contain a top margin of at least one inch and a left, right, and bottom margin of at least one-half of an inch. The clerk and recorder may refuse to record or file any document that does not conform to the requirements of this paragraph (a).

(b) Repealed.

(4) The county clerk and recorder shall perform the duties prescribed in article 22 of title 15, C.R.S., with respect to the recording and processing of designated beneficiary agreements and revocations of such agreements.

Source: G.L. § 483. **G.S.** § 578. **R.S. 08:** § 1261. **C.L.** § 8736. **CSA:** C. 45, § 83. **CRS 53:** § 35-4-6. **C.R.S. 1963:** § 35-4-6. **L. 76:** Entire section amended, p. 753, § 1, effective June 10. **L. 96:** Entire section amended, p. 1557, § 4, effective July 1. **L. 97:** (3) added, p. 215, § 1, effective September 1. **L. 2002:** (1) and (2) amended, p. 789, § 2, effective August 7. **L. 2009:** (3)(a) amended, (SB 09-040), ch. 9, p. 62, § 1, effective July 1; (4) added, (HB 09-1260), ch. 107, p. 447, § 17, effective July 1. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2087, § 252, effective August 6.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective September 1, 1998. (See L. 97, p. 215.)

ANNOTATION

Duties imposed by general assembly. While the office of county clerk is created by the constitution, none of his duties are therein defined, but all the duties pertaining to the office, both in his capacity as clerk and as recorder of deeds, are to be prescribed and enjoined by the general assembly, and the duties he is to perform as recorder of deeds have been specifically defined and imposed by this and the following sections, and it was clearly within the province of the general assembly to impose upon the clerk in his capacity of recorder of deeds the duties enjoined upon him by this and the following sections. People ex rel. Smith v. Crissman, 41 Colo. 450, 92 P. 949 (1907).

The duty of the county clerk and recorder extends only to instruments "authorized by law to be recorded in his office". Laughlin v. Hawley, 9 Colo. 170, 11 P. 45 (1886).

Making the county recorder registrar of titles does not constitute him a new county officer, but simply changes his duties in this, that instead of recording the evidence of titles, as heretofore provided, he registers the ultimate fact, or conclusion, that a certain party named has title to a particular tract of land as adjudged by the court. People ex rel. Smith v. Crissman, 41 Colo. 450, 92 P. 949 (1907).

Public record defined. It is said that a public record is one required by law to be kept, or necessary to be kept, in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

Tract indices kept by the county clerk and recorder for the purpose of preparing abstracts of title, even though not within the terms of the statute, constitute an appropriate mode of discharging the clerk's duties, hence, it was not only his right but his duty to keep them and having done so they became public property subject to public use as provided by statute. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

What is a public record is a question of law. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

General public right to inspect or copy public records. At common law, due to land ownership by a very limited number of people, there was no general public right to inspect or copy public records; however, this concept later gave way, particularly in the United States, to a recognition of such a right due to our belief in widespread ownership of real property. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

But a wide discretion was necessarily vested in the county clerk with reference to permitting the examination of the records of his office by those other than employees thereof, because the liability of having the records mutilated, changed, or obliterated was always present when strangers were about the office; and while it was necessary, perhaps, that abstracters had to be allowed to examine and make copies from these records they were in so doing

subjected to such reasonable regulations as the county clerk prescribed. Upton v. Catlin, 17 Colo. 546, 31 P. 172 (1892).

The right of an abstractor to inspect and make memoranda of the contents of the records, etc., in the county clerk's office, is subordinate to the right of the clerk and recorder so to regulate his office as to maintain the sanctity of the records, etc., pertaining thereto. Upton v. Catlin, 17 Colo. 546, 31 P. 172 (1892).

Reasonable regulation of access. A rule established by the county clerk and recorder provided that parties desiring to examine the records of the office for the purpose of making abstracts would be permitted to do so upon any day, when the office was required to be kept open under the law, between the hours of nine and twelve in the forenoon, and one and four in the afternoon; provided, that on the days when the county commissioners are in session in the office, said memoranda and copies may be made between the hours of nine and ten in the forenoon and four and five in the afternoon, and at no other times during said days, was held a reasonable regulation. Upton v. Catlin, 17 Colo. 546, 31 P. 172, (1892).

Mandamus proper. Mandamus is a proper remedy where, upon demand, a county clerk and recorder refuses to permit an abstracter to inspect and make memoranda of the contents of the records of his office. Upton v. Catlin, 17 Colo. 546, 31 P. 172 (1892).

Judgment of justice of the peace not required to be recorded. The court found no law requiring or authorizing the transcript of a judgment from a justice of the peace to be recorded or indexed, and if the clerk and recorder should keep any index or record of such judgments, it would be entirely voluntary. Laughlin v. Hawley, 9 Colo. 170, 11 P. 45 (1886).

30-10-406.5. Redaction of first five digits of social security numbers on public documents.

(1) A county clerk and recorder shall redact the first five digits of a social security number from a public document recorded with the clerk and recorder if:

(a) The document is in electronic form; and

(b) The clerk and recorder has the equipment needed to make the redaction.

(c) (Deleted by amendment, L. 2024).

(2) A county clerk and recorder may leave a social security number unredacted upon the request of the individual assigned the social security number or that individual's designee by power of attorney or appointment of personal representative, custodian, conservator, or guardian.

Source: L. 2014: Entire section added, (HB 14-1112), ch. 28, p. 171, § 1, effective January 1, 2015. **L. 2024:** Entire section amended, (HB 24-1269), ch. 394, p. 2718, § 7, effective July 1, 2025.

30-10-407. Microfilm and optical imaging records - when - standards for optical imaging systems.

(1) When authorized by the board of county commissioners, the county clerk and recorder in counties, or cities and counties, may record the documents lawfully filed for record in his or her office by making and preserving microfilm or optical images thereof. Such county clerk and recorder shall properly index the same in the manner required by law. When the microfilm or optical imaging method of recording has been approved by the board of county commissioners and adopted by the county clerk and recorder, at least one microfilm reader to make the microfilms legible or at least one computer terminal to access optical imaging records shall be provided, and as many more microfilm readers or computer terminals as may prove necessary to give reasonable service to the public shall also be provided.

(2) At least two microfilms or two optical imaging database records shall be made of each recorded document, which shall be kept in separate buildings as far as reasonably may be done in order that they may not be subject to the same hazards. All sets of the microfilm and all optical imaging computer data shall be constantly under the control of the county clerk and recorder. One set of microfilm or one copy of the optical imaging database shall always be kept by the county clerk and recorder, so that the same is available to the public during the hours that said county clerk and recorder's office is open for business and so that persons desiring to inspect or examine the record may do so by means of microfilm reader and facilities or by means of optical imaging computer terminals maintained in said county clerk and recorder's office. Said records shall not be removed from the county clerk and recorder's office at any time for any purpose, except the security copy, which shall be kept in a security vault approved by the board of county commissioners and the county clerk and recorder. The security copy of the microfilm or optical image media may be deposited in the county records section of the department of personnel.

(3) (Deleted by amendment, L. 2004, p. 376, § 1, effective July 1, 2004.)

(4) Any document which cannot be satisfactorily recorded by microfilm or by optical imaging may be recorded by other methods of photographing or by transcribing by typewriter or by longhand.

(4.3) Regardless of the method by which a document is recorded, legible size prints shall be made on demand for the fee provided by law; except that the county clerk and recorder shall not be required to provide a print during the first three business days after a document is recorded.

(4.5) Any optical imaging system utilized by a county clerk and recorder shall, at minimum, produce permanent records which do not permit additions, deletions, or other changes to the original documents.

(5) Nothing in this section shall abridge or limit the power of any court to compel the production of any microfilm or optical imaging records in any proceeding.

Source: L. 51: p. 302, § 1. **CSA:** C. 45, § 83(1). **L. 53:** p. 222, § 1. **CRS 53:** § 35-4-7. **C.R.S. 1963:** § 35-4-7. **L. 81:** (2) amended, p. 1435, § 1, effective April 2. **L. 92:** Entire section amended, p. 960, § 1, effective March 25. **L. 96:** (2) amended, p. 1542, § 134, effective June 1. **L. 2004:** (1), (2), (3), and (4) amended and (4.3) added, p. 376, § 1, effective July 1.

ANNOTATION

Law reviews. For note on 1953 amendment to this section, see 30 Dicta 194 (1953).

30-10-408. Grantor and grantee indices to be kept by county clerk and recorder.

(1) (a) Every county clerk and recorder shall keep a grantor index and a grantee index in the clerk and recorder's office. The grantor index may be divided into seven columns, with heads to the respective columns as follows:

Time of Reception	Names of Grantors	Names of Grantees	Type of Document

Volume and Page Where	Remarks	Description of Tract

Recorded

(b) The clerk and recorder shall make correct entries in the grantor index of every document filed or recorded, as required by law, concerning or affecting real estate, under the appropriate headings, entering the names of the grantors in alphabetical order.

(2) (a) The grantee index may be divided into seven columns, with heads to the respective columns as follows:

Time of Reception	Names of Grantors	Names of Grantees	Type of Document

Volume and Page Where Recorded	Remarks	Description of Tract

(b) The clerk and recorder shall make correct entries in the grantee index of every document filed or recorded, as required by law, concerning or affecting real estate under the appropriate heading, entering the names of the grantees in alphabetical order.

(2.5) The county clerk and recorder shall properly enter a recorded document in the grantor and grantee indices as soon as practicable but not later than seven business days after the date on which the document is recorded.

(3) (a) In counties with the capability, the county clerk and recorder may substitute printouts, microfiches, aperture cards, or other legible photographic or electronic processes for the books and indices required by subsections (1) and (2) of this section. The security and public inspection provisions of section 30-10-407 shall apply to all such printouts, microfiches, aperture cards, or other photographic or electronic records. Both the grantor and grantee indices may be combined in one alphabetical listing with proper coding to indicate grantor and grantee, with both the grantor and grantee appearing in proper alphabetical order.

(b) A general index of releases may be maintained on printouts, microfiches, or aperture cards, by other legible photographic or electronic process, or in a separate book of releases containing a space to enter new index numbers of releases on a numerical listing of the original recording information of the document being released.

(c) Records kept under the provisions of this subsection (3) may substitute reception or index numbers for volume, film, or page numbers, and any electronic records may contain indices for as many years as the county clerk and recorder may deem useful for public inspection.

Source: G.L. § 484. **G.S.** § 579. **L. 1889:** p. 105, § 1. **R.S. 08:** § 1262. **C.L.** § 8737. **CSA:** C. 45, § 84. **CRS 53:** § 35-4-8. **C.R.S. 1963:** § 35-4-8. **L. 81:** (2)(b) amended and (3) added, p. 1435, § 2, effective January 1, 1982. **L. 82:** (2)(b) amended, p. 625, § 30, effective April 2. **L. 96:** Entire section amended, p. 1557, § 5, effective July 1. **L. 2002:** (3) amended, p. 790, § 3, effective August 7. **L. 2004:** (2.5) added, p. 377, § 2, effective July 1.

ANNOTATION

Law reviews. For article, "What's in the Pockets?", see 53 Colo. Law. 28 (Apr. 2024).

The purpose of this and the following section is to furnish a ready and generally convenient means of reference to the matters contained in the books of record. People ex rel. Federal Land Bank v. Ginn, 106 Colo. 417, 106 P.2d 479 (1940).

This section requires every county clerk and recorder to maintain grantor-grantee indices. Guaranty Bank & Trust Co. v. LaSalle Nat'l Bank Ass'n, 111 P.3d 521 (Colo. App. 2004).

There is no mandatory requirement in this and the following section that a description of the property conveyed be noted therein. People ex rel. Federal Land Bank v. Ginn, 106 Colo. 417, 106 P.2d 479 (1940).

Correct entries in these books do not excuse a mistake made in transcribing an instrument on the record proper. People ex rel. Federal Land Bank v. Ginn, 106 Colo. 417, 106 P.2d 479 (1940).

The failure of an interested party to search and examine the reception book and indices does not release a clerk and

recorder from liability for neglect in failing to correctly transcribe an instrument on the record proper. People ex rel. Federal Land Bank v. Ginn, 106 Colo. 417, 106 P.2d 479 (1940).

Nor does the mere constructive notice which the registration statutes impute from the filing of a conveyance for record, which is for the protection of those claiming under the conveyance, exist for the protection of the recording officer for nonperformance of official duty. People ex rel. Federal Land Bank v. Ginn, 106 Colo. 417, 106 P.2d 479 (1940).

30-10-409. Reception book - form - contents - acceptance for recording.

(1) The county clerk and recorder shall also keep a reception book, each page of which shall be divided into five columns, with heads to the respective columns as follows:

Time of Reception	Names of Grantors	Names of Grantees	To Whom Delivered	Fees Received

(2) When any document has been accepted by the clerk and recorder for recording and the proper fee has been paid, such document shall be deemed to be recorded for all purposes. After a document has been received, the clerk and recorder shall endorse upon such document information, which may be in electronic form, noting the day, hour, and minute of its acceptance for recording, the index or reception number, the volume, film or page where recorded, if such are used, and the fee received for recording the same and shall immediately make an entry of the same in the reception book, under the appropriate heading, with the amount paid as fee for recording the same. A document shall be deemed accepted as of the date and time of its endorsement. The clerk and recorder's endorsement may be done electronically. When such endorsement is made electronically, the endorsement shall be immediately perceptible and reproducible. Any document, except those filed and recorded pursuant to section 38-29-205, C.R.S., that is received by 1 p.m. on a business day shall be endorsed by the end of that day. Any document that is received after 1 p.m. on a business day shall be endorsed by 5 p.m. on the following business day. Those documents received pursuant to section 38-29-205, C.R.S., shall be endorsed by the clerk and recorder within three business days. After a document has been

endorsed and processed for recording, the clerk and recorder, without additional fee or charge, shall deliver it by regular mail, electronic delivery, or personal delivery to the person authorized to receive the same, writing the name of the person to whom it is delivered in an appropriate column in the reception book.

(3) In counties with the capability, the county clerk and recorder may substitute printouts, microfiches, aperture cards, or other legible photographic or electronic processes for the reception book required by this section; except that proper audit controls of cash receipts shall be maintained in compliance with governmental audit procedures.

(4) No clerk and recorder shall be bound to perform any of the duties required to be performed for which a fee is required unless such fee has been paid or tendered.

(5) A clerk and recorder who decides to accept electronic filings shall establish procedures for such electronic filings that are consistent with any standards or rules established by the electronic recording technology board pursuant to section 24-21-403, C.R.S. No electronic filings shall be accepted by the clerk and recorder until the clerk and recorder has established and made publically available the procedures for electronic filings. Nothing in this article shall be interpreted to require any clerk and recorder to accept electronic filings. Nothing in this article shall abridge the power of any clerk and recorder to accept or reject electronic filings in accordance with the provisions of section 38-35-202, C.R.S.

(6) (a) The deadlines set forth in sections 30-10-407 (4.3) and 30-10-408 (2.5) and subsection (2) of this section shall be extended for a reasonable period of time if an extenuating circumstance prevents the clerk and recorder from meeting such deadlines.

(b) As used in this subsection (6), "extenuating circumstance" means a disaster, as defined in section 24-33.5-703 (3), C.R.S., or a technical difficulty related to computer hardware or software that is outside the control of the clerk and recorder.

(c) No deadline shall be extended pursuant to this subsection (6), unless the clerk and recorder makes a written finding of extenuating circumstances that is available to the public. Such finding shall include the deadline that has been extended, the reason for the extension, and the period of the extension.

(d) In the case of an extension related to a technical difficulty related to computer hardware or software, the period of extension shall not exceed seven days.

Source: G.L. § 485. **G.S.** § 580. **R.S. 08:** § 1263. **C.L.** § 8738. **CSA:** C. 45, § 85. **CRS 53:** § 35-4-9. **C.R.S. 1963:** § 35-4-9. **L. 81:** (3) added, p. 1436, § 3, effective January 1, 1982. **L. 96:** Entire section amended, p. 1559, § 6, effective July 1. **L. 2002:** (2) and (3) amended and (5) added, p. 790, § 4, effective August 7. **L. 2004:** (2) amended and (6) added, p. 377, § 3, effective July 1; (5) amended, p. 1157, § 1, effective July 1. **L. 2009:** (2) amended, (SB 09-040), ch. 9, p.

62, § 2, effective July 1. **L. 2013:** (6) (b) amended, (HB13-1300), ch. 316, p. 1694, § 96, effective August 7. **L. 2016:** (5) amended, (SB 16-115), ch. 356, p. 1481, § 4, effective June 10.

30-10-410. File of plats or maps - index - names.

The clerk and recorder shall maintain a file of all subdivision plats presented for recording in accordance with law and all common interest community plats or maps presented for recording in accordance with section 38-33.3-201, C.R.S. Subdivision plats shall be indexed in the grantor index under the name of the person that signs and acknowledges the plat as the owner and dedicator and in the grantee index under the name of the plat shown thereon. The clerk and recorder shall also keep an alphabetical index of such subdivision plats by the name of the plat. Common interest community plats or maps shall be indexed in the same manner as the declaration for such community, as provided in section 38-33.3-201, C.R.S.

Source: G.L. § 486. **G.S.** § 581. **R.S. 08:** § 1264. **C.L.** § 8739. **CSA:** C. 45, § 86. **CRS 53:** § 35-4-10. **C.R.S. 1963:** § 35-4-10. **L. 96:** Entire section amended, p. 1559, § 7, effective July 1.

30-10-411. Index of records - grantors - grantees. (Repealed)

Source: G.L. § 487. **G.S.** § 582. **R.S. 08:** § 1265. **C.L.** § 8740. **CSA:** C. 45, § 87. **CRS 53:** § 35-4-11. **C.R.S. 1963:** § 35-4-11. **L. 96:** Entire section repealed, p. 1560, § 8, effective July 1.

30-10-412. Recording of papers in bankruptcy. (Repealed)

Source: L. 39: p. 236, § 1. **CSA:** C. 45, § 87(1). **CRS 53:** § 35-4-12. **C.R.S. 1963:** § 35-4-12. **L. 96:** Entire section repealed, p. 1560, § 9, effective July 1.

30-10-413. Certified copies prima facie evidence.

Copies of all documents recorded or filed in the office of the clerk and recorder and transcripts from the records kept therein, certified by the clerk and recorder under the seal of his or her office, shall be prima facie evidence in all cases.

Source: G.L. § 488. **G.S.** § 583. **R.S. 08:** § 1266. **C.L.** § 8741. **CSA:** C. 45, § 88. **CRS 53:** § 35-4-13. **C.R.S. 1963:** § 35-4-13. **L. 96:** Entire section amended, p. 1560, § 10, effective July 1.

ANNOTATION

Public record is prima facie evidence of collateral matters appropriately incorporated therein when the document has been signed under oath and properly attested to, as such precautions afford at least a presumption of trustworthiness with respect to matters contained within the document. Oak Creek Power Co. v. Colo. River Water Conservation Dist., 182 Colo. 389, 514 P.2d 323 (1973).

Under this section, articles of incorporation, when so recorded, may be used in evidence for the purpose of establishing any fact other than that of corporate existence; and, even without this provision of the law, it is held that where the record or document appointed by law is not part of the fact to be proved, but is merely a collateral or subsequent memorial of the fact, it has not this exclusive character, but any other legal proof is admitted. Thus, the date of incorporation is a secondary fact, and could be proved by collateral circumstances or parol evidence. Schiffer v. Adams, 13 Colo. 572, 22 P. 964 (1889).

30-10-414. Abstract of deeds - contents. (Repealed)

Source: L. 1874: p. 50, § 1. **G.L.** § 424. **G.S.** § 584. **R.S. 08:** § 1267. **C.L.** § 8742. **CSA:** C. 45, § 89. **L. 51:** p. 301, § 1. **CRS 53:** § 35-4-14. **L. 59:** p. 345, § 1. **C.R.S. 1963:** § 35-4-14. **L. 83:** Entire section repealed, p. 513, § 4, effective May 16.

30-10-415. Tax sales excepted.

Nothing in this article shall be construed to require the recording of certificates of sale or redemption of land for taxes.

Source: L. 1879: p. 49, §§ 1, 2. **G.S.** §§ 585, 586. **R.S. 08:** §§ 1268, 1269. **C.L.** §§ 8743, 8744. **CSA:** C. 45, §§ 90, 91. **CRS 53:** § 35-4-15. **C.R.S. 1963:** § 35-4-15. **L. 73:** p. 1156, § 2. **L. 96:** Entire section amended, p. 1561, § 11, effective July 1.

ANNOTATION

The clerk is required to keep indices of a certain character. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

Right of general public to inspect and copy. At common law, due to land ownership by a very limited number of people, there was no general public right to inspect or copy public records; however, this concept later gave way, particularly in the United States, to a recognition of such a right due to our belief in widespread ownership of real property. Treat v. McDonough, 148 Colo. 603, 367 P.2d 587 (1961).

30-10-416. Clerk to administer oaths or affirmations - take affidavit or deposition.

The county clerk and recorders of the several counties in the state of Colorado are authorized, within their respective counties, to administer all oaths or affirmations required to be taken by any person upon any lawful occasion, and to take affidavits and depositions concerning any matter or thing, process, or proceeding pending or to be commenced in any court, or any occasion wherein such affidavit or deposition is authorized or required by law to be taken.

Source: G.L. § 425. **G.S.** § 587. **R.S. 08:** § 1270. **C.L.** § 8745. **CSA:** C. 45, § 92. **CRS 53:** § 35-4-16. **C.R.S. 1963:** § 35-4-16. **L. 64:** p. 382, § 6. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 697, § 23, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

30-10-417. False oaths, perjury.

Oaths and affirmations, affidavits, and depositions administered or taken as provided in section 30-10-416 shall subject any person, who falsely swears or affirms to matters material to any issue or point in question, to the penalties provided by law for persons guilty of perjury in the second degree.

Source: G.L. § 426. **G.S.** § 588. **R.S. 08:** § 1271. **C.L.** § 8746. **CSA:** C. 45, § 93. **CRS 53:** § 35-4-17. **C.R.S. 1963:** § 35-4-17. **L. 72:** p. 557, § 11.

Cross references: For perjury in the second degree, see § 18-8-503.

30-10-418. Fees of county clerk and recorder for administering oaths.

For administering oaths and taking affidavits or depositions, as provided in section 30-10-416, county clerk and recorders shall receive the fee prescribed by section 30-1-103 (2)(a).

Source: G.L. § 427. **G.S.** § 589. **R.S. 08:** § 1272. **C.L.** § 8747. **CSA:** C. 45, § 94. **CRS 53:** § 35-4-18. **C.R.S. 1963:** § 35-4-18. **L. 83:** Entire section amended, p. 1226, § 6, effective July 1.

30-10-419. Writs of attachment recorded. (Repealed)

Source: L. 1887: p. 127, § 105. **Code 08:** § 116. **CRS 53:** § 35-4-19. **C.R.S. 1963:** § 35-4-19. **L. 83:** Entire section amended, p. 1226, § 7, effective July 1. **L. 96:** Entire section repealed, p. 1561, § 12, effective July 1.

30-10-420. Maintenance of trade name registration.

Every county clerk and recorder shall maintain trade name registration records provided by the department of revenue.

Source: L. 83: Entire section added, p. 984, § 4, effective July 1, 1985.

30-10-421. Filing surcharge.

(1) (a) (Deleted by amendment, L. 2014.)

(b) Beginning July 1, 2004, and through December 31, 2029, the county clerk and recorder shall collect a surcharge of one dollar for each document received for recording or filing in the clerk and recorder's office. The surcharge is in addition to any other fees permitted by statute.

(c) Beginning January 1, 2017, and through April 30, 2029, the county clerk and recorder shall collect the surcharge imposed by the electronic recording technology board under section 24-21-403 (2) for each document received for recording or filing in the clerk and recorder's office. The surcharge is in addition to any other fees permitted by statute.

(1.5) The surcharge described in subsection (1) of this section shall not be collected on any filing received by the county clerk and recorder as an authorized agent of the executive director of the department of revenue pursuant to section 38-29-128 or 42-6-121, C.R.S.

(1.6) The surcharge described in subsection (1) of this section is not applicable on any document filed or recorded by the county clerk and recorder if the document is exempted from fees pursuant to section 30-1-103 (1).

(2) Repealed.

(3) (a) A county clerk and recorder shall transmit monthly each surcharge collected in accordance with paragraph (c) of subsection (1) of this section to the state treasurer, who shall credit the same to the electronic recording technology fund created in section 24-21-404, C.R.S. Any money transmitted to the state treasurer is collected on behalf of the electronic recording technology board and is excluded from the county's fiscal year spending.

(b) The county clerk and recorder shall retain the proceeds of the surcharge collected pursuant to paragraph (b) of subsection (1) of this section. Such proceeds shall be utilized to defray the costs of establishing, maintaining, improving, or replacing an electronic filing system.

(c) The county clerk and recorder shall place all surcharges that he or she retains pursuant to this subsection (3) in a separate, segregated account.

(4) County governments shall be exempt from all fees authorized to be collected under the provisions of this section if the county or any agency thereof is the grantor or grantee of the document being recorded or if a delegate child support enforcement unit files or records documents for the purpose of collecting child support, child support arrears, maintenance, maintenance when combined with child support, retroactive support, or child support debt.

(5) (Deleted by amendment, L. 2004, p. 748, § 1, effective May 12, 2004.)

(6) Repealed.

Source: L. 2002: Entire section added, p. 791, § 5, effective August 7. **L. 2003:** (1.5) added, p. 966, § 1, effective April 17. **L. 2004:** (1), (2), (3), and (5) amended, p. 748, § 1, effective May 12; (1)(b), (2), and (3) amended and (6) added, p. 1157, § 2, effective July 1. **L. 2006:** (1)(b) and (3)(b)(II) amended, p. 298, § 1, effective August 7. **L. 2011:** (1)(b) amended, (HB 11-1313), ch. 226, p. 971, § 1, effective August 10. **L. 2014:** (1) and IP(3)(b) amended and (2) and (3)(a) repealed, (HB 14-1363), ch. 302, p. 1271, § 36, effective May 31. **L. 2016:** (1)(b), (3)(b), and (6) amended, (1)(c) added, and (3)(a) RC&RE, (SB 16-115), ch. 356, p. 1482, § 5, effective June 10. **L. 2021:** (1)(c) amended, (HB 21-1225), ch. 289, p. 1711, § 6, effective September 7. **L. 2024:** (1)(b) and (1)(c) amended, (HB 24-1269), ch. 394, p. 2717, § 2, effective July 1, 2025. **L. 2025:** (6)(b) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6. **L. 2026:** (1.6) added,

(SB 26-144), ch. 135, p. 602, § 5, effective June 1; (6) repealed, (SB 26-169), ch. 311, p. 1813, § 57, effective August 12.

Editor's note: (1) Subsection (6)(b) was relocated to § 30-10-400.3 in 2025.

(2) Section 55(1) of chapter 135 (SB 26-144), Session Laws of Colorado 2026, provides that the act changing this section applies to any fee imposed, assessed, or collected by a county treasurer on or after June 1, 2026.

30-10-422. Clerk and recorder technology fund. (Repealed)

Source: L. 2002: Entire section added, p. 792, § 5, effective August 7. **L. 2004:** (1) and (2) amended and (4) added, p.1159, § 3, effective July 1. **L. 2014:** Entire section repealed, (HB 14-1363), ch. 302, p. 1271, § 37, effective May 31.

30-10-423. Clerk and recorder technology panel - creation - powers - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 792, § 5, effective August 7. **L. 2004:** (1), (4), (5), (6), (7), and (8) amended, p. 1159, § 4, effective July 1. **L. 2006:** (2)(a)(III) amended, p. 1736, § 26, effective June 6; (5)(a)(II) amended, p. 298, § 2, effective August 7.

Editor's note: Subsection (8) provided for the repeal of this section, effective July 1, 2008. (See L. 2004, p.1159.)

30-10-424. Uniform administration - secretary of state. (Repealed)

Source: L. 2004: Entire section added, p. 1160, § 5, effective July 1. **L. 2014:** (1)(d) and (1)(f)(III) repealed and (1)(g) amended, (HB 14-1363), ch. 302, p. 1272, § 38, effective May 31. **L. 2016:** Entire section repealed, (SB 16-115), ch. 356, p. 1483, § 6, effective June 10.

PART 5

SHERIFF

Cross references: For sheriffs' fees, see § 30-1-104.

Law reviews: For article, "County Sheriffs in Colorado: Beyond the Myth", see 38 Colo. Law. 19 (Feb. 2009).

30-10-501. Sheriff - election - bond - insurance.

(1) A sheriff shall be elected in each county for the term of four years and, except as provided in subsection (2) of this section, before entering upon the duties of office, shall execute to the people of the state of Colorado a bond, with at least three sufficient sureties, in the sum of not less than five thousand nor more than twenty thousand dollars, which the board of county commissioners, or, if it is not in session, the county clerk and recorder, subject to the approval of such board at its next session thereafter, shall specify and approve. When approved, the bond shall be filed in the office of the county clerk and recorder, and no person shall be received as surety who is not worth at least two thousand dollars over and above the surety's just debts.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage in an amount not less than ten thousand dollars on behalf of the sheriff to protect the people of the county from any malfeasance on the part of the sheriff while in office.

Source: G.L. § 489. **G.S.** § 593. **R.S. 08:** § 1273. **C.L.** § 8748. **CSA:** C. 45, § 95. **CRS 53:** § 35-5-1. **L. 56:** p. 128, § 2. **C.R.S. 1963:** § 35-5-1. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 560, § 15, effective August 11.

Cross references: For the election of county officers, see § 8 of art. XIV, Colo. Const., and § 1-4-206; for bonds executed by surety companies, see § 10-4-301; for the approval of official bonds, see § 24-13-116; for bonds of county officers, see § 30-10-110.

ANNOTATION

County sheriff is a "person" for the purposes of a civil rights action for damages under 42 U.S.C. § 1983. Wigger v. McKee, 809 P.2d 999 (Colo. App. 1990); Cortese v. Black, 838 F. Supp. 485 (D. Colo. 1993).

30-10-501.5. Qualifications.

(1) No person is eligible for nomination, election, or appointment to the office of sheriff unless the person:

(a) Is a citizen of the United States, is a citizen of the state of Colorado, and is a resident of the county to which the person is to be appointed or elected;

(b) Possesses a high school diploma or its equivalent or a college degree;

(c) Has had a complete set of fingerprints taken by a qualified law enforcement agency and has submitted a receipt evidencing the fingerprinting at the time of filing his or her written acceptance pursuant to section 1-4-601 (3), 1-4-906, or part 10 of article 4 of title 1, or at the time of filing an affidavit of intent pursuant to section 1-4-1101, as applicable. The law enforcement agency shall forward the fingerprints to the Colorado bureau of investigation. The bureau shall utilize the fingerprints, its files and records, and those of the federal bureau of investigation for the purpose of determining whether the person has ever been convicted of or pleaded guilty or entered a plea of nolo contendere to any felony charge under federal or state laws. The Colorado bureau of investigation shall notify the county clerk and recorder of the county for which the person is a candidate of the results of the fingerprint analysis. If a conviction or plea is disclosed, the person is unqualified for the office of sheriff, unless pardoned. The results of the fingerprint analysis are confidential; except that the county clerk and recorder may divulge whether the person is qualified or unqualified for the office of sheriff.

Source: L. 90: Entire section added, p. 1444, § 1, effective April 5; (1)(c) and IP(2) amended, p. 303, § 4, effective June 8. **L. 95:** (1)(c) amended, p. 1106, § 46, effective May 31. **L. 97:** Entire section R&RE, p. 925, § 1, effective May 21. **L. 2017:** IP(1) and (1)(c) amended, (SB 17-209), ch. 234, p. 963, § 11, effective August 9.

ANNOTATION

When the general assembly enacted the original sheriff training statute in 1990, § 30-10-101.5, it lacked authority to impose any qualifications on the constitutionally created office of county sheriff. Jackson v. State, 966 P.2d 1046 (Colo. 1998).

Because the original sheriff training statute sought to impose qualifications for

the job of sheriff in the form of certification requirements, it was unconstitutional. Jackson v. State, 966 P.2d 1046 (Colo. 1998).

The training and certification requirements contained in the reenacted sheriff training statute passed by the general assembly in 1996 could not be applied to county sheriffs during a term of office that began before the effective date of the new requirements. Jackson v. State, 966 P.2d 1046 (Colo. 1998).

30-10-501.6. Training.

(1) Every person elected or appointed to the office of sheriff for the first time shall:

(a) Attend a minimum of eighty clock hours at a new sheriff training course developed and facilitated either by the county sheriffs of Colorado, incorporated, or any other training resource agency approved by the Colorado peace officers standards and training board, the first time such training course is given after the person's election or appointment. The Colorado peace officers standards and training board shall have discretion to allow the substitution of any combination of education, experience, and training deemed by the board to be equivalent to such new sheriff training course.

(b) Obtain basic peace officer certification within one year of taking office. An extension may be granted by the Colorado peace officers standards and training board of up to one year to obtain such certification upon just cause shown. The Colorado peace officers standards and training board shall issue written findings of fact supporting such an extension.

(2) Every sheriff must possess basic peace officer certification and shall undergo at least the number of clock hours of in-service training required for all certified peace officers by the Colorado peace officers standards and training board, but in no case less than twenty hours. Such training shall be provided either by the county sheriffs of Colorado, incorporated, or any other training resource agency approved by the Colorado peace officers standards and training board, every year during such sheriff's term. The Colorado peace officers standards and training board shall have discretion to waive in-service training upon presentation of evidence by the sheriff demonstrating just cause for noncompletion of such training. The Colorado peace officers standards and training board shall have discretion to allow the substitution of any combination of education, experience, and training deemed by the board to be equivalent to such in-service training.

(3) The county shall only pay all reasonable costs and expenses of new sheriff and in-service training.

Source: L. 97: Entire section added, p. 926, § 2, effective May 21. **L. 2017:** (2) amended, (HB 17-1050), ch. 30, p. 86, § 1, effective August 9.

30-10-501.7. Enforcement.

(1) In the event a sheriff fails to comply with the requirements set forth in section 30-10-501.6, such sheriff's pay must be suspended by the board of county commissioners in accordance with subsection (2) of this section. Such sheriff's pay shall be reinstated with back pay by the board of county commissioners upon completion of said requirements in accordance with subsection (2) of this section.

(2) In any circumstances set forth in subsection (1) of this section, the Colorado peace officers standards and training board shall notify the board of county commissioners of the sheriff's failure to comply with the requirements of said subsection (1) and that state law requires the county commissioners to immediately suspend such sheriff's pay until the requirements of section 30-10-501.6 have been complied with. After the sheriff's compliance with the provisions of section 30-10-501.6, the Colorado peace officers standards and training board shall immediately notify the board of county commissioners of the sheriff's compliance and that state law requires the board of county commissioners to reinstate such sheriff's pay and provide him or her any back pay.

Source: L. 97: Entire section added, p. 926, § 2, effective May 21.

30-10-502. Form of bond.

If a sheriff executes a bond pursuant to section 30-10-501 (1), the condition of the bond shall be in substance as follows: "Whereas, the above bounden ..... was elected to the office of sheriff of the county of ....., on the ..... day of .....; Now, the condition of this obligation is such that if the said ..... shall well and faithfully perform and execute the duties of the office of sheriff of said county of ..... while in office by virtue of said election without fraud, deceit, or oppression, shall pay over all moneys that may come into the hands of the sheriff, and shall deliver to the sheriff's successor in office all writs, papers, and other things pertaining to the office that may be so required by law, then the above obligations shall be void, otherwise to be and remain in full force and effect."

Source: G.L. § 490. **G.S.** § 594. **R.S. 08:** § 1274. **C.L.** § 8749. **CSA:** C. 45, § 96. **CRS 53:** § 35-5-2. **C.R.S. 1963:** § 35-5-2. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 560, § 16, effective August 11.

ANNOTATION

There can be no recovery upon an official bond outside its terms. Tate v. People ex rel. Dewees, 6 Colo. App. 202, 40 P. 471 (1895).

And it is the second condition of the statutory bond which applies to money collected by the sheriff, and it is the second condition of the bond in suit which undertakes to direct the disposition to be made by the sheriff of money received by him as an officer, and it requires him to turn the money over, not to the party entitled to it, but to his successors in office, so that the condition was not broken by his failure to pay it to the judgment creditor. Tate v. People ex rel. Dewees, 6 Colo. App. 202, 40 P. 471 (1895).

30-10-503. Sheriff assumes duties - when.

When the term of office of any sheriff expires and the sheriff-elect qualifies according to law, the county clerk and recorder shall issue a notice setting forth that said sheriff-elect has qualified according to law, which notice shall be served by the new sheriff on the former sheriff, whereupon such former sheriff shall immediately transfer and deliver to the new sheriff all the writs, processes, books, and papers belonging to the office, except as otherwise excepted in this part 5, and also the possession of the courthouse and jail of the county, and shall take from the new sheriff a receipt specifying the papers so delivered over and the prisoners in custody, if any, which receipt shall be sufficient indemnity to the person taking the same.

Source: G.L. § 498. **G.S.** § 602. **R.S. 08:** § 1285. **C.L.** § 8760. **CSA:** C. 45, § 107. **CRS 53:** § 35-5-3. **C.R.S. 1963:** § 35-5-3. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 561, § 17, effective August 11.

30-10-504. Undersheriff - duties - vacancy.

The sheriff of each county, as soon as may be after entering upon the duties of his office, shall appoint some proper person undersheriff of said county, who shall also be a general deputy, to serve during the pleasure of the sheriff. As often as a vacancy occurs in the office of such undersheriff, or he becomes incapable of executing the same, another shall in like manner be appointed in his place.

Source: G.L. § 491. **G.S.** § 595. **R.S. 08:** § 1275. **C.L.** § 8750. **CSA:** C. 45, § 97. **CRS 53:** § 35-5-9. **C.R.S. 1963:** § 35-5-9.

Cross references: For substitute officers having the same powers and compensation, see § 30-10-106.

ANNOTATION

Under this and the two following sections, the sheriff is primarily liable to any person who may be damaged by the improper official acts of his undersheriff, because in legal contemplation, all the acts of the undersheriff are the acts of the principal, for which he and his bondsmen are liable, while he has his remedy over against the undersheriff and his bondsmen; this being the law, the acts and doings of one as undersheriff could only be regarded by the defendant as those of the sheriff, insofar as they were the official acts of the office. Barton v. Continental Oil Co., 5 Colo. App. 341, 38 P. 432 (1894).

And where a deputy sheriff is acting in his official capacity and under color of his office, if in the performance thereof, he exceeds the limit of his authority, not only is the deputy himself liable to one injured thereby, but the sheriff and the latter's official surety are also liable. Corder v. People ex rel. Smiley, 87 Colo. 251, 287 P. 85 (1930).

But the sheriff is not responsible for the unofficial or extra-official acts of his deputy. Barton v. Continental Oil Co., 5 Colo. App. 341, 38 P. 432 (1894).

Nor are sureties of sheriff. For an unlawful act of a deputy sheriff, which is not committed by him in the discharge of his official duties, while he himself is liable to damages to one injured thereby, sureties on the official bond of a sheriff may not be held. Corder v. People ex rel. Smiley, 87 Colo. 251, 287 P. 85 (1930).

Thus, the act of an undersheriff in entering satisfaction and releasing an attachment of real estate is unofficial and void. Barton v. Continental Oil Co., 5 Colo. App. 341, 38 P. 432 (1894).

If the sheriff or undersheriff retains money received officially, the sheriff, as an officer of court, may be held liable to a proceeding for contempt, but such summary proceedings for the collection of a debt should be discouraged. Barton v. Continental Oil Co., 5 Colo. App. 341, 38 P. 432 (1894).

The service of garnishee process on a deputy does not act upon a fund in his hands collected under execution, because, in law, it is in the possession of the sheriff; neither does it relieve his principal from accounting for the money. Tate v. People ex rel. Dewees, 6 Colo. App. 202, 40 P. 471 (1895).

No estoppel as to sheriff. A sheriff is not, by the extra-official and unwarranted acts of his undersheriff in entering satisfaction and release of attachment of real estate, estopped to deny the receipt of the money. Tate v.

People ex rel. Dewees, 6 Colo. App. 202, 40 P. 471 (1895).

30-10-505. Vacancy in office - powers of undersheriff.

When a vacancy occurs in the office of sheriff of any county, the undersheriff of such county shall in all things execute the office of sheriff until a sheriff is appointed or elected and qualified. Any default or misfeasance in office of such undersheriff in the meantime, as well as before such vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed the undersheriff or the insurance policy purchased by the county on the sheriff's behalf.

Source: G.L. § 492. **G.S.** § 596. **R.S. 08:** § 1276. **C.L.** § 8751. **CSA:** C. 45, § 98. **CRS 53:** § 35-5-4. **C.R.S. 1963:** § 35-5-4. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 561, § 18, effective August 11.

Cross references: For powers, duties, and compensation of person acting as sheriff when the office is vacant, see §§ 30-10-106, 30-10-518, and 30-10-604.

30-10-506. Deputies.

Each sheriff may appoint as many deputies as the sheriff may think proper and may revoke such appointments at will; except that a sheriff shall adopt personnel policies, including policies for the review of revocation of appointments. Before revoking an appointment of a deputy, the sheriff shall notify the deputy of the reason for the proposed revocation and shall give the deputy an opportunity to be heard by the sheriff. Persons may also be deputized by the sheriff or undersheriff in writing to do particular acts.

Source: G.L. § 493. **G.S.** § 597. **R.S. 08:** § 1277. **C.L.** § 8752. **CSA:** C. 45, § 99. **CRS 53:** § 35-5-5. **C.R.S. 1963:** § 35-5-5. **L. 2006:** Entire section amended, p. 133, § 1, effective August 7.

ANNOTATION

I. General Consideration.

II. Appointment of Deputies.

III. Liability of Sheriff.

I. GENERAL CONSIDERATION.

Law reviews. For article, "One Year Review of Torts", see 40 Den. L. Ctr. J. 160 (1963).

This section's notice and hearing requirements are procedural details that do not create a protected property interest for the purposes of the fourteenth amendment. Coates v. Adams County Sheriff's Office, 631 F. Supp. 3d 976 (D. Colo. 2022).

Sheriff's authority over deputies. This section and § 30-2-106 indicate that the general assembly intended to grant the sheriff exclusive power to appoint deputies and to fix their salaries, subject to the board of county commissioners' approval. Tihonovich v. Williams, 191 Colo. 144, 582 P.2d 1051 (1978).

The sheriff, not the county or the board of county commissioners, has the right of control with respect to deputies. Tunget v. Bd. of County Comm'rs, 992 P.2d 650 (Colo. App. 2000); Bristol v. Bd. of County Comm'rs of Clear Creek, 312 F.3d 1213 (10th Cir. 2002).

Statute supersedes manual. An employee may not insist upon adherence to county or departmental policies and procedures regarding termination when this section specifically provides that the employee serves only at the will of an elected official. Therefore, a policy manual did not preclude a sheriff from exercising his statutory prerogative to terminate an employee. Seeley v. Bd. of County Comm'rs, 771 P.2d 21 (Colo. App. 1989), aff'd, 791 P.2d 696 (Colo. 1990) (decided under law in effect prior to 2006 amendment) (but see Cummings v. Arapahoe County Sheriff's Dept., 2018 COA 136, 440 P.3d 1166, annotated below); Jackson v. Johns, 714 F. Supp. 1126 (D. Colo. 1989).

Responsibility of sheriffs. Because this section makes sheriffs responsible for the official acts of their deputies and undersheriffs, it is consistent that it grants authority to the sheriffs to dismiss deputy sheriffs at their pleasure. Therefore, a sheriff cannot limit his power to terminate deputy sheriffs because that would forbid something the state expressly authorized. Seeley v. Bd. of County Comm'rs, 791 P.2d 696 (Colo. 1990) (decided under law in effect prior to 2006 amendment) (but see Cummings v. Arapahoe County Sheriff's Dept., 2018 COA 136, 440 P.3d 1166, annotated below).

Applied in Bailey v. Clausen, 192 Colo. 297, 557 P.2d 1207 (1976).

II. APPOINTMENT OF DEPUTIES.

This section provides that sheriffs may appoint deputies and revoke the appointment at their pleasure. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

But it is not an unrestricted right. The fact that this section makes the sheriff liable for the acts of his deputies does not guarantee the unrestricted right to hire or discharge his employees without regard to the merit system of the city and county of Denver. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

Before terminating a deputy, the sheriff must "notify the deputy of the reason for the proposed revocation" and "give the deputy an opportunity to be heard by the sheriff". Cummings v. Arapahoe County Sheriff's Dept., 2018 COA 136, 440 P.3d 1166.

The sheriff must also adopt policies "for the review of revocation of appointments". These policies may grant rights to deputies beyond those specified in statute, but these policies need not be binding. Cummings v. Arapahoe County Sheriff's Dept., 2018 COA 136, 440 P.3d 1166.

This section contains no restrictions on a new sheriff's ability to issue new employment policies so long as deputies are given notice and an opportunity to be heard. Coates v. Adams County Sheriff's Office, 631 F. Supp. 3d 976 (D. Colo. 2022).

A personnel policy requiring notice of an investigation did not effectuate the specific notice right granted by this section and was not binding. Therefore, a violation of the policy could not form the basis of a breach of implied contract claim under this section. Cummings v. Arapahoe County Sheriff's Office, 2021 COA 122, 500 P.3d 1140.

Sheriff acts under color of state law when he suspends deputy in reliance upon this section. Lontine v. VanCleave, 483 F.2d 966 (10th Cir. 1973).

Methods of concern to people. Because the office of sheriff is a county office and not a state office, the method of selection and tenure of the officer designated to carry out the duties of the position became the concern of the people of Denver by authority expressly granted to them by all of the people of the state under art. XX, Colo. Const., and this is true even though those officers might be required to perform duties which were of statewide concern such as the duties imposed by constitution upon the county clerk and recorder, county sheriff, treasurer or assessor. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

Appointment and removal upon merit and fitness in Denver. The people of Denver, acting under the powers given them by art. XX, Colo. Const., have so changed the method of appointment and removal of deputies by sheriffs so that in Denver the appointment and removal of such deputies is upon merit and fitness to perform the work. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

The career service amendment to the charter of the city and county of Denver encompasses within its scope the positions of deputy sheriffs and jailers. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

Sheriffs and jailers employees in Denver. Since in the city and county of Denver, the salaries of deputy sheriffs and jailers are not set by the charter they are therefore, by charter definition, employees. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961).

Sheriff must comply with home rule charter of Weld County in appointing and dismissing deputies where deputy sheriffs are subject to county personnel system as set forth in county policy manual. Bd. of

County Comm'rs v. Andrews, 687 P.2d 457 (Colo. App. 1984).

Deputy could not be suspended for joining police union. Although a deputy sheriff may not have had a right, per se, to continued public employment under applicable Colorado law as a sheriff's deputy, and may not have been entitled to any form of notice or hearing either under the State Administrative Procedure Act, or under constitutional principles, he could not be suspended or dismissed for joining a police officers' union. Lontine v. VanCleave, 483 F.2d 966 (10th Cir. 1973).

III. LIABILITY OF SHERIFF.

Under this section a sheriff is liable only for the official acts of his deputies. McCartney v. Forster, 150 Colo. 537, 374 P.2d 704 (1962).

Also, by this section sheriffs are made liable for the torts of their deputies. City & County of Denver v. Rinker, 148 Colo. 441, 366 P.2d 548 (1961); Seeley v. Bd. of County Comm'rs, 791 P.2d 696 (Colo. 1990); Tunget v. Bd. of County Comm'rs, 992 P.2d 650 (Colo. App. 1999); Peterson v. Arapahoe County Sheriff, 72 P.3d 440 (Colo. App. 2003).

Board of county commissioners cannot be held liable for actions of a sheriff's deputy under the doctrine of respondeat superior. Tunget v. Bd. of County Comm'rs, 992 P.2d 650 (Colo. App. 1999).

This section does not afford a basis for holding a sheriff liable, on a respondeat superior theory, for the willful and wanton conduct of a deputy in circumstances in which sovereign immunity has not been waived. Carothers v. Archuleta County Sheriff, 159 P.3d 647 (Colo. App. 2006).

If the arrest of the prisoner was not a lawful one, if made under a void warrant, or without a warrant in a case where a warrant is required, or if not made in such circumstances as justify the arrest without warrant, the officer was not acting in his official capacity, either by virtue of, or under color of, office. Johnson v. Enlow, 132 Colo. 101, 286 P.2d 630 (1955).

Where the acts of a public officer are done without any legal process, or authority of law, they are not his official acts, but merely his private or personal acts, for which his sureties are not liable. Johnson v. Enlow, 132 Colo. 101, 286 P.2d 630 (1955).

Where an alleged wrongful taking of property by a deputy was not in performance of any official duty as deputy sheriff, the sheriff was not liable. McCartney v. Foster, 150 Colo. 537, 374 P.2d 704 (1962).

In an action for damages for death of realtor's son while confined in jail, and caused, as alleged, by conduct of the officials in charge thereof, complaint was considered and held not vulnerable to a general demurrer, and the trial court's ruling in sustaining the demurrer and dismissing the case was reversed. People ex rel. Coover v. Gunther, 105 Colo. 37, 94 P.2d 699 (1939).

30-10-507. Liability of sheriff for deputy. (Repealed)

Source: G.L. § 501. **G.S.** § 605. **R.S. 08:** § 1288. **C.L.** § 8763. **CSA:** C. 45, § 110. **CRS 53:** § 35-5-6. **C.R.S. 1963:** § 35-5-6. **L. 2006:** Entire section repealed, p. 133, § 2, effective August 7.

30-10-508. Executor of sheriff liable. (Repealed)

Source: G.L. § 502. **G.S.** § 606. **R.S. 08:** § 1289. **C.L.** § 8764. **CSA:** C. 45, § 111. **CRS 53:** § 35-5-7. **C.R.S. 1963:** § 35-5-7. **L. 2006:** Entire section repealed, p. 134, § 3, effective August 7.

30-10-509. Liability of sheriff for neglect.

When any sheriff neglects to make due return of any writ of process delivered to the sheriff to be executed, or is guilty of any default or misconduct in relation thereto, the sheriff is liable to fine or attachment or both, at the discretion of the court, subject to appeal. The fine, however, shall not exceed two hundred dollars.

Source: G.L. § 505. **G.S.** § 609. **R.S. 08:** § 1292. **C.L.** § 8767. **CSA:** C. 45, § 114. **CRS 53:** § 35-5-8. **C.R.S. 1963:** § 35-5-8. **L. 2006:** Entire section amended, p. 134, § 4, effective August 7.

30-10-510. Appointment and revocation. (Repealed)

Source: G.L. § 494. **G.S.** § 598. **R.S. 08:** § 1278. **C.L.** § 8753. **CSA:** C. 45, § 100. **CRS 53:** § 35-5-10. **C.R.S. 1963:** § 35-5-10. **L. 2006:** Entire section repealed, p. 134, § 5, effective August 7.

30-10-511. Sheriff custodian of jail - duties - strip search footage - repeal.

(1) Except as provided in section 16-11-308.5, the sheriff has charge and custody of the jails of the county, and of the prisoners in the jails, and the sheriff shall supervise the prisoners themself or through a deputy or jailer.

(2) (a) Each sheriff shall coordinate with the sheriff's body-worn camera vendor to implement a tag for strip searches in the body-worn camera footage tagging options. Each sheriff shall ensure that strip search footage has the most restrictive level of access available within the sheriff's body-worn camera system. The sheriff and jail personnel shall only access strip search footage pursuant to section 17-26-141 (5).

(b) On or before August 1, 2026, each sheriff shall implement body-worn camera footage tagging pursuant to section 17-26-141 (2).

(3) (a) On or before January 1 of each year, each sheriff shall report data collected during the previous calendar year as documented in the report described in section 17-26-103.5 (3) to the division of criminal justice in the department of public safety in a manner prescribed by the division.

(b) This subsection (3) is repealed, effective January 31, 2031.

Source: G.L. § 495. **G.S.** § 599. **R.S. 08:** § 1279. **C.L.** § 8754. **CSA:** C. 45, § 101. **CRS 53:** § 35-5-11. **C.R.S. 1963:** § 35-5-11. **L. 88:** Entire section amended, p. 677, § 4, effective July 1; entire section amended, p. 711, § 11, effective July 1. **L. 2006:** Entire section amended, p. 134, § 6, effective August 7. **L. 2026:** Entire section amended, (HB 26-1123), ch. 159, p. 951, § 6, effective May 27.

ANNOTATION

Law reviews. For note, "Prisoners' Rights: Personal Security", see 42 U. Colo. L. Rev. 305 (1970).

Under this section, the general assembly has imposed the following duties upon a sheriff: The sheriff shall have charge and custody of the jails of his county, and of the prisoners in the same, and shall keep them himself, or by his deputy or jailer, for whose acts he and his sureties shall be liable. McMillan v. Hammond, 158 Colo. 40, 404 P.2d 549 (1965).

A jailer or warden may be liable for an injury proximately resulting to a prisoner from a breach of duty with respect to such prisoner. McMillan v. Hammond, 158 Colo. 40, 404 P.2d 549 (1965).

As, for example, a breach of duty to exercise due care for the safety of a prisoner generally, to keep the jail sanitary and warm, or to furnish food. McMillan v. Hammond, 158 Colo. 40, 404 P.2d 549 (1965).

A county sheriff was entitled to possession of a room in the jail for his use as living quarter, notwithstanding the county commissioners had designated it for another purpose. Richart v. Bd. of Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

When a sheriff knows that his prisoner has been refused bail, it is a contempt of the court refusing the bail for the sheriff wilfully to permit the prisoner to be at large. Robran v. People, 173 Colo. 378, 479 P.2d 976 (1971).

Sheriff must comply with home rule charter of Weld County in appointing and dismissing deputies where deputy sheriffs are subject to county personnel system as set forth in county policy manual. Bd. of County Comm'rs v. Andrews, 687 P.2d 457 (Colo. App. 1984).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

30-10-512. Sheriff to act as fire warden.

Subject to the provisions of any relevant plans or agreements, the sheriff of every county, in addition to other duties, shall act as fire warden of the sheriff's respective county and is responsible for the coordination of fire suppression efforts in case of prairie, forest, or wildland fires or wildfires occurring in the unincorporated area of the county outside the boundaries of a fire department or that exceed the capabilities of the fire department to control or extinguish.

Source: L. 03: p. 176, § 1. **R.S. 08:** § 1280. **C.L.** § 8755. **CSA:** C. 45, § 102. **CRS 53:** § 35-5-12. **C.R.S. 1963:** § 35-5-12. **L. 2009:** Entire section amended, (SB 09-020), ch. 189, p. 829, § 4, effective April 30; entire section amended, (SB 09-001), ch. 30, p. 128, § 4, effective August 5. **L. 2024:** Entire section amended, (HB 24-1155), ch. 48, p. 171, § 6, effective August 7.

Editor's note: Amendments to this section by Senate Bill 09-001 and Senate Bill 09-020 were harmonized.

Cross references: For duty of sheriff to report fires, see § 24-33.5-1219.

30-10-513. Duties of sheriff - coordination of fire suppression efforts for forest, prairie, or wildland fire - expenses - definition.

(1) (a) Subject to the provisions of any relevant plans or agreements, it is the duty of the sheriff to assume the responsibility for coordinating fire suppression efforts in case of any prairie, forest, or wildland fire or wildfire occurring in the unincorporated area of the county outside the boundaries of a fire department or that exceed the capabilities of the fire department to control or extinguish.

(b) In the case of a prairie, forest, or wildland fire occurring within the jurisdictional boundaries of one or more fire departments that does not exceed the capabilities of the fire department to control or extinguish, the sheriff or the division of fire prevention and control in the department of public safety may assist the chief of the fire department in controlling or extinguishing such fire, and, in connection with such assistance, the sheriff may solicit such additional assistance from such persons as the sheriff and the fire chief deem necessary. The sheriff may assume command of such incidents with the concurrence of the fire chief.

(c) In the case of a prairie, forest, or wildland fire that exceeds the capabilities of the fire department to control or extinguish and that requires mutual aid and outside resources, the sheriff shall appoint an incident commander to provide the command and control infrastructure required to manage the fire. The sheriff shall assume financial responsibility for fire fighting efforts on behalf of the county and the authority for the ordering and monitoring of resources.

(d) When a wildfire exceeds the capability of the county to control or extinguish, the sheriff shall be responsible for seeking the assistance of the state by requesting assistance from the division of fire prevention and control in the department of public safety. The sheriff and the director of the division of fire prevention and control shall enter into an agreement concerning the transfer of authority and responsibility for fire suppression and the retention of responsibilities.

(2) The director of the division of fire prevention and control may assume any duty or responsibility given to the sheriff under this section with the concurrence of the sheriff.

(3) (a) The board of county commissioners of any county may allow the sheriff, undersheriffs, deputies, municipal or county fire departments, fire protection districts, fire authorities, and such other persons as may be called upon to assist in controlling or extinguishing a prairie, forest, or wildland fire such compensation and reimbursement for other expenses necessarily incurred as the board deems just.

(b) The board of county commissioners of any county may allow a fire department, fire protection district, or volunteer fire department compensation and reimbursement from a county funding source for other expenses necessarily incurred in controlling or extinguishing a prairie, forest, or wildland fire within the jurisdiction or boundaries of the fire department, fire protection district, or volunteer fire department if the circumstances set forth in section 24-33.5-1220 (6)(a)(I), (6)(a)(II), and (6)(a)(III) are met, as the board deems just.

(4) The board of county commissioners of any county in the state may make such appropriation as it may deem proper for the purpose of controlling fires in its county. The board of county commissioners is authorized to levy a special tax subject to approval of the voters upon every dollar of valuation of assessment of the taxable property within the county for the purpose of creating a fund that shall be appropriated, after consultation with representatives of fire

departments, fire protection districts, and fire authorities in the county, to prevent, control, or extinguish such fires anywhere in the county and to fix the rate of levy.

(5) The agency that has jurisdiction over any wildland fire in the state shall manage the fire using the incident command system as defined in section 29-22.5-102 (3).

(6) As used in this section, unless the context otherwise requires, "fire department" has the same meaning as set forth in section 24-33.5-1202 (3.9).

Source: L. 03: p. 176, § 2. **R.S. 08:** § 1281. **C.L.** § 8756. **CSA:** C. 45, § 103. **L. 45:** p. 299, § 1. **CRS 53:** § 35-5-13. **C.R.S. 1963:** § 35-5-13. **L. 65:** p. 925, § 4. **L. 96:** Entire section amended, p. 673, § 1, effective May 2. **L. 2000:** Entire section amended, p. 1303, § 6, effective May 26. **L. 2009:** Entire section amended, (SB 09-105), ch. 190, p. 831, § 1, effective April 30; entire section R&RE, (SB 09-020), ch. 189, p. 829, § 5, effective April 30; entire section amended, (SB 09-001), ch. 30, p. 128, § 5, effective August 5. **L. 2010:** (1)(b) amended, (HB 10-1422), ch. 419, p. 2119, § 163, effective August 11. **L. 2013:** (1) (d) and (2) amended, (HB 13-1300), ch. 316, p. 1694, § 97, effective August 7. **L. 2022:** (3) amended, (SB 22-002), ch. 339, p. 2442, § 6, effective June 3. **L. 2024:** (1) amended and (5) and (6) added, (HB 24-1155), ch. 48, p. 171, § 7, effective August 7.

Editor's note: (1) Amendments to this section by Senate Bill 09-001 and Senate Bill 09-020 were harmonized.

(2) This section was amended in Senate Bill 09-105. Those amendments were superseded by the repeal and reenactment of this section in Senate Bill 09-020. However, the intent of Senate Bill 09-105 was realized by the adoption the House Local Government committee of reference report to Senate Bill 09-020. (See the House Journal for March 18, 2009, page 770.)

Cross references: For the legislative declaration contained in the 2000 act amending this section, see section 6 of chapter 272, Session Laws of Colorado 2000.

30-10-513.5. Authority of sheriff relating to fires within unincorporated areas of county - liability for expenses.

(1) (a) The sheriff of any county may request assistance from a fire protection district or municipality in controlling or extinguishing a fire occurring on private property if, in the judgment of such sheriff, the fire constitutes a danger to the health and safety of the public or a risk of serious damage to property. Except as provided in subsection (3) of this section, any fire

protection district or municipality assisting in controlling or extinguishing such fire is entitled to reimbursement from the property owner on whose property the fire occurred or from the party responsible for the occurrence of such fire for the reasonable and documented costs resulting from such assistance. The fire protection district or municipality may recover the costs incurred in a civil action against the property owner or the responsible party or may, by resolution of its board or governing body adopted at a public hearing after notice to the affected parties, certify to the county treasurer the amount of any costs incurred that remains uncollected after diligent effort for a period greater than one hundred eighty days. Such certification is subject to the appeal process and all other remedies, if any, provided in the "State Administrative Procedure Act", article 4 of title 24, C.R.S. If the fire protection district or municipality prevails, the amount certified shall be collected by the treasurer in the same manner as taxes are authorized to be collected pursuant to section 39-10-107, C.R.S. To defray the costs of collection, the treasurer shall be authorized to charge an amount equal to ten percent of the amount collected.

(b) For purposes of this subsection (1), "fire occurring on private property" means:

(I) A fire occurring on property not located within a fire protection district or municipality providing fire protection services.

(II) (Deleted by amendment, L. 93, p. 1253, § 1, effective July 1, 1993.)

(c) This section does not prohibit a county from reimbursing a fire protection district, fire department, or volunteer fire department for expenses necessarily incurred in controlling or extinguishing a prairie, forest, or wildland fire from a county funding source in accordance with section 30-10-513 (3)(b).

(2) (a) An owner of private property who has contracted with a fire protection district for fire protection services shall advise the sheriff of such contract and any fire protection districts with which such district has mutual aid agreements. In the event that a fire occurs on such property, the sheriff shall make a reasonable attempt to secure the services from such district. If the district does not respond, he shall make a reasonable attempt to secure such services from any of the districts with which such district has mutual aid agreements. If services cannot be secured, the sheriff, in his discretion, may attempt to secure fire protection services from any other district or municipality, and, if services are provided, the owner of the property or the party responsible for the fire shall be liable for the costs incurred by such district or municipality. Such costs may be assessed and collected in the manner provided in subsection (1) of this section.

(b) No sheriff shall be held liable for failure to secure fire protection services as required by paragraph (a) of this subsection (2) unless the failure was due to willful misconduct, gross negligence, or bad faith.

(3) Any property owner who desires to conduct a controlled burn of a structure or building located on such property shall notify the county sheriff of the date when such controlled burn will be conducted. Any property owner providing such notification shall not be liable for any

costs under this section resulting from the response by a fire protection district or municipality to such controlled burn due to any person informing or warning such district or municipality of the fire arising from such burn.

Source: L. 89: Entire section added, p. 1279, § 1, effective April 26. **L. 93:** (1) amended and (3) added, p. 1253, § 1, effective July 1. **L. 2000:** (1)(a) amended, p. 1304, § 7, effective May 26. **L. 2022:** (1)(c) added, (SB 22-002), ch. 339, p. 2442, § 7, effective June 3.

Cross references: For the legislative declaration contained in the 2000 act amending subsection (1)(a), see section 7 of chapter 272, Session Laws of Colorado 2000.

30-10-514. Sheriff to transport prisoners.

It is the duty of any sheriff transporting prisoners to a correctional facility, as defined in section 17-1-102, C.R.S., or other place of confinement to convey to such facility or other place of confinement at one time all prisoners who may have been convicted and sentenced and who are ready for such transportation. If any sheriff fails or neglects to carry out the provisions of this section, the boards of county commissioners may disallow any such sheriff's bill for such extra trips as in their discretion are unnecessary. This section shall not apply to the transportation of the insane.

Source: L. 1897: p. 256, § 1. **R.S. 08:** § 1282. **C.L.** § 8757. **CSA:** C. 45, § 104. **CRS 53:** § 35-5-14. **C.R.S. 1963:** § 35-5-14. **L. 79:** Entire section amended, p. 704, § 83, effective July 1.

Cross references: For necessary expenses of and mileage allowance to sheriffs for transporting prisoners, see § 30-1-104 (1)(w).

ANNOTATION

The sheriff conveying several prisoners to the penitentiary or other place of detention is entitled to but one mileage for the service of the mittimus, no matter what may be the number of his prisoners, so he is entitled to but one mittimus mileage for all prisoners, who, being convicted and sentenced, are ready to be transported at the same time, however transported, whether by separate trips, or otherwise, but he is entitled to mileage for each prisoner so transported, whether in one or several trips. Bd. of

Comm'rs v. Campbell, 52 Colo. 440, 123 P. 317 (1912).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

30-10-515. Sheriff to execute writs - attend court.

The sheriff, in person or by his undersheriff or deputy, shall serve and execute, according to law, all processes, writs, precepts, and orders issued or made by lawful authority and to him directed, and shall serve the several courts of record held in his county.

Source: G.L. § 496. **G.S.** § 600. **R.S. 08:** § 1283. **C.L.** § 8758. **CSA:** C. 45, § 105. **CRS 53:** § 35-5-15. **C.R.S. 1963:** § 35-5-15.

Cross references: For sheriff's duty to serve on tender of fee, see § 30-1-106.

ANNOTATION

A sheriff is an officer of the court charged with the duty of carrying out the orders and decrees of the court. Struble v. Barger, 128 Colo. 188, 261 P.2d 497 (1953).

But sheriffs are not required to be learned in the law and when the sheriff obeys the order of the judge, he is not liable for so doing. Struble v. Barger, 128 Colo. 188, 261 P.2d 497 (1953).

Because the sheriff is "an executive officer, whose sole duty is to execute, and not to decide on the truth or sufficiency of the processes committed to him for service". Struble v. Barger, 128 Colo. 188, 261 P.2d 497 (1953).

Also, the sheriff is protected because it would be inequitable and unjust to hold him responsible for acts of others over whom he has no control and for defects of which he had no notice; to hold otherwise would mean that the officer must act at his peril or delay until he has had an opportunity to search out legal niceties of procedure or substantive law. Struble v. Barger, 128 Colo. 188, 261 P.2d 497 (1953).

In the execution of process, the power possessed by the sheriff is conferred by the statutes, and no power exists in him except such as is expressly so conferred or may be fairly implied. McArthur v. Boynton, 19 Colo. App. 234, 74 P. 540 (1903).

The sheriff is the only officer to whom processes, writs, and orders of courts may be directed. Blitz v. Moran, 17 Colo. App. 253, 67 P. 1020 (1902).

In a judicial foreclosure of a mortgage the sheriff alone is authorized to execute the

decree of foreclosure and sell the land, and it is error for the court to appoint a commissioner, other than the sheriff, to make such foreclosure sale, where such appointment is at the time objected to. Blitz v. Moran, 17 Colo. App. 253, 67 P. 1020 (1902).

An officer cannot execute process unless it is directed to him for service, or to the class of officers to which he belongs, and no statute authorized the execution of process issuing from justices' courts in civil actions, by sheriffs or their deputies, as such. Porter v. Stapp, 6 Colo. 32 (1881).

Where a writ of attachment directed to the sheriff of one county was attempted to be executed by the sheriff of another county levying it upon property in his county, the levy was void and could not be cured by amendment after the attempted levy by changing the direction of the writ to the county in which the levy was made. McArthur v. Boynton, 19 Colo. App. 234, 74 P. 540 (1903).

Since a distraint warrant was a nonjudicial process, precept, or order made by lawful authority, it was the duty of the sheriff to serve and execute the same according to law. Goldsmith v. McAnally, 92 Colo. 384, 20 P.2d 1009 (1933).

And the issuance of a distraint warrant did not constitute a delegation of power to collect by the treasurer to the sheriff; in rendering the services, the sheriff merely acted as a peace officer in the performance of his duty. Goldsmith v. McAnally, 92 Colo. 384, 20 P.2d 1009 (1933).

A scire facias or summons to hear errors issued by the clerk of the supreme court must be directed to the sheriff of the county where the defendant in error resides or may be found, and no other person than such sheriff or his authorized deputy has authority to serve such summons; an attempted service of such summons made by a person not authorized by law to make such service is a nullity. Wellington v. Beck, 29 Colo. 73, 66 P. 881 (1901).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

30-10-516. Sheriffs to preserve peace - command aid.

It is the duty of the sheriffs, undersheriffs, and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots, and unlawful assemblies and insurrections. For that purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they, and every coroner, may call to their aid such person of their county as they may deem necessary.

Source: G.L. § 497. **G.S.** § 601. **R.S. 08:** § 1284. **C.L.** § 8759. **CSA:** C. 45, § 106. **CRS 53:** § 35-5-16. **C.R.S. 1963:** § 35-5-16. **L. 64:** p. 383, § 7.

Cross references: For authority of a peace officer to command aid, see § 16-3-202.

ANNOTATION

It is the duty of sheriffs to preserve peace and quiet, prevent acts of malicious mischief, disperse unlawful assemblages, and arrest, without warrant, persons violating the laws relative to such acts. Corder v. People ex rel. Smiley, 87 Colo. 251, 287 P. 85 (1930).

Denver deputies not granted same police powers as other deputies. There is no authority, constitutional or statutory, granting to deputy sheriffs of the city and county of Denver the same general police powers given sheriffs and their deputies in other counties. Int'l Bhd. of Police Officers, Local 127 v. City & County of Denver, 185 Colo. 50, 521 P.2d 916 (1974).

Departmental rules and directives of the manager of safety govern a deputy sheriff's duties in Denver. Int'l Bhd. of Police Officers, Local 127 v. City & County of Denver, 185 Colo. 50, 521 P.2d 916 (1974).

Jury questions. Whether or not certain acts in the nature of Halloween pranks constituted a disturbance, and whether an assemblage of boys was unlawful, was held for the jury to determine. Corder v. People ex rel. Smiley, 87 Colo. 251, 287 P. 85 (1930).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

30-10-517. Outgoing sheriff may proceed with writs.

Every sheriff going out of office at the expiration of the sheriff's term and having any order of fieri facias or fee bill that the sheriff has levied but not collected shall collect such execution or fee bill in the same manner as if the sheriff's term of office had not expired.

Source: G.L. § 499. **G.S.** § 603. **R.S. 08:** § 1286. **C.L.** § 8761. **CSA:** C. 45, § 108. **CRS 53:** § 35-5-17. **C.R.S. 1963:** § 35-5-17. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 561, § 19, effective August 11.

ANNOTATION

Which surety liable. Where money came into the hands of a sheriff by sale of perishable property under a writ of attachment and, pending the litigation in the attachment suit but after the sale of the property, the sheriff's term of office expired

and he was reelected and gave a new official bond and when the attachment suit was ended the sheriff defaulted in the payment of the attachment fund, the sureties on his official bond at the time of the execution of the writ and sale of the property were liable for his default. People ex rel. Schayer v. Kendall, 14 Colo. App. 175, 59 P. 409 (1899).

Running of statute of limitations. Where a sheriff converted to his own use of money received from the sale of property under a writ of attachment, the statute of limitations would not begin to run against an action by the attachment plaintiff on the official bond of the sheriff to recover the money converted until final judgment was entered in the attachment suit in favor of plaintiff, both as to the attachment defendant and an intervener claiming the property. People ex rel. Tritch v. Cramer, 15 Colo. 155, 25 P. 302 (1890); People ex rel. Schayer v. Kendall, 14 Colo. App. 175, 59 P. 409 (1899); Rose v. Dunklee, 12 Colo. App. 403, 56 P. 342 (1899).

30-10-518. Coroner when acting as sheriff.

The provisions of sections 30-10-503 and 30-10-517 shall apply to all coroners when by virtue of the laws of the state they are required to perform the duties of sheriff.

Source: G.L. § 500. **G.S.** § 604. **R.S. 08:** § 1287. **C.L.** § 8762. **CSA:** C. 45, § 109. **CRS 53:** § 35-5-18. **C.R.S. 1963:** § 35-5-18.

30-10-519. Service on sheriff, made how.

Every paper required by law to be served on the sheriff may be served on him in person or left at his office during business hours.

Source: G.L. § 503. **G.S.** § 607. **R.S. 08:** § 1290. **C.L.** § 8765. **CSA:** C. 45, § 112. **CRS 53:** § 35-5-19. **C.R.S. 1963:** § 35-5-19.

30-10-520. Sheriff not to act as attorney.

No sheriff, undersheriff, or deputy shall appear or advise as attorney or counselor in any case in any court.

Source: G.L. § 504. **G.S.** § 608. **R.S. 08:** § 1291. **C.L.** § 8766. **CSA:** C. 45, § 113. **CRS 53:** § 35-5-20. **C.R.S. 1963:** § 35-5-20.

30-10-521. Illegal fees - penalty.

No sheriff shall directly or indirectly ask, demand, or receive for any service to be performed by him in the discharge of any of his official duties any greater fees than are allowed by law, on penalty of forfeiture of treble damages to the party aggrieved, and being fined in a sum not less than twenty-five dollars and not more than two hundred dollars.

Source: G.L. § 506. **G.S.** § 610. **R.S. 08:** § 1293. **C.L.** § 8768. **CSA:** C. 45, § 115. **CRS 53:** § 35-5-21. **C.R.S. 1963:** § 35-5-21.

ANNOTATION

Under this section the proceedings are against the sheriff personally, and there is no provision making the sureties liable upon the official bond in treble damages for a crime or misdemeanor of the principal. State Bank v. Brennan, 7 Colo. App. 427, 43 P. 1050 (1896).

This section refers only to fees, and not to actual reasonable expenses incurred in caring for the property held by the sheriff under attachment, and the court has determined that the sheriff is entitled to reimbursement for reasonable charges incurred in taking possession of, removing and keeping property taken on a writ of attachment. Cramer v. Brasher, 15 Colo. 216, 25 P. 180 (1890).

The sheriff may be reimbursed for money expended in taking and preserving property seized under valid process, but such costs are allowable only to the extent of reasonable and actual as well as necessary expenditures. Cramer v. Oppenstein, 16 Colo. 495, 27 P. 713 (1891).

But for the making of an inventory of attached property which is not a matter necessarily involving the expenditure of money out of pocket and thus the sheriff is not entitled to costs therefor in addition to the statutory fees. Cramer v. Oppenstein, 16 Colo. 495, 27 P. 713 (1891).

The sheriff has an insurable interest in property seized in execution; but he cannot subject the execution debtor to the cost of insurance without his express consent. Cramer v. Oppenstein, 16 Colo. 495, 27 P. 713 (1891).

Where the sheriff retains moneys above his proper fees and costs, the party entitled to the surplus may recover the same by action, and the remedy in such cases is not limited to a proceeding to retax the sheriff's fees and costs, though that

course may be pursued, and though the suit may be for treble damages under this section, still, under appropriate allegations, there may be a recovery as for money had and received. Cramer v. Oppenstein, 16 Colo. 495, 27 P. 713 (1891).

No commission. Where money, received as the proceeds of an execution sale, exceeds the amount necessary to satisfy the execution, the sheriff is not entitled to charge commissions on such excess. Cramer v. Oppenstein, 16 Colo. 495, 27 P. 713 (1891).

30-10-522. Actions against sheriff - sureties liable - when.

Except in the case of a sheriff covered by insurance purchased pursuant to section 30-10-501 (2), in an action brought against a sheriff for an action done by virtue of the sheriff's office, if the sheriff gives notice thereof to the sureties on any bond of indemnity given by the sheriff, the judgment recovered therein shall be sufficient evidence of the sheriff's right to recover against such sureties, and the court, on motion, upon notice of five days, may order judgment to be entered against them for the amount so recovered, including costs.

Source: L. 1887: p. 214, § 419. **Code 08:** § 454. **Code 21:** § 456. **Code 35:** § 456. **CRS 53:** § 35-5-22. **C.R.S. 1963:** § 35-5-22. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 561, § 20, effective August 11.

ANNOTATION

This section of the code does not change the rule which exists in the absence of a statute except insofar as it provides for the entering of judgment upon the bond, and in the absence of a statute the rule is that to entitle the obligee to maintain an action upon a general promise of indemnity against damages of liability, it is not necessary that he should have given notice of a suit against him in which the judgment upon which the breach is predicated was rendered, if, however, no notice is given, the judgment is only prima facie evidence against the obligors and may be attacked on the ground that the obligee failed to avail himself of a good defense or that it was obtained by fraud or collusion. Whinnery v. Wiley, 38 Colo. 203, 88 P. 171 (1906).

30-10-523. Sheriff - permits for concealed handguns.

The sheriff of each county and the official who has the duties of a sheriff in each city and county shall issue written permits to carry concealed handguns as provided in part 2 of article 12 of title 18, C.R.S.

Source: L. 81: Entire section added, p. 1437, § 1, effective June 8. **L. 2003:** Entire section amended, p. 650, § 8, effective May 17.

30-10-524. Sheriff to provide identification cards to retired peace officers upon request - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Peace officer" means a certified peace officer described in section 16-2.5-102, C.R.S.

(b) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926c (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if a sheriff's office has a policy, on August 7, 2013, of issuing photographic identification to peace officers who have retired from the sheriff's office, and the sheriff's office discontinues said policy after August 7, 2013, the sheriff's office shall continue to provide such photographic identification to peace officers who have retired from the sheriff's office if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the sheriff's office before the date upon which the sheriff's office discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926c (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act", Pub.L. 103-159, the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) The sheriff's office may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the sheriff's office in issuing the photographic identification.

(5) Notwithstanding any provision of this section to the contrary, a sheriff's office shall not be required to issue a photographic identification to a particular peace officer if the sheriff elects not to do so.

(6) If a sheriff's office denies a photographic identification to a retired peace officer who requests a photographic identification pursuant to this section, the sheriff's office shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 258, § 3, effective August 7.

30-10-525. Disclosure of knowing misrepresentation by a peace officer required - disclosure waivers - reports - definitions.

(1) Subject to the limitations of this section, a sheriff's office that employs, employed, or deputized on or after January 1, 2010, a peace officer who applies for employment with another Colorado law enforcement agency shall disclose to the hiring agency information, if available, indicating whether the peace officer's employment history included any instances in which the peace officer had a sustained violation for making a knowing misrepresentation:

(a) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(b) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as described in section 18-8-404 or 18-8-405, C.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the peace officer's employing agency is a party.

(2) The disclosure described in subsection (1) of this section is required only upon the presentation of a written waiver to a sheriff's office, which waiver explicitly authorizes the sheriff's office to disclose the information described in said subsection (1), has been signed by the applicant peace officer, and identifies the Colorado law enforcement agency that is considering the applicant peace officer for employment. A sheriff's office that receives such a waiver shall provide the disclosure to the Colorado law enforcement agency that is considering the applicant peace officer for employment not more than seven days after such receipt.

(3) A sheriff's office is not required to provide the disclosure described in subsection (1) of this section if the sheriff's office is prohibited from providing such disclosure pursuant to a binding nondisclosure agreement to which the sheriff's office is a party, which agreement was executed before August 5, 2015.

(4) (a) A sheriff's office shall notify the local district attorney whenever the sheriff's office determines there is a sustained finding that any peace officer of the sheriff's office has made a knowing misrepresentation:

(I) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(II) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as described in section 18-8-404 or 18-8-405, C.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the peace officer's employing agency is a party.

(b) A sheriff's office shall provide the notice described in paragraph (a) of this subsection (4) not more than seven days after the sheriff's office determines there is a sustained finding that a peace officer of the sheriff's office has made a knowing misrepresentation, as described in said paragraph (a).

(5) A sheriff's office is not liable for complying with the provisions of this section.

(6) As used in this section, unless the context requires otherwise, "state or local law enforcement agency" means:

(a) The Colorado state patrol created pursuant to section 24-33.5-201, C.R.S.;

(b) The Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S.;

(c) A county sheriff's office;

(d) A municipal police department;

(e) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124, C.R.S.; or

(f) A town marshal's office.

Source: L. 2015: Entire section added, (SB 15-218), ch. 209, p. 761, § 3, effective August 5.

Cross references: For the legislative declaration in SB 15-218, see section 1 of chapter 209, Session Laws of Colorado 2015.

30-10-526. Sheriff office hiring - required use of waiver - definitions.

(1) A sheriff's office shall require each candidate that it interviews for a peace officer position who has been employed by another law enforcement agency or governmental agency to

execute a written waiver that explicitly authorizes each law enforcement agency or governmental agency that has employed the candidate to disclose the applicant's files, including internal affairs files, to the interviewing sheriff's agency and releases the interviewing sheriff's office and each law enforcement agency or governmental agency that employed the candidate from any liability related to the use and disclosure of the files. A law enforcement agency or governmental agency may disclose the applicant's files by either providing copies or allowing the sheriff's office to review the files at the law enforcement agency's office or governmental agency's office. A candidate who refuses to execute the waiver shall not be considered for employment by the sheriff's office. The sheriff's office interviewing the candidate shall, at least twenty-one days prior to making the hiring decision, submit the waiver to each law enforcement agency or governmental agency that has employed the candidate. A state or local law enforcement agency or governmental agency that receives such a waiver shall provide the disclosure to the sheriff's office that is interviewing the candidate not more than twenty-one days after such receipt.

(2) A state or local law enforcement agency is not required to provide the disclosures described in subsection (1) of this section if the agency is prohibited from providing the disclosure pursuant to a binding nondisclosure agreement to which the agency is a party, which agreement was executed before June 10, 2016.

(3) A state or local law enforcement agency or governmental agency is not liable for complying with the provisions of this section or participating in an official oral interview with an investigator regarding the candidate.

(4) As used in this section, unless the context otherwise requires:

(a) "Files" means all performance reviews, any other files related to job performance, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, and all complaints, early warnings, and commendations, but does not include nonperformance or conduct-related data, including medical files, schedules, pay and benefit information, or similar administrative data or information.

(b) "State or local law enforcement agency" means:

(I) The Colorado state patrol created pursuant to section 24-33.5-201, C.R.S.;

(II) The Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S.;

(III) A county sheriff's office;

(IV) A municipal police department;

(V) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124, C.R.S.; or

(VI) A town marshal's office.

Source: L. 2016: Entire section added, (HB 16-1262), ch. 339, p. 1383, § 3, effective June 10.

30-10-527. Behavioral health professionals - grant applications encouraged - definition - repeal.

(1) Each sheriff is encouraged to adopt a policy whereby mental health professionals, to the extent practicable, provide:

(a) On-scene response services to support deputy sheriffs' handling of persons with mental health disorders; and

(b) Counseling services to deputy sheriffs.

(2) In implementing a policy as described in subsection (1) of this section, a sheriff shall not require a mental health professional to counsel both a person with a mental health disorder and a deputy sheriff if, in the judgment of the mental health professional, doing so would constitute a conflict of interest or a breach of a professional code of ethics.

(3) For the purposes of this section, each sheriff's office is encouraged to apply annually for a grant from the peace officers behavioral health support and community partnerships grant program created in section 24-32-3501.

(4) As used in this section, "mental health professional" means a mental health professional licensed to practice medicine pursuant to article 240 of title 12 or a person licensed as a mental health professional pursuant to article 245 of title 12.

(5) This section is repealed, effective September 1, 2027.

Source: L. 2017: Entire section added, (HB 17-1215), ch. 150, p. 506, § 1, effective August 9. **L. 2019:** (4) amended, (HB 19-1172), ch. 136, p. 1718, § 211, effective October 1. **L. 2021:** (3) amended, (HB 21-1030), ch. 354, p. 2306, § 3, effective September 7.

Cross references: For the legislative declaration in HB 21-1030, see section 1 of chapter 354, Session Laws of Colorado 2021.

30-10-528. Incarcerated parents - family services coordinator.

Each sheriff shall designate at least one individual to serve as a communication liaison between the county jail and county departments of human or social services concerning children subject to an open dependency and neglect case whose parents are incarcerated in the jail for the purpose of improving communication and ensuring opportunities for family time.

Source: L. 2023: Entire section added, (SB 23-039), ch. 191, p. 961, § 1, effective January 1, 2024. **L. 2024:** Entire section amended, (HB 24-1222), ch. 155, p. 693, § 22, effective August 7.

Cross references: For the legislative declaration in SB 23-039, see section 1 of chapter 191, Session Laws of Colorado 2023.

30-10-529. Coordinator for voting at county jails or detention centers - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Ballot information booklet" means the ballot information booklet published and distributed pursuant to section 1-40-124.5.

(b) "Designee" means an individual designated pursuant to subsection (2) of this section.

(2) Each sheriff shall designate at least one individual to facilitate voting for all confined eligible electors at a county jail or detention center.

(3) The designee shall:

(a) Coordinate with the county clerk and recorder pursuant to section 1-7.5-113.5;

(b) Ensure that all confined eligible electors have reasonable access to the ballot information booklet, the information required by section 1-40-125, and any election-related materials that are prepared and provided to the designee in support of or in opposition to any candidate or issue on the ballot;

(c) Ensure that notice of the date and time for in-person voting at the jail or detention center pursuant to section 1-7.5-113.5 (4)(a) is provided to confined individuals, including notice that, if eligible to vote, confined individuals may register to vote during the in-person voting;

(d) Provide to confined individuals information regarding eligibility to vote, how confined individuals can verify or change their voter registration, and how confined individuals, if eligible to vote, can register to vote;

(e) Ensure that confined individuals who want to verify or change their voter registration or register to vote have reasonable access to resources to do so;

(f) Establish a location at the county jail or detention center for confined eligible electors to return their ballots for collection by a team of bipartisan election judges acting at the direction of the clerk and recorder pursuant to section 1-7.5-113.5 (3)(c)(I), and provide information to confined individuals concerning the methods by which ballots can be returned, the location in the county jail or detention center where ballots can be returned, and the deadlines for returning ballots; and

(g) Establish a process for a confined eligible elector to have the opportunity to cure a deficiency on their ballot pursuant to sections 1-7.5-107 (3.5) and 1-7.5-107.3 (1.5).

(4) Information provided by the designee and actions taken by the designee pursuant to this section must be in accordance with any applicable provisions concerning elections set forth in title 1.

(5) Any failure by the sheriff or the designee to comply with the requirements of this section is subject to assessment of a civil penalty to be determined by the district court for the judicial district in which the county jail or detention center is located, payable by the county. The civil penalty is in the amount of five thousand dollars per violation. The office of court executive of the judicial district shall transmit fines collected pursuant to this subsection (5) to the state treasurer, who shall credit the same to the department of state cash fund created in section 24-21-104 (3)(b).

Source: L. 2024: Entire section added, (SB 24-072), ch. 298, p. 2034, § 4, effective May 31.

30-10-530. Jail standards advisory committee - creation - duties - cash fund - definition.

(1) The department of public safety shall contract with the county sheriffs of Colorado to create a jail standards advisory committee.

(2) (a) The jail standards advisory committee consists of:

(I) Two sheriffs, or their designees, appointed by a statewide organization representing the county sheriffs of Colorado, or its successor organization;

(II) Two county commissioners appointed by Colorado counties, incorporated, or its successor organization;

(III) The state public defender or the state public defender's designee;

(IV) One physical or behavioral health professional with experience working in a jail appointed by the legislative oversight committee for Colorado jail standards created in section 2-3-1901;

(V) One person representing a statewide organization that advocates on behalf of people experiencing incarceration appointed by the legislative oversight committee for Colorado jail standards created in section 2-3-1901; and

(VI) One nonvoting member who represents a municipality, appointed by a statewide organization representing the interests of municipalities, or its successor organization.

(b) To the extent possible, the members must reflect the geographic, racial, and ethnic diversity of the state, and, when possible, include one or more members who is a person with a disability.

(c) The members' terms are for two years; except that the initial terms for the members appointed pursuant to subsections (2)(a)(I) and (2)(a)(IV) of this section are for three years. A member may be reappointed for more than one term. The appointments must be made by July 1, 2024.

(3) The jail standards advisory committee shall begin meeting in July of 2024 and shall plan assessments of jails to begin in January of 2025.

(4) The jail standards advisory committee shall select a chair from among its members and may adopt bylaws as necessary to fulfill its duties.

(5) The jail standards advisory committee shall perform the following duties:

(a) To set rules and establish guidelines and procedures for the advisory committee;

(b) To advise the attorney general on the selection of peer assessors to perform jail assessments for compliance with the jail standards in collaboration with the attorney general's office pursuant to section 24-31-118. Jail assessors shall have expertise in the relevant subject areas of the jail standards and, when appropriate, have worked in jails.

(c) To set a schedule for jail assessments with the expectation that each jail is inspected at least every five years;

(d) In consultation with peer assessors, to set rules and establish guidelines and minimum procedures for jail assessments, which at a minimum require:

(I) Reviewing the written policies and procedures at the jail;

(II) Physically inspecting the jail's facilities;

(III) Interviewing relevant staff of the jail; and

(IV) When appropriate, interviewing individuals who are incarcerated in the jail;

(e) In cooperation with the peer assessors, to complete a report for each jail assessment, which includes reports of standards which the jail is out of compliance with, and includes any recommendations for improvement;

(f) To establish rules and a process for jails to seek a variance from jail standards;

(g) To review variance requests and approve or deny variance requests;

(h) To determine guidelines for what is provided on the dashboard pursuant to section 24-33.5-503 (1)(ee);

(i) To submit an annual report to the legislative oversight committee;

(j) To make recommendations to the legislative oversight committee about any legislative actions which would support compliance with the jail standards, improve the implementation of jail standards, or improve operations of jails consistent with the jail standards;

(k) To recommend changes to the jail standards to the legislative oversight committee; and

(l) To engage cooperatively with county commissioners, sheriffs, and those working in jails. This includes providing information about the jail standards and jail assessments and making recommendations to improve the operation of jails consistent with the jail standards.

(6) The jail standards advisory committee may make recommendations to the general assembly regarding methods to seek improvements to comply with jail standards.

(7) (a) The jail standards advisory committee cash fund is created in the state treasury. The fund consists of money appropriated by the general assembly.

(b) (I) For state fiscal years commencing on or before July 1, 2024, the state treasurer shall credit all interest and income derived from the deposit and investment of money in the jail standards advisory committee cash fund to the fund.

(II) For state fiscal years commencing on and after July 1, 2025, in accordance with section 24-36-114 (1), the state treasurer shall credit all interest and income derived from the deposit and investment of money in the jail standards advisory committee cash fund to the general fund.

(III) Repealed.

(c) The department of public safety shall expend money from the fund to reimburse costs related to the jail standards advisory committee.

(8) The jail standards advisory committee shall annually submit a report to the legislative oversight committee for Colorado jail standards created in section 2-3-1901 to include:

(a) The results and status of any assessments conducted that year by county;

(b) The number and nature of variances granted;

(c) Recommendations regarding jail standards; and

(d) Recommendations regarding funding or other necessary supports for local jails to comply with jail standards.

(9) For purposes of this section, "jail standards" means the jail standards adopted by the legislative oversight committee concerning Colorado jail standards pursuant to section 2-3-1901 (2) and any subsequent revisions to the standards.

Source: L. 2024: Entire section added, (HB 24-1054), ch. 328, p. 2219, § 7, effective June 3. **L. 2025:** (7)(b) amended, (SB 25-317), ch. 385, p. 2162, § 45, effective June 3. **L. 2026:** (2)(a)(IV) and (2)(a)(V) amended and (2)(a)(VI) added, (HB 26-1039), ch. 75, p. 298, § 9, effective August 12.

Editor's note: Subsection (7)(b)(III)(B) provided for the repeal of subsection (7)(b)(III), effective July 1, 2026. (See L. 2025, p. 2162.)

Cross references: For the legislative declaration in SB 25-317, see section 1 of chapter 385, Session Laws of Colorado 2025.

PART 6

CORONER

Cross references: For fees and compensation of coroners, see § 30-2-108.

30-10-600.3. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "C.C.S.T. board" means the Colorado coroners standards and training board created in section 30-10-601.6 (1).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2087, § 253, effective August 6.

30-10-601. Coroner - election - bond - insurance - authority.

(1) (a) Repealed.

(b) A coroner shall be elected in each county for the term of four years, who, except as provided in subsection (1.5) of this section, before entering upon the duties of office, shall give bond to the people of the state of Colorado of not less than twenty-five thousand dollars, with sufficient sureties, to be approved by the board of county commissioners or, if the board is not in session, by the county clerk and recorder, subject to the approval of such board, the condition of which bond shall be in substance the same as that given by the sheriff. Such bond shall be filed with the county clerk and recorder of the proper county.

(1.5) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage in an amount not less than twenty-five thousand dollars on behalf of the coroner to protect the people of the county from any malfeasance on the part of the coroner while in office.

(2) The coroner may declare an individual dead if the coroner finds the individual has sustained irreversible cessation of circulatory and respiratory function.

Source: G.L. § 507. **G.S.** § 611. **R.S. 08:** § 1294. **C.L.** § 8769. **CSA:** C. 45, § 116. **CRS 53:** § 35-6-1. **L. 56:** p. 129, § 3. **C.R.S. 1963:** § 35-6-1. **L. 81:** Entire section amended, p. 1439, § 1, effective June 4. **L. 89:** (1) amended, p. 1275, § 2, effective April 18. **L. 2003:** (1)(a) repealed, p. 1834, § 4, effective August 6; (1)(a)(II) added by revision, pp. 1834, 1835, §§ 4, 5. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 561, § 21, effective August 11.

Cross references: For the definition of death, see § 12-240-140.

30-10-601.5. Qualifications - fingerprints.

(1) A person is eligible to hold the office of coroner if the person:

(a) Is a citizen of the United States and a resident of the state of Colorado and of the county in which the person will hold the office of coroner;

(b) Has earned a high school diploma or its equivalent or a college degree;

(c) Has given a set of fingerprints in accordance with subsection (2) of this section; and

(d) For a coroner elected on or after November 5, 2024, in a county with a population greater than three hundred thousand, is a death investigator certified by and in good standing with the

American board of medicolegal death investigators or is a forensic pathologist certified by and in good standing with the American board of pathology.

(2) (a) A person who is nominated by a political party or for whom a nominating petition is filed for the office of coroner shall have a complete set of fingerprints taken by a qualified law enforcement agency and submit proof of such fingerprinting when filing a written acceptance pursuant to section 1-4-601 (3), 1-4-906, or part 10 of article 4 of title 1.

(b) A person wishing to be a write-in candidate for the office of coroner shall have a complete set of fingerprints taken by a qualified law enforcement agency and submit proof of such fingerprinting when filing an affidavit of intent pursuant to section 1-4-1101, C.R.S.

(c) A board of county commissioners shall not appoint a person to fill a vacancy in the office of coroner unless the person has had a complete set of fingerprints taken by a qualified law enforcement agency and has submitted proof of such fingerprinting to the board.

(3) (a) A law enforcement agency that takes fingerprints in accordance with subsection (2) of this section shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. The Colorado bureau of investigation shall report the results of the criminal history record check to the county clerk and recorder of the county in which the person has been nominated for or is to be appointed to the office of coroner.

(b) A person who has been convicted of or pleaded guilty or entered a plea of nolo contendere to any felony charge under federal or state law is unqualified for the office of coroner unless pardoned. The results of the criminal history record check performed in accordance with this subsection (3) shall be confidential; except that the county clerk and recorder may disclose whether a person is qualified or unqualified for the office of coroner.

Source: L. 2003: Entire section added, p. 1831, § 3, effective August 6. **L. 2017:** (2)(a) amended, (SB 17-209), ch. 234, p. 964, § 12, effective August 9. **L. 2024:** (1)(b) and (1)(c) amended and (1)(d) added, (HB 24-1100), ch. 62, p. 210, § 1, effective August 7. **L. 2026:** (1)(d) amended, (SB 26-105), ch. 83, p. 332, § 1, effective August 12.

30-10-601.6. Coroners standards and training board.

(1) There is hereby created in the department of public health and environment the Colorado coroners standards and training board.

(2) The C.C.S.T. board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(3) (a) The C.C.S.T. board shall consist of eight members. The chairperson and the vice-chairperson of the C.C.S.T. board shall be elected annually by the members of the C.C.S.T. board with the requirement that the chairperson be either a coroner or a forensic pathologist.

(b) The members of the C.C.S.T. board shall be appointed by the governor as follows:

(I) A coroner of a county with a population of fifty thousand or more;

(II) A coroner of a county with a population of less than fifty thousand but more than fifteen thousand;

(III) A coroner of a county with a population of fifteen thousand or less;

(IV) A county commissioner of a county with a population of fifty thousand or more;

(V) A county commissioner of a county with a population of less than fifty thousand;

(VI) A pathologist who is actively engaged in performing postmortem examinations for a county in this state and who is a member of the Colorado medical society;

(VII) A chief of police from a municipality in this state or a county sheriff; and

(VIII) A district attorney from a judicial district in this state.

(c) The governor shall appoint each member of the C.C.S.T. board for a term of three years; except that the terms shall be staggered so that no more than three members' terms expire in the same year.

(d) If a county coroner, county commissioner, county sheriff, chief of police, or district attorney leaves that office, that person's term on the C.C.S.T. board shall expire. The governor shall appoint a suitable person to fill the vacancy on the C.C.S.T. board for the unexpired term.

(4) The members of the C.C.S.T. board shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(5) (a) The C.C.S.T. board may accept and expend gifts, grants, and donations to pay the direct expenses of the C.C.S.T. board. The C.C.S.T. board shall transmit all gifts, grants, and donations to the state treasurer, who shall credit the money to the coroner training fund created in section 30-10-601.8 (5). Any unencumbered state money remaining in the fund upon the repeal of this section shall be transferred to the general fund.

(b) (Deleted by amendment, L. 2011, (HB 11-1303), ch. 264, p. 1173, § 85, effective August 10, 2011.)

(6) The department of public health and environment staff is not required to provide any financial support or perform any administrative duties related to the operation of the C.C.S.T. board.

(7) The attorney general shall be the legal advisor to the C.C.S.T. board. A deputy or assistant attorney general chosen by the attorney general or the attorney general's designee shall attend each meeting of the C.C.S.T. board to provide legal counsel to the C.C.S.T. board as requested by the board.

Source: L. 2003: Entire section added, p. 1831, § 3, effective August 6. **L. 2011:** (5) amended, (HB 11-1303), ch. 264, p. 1173, § 85, effective August 10. **L. 2014:** (3)(a), (5)(a), and (6) amended and (7) added, (HB 14-1380), ch. 376, p. 1793, § 1, effective July 1. **L. 2020:** (5)(a) and (6) amended, (HB 20-1397), ch. 213, p. 1030, § 2, effective June 30. **L. 2022:** IP(3)(b) and (3)(c) amended, (SB 22-013), ch. 2, p. 73, § 97, effective February 25; (2) amended, (SB 22-162), ch. 469, p. 3370, § 57, effective August 10. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2087, § 254, effective August 6.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

30-10-601.7. Duties of the Colorado coroners standards and training board.

(1) In addition to its other duties set forth in this part 6, the C.C.S.T. board shall:

(a) Develop a curriculum for a forty-hour training course for new coroners and approve the qualifications of the instructors who teach the course;

(b) Approve training providers to certify coroners in basic medical-legal death investigation pursuant to section 30-10-601.8 (2); and

(c) Approve training providers and programs used to fulfill the annual twenty-hour in-service training requirement specified in section 30-10-601.8 (3).

Source: L. 2003: Entire section added, p. 1833, § 3, effective August 6. **L. 2014:** (1)(c) amended, (HB 14-1380), ch. 376, p. 1794, § 2, effective July 1.

30-10-601.8. Training - fees - coroner training fund.

(1) A person who is elected or appointed to the office of coroner for the first time shall attend, at the first opportunity after the election or appointment, a training course for new coroners of at least forty hours using the curriculum developed by the C.C.S.T. board. The course shall be prepared and presented by qualified instructors from the Colorado coroners association or another training provider approved by the C.C.S.T. board. At the request of a new coroner, the C.C.S.T. board may decide that a combination of education, experience, and training satisfies the requirement to complete the training course for new coroners.

(2) A person who is elected or appointed to the office of coroner for the first time shall, within one year of taking office, obtain certification in basic medical-legal death investigation from the Colorado coroners association or another training provider approved by the C.C.S.T. board. The C.C.S.T. board may grant an extension of up to one year to obtain such certification for just cause. The C.C.S.T. board shall issue written findings of fact supporting the extension.

(3) Each coroner shall complete a minimum of twenty hours of in-service training provided by the Colorado coroners association or by another training provider approved by the C.C.S.T. board during each year of the coroner's term. At the request of a coroner, the C.C.S.T. board may decide that a combination of education, experience, and training satisfies the requirement to complete twenty hours of in-service training annually.

(4) The county shall pay the costs of new coroner and in-service training. The fees charged by the C.C.S.T. board for training programs may include costs incurred in the establishment and operation of the C.C.S.T. board.

(5) The C.C.S.T. board shall by rule establish fees for training programs. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the coroner training fund, which fund is hereby created. The moneys in the fund are hereby continuously appropriated to the C.C.S.T. board for the purposes of this part 6. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund.

(6) Each county coroner or his or her designee shall create a policy for the training of deputy coroners and make the policy available for public inspection.

Source: L. 2003: Entire section added, p. 1833, § 3, effective August 6. **L. 2014:** (3) amended and (6) added, (HB 14-1380), ch. 376, p. 1794, § 3, effective July 1.

30-10-601.9. Enforcement.

(1) If a coroner fails to comply with the requirements of section 30-10-601.8, the C.C.S.T. board shall notify the board of county commissioners that the coroner is not in compliance with the training requirements of section 30-10-601.8 and that state law requires the county commissioners to suspend the coroner's salary. Upon receipt of such notice, the board of county commissioners shall suspend the coroner's salary.

(2) If the C.C.S.T. board determines that a coroner whose salary has been suspended in accordance with subsection (1) of this section is in compliance with the training requirements of section 30-10-601.8, the C.C.S.T. board shall notify the board of county commissioners that the coroner is in compliance with the training requirements and that state law requires the board of county commissioners to reinstate the coroner's salary with back pay. Upon receipt of such notice, the board of county commissioners shall reinstate the coroner's salary with back pay.

Source: L. 2003: Entire section added, p. 1834 § 3, effective August 6.

30-10-602. Coroner and deputy coroner - duties - oath or affirmation - bond - insurance.

(1) The coroner of each county is authorized to appoint a deputy. Any such appointment shall be in writing and shall be filed in the office of the coroner. The coroner of each county may delegate any of the coroner's powers to one or more deputies who shall then have the same duties with respect thereto as the coroner has. Any act of a deputy shall be done in the name of the coroner and signed by the deputy performing such act. A deputy coroner shall hold office during and subject to the pleasure of the coroner. Except as provided in subsection (2) of this section, each coroner and deputy coroner shall take an oath or affirmation in accordance with section 24-12-101 and file the bond required by law to be filed by the coroner.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of the deputy coroner to protect the people of the county from any malfeasance on the part of the deputy coroner while in office.

Source: L. 07: p. 307, § 1. **R.S. 08:** § 1295. **C.L.** § 8770. **CSA:** C. 45, § 117. **L. 53:** p. 224, § 1. **CRS 53:** § 35-6-2. **L. 57:** p. 310, § 1. **C.R.S. 1963:** § 35-6-2. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 562, § 22, effective August 11. **L. 2018:** (1) amended, (HB 18-1138), ch. 88, p. 697, § 24, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

30-10-603. Deputy coroner - appointment.

Every appointment of a deputy coroner and every revocation thereof shall be in writing, under the hand of the coroner, and shall be filed in the office of the county clerk and recorder of the county wherein such appointment or revocation is made.

Source: L. 07: p. 307, § 2. **R.S. 08:** § 1296. **C.L.** § 8771. **CSA:** C. 45, § 118. **CRS 53:** § 35-6-3. **C.R.S. 1963:** § 35-6-3.

30-10-604. Coroner shall act as sheriff, when.

When there is no sheriff in any county, it is the duty of the coroner to exercise all the powers and duties of the sheriff of his county until a sheriff is appointed or elected and qualified; and when the sheriff for any cause is committed to the jail of his county, the coroner shall be keeper of such jail during the time the sheriff remains a prisoner.

Source: G.L. § 508. **G.S.** § 612. **R.S. 08:** § 1297. **C.L.** § 8772. **CSA:** C. 45, § 119. **CRS 53:** § 35-6-4. **C.R.S. 1963:** § 35-6-4.

Cross references: For powers and duties of coroner when acting as sheriff, see § 30-10-518; for substitute officers having same powers and compensation, see § 30-10-106.

ANNOTATION

A coroner can exercise the powers of the sheriff only in the cases specified in this and the service of process by him, except in such cases, is void. Tate v. People ex rel. Dewees, 6 Colo. App. 202, 40 P. 471 (1895).

30-10-605. When sheriff a party or disqualified.

(1) Every coroner shall serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the case, or where affidavit is made and filed as

provided in this section, and in all such cases he shall exercise the powers and proceed in the same manner as prescribed for the sheriff in the performance of similar duties.

(2) Whenever any party, his agent, or attorney makes and files with the clerk of the proper court an affidavit stating that he believes that the sheriff of such county by reason of either partiality, prejudice, consanguinity, or interest, will not faithfully perform his duties in any suit commenced or about to be commenced in such court, the clerk shall direct the original process in such suit to the coroner, who shall execute the process in like manner as the sheriff might or should have done.

Source: G.L. §§ 509, 510. **G.S.** §§ 613, 614. **R.S. 08:** §§ 1298, 1299. **C.L.** §§ 8773, 8774. **CSA:** C. 45, §§ 120, 121. **CRS 53:** § 35-6-5. **C.R.S. 1963:** § 35-6-5.

ANNOTATION

The provisions of this section are mandatory where there is a compliance with the statute by a litigating party, and a coroner may be disqualified in the same manner as a sheriff. Litch v. People ex rel. Town of Sterling, 19 Colo. App. 433, 75 P. 1083 (1904); Kelliher v. People, 71 Colo. 202, 205 P. 274 (1922); Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942).

Where the sheriff is party to an action all process therein must be served by the coroner, and a special panel of jurors summoned by the sheriff in such case, must be discharged on motion. Toenniges v. Drake, 7 Colo. 471, 4 P. 790 (1884); General Film Co. v. McAfee, 58 Colo. 344, 145 P. 707 (1914); Wise v. Toner, 65 Colo. 420, 176 P. 838 (1918).

In no event may a sheriff be disqualified until a proper affidavit is filed with the court clerk, which should be done at the earliest practicable opportunity. Hoffman v. People, 72 Colo. 552, 212 P. 848 (1923).

The term "party" as used in this section means the person whose name is expressly mentioned in the record as plaintiff or defendant, or one of the plaintiffs or defendants. Wise v. Toner, 65 Colo. 420, 176 P. 838 (1918).

Regularly, when the sheriff is a party to an action, his official character should appear by allegation in the declaration or by suggestion of record; courts, however, take judicial notice of who are their own officers, and, in the absence of any proof to the contrary, the court in this instance was justified in presuming the identity of the defendant and the sheriff. Coon v. Rigden, 4 Colo. 275 (1878).

It is immaterial whether a defendant sheriff has any pecuniary interest in the case, since, in any event, he is "a party to the case" within the meaning of this section.

Wise v. Toner, 65 Colo. 420, 176 P. 838 (1918).

Sheriff as trustee of land held proper party. Where a sheriff as trustee held the legal title to the land involved, it was held that such a trustee holding the legal title to the premises in controversy, although he has no beneficial interest therein, is a proper party to a final determination of the controversy, and is disqualified to serve process in the suit. Wise v. Toner, 65 Colo. 420, 176 P. 838 (1918).

The term "suit" in this section includes criminal proceedings. Kelliher v. People, 71 Colo. 202, 205 P. 274 (1922).

Because this section is not one relating exclusively to either criminal or civil procedure, but is one simply relating to duties of the sheriff and coroner, and the legislative intent was to substitute the coroner for the sheriff in any case, not merely in a civil action, where the affidavit is filed. Kelliher v. People, 71 Colo. 202, 205 P. 274 (1922).

Objection waived. Where the court issued an order for an open venire for eight more men and ordered the sheriff to procure that number and both the sheriff and the coroner were witnesses for the people, and objection was made to service by the sheriff, but since no affidavit of disqualification was filed as required by this section and no request was made for service by an elisor, objection was waived. Randal v. People, 113 Colo. 235, 156 P.2d 125 (1945).

Duty to court to declare disqualification. Whenever affidavits are filed showing disqualification of either sheriff or coroner to serve process in a case, it is the duty of the court to act, without counter-affidavits, and declare the officer disqualified. Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942).

30-10-606. Coroner - inquiry - grounds - postmortem - jury - certificate of death.

(1) The responding law enforcement agency shall notify the coroner when a death is discovered or confirmed as soon as practicable after the scene is safe and secure. The coroner shall immediately notify the district attorney or his or her designee if by prior agreement, and then at his or her discretion proceed to the scene to view the body. Upon arrival of the coroner, law enforcement shall make all reasonable accommodations to allow the coroner to collect time-sensitive information such as body and scene temperature, lividity, and rigor. The coroner, in cooperation with law enforcement, shall make all proper inquiry in order to determine the cause and manner of death of any person in his or her jurisdiction who has died under any of the following circumstances:

(a) If the death is or may be unnatural as a result of external influences, violence, or injury;

(a.3) Due to the influence of or the result of intoxication by alcohol, drugs, or poison;

(a.5) As a result of an accident, including at the workplace;

(a.7) When the death of an infant or child is unexpected or unexplained;

(b) When no physician is in attendance or when, though in attendance, the physician is unable to certify the cause of death;

(c) From a death that occurs within twenty-four hours of admission to a hospital;

(d) Repealed.

(e) From a disease which may be hazardous or contagious or which may constitute a threat to the health of the general public;

(f) If the death occurs from the action of a peace officer or while in the custody of law enforcement officials or while incarcerated in a public institution;

(g) When the death was sudden and happened to a person who was in apparent good health;

(h) When a body is unidentifiable, decomposed, charred, or skeletonized; or

(i) Circumstances that the coroner otherwise determines may warrant further inquiry to determine cause and manner of death or further law enforcement investigation.

(1.1) The coroner shall request that jurisdiction of a death be transferred to the coroner of the county in which the event which resulted in the death of the person occurred, with the jurisdiction effective upon the acceptance by the receiving coroner. The transfer shall be in writing, and a copy thereof shall be maintained in the offices of the transferring and receiving coroners. The district attorney from each county involved in the transfer shall be contacted prior to the transfer unless prior agreements have been established.

(1.2) (a) When a person dies as a result of circumstances specified in subsection (1) of this section or is found dead and the cause of death is unknown, the person who discovers the death shall report it immediately to law enforcement officials or the coroner, and the coroner shall take legal custody of the body.

(b) The body of any person who dies as a result of circumstances specified in subsection (1) of this section shall not be removed from the place of death prior to the arrival of the coroner or his or her designee or without the authority of the coroner or his or her designee unless it is necessary to identify the victim, to protect the property from damage or destruction, or to preserve and protect evidence, or protect life, health, or safety. The coroner, in consultation with the district attorney or local law enforcement agency, shall facilitate the timely removal of the body to preserve and protect evidence. The coroner may order the removal of the body for further investigation or release the body to the next of kin if no further investigation is required by law enforcement.

(c) If a suicide note related to the death is found at the place of death, the coroner or law enforcement agency according to a prior agreement shall take custody of the note as well as any

other documentation related to the cause or manner of death as is appropriate. If there is no prior agreement, law enforcement shall have the authority to take custody of the suicide note and shall provide a copy of the suicide note to the coroner. The coroner shall have the authority to view the suicide note prior to receiving a copy.

(d) In the case of a noncriminal investigation, the coroner in collaboration with local law enforcement shall identify the deceased, determine the deceased's next of kin, and notify the appropriate next of kin or other persons of the death.

(e) In the case of a noncriminal investigation, in order to assist with the identification of the deceased, location and identity of next of kin, and determination of the cause and manner of death, the coroner, in cooperation with law enforcement, has the authority to collect, examine, and store, or request law enforcement to collect, examine, and store, any documents, evidence, or information, including information available in electronic devices such as phones or computers subject to the limitations in the fourth amendment to the United States constitution and section 7 of article II of the Colorado constitution.

(f) When in the course of a coroner investigation, a death becomes suspicious or the possibility of criminal activity arises, the coroner shall immediately consult with the district attorney and law enforcement in the jurisdiction where the events that caused the death occurred.

(g) In the case of a noncriminal investigation, the coroner may take custody of prescription medications dispensed to the deceased to assist in determining the cause and manner of death subject to the limitations in the fourth amendment to the United States constitution and section 7 of article II of the Colorado constitution. The coroner shall properly document, store, and dispose of the medications or request law enforcement to document, store, and dispose of the medications.

(2) The coroner or his or her designee shall perform a forensic autopsy or have a forensic autopsy performed as required by section 30-10-606.5 or upon the request of the district attorney. Failure to comply with this section may be prosecuted as a violation of section 18-8-405, C.R.S.

(2.5) In the case of a noncriminal investigation, the coroner, in cooperation with the public administrator if applicable, may take appropriate measures to safeguard the property and its contents. The coroner may charge the costs of securing the premises against the estate of the deceased. A coroner who secures or safeguards the property and its contents is immune from civil liability for damage to or loss of the property or its contents.

(2.7) A coroner shall comply with information requests for statistical or research purposes from the department of public health and environment and the department of transportation.

(3) When the coroner has knowledge that any person has died under any of the circumstances specified in subsection (1) of this section, he may summon forthwith six citizens

of the county to appear at a place named to hold an inquest to hear testimony and to make such inquiries as he deems appropriate.

(4) (a) In all cases where the coroner has held an investigation or inquest, the certificate of death shall be issued by the coroner.

(b) Any certificate of death issued by a coroner shall be filed with the registrar and shall state the findings concerning the nature of the disease or the manner of death, and, if from external causes, the certificate shall state the manner of death. In addition, the certificate shall include the information described in section 25-2-103 (3)(b), C.R.S., whenever the subject of the investigation or inquest is under one year of age.

(c) A copy of the certificate of death or affidavit of presumed death, including any related documents and statements of fact, shall be retained indefinitely in the applicable county in a secure location in an appropriate county facility accessible only to the county coroner or the coroner's designee and in a manner that is consistent with the county's record retention policy and federal law.

(5) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

(6) (a) Notwithstanding sections 12-245-220 and 13-90-107 (1)(d) or (1)(g), the coroner holding an inquest or investigation pursuant to this section has the authority to request and receive a copy of:

(I) Any autopsy report or medical information from any pathologist, physician, dentist, hospital, or health-care provider or institution if such report or information is relevant to the inquest or investigation; and

(II) Any information, record, or report related to treatment, consultation, counseling, or therapy services from any licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, certified addiction counselor, unlicensed psychotherapist, psychologist candidate registered pursuant to section 12-245-304 (3), marriage and family therapist candidate registered pursuant to section 12-245-504 (4), licensed professional counselor candidate registered pursuant to section 12-245-604 (4), or person described in section 12-245-217, if the report, record, or information is relevant to the inquest or investigation.

(b) The coroner or his or her designee shall, at the request of the district attorney or attorney general, release to the district attorney or attorney general any autopsy report or medical information described in subparagraph (I) of paragraph (a) of this subsection (6) that the coroner obtains pursuant to paragraph (a) of this subsection (6).

(c) The coroner or his or her designee shall not release to any party any information, record, or report described in subparagraph (II) of paragraph (a) of this subsection (6) that the coroner obtains pursuant to paragraph (a) of this subsection (6).

(d) Any person who complies with a request from a coroner or his or her designee pursuant to paragraph (a) of this subsection (6) shall be immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the disclosure of confidential patient or client information.

(e) A coroner holding an inquest or investigation pursuant to this section may request a health-care facility that is licensed or certified in accordance with the requirements of article 3 of title 25 to retain and keep safe in its control any blood draw or admission blood sample taken from the individual that is the subject of the inquest or investigation. Upon request, the health-care facility shall retain the blood draw or admission blood sample for fourteen days. The coroner shall serve the retention request on the deceased individual's attending physician, clinical leadership of the health-care facility where the deceased individual expired, or the health-care facility's laboratory that has the deceased individual's blood draw or admission blood sample in its control.

Source: G.L. § 511. **G.S.** § 615. **L. 1887:** p. 233, § 1. **R.S. 08:** § 1300. **C.L.** § 8775. **CSA:** C. 45, § 122. **CRS 53:** § 35-6-6. **L. 57:** p. 311, § 1. **L. 73:** R&RE, p. 462, § 1. **C.R.S. 1963:** § 35-6-6. **L. 81:** (1)(c) to (1)(h) amended and (1.1), (1.2), and (6) added, pp. 1439, 1440, §§ 2, 3, effective June 4. **L. 89:** (6) amended, p. 1276, § 3, effective April 18. **L. 96:** (4) amended, p. 402, § 15, effective April 17. **L. 2000:** (6) amended, p. 157, § 1, effective August 2. **L. 2001:** (6) amended, p. 735, § 5, effective July 1. **L. 2002:** (6)(a)(II) amended, p. 1029, § 56, effective June 1. **L. 2004:** (4)(c) added, p. 626, § 3, effective August 4. **L. 2011:** (2) amended, (HB 11-1258), ch. 137, p. 477, § 2, effective May 4; IP(6)(a) and (6)(a)(II) amended, (SB 11-187), ch. 285, p. 1329, § 76, effective July 1. **L. 2013:** Entire section amended, (HB 13-1097), ch. 95, p. 304, § 3, effective April 4; (1) (d) repealed, (HB 13-1154), ch. 372, p. 2192, § 3, effective July 1; (6) (a) (II) amended, (HB 13-1104), ch. 77, p. 249, § 7, effective August 7. **L. 2019:** IP(6)(a) and (6)(a)(II) amended, (HB 19-1172), ch. 136, p. 1718, § 212, effective October 1. **L. 2020:** (6)(a)(II) amended, (HB 20-1206), ch. 304, p. 1551, § 68, effective July 14. **L. 2025:** (6)(e) added, (SB 25-273), ch. 345, p. 1869, § 1, effective August 6.

Editor's note: Amendments to this section by House Bill 13-1097, House Bill 13-1104, and House Bill 13-1154 were harmonized.

Cross references: (1) For issuance of death certificate, see § 25-2-110; for postmortem examination by licensed physician, see § 12-240-137.

(2) For the legislative declaration in the 2011 act amending subsection (2), see section 1 of chapter 237, Session Laws of Colorado 2011. For the legislative declaration in the 2013 act repealing subsection (1)(d), see section 1 of chapter 372, Session Laws of Colorado 2013.

ANNOTATION

Law reviews. For article, "Scientific Findings on Death and Coroner's Inquest", see 20 Rocky Mt. L. Rev. 197 (1948). For article, "Disposition of Bodily Remains: Post-Death Aspects", see 12 Colo. Law. 439 (1983).

Coroners' function is to investigate and determine whether a decedent has died from violent, unexplained causes, or under suspicious circumstances. People ex rel. Kinsey v. Sumner, 34 Colo. App. 61, 525 P.2d 512 (1974).

There is no private right of action under this section. Macurdy v. Faure, 176 P.3d 880 (Colo. App. 2007).

There is also no implied private right of action under this section. Macurdy v. Faure, 176 P.3d 880 (Colo. App. 2007).

Failure to perform the discretionary duty under subsection (2) does not give rise to a private right of action. Macurdy v. Faure, 176 P.3d 880 (Colo. App. 2007).

An implied private right of action is inconsistent with the purposes of the legislative scheme because threat of litigation may lead to conducting of autopsies that the coroner or district attorney would not otherwise deem advisable under subsection (2). Macurdy v. Faure, 176 P.3d 880 (Colo. App. 2007).

Coroner's desire to solicit private burial contract for his funeral home would have no material bearing on outcome of an investigation under this section. People ex rel. Kinsey v. Sumner, 34 Colo. App. 61, 525 P.2d 512 (1974).

The verdict of the jury at a coroner's inquest finding that the deceased committed suicide was not admissible in evidence to establish that fact as a defense to an action on a policy of insurance on the life of the deceased. Germania Life Ins. Co. v. Ross-Lewin, 24 Colo. 43, 51 P. 488, 65 Am. St. R. 215 (1897).

Subsection (6)(a)(I) grants coroners access to medical information that would otherwise be protected from disclosure under § 24-72-204 (3)(a)(I), a provision of the Colorado Open Records Act. Bodelson v. City of Littleton, 36 P.3d 214 (Colo. App. 2001).

Subdelegation doctrine does not apply in this state, therefore, the prosecution was within its rights to introduce expert testimony from outside the coroner's office concerning the cause of death. However, even if subdelegation doctrine does exist

here, no delegation occurred. The prosecution merely exercised its authority to present evidence in the prosecution of the crime. People v. Feldman, 2024 COA 119, 563 P.3d 1215.

30-10-606.5. When autopsy performed - jurisdiction - qualifications to perform - definition.

(1) (a) The coroner shall perform a forensic autopsy or have a forensic autopsy performed in accordance with the circumstances in the most recent version of the "forensic autopsy performance standards" adopted by the national association of medical examiners, when the death is apparently nonnatural and occurs in a facility or during services regulated by the department of human services, and when the death is the result of an automobile crash and a hospital physician has not documented the extent of the injuries.

(b) If a person is involved in an incident that requires the person to be transported to a medical facility outside the county where the incident occurred and the person dies en route to or at the medical facility outside the county where the incident occurred, the coroner for the county where the incident occurred shall take possession of the body and shall comply with the provisions of this section.

(2) (a) Except as provided in paragraphs (b) and (c) of this subsection (2), all forensic autopsies required to be performed pursuant to subsection (1) of this section shall be performed by a board-certified forensic pathologist.

(b) A physician who has completed a forensic pathology fellowship and is practicing forensic pathology in Colorado and who is not a board-certified forensic pathologist as of May 4, 2011, may perform a forensic autopsy required pursuant to subsection (1) of this section.

(c) A forensic pathologist who has completed a forensic pathology fellowship may perform forensic autopsies for four years from the date of completion of the fellowship before becoming a board-certified forensic pathologist.

(d) A pathology resident or forensic pathology fellow may perform a forensic autopsy required pursuant to subsection (1) of this section under the direct supervision of a board-certified forensic pathologist.

(e) For purposes of this subsection (2), "direct supervision" means supervision that is within the facility where a pathology resident or forensic pathology fellow is performing an autopsy and that requires a board-certified forensic pathologist's presence and availability for prompt consultation.

Source: L. 2011: Entire section added, (HB 11-1258), ch. 137, p. 477, § 3, effective May 4. **L. 2026:** (1)(a) amended, (HB 26-1237), ch. 117, p. 470, § 22, effective August 12.

Cross references: For the legislative declaration in the 2011 act adding this section, see section 1 of chapter 137, Session Laws of Colorado 2011.

30-10-606.7. Autopsy reports - death of a minor - confidential - exceptions - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Autopsy report" means the report of the coroner or the coroner's designee on the post-mortem examination of a deceased individual to determine the cause or manner of death, including any written analysis, diagram, photograph, or toxicological test results.

(b) "Minor" means a person under the age of eighteen years.

(2) (a) Notwithstanding any other provision of law, an autopsy report prepared in connection with the death of a minor is not a public record as defined in part 2 of article 72 of title 24.

(b) Notwithstanding the provisions of subsection (2)(a) of this section, upon written request of one of the individuals or entities specified in this subsection (2)(b), the coroner or the coroner's designee shall provide a copy of the autopsy report prepared in connection with the death of a minor only to such requesting individual or entity. Such individuals or entities are as follows:

(I) A parent or legal guardian of the deceased if the parent or legal guardian submits a copy of a written request to the coroner for a copy of the report and an affidavit, signed by the parent or legal guardian under the penalty of perjury, verifying the parent's or legal guardian's relationship to the decedent;

(II) A law enforcement or criminal justice agency, including a district attorney, that is either investigating the death or prosecuting a criminal violation arising out of the death upon the request of the law enforcement or criminal justice agency, including a district attorney;

(III) A requesting party in a civil case where the moving party demonstrates to the court that the autopsy report is discoverable in accordance with rule 26 (b)(1) of the Colorado rules of civil procedure (C.R.C.P.), upon the entry of a specific order of the court authorizing disclosure of the autopsy report, and in accordance with any protective order necessary to limit disclosure of the identity of the deceased and other identifying personal information;

(IV) Counsel for the defendant, or the defendant if the defendant is not represented by counsel, for discovery purposes in a criminal case upon the entry of a specific order of the court authorizing disclosure of the autopsy report in accordance with rule 16 of the Colorado rules of

criminal procedure only if discovery has not otherwise been provided to counsel or the defendant and in accordance with any protective order necessary to limit disclosure of the identity of the deceased and other personally identifying information;

(V) A state child fatality prevention review team established pursuant to section 25-20.5-406 or a local or regional child fatality prevention review team established pursuant to section 25-20.5-404 upon the request of the applicable review team;

(VI) The Colorado department of public health and environment as necessary for the collection of data in accordance with the national violent death reporting system and the Colorado unintentional drug overdose reporting system;

(VII) The Colorado child fatality review team, as defined in section 26-1-139 (2)(e), upon the request of the review team;

(VIII) A county department of human or social services in connection with the investigation of an incidence of alleged abuse or neglect of a minor;

(IX) The division of youth services in the department of human services in connection with the investigation of a fatality that has occurred within a state-owned or -operated facility;

(X) A health-care facility that is licensed or certified in accordance with the requirements of article 3 of title 25 at which facility the deceased had previously received treatment;

(XI) A community clinic, as defined in section 25-1.5-103 (2)(a.5), or a treating hospital for inclusion within the medical records of the deceased;

(XII) An eye bank, an organ procurement organization, or a tissue bank, as those terms are defined in section 15-19-202 (10), (16), and (31), respectively;

(XIII) A local or regional domestic violence fatality review team, as defined in section 24-31-701 (4), or the Colorado domestic violence fatality review board created in section 24-31-702 (1) upon the request of a team or the board, as applicable;

(XIV) The Colorado department of human services in connection with the investigation of a fatality that has occurred within any facility that is licensed under the "Child Care Licensing Act", part 3 of article 5 of title 26.5;

(XV) The office of the child protection ombudsman established in section 19-3.3-102 (1)(a);

(XVI) A health-care provider licensed in accordance with the requirements of title 12 that had previously established a patient-provider relationship with the deceased;

(XVII) The Colorado maternal mortality review committee created in section 25-52-104 (1) for the purpose of conducting public health death reviews of deceased individuals who are pregnant or within one year postpartum;

(XVIII) The Colorado department of public health and environment and county public health agencies as described in section 25-1-506 for the purpose of data collection as it relates to the Colorado department of public health and environment's authority under section 25-1.5-102 and subsequent board of health rules;

(XIX) The Colorado department of public health and environment's health facility and emergency medical services division for the purpose of health facilities and emergency medical services investigations; or

(XX) The public if the death occurs while the minor is in the custody or under the supervision of the state or a local government, including a law enforcement agency, a detention facility, while under foster care, or in a public school.

(3) (a) Notwithstanding any other provision of this section, upon written request by any individual, a coroner shall not release a copy of the autopsy report prepared in connection with the death of a minor, and shall instead release the following information pertaining to the death of a minor:

(I) Cause of death;

(II) Time, place, and manner of death;

(III) Age, gender, and race or ethnicity of the deceased minor; and

(IV) Name of the deceased minor.

(b) The coroner shall release the information required in subsections (3)(a)(I) to (3)(a)(IV) of this section within three business days of receipt of the written request or three business days after receiving the information, whichever is later. If the information is incomplete when released, the coroner shall disclose that any missing information remains under investigation or is otherwise unknown.

(4) (a) Notwithstanding any other provision of this section, any person may petition a district court to allow the person access to an autopsy report prepared in connection with the death of a minor. The petitioner shall serve process on the coroner and a member of the deceased minor's next of kin pursuant to the C.R.C.P. For purposes of this subsection (4), "next of kin" may include a parent, stepparent, legal guardian, grandparent, aunt, uncle, sibling, or lawful representative of the deceased minor. The district court shall hold a hearing that includes the petitioner, coroner, and a member of the deceased minor's next of kin, if available. The hearing must be conducted in accordance with the applicable rules of the C.R.C.P. that govern the simplified procedure for civil actions and shall not include a jury. The district court shall grant the petitioner access to the report upon a finding that:

(I) Public disclosure of the report substantially outweighs any harm to the privacy interests of the deceased and the members of the family of the deceased; and

(II) The information sought by the petitioner is not otherwise publicly available.

(b) Upon receipt of a petition by proper service of process, a coroner shall disclose the name of the deceased minor and the name and address of a member of the deceased minor's next of kin for whom the autopsy report is sought, if available, to the district court, which shall disclose the name and address to the petitioner under a protective order prohibiting the petitioner from disclosing the name and address to anyone except for the purpose of serving process to a member of the deceased minor's next of kin pursuant to this subsection (4)(b).

Source: L. 2024: Entire section added, (HB 24-1244), ch. 225, p. 1395, § 1, effective January 1, 2025.

30-10-607. Talesmen - oath. (Repealed)

Source: G.L. § 512. **G.S.** § 616. **R.S. 08:** § 1301. **C.L.** § 8776. **CSA:** C. 45, § 123. **CRS 53:** § 35-6-7. **C.R.S. 1963:** § 35-6-7. **L. 81:** Entire section amended, p. 1440, § 4, effective June 4. **L. 2018:** Entire section repealed, (HB 18-1138), ch. 88, p. 697, § 25, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

30-10-608. Coroner may issue subpoenas.

The coroner may issue subpoenas within his county for witnesses, returnable forthwith, or at such time and place as he therein directs; and witnesses shall be allowed the fees set forth in section 13-33-102, C.R.S.; and the coroner has the same authority to enforce the attendance of witnesses and to punish them and jurors for contempt in disobeying his process as a county court has when process issues in behalf of the state.

Source: G.L. § 513. **G.S.** § 617. **R.S. 08:** § 1302. **C.L.** § 8777. **CSA:** C. 45, § 124. **CRS 53:** § 35-6-8. **C.R.S. 1963:** § 35-6-8. **L. 64:** p. 222, § 49. **L. 73:** p. 1401, § 26.

ANNOTATION

Jurors attending inquests shall be compensated in the same manner as other jurors, that is, by a per diem while serving as such. Ireland v. Commissioners, 6 Colo. 280 (1882).

30-10-609. Physicians summoned - compensation. (Repealed)

Source: G.L. § 525. **G.S.** § 629. **R.S. 08:** § 1303. **C.L.** § 8778. **CSA:** C. 45, § 125. **CRS 53:** § 35-6-9. **L. 57:** p. 312, § 1. **C.R.S. 1963:** § 35-6-9. **L. 2013:** Entire section repealed, (HB 13-1097), ch. 95, p. 303, § 1, effective April 4.

30-10-610. Oath of witnesses.

An oath shall be administered to the witness in attendance as follows: "You do solemnly swear that the testimony which you shall give to this inquest, concerning the death of the person about whom this inquest is being held, shall be the truth, the whole truth, and nothing but the truth, so help you God."

Source: G.L. § 514. **G.S.** § 618. **R.S. 08:** § 1304. **C.L.** § 8779. **CSA:** C. 45, § 126. **CRS 53:** § 35-6-10. **C.R.S. 1963:** § 35-6-10. **L. 81:** Entire section amended, p. 1440, § 5, effective June 4.

30-10-611. Testimony written and subscribed - fees.

The testimony shall be reduced to writing, under the coroner's order, and subscribed by the witnesses, and the person writing such testimony shall be paid from the county treasury the same fees prescribed for jurors attending inquests concerning deaths. Such testimony, in the discretion of the coroner, may be taken down in shorthand by a competent stenographer, who shall first be sworn by the coroner to correctly take down such testimony and correctly transcribe the same. The stenographer shall receive the usual per diem and fees paid official court reporters for like services to be paid by the board of county commissioners. Upon the request of the coroner, the stenographer shall transcribe the testimony and transmit it to the coroner, and it shall not be necessary in such case for the witnesses to subscribe the same. If the testimony is not transcribed and transmitted, the stenographer shall file his name and address and the notes of the testimony with the district court, and the district court shall keep such materials for a period of seven years from the time of the transmittal of the coroner's inquisition. The coroner shall return his inquisition and list of witnesses to the district court, and such notes if transcribed and transmitted

by such stenographer shall have the same force and effect as testimony written out under the coroner's order and subscribed by the witnesses.

Source: G.L. § 515. **G.S.** § 619. **L. 1887:** p. 245, § 1. **L. 07:** p. 308, § 1. **R.S. 08:** § 1305. **C.L.** § 8780. **CSA:** C. 45, § 127. **CRS 53:** § 35-6-11. **C.R.S. 1963:** § 35-6-11. **L. 81:** Entire section amended, p. 1441, § 6, effective June 4.

Cross references: For fees prescribed for jurors attending inquests over dead bodies, see § 13-33-101; for compensation of court reporters, see § 13-5-128.

ANNOTATION

Nonconforming notes inadmissible. Stenographer's notes taken at coroner's inquest were not admissible to contradict the testimony of a witness given upon the trial, where it was not made to appear that the questions propounded at the preliminary hearing referred to the particular time to which the witness testified on the trial, or that the stenographer had been sworn, as required by this section. Bryam v. People, 49 Colo. 533, 113 P. 528 (1911).

30-10-612. Verdict of jury - form.

The jurors, having heard the testimony and having made all needful inquiries, shall return to the coroner their inquisition in writing, under their hands in substance as follows, stating the matters in the following form, suggested as far as found:

STATE OF COLORADO,

County of .....

An inquisition held at ....., in ..... county, on the ..... day of ..... A.D. 20....., before ....., coroner of said county, concerning the death of ..... or person unknown, by the jurors whose names are subscribed; the said jurors upon their oaths, do say ..... (here state when, how, by what person, means, weapon, or accident he came to his death, and whether feloniously).

In Testimony Whereof, the said jurors have hereunto set their hands the day and year aforesaid.

Source: G.L. § 516. **G.S.** § 620. **R.S. 08:** § 1306. **C.L.** § 8781. **CSA:** C. 45, § 128. **CRS 53:** § 35-6-12. **C.R.S. 1963:** § 35-6-12. **L. 81:** Entire section amended, p. 1441, § 7, effective June 4.

30-10-613. When verdict kept secret.

If the inquisition finds that a crime has been committed on the deceased and names the person who the jury believes has committed it, the inquest shall not be made public until after the arrest, directed in section 30-10-614.

Source: G.L. § 517. **G.S.** § 621. **R.S. 08:** § 1307. **C.L.** § 8782. **CSA:** C. 45, § 129. **CRS 53:** § 35-6-13. **C.R.S. 1963:** § 35-6-13.

30-10-614. Coroner may order arrest - warrant.

(1) If the person charged is present, the coroner may order his arrest by an officer or any person and shall then make a warrant requiring the officer or other person to take him before the county court.

(2) If the person charged is not present and the coroner believes he can be taken, the coroner may issue a warrant to the sheriff of the county, requiring him to arrest the person and take him before the county court.

Source: G.L. §§ 518, 519. **G.S.** §§ 622, 623. **R.S. 08:** §§ 1308, 1309. **C.L.** §§ 8783, 8784. **CSA:** C. 45, §§ 130, 131. **CRS 53:** § 35-6-14. **C.R.S. 1963:** § 35-6-14. **L. 64:** p. 222, § 50.

30-10-615. Warrant - effect.

The warrant of a coroner in the above cases shall be of equal authority with that of the county courts; and when the person charged is brought before the county court, he shall be dealt with as a person held under a complaint in the usual form.

Source: G.L. § 520. **G.S.** § 624. **R.S. 08:** § 1310. **C.L.** § 8785. **CSA:** C. 45, § 132. **CRS 53:** § 35-6-15. **C.R.S. 1963:** § 35-6-15. **L. 64:** p. 222, § 51.

30-10-616. Contents of warrant.

The warrant of the coroner shall recite substantially the transactions before him, and the verdict of the jury of inquest leading to the arrest; and such warrant shall be a sufficient foundation for the proceeding of the county court instead of a complaint.

Source: G.L. § 521. **G.S.** § 625. **R.S. 08:** § 1311. **C.L.** § 8786. **CSA:** C. 45, § 133. **CRS 53:** § 35-6-16. **C.R.S. 1963:** § 35-6-16. **L. 64:** p. 223, § 52.

30-10-617. Coroner to make return to district court.

The coroner shall then return to the district court the inquisition, the written evidence, the name and address of the stenographer if required under section 30-10-611, and a list of the witnesses who testified as to material matter.

Source: G.L. § 522. **G.S.** § 626. **R.S. 08:** § 1312. **C.L.** § 8787. **CSA:** C. 45, § 134. **CRS 53:** § 35-6-17. **C.R.S. 1963:** § 35-6-17. **L. 81:** Entire section amended, p. 1441, § 8, effective June 4.

30-10-618. Burial expenses - when paid by county.

The coroner shall cause the body of a deceased person which he is called to view to be delivered to his friends, if there are any, but if not he shall cause him to be decently buried, the expenses to be paid from any property found with the body, or, if there is none, from the county treasury, by certifying an account of the expenses which, being presented to the board of county commissioners, shall be allowed by them if deemed reasonable and paid as other claims on the county.

Source: G.L. § 523. **G.S.** § 627. **R.S. 08:** § 1313. **C.L.** § 8788. **CSA:** C. 45, § 135. **CRS 53:** § 35-6-18. **C.R.S. 1963:** § 35-6-18.

ANNOTATION

Law reviews. For article, "Disposition of Bodily Remains: Post-Death Aspects", see 12 Colo. Law. 439 (1983).

30-10-619. Conflicts of interest of county coroners.

(1) A coroner who owns, operates, is employed by, or otherwise has an interest in a funeral establishment is deemed to have a conflict of interest and shall not direct business to such establishment when performing his or her duties under this part 6.

(2) Nothing in this section shall prevent a person from taking the body of the deceased to a funeral establishment in which the coroner has an interest if such person decides to do so without the suggestion of the coroner.

(3) The provisions of this section shall not apply if an emergency situation exists and the coroner acts in good faith to prevent a health hazard.

(4) Any person who knowingly violates subsection (1) of this section commits a petty offense and shall be punished as provided in section 18-1.3-503.

(5) This section shall apply to county coroners who take office after the general election in 1982.

Source: L. 81: Entire section added, p. 833, § 13, effective June 8. **L. 2002:** (4) amended, p. 1542, § 287, effective October 1. **L. 2003:** (1) amended, p. 1924, § 5, effective July 1. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3248, § 500, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (4), see section 1 of chapter 318, Session Laws of Colorado 2002.

30-10-620. Corneal tissue - taking authorized. (Repealed)

Source: L. 81: Entire section amended, p. 1443, § 1, effective June 12. **L. 82:** (3)(a) R&RE, p. 482, § 1, effective February 19. **L. 2002:** Entire section repealed, p. 12, § 1, effective March 13.

30-10-621. Removal of pituitary gland - authorization. (Repealed)

Source: L. 85: Entire section added, p. 1057, § 1, effective May 3. **L. 2013:** Entire section repealed, (HB 13-1097), ch. 95, p. 303, § 2, effective April 4.

30-10-622. Unidentified human remains - DNA samples.

(1) If a coroner or medical examiner takes legal custody of unidentified human remains pursuant to section 24-80-1302 (2), C.R.S., or section 30-10-606 (1.2), the coroner or medical examiner shall:

(a) Make reasonable attempts to identify the remains pursuant to section 16-2.7-104 (2), C.R.S.; and

(b) Ensure that information concerning the physical appearance and structure of the unidentified human remains, including DNA typing information, is entered into the national crime information center database pursuant to section 16-2.7-104 (3), C.R.S.

Source: L. 2006: Entire section added, p. 396, § 2, effective April 6.

30-10-623. Department of corrections - reimbursement for expenses of coroner.

The department of corrections, from appropriations made by the general assembly, shall reimburse a county for reasonable and necessary costs incurred by the county coroner related to investigations or complete autopsies performed on persons in the custody of the department of corrections. Costs may include transportation, refrigeration, and body bags. The county shall certify these costs to the department, and, upon the approval of the executive director of the department or the executive director's designee, the department shall pay the costs.

Source: L. 2016: Entire section added, (HB 16-1406), ch. 150, p. 448, § 1, effective July 1.

30-10-624. Required toxicology screening for a suicide, overdose death, or accidental death - annual report - working group.

(1) (a) The association representing coroners shall establish a working group to study methods to test for all scheduled drugs and the presence and quantity of THC, including and identifying how long ago the THC was consumed, if the presence of THC was in conjunction with alcohol and scheduled drugs, and its metabolite in each case of a non-natural death, excluding homicide, of a person under twenty-five years of age. The working group shall consult with an epidemiologist, a medical toxicologist, an addiction specialist, and a medical examiner or forensic pathologist and may consult with the department of public health and environment. The methodology shall include means to identify prescription drugs, and other federally scheduled

substances that have a substantial potential for overdose and addiction, by using evidence-based practices. These recommendations shall be completed by July 1, 2022; except that the methodology to identify prescription drugs, and other federally scheduled substances that have a substantial potential for overdose and addiction, by using evidence-based practices shall be completed by November 1, 2022, and reported to the house of representatives health and insurance committee and the senate health and human services committee, or their successor committees.

(b) Beginning January 1, 2022, the coroner shall complete a full toxicology screen, including testing for the presence of THC, alcohol, and scheduled drugs, in each case of a non-natural death, excluding homicide, of a Colorado resident under twenty-five years of age. Upon request of a county, the department of public health and environment shall reimburse a coroner for the costs associated with completing a toxicology screen. In addition, at the request of a county, the department of public health and environment or the local health department may provide training and supplies for toxicology draws.

(c) The coroner shall share the information collected pursuant to subsection (1)(a) of this section with the department of public health and environment for inclusion into the violent death reporting system. However, the information collected by the coroner and shared with the department is not a public record under the "Colorado Open Records Act"; except that the information shall be made available to a parent or a duly appointed legal representative of the deceased upon request. The department shall make the de-identified aggregate of the information provided pursuant to this subsection (1)(c) available for research purposes.

(d) In the event of a death in a hospital, if clinically indicated, the hospital-treating clinician shall order the toxicology screen as described in subsection (1)(a) of this section and document the results of the toxicology screen to the health information exchange in the medical record.

(2) The department of public health and environment shall produce an annual report of the information reported in subsections (1)(b) and (1)(c) of this section beginning January 2, 2023, and annually each year thereafter. The report can be produced in conjunction with the report required pursuant to section 25-3-126.

Source: L. 2021: Entire section added, (HB 21-1317), ch. 313, p. 1914, § 4, effective June 24.

30-10-625. County coroner - financial interest in regulated businesses - definition.

(1) As used in this section, unless the context otherwise requires, "financial interest" means an ownership interest, employment relationship, management role, contractual relationship, or other direct pecuniary interest.

(2) (a) The coroner described in this section who has a financial interest in a business that is subject to regulation or oversight by the office of the coroner shall disclose that interest in writing in accordance with this section.

(b) A county coroner shall disclose any financial interest in a mortuary, funeral home, crematory, embalming service, or other death-care business that may be subject to referral, investigation, oversight, or other official action by the coroner's office.

(3) The coroner shall disclose a financial interest in a regulated business as required by subsection (2) of this section by posting a notice of the financial interest on the coroner's website.

(4) A coroner who has disclosed a financial interest pursuant to this section shall not participate in any official action that would directly and specifically affect the business in which the coroner has the financial interest.

(5) This section applies in addition to, and does not limit, any conflicts of interest, ethics, or disclosure requirements for a coroner imposed by other state or federal law.

(6) This section does not prohibit an individual who is a candidate for, or serving as, a county coroner from operating a mortuary, funeral home, crematory, embalming service, or other death-care business.

Source: L. 2026: Entire section added, (SB 26-105), ch. 83, p. 332, § 2, effective August 12.

PART 7

TREASURER

Cross references: For county treasurer's fees, see § 30-1-102.

30-10-700.3. Definitions.

As used in this part 7, unless the context otherwise requires:

(1) "Order" means all orders and authorizations issued by a board of county commissioners for the payment of claims against the county. "Order" includes any warrant issued by a board of county commissioners and any written authorization issued by the board of county commissioners directing the treasurer to make payment of claims against the county by electronic transfer.

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2087, § 255, effective August 6.

Editor's note: This section is similar to former § 30-10-711 (5) as it existed prior to 2025.

30-10-701. Election - term - bond - insurance.

(1) A county treasurer shall be elected in each county for the term of four years and, except as provided in subsection (2) of this section, before entering upon the discharge of duties, shall execute to the people of the state of Colorado a surety bond to be approved by the board of county commissioners and filed in the office of the county clerk and recorder. Prior to the treasurer being sworn into office, the board of county commissioners shall set the amount of the surety bond by written resolution duly adopted by a majority vote of the board, which shall be entered in its minutes.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of the treasurer to protect the people of the county from any malfeasance on the part of the treasurer while in office.

Source: G.L. § 526. **G.S.** § 630. **R.S. 08:** § 1315. **C.L.** § 8789. **CSA:** C. 45, § 136. **CRS 53:** § 35-7-1. **L. 56:** p. 129, § 4. **C.R.S. 1963:** § 35-7-1. **L. 95:** Entire section amended, p. 499, § 1, effective May 16. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 562, § 23, effective August 11.

Cross references: For the oath of civil officers, see § 8 of art. XII, Colo. Const.; for the election and terms of county officers, see § 8 of art. XIV, Colo. Const.; for the election of the county treasurer, see § 1-4-206; for bonds executed by surety companies, see § 10-4-301; for the approval of bonds, see § 24-13-116; for bonds of county officers, see § 30-10-110.

ANNOTATION

The general assembly has expanded and built up a body of statutory directives for the guidance of county treasurers, outlining in great detail steps to be taken by them calculated to obtain the amount of taxes levied. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

County treasurers are only administrative agents of the state and their authority is limited to that expressly

delegated by the general assembly. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

County treasurers are constitutional officers, but have no constitutional duties to perform or constitutional authority to do any particular act such as commencing a suit. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

No power to sue. Enactments of the general assembly relating to taxation negate any suggestion that county treasurers have inherent, implied, or general powers to sue taxpayers for delinquent real estate taxes. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

The county treasurer and his bondsmen are primarily responsible. Moulton v. McLean, 5 Colo. App. 454, 39 P. 78 (1895).

He is not the agent of his county. Moulton v. McLean, 5 Colo. App. 454, 39 P. 78 (1895).

Bonds. The county treasurer may take security for his own indemnity from a bank in which he deposits county money, but a bond so taken inures to his benefit, and such a bond is his property, and no cause of action to the county can arise thereon, unless by the default of the treasurer and his sureties. Moulton v. McLean, 5 Colo. App. 454, 39 P. 78 (1895).

30-10-702. Term of office.

The regular term of office of all county treasurers shall commence on the first day of January next after their election.

Source: L. 1891: p. 117, § 1. **R.S. 08:** § 1316. **C.L.** § 8790. **CSA:** C. 45, § 137. **CRS 53:** § 35-7-2. **C.R.S. 1963:** § 35-7-2.

30-10-703. Form of bond.

If a treasurer executes a bond pursuant to section 30-10-701 (1), the condition of the bond shall be in substance as follows: Whereas, ..., was elected to the office of County Treasurer of the County of ..... on the ..... day of .....; Now, therefore, the condition of this obligation is such, that if the said ..... and the treasurer's deputy and all persons employed in the treasurer's office shall faithfully and promptly perform the duties of said office, and if the said ..... and the treasurer's deputies shall pay or invest according to law, all moneys that shall come to the hands of the treasurer, and shall render a just and true account thereof whenever required by said board of county commissioners, or by any provision of law, and shall deliver over to a successor in office, or to any other person authorized by law to receive the same, all moneys, securities, books, papers, and other things appertaining thereto or belonging to the

treasurer's office, the above obligation to be void, otherwise to be in full force and effect; except that the surety shall in no event be liable for any loss caused by the failure or insolvency of the depository in which the county treasurer or the treasurer's deputies deposit any such public funds, or for any loss arising out of the investment of any such funds.

Source: G.L. § 527. **G.S.** § 631. **R.S. 08:** § 1317. **C.L.** § 8791. **L. 33-34, Ex. Sess.:** p. 51, § 1. **CSA:** C. 45, § 138. **CRS 53:** § 35-7-3. **C.R.S. 1963:** § 35-7-3. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 563, § 24, effective August 11.

ANNOTATION

The bond of the county treasurer is the measure of his duties as treasurer, and is the contract covering his duties and all those in his employ performing the duties of the office. Goss v. Bd. of Comm'rs, 4 Colo. 468 (1878).

Under this section neither a deputy treasurer nor clerk gives a bond to the public for the faithful performance of the duties he undertakes, and the relation of debtor and creditor between the county and the treasurer is unaffected by the circumstance that the duties of the latter are discharged by deputy or clerical agency, and there is no such privity between the county or the public, and the deputy or clerk, as to create an implied contract between them in the face of an express contract between the treasurer and the public, embracing the duties of the office by whomsoever performed. Goss v. Bd. of Comm'rs, 4 Colo. 468 (1878).

The money received by the treasurer by virtue of his office belongs to the county. McClure v. Bd. of Comm'rs, 19 Colo. 122, 34 P. 763 (1893).

It constitutes a trust fund, which, if diverted or misappropriated, may be recovered in an action upon his bond, or the county may, if it elects, treat it as a trust fund and follow it wherever it can be traced. McClure v. Bd. of Comm'rs, 19 Colo. 122, 34 P. 763 (1893).

Interest due and sureties liable. Money in the hands of a county treasurer belonging to a county, and not turned over to his successor at the time the latter assumed the duties of the office, would draw interest at the legal rate from that date, and the sureties on his official bond are liable to the county for such money with interest. Gartley v. People ex rel. Pueblo County, 28 Colo. 227, 64 P. 208 (1901).

30-10-704. Chief deputy treasurer - duties.

The county treasurer may appoint a chief deputy, who in the absence of the treasurer from his or her office, or in case of vacancy in said office, for any disability of the treasurer to perform the

duties of his or her office, may perform all the duties of the office of treasurer, until such vacancy is filled or such disability removed. All acts of a chief deputy treasurer shall have the same effect as though performed by the county treasurer.

Source: G.L. § 528. **G.S.** § 632. **R.S. 08:** § 1318. **C.L.** § 8792. **CSA:** C. 45, § 139. **CRS 53:** § 35-7-4. **C.R.S. 1963:** § 35-7-4. **L. 2020:** Entire section amended, (HB 20-1077), ch. 80, p. 324, § 2, effective September 14.

ANNOTATION

No term of office. While this section provides that a county treasurer may appoint a deputy, there is no law fixing the term of office of such a deputy, and with his compensation and term of office the public has nothing to do. Tureck v. Bd. of County Comm'rs, 108 Colo. 347, 117 P.2d 315 (1941).

There being no contractual privity between one acting as deputy county treasurer and the public, in a suit by such a deputy against the county commissioners for salary alleged to be due him, it was held, in the circumstances of the case, that the trial court properly directed a verdict in favor of defendants. Tureck v. Bd. of County Comm'rs, 108 Colo. 347, 117 P.2d 315 (1941).

The authority to remove or suspend county agents, in the absence of statutes otherwise providing, rests in the appointing power, and as relating to a deputy county treasurer, there is in Colorado no "statutes otherwise providing". Tureck v. Bd. of County Comm'rs, 108 Colo. 347, 117 P.2d 315 (1941).

30-10-705. Vacancy in office - how filled.

(1) In case the office of county treasurer becomes vacant, the board of county commissioners shall appoint a suitable person to perform the duties of the treasurer. Except as provided in subsection (2) of this section, the person so appointed shall give bond with like sureties and conditions as that required in county treasurers' bonds and in such sum as the board shall direct and shall be invested with all the duties of the treasurer, until such vacancy is filled or such disability removed.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of the appointee to the office of treasurer to protect the people of the county from any malfeasance on the part of the treasurer while in office.

Source: G.L. § 529. **G.S.** § 633. **R.S. 08:** § 1319. **C.L.** § 8793. **CSA:** C. 45, § 140. **CRS 53:** § 35-7-5. **C.R.S. 1963:** § 35-7-5. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 563, § 25, effective August 11.

30-10-706. Officers who cannot be treasurer.

No person holding the office of sheriff, county judge, or county clerk and recorder, nor any member of the board of county commissioners, shall hold the office of county treasurer.

Source: G.L. § 530. **G.S.** § 634. **R.S. 08:** § 1320. **C.L.** § 8794. **CSA:** C. 45, § 141. **CRS 53:** § 35-7-6. **C.R.S. 1963:** § 35-7-6.

30-10-707. Treasurer to receive and pay moneys.

It is the duty of the county treasurer to receive all moneys belonging to the county, from whatsoever source they may be derived, and all other moneys which are by law directed to be paid to him. All money received by him for the use of the county shall be paid out by him only on the orders of the board of county commissioners, according to law, except where special provision for the payment thereof is otherwise made by law.

Source: G.L. § 531. **G.S.** § 635. **R.S. 08:** § 1321. **C.L.** § 8795. **CSA:** C. 45, § 142. **CRS 53:** § 35-7-7. **C.R.S. 1963:** § 35-7-7.

30-10-708. Deposit of funds in banks and savings and loan associations.

(1) In all counties of this state, the county treasurer shall deposit all the funds and moneys of whatever kind that come into the treasurer's possession by virtue of the office, in the treasurer's name as treasurer, in one or more state banks, national banks, or, in compliance with the provisions of article 47 of title 11, C.R.S., savings and loan associations that have previously been approved and designated by written resolution duly adopted by a majority vote of the board of county commissioners, which shall be entered in its minutes. The board, by written resolution similarly adopted, may authorize the county treasurer to invest all or any part of the funds and moneys in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. For the purposes of investment of funds of the county as set forth in said part 6, the board, by written resolution, may appoint one or more custodians of the funds, and such

persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(2) All securities so purchased shall be duly registered in the name of the county treasurer and shall be deposited and safely kept in the custody of some state bank or any national bank. No such security shall be sold or otherwise disposed of except pursuant to a resolution of said board of county commissioners similarly adopted, which resolution shall also approve and designate the bank or banks in which such proceeds shall then be deposited, or such resolution may in lieu thereof authorize the reinvestment of such proceeds in any of the securities specified in subsection (1) of this section.

(3) and (4) Repealed.

(5) No county treasurer, or member of the board of county commissioners, who acted in good faith in approving and designating such depository, is liable for loss of public funds deposited by such county treasurer or his deputies by reason of the default or insolvency of such depository; nor shall any county treasurer who invests any such funds or any member of the board of county commissioners who in good faith authorizes such investment be liable for any loss on account of such investment.

(6) Subject to the requirements of part 7 of article 75 of title 24, C.R.S., funds of the county may be pooled for investment with the funds of other local government entities.

Source: L. 19: p. 366, § 1. **C.L.** § 8796. **L. 33-34, Ex. Sess.:** p. 46, § 1. **CSA:** C. 45, § 143. **L. 37:** p. 489, § 1. **L. 41:** p. 363, § 1. **CRS 53:** § 35-7-8. **C.R.S. 1963:** § 35-7-8. **L. 75:** (1) amended, p. 407, § 4, effective January 1, 1976; (2) amended and (3) and (4) repealed, pp. 391, 392, §§ 4, 6, effective January 1, 1976. **L. 76:** (1) amended, p. 310, § 53, effective May 20. **L. 77:** (1) amended, p. 576, § 8, effective June 10. **L. 83:** (6) added, p. 1010, § 2, effective March 29. **L. 89:** (1) amended, p. 1113, § 22, effective July 1. **L. 95:** (1) and (2) amended, p. 500, § 2, effective May 16.

Editor's note: Subsection (6) was originally enacted as subsection (4) by House Bill 83-1097 but was renumbered on revision for ease of location.

30-10-709. Treasurer to keep accounts - settlement of accounts - resolution of findings - report to board of county commissioners - contempt.

(1) The county treasurer shall keep a just and true account of the receipt and expenditure of all moneys that come into his or her hands by virtue of the office, in books to be kept by the

treasurer for that purpose, which books shall be open at all times for the inspection of the board of county commissioners, or any member thereof, and to all county and state officers; and, at the meetings in July and January of the board of county commissioners, or at such other time as the board may direct, the treasurer shall settle with said board his or her account as treasurer, and, for that purpose, the treasurer shall exhibit to said board all his or her books, accounts, and all vouchers relating to the same, to be audited and allowed.

(2) In addition to the audit described in subsection (1) of this section, the treasurer may periodically cause to be performed an audit of the operations and accounts of the county treasurer's office.

(3) If a recommendation or finding is contained in the final report of any audit conducted pursuant to subsection (1) or (2) of this section or section 29-1-603, C.R.S., the treasurer shall promptly address the recommendation or finding and shall report to the board of county commissioners regarding the disposition of the recommendation or finding no later than ninety days after the issuance of the final audit report. If a treasurer fails to address a recommendation or finding or fails to report to the board as required by this subsection (3), the board may apply to a court of competent jurisdiction for an order compelling the treasurer to comply with the provisions of this subsection (3). If the court issues an order compelling the treasurer to comply with the provisions of this subsection (3) and the treasurer fails to comply, the treasurer shall be subject to penalties for contempt of the court issuing the order. Nothing in this subsection (3) shall be construed to limit the ability of the board or any other person to pursue any other legal remedy available to the board or person with regard to the actions of the treasurer.

Source: G.L. § 532. **G.S.** § 636. **R.S. 08:** § 1323. **C.L.** § 8798. **CSA:** C. 45, § 145. **CRS 53:** § 35-7-9. **C.R.S. 1963:** § 35-7-9. **L. 98:** Entire section amended, p. 239, § 2, effective April 10. **L. 2002:** (3) added, p. 73, § 1, effective August 7.

30-10-710. Apportionment and separation of funds.

It is the duty of the county treasurer to apportion and keep all taxes collected by him or her in the several funds for which the taxes were levied, and it shall not be lawful to use the moneys belonging to any fund for the purpose of paying warrants drawn upon some other fund or for the purpose of paying warrants issued before April 2, 1998, which properly should have been drawn upon some other fund; but the amount of interest gained through the investment of county funds, regardless of the origin of such funds, may be credited to the general fund of the county by the county treasurer, unless such investment is made from specific funds allocated for a definite purpose and so maintained. The treasurer and the sureties on his or her official bond or the insurer on the crime insurance policy, as applicable, shall be liable at the action of any taxpayer of the county for any violation of this section.

Source: L. 1891: p. 112, § 5. **R.S. 08:** § 1324. **C.L.** § 8799. **CSA:** C. 45, § 146. **CRS 53:** § 35-7-10. **L. 55:** p. 249, § 1. **C.R.S. 1963:** § 35-7-10. **L. 98:** Entire section amended, p. 149, § 1, effective April 2. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 563, § 26, effective August 11.

ANNOTATION

Where a school district became liable for interest on its bonds because of failure of its officers to publish notice as required, it was held that the treasurer was not liable because he paid interest coupons in violation of this section, since the failure of the district to give proper notice was the proximate cause of the injury. People ex rel. Sch. Dist. No. 6 v. Schaeffer, 100 Colo. 70, 65 P.2d 699 (1937).

Interest earned on school district tax moneys prior to distribution to school districts which elect to have such moneys paid over to the district treasurer may be credited to the county general fund. Calhan Sch. Dist. No. 1 v. El Paso County, 686 P.2d 1321 (Colo. 1984).

30-10-711. Payment of warrants - call published.

(1) County orders and warrants, properly made and issued, shall be entitled to a preference as to payment, according to the order of time in which they may be presented to the county treasurer; but where two or more orders are presented at the same time, precedence shall be given to the order or warrant of the oldest date, and when two or more orders are presented at the same time, and there are no funds to the credit of the proper fund in the treasury to pay the same, the same shall be registered in the order of their date, precedence being given to the warrant of the oldest date. When there is in the treasury, to the credit of any fund, five hundred dollars or more, against which fund there are any outstanding and unpaid lawful warrants or orders, the county treasurer shall immediately give public notice of the fact by a written notice posted for thirty days at the outer door of the office of the treasurer. The treasurer, at the same time, shall call in for payment all outstanding and unpaid lawful warrants and orders drawn on said fund which the moneys in the treasury will pay and which are entitled to payment from said funds.

(2) Such notice shall also contain the number, date, and amount of such warrants and orders as are entitled to payment and call upon the holders thereof to present the same for payment to the treasurer within thirty days from the day of the posting of said notice, and that interest on the sums due by said warrants and orders will cease to accrue thereon after the last day of said posting of said notice, and interest shall cease to accrue on said sums accordingly. Such notice

shall be dated at the county seat, be signed by the treasurer, and a record of the same be kept in the office of the treasurer in a book provided for that purpose; and such books shall be open to inspection and examination at all reasonable hours. Such funds shall be held by the county treasurer for the payment of the warrants and orders called by him, until the expiration of six years from the date of registry of such warrants and orders, when the same shall be paid out upon such other warrants or orders as are entitled to payment on the day of the expiration of the six years.

(3) The treasurer shall pay by electronic transfer any written authorization issued by the board of county commissioners directing the treasurer to make payment of claims against the county electronically.

(4) Payment of county warrants and orders by electronic transfer shall be made only after the treasurer approves the release of funds for such electronic transfer.

(5) Repealed.

Source: G.L. § 533. **G.S.** § 637. **L. 1887:** p. 243, § 4. **R.S. 08:** § 1325. **C.L.** § 8800. **CSA:** C. 45, § 147. **CRS 53:** § 35-7-11. **C.R.S. 1963:** § 35-7-11. **L. 96:** Entire section amended, p. 563, § 25, effective April 24. **L. 98:** (3) to (5) added, p. 149, § 2, effective April 2. **L. 2025:** (5) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6.

Editor's note: Subsection (5) was relocated to § 30-10-700.3 in 2025.

Cross references: For the publication of legal notices, see part 1 of article 70 of title 24.

ANNOTATION

County warrants are payable in the order of their presentation to the county treasurer, and not otherwise, and the law enters into and becomes part of the contract between the county and the holders of its warrants, and each registered warrant matures as soon as sufficient money has accumulated in the treasury to the credit of the proper fund for its payment, after paying all other warrants of the same class whose registry was prior in time. Bd. of Comm'rs v. People ex rel. New Hampshire Sav. Bank, 16 Colo. App. 215, 64 P. 675 (1901).

Contractual obligation. It is settled by authority that where the law, at the time of the issuance of a warrant, provides for its payment in the order of its presentation this becomes a part of the contract and cannot be altered or changed, at least without an

equally safe, certain, and speedy provision for payment. E. H. Rollins & Sons v. Bd. of Comm'rs, 199 F. 71 (8th Cir. 1912).

No legislative impairment allowed. The county is bound by contract to give orders precedence in payment over all orders subsequently issued, and the county commissioners can take no step, either with or without legislative sanction, that shall impair the obligation of these contracts. People v. Austin, 11 Colo. 134, 17 P. 485 (1887).

The holder of a warrant has the right to its payment at its maturity, and without his consent he cannot be deprived of that right by the holders of other warrants, or by the county. Bd. of Comm'rs v. People ex rel. New Hampshire Sav. Bank, 16 Colo. App. 215, 64 P. 675 (1901).

Right to sue. It was held that a county warrant payable out of any money in the treasury appropriated for county expenditures was a written acknowledgment of indebtedness by the county and if not paid, when presented, could be sued on by the legal holder, although there was no money in the treasury to pay. Schloss v. Bd. of County Comm'rs, 1 Colo. App. 145, 28 P. 18 (1891).

The statute of limitations does not commence to run against warrants until there is sufficient money in the treasury to pay them and prior orders. E. H. Rollins & Sons v. Bd. of Comm'rs, 199 F. 71 (8th Cir. 1912).

30-10-712. Funds payable in order of presentment.

Every fund in the hands of the county treasurer for disbursements shall be paid out in the order in which the orders drawn thereon and payable out of said fund are presented for payment.

Source: G.L. § 540. **G.S.** § 644. **R.S. 08:** § 1327. **C.L.** § 8802. **CSA:** C. 45, § 149. **CRS 53:** § 35-7-13. **C.R.S. 1963:** § 35-7-13.

30-10-713. Delivery of books to successor - penalty.

Upon the resignation or removal from office of any county treasurer, all the books and papers belonging to the treasurer's office, and all moneys in the treasurer's hands by virtue of the treasurer's office, shall be delivered to the treasurer's successor in office, upon the oath of such preceding treasurer, or in case of the treasurer's death, upon oath of the treasurer's executors or administrators. If any such preceding county treasurer, or in case of the treasurer's death, the treasurer's executors or administrators neglect or refuse to deliver up such books, papers, and moneys on oath, when lawfully demanded, every such person shall forfeit a sum of not less than one hundred dollars nor more than five hundred dollars.

Source: G.L. § 534. **G.S.** § 638. **R.S. 08:** § 1328. **C.L.** § 8803. **CSA:** C. 45, § 150. **CRS 53:** § 35-7-14. **C.R.S. 1963:** § 35-7-14. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 564, § 27, effective August 11.

ANNOTATION

The requirement is not that the treasurer shall turn over to the various governmental units the sum due each, but that he shall make delivery to his successor, such is the mandate of this section in relation to his duty, and his bond, also statutorily couched is of like import, and the moneys involved therefore belonged to the county in the sense that it has authority to maintain an action for their recovery. Patterson v. People ex rel. Bd. of Comm'rs, 98 Colo. 86, 53 P.2d 1187 (1935).

30-10-714. Treasurer collector of taxes.

The county treasurer of each county shall be, by virtue of his office, collector of taxes therein, and shall perform such duties in that regard as are prescribed by law.

Source: G.L. § 535. **G.S.** § 639. **R.S. 08:** § 1329. **C.L.** § 8804. **CSA:** C. 45, § 151. **CRS 53:** § 35-7-15. **C.R.S. 1963:** § 35-7-15.

ANNOTATION

Statutes outlining the steps to be taken by county treasurers to obtain the amount of taxes levied are very comprehensive and detailed. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

Since the general assembly has exclusive jurisdiction over tax matters, county treasurers may exercise only such powers as have been delegated to them. Skidmore v. O'Rourke, 152 Colo. 470, 383 P.2d 473 (1963).

The county treasurer and the assessor in whom the power of assessment and collection of taxes is confided must be qualified electors of their respective counties and take the statutory oath of office, because they are given the power to discover, and furnished with facilities to bring to light, omitted assessable property. Chase v. Bd. of Comm'rs, 37 Colo. 268, 86 P. 1011, 11 Ann. Cas. 483 (1906).

30-10-715. Treasurer to issue receipt for money collected.

Upon payment of any money to him or her and upon request of an individual taxpayer or the taxpayer's agent, the county treasurer shall issue and shall mail, if additionally requested, his or her receipt to the person paying it, setting forth the account upon which it is paid, and, in the case of the payment of taxes, such receipt shall state the valuation of property taxed, the rate of taxation, and the total amount of such taxes.

Source: G.L. § 538. **G.S.** § 642. **L. 1887:** p. 234, § 2. **R.S. 08:** § 1330. **C.L.** § 8805. **CSA:** C. 45, § 152. **CRS 53:** § 35-7-16. **C.R.S. 1963:** § 35-7-16. **L. 2020:** Entire section amended, (HB 20-1077), ch. 80, p. 324, § 3, effective September 14.

30-10-716. Treasurer to assess property, when.

It is the duty of the county treasurer to assess, at a fair value, the property of any person liable to pay taxes which the county assessor has failed to assess, to place the same on the tax roll, and to collect taxes on the same in the manner provided by law. Such treasurer shall not be compelled to assess such property in person; and he is authorized to administer oaths to such persons, or any others, touching the value of said property.

Source: G.L. § 536. **G.S.** § 640. **R.S. 08:** § 1331. **C.L.** § 8806. **CSA:** C. 45, § 153. **CRS 53:** § 35-7-17. **C.R.S. 1963:** § 35-7-17.

ANNOTATION

Power and facilities. The county treasurer and the assessor in whom the power of assessment and collection of taxes is confided are given the power to discover, and furnished with facilities to bring to light, omitted assessable property. Chase v. Bd. of Comm'rs, 37 Colo. 268, 86 P. 1011 (1906).

30-10-717. Cash book - open to inspection. (Repealed)

Source: G.L. § 537. **G.S.** § 641. **R.S. 08:** § 1332. **C.L.** § 8807. **CSA:** C. 45, § 154. **CRS 53:** § 35-7-18. **C.R.S. 1963:** § 35-7-18. **L. 2020:** Entire section repealed, (HB 20-1077), ch. 80, p. 324, § 4, effective September 14.

30-10-718. Registry of orders - open to inspection.

Every county treasurer shall keep in his or her office a record to be called the registry of county orders wherein shall be entered at the date of the presentation thereof and without any interval or blank line between any such entry and the one preceding it every county order or other certificate or evidence of county indebtedness presented to such county treasurer for payment. At any time that the county has insufficient funds to pay the indebtedness evidenced on such order or other certificate or evidence of county indebtedness, the date and number of such order, the amount for which the same is payable, the date of the presentation thereof, the name of the person to whom such order is by the terms thereof payable, and the name of the person presenting the same. Every such registry of county orders, at all reasonable hours, shall be open to inspection and examination of any person desiring to inspect or examine the same.

Source: G.L. § 539. **G.S.** § 643. **R.S. 08:** § 1333. **C.L.** § 8808. **CSA:** C. 45, § 155. **CRS 53:** § 35-7-19. **C.R.S. 1963:** § 35-7-19. **L. 98:** Entire section amended, p. 150, § 3, effective April 2.

30-10-719. Charge to grand jury. (Repealed)

Source: L. 1889: p. 457, § 1. **R.S. 08:** § 1334. **C.L.** § 8809. **L. 33:** p. 402, § 1. **CSA:** C. 45, § 156. **CRS 53:** § 35-7-20. **C.R.S. 1963:** § 35-7-20. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-720. Committee to investigate accounts of treasurer. (Repealed)

Source: L. 1889: p. 457, § 2. **R.S. 08:** § 1335. **C.L.** § 8810. **CSA:** C. 45, § 157. **CRS 53:** § 35-7-21. **C.R.S. 1963:** § 35-7-21. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-721. Investigation of accounts - report. (Repealed)

Source: L. 1889: p. 458, § 3. **R.S. 08:** § 1336. **C.L.** § 8811. **CSA:** C. 45, § 158. **CRS 53:** § 35-7-22. **C.R.S. 1963:** § 35-7-22. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-722. Committee appointed once in three months only. (Repealed)

Source: L. 1889: p. 458, § 4. **R.S. 08:** § 1337. **C.L.** § 8812. **CSA:** C. 45, § 159. **CRS 53:** § 35-7-23. **C.R.S. 1963:** § 35-7-23. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-723. Committee power to examine witnesses. (Repealed)

Source: L. 1889: p. 458, § 5. **R.S. 08:** § 1338. **C.L.** § 8813. **CSA:** C. 45, § 160. **CRS 53:** § 35-7-24. **C.R.S. 1963:** § 35-7-24. **L. 72:** p. 557, § 12. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-724. Committee to examine books and accounts. (Repealed)

Source: L. 1889: p. 459, § 6. **R.S. 08:** § 1339. **C.L.** § 8814. **CSA:** C. 45, § 161. **CRS 53:** § 35-7-25. **C.R.S. 1963:** § 35-7-25. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-725. Refusal of treasurer to answer - contempt. (Repealed)

Source: L. 1889: p. 459, § 7. **R.S. 08:** § 1340. **C.L.** § 8815. **CSA:** C. 45, § 162. **CRS 53:** § 35-7-26. **C.R.S. 1963:** § 35-7-26. **L. 94:** Entire section repealed, p. 1052, § 8, effective July 1.

30-10-726. Failure of treasurer to perform duties - penalty.

Every county treasurer who fails, neglects, or refuses to perform the duties of the office of the treasurer set forth in this part 7 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and the court may adjudge that such treasurer be removed from office. This section shall extend to the deputies of every such county treasurer.

Source: G.L. § 542. **G.S.** § 646. **R.S. 08:** § 1341. **C.L.** § 8816. **CSA:** C. 45, § 163. **CRS 53:** § 35-7-27. **C.R.S. 1963:** § 35-7-27. **L. 98:** Entire section amended, p. 150, § 4, effective April 2. **L. 2002:** Entire section amended, p. 74, § 2, effective August 7.

PART 8

ASSESSOR

30-10-801. Assessor - election - bond - insurance - term - oath or affirmation.

(1) A county assessor shall be elected in each county at a general election and, except as provided in subsection (2) of this section, shall: Give bond to the people of the state of Colorado with two or more sufficient sureties, in a sum of not less than six thousand dollars for the performance of the assessor's duties according to law and to the satisfaction of the board of county commissioners; take an oath or affirmation in accordance with section 24-12-101; be a qualified elector of the county; and hold office for four years and until a successor is elected and qualified.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage in an amount not less than ten thousand dollars on behalf of the assessor to protect the people of the county from any malfeasance on the part of the assessor while in office.

Source: G.L. § 548. **L. 1881:** p. 99, § 1. **G.S.** § 647. **R.S. 08:** § 1342. **C.L.** § 8817. **CSA:** C. 45, § 164. **CRS 53:** § 35-8-1. **L. 56:** p. 130, § 5. **C.R.S. 1963:** § 35-8-1. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 564, § 28, effective August 11. **L. 2018:** (1) amended, (HB 18-1138), ch. 88, p. 697, § 26, effective August 8.

Cross references: (1) For the oath of civil officers, see § 8 of art. XII, Colo. Const.; for county officers' election and term in office, see § 8 of art. XIV, Colo. Const.; for the election of county assessors, see § 1-4-206.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

ANNOTATION

The liability of sureties on official bonds is limited by their terms strictly construed. People ex rel. Layden v. Jackson, 16 Colo. App. 308, 64 P. 1051 (1901);

People ex rel. Howard v. Cobb, 10 Colo. App. 478, 51 P. 523 (1897).

And the sureties on an assessor's official bond are not liable to his successor for fees collected after the expiration of his term and during the time he wrongfully withheld the office from his successor. People ex rel. Layden v. Jackson, 16 Colo. App. 308, 64 P. 1051 (1901).

30-10-802. Assessment district - deputy in each - oath or affirmation - bond.

(1) When the board of county commissioners of any county is of the opinion that the assessor is unable to perform the duties of office within the time prescribed by law, the board shall divide the county into assessment districts and shall require the assessor to appoint a deputy in each district, who shall: Be a qualified elector of the district; take an oath or affirmation in accordance with section 24-12-101; and, except as provided in subsection (2) of this section, give bond to the principal.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage on behalf of a deputy assessor to protect the people of the county from any malfeasance on the part of the deputy assessor while in office.

Source: G.L. § 549. **L. 1879:** p. 40, § 1. **G.S.** § 648. **R.S. 08:** § 1343. **C.L.** § 8818. **CSA:** C. 45, § 165. **CRS 53:** § 35-8-2. **C.R.S. 1963:** § 35-8-2. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 564, § 29, effective August 11. **L. 2018:** (1) amended, (HB 18-1138), ch. 88, p. 698, § 27, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

ANNOTATION

There is a well-recognized distinction between a deputy and an assistant; the former must be a qualified elector, take the oath of office and give bond to the assessor, whereas the latter need not be a qualified elector and is not required to take the oath of office or to give bond, because a deputy assessor performs duties requiring the exercise of discretion; not so an assistant. Bd. of County Comm'rs v. Davis, 94 Colo. 330, 30 P.2d 266 (1934).

No power is conferred on the assessor to create assessment districts, nor can he appoint deputy assessors until such districts are created, and some discretion is lodged in the board of county commissioners as to when the necessity arises for such division

of the county. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886).

Reimbursement for clerk. Since it was not through any neglect or default of the assessor that a county was not divided into districts which would have authorized him to appoint deputies instead of clerks, it would be inequitable to require the assessor to bear the expenses thus necessarily incurred; having paid the clerks, the assessor's right to reimbursement, although not covered by the express terms of this section, may be fairly implied therefrom, also the power of the commissioners to allow the claim. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886).

Commissioners' contract for assessment ultra vires. Where board of county commissioners, under its authority to manage the business of the county, entered into a contract with plaintiffs to fix valuations of land, which assessor admittedly was unable to determine, such contract is ultra vires and void, because the right to employ capable assistants comes within the purview of the duties primarily conferred on the assessor and cannot be claimed as an implied power of the board of county commissioners, because the board, as such, has no authority to impose itself upon the express powers of another county officer. Pritchard v. Bd. of County Comm'rs, 119 Colo. 318, 204 P.2d 156 (1949).

30-10-803. Office and supplies - expenses.

(1) The county assessor shall keep his or her office at the county courthouse or at a location in the county seat provided by the board of county commissioners, and shall be provided with a suitable room, vault, necessary office furnishings, books, maps, plats, and all forms and blanks required to be used, and other office supplies.

(2) Notwithstanding the provisions of subsection (1) of this section, the assessor may keep one or more offices outside of the county seat. Any such office shall be in addition to his or her respective office kept pursuant to subsection (1) of this section and shall be within the same county. Any such additional office may be kept only if the board of county commissioners of such county makes office space or funding available to provide for the office. As used in this section, "office" shall mean a place where some or all of the duties of the assessor are conducted. All necessary expenses shall be audited and paid as other county expenses are audited and paid.

Source: L. 13: p. 527, § 1. **C.L.** § 8819. **CSA:** C. 45, § 166. **CRS 53:** § 35-8-3. **C.R.S. 1963:** § 35-8-3. **L. 2001:** Entire section amended, p. 652, § 2, effective May 30.

30-10-804. Assistants - refusal to furnish - appeal. (Repealed)

Source: L. 13: p. 528, § 4. **C.L.** § 8820. **CSA:** C. 45, § 167. **CRS 53:** § 35-8-4. **C.R.S. 1963:** § 35-8-4. **L. 72:** p. 589, § 51. **L. 77:** Entire section repealed, p. 1739, § 24, effective June 20.

30-10-805. Expenses of assessor. (Repealed)

Source: L. 13: p. 529, § 6. **C.L.** § 8821. **CSA:** C. 45, § 168. **CRS 53:** § 35-8-5. **C.R.S. 1963:** § 35-8-5. **L. 77:** Entire section amended, p. 1739, § 23, effective June 20. **L. 88:** Entire section repealed, p. 917, § 4, effective April 14.

Cross references: For present provisions concerning the payment of actual and necessary expenses of county officers while engaged in business on behalf of the county, see § 30-2-102 (3)(e).

PART 9

SURVEYOR

30-10-901. Surveyor - election - bond - insurance.

(1) A county surveyor shall be elected for a term of four years, shall be a professional land surveyor as provided in part 3 of article 120 of title 12, and, except as provided in subsection (2) of this section, shall file an official bond in the office of the county clerk and recorder, to be approved by the board of county commissioners, in the sum of one thousand dollars, conditioned for the faithful discharge of duties.

(2) In lieu of the bond required by subsection (1) of this section, a county may purchase crime insurance coverage in an amount not less than ten thousand dollars on behalf of the surveyor to protect the people of the county from any malfeasance on the part of the surveyor while in office.

Source: G.L. § 543. **G.S.** § 650. **R.S. 08:** § 1345. **C.L.** § 8822. **CSA:** C. 45, § 169. **CRS 53:** § 35-9-1. **L. 56:** p. 130, § 6. **L. 63:** p. 265, § 1. **C.R.S. 1963:** § 35-9-1. **L. 69:** p. 224, § 1. **L. 84:** Entire section amended, p. 1121, § 29, effective June 7. **L. 2010:** Entire section amended, (HB 10-1062), ch. 161, p. 565, § 30, effective August 11. **L. 2019:** (1) amended, (HB 19-1172), ch. 136, p. 1718, § 213, effective October 1.

30-10-902. Deputies - certificates admitted as evidence.

The county surveyor may appoint as many deputies as he thinks proper, for whose official acts he shall be responsible. The certificate of the county surveyor or any of his deputies shall be admitted as legal evidence in any court of the state, but the certificate may be explained or rebutted by other evidence.

Source: G.L. § 544. **G.S.** § 651. **R.S. 08:** § 1346. **C.L.** § 8823. **CSA:** C. 45, § 170. **CRS 53:** § 35-9-2. **C.R.S. 1963:** § 35-9-2.

30-10-903. Duties and powers of the county surveyor.

(1) The duties of the county surveyor are:

(a) To represent the county in boundary disputes between adjoining counties pursuant to section 30-6-110, and in section or quarter corner disputes pursuant to section 30-10-906, and to locate lost, destroyed, or disputed corners and boundaries pursuant to section 38-44-104;

(b) To notify the county attorney of any unsettled boundary disputes or boundary discrepancies within the county which may come to his attention;

(c) To file in the office of the county surveyor, or in the office of the county clerk and recorder if there is no office for the county surveyor in the county, all surveys, field notes, calculations, maps, and any other records pertaining to work authorized and financed by the board of county commissioners. All surveys made by the county surveyor or his deputies shall be numbered consecutively by the county surveyor, and all field notes and calculations pertaining to such surveys shall be endorsed by the county surveyor with the number of the survey to which they pertain.

(2) The county surveyor may, when authorized by the board of county commissioners, and when financially compensated by agreement between the surveyor and the board of county commissioners:

(a) Conduct surveys to establish the boundaries of county property, including road rights-of-way, or any other surveys necessary to the county;

(b) Accept for filing maps of surveys that establish monuments and keep a current record of all survey monuments within the county;

(c) Examine all survey maps and plats before they are recorded by the county clerk and recorder to ensure proper content and form;

(d) Conduct geodetic control surveys, vertical control surveys, or any surveys for the purpose of geographic information systems;

(e) Conduct or supervise construction surveys necessary to the county;

(f) Provide reference monuments for or the remonumentation or monument upgrades of public land survey system monuments that are destroyed by county construction or other functions; and

(g) Provide other services requiring the expertise of a professional land surveyor as agreed upon by the county surveyor and the county board of commissioners.

(3) The county commissioners may elect to have any service specified in subsection (2) of this section contracted out to a qualified private professional surveyor or survey firm, or have another department in the county that employs Colorado licensed surveyors perform the work.

Source: G.L. § 545. **G.S.** § 652. **R.S. 08:** § 1347. **C.L.** § 8824. **CSA:** C. 45, § 171. **CRS 53:** § 35-9-3. **L. 63:** p. 265, § 2. **C.R.S. 1963:** § 35-9-3. **L. 94:** (1)(a) amended, p. 1507, § 40, effective July 1. **L. 2007:** (2)(d), (2)(e), and (2)(f) added, p. 293, § 4, effective August 3. **L. 2017:** (1)(a), IP(2), (2)(e), and (2)(f) amended and (2)(g) and (3) added, (HB 17-1017), ch. 15, p. 43, § 1, effective August 9.

30-10-904. Vacancy - how filled.

If the office of county surveyor is at any time vacant, the board of county commissioners shall, within six months after the vacancy occurs, appoint some suitable and qualified person, who need not be a resident of the county, to fill the position of surveyor until the next general election.

Source: G.L. § 547. **G.S.** § 654. **R.S. 08:** § 1349. **C.L.** § 8826. **CSA:** C. 45, § 173. **CRS 53:** § 35-9-5. **C.R.S. 1963:** § 35-9-4. **L. 2002:** Entire section amended, p. 77, § 1, effective August 7. **L. 2017:** Entire section amended, (HB 17-1017), ch. 15, p. 44, § 2, effective August 9.

30-10-905. Remuneration - expenses.

(1) In counties of every class, the board of county commissioners may provide for additional compensation by agreement between the county surveyor and the board of county commissioners to be paid to the county surveyor who performs services for the county in addition to the duties specified in section 30-10-903, which compensation shall be paid out of the county treasury.

(2) The board of county commissioners may authorize any material and equipment necessary for the performance of any of the duties of the county surveyor; but, the material and equipment so provided shall not be used for any purpose other than to perform the duties of the county surveyor.

(3) A county surveyor and any of his deputies may engage in private survey practice, if such private practice does not interfere with the performance of their official duties.

(4) Except as provided in section 30-10-906, no county surveyor nor any of his deputies shall accept any remuneration other than that provided by the board of county commissioners for the performance of any act required as part of his official duties.

(5) While engaged in an act necessary to the performance of his official duties, no county surveyor nor any of his deputies shall perform any act not directly related to his official duties.

Source: L. 63: p. 266, § 3. **C.R.S. 1963:** § 35-9-5. **L. 78:** (4) amended, p. 272, § 92, effective May 23. **L. 94:** (4) amended, p. 1508, § 41, effective July 1. **L. 2006:** (1) amended, p. 449, § 4, effective August 7. **L. 2010:** (1) amended, (SB 10-182), ch. 291, p. 1352, § 2, effective May 26. **L. 2017:** (1) amended, (HB 17-1017), ch. 15, p. 44, § 3, effective August 9.

30-10-906. Disputed boundaries - notice - establishment of legal corner monument.

(1) Whenever the proper location of any section corner or quarter section corner is in dispute, a corner monument shall be established by the county surveyor for the county in which such corner is located pursuant to this section.

(2) (a) Upon receipt of an application from any party in interest and the fee required pursuant to subsection (4) of this section and subsequent to giving notice as required pursuant to paragraph (b) of this subsection (2), the county surveyor shall gather evidence and conduct any necessary surveys to establish the location of a monument.

(b) Within two weeks of receipt of an application and fee pursuant to paragraph (a) of this subsection (2), the county surveyor shall give notice including the date when such surveyor will be in the vicinity of the disputed corner in the following manner:

(I) For parties whose property rights might be affected by the establishment of the location of a monument, by written notice;

(II) For parties to whom written notice cannot be given because of an incorrect address or because there are more than fifty known affected landowners, by publishing for four consecutive weeks in a newspaper of general circulation in the applicable county or, if there is no newspaper

published in such county, in some newspaper of general circulation published in the nearest county;

(III) For all professional land surveyors who have filed a monument record on the disputed corner or on any aliquot corner within one mile thereof and all professional land surveyors known to have performed land surveys in the vicinity of the disputed corner, by written notice to the extent practicable.

(3) (a) On the date given in the notices pursuant to subsection (2) of this section, the county surveyor shall proceed to establish the corner monument in accordance with section 38-51-103, C.R.S., and with the field notes of original surveys made by the United States by firmly planting a monument at the points found. The county surveyor shall accurately take and note courses and distances from such established monument to one or more prominent objects of a permanent nature if there are any in the vicinity and make a plat or map of the survey.

(b) The county surveyor shall record the survey and a statement of the proceedings, including the application, notice, and names of the parties in interest, in the records of the office of the county surveyor.

(c) Any corner monument established pursuant to this section shall be the true and legal monument defining the boundary corner as stated in the record of the survey; except that any affected party may, pursuant to article 44 of title 38, C.R.S., appeal the result within six months after the date the corner monument is established.

(4) (a) The reasonable fees and expenses incurred by the county surveyor in establishing a corner shall be paid by the party applying therefor.

(b) At the time the application is filed, the county surveyor shall estimate the probable fees and expenses to be incurred in establishing the corner and shall collect that amount from the applicant.

(c) After the corner has been established, if the estimated amount exceeds the actual fees and expenses, the excess shall be refunded. If the fees and expenses exceed the estimated amount, the applicant shall pay the difference to the county surveyor.

Source: L. 94: Entire section added, p. 1508, § 42, effective July 1. **L. 97:** (3)(c) amended, p. 1629, § 4, effective July 1. **L. 2010:** (3)(c) amended, (HB 10-1085), ch. 95, p. 324, § 3, effective August 11.

ANNOTATION

Law reviews. For article, "CRS § 38-44-112 Boundary Line Agreements", see 46 Colo. Law. 61 (Mar. 2017).

The procedures set forth under this section may be used to resolve disputes over the proper location of a section or quarter section corner, even if those disputes are related to the location of a private boundary. Cumpston v. Neirinckx, 1 P.3d 752 (Colo. App. 2000).

30-10-907. County surveyor to administer oaths.

County surveyors shall have the authority to administer an oath or affirmation to deputies and assistants acting under them faithfully and impartially to discharge their duties as deputies and assistants.

Source: L. 94: Entire section added, p. 1508, § 42, effective July 1.

PART 10

SUPERINTENDENT OF SCHOOLS

30-10-1001 to 30-10-1011. (Repealed)

Source: L. 84: Entire part repealed, p. 582, § 1, effective March 19.

Editor's note: This part 10 was numbered as article 10 of chapter 35, C.R.S. 1963. For amendments to this part 10 prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

COUNTY POWERS AND FUNCTIONS

General

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PART 1

GENERAL PROVISIONS

30-11-101. Powers of counties.

(1) Each organized county within the state is a body corporate and politic and as such is empowered for the following purposes:

(a) To sue and be sued;

(b) To purchase and hold real and personal property for the use of the county, and acquire lands sold for taxes, as provided by law;

(c) To sell, convey, or exchange any real or personal property owned by the county and make such order respecting the same as may be deemed conducive to the interests of the inhabitants; and to lease any real or personal property, either as lessor or lessee, together with any facilities thereon, when deemed by the board of county commissioners to be in the best interests of the county and its inhabitants;

(d) To make all contracts and do all other acts in relation to the property and concerns necessary to the exercise of its corporate or administrative powers. Any such contract may by its terms exceed one year and shall be binding upon the parties thereto as to all of its rights, duties, and obligations.

(e) To exercise such other and further powers as may be especially conferred by law;

(f) To develop, maintain, and operate mass transportation systems, which power shall be vested either individually in the board of county commissioners or jointly with other political subdivisions or governmental entities formed pursuant to the provisions of part 2 of article 1 of title 29, C.R.S. Except as provided in paragraph (j) of this subsection (1), this provision shall not apply to any county or portion thereof encompassed by the regional transportation district as formed pursuant to the provisions of article 9 of title 32, C.R.S. Counties, by ordinance adopted, administered, and enforced in accordance with part 4 of article 15 of this title, shall have the authority: To fix, maintain, and revise passenger fees, rates, and charges, and terms and conditions for such systems; to prescribe the method of development, maintenance, and operation of such mass transportation systems; and to receive contributions, gifts, or other support from public and private entities to defray the operating costs of such systems.

(g) To provide for the payment of construction, installation, operation, and maintenance of street lighting by ordinance adopted, administered, and enforced in accordance with part 4 of article 15 of this title and to assess, either in whole or in part, the cost of constructing, installing,

operating, and maintaining such street lighting against the property in the vicinity of such street lighting in proportion to the frontage of the property abutting the road, street, or alley where such street lighting is so constructed, installed, operated, and maintained;

(h) To enter into contracts with the executive director of the department of corrections pursuant to section 16-11-308.5, C.R.S., for the placement of persons under the custody of the executive director in county jails or adult detention centers;

(i) To dispose of abandoned personal property acquired by an elected county official or county employee in performing official duties. Said personal property may be disposed of only after the exercise of due diligence to determine the owner of such personal property. Such personal property may be sold, discarded, or used for county purposes as the board of county commissioners deems to be in the best interests of the county.

(j) For any county located in whole or in part within the boundaries of the regional transportation district, to provide transit services in cooperation with and pursuant to consultation with the board of directors of the district. For purposes of this paragraph (j), "county" means any county or city and county.

(k) To coordinate, pursuant to 43 U.S.C. sec. 1712, the "National Environmental Policy Act of 1969", 42 U.S.C. sec. 4321 et seq., 40 U.S.C. sec. 3312, 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 40 CFR parts 1500 to 1508, with the United States secretary of the interior and the United States secretary of agriculture to develop land management plans that address hazardous fuel removal and other forest management practices, water development and conservation measures, watershed protection, the protection of air quality, public utilities protection, and private property protection on federal lands within such county's jurisdiction;

(l) To conduct or participate in forest health projects as defined in section 37-95-103 (4.9) within and outside the boundaries of the county.

(m) Independently initiating and bringing civil actions to enforce:

(I) Parts 1, 2, 5, 7, 9, 11, 12, and 14 of article 12 of title 38; and

(II) Beginning January 1, 2026, parts 4, 8, and 10 of article 12 of title 38.

(2) Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law. In addition to any other enforcement or collection method authorized by law, if a county passes an ordinance or resolution of which a violation would be a class 2 petty offense, the county may elect to apply the penalty assessment procedure set forth in section 16-2-201, C.R.S., and may adopt a graduated fine schedule for multiple offenses. If a specified offense would be an unclassified misdemeanor, a county may elect to downgrade the offense to a class 2 petty offense and apply the penalty assessment procedure under circumstances deemed appropriate and prescribed by the county in an ordinance or resolution.

(3) (a) Notwithstanding any law to the contrary, a contract between a county and a private attorney who the county retains in relation to a civil action described in subsection (1)(m) of this section shall specify an hourly rate, not to exceed five hundred dollars per hour, at which the county compensates the private attorney.

(b) A county may use an amount equal to or less than ten percent of any monetary award received as a result of a civil or criminal action commenced pursuant to subsection (1)(m) of this section to cover the costs of that civil action, including attorney fees.

(c) In commencing a civil action pursuant to subsection (1)(m) of this section, a county may confer with any housing authority created pursuant to title 29 that serves the county in whole or in part.

Source: G.L. § 428. **G.S.** § 521. **R.S. 08:** § 1177. **C.L.** § 8658. **CSA:** C. 45, § 1. **CRS 53:** § 36-1-1. **C.R.S. 1963:** § 36-1-1. **L. 73:** pp. 465, 466, §§ 1, 1. **L. 79:** (1)(g) added, p. 1150, § 2, effective April 25. **L. 88:** (1)(h) added, pp. 677, 711, §§ 5, 12, effective July 1. **L. 90:** (1)(f) and (1)(g) R&RE, p. 1446, § 1, effective July 1. **L. 92:** (1)(i) added, p. 967, § 9, effective June 1. **L. 93:** (1)(h) amended, p. 407, § 6, effective April 19. **L. 2002:** (1)(f) amended and (1)(j) added, p. 733, § 3, effective August 7; (1)(f) amended and (1)(j) added, p. 713, § 3, effective August 7. **L. 2003:** (1)(k) added, p. 1036, § 10, effective April 17. **L. 2008:** (2) added, p. 57, § 2, effective August 5. **L. 2021:** IP(1) amended and (1)(l) added, (HB 21-1008), ch.159, p. 905, § 2, effective May 20. **L. 2025:** (1)(m) and (3) added, (SB 25-020), ch. 264, p. 1356, § 4, effective August 6.

Cross references: For the legislative declaration contained in the 2003 act enacting subsection (1)(k), see section 1 of chapter 145, Session Laws of Colorado 2003.

ANNOTATION

I. General Consideration.

II. Power to Sue and be Sued.

III. Power to Deal in Real Property.

IV. Power to Place Inmates Out of State.

I. GENERAL CONSIDERATION.

Law reviews. For article, "The Emerging Relationship Between Environmental Regulations and Colorado Water Law", see 53 U. Colo. L. Rev. 597 (1982).

A county is not an independent governmental entity existing by reason of any inherent sovereign authority of its residents, rather, it is a political subdivision of the state, existing only for the convenient administration of the state government, created to carry out the will of the state. Stermer v. Bd. of Comm'rs, 5 Colo. App.

379, 38 P. 839 (1895); Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900); Bd. of County Comm'rs v. Love, 172 Colo. 121, 470 P.2d 861 (1970).

A county in Colorado is nothing more than an agency of the state in the general administration of the state policy, and its powers are solely governmental. Stermer v. Bd. of Comm'rs, 5 Colo. App. 379, 38 P. 839 (1895); Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

And it does not, like a municipal corporation, possess a complete local government of its own, executive, legislative, and judicial. Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

Express and implied powers. As a political subdivision, a county, and its commissioners, possess only such powers as are expressly conferred upon them by the constitution and statutes, and such incidental implied powers as are reasonably necessary to carry out such express powers. Stermer v. Bd. of Comm'rs, 5 Colo. App. 379, 38 P. 839 (1895); Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900); Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959); Bd. of County Comm'rs v. Love, 172 Colo. 121, 470 P.2d 861 (1970); Bainbridge, Inc. v. Bd. of County Comm'rs, 964 P.2d 575 (Colo. App. 1998).

Statutory taxing duties on behalf of others. Counties and county officers are charged with specific statutory duties in assessing property for tax purposes, levying taxes, collecting taxes, foreclosing tax liens when the taxes are not paid, acquiring title to tax delinquent property, and disposing of property so acquired, and in these matters the counties and their officers act in behalf of the state, towns and cities, school districts, conservancy districts, and other taxing authorities. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

General assembly may delegate authority to county based upon reasonableness standard in appropriate circumstances where, as in the case of setting fees for county building permits, flexibility is required for counties to operate effectively in addressing local concerns. Bainbridge, Inc. v. Bd. of County Comm'rs, 964 P.2d 575 (Colo. App. 1998).

II. POWER TO SUE AND BE SUED.

A county is not sovereign in the sense in which the state is sovereign, exempt from suit except by its own consent. Bd. of Comm'rs v. City of Colo. Springs, 66 Colo. 111, 180 P. 301 (1919).

This section expressly authorizes counties to sue or be sued. City & County of Denver v. Miller, 151 Colo. 444, 379 P.2d 169 (1963).

This undoubtedly carries with it the right when sued to interpose every defense, legal and equitable, which it may have, including the statute of limitations. Schloss v. Bd. of County Comm'rs, 1 Colo. App. 145, 28 P. 18 (1891).

The right "to sue" relates to the county's function as a body corporate and can only be exercised within the framework of the specific powers granted

counties and boards of county commissioners, such does not grant a general power to sue in any and all situations. Bd. of County Comm'rs v. Love, 172 Colo. 121, 470 P.2d 861 (1970).

But no express limitation is put upon the class of subject matter in respect to which that power can be exercised. City & County of Denver v. Miller, 151 Colo. 444, 379 P.2d 169 (1963).

And it cannot be that a county must submit to have such portion of its territory unlawfully taken from it and transferred to another county, without being able to contest the legality of the proceeding. City & County of Denver v. Miller, 151 Colo. 444, 379 P.2d 169 (1963).

The state is not liable in damages for the negligence of its servants, nor are other governmental corporate entities liable for the tortious acts of their servants performing duties in furtherance of a governmental function, as distinguished from a proprietary function. Liber v. Flor, 143 Colo. 205, 353 P.2d 590 (1960); M. & M. Oil Transp., Inc. v. Bd. of County Comm'rs, 143 Colo. 309, 353 P.2d 613 (1960).

Therefore, counties are not liable for the tortious acts of their servants performing duties in furtherance of a governmental function as distinguished from a proprietary function. Liber v. Flor, 143 Colo. 205, 353 P.2d 590 (1960).

Also the doctrine of respondeat superior applicable to the relation of master and servant does not apply to a public county officer so as to render him responsible for the acts or omissions of subordinates whether appointed by him or not, unless he, having the power of selection, has failed to use ordinary care therein, or unless he has been negligent in supervising the acts of such subordinates, or has directed or authorized the wrong. Liber v. Flor, 143 Colo. 205, 353 P.2d 590 (1960).

But where servants or employees of a county are the actual tort-feasors, and the evidence establishes this fact, they should be held liable in all respects as other tort-feasors. Liber v. Flor, 143 Colo. 205, 353 P.2d 590 (1960).

Since counties are quasi and not municipal corporations, they are not liable to garnishment. Stermer v. Bd. of Comm'rs, 5 Colo. App. 379, 38 P. 839 (1895).

Because counties, not their various subsidiary departments, exist as bodies corporate empowered to sue and be sued, naming a county department as a defendant is not an appropriate means of pleading a § 1983 action against a county. Stump v. Gates, 777 F. Supp. 808 (D. Colo. 1991).

III. POWER TO DEAL IN REAL PROPERTY.

A county does not have blanket authority to deal in real estate. Its authority is to purchase and hold real and personal estate for the use of the county, and lands sold for taxes, as provided by law. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

And a county has no power to acquire real or personal property as a speculation

or an investment, nor does it have the power to retain property lawfully acquired for the use of the county when the use therefor no longer exists, and it may acquire and retain such property as it now reasonable needs, or in the foreseeable future may reasonably need, but no more, and such needed property is exempt from taxation, however, other not needed property should be on the tax rolls as provided by law. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

A statutory right to reserve the minerals therein means only that it may reserve and sell the minerals separately. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Where a husband and wife executed and delivered their warranty deed to property to the county subject to encumbrances, and the consideration for the conveyance was financial assistance theretofore and in the future to be advanced by the county for their needs, it was held the county carried out its agreement and acquired a good and sufficient title under the deed. Bainbrich v. Boies, 113 Colo. 458, 158 P.2d 736 (1945).

IV. POWER TO PLACE INMATES OUT OF STATE.

Subsection (1)(h) should not be interpreted to limit placement of Colorado inmates only to county jails and this section does not affect authority of director of department of corrections to transfer inmates out of state. People v. Wood, 999 P.2d 227 (Colo. App. 2000).

30-11-102. Property of county.

Any real or personal property conveyed to any county shall be deemed the property of such county.

Source: G.L. § 429. **G.S.** § 522. **R.S. 08:** § 1178. **C.L.** § 8659. **CSA:** C. 45, § 2. **CRS 53:** § 36-1-2. **C.R.S. 1963:** § 36-1-2.

30-11-103. Commissioners to exercise powers of county.

The powers of a county as a body politic and corporate shall be exercised by a board of county commissioners therefor.

Source: G.L. § 430. **G.S.** § 523. **R.S. 08:** § 1179. **C.L.** § 8660. **CSA:** C. 45, § 3. **CRS 53:** § 36-1-3. **C.R.S. 1963:** § 36-1-3.

ANNOTATION

Within the scope of their powers the county commissioners are supreme and they cannot be superseded, nor can their acts be judicially controlled or reviewed, except for an excess of jurisdiction or abuse of discretion. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

It cannot shift its powers to another, nor evade responsibility for its declared duties. Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

The county commissioners are invested with full and sole power to manage the business affairs of the county. Bd. of Comm'rs v. Leonard, 3 Colo. App. 576, 34 P. 583 (1893).

And they are necessarily vested with reasonable discretion in the administration of county affairs. Bd. of Comm'rs v. Leonard, 3 Colo. App. 576, 34 P. 583 (1893).

The commissioners are the governing body and by statute they are clothed with full authority to make all contracts which are essential to the management of the county affairs. Liggett v. Bd. of Comm'rs, 6 Colo. App. 269, 40 P. 475 (1895).

A county exercises its power by and through its board of commissioners, not through individual members. Nicholl v. E-470 Pub. Highway Auth., 896 P.2d 859 (Colo. 1995).

The status of counties as corporations has been the subject of considerable discussion, and while they are defined as quasi corporations, it is always conceded that as such they have, to the extent of the powers which are conferred upon them, full authority to act and to contract as may corporations generally. Liggett v. Bd. of Comm'rs, 6 Colo. App. 269, 40 P. 475 (1895).

The board possesses such powers as are expressly conferred upon it by the constitution and statutes, and in addition thereto such implied powers as are reasonably necessary to the efficient execution of its express powers and duties. Roberts v. People, 9 Colo. 458, 13 P. 630 (1887); Chase v. Bd. of Comm'rs, 37 Colo. 268, 86 P. 1011 (1906); Robbins v. Hoover, 50 Colo. 610, 115 P. 526 (1911); Bd. of Comm'rs v. Davis, 27 Colo. App. 501, 150 P. 324 (1915).

These powers, it is evident and unquestioned, are to be used in such manner as would best subserve the interests of the citizens of the county of which the county commissioners are simply the representatives. Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

But they are not clothed with the authority to barter away in perpetuity the rights and interests of the public, whatever may be their power as to discretionary acts. Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

Power to buy and build not power to maintain. Where the commissioners had the discretionary power to select and purchase a site for a courthouse, and to erect the building thereon, here the power ended,

because they had no authority from the general assembly, either express or implied, to bind the public to maintain the courthouse upon the site so selected for all time to come, and the public was not bound by any alleged acts of ratification of the void contract. Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

Power to contract beyond terms of office. Where the officers or trustees of a quasi corporation are empowered to act with reference to any particular matter, it is generally conceded their contract will be valid and binding, even though some part of its performance may be impossible until after the expiration of the term of the officers who may enter into the engagement. Liggett v. Bd. of Comm'rs, 6 Colo. App. 269, 40 P. 475 (1895).

A subsequent board of commissioners has no power to review the discretionary acts of a former board. Bd. of Comm'rs v. Leonard, 3 Colo. App. 576, 34 P. 583 (1893).

Void contract. Any contract which will disable a public or quasi-public corporation from performing the duty which it has undertaken, or has been imposed upon it, for public weal, is void. Colburn v. Bd. of Comm'rs, 15 Colo. App. 90, 61 P. 241 (1900).

The right to sue a county is purely statutory, and where the mode of instituting the suit is prescribed by statute, it must be strictly followed. Bd. of Comm'rs v. Churning, 4 Colo. App. 321, 35 P. 918 (1894).

30-11-103.5. County petitions and referred measures.

The procedures for placing an issue or question on the ballot by a petition of the electors of a county that is pursuant to statute or the state constitution or that a board of county commissioners may refer to a vote of the electors pursuant to statute or the state constitution shall, to the extent no such procedures are prescribed by statute, charter, or the state constitution, follow as nearly as practicable the procedures for municipal initiatives and referred measures under part 1 of article 11 of title 31, C.R.S. The county clerk and recorder shall resolve any questions about the applicability of the procedures in part 1 of article 11 of title 31, C.R.S.

Source: L. 96: Entire section added, p. 1766, § 58, effective July 1.

ANNOTATION

Law reviews. For article, "Ballot Measures: The Scope of Authority in Statutory Counties", see 52 Colo. Law 22 (May 2023).

30-11-104. County buildings - acquisition of land or buildings by eminent domain authorized.

(1) (a) Each county, at its own expense, shall provide a suitable courthouse, a sufficient jail, and other necessary county buildings and keep them in repair.

(b) For any penal institution that begins operations on or after August 30, 1999, that is operated by or under contract with a county, the county may establish standards relating to space requirements, furnishing requirements, required special use areas or special management housing, and environmental condition requirements, including but not limited to standards pertaining to light, ventilation, temperature, and noise level. If a county does not adopt standards pursuant to this paragraph (b), the penal institution operated by or under contract with the county shall be subject to the standards adopted by the department of public health and environment pursuant to section 25-1.5-101 (1)(i), C.R.S. In establishing such standards, the county is strongly encouraged to consult with national associations that specialize in policies relating to correctional institutions.

(2) Each county has the power to acquire, by eminent domain, land or buildings, or both, for the provision of court and district attorney facilities, jails, and other necessary facilities specifically related thereto. Any acquisitions by eminent domain shall be made in the manner authorized for cities and towns as set forth in article 6 of title 38, C.R.S.

Source: G.L. § 431. **G.S.** § 524. **R.S. 08:** § 1180. **C.L.** § 8661. **CSA:** C. 45, § 4. **CRS 53:** § 36-1-4. **C.R.S. 1963:** § 36-1-4. **L. 87:** Entire section amended, p. 1203, § 1, effective July 1. **L. 2000:** (1) amended, p. 803, § 2, effective May 24. **L. 2003:** (1)(b) amended, p. 714, § 56, effective July 1.

ANNOTATION

A county's duties under this section may not be reduced or ended pursuant to art. X, § 20(9), of the state constitution. State v. Bd. of County Comm'rs, Mesa County, 897 P.2d 788 (Colo. 1995).

Historically, Colorado law has placed the duty of providing a suitable courthouse upon the county commissioners of each county. Lawson v. Pueblo County, 36 Colo. App. 370, 540 P.2d 1136 (1975).

Even though the general assembly indicated its intention to take over from the counties the financial burden of providing judicial facilities, the general assembly has not provided funds for the construction of court facilities in the various counties of the state, and the burden of providing courtroom space and facilities remains with the counties. Lawson v. Pueblo County, 36 Colo. App. 370, 540 P.2d 1136 (1975).

Counties are charged with the duty to provide public buildings for county offices, and to maintain those buildings. Bd. of County Comm'rs v. Intermountain Rural Elec. Ass'n, 655 P.2d 831 (Colo. 1982).

But lack power to acquire office space through eminent domain. The general assembly has not impliedly delegated the power of eminent domain to counties for the purpose of acquiring office space for authorized county purposes. Bd. of County Comm'rs v. Intermountain Rural Elec. Ass'n, 655 P.2d 831 (Colo. 1982).

An express grant of eminent domain power to provide facilities to house public offices does not appear in this section. Bd. of County Comm'rs v. Intermountain Rural Elec. Ass'n, 655 P.2d 831 (Colo. 1982).

The board of county commissioners was a proper party and entitled to recover damages against the building contractor and his surety under third party beneficiary principles, because in Colorado one may enforce a contractual obligation made for his benefit although he was not a party to the agreement, when such an obligation is apparent from the agreement and the surrounding circumstances. The obligation for the benefit of the county is inherent in the contract documents and circumstances. Under the leasehold agreement, the public building authority's obligation to the county to construct the courthouse building was recognized, and the building plans and specifications were subject to the approval of the county. Under the construction agreement, the county has the right to approve the form of the performance bond. The contractor was not entitled to final payment until completion of the building and final acceptance of work by the authority, the county and the architects. The land belonged to the county and was leased to the authority to have the courthouse built and to lease the land and building back to the county. Thus, the agreements and the circumstances show that the benefit of faithful performance of the construction agreement and the bond were intended to flow to the county. Such contractual benefit to the property owner is enforceable by him. Cox v. Fremont County Pub. Bldg. Auth., 415 F.2d 882 (10th Cir. 1969).

30-11-104.1. Financed purchase of an asset or certificate of participation agreements.

(1) In order to provide for financing of a public park, a public trail, a public golf course, or public open space, or a courthouse, jail, or other county building or equipment used, or to be used, for governmental purposes, or for financing of a forest health project as defined in section 37-95-103 (4.9), any county is authorized to enter into financed purchase of an asset or certificate of participation agreements.

(2) Such agreements may include an option to purchase, transfer, and acquire title to such property and the improvements thereon, if any, within a period not exceeding the useful life of such property and any improvements, but in no case exceeding thirty years.

(3) The obligation under any such agreements may only be from year to year and may not constitute a mandatory charge or requirement in any ensuing budget year.

(4) The obligation to make payments under such an agreement and the obligation to pay other charges incident to any such agreement shall not constitute or give rise to an indebtedness within the meaning of any constitutional, statutory, or home rule charter debt limitation.

Source: L. 81: Entire section added, p. 1446, § 1, effective May 29. **L. 83:** (1) amended, p. 1233, § 1, effective May 25. **L. 99:** (1) and (2) amended, p. 166, § 1, effective March 25. **L. 2021:** (1) amended, (HB 21-1008), ch. 159, p. 906, § 3, effective May 20; (1) and (3) amended, (HB 21-1316), ch. 325, p. 2054, § 68, effective July 1.

Editor's note: Amendments to subsection (1) by HB 21-1008 and HB 21-1316 were harmonized.

30-11-104.2. Tax exemption.

(1) Property financed pursuant to the provisions of section 30-11-104.1 shall be exempt from taxation so long as it is used for governmental purposes.

(2) (a) A courthouse, jail, or other county building subject to financed purchase of an asset or certificate of participation agreements in force on May 29, 1981, shall be accorded the same tax-exempt status as a courthouse, jail, or other county building financed by such agreements entered into after such date.

(b) Equipment subject to financed purchase of an asset or certificate of participation agreements in force on May 25, 1983, shall be accorded the same tax-exempt status as equipment financed by such agreements entered into after such date.

Source: L. 81: Entire section added, p. 1446, § 1, effective May 29. **L. 83:** (2) amended, p. 1233, § 2, effective May 25. **L. 2021:** (2) amended, (HB 21-1316), ch. 325, p. 2055, § 69, effective July 1.

30-11-105. Title of suits by or against county.

In all suits or proceedings by or against a county, the name in which the county shall sue or be sued shall be, "The board of county commissioners of the county of ....."; but this

provision shall not prevent county officers, when authorized by law, from suing in their name of office for the benefit of the county.

Source: G.L. § 432. **G.S.** § 525. **R.S. 08:** § 1181. **C.L.** § 8662. **CSA:** C. 45, § 5. **CRS 53:** § 36-1-5. **C.R.S. 1963:** § 36-1-5.

ANNOTATION

This provision is the exclusive method by which jurisdiction over a county can be obtained, and an action attempted to be brought under any other designation is a nullity, and no valid judgment can enter in such a case. Bd. of Comm'rs v. Churning, 4 Colo. App. 321, 35 P. 918 (1894); John Deere Plow Co. v. County of Phillips, 97 Colo. 196, 48 P.2d 793 (1935); Calahan v. County of Jefferson, 163 Colo. 212, 429 P.2d 301 (1967).

The defect if not raised will be considered waived. Great W. Mining Co. v. Woodmas, 12 Colo. 46, 20 P. 771, 13 Am. St. R. 204 (1888); Fitzgerald v. Burke, 14 Colo. 559, 23 P. 993 (1890); Poundstone v. Holt, 5 Colo. App. 66, 37 P. 35 (1894); Miller v. Kinsel, 20 Colo. App. 346, 78 P. 1075 (1904); Del Monte Live Stock Co. v. Ryan, 24 Colo. App. 340, 133 P. 1048 (1913).

And where three persons were named as defendants, with the addition "the board of county commissioners" of a county named, and throughout the proceedings in the court below all parties treated the board of county commissioners as the defendant, it was held that the county commissioners were bound by the proceeding, and by any order or decree that might be properly made in the court of review. Del Monte Live Stock Co. v. Ryan, 24 Colo. App. 340, 133 P. 1048 (1913).

Where suit was directed at the county board of adjustment, not at the county, county board of adjustment was properly designated as the party defendant. Benes v. Jefferson County Bd. of Adjustment, 36 Colo. App. 131, 537 P.2d 753 (1975).

In a suit on the official bond of a county treasurer, the action should be brought by "the people of the state of Colorado", since there is no valid objection to the title of an action brought by the people of the state of Colorado for the use of the county. Bell v. People ex rel. Garfield County, 92 Colo. 585, 22 P.2d 857 (1933).

Where an appeal is taken by the board of county commissioners in an action against them, the appeal bond must be executed in the name of the board, and not by the members individually. Bd. of County Comm'rs v. King, 9 Colo. 542, 13 P. 539 (1887).

A writ of error sued out by a county in its proper name to reverse a judgment against it by another name was dismissed. Bd. of County Comm'rs v. Churning, 4 Colo. App. 321, 35 P. 918 (1894).

County is a "person" for the purposes of a civil rights action for damages under 42 U.S.C. § 1983. Wigger v. McKee, 809 P.2d 999 (Colo. App. 1990).

30-11-105.1. Standing - contesting constitutionality of a statute.

In addition to any other powers prescribed in this part 1, any county or county officer shall have standing in district court to defend any action brought against such county or officer by contesting the constitutionality of a statute underlying such action and affecting the rights, status, or other legal relations of such county or county officer or directing the performance of, defining, or prescribing the duties or responsibilities of such county officer.

Source: L. 93: Entire section added, p. 73, § 1, effective March 26.

ANNOTATION

Applied in Mesa Verde Co. v. Montezuma County Bd. of Equaliz., 898 P.2d 1 (Colo. 1995).

30-11-106. Process served on clerk - clerk to notify board.

In all legal proceedings against the county, process shall be served on the clerk of the board of county commissioners, and when such suit or proceeding is commenced, it is the duty of the clerk to notify the county attorney thereof, and to lay before the board of county commissioners, at their next meeting, all the information he may have in regard to such suit or proceeding.

Source: G.L. § 433. **G.S.** § 526. **R.S. 08:** § 1182. **C.L.** § 8663. **CSA:** C. 45, § 6. **CRS 53:** § 36-1-6. **C.R.S. 1963:** § 36-1-6.

30-11-107. Powers of the board.

(1) The board of county commissioners of each county has power at any meeting:

(a) To make such orders concerning the property belonging to the county as it deems expedient;

(b) To examine and settle all accounts of the receipts and expenses of the county, to examine and settle and allow all accounts chargeable against the county, and, when so settled, to issue county orders therefor as provided by law;

(c) To build and keep in repair county buildings and cause the same to be insured in the name of the county treasurer for the benefit of the county and, in case there are no county buildings, to provide suitable rooms for county purposes;

(d) (I) To apportion and order the levying of taxes as provided by law; except that, for purposes of the application of any occupational privilege tax, oil and gas wells and their associated production facilities shall not be considered a business or occupation subject to such tax; and

(II) To contract loans in the name and for the benefit of the county for the purpose of erecting necessary public buildings and making or repairing public roads or bridges, when such loans have been authorized by a vote of the legal voters of the county;

(e) To represent the county and have the care of the county property and the management of the business and concerns of the county in all cases where no other provisions are made by law;

(f) To set off, organize, and change the boundaries of precincts in their respective counties and to designate and number such precincts in accordance with sections 1-5-101 and 1-5-101.5, C.R.S.;

(g) To establish one or more voting places in each election precinct, as the convenience of the inhabitants may require;

(h) To lay out, alter, or discontinue any road running into or through such county and also to perform such other duties respecting roads as may be required by law;

(i) To grant such licenses and perform such other duties as are or may be prescribed by law;

(j) To acquire land for, lay out, construct, maintain, and repair airports and landing strips for aircraft, to enter into leases, and to fix and collect charges or fees for the use of such airports and landing strips;

(k) To provide in the county budget for dumping grounds within the county to be used for such purposes as may be prescribed by the board;

(l) To enter into agreements with any municipality for the joint use and occupation of public buildings. The consideration to be paid for such use and occupation shall be paid each year out of current revenues which shall be appropriated annually, and any agreement to make such annual payment shall not be considered or held to be creation of an indebtedness of the county within any constitutional or statutory limitation.

(m) To negotiate with the board or boards of county commissioners of another county or counties, and with the board of governors of the Colorado state university system of Colorado state university, for agricultural extension service to be furnished such counties, and to be financed on a pro rata share by the counties receiving such service;

(n) To create, by resolution duly adopted, the office of county manager, or administrative assistant to the board of county commissioners, or county budget officer, or any other such office as may, in its judgment, be required for the efficient management of the business and concerns of the county. When so created, the board has power to make appointments to such offices, to prescribe the duties to be performed by such appointees, to fix the compensation to be paid to such appointees, and to pay the same from the county general fund. Any persons appointed to such offices shall serve at the pleasure of the board of county commissioners.

(o) To cooperate with other counties and with the state forester in the organization and training of rural fire fighting groups, payment for the operation and maintenance of fire fighting equipment and in sharing the cost of suppressing fires;

(o.5) Repealed.

(p) To purchase all necessary uniforms of the county sheriff, undersheriff, and deputies of the county; but no such uniforms shall be supplied to those persons deputized to perform particular acts, and all such uniforms shall be and remain the property of the county;

(q) To organize, own, operate, control, direct, manage, contract for, or furnish ambulance service;

(r) To provide in the county budget for services for the aged, including but not limited to social and recreational services, medical services, transportation, and homemaker services;

(s) To appropriate money for workforce housing, housing programs, multijurisdictional housing authorities, or housing authorities established under part 5 of article 4 of title 29 from the county general fund or other specified funds established by the board;

(t) To set, by resolution duly adopted or by the method provided in the charter of a home rule county, mileage for all county officers, employees, and agents in an amount not less than twenty cents per mile nor more than a rate per mile equal to the standard mileage rate allowed pursuant to 26 U.S.C. sec. 162, as amended, and regulations promulgated thereunder, for each mile actually and necessarily traveled while on official county business;

(u) To expend moneys or make assessments pursuant to paragraph (z) of this subsection (1) for the maintenance of drainage structures and facilities and to accept dedicated or deeded drainage easements or drainageway tracts as county property once drainage structures and facilities on such easements or tracts have been completed and found to meet county specifications and standards;

(v) To provide a job diversion program directing persons making application for or receiving assistance under the Colorado works program, as described in part 7 of article 2 of title 26, C.R.S., into bona fide public or private sector employment;

(w) To expend moneys or make assessments pursuant to paragraph (z) of this subsection (1) for the construction, reconstruction, improvement, or extension of drainage facilities within the unincorporated or incorporated areas of the county and to acquire, by gift, purchase, lease, or the exercise of the right of eminent domain, all lands, easements, or rights in land which are necessary in connection with such construction, reconstruction, improvement, or extension. Drainage facilities shall not be provided in any area which is within an existing drainage district organized or created pursuant to law without the approval of such district.

(x) Repealed.

(y) To expend moneys or make assessments pursuant to paragraph (z) of this subsection (1) for the construction, maintenance, repair, or installation of curbs, gutters, sidewalks, and related structures along residential and commercial streets or alleys and in residential or commercial subdivisions within the unincorporated areas of the county; except that, prior to making an assessment for any purpose authorized by this paragraph (y), the county shall consider cost-sharing alternatives so that a portion of the cost of any project authorized in this paragraph (y) is incurred and paid by the county;

(z) To prescribe, by ordinance adopted, administered, and enforced in accordance with part 4 of article 15 of this title, the mode in which the charges on the respective owners of lots or lands, and on the lots or lands, shall be assessed and determined for the purposes authorized in paragraphs (u), (w), and (y) of this subsection (1);

(aa) To establish policies and procedures regarding entering into contracts binding on the county, and to delegate its power to enter into such contracts pursuant to such policies and procedures, where amounts specified in such policies and procedures and where such contracts otherwise comply with limits and requirements set forth in such policies and procedures;

(bb) To provide for the preservation of the cultural, historic, and architectural history within the county by ordinance or resolution; to delegate the power to designate historic landmarks and historic districts to an historic preservation advisory board; to accept dedicated or deeded easements or other historic property and to expend moneys for the maintenance of such deeded historic land, facilities, and structures; and to receive contributions, gifts, or other support from public and private entities to defray the maintenance costs of such historic land, facilities, and structures;

(cc) By resolution, memorial, plaque, or limited gift, to honor, commemorate, memorialize, or acknowledge outstanding service or other events, including death or retirement of individuals, or actions, accomplishments, or achievements deserving of recognition;

(dd) To enter into installment purchase contracts or shared-savings contracts or otherwise incur indebtedness under section 29-12.5-103, C.R.S., to finance energy conservation and energy saving measures and enter into contracts for an analysis and recommendations pertaining to such measures under section 29-12.5-102, C.R.S.;

(ee) Repealed.

(ff) To set, by written resolution duly adopted by a majority vote of the board and entered in its minutes prior to the county treasurer being sworn into office, the amount of a surety bond to be executed by the treasurer and to authorize the purchase of such a bond by the board;

(gg) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of title 24, C.R.S.;

(hh) To establish an affordable housing dwelling unit advisory board for the county in accordance with the requirements of article 26 of title 29, C.R.S.;

(ii) To provide in the county budget for programs that support education and outreach on environmental sustainability and for financing capital improvements for energy efficiency retrofits and the installation of renewable energy fixtures, as defined in section 30-11-107.3, for private residences and commercial property within the county but that do not exempt the county from the requirements of any other statute;

(jj) To encourage homeowners to participate in utility demand-side management programs where applicable;

(kk) (I) To adopt a resolution, in consultation with the local board of health, local public health agencies, and any water and wastewater service providers serving the county, regarding the use of graywater, as defined in section 25-8-103 (8.3), in compliance with any regulation adopted pursuant to section 25-8-205 (1)(g), and to enforce compliance with the board's resolution. A board of county commissioners:

(A) May adopt a resolution prohibiting the installation of graywater treatment works, as defined in section 25-8-103 (8.4), and the use of all graywater or prohibiting one or more categories of graywater use that the water quality control commission establishes in rules adopted pursuant to section 25-8-205 (1)(g); and

(B) Pursuant to section 25-8-205.4 (2)(b), shall notify the division of administration within the department of public health and environment of any resolution adopted pursuant to subsection (1)(kk)(I)(A) of this section. A board of county commissioners that sends notice pursuant to this subsection (1)(kk)(I)(B) may subsequently authorize the installation of graywater treatment works and the use of graywater or authorize categories of graywater use previously prohibited at any time by adopting a resolution. A board of county commissioners that

subsequently authorizes the use of graywater shall promptly notify the division of administration within the department of public health and environment of the subsequent authorization.

(II) A board of county commissioners that has not prohibited all graywater use pursuant to subsection (1)(kk)(I) of this section is encouraged to enter into a memorandum of understanding with the local board of health, local public health agencies, and any water and wastewater service providers serving the county concerning graywater usage and the proper installation and operation of graywater treatment works, as defined in section 25-8-103 (8.4).

(ll) To enter into loan agreements with any governmental entity that is created by or located within the county in accordance with section 30-25-106.5; and

(mm) To establish and administer an incentive program to directly incentivize improvement in an area of specific local concern related to the use of real property in the county in accordance with section 30-11-132.

(2) (a) Subject to the provisions of part 1 of article 1 of title 29, C.R.S., the board of county commissioners of each county has exclusive power to adopt the annual budget for the operation of the county government, including all offices, departments, boards, commissions, other spending agencies of the county government, and other agencies which are funded in whole or in part by county appropriations. All such entities shall make appropriate budget recommendations each year to the board of county commissioners for the operation of their respective offices; but the final budget determination of each board of county commissioners shall be binding upon each of the respective offices, departments, boards, commissions, other spending agencies of the county government, and other agencies which are funded in whole or in part by county appropriations.

(b) Every decision made by the board of county commissioners in exercising its budget-making power shall be presumed to be a valid exercise of the power granted by paragraph (a) of this subsection (2).

(3) The board of county commissioners of any county eligible to receive impact assistance grants pursuant to part 3 of article 25 of this title may certify a dollar amount to the parks and wildlife commission pursuant to part 3 of article 25 of this title.

Source: G.L. § 446. **G.S.** § 538. **R.S. 08:** § 1204. **C.L.** § 8682. **CSA:** C. 45, § 25. **L. 45:** p. 296, § 2. **CRS 53:** § 36-1-7. **L. 55:** p. 250, § 1. **L. 57:** p. 313, § 1. **L. 61:** pp. 301, 714, §§ 1, 2. **C.R.S. 1963:** § 36-1-7. **L. 65:** pp. 458, 925, §§ 1, 5. **L. 69:** p. 225, § 1. **L. 77:** (1)(q) amended, p. 1439, § 1, effective May 26; (2) added, p. 1441, § 1, effective June 9; (1)(r) added, p. 1440, § 1, effective June 19; (1)(s) added, p. 1396, § 2, effective July 7; (1)(q) R&RE, p. 1285, § 3, effective January 1, 1978. **L. 79:** (3) added, p. 1154, § 2, effective June 22. **L. 80:** (1)(t) added, p. 655, § 1, effective July 1. **L. 81:** (1)(u) added, p. 1448, § 1, effective June 12. **L. 82:** (1)(v)

added, p. 427, § 3, effective July 1. **L. 83:** (1)(w) added, p. 1235, § 1. effective July 1. **L. 85:** (1)(x) added, p. 806, § 2, effective May 23. **L. 86:** (1)(v) amended, p. 1040, § 4, effective April 30. **L. 90:** (1)(u) and (1)(w) amended and (1)(y) to (1)(cc) added, p. 1447, § 2, effective July 1. **L. 91:** (1)(t) amended, p. 712, § 1, effective March 11; (1)(dd) added, p. 733, § 3, effective May 1. **L. 93:** (1)(ee) added, p. 346, § 4, effective April 12; (1)(o.5) added, p. 1255, § 4, effective July 1. **L. 95:** (1)(ff) added, p. 500, § 3, effective May 16; (1)(o.5) repealed, p. 546, § 2, effective May 22. **L. 96:** (1)(d) amended, p. 347, § 3, effective April 17. **L. 97:** (1)(v) amended, p. 1245, § 51, effective July 1. **L. 98:** (1)(ee) repealed, p. 825, § 40, effective August 5. **L. 99:** (1)(gg) added, p. 1348, § 6, effective July 1. **L. 2000:** (1)(f) amended, p. 265, § 4, effective August 2. **L. 2001:** (1)(hh) added, p. 977, § 2, effective August 8. **L. 2002:** (1)(gg) amended, p. 858, § 7, effective May 30; (1)(m) amended, p. 1246, § 20, effective August 7. **L. 2007:** (1)(ii) added, p. 1470, § 1, effective August 3. **L. 2008:** (1)(x) amended, p. 1130, § 16, effective May 22; (1)(ii) amended and (1)(jj) added, p. 1293, § 5, effective May 27. **L. 2012:** (3) amended, (HB 12-1317), ch. 248, p. 1204, § 10, effective June 4. **L. 2013:** (1) (kk) added, (HB 13-1044), ch. 228, p. 1089, § 4, effective May 15. **L. 2020:** (1)(ll) added, (SB 20-139), ch. 246, p. 1178, § 1, effective September 14. **L. 2022:** (1)(x)(II) added by revision, (HB 22-1353), ch. 479, pp. 3498, 3499, §§ 8, 12. **L. 2024:** (1)(ll) amended and (1)(mm) added, (SB 24-002), ch. 25, p. 72, § 2, effective August 7; (1)(kk) amended, (HB 24-1362), ch. 277, p. 1840, § 2, effective January 1, 2026. **L. 2026:** (1)(s) amended, (SB 26-001), ch. 7, p. 22, § 5, effective August 12.

Editor's note: Subsection (1)(x)(II) provided for the repeal of subsection (1)(x), effective July 1, 2023. (See L. 2022, p. 3498.)

Cross references: (1) For additional powers of county commissioners relating to county airports, see part 1 of article 4 of title 41; for power of county commissioners to transfer county property for hospital purposes, see § 32-1-1003 (2); for power of a board to adopt ordinances for control or licensing of matters of purely local concern, see § 30-15-401.

(2) For the legislative declaration in the 2013 act adding subsection (1) (kk), see section 1 of chapter 228, Session Laws of Colorado 2013. For the legislative declaration in HB 22-1353, see section 1 of chapter 479, Session Laws of Colorado 2022. For the legislative declaration in SB 24-002, see section 1 of chapter 25, Session Laws of Colorado 2024.

ANNOTATION

I. General Consideration.

II. Making Order Concerning County Property.

III. Examining and Settling County Accounts.

IV. Building and Keeping in Repair County Buildings.

V. Apportioning and Ordering the Levy of Taxes and Contracting Loans.

VI. Laying Out, Altering, or Discontinuing County Roads.

I. GENERAL CONSIDERATION.

In discharging their duties, county commissioners are in all relevant aspects the alter egos of the county. Koch v. Bd. of County Comm'rs of Costilla Cty., 774 F. Supp. 1275 (D. Colo. 1991).

Section does not violate separation of powers. Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983).

The general assembly can and does, at times in Colorado, delegate limited police and legislative powers to local governmental units. Asphalt Paving Co. v. Bd. of County Comm'rs, 162 Colo. 254, 425 P.2d 289 (1967).

Because in Colorado the general assembly, as government has grown more complex, has extended its reliance on boards of county commissioners to carry out, on a local level local governmental functions where it has deemed such necessary. Asphalt Paving Co. v. Bd. of County Comm'rs, 162 Colo. 254, 425 P.2d 289 (1967).

Therefore, in the absence of any constitutional prohibition, there is nothing illegal about a state legislature delegating powers local in nature to local governmental units, provided that the proper constitutional tests are met as to maintaining a separation of powers and nonabrogation of proper responsibility. Asphalt Paving Co. v. Bd. of County Comm'rs, 162 Colo. 254, 425 P.2d 289 (1967).

Counties have been delegated the following powers, among others, each of which requires the board of county commissioners to exercise certain police powers, viz.: to license and control dogs; to adopt building regulations and restrictions; to license and regulate public dance halls; to issue liquor licenses; to adopt zoning regulations; to regulate roadside signs on county roads; and to adopt, subject to state approval, lower prima facie speed limits on highways and roads located in unincorporated areas within their boundaries. Asphalt Paving Co. v. Bd. of County Comm'rs, 162 Colo. 254, 425 P.2d 289 (1967).

County commissioners, in order to bind the county, must act collectively as a board. Robbins v. Hoover, 50 Colo. 610, 115 P. 526 (1911).

Care for the poor. Unless there is some statute which takes from the board the duty of providing for the poor, with the power to make valid contracts for their support, which binds the county, such power is vested in the county board. Saguache v. Tough, 45 Colo. 395, 101 P. 411 (1909).

Contract for assessments ultra vires. Where board of county commissioners, under its authority to manage the business of the county, entered into a contract with plaintiffs to fix valuations of land, which

assessor admittedly was unable to determine, such contract is ultra vires and void, because the right to employ capable assistants comes within the purview of the duties primarily conferred on the assessor and cannot be claimed as an implied power of the board of county commissioners, because the board, as such, has no authority to impose itself upon the express powers of another county officer. Pritchard v. Bd. of County Comm'rs, 119 Colo. 318, 204 P.2d 156 (1949).

An action on the official bond of a district court clerk for moneys belonging to a county is properly brought in the name of the people of the state of Colorado for the use of the board of county commissioners of the county, and the fact that the county treasurer is the person legally authorized to receive the money does not make it necessary that he should be named as the obligee of the bond, nor that a suit thereon should be brought for his use. Cooper v. People ex rel. Bd. of Comm'rs, 28 Colo. 87, 63 P. 314 (1900).

Effect of 1977 amendment. The 1977 amendment, adding subsection (2), gives the county commissioners the authority to make the final budget determination for agencies such as the office of the district attorney which are funded in whole or in part by county appropriations, and establishes a statutory presumption that the board validly exercised its budget-making power. Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983).

District attorney funded by county appropriations. The office of the district attorney is an agency which is "funded in whole or in part by county appropriations", pursuant to subsection (2)(a). Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983).

County commissioners are accorded broad discretion on budgetary matters and have the exclusive power to adopt the annual budget, which is presumptively valid. City of Aurora v. Bd. of County Comm'rs, 902 P.2d 375 (Colo. App. 1994), aff'd, 919 P.2d 198 (Colo. 1996).

Judicial review of discretionary budgetary decisions limited. A court's role in reviewing discretionary budgetary decisions by a board of county commissioners is limited to the determination of whether the board abused its discretion by acting arbitrarily or unreasonably. Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983).

Local boards of county commissioners cannot, in an employee manual, override the general assembly's determination in subsection (1)(n) that board-appointed county employees serve at the board's pleasure and are therefore terminable at will. Erickson v. Bd. of County Comm'rs, 801 F. Supp. 414 (D. Colo. 1992); Parker v. Park County Bd. of County Comm'rs, 78 F. Supp. 2d 1169 (D. Colo. 1999).

The provisions of subsection (1)(n) will not bar a cause of action where a genuine issue of material fact remains as to the controversy. Kennedy v. Bd. of County Comm'rs, 776 P.2d 1159 (Colo. App. 1989).

Placement of moneys derived from the specific ownership tax in the county road and bridge fund held not an abuse of

discretion. City of Aurora v. Bd. of County Comm'rs, 902 P.2d 375 (Colo. App. 1994), aff'd, 919 P.2d 198 (Colo. 1996).

Permissive grants of power that allow the county to construct, operate, improve, and extend storm water facilities and levy taxes to finance the acquisition, construction, operation, improvement, and extension thereof, do not impose a mandatory duty to remedy a particular harm and, therefore, do not establish a clear legislative intent to create a private cause of action. Larry H. Miller Corp.-Denver v. Bd. of County Comm'rs, 77 P.3d 870 (Colo. App. 2003).

Trial court properly dismissed petition by county to condemn a portion of owner's property for use as a public road because county presented no valid public purpose for its condemnation of owner's property. Here, public purpose is to benefit private parties; a few, select members of the public will gain access to a private cemetery. Such a private benefit does not constitute a valid public purpose. Bd. of County Comm'rs v. Kobobel, 176 P.3d 860 (Colo. App. 2007).

With respect to board's powers under subsection (1)(bb), no right by general public to visit a private cemetery or historical or cultural sites on private land. There is no law in Colorado establishing a right of the public to access private cemeteries. Bd. of County Comm'rs v. Kobobel, 176 P.3d 860 (Colo. App. 2007).

II. MAKING ORDER CONCERNING COUNTY PROPERTY.

General powers yield to specific power. The general powers conferred upon the board of commissioners with reference to subsection (1)(a), when in conflict with the special, particular powers conferred upon the sheriff with reference to jails, must yield to the latter, the latter must be treated as exceptions to the former. Richart v. Bd. of Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

III. EXAMINING AND SETTLING COUNTY ACCOUNTS.

The board is constituted by law the financial representative of the county, to whom all unliquidated claims against the county are to be presented for allowance, and no other officer or agent of the county is invested with similar powers, and the presentation of a claim to this board, the allowance of which comes within the scope of its powers, is practically a presentation thereof to the county. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886).

The rule governing the allowance of claims by the board of county commissioners is that the authority must be found in the statute, either in express words or by implication, and the compensation for every legitimate charge against a county is not fixed by statute, nor even expressly provided for, it is therefore within the power of the board in such cases to allow reasonable compensation. Bd. of Comm'rs v. Leonard, 3 Colo. App. 576, 34 P. 853 (1893).

IV. BUILDING AND KEEPING IN REPAIR COUNTY BUILDINGS.

Counties are charged with the duty to provide public buildings for county offices, and to maintain those buildings. Bd. of County Comm'rs v. Intermountain Rural Elec. Ass'n, 655 P.2d 831 (Colo. 1982).

Lease not unconstitutional indebtedness. The leasing of a building for county purposes for a monthly rental of $670 for a term of 25 years is not a creation of indebtedness for the aggregate amount of the rentals within the meaning of § 6 of art. XI, Colo. Const. Heberer v. Bd. of Comm'rs, 88 Colo. 159, 293 P. 349 (1930).

The fact that contract of county commissioners to lease a building for courthouse purposes extends beyond the terms of office of the commissioners making the contract does not make the contract void. Heberer v. Bd. of Comm'rs, 88 Colo. 159, 293 P. 349 (1930).

Perpetual maintenance of hospital. Nothing in this section authorizes the board of commissioners to enter into an engagement binding the county to forever maintain a hospital, for the benefit of a particular class, because each board must in each year determine for itself what appropriation shall be made for public purposes, and levy the taxes necessary to meet them; and no board is competent to determine these matters for its successors, or limit their action in the exercise of governmental functions. Robbins v. Hoover, 50 Colo. 610, 155 P. 526 (1911).

The board may not appropriate public moneys, raised by general taxation, to the maintenance of a hospital over which the county has not complete control, or from which particular classes of the public are to be excluded. Robbins v. Hoover, 50 Colo. 610, 155 P. 526 (1911).

V. APPORTIONING AND ORDERING THE LEVY OF TAXES AND CONTRACTING LOANS.

The board has the power at any time to apportion and order the levying of taxes as provided by law, for the payment of the debts of the county contracted in accordance with law prior to July, 1876, and a bonded debt was strictly within this section and commissioners not only had the power to levy the tax at the time the demand was made, but it was their duty to do so and they had no discretion in the matter. Berkey v. Bd. of Comm'rs, 48 Colo. 104, 110 P. 197 (1910).

Mandamus to enforce statutory duty. Where a statute imposes upon a city, county, levee district, or other municipality, or upon a particular officer, board, or tribunal, a clear legal duty to levy a special tax to pay judgments, bonds, warrants, or other allowed or fixed indebtedness, or interest thereon, or to provide a sinking fund for payment at a future day, mandamus will lie on the relation of a person interested to compel performance of such duty. Berkey v. Bd. of Comm'rs, 48 Colo. 104, 110 P. 197 (1910).

Contract to discover omitted property ultra vires. With respect to assessing or collecting taxes, no implied power is given the board of county commissioners, as a corporate body, to discover omitted property

or to make a valid contract with other to do so, and such a contract is ultra vires. Chase v. Bd. of Comm'rs, 37 Colo. 268, 86 P. 1011 (1906).

No power to challenge state taxing authority. The supreme court found no constitutional or statutory provision which grants any express or implied powers to boards of county commissioners or to county boards of equalization to challenge in court the findings and orders of the state tax commission or state board of equalization. Bd. of County Comm'rs v. Love, 172 Colo. 121, 470 P.2d 861 (1970).

VI. LAYING OUT, ALTERING, OR DISCONTINUING COUNTY ROADS.

Reasonable discretion. This section vests the board with reasonable discretion as to the modes and methods by which it may exercise the power conferred upon it by this section, with reference to laying out, altering, or discontinuing roads. Switzer v. Bd. of County Comm'rs, 70 Colo. 563, 203 P. 680 (1922).

Interference with the use of a public highway may be enjoined by the board. Leach v. Manhart, 96 Colo. 397, 43 P.2d 959 (1935).

Based on the authority in subsection (1)(h) to engage in road improvement projects, counties have the authority to require a utility to relocate its utility line. Further, the utility must pay the cost of relocating the utility line when required by the county. Meadowbrook-Fairview v. Bd. of County Comm'rs, 910 P.2d 681 (Colo. 1996).

It is not bound to acquire a permanent right-of-way for a road by condemnation, conveyance or prescription, but has authority to contract for the use of a strip of land for road purposes until such time as the permission or license for such use may be revoked. Switzer v. Bd. of County Comm'rs, 70 Colo. 563, 203 P. 680 (1922).

Ceding of authority over roads in a national park. The resolution of the state highway commission, sanctioned by the county board of commissioners, was sufficient to cede or transfer through legislative agency, to the federal government, such jurisdiction and control as the state possessed over the highways in a national park. Robbins v. United States, 284 F. 39 (8th Cir. 1922).

Right to intervene. In an action by a landowner to enjoin the use of a road across his property, a board of county commissioners claiming the road to be a public highway has a right to intervene to the end that the character of the road may be determined, and the dismissal of such a petition in intervention is error. Leach v. Manhart, 96 Colo. 397, 43 P.2d 959 (1935).

30-11-107.3. Incentives for installation of renewable energy fixtures - definitions.

(1) Notwithstanding any law to the contrary, any county may offer an incentive, in the form of a county property tax or sales tax credit or rebate, to a residential or commercial property owner who installs a renewable energy fixture on his or her residential or commercial property.

(2) For purposes of this section, unless the context otherwise requires:

(a) "County" means any county or city and county.

(b) "Renewable energy fixture" means any fixture, product, system, device, or interacting group of devices installed behind the meter of any residential or commercial building that produces energy from renewable resources, including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems.

Source: L. 2007: Entire section added, p. 488, § 2, effective August 3. **L. 2008:** (2)(b) amended, p. 1294, § 6, effective May 27.

Cross references: In 2007, this section was added by the "Renewable Energy Incentives Act". For the short title, see section 1 of chapter 130, Session Laws of Colorado 2007.

30-11-107.5. Lodging tax.

(1) In accordance with the procedures set forth in this section, the board of county commissioners of each county, for one or more of the purposes specified in subsection (1.5) of this section, may levy a county lodging tax of not more than six percent on the purchase price paid or charged to persons for rooms or accommodations as included in the definition of "sale" in section 39-26-102 (11); except that the tax does not apply within any municipality levying a lodging tax.

(1.5) (a) Subject to the limitation set forth in subsection (1.5)(b) of this section, a county board of commissioners may levy the tax specified in subsection (1) of this section for the purpose of:

(I) Advertising and marketing local tourism;

(II) Housing and childcare for the tourism-related workforce, including seasonal workers, and for other workers in the community;

(III) Facilitating and enhancing visitor experiences;

(IV) Public infrastructure maintenance or improvements; or

(V) Enhancing public safety measures by funding local law enforcement, fire protection services, and emergency medical services.

(b) If, after January 1, 2022, there is a new lodging tax created or the allowable uses of an existing lodging tax are expanded in accordance with subsection (3)(a.5) or (3)(a.7) of this

section, at least ten percent of the lodging tax revenue must be used for the purpose of advertising and marketing local tourism.

(2) (a) The county lodging tax shall be collected, administered, and enforced as specified in part 2 of article 2 of title 29.

(b) The department of revenue shall perform, on an annual basis, an analysis to determine the net incremental cost of such collection, administration, and enforcement. The department of revenue shall retain only the amount determined to be necessary by the cost analysis, and in no event shall that amount exceed three and one-third percent of the amount collected. Such amount retained shall be transmitted to the state treasurer, who shall credit the same to the general fund, and such amount shall be subject to appropriation by the general assembly for the net incremental cost of such collection, administration, and enforcement.

(c) Any person or entity providing rooms or accommodations as included in the definition of "sale" referred to in subsection (1) of this section is liable and responsible for the payment of an amount equivalent of up to six percent of all such sales made and shall quarterly, unless otherwise provided by law, make a return to the executive director of the department of revenue for the preceding tax-reporting period and remit an amount equivalent up to the said six percent on such sales to said executive director.

(3) (a) The board of county commissioners may, by resolution, approve a proposal for a county lodging tax or to increase the rate of an existing lodging tax; thereupon, such proposal for the county lodging tax or increased rate shall be referred to the registered electors of the unincorporated areas and the municipalities subject to the lodging tax at a general or a coordinated election.

(a.5) If, prior to January 1, 2022, the voters of a county approved a county lodging tax for the purpose of advertising and marketing local tourism, the board of county commissioners may, by resolution, approve a proposal to allow the county lodging tax revenues to also be used for any of the additional purposes specified in subsection (1.5)(a)(II) or (1.5)(a)(III) of this section. The county shall refer the proposal to the registered electors of the unincorporated areas and the municipalities subject to the lodging tax at the next general or coordinated election.

(a.7) If, prior to January 1, 2025, the voters of a county approved a county lodging tax for the purposes specified in subsection (1.5)(a)(I), (1.5)(a)(II), or (1.5)(a)(III) of this section, the board of county commissioners may, by resolution, approve a proposal to allow the county lodging tax revenues to also be used for any of the additional purposes specified in subsection (1.5)(a)(IV) or (1.5)(a)(V) of this section. The county shall refer the proposal to the registered electors of the unincorporated areas and the municipalities subject to the lodging tax at the next general or coordinated election.

(b) (I) A proposal for a county lodging tax under subsection (3)(a) of this section must contain a description of the proposed tax, must state the amount to be imposed, and must

describe any municipality within the county that has such a tax and is therefore excluded from the election proposed in subsection (3)(a) of this section and any resulting lodging tax.

(II) If any additional lodging tax or statewide tax on lodging facilities is enacted or levied after January 1, 1987, which in combination with the lodging tax authorized by this section exceeds six percent, the tax under this section shall be reduced by that amount that the total tax exceeds the six percent maximum specified in subsection (1) of this section.

(c) Repealed.

(d) No public moneys from any source shall be expended directly or indirectly to urge electors to vote in favor or against the imposition of the lodging tax. Nothing in this paragraph (d) shall be construed as prohibiting an elected official from expressing his personal opinion concerning the imposition of the lodging tax.

(e) Upon the adoption of the resolution by the board of county commissioners approving a county lodging tax proposal in accordance with subsection (3)(a) or (3)(a.5) of this section, the county clerk and recorder shall publish the text of the proposal four separate times, a week apart, in a newspaper of general circulation within the county. The cost of the election must be initially paid out of the general fund of the county. If the county lodging tax is approved, the general fund of the county must be reimbursed out of the county lodging tax fund described in subsection (4)(a) of this section. The conduct of the election shall conform, so far as practicable, to the general election laws of the state.

(f) (I) If a proposal for a county lodging tax or an increase in the rate of an existing lodging tax under subsection (3)(a) of this section is approved by a majority of the registered electors from the municipality or unincorporated area subject to the lodging tax voting thereon, the county lodging tax or increased rate becomes effective as provided in part 2 of article 2 of title 29. If a proposal to expand the allowable uses under subsection (3)(a.5) or (3)(a.7) of this section is approved by a majority of the registered electors from the municipality or unincorporated area voting thereon, the county may also use the lodging tax revenue for any of the additional approved uses as specified in subsection (1.5) of this section.

(II) If a majority of the registered electors voting thereon fail to approve the county lodging tax, the question shall not be submitted again to such electors for a period of one year following the date of said election.

(g) If a county seeks to use lodging tax revenue for a purpose specified in subsection (1.5)(a) of this section, then the ballot issue authorizing the use must specify how the county will spend the lodging tax revenue under either subsection; except that this requirement does not apply if a county seeks to use lodging tax revenue for the purpose of advertising and marketing local tourism set forth in subsection (1.5)(a)(I) of this section.

(h) (I) If, prior to January 1, 2025, voters of a county approved specific allocations of lodging tax revenue for designated purposes and the county subsequently seeks voter approval to increase the rate of the existing tax, the previously approved allocations are preserved as follows:

(A) The dollar amount or percentage of the lodging tax revenue dedicated to voter-approved purposes under the tax rate in effect at the time of the voter approval remains in effect as a baseline regardless of any subsequently approved tax rate increase or approval of additional allowable uses. Any additional allocation of revenue pursuant to subsection (3)(h)(II) of this section does not reduce or otherwise affect the baseline allocation preserved in this subsection (3)(h)(I).

(B) The preserved allocation set forth in subsection (3)(h)(I)(A) of this section is calculated based on the tax rate in effect at the time of voter approval, regardless of any subsequent increase in the overall tax rate.

(II) A county that receives voter approval for an increase in the tax rate after January 1, 2025, in accordance with subsection (3)(a) of this section and that before January 1, 2025, received voter approval to specifically allocate lodging tax revenue under a lower rate may allocate the revenue attributable to the difference between the previously approved lower rate and the newly approved increased rate for any purposes allowed in subsection (1.5)(a) of this section including the designated purposes that previously received voter approval for specific allocations of lodging tax revenue under the tax rate at the time of that voter approval. The county must be able to clearly delineate the amount of lodging tax revenue that is specifically allocated in accordance with prior voter approval based on the tax rate at the time of that voter approval, any additional allocations the county makes to the purposes that received voter approval for the specific allocations, and allocations of lodging tax revenue for additional purposes specified in subsection (1.5)(a)(IV) or (1.5)(a)(V) of this section that the county receives voter approval for in accordance with subsection (3)(a.7) of this section.

(III) Nothing in this section prevents a county from seeking voter approval to modify previously approved specific allocations of lodging tax revenue for the allowed purposes set forth in subsection (1.5)(a) of this section.

(4) (a) All revenue collected from such county lodging tax, except the amounts retained under subsection (2) of this section, shall be credited to a special fund designated as the county lodging tax fund, hereby created. The fund shall be used only for the purposes approved by voters and to reimburse the general fund of the county for the cost of the election in accordance with subsection (3)(d) of this section. No revenue collected from such county lodging tax shall be used for any capital expenditures, with the exception of capital expenditures for the purposes set forth in subsection (1.5)(a) of this section.

(b) Upon approval of a lodging tax for the purpose of advertising and marketing local tourism by the electors pursuant to this section, the county commissioners shall select a panel of

no less than three citizens to administer the lodging tax fund; except that, if the money in the fund may also be used for any other purpose, then the panel shall only administer the portion of the fund that the board of county commissioners identifies as being available for advertising and marketing local tourism. The county commissioners shall appoint members from the tourism industry within the municipalities or unincorporated areas from which the lodging tax is collected. Where there is an established and proven marketing entity within the county formed for the purpose of advertising and marketing tourism, the panel is encouraged to use that entity, and that entity shall provide an accounting to the panel and to the county commissioners.

(c) The panel, to the extent feasible, shall advertise and market tourism for the benefit of those unincorporated areas and municipalities from which the lodging tax originated.

(5) Nothing provided in this section shall in any way prohibit municipalities and counties from cooperating to create countywide uniform lodging taxes with voluntary abandonment of municipal lodging tax ordinances.

(6) Repealed.

Source: L. 87: Entire section added, p. 1203, § 1, effective May 6; (3)(a) amended and (3)(c) repealed, p. 1207, §§ 1, 2, effective June 20. **L. 90:** (6) repealed, p. 1453, § 1, effective April 3. **L. 91:** (3)(b)(II) amended, p. 713, § 1, effective March 12. **L. 94:** (2)(b) amended, p. 317, § 1, effective March 29. **L. 2022:** (1), (3)(b)(I), (3)(e), (3)(f)(I), (4)(a), and (4)(b) amended and (1.5), (3)(a.5), and (3)(g) added, (HB 22-1117), ch. 62, p. 315, § 4, effective August 10. **L. 2024:** (2)(a) and (3)(f)(I) amended, (SB 24-025), ch. 144, p. 567, § 19, effective July 1, 2025. **L. 2025:** (1), (1.5)(a)(II), (1.5)(b), (2)(c), (3)(a), (3)(a.5), (3)(b)(II), (3)(f)(I), (3)(g), and (4)(a) amended and (1.5)(a)(IV), (1.5)(a)(V), (3)(a.7), and (3)(h) added, (HB 25-1247), ch. 187, p. 826, § 1, effective May 13.

Cross references: For the legislative declaration in HB 22-1117, see section 1 of chapter 62, Session Laws of Colorado 2022.

ANNOTATION

Law reviews. For article, "Recent Developments in Colorado Sales and Use Taxes", see 18 Colo. Law. 2101 (1989).

30-11-107.7. County rental tax on the rental of personal property - procedures - apportionment.

(1) As used in this section, unless the context otherwise requires:

(a) "Personal property" means personal property which:

(I) Is not subject to ad valorem tax pursuant to section 39-3-119, C.R.S., or specific ownership tax pursuant to section 42-3-107, C.R.S.; and

(II) The owner thereof is regularly engaged in the sale, rental, or both sale and rental of such personal property and rents such personal property to another individual or corporation, in which the owner does not have any interest whatsoever, for one or more periods of thirty days or less in any calendar year.

(b) "Personal property" does not include any residential real property as defined for property tax purposes in section 39-1-102 (14.5), C.R.S.

(2) (a) In accordance with the procedures set forth in this section, the board of county commissioners of each county may levy a rental tax on personal property which is rented in such county. The rate of any rental tax levied pursuant to this section shall be not more than one percent of the amount of the rental payment paid or charged to persons who rent such personal property.

(b) The board of county commissioners may, by resolution, approve a rental tax on personal property which is rented in the county. Such resolution shall contain a description of the rental tax on personal property which is rented, state the rate of rental tax to be levied, and specify the effective date of the resolution.

(c) (I) Any rental tax levied pursuant to the provisions of this section shall be collected, administered, and enforced as specified in part 2 of article 2 of title 29.

(II) The department of revenue shall perform, on an annual basis, an analysis to determine the net incremental cost of such collection, administration, and enforcement. The department of revenue shall retain only the amount determined to be necessary by the cost analysis, and in no event shall that amount exceed three and one-third percent of the amount collected. Such amount retained shall be transmitted to the state treasurer, who shall credit the same to the general fund, and such amount shall be subject to appropriations by the general assembly for the net incremental cost of such collection, administration, and enforcement.

(3) (a) During the month of January of each year, the county treasurer of any county which levies a rental tax pursuant to this section shall calculate, for such county and each political subdivision located within the boundaries of such county, the percentage which the dollar amount of ad valorem taxes levied by each such political entity is of the aggregate dollar amount of ad valorem taxes levied in such county during the preceding calendar year. The percentages so

calculated shall be used for the apportionment between the county itself and each political subdivision located within such county of the aggregate amount of rental tax revenue to be distributed by the department of revenue to the county treasurer during the current calendar year.

(b) All rental taxes collected by the county treasurer shall be apportioned, credited, and distributed to the county and to each political subdivision located within such county on the tenth day of each month for all rental taxes collected during the immediately preceding month.

Source: L. 91: Entire section added, p. 1981, § 2, effective April 20. **L. 94:** (2)(c)(II) amended, p. 317, § 2, effective March 29; (1)(a)(I) amended, p. 2564, § 76, effective January 1, 1995. **L. 2024:** (2)(c)(I) amended, (SB 24-025), ch. 144, p. 568, § 20, effective July 1, 2025.

30-11-107.9. County tax for public safety improvements - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Public safety improvements" means capital expenditures or operational costs associated with a public safety organization.

(b) "Public safety organization" means a law enforcement agency or office, district attorney's office, judicial district, coroner's office, a fire protection district, fire department, or any other public entity dedicated to providing services related to public safety, public health, or emergency management at the county or local level in the state.

(2) In accordance with the procedures set forth in this section, the board of county commissioners of each county may levy a sales tax for public safety improvements of not more than two percent on the sale of tangible personal property of retail and services taxable in such county pursuant to the provisions of section 39-26-104. All net revenues collected by a county after the payment of the costs of collection, administration, and enforcement to the department of revenue in accordance with subsection (4) of this section shall be used exclusively for public safety improvements.

(3) The board of county commissioners of a county may by resolution approve a proposal for a county public safety improvements tax; thereupon the public safety improvements tax proposal must be submitted to the registered electors of the county at the next general election, the next biennial county election, or the next election held on the first Tuesday of November in an odd-numbered year as determined by the board of county commissioners. The proposal shall contain a description of the tax including its purposes and shall state the amount to be imposed. The proposal may include a provision to also seek voter approval to retain and expend all or a portion of the revenues of the tax from district fiscal year spending for purposes of section 20 of article

X of the state constitution. The conduct of the election shall conform so far as practicable to the general election laws of the state and with the provisions of said section 20.

(4) (a) The county public safety improvements tax shall be collected, administered, and enforced as specified in part 2 of article 2 of title 29.

(b) The department of revenue shall perform, on an annual basis, an analysis to determine the net incremental cost of such collection, administration, and enforcement. The department shall retain only the amount determined to be necessary by the cost analysis, and in no event shall that amount exceed three and one-third percent of the amount collected. Such amount retained shall be transmitted to the state treasurer, who shall credit the same to the general fund, and such amount shall be subject to appropriation by the general assembly for the net incremental cost of such collection, administration, and enforcement.

(5) No public moneys from any source shall be expended directly or indirectly to urge electors to vote in favor or against the imposition of a county public safety improvements tax. Nothing in this subsection (5) shall be construed as prohibiting an elected official from expressing his or her personal opinion concerning the imposition of the tax.

Source: L. 2007: Entire section added, p. 1459, § 1, effective August 3. **L. 2017:** (3) amended, (HB 17-1342), ch. 235, p. 965, § 1, effective May 24. **L. 2024:** (2) and (4)(a) amended, (SB 24-025), ch. 144, p. 568, § 21, effective July 1, 2025.

30-11-108. Assent of electors required - when.

The board of county commissioners shall not borrow money for the purposes stated in section 30-11-107, except as provided in section 30-11-107 (1)(dd), without having first submitted the question of such loan to a vote of the electors of the county and without a majority of the voters legally qualified to vote and voting on that question having voted therefor.

Source: G.L. § 447. **G.S.** § 540. **R.S. 08:** § 1214. **C.L.** § 8683. **CSA:** C. 45, § 30. **CRS 53:** § 36-1-8. **C.R.S. 1963:** § 36-1-8. **L. 91:** Entire section amended, p. 733, § 4, effective May 1.

Cross references: For authority of county to contract debts, see § 6 of art. XI, Colo. Const.

30-11-109. Advertisement for bids on supplies. (Repealed)

Source: L. 1893: p. 103, § 1. **R.S. 08:** § 1205. **C.L.** § 8684. **CSA:** C. 45, § 31. **CRS 53:** § 36-1-9. **C.R.S. 1963:** § 36-1-9. **L. 71:** p. 332, § 1. **L. 93:** Entire section amended, p. 2137, § 12, effective June 12. **L. 2013:** Entire section repealed, (HB 13-1010), ch. 17, p. 43, § 1, effective August 7.

30-11-109.5. Purchases of recycled paper and recycled products.

(1) When purchasing any product with public funds, the purchasing agent for the county shall be authorized to purchase products or materials with recycled content that have been source-reduced, that are reusable, or that have been composted, unless one or more of the following conditions exist:

(a) The product is not available within a reasonable period of time;

(b) The product fails to meet applicable purchasing rules, including specifications; or

(c) The product fails to meet federal or state health or safety standards, as set forth in federal or state regulations.

Source: L. 93: Entire section added, p. 2138, § 13, effective June 12.

Cross references: For further provisions concerning the purchase of recycled paper and recycled products, see §§ 13-1-133, 24-103-903, and 25-16.5-102.

30-11-110. State suppliers preferred.

It is unlawful for any board of county commissioners of any county to accept any bid or make a purchase of any books, stationery, records, printing, lithographing, or other supplies for any officer of its county, from any person, company, or corporation having its manufactory or principal place of business outside the state of Colorado, when the same can be procured from some person, company, or corporation having its manufactory or principal place of business within this state and at a net cost which shall not exceed the amount for which such books, stationery, records, printing, lithographing, or other supplies can be procured and delivered to them by any person, company, or corporation having its manufactory or principal place of business without the state.

Source: L. 1893: p. 103, § 2. **R.S. 08:** § 1206. **C.L.** § 8685. **CSA:** C. 45, § 32. **CRS 53:** § 36-1-10. **C.R.S. 1963:** § 36-1-10.

30-11-111. Term of contract. (Repealed)

Source: L. 1893: p. 104, § 3. **R.S. 08:** § 1207. **C.L.** § 8686. **CSA:** C. 45, § 33. **CRS 53:** § 36-1-11. **C.R.S. 1963:** § 36-1-11. **L. 2013:** Entire section repealed, (HB 13-1010), ch. 17, p. 43, § 2, effective August 7.

30-11-112. Officer cannot contract or purchase. (Repealed)

Source: L. 1893: p. 104, § 4. **R.S. 08:** § 1208. **C.L.** § 8687. **CSA:** C. 45, § 34. **CRS 53:** § 36-1-12. **C.R.S. 1963:** § 36-1-12. **L. 2013:** Entire section repealed, (HB 13-1010), ch. 17, p. 44, § 3, effective August 7.

30-11-113. Commissioners to furnish blank assessment rolls.

The boards of county commissioners of their respective counties, at the expense of the county, shall furnish annually and in due season, to the assessor of the county, suitable blank assessment rolls, prepared in accordance with the provisions of law; shall also provide suitable books and stationery for the use of each of the county officers of their county, together with appropriate cases and furniture for the safe and convenient keeping of all the books, documents, and papers belonging to each of said officers; and also shall provide official seals for each of said officers when the same are required by law.

Source: G.L. § 466. **G.S.** § 549. **R.S. 08:** § 1209. **C.L.** § 8688. **CSA:** C. 45, § 35. **CRS 53:** § 36-1-13. **C.R.S. 1963:** § 36-1-13.

ANNOTATION

Blanks used by a clerk of a district court are not stationery within the

meaning of this section and the county is not liable for them. Bd. of County Comm'rs v. Koons, 1 Colo. 160 (1869).

30-11-114. New precincts - change boundaries - reduce number.

The board of county commissioners may set off or organize new precincts, change the boundaries, or reduce the number of those already organized as the public good from time to time requires.

Source: G.L. § 458. **L. 1883:** p. 121, § 1. **G.S.** § 541. **R.S. 08:** § 1218. **C.L.** § 8695. **CSA:** C. 45, § 42. **CRS 53:** § 36-1-14. **C.R.S. 1963:** § 36-1-14.

ANNOTATION

This section does not conflict with any provision of the constitution. Bd. of County Comm'rs v. Smith, 22 Colo. 534, 45 P. 357 (1896).

30-11-115. Board may appropriate for expositions.

The board of county commissioners of any county in this state may make such appropriation as it may seem proper for the purpose of enabling such county to secure a proper representation of its interests in exhibits and expositions held in Colorado.

Source: L. 1883: p. 244, § 2. **G.S.** § 539. **R.S. 08:** § 1211. **C.L.** § 8689. **CSA:** C. 45, § 36. **CRS 53:** § 36-1-15. **C.R.S. 1963:** § 36-1-15.

30-11-116. Appropriations for advertising or marketing.

The boards of county commissioners of the several counties within the state of Colorado are authorized to appropriate money from the county general fund for the purpose of advertising or marketing the county.

Source: L. 07: p. 320, § 1. **R.S. 08:** § 1212. **C.L.** § 8690. **CSA:** C. 45, § 37. **L. 51:** p. 297, § 10. **CRS 53:** § 36-1-16. **C.R.S. 1963:** § 36-1-16. **L. 2008:** Entire section amended, p. 5, § 1, effective July 1.

30-11-117. Commissioners to fill vacancies in county offices.

In case a vacancy occurs in any county office, or in any precinct office in any county in this state, by reason of death, resignation, removal, or otherwise, the board of county commissioners of such county has power to fill such vacancy by appointment, subject to section 9 of article XIV of the state constitution, until an election can be held as provided by law.

Source: G.L. § 474. **G.S.** § 553. **R.S. 08:** § 1240. **C.L.** § 8716. **CSA:** C. 45, § 63. **CRS 53:** § 36-1-17. **C.R.S. 1963:** § 36-1-17.

ANNOTATION

One appointed to fill the vacant and unexpired term of a public office holds precisely as his predecessor would have done had the vacancy not occurred. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

And where a sheriff incumbent was reelected, but failed to qualify for the second term and died before his first term expired, one appointed by the board of county commissioners to the vacancy, held only to the second Tuesday of the succeeding January, the day appointed by law for the commencement of the second term of his predecessor, even though by express terms, his appointment was "until the next general election"; that upon the second Tuesday of the succeeding January there was a vacancy, and one then appointed by the county commissioners to fill it was entitled to the office until the next general election. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

30-11-118. County attorney - county collector.

The board of county commissioners of each county of the state, when the interests of the county require it, may employ an attorney, but the person appointed shall be a member of the bar of the supreme court of this state and at least twenty-five years of age. The board may also, when the business of the county requires it, appoint a county collector, whose duty it is to collect license moneys and other special dues of said county; such collector shall receive such compensation as may be allowed by the board of county commissioners.

Source: G.L. § 565. **G.S.** § 558. **L. 1887:** p. 243, § 3. **R.S. 08:** § 1241. **C.L.** § 8717. **CSA:** C. 45, § 64. **CRS 53:** § 36-1-18. **C.R.S. 1963:** § 36-1-18.

ANNOTATION

The commissioners are the judges of when the interests of a county require the employment of an attorney, and until it is made to appear that their judgment in this respect has been exercised unlawfully and corruptly, it will not be interfered with by the courts. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886); Hurd v. Hamill, 10 Colo. 174, 14 P. 126 (1887); Morris v. Bd. of Comm'rs, 25 Colo. App. 416, 139 P. 582 (1914).

A county attorney is employed primarily as the legal advisor of the county commissioners in whose discretion reposes the power of appointment. Medberry v. People, 107 Colo. 15, 108 P.2d 243 (1940).

In certain matters he advises other county administrative officers and appears for the county in cases involving dependent, neglected and delinquent children, in lunacy inquest and, when directed by the county commissioners, in civil litigation to which the county is a party or in which it is interested. Medberry v. People, 107 Colo. 15, 108 P.2d 243 (1940).

No recovery for unauthorized services. It has been held that a county attorney should not be allowed to recover for services rendered to county officials other than the board of county commissioners, unless such other officials are first authorized by the commissioners to employ or consult an attorney. Morris v. Bd. of Comm'rs, 25 Colo. App. 416, 139 P. 582 (1914).

However, the services of an attorney for the county being necessary, his employment by a majority of the board, without meeting, may be afterwards ratified at a meeting duly held. Morris v. Bd. of Comm'rs, 25 Colo. App. 416, 139 P. 582 (1914).

He has no part whatsoever in the initiation or conduct of ordinary criminal proceedings which, in Colorado, are prosecuted by the district attorney in the name of the people of the state and not of the county. Medberry v. People, 107 Colo. 15, 108 P.2d 243 (1940).

And the interest of the county in the expense incident to a criminal proceeding is not such that will disqualify a county attorney from defending one charged with crime and he is not chargeable with unethical conduct, and in defending the accused at least where the county has no interest beyond that ordinarily attaining, a county attorney does not represent conflicting interests nor serve two masters. Medberry v. People, 107 Colo. 15, 108 P.2d 243 (1940).

30-11-119. New bond for officers, when.

When the board of county commissioners of any county in this state deems the bond given by the sheriff or other officer of the county insufficient, or when in its opinion the sureties on said

bond are insolvent or permanently removed from the county, or when it for any other reason considers said bond insufficient for the public security, it is lawful for the board to require of said sheriff or other officer a new bond, with such sureties and so conditioned as required by law in the first instance.

Source: G.L. § 566. **G.S.** § 559. **R.S. 08:** § 1242. **C.L.** § 8718. **CSA:** C. 45, § 65. **CRS 53:** § 36-1-19. **C.R.S. 1963:** § 36-1-19.

ANNOTATION

Jurisdiction to require new bond. Without having first made a finding affecting the sufficiency of the original official bond of a county officer, the board of county commissioners has no jurisdiction to require him to file a new one. People ex rel. Carr v. Brown, 23 Colo. 425, 48 P. 661 (1897).

30-11-120. Failure to file bond - office vacant.

In case any sheriff or other officer refuses or neglects, for a period longer than thirty days after receiving notice, to give a new bond as required, it is lawful for the board of county commissioners to declare the office vacant and appoint some other person to fill the vacancy, who shall hold the office until a successor is elected or appointed.

Source: G.L. § 567. **G.S.** § 560. **R.S. 08:** § 1243. **C.L.** § 8719. **CSA:** C. 45, § 66. **CRS 53:** § 36-1-20. **C.R.S. 1963:** § 36-1-20.

30-11-121. General accounting records.

The board of county commissioners is responsible for the maintenance of the general accounting records of the county. It is the duty of the county treasurer, county clerk and recorder, county sheriff, and county assessor to furnish, as directed by the board of county commissioners, copies of any and all accounting, administrative, financial, recorded, or assessment records to a person appointed by the board of county commissioners for the purpose of utilizing computer or other record-keeping facilities. Such person shall serve at the pleasure of the board of county commissioners.

Source: L. 69: p. 226, § 1. **C.R.S. 1963:** § 36-1-21. **L. 75:** Entire section amended, p. 992, § 1, effective June 4.

30-11-122. Conservation trust fund authorized.

Each county in this state may create a conservation trust fund as provided in section 29-21-101, C.R.S.

Source: L. 74: Entire section added, p. 433, § 3, effective July 1. **C.R.S. 1963:** § 36-1-22.

30-11-123. New business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitations - legislative declaration - definitions.

(1) (a) The general assembly hereby finds and declares that the health, safety, and welfare of the people of this state are dependent upon the attraction of new private enterprise as well as the retention and expansion of existing private enterprise; that incentives are often necessary in order to attract private enterprise; and that providing such incentives stimulates economic development in the state and results in the creation and maintenance of new jobs.

(b) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment or credit with any taxpayer who establishes a business facility, as defined in section 39-30-105.1 (6)(b), in the county. In no instance may any negotiation result in an annual incentive payment or credit that is greater than the amount of the taxes levied by the county upon the taxable personal property located at or within the business facility and used in connection with the operation of the business facility for the current property tax year. The term of any agreement made prior to August 6, 2014, pursuant to the provisions of this subsection (1) may not exceed ten years, including the term of any original agreement being renewed. The term of any agreement made on or after August 6, 2014, pursuant to this subsection (1) may not exceed thirty-five years, which does not include the term of any prior agreement.

(1.5) (a) Notwithstanding any law to the contrary, a county may negotiate an incentive payment or credit for a taxpayer that has an existing business facility located in the county if, based on verifiable documentation, the county is satisfied that there is a substantial risk that the taxpayer will relocate the facility out of state.

(b) The documentation required pursuant to paragraph (a) of this subsection (1.5) must include information that the taxpayer could reasonably and efficiently relocate the facility out of state and that at least one other state is being considered for the relocation. In order to be eligible

for a payment or credit under this subsection (1.5), a taxpayer must identify the specific reasons why the taxpayer is considering leaving the state.

(c) A county shall not give an annual incentive payment or credit under this subsection (1.5) that is greater than the amount of the taxes levied by the county upon the taxable personal property located at or within the existing business facility and used in connection with the operation of the existing business facility for the current property tax year. The term of an agreement made prior to August 6, 2014, pursuant to this subsection (1.5) shall not exceed ten years, and this limit includes any renewals of the original agreement. The term of an agreement made on or after August 6, 2014, pursuant to this subsection (1.5) shall not exceed thirty-five years, and this limit does not include the term of any prior agreement. A county shall not give an annual incentive payment or credit under this subsection (1.5), unless the board of county commissioners approves the payment or credit at a public hearing.

(2) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment or credit with any taxpayer who expands a facility, as defined in section 39-30-105.1 (6)(e), the expansion of which authorizes a taxpayer to claim a credit described in section 39-30-105.1, and that is located in the county. In no instance may any negotiation result in an annual incentive payment or credit that is greater than the amount of the taxes levied by the county upon the taxable personal property directly attributable to the expansion, located at or within the expanded facility, and used in connection with the operation of the expanded facility for the current property tax year. The term of any agreement made prior to August 6, 2014, pursuant to the provisions of this subsection (2) may not exceed ten years, including the term of any original agreement being renewed. The term of any agreement made on or after August 6, 2014, pursuant to this subsection (2) may not exceed thirty-five years, which does not include the term of any prior agreement.

(3) For purposes of this section, "county" means any county or city and county.

(4) (Deleted by amendment, L. 94, p. 2833, § 3, effective January 1, 1995.)

(5) Any county that negotiates any agreement pursuant to the provisions of this section shall inform any municipality in which a new business facility would be located, or an existing or expanded business facility is located, whichever is applicable, of such negotiations.

(6) Any county may adjust the amount of its tax levy authorized pursuant to the provisions of section 29-1-301, C.R.S., or pursuant to a county home rule charter, whichever is applicable, by an additional amount which does not exceed the total amount of annual incentive payments or credits made by such county in accordance with agreements negotiated pursuant to the provisions of this section or section 39-30-107.5, C.R.S.

Source: L. 90: Entire section added, p. 1454, § 1, effective April 24. **L. 91:** (1) amended and (6) added, p. 723, § 1, effective May 24. **L. 94:** (1)(b), (2), (4), and (6) amended, p. 2833, § 3, effective January 1, 1995. **L. 2002:** (1)(b) and (2) amended, p. 1120, § 3, effective June 3. **L. 2007:** (1)(b) and (2) amended, p. 350, § 4, effective August 3. **L. 2012:** (1)(b) and (2) amended, (HB 12-1029), ch. 61, p. 219, § 3, effective August 8. **L. 2013:** (1.5) added and (5) amended, (HB 13-1206), ch. 374, p. 2203, § 1, effective August 7. **L. 2014:** (1)(b), (1.5)(c), and (2) amended, (SB 14-183), ch. 196, p. 720, § 1, effective August 6. **L. 2020:** (1)(b) and (2) amended, (HB 20-1166), ch. 103, p. 394, § 2, effective April 1.

Cross references: (1) For further provisions concerning the Colorado business incentive fund, see article 46.5 of title 24.

(2) In 2012, subsections (1)(b) and (2) were amended by the "Save Colorado Jobs Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 61, Session Laws of Colorado 2012.

30-11-124. Fire planning authority.

(1) The board of county commissioners of each county in the state, subject to the requirements of section 25-7-123, C.R.S., may prepare, adopt, and implement a county fire management plan that details individual county policies on fire management for prescribed burns, fuels management, or natural ignition burns on lands owned by the state or county. Such plans shall be developed in coordination with the county sheriff, the division of fire prevention and control in the department of public safety, and the appropriate state and local governmental entities. All interested parties shall have the opportunity to comment on the plan prior to its adoption and implementation.

(2) County fire management plans created pursuant to subsection (1) of this section shall:

(a) Clearly define appropriate responses in order to mitigate immediate threats to public safety; and

(b) Set forth the conditions under which prescribed or natural ignition fires shall be managed.

(3) Any county that adopts and adheres to a county fire management plan shall be accorded liability protection pursuant to article 10 of title 24, C.R.S.

(4) Federal government agencies, subject to the provisions of sections 25-7-106 (7) and (8) and 25-7-114.7 (2)(a)(III), C.R.S., and private landowners may enter into memoranda of understanding with the board of county commissioners to include public or private lands that are within the boundaries of the county under the county fire management plan. Counties may

purchase an indemnification insurance policy and private landowners who enter into memoranda of understanding with the board shall have the opportunity to opt into such policy.

(5) Nothing in this section shall infringe upon or otherwise affect the ability of agricultural producers to conduct burning on their property.

Source: L. 2000: Entire section added, p. 1304, § 8, effective May 26. **L. 2013:** (1) amended, (SB 13-083), ch. 249, p. 1310, § 15, effective May 23.

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 249, Session Laws of Colorado 2013.

30-11-125. Licensing program for building contractors - contents of program - requirements - exceptions - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) (I) "Building contractor" means a building contractor who for compensation directs, supervises, or undertakes any work for which a county building permit is required. A county licensing program established in accordance with the provisions of this section shall exclude from the definition of "building contractor" any person whose sole function in the work for which a county building permit is required is to perform labor under the supervision or direction of a building contractor.

(II) "Building contractor" shall not include an electrician required to be licensed by the state pursuant to article 115 of title 12 or a plumber required to be licensed by the state pursuant to article 155 of title 12.

(b) "County" means any county or city and county in the state.

(c) "Municipality" means any home rule or statutory city or town in the state.

(d) "Person" means any individual, corporation, limited liability company, partnership, association, or other legal entity.

(2) Subject to the requirements of this section, any county that has adopted a building code may establish a licensing program to require a person who engages in the business of being a building contractor within the unincorporated areas of the county to obtain a license from the county prior to engaging in the business. The county may develop the licensing program in accordance with the requirements of this section, and any such program may include one or more of the following:

(a) Procedures that a building contractor would follow in order to obtain or renew a license, including the submission of any documentation or information as may be required by the county;

(b) A requirement that the building contractor achieve a passing grade on a nationally recognized examination promulgated by the international code council that is commonly used and accepted in the industry;

(c) Specification of the duration of the license issued by the county;

(d) Subject to the requirements of subsection (3) of this section, the imposition of a reasonable fee to be charged by the county to a building contractor to cover the costs of any testing required to be performed by the county, the processing of the application, or any other costs incurred by the county in connection with the issuance or renewal of a license; or

(e) Grounds for the revocation or suspension of a license issued by the county, grounds for the revocation or suspension of a building permit issued for a project for which the building contractor is found not to be in compliance with the county's licensing requirements, or grounds for the imposition of any lesser sanction, which shall be based on objective standards and criteria developed from the county building code, and procedures to be followed by the county in carrying out the revocation, suspension, or other sanction based upon such grounds, including a process for appealing any sanction so imposed.

(3) Any county that establishes a licensing program pursuant to this section shall issue a license to a building contractor holding a valid license issued by another county or municipality in the state without requiring the building contractor to take or achieve a passing grade on any examination conducted by the county if the license issued by such other county or municipality required the building contractor to achieve a passing grade on a nationally recognized examination promulgated by the international code council commonly used and accepted in the industry. In the case of a building contractor holding a valid license issued by another county or municipality in the state, the fee charged by a secondary county for issuance or renewal of a license in accordance with the requirements of this section shall be reasonable and limited to costs incurred by the secondary county in processing the application and otherwise administering the issuance or renewal of a license required by this section.

(4) If a building contractor applying for a license complies with the requirements for obtaining a license established by the county, the county shall issue a provisional license to the building contractor no later than seven business days after the building contractor has submitted a complete application. Notwithstanding the provisions of subsection (5) of this section, any failure on the part of the county to issue a nonprovisional license within forty-five days after submission of a complete application to a building contractor who has otherwise satisfied all other requirements for obtaining a license shall not preclude the building contractor from engaging in the business of being a building contractor and applying for a building permit for unincorporated areas of the county.

(5) Except as otherwise provided in subsection (4) of this section, no person shall engage in the business of being a building contractor within the unincorporated areas of any county that has adopted a licensing program created pursuant to this section unless the person holds a valid license issued or recognized by the county in accordance with the requirements of this section.

(6) Notwithstanding any other provision of this section:

(a) The provisions of this section shall apply to any licensing program operated or administered by a county that is in existence as of August 3, 2007. Any licensing program operated or administered by a county as of August 3, 2007, that satisfies or is amended to satisfy the requirements of this section is hereby ratified as compliant with the requirements of this section and need not be reestablished by the county.

(b) Nothing in this section shall be construed to require any individual to hold a license to perform repair or maintenance work on his or her own property, nor shall it prevent a person from employing an individual on either a full-time or a part-time basis to perform repair or maintenance work on his or her own property who is not licensed under the provisions of this section.

Source: L. 2007: Entire section added, p. 392, § 1, effective August 3. **L. 2019:** (1)(a)(II) amended, (HB 19-1172), ch. 136, p. 1718, § 214, effective October 1.

30-11-126. Workforce development - incentives - limitations - authority to exceed revenue-raising limitations - legislative declaration - definitions.

(1) (a) The general assembly hereby finds and declares that:

(I) The health, safety, and welfare of the people of Colorado as well as the economic development and growth of local communities in the state depend on the development of a workforce that meets the needs of employers in the state;

(II) Financial incentives are often necessary to attract resources for workforce development, and such incentives can be particularly effective when offered at the local level; and

(III) Providing such incentives stimulates economic development in the state and results in the creation and maintenance of new jobs.

(b) The general assembly further finds and declares that it is in the best interests of the citizens of the state and the economic development of local governments within the state to create an incentive at the county level for taxpayers to contribute to a program that allows counties to provide financial assistance to county residents to pursue post-secondary education or training.

(2) For purposes of this section, "county" means any county or city and county.

(3) Any county may establish a workforce development program, to be known as "bright future Colorado", to provide financial assistance to county residents who pursue post-secondary education or training from an accredited institution of higher education or certified training program. A county workforce development program may include, but need not be limited to, county residents who are high school graduates, county residents who have successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., or county residents who are veterans. Any county that establishes a workforce development program may also establish a workforce development fund to accept contributions for the purpose of the program.

(4) (a) Notwithstanding any law to the contrary, a county that has established a workforce development program may offer an incentive, in the form of a county property tax credit or rebate, to a residential or commercial property owner in the county who contributes to a county workforce development fund.

(b) A county shall not make any appropriation in furtherance of a workforce development program or give any credit or rebate pursuant to this section unless the board of county commissioners approves the total program amount annually at a public budget hearing.

Source: L. 2015: Entire section added, (SB 15-082), ch. 11, p. 25, § 1, effective August 5.

30-11-127. Pioneer trail - designation - signs.

(1) The board of county commissioners may designate, by resolution, any public roads in the county as a section of a pioneer trail. A pioneer trail consists of public roads that follow as closely as possible the original trails or routes of travel of national historic significance. To make such designation, the board must identify all of the roads that make up the pioneer trail. The board shall not designate a pioneer trail across public lands on a road administered by the federal government unless the road is designated as open to travel by the appropriate federal land management agency. Except as set forth in subsection (2) of this section, the designation of the pioneer trail is effective upon the date of the resolution.

(2) If a county designates any portion of a state highway as a pioneer trail, the designation is not effective unless the general assembly, acting by joint resolution, also designates the portion of the state highway as part of the pioneer trail.

(3) If any of the designated roads are part of the state highway system, the board of county commissioners shall send a copy of the resolution to the department of transportation. If any of

the designated roads are on public lands administered by the federal government, the board shall send a copy of the resolution to the appropriate federal land management agency.

(4) A county may post, or allow to be posted, identifying and informative signs related to the pioneer trail along county roads.

(5) The authority to designate a pioneer trail is intended to highlight Colorado's cultural and historical heritage and to promote historical tourism and education. Nothing in this section affects existing rights-of-way or ownership of public roads.

Source: L. 2016: Entire section added, (HB 16-1106), ch. 107, p. 308, §1, effective August 10.

30-11-128. Mobile home parks - definition.

(1) The board of county commissioners of each county has the power to adopt, administer, and enforce ordinances and resolutions to provide for the safe and equitable operation of mobile home parks throughout the unincorporated areas of the county. These ordinances and resolutions may be enacted within the scope of the "Mobile Home Park Act", part 2 of article 12 of title 38, and further as the board deems necessary to protect home owners' equity in the safe use and enjoyment of the mobile homes and mobile home lots, including but not limited to the imposition of penalties or adoption of a local registration system.

(2) Except as provided in subsection (3) of this section, an ordinance or resolution enacted by a county's board of county commissioners is only enforceable within the unincorporated area of the county.

(3) One or more contiguous counties and any municipality or town within each county may enter into intergovernmental agreements to extend the applicability of any ordinance or resolution adopted under this section to and throughout any participating county, municipality, or town.

(4) For purposes of this section, "home owner", "landlord", "mobile home", "mobile home lot", and "mobile home park" have the same meaning as they are defined in section 38-12-201.5.

Source: L. 2019: Entire section added, (HB 19-1309), ch. 281, p. 2627, § 3, effective May 23.

Cross references: For the legislative declaration in HB 19-1309, see section 1 of chapter 281, Session Laws of Colorado 2019.

30-11-129. Third-party food delivery service fee restrictions - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Declared public health disaster emergency" means the declared public health disaster emergency to address the COVID-19 pandemic of 2020, as declared by the governor by executive order.

(b) "Retail food establishment" means a retail food establishment, as defined in section 25-4-1602 (14), that pays an annual license fee as required by section 25-4-1607. "Retail food establishment" does not include grocery stores or convenience stores.

(c) "Third-party food delivery service" means any person, company, website, mobile application, or other internet service that offers or arranges for the sale and the same-day delivery or same-day pickup of prepared food or beverages from a retail food establishment.

(2) During a declared public health disaster emergency, the board of county commissioners of each county may adopt, administer, and enforce ordinances and resolutions, applying to the county's unincorporated area only, that:

(a) Limit the amount of the fee that a third-party food delivery service may charge to a retail food establishment, excluding fees related to credit card processing, within the county where indoor dining is prohibited and until indoor dining is again permitted in the county at a capacity of at least fifty percent or below at the discretion of the county;

(b) Restrict the ability of a third-party food delivery service to reduce the compensation rate paid to a delivery service driver or withhold gratuities or tips to a retail food establishment, its staff, or any delivery service driver to offset revenue reductions resulting from any ordinance or resolution enacted pursuant to subsection (2)(a) of this section;

(c) Require a third-party food delivery service to disclose to a consumer using the third-party food delivery service to make a purchase from a retail food establishment any commission, fee, or other monetary payment charged by the third-party food delivery service to the retail food establishment for a purchase from the retail food establishment; and

(d) Restrict a third-party food delivery service's ability to perform a service for a retail food establishment without the retail food establishment's consent.

(3) A board of county commissioners that adopts an ordinance or resolution pursuant to subsection (2) of this section is immune from liability for all claims for injury resulting from any economic damage that a party may incur due to the ordinance or resolution except to the extent that the ordinance or resolution is held by a court of competent jurisdiction to constitute a taking of private property in violation of the United States or state constitution.

Source: L. 2020, 1st Ex. Sess.: Entire section added, (HB 20B-1005), ch. 4, p. 27, § 2, effective December 7. **L. 2025:** (1)(b) amended, (SB 25-285), ch. 296, p. 1518, § 7, effective August 6.

Cross references: For the legislative declaration in HB 20B-1005, see section 1 of chapter 4, Session Laws of Colorado 2020, First Extraordinary Session.

30-11-130. Equipping wind-powered energy generation facilities with light mitigating technology - enforcement - definitions.

(1) A board may adopt and enforce an ordinance or resolution authorizing the board to impose a civil penalty on the owner or operator of a new wind-powered energy generation facility in the amount of one thousand dollars per day if the board determines that the owner or operator of the facility was required to, but failed to, comply with section 38-30.7-106.

(2) One or more contiguous counties and any municipality within each county may enter into an intergovernmental agreement to extend the applicability of any ordinance or resolution adopted under this section to and throughout a participating county or municipality.

(3) As used in this section, unless the context otherwise requires:

(a) "Board" means the board of county commissioners in the county in which a wind-powered energy generation facility is located or will be located.

(b) "Wind-powered energy generation facility" or "facility" means a facility, with a nameplate capacity of fifty kilowatts or greater, used in the generation of electricity by means of turbines or other devices that capture and employ the kinetic energy of the wind.

Source: L. 2022: Entire section added, (SB 22-110), ch. 462, p. 3277, § 2, effective August 10.

30-11-131. Regulation of pesticide use - definitions.

(1) A board of county commissioners that adopts an ordinance that concerns pesticides shall file the following with the commissioner of agriculture in accordance with section 35-10-112.5 (4):

(a) A certified copy of the ordinance; and

(b) A map or legal description of the geographic area that the board of county commissioners intends to regulate under the ordinance.

(2) As used in this section, unless the context otherwise requires:

(a) "Commissioner of agriculture" means the commissioner of the department of agriculture appointed pursuant to section 35-1-107 (1) or the commissioner's designee.

(b) "Pesticide" has the meaning set forth in section 35-10-103 (10).

Source: L. 2023: Entire section added, (SB 23-192), ch. 350, p. 2102, § 11, effective August 7.

30-11-132. Property tax incentive programs for areas of specific local concern - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) (I) "Area of specific local concern" means a use of real property in a county that is determined by a board of county commissioners to be diminishing or unavailable based on verifiable data and which use the board of county commissioners finds and declares necessary for the preservation of the health, safety, or welfare of the residents of the county, including as to matters of equity, access to housing, and access to education.

(II) "Area of specific local concern" does not include a use of real property in a county that harms or may reasonably be expected to harm a disproportionately impacted community as defined in section 24-4-109 (2)(b)(II).

(III) "Area of specific local concern" does not include a use of real property in a county that prevents or may reasonably be expected to prevent meeting the minimum greenhouse gas emission reduction goals and deadlines established in section 25-7-102 (2)(g).

(b) "County" means any county or city and county in the state.

(c) "County property tax credit or rebate" means a partial or full credit or refund of county property taxes owed or paid by a program participant in accordance with a county property tax levy.

(d) "Incentive program" means a property tax credit or rebate program intended and designed to directly incentivize improvement in an area of specific local concern as specified in a resolution or an ordinance adopted by a board of county commissioners.

(e) "Municipality" has the same meaning as set forth in section 31-1-101 (6).

(f) "Program participant" means an owner of real property in the county that has applied and meets the criteria set forth by resolution or ordinance adopted by the board of county commissioners to participate in an incentive program and that in fact participates in the incentive program.

(2) Notwithstanding any law to the contrary, a county may offer an incentive, in the form of a county property tax credit or rebate, to a property owner that is a program participant in an incentive program established in accordance with this section.

(3) (a) An incentive program must be established by resolution or ordinance adopted by a board of county commissioners at a hearing that is open to the public and that includes an opportunity for public testimony. The county must notify the clerk of each municipality that is wholly or partly located in the county and that may be impacted by the incentive program of the hearing at least thirty days in advance. The notice must describe the specific area of local concern, including the use of real property, addressed by the incentive program and the proposed county property tax credit or rebate. Each municipality must have an opportunity to submit written comments and provide testimony at the hearing.

(b) An ordinance or a resolution adopted by a board of county commissioners must include:

(I) The board of county commissioners' findings and determinations regarding the diminishment or unavailability of a use of real property in the county that gives rise to an area of specific local concern that is the basis for the incentive program; and

(II) Specific criteria for the qualification of program participants.

(4) The opportunity to be a program participant must be equally available to all owners of the same class of real property located in the county whose use of their property is an area of specific local concern.

(5) (a) The board of county commissioners shall, on an annual basis, evaluate each incentive program established pursuant to this section to determine its effectiveness in improving each area of specific local concern identified in the ordinance or resolution creating the incentive program.

(b) The board of county commissioners shall, on an annual basis, publicize the results of the evaluation of each incentive program established pursuant to this section at a hearing that is open to the public and that includes an opportunity for public testimony.

(c) The board of county commissioners may renew an incentive program for not more than one year if the board of county commissioners determines that the incentive program has been and is likely to continue to be effective in addressing each area of specific local concern identified in the ordinance or resolution creating the incentive program.

Source: L. 2024: Entire section added, (SB 24-002), ch. 25, p. 73, § 3, effective August 7.

Cross references: For the legislative declaration in SB 24-002, see section 1 of chapter 25, Session Laws of Colorado 2024.

30-11-133. Construction and maintenance of equestrian facilities.

(1) (a) A county may construct and maintain equestrian road crossings or horse-trailer parking necessary to access equestrian trails. Equestrian road crossings may be used by other pedestrians and need not contain infrastructure not normally used for pedestrian road crossings.

(b) A county may require a person that is developing land for residential or commercial use to construct equestrian road crossings, horse-trailer parking, or equestrian-safety road improvements in order to obtain the necessary permits.

(c) A county may install signs, in accordance with section 30-28-141, that notify the public of equestrian road crossings, horse-trailer parking, or equestrian-safety road improvements.

(2) A county may identify locations where equestrian road crossings are needed to safely use horse trails. When a location is identified, the county may construct and maintain the equestrian road crossing. The crossing must:

(a) Have appropriate signs notifying road users of the equestrian crossing; and

(b) Be clearly marked on the road.

(3) A county shall obtain the permission of the department of transportation to construct an equestrian facility described in subsection (1) of this section on a state highway or a right-of-way for a state highway.

Source: L. 2025: Entire section added, (SB 25-149), ch. 266, p. 1373, § 3, effective August 6.

Cross references: For the legislative declaration in SB 25-149, see section 1 of chapter 266, Session Laws of Colorado 2025.

30-11-134. Thermal energy network agreements.

A board of county commissioners may enter into agreements with one or more entities, including other local governmental entities, for the provision of service from a thermal energy network in accordance with section 40-4-121 (7) or 29-1-208.

Source: L. 2026: Entire section added, (SB 26-142), ch. 290, p. 1590, § 3, effective August 12.

Cross references: For the legislative declaration in SB 26-142, see section 1 of chapter 290, Session Laws of Colorado 2026.

PART 2

CITY AND COUNTY OF DENVER

30-11-201. Merger not to affect pending actions.

No action or proceeding to which any municipality merged into the city and county of Denver is a party or in which it is in any way interested shall abate by reason of such merger, but the same shall survive and be prosecuted to a conclusion under its title as borne by it at the time of such merger; and any judgment or decree entered therein shall be enforceable by or against the city and county of Denver to the full extent of the interest or liability of the said municipality so merged, the same as if said city and county of Denver were expressly made a party thereto. No right or cause of action by or against any such municipality so merged shall be lost or extinguished by reason of such merger, and the same shall be thereafter enforced and prosecuted by or against the city and county of Denver.

Source: L. 01: p. 167, § 1. **R.S. 08:** § 2080. **C.L.** § 8969. **CSA:** C. 53, § 1. **CRS 53:** § 36-18-1. **C.R.S. 1963:** § 36-18-1.

30-11-202. Laws applicable. (Repealed)

Source: L. 01: p. 168, § 2. **R.S. 08:** § 2081. **C.L.** § 8970. **CSA:** C. 53, § 2. **CRS 53:** § 36-18-2. **C.R.S. 1963:** § 36-18-2. **L. 2003:** Entire section repealed, p. 914, § 22, effective August 6.

30-11-203. Records concerning charter amendment.

It is the duty of the secretary of state to carefully preserve all certified charters and charter amendments and measures, and the record of votes thereon, that come to his office under the

operation of the constitutional amendment creating the city and county of Denver. He shall publish them in the next ensuing volume of the session laws of the state. The originals, during office hours, shall be open to the inspection of the public.

Source: L. 01: p. 168, § 4. **R.S. 08:** § 2082. **C.L.** § 8971. **CSA:** C. 53, § 3. **CRS 53:** § 36-18-3. **C.R.S. 1963:** § 36-18-3.

30-11-204. Channel of Platte river - improvement.

The city council of the city and county of Denver is authorized to improve, change, straighten, widen, narrow, deepen, or extend the channel of the South Platte river within the city and county of Denver.

Source: L. 15: p. 198, § 1. **C.L.** § 8974. **CSA:** C. 53, § 6. **CRS 53:** § 36-18-6. **C.R.S. 1963:** § 36-18-6.

ANNOTATION

In determining its policy and character of construction work to be done under this section, the city acted in its governmental capacity; the power so to act is expressly conferred upon the city council, and this authority it could not delegate. City & County of Denver v. Talarico, 99 Colo. 178, 61 P.2d 1 (1936).

But in the performance of the ministerial work it is not acting in a governmental capacity and will be held liable for damages resulting from its negligence in the construction and maintenance of the works erected in carrying out the policy adopted. City & County of Denver v. Talarico, 99 Colo. 178, 61 P.2d 1 (1936).

And in an action against a municipality for damages occasioned by the flooding of plaintiff's lands and crops, resulting from the city's negligence in making and leaving an excavation in an embankment through which the flood waters reached his land, it was held that the evidence supported a finding that the excavation was the proximate cause of the damage. City & County of Denver v. Talarico, 99 Colo. 178, 61 P.2d 1 (1936).

Ordinary care required. In an action for damages to land and crops resulting from the alleged negligence of a city, if the latter failed to use ordinary care in maintaining an embankment constructed in line with its policy for flood water control, it cannot escape liability by imputing the cause of

damage to an act of God. City & County of Denver v. Talarico, 99 Colo. 178, 61 P.2d 1 (1936).

City must see that adjacent land not subject to greater hazard. Where city under legislative authority makes improvements in and along the channel of a natural stream, in the absence of contract, it owes no duty to adjacent landowners other than to see that in the plan of the improvement and its maintenance or failure to maintain, such land is not subjected to a greater burden or hazard from floods than that to which it would have been exposed had the stream been left in its natural state. City & County of Denver v. Pilo, 102 Colo. 326, 79 P.2d 270 (1938).

30-11-205. City to control channel.

The width, depth, course, and dimensions of said channel shall be as established by ordinance duly enacted by the council of the city and county of Denver, and said city and county has the power to acquire by purchase or condemnation all lands necessary to improve, straighten, widen, narrow, deepen, or extend said channel, and the public works department has exclusive control of the construction of said improvement.

Source: L. 15: p. 198, § 2. **C.L.** § 8975. **CSA:** C. 53, § 7. **CRS 53:** § 36-18-7. **C.R.S. 1963:** § 36-18-7.

30-11-206. Improvement of channel beyond city limits.

The city and county of Denver is empowered to extend and improve said channel beyond and outside the limits of the city and county of Denver when in the opinion of the council of said city and county the extension and improvement of said channel beyond the boundary line of said city and county shall more effectually and advantageously accomplish the purpose and object of sections 30-11-204 to 30-11-207, and cause said improvement to be more beneficial to the inhabitants of the city and county of Denver and promote and protect the general health and general welfare.

Source: L. 15: p. 199, § 3. **C.L.** § 8976. **CSA:** C. 53, § 8. **CRS 53:** § 36-18-8. **C.R.S. 1963:** § 36-18-8.

30-11-207. Obstructions or pollutions.

The city council of the city and county of Denver may enact and adopt ordinances for the purpose of preventing and removing obstructions in said channel or encroachments upon the same or polluting the waters thereof; and to in every manner control, regulate, and protect said property when improved in whole or in part, and provide for a penalty for the violation of any of said ordinances.

Source: L. 15: p. 199, § 4. **C.L.** § 8977. **CSA:** C. 53, § 9. **CRS 53:** § 36-18-9. **C.R.S. 1963:** § 36-18-9.

30-11-208. Contract - teleconferencing facilities and services - repeal. (Repealed)

Source: L. 85: Entire section added, p. 807, § 3, effective May 23. **L. 2008:** Entire section amended, p. 1131, § 17, effective May 22. **L. 2022:** (2) added on revision, (HB 22-1353), ch. 479, pp. 3498, 3499, §§ 9, 12.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2023. (See L. 2022, p. 3498.)

PART 3

OIL, GAS, AND MINERAL RIGHTS

30-11-301. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Landfill-generated methane gas" means those gases resulting from the biological decomposition of landfilled solid wastes, including methane, carbon dioxide, hydrogen, and traces of other gases, and shall be referred to in this part 3 as "landfill gas".

(1.5) "Oil and gas" means oil, gas, casinghead gas, condensate, and hydrocarbons or any one or more of them.

(2) "Real estate owned by a county" and "county lands" means any real estate acquired and owned by a county under the laws relating to taxation or otherwise.

Source: L. 49: p. 328, § 5. **CSA:** C. 45, § 25(5). **CRS 53:** § 36-11-5. **C.R.S. 1963:** § 36-11-5. **L. 80:** (1) amended and (1.5) added, p. 651, §§ 1, 2, effective July 1.

Cross references: For definitions applicable to this article, see § 30-26-301 (2)(d).

ANNOTATION

Placement of statute immaterial. That the revisor of statutes placed a statute relating to the authority of counties to reserve mineral rights in county lands sold under the title "County Powers and Functions" rather than under "taxation" is immaterial where the statute provides that the term county lands means any real estate acquired and owned by a county under the laws relating to taxation or otherwise. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Section 30-11-305 expressly governs lands acquired by a county on account of nonpayment of taxes as evidenced by this section. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

30-11-302. Oil, gas, and mineral rights - reservation of - sale.

(1) In any sale of county lands made by any county acting through its board of county commissioners, a valid reservation of oil and gas and other minerals in such lands may be made when in the opinion of the board of county commissioners it is deemed to be for the best interest of the county. Oil and gas and other mineral rights or any of them thus reserved by a county upon the sale of such real estate may be sold by order of the board of county commissioners at public sale to the highest and best bidder after four weeks' prior notice by publication two times in a newspaper of general circulation in the county in which the land is situated, said notice to describe the oil and gas or other mineral rights to be sold, the location of the land involved, and the date, time, and place of such sale; but a copy of said notice shall be mailed, postage prepaid, by the board of county commissioners to the owner of the surface at the time of such notice as shown by the records in the office of the county assessor of the county in which such lands are situated at the last-known address of such owner as shown by said books of the county assessor, and that a copy of said notice shall be mailed, postage prepaid, by the board of county commissioners to the person in possession of the surface.

(2) In the sale of reserved oil and gas rights under any tract of land, the number of acres contained in any one parcel or unit of sale of such rights shall not exceed the total number of acres of such surface land sold by the county to the purchaser thereof at the time of reservation

therefrom of the oil and gas rights thus offered for sale. Nothing contained in this section shall prevent a county from selling any number of such units or parcels at any public sale. The board of county commissioners has the right to reject any and all bids.

(3) Mineral rights, other than oil and gas, reserved as provided in this section may be leased for exploration, development, and production purposes upon such terms and conditions as may be prescribed and contracted by the board of county commissioners in the exercise of its best judgment and as such board deems to be for the best interests of the county. Any such lease of mineral rights, other than oil and gas, shall be for a term not to exceed twenty-five years and as long thereafter as such minerals are produced. Leases of any such mineral rights made or entered into by the board in conformity with the provisions of this section prior to February 25, 1955, are hereby confirmed, validated, and declared to be legal and valid insofar as the authority of any such board is concerned.

Source: L. 49: p. 326, § 1. **CSA:** C. 45, § 25(1). **CRS 53:** § 36-11-1. **L. 55:** p. 255, § 1. **C.R.S. 1963:** § 36-11-1.

ANNOTATION

Law reviews. For article, "Highlights of the 1955 Colorado Legislative Session — Mining", see 28 Rocky Mt. L. Rev. 56 (1955).

Placement of statute immaterial. That the revisor of statutes placed a statute relating to the authority of counties to reserve mineral rights in county lands sold under the title "County Powers and Functions" rather than under "taxation" is immaterial where the statute provides that the term county lands means any real estate acquired and owned by a county under the laws relating to taxation or otherwise. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

The fact that present statutes permit a county to reserve minerals only means that is may reserve and sell the minerals separately. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Property sold subject to lease. All county-owned property not needed for the use of a county should be sold promptly and as soon as lack of need is apparent, and the fact that it is subject to a valid lease or leases does not preclude a sale; the property surface, minerals, or both, can be sold subject to the terms of the lease, which lease may add to or detract from the value of the property. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

To permit a county to become the owner of and hold at its pleasure unlimited nontaxable real estate, would be to deprive the state, school district, and others tax revenue and by such action

cripple other governmental agencies dependent for their existence upon tax revenue. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

A deed of land by a county reserving to the county the minerals therein, through invalid when made, but validated by § 30-11-305, precludes the grantee from asserting ownership of the minerals which by the validated deed are expressly reserved to the county, and a decree quieting title to the minerals in the county is correct. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Purchaser took subject to reserve rights. Where land acquired by a county through a tax sale is thereafter sold by the county, reserving the mineral estate, the purchaser of the surface, having prior knowledge that the minerals were to be reserved, received that which he intended to acquire and for which he paid. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

30-11-303. Oil and gas rights - leases - royalties.

(1) Any county acting by its board of county commissioners may lease any real estate or any interest therein owned by the county for oil and gas exploration, development, and production purposes upon such terms and conditions as may be prescribed and contracted by the board of county commissioners in the exercise of its best judgment, and as such board deems to be for the best interests of the county.

(2) Any such lease of oil and gas rights shall be for a term not to exceed five years and as long thereafter as oil or gas is produced and shall provide for a royalty of not less than twelve and one-half percent of all oil and gas produced, saved, and marketed, or the equivalent market value thereof, which royalty may be reduced proportionately under appropriate provision in such lease if the interest of the county is less than a full interest in the land or oil and gas rights in the land described in such lease.

(3) When, in the opinion of the board of county commissioners and because of the size, shape, or current use of any tract of county real estate, the public interest so requires, any lease of such tract may provide that no drilling shall be conducted on the land covered thereby, in which case such lease shall be for a term not to exceed ten years and so long thereafter as the county may share in royalties payable on account of production of oil or gas from lands adjacent to such tract of county land so leased.

Source: L. 49: p. 327, § 2. **CSA:** C. 45, § 25(2). **L. 53:** p. 218, § 1. **CRS 53:** § 36-11-2. **C.R.S. 1963:** § 36-11-2.

30-11-304. Agreements to pool lands for production purposes.

When deemed by the board of county commissioners to be in the best interest of the county, any county acting by its board of county commissioners may enter into any unit agreement providing for the pooling or consolidation of acreage covered by any oil and gas lease executed by such county with other acreage for oil and gas exploration, development, and production purposes and providing for the apportionment or allocation of royalties among the separate tracts of land included in such unit agreement on an acreage or other equitable basis, and may by such agreement, with the consent of its lessee, change any and all of the provisions of any lease issued by such county including the term of years for which such lease was originally granted in order to conform such lease to the terms and provisions of such unit agreement and to facilitate the efficient and economic production of oil and gas from the unit lands.

Source: L. 49: p. 327, § 3. **CSA:** C. 45, § 25(3). **CRS 53:** § 36-11-3. **C.R.S. 1963:** § 36-11-3.

30-11-305. Prior agreements validated.

All reservations of oil and gas and other mineral rights and sales of previously reserved oil and gas and other mineral rights in county lands made or entered into by any county prior to May 20, 1949, acting by its board of county commissioners, all leases of oil and gas or rights, and all unit agreements relating to or dealing with oil and gas and containing provisions similar to those set forth in section 30-11-304, affecting county lands, made or entered into by any county prior to May 20, 1949, acting by its board of county commissioners are hereby confirmed, validated, and declared to be legal and valid in all respects.

Source: L. 49: p. 327, § 4. **CSA:** C. 45, § 25(4). **CRS 53:** § 36-11-4. **C.R.S. 1963:** § 36-11-4.

ANNOTATION

Reservation subsequently validated. Where a county sold land acquired by tax sale and reserved the minerals therein without authority at the time of such sale, such reservation where thereafter validated by this section. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

This validating act was intended by the general assembly to apply to sales of surface rights, and it validates such sales unless subject to some constitutional objection. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

No impairment of vested rights. Generally speaking, the general assembly

may, within the constitutional limits of its power, cure formal defects in deeds and other written instruments, and give them the same validity as though they had been properly executed, since such legislation, even though it may operate to cut off a right of action that would otherwise exist, is not considered as depriving anyone of vested rights, but rather as carrying into effect the intent of the parties. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

The general assembly may validate retrospectively any proceeding which it might have authorized in advance, or may cure by subsequent statute what it might have dispensed with altogether. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

A curative or validating statute is one whose purpose is to cure past errors, omissions, and neglects, and thus to make valid what, before the enactment of the statute, was invalid. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

But a validating statute grants no indulgence for the correction of future errors and neglects. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

And § 11 of art. II, Colo. Const., does not apply, and was not intended to apply, to acts validating contracts theretofore made on behalf of the state. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

Quieting title decree correct. Where a deed of land by a county reserving to the county the minerals therein, though invalid when made, had been validated by this section, precluded the grantee from asserting ownership of the minerals which by the validated deed were expressly reserved to the county, and a decree quieting title to the minerals in the county was correct. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

This section expressly governs lands acquired by a county on account of nonpayment of taxes as evidenced by § 30-11-301. Farnik v. Bd. of County Comm'rs, 139 Colo. 481, 341 P.2d 467 (1959).

30-11-306. Legislative declaration concerning landfill gas.

The general assembly hereby declares that landfill gas constitutes a hazard to the health, welfare, and safety of the people of this state, whether such gas has accumulated as a result of a public or private landfill operation, and that the extraction of landfill gas will ameliorate this dangerous condition, and further declares that the development of landfill gas will provide a valuable, alternate energy resource to the citizens of this state. In order to diminish this hazard and utilize this energy resource, the powers of counties are hereby expanded to authorize landfill gas exploration, development, and production; the financing thereof; the marketing and sale of landfill gas to any public or private person or entity; and the county use thereof for any purpose.

Source: L. 80: Entire section added, p. 651, § 3, effective July 1.

30-11-307. County authority relating to landfill gas.

(1) To accomplish the purposes specified in section 30-11-306, counties are granted the following powers:

(a) To acquire, hold, use, transfer, and convey any real property or any interest therein for purposes of landfill gas exploration, production, and development;

(b) To engage in any and all activities respecting the exploration, development, production, distribution, marketing, and sale of landfill gas to any person or public or private entity, or for county uses;

(c) (I) To acquire by gift, purchase, or condemnation necessary easements and rights-of-way, for ingress and egress and for the installation of facilities related to collection and distribution of landfill gas; except that the power of condemnation granted in this paragraph (c) shall not extend to acquisition of landfill gas in place nor shall such power be available to a county until the county has entered into a contract with the owner of such landfill gas for the development, extraction, and purchase of such landfill gas, and except that such condemnation shall not interfere with the normal use of any real property, or other property appurtenant thereto, which is devoted or dedicated to a public utility use or upon which landfill gas abatement or recovery facilities have been placed in operation and shall be limited to the maximum reasonable width or area necessary to install, operate, and maintain such rights-of-way, ingress and egress, and collection and distribution facilities.

(II) Any interest in real property acquired by condemnation pursuant to this paragraph (c) shall terminate upon the completion of use of such real property, or any interest therein, for landfill gas operations, and any such condemnation shall be in the manner provided in part 1 of article 6 of title 38, C.R.S.

(d) To enter into contracts, including intergovernmental contracts, and to perform all acts necessary to produce, distribute, and market landfill gas;

(e) To issue general obligation bonds, after approval of the qualified electors of the county, for purposes of financing the exploration, development, production, distribution, and marketing of landfill gas;

(f) To issue revenue bonds authorized by action of the board of county commissioners, without the approval of the qualified electors of the county, for purposes of financing the exploration, development, production, distribution, and marketing of landfill gas. Such revenue bonds shall be issued in the manner provided in part 4 of article 35 of title 31, C.R.S., for the

issuance of revenue bonds by municipalities; except that such revenue bonds may be sold in one or more series at par, or below or above par, at public or private sale, in such manner and for such price as the county, in its discretion, shall determine. Such revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the county within the meaning of any provision or limitation of the state constitution or statutes, and shall not constitute nor give rise to a pecuniary liability of the county or a charge against its general credit or taxing powers, and such revenue bonds and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

Source: L. 80: Entire section added, p. 652, § 3, effective July 1.

Cross references: For municipal provisions concerning landfill gas, see §§ 31-15-715 and 31-15-716.

PART 4

LAW ENFORCEMENT AUTHORITIES

30-11-401. Short title.

This part 4 shall be known and may be cited as the "Law Enforcement Authority Act of 1969".

Source: L. 69: p. 239, § 2. **C.R.S. 1963:** § 36-27-2.

30-11-402. Legislative declaration.

It is the intent of the general assembly in the enactment of this part 4 to provide an alternative and additional means to provide law enforcement for the citizens of this state, especially those residing in developed or developing unincorporated areas of counties, to combat the rising crime rate therein, and to better assist police and other law enforcement agencies in the prevention of crime and in the detection and apprehension of criminal offenders.

Source: L. 69: p. 239, § 1. **C.R.S. 1963:** § 36-27-1. **L. 71:** p. 346, § 1.

30-11-403. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Area" or "territory" means all areas of land in a county included or proposed to be included in a law enforcement authority, which may consist of all or a portion of the unincorporated area of the county but may not include any single tract or parcel of property containing twenty acres or more without the written consent of the owner thereof, unless such tract or parcel would be entirely within the boundaries of an area.

(2) (a) (I) An "elector" of an authority means a person who, at the designated time or event, is registered to vote in general elections in this state; and

(II) Who has been a resident of the authority or the area to be included in the authority for not less than thirty days; or

(III) Who or whose spouse owns taxable real or personal property within the authority or the area to be included within the authority, whether or not said person resides within the authority.

(b) A person who is obligated to pay general taxes under a contract to purchase real property within the authority shall be considered an owner within the meaning of this subsection (2). The ownership of property on which a specific ownership tax is paid pursuant to law shall not qualify a person as an elector. Taxable property shall mean real or personal property subject to general ad valorem taxes.

(c) Registration pursuant to the general election laws or any other laws shall not be required.

(3) "Law enforcement authority", referred to in this part 4 as an "authority", means a taxing unit which may be created by a county in this state for the purpose of providing additional law enforcement by the county sheriff to the residents of the developed or developing unincorporated area of the county.

(4) "Publication", when no manner of publication is specified, means publication once a week for three consecutive weeks in a newspaper of general circulation in the area of the authority. It shall not be necessary that publication be made on the same day of the week in each of the three consecutive weeks, but not less than fourteen days, excluding the day of first publication, shall intervene between the day of the first publication and the day of the last publication, and publication shall be complete on the day of the last publication.

Source: L. 69: p. 239, § 3. **C.R.S. 1963:** § 36-27-3. **L. 70:** p. 144, § 17. **L. 71:** pp. 337, 346, 348, §§ 4, 2, 3, 9. **L. 96:** (2)(a) amended, p. 1767, § 59, effective July 1.

Cross references: For definitions applicable to this article, see § 30-26-301 (2)(d).

30-11-404. Organization of authority.

(1) The board of county commissioners of any county in this state may by resolution create an authority pursuant to the provisions of this part 4, which authority shall be a political subdivision of this state.

(2) No resolution creating an authority under this part 4 shall be adopted by a board of county commissioners unless prior notice of such action, including the date, time, and place of meeting of said board, shall be made by publication, and an opportunity to be heard in person or by counsel shall be afforded to persons desiring to appear.

(3) The resolution creating such an authority shall contain the following:

(a) The name of the proposed district, which shall include the name of the county and the words "law enforcement authority";

(b) A general description of the territory included in the authority, with such certainty to enable a property owner to determine whether or not his property is within the authority; and

(c) Where applicable, the specific powers and duties of the authority, as provided in this part 4, but if the authority is authorized to exercise all such powers and duties under this part 4, only a general statement to this effect need be included.

(4) The resolution creating any such authority shall not take effect until thirty days following the canvass of votes cast at the election conducted pursuant to section 30-11-405.

(5) On the effective date of such resolution, the board of county commissioners shall, ex officio, constitute the governing board of the authority and shall exercise the powers and duties prescribed in this part 4 and in the resolution.

Source: L. 69: p. 240, § 4. **C.R.S. 1963:** § 36-27-4. **L. 71:** p. 347, § 4.

30-11-405. Election.

(1) The board of county commissioners shall call a special election in the area proposed to be included in the authority, as described in the resolution, which election shall be held not less than thirty nor more than forty-five days after adoption of the resolution by the board of county commissioners.

(2) No authority shall be created unless the proposition to create such authority shall first be submitted to and approved by the electors of the authority.

(3) Notice of the election shall be by publication and shall contain the question to be submitted, the date of the election, the times that the polls shall be open, and the place of each polling place. Designation of election precincts and polling places and election contests shall be pursuant to the provisions of part 8 of article 1 of title 32, C.R.S.

(4) Said election shall otherwise be conducted, insofar as practicable, as are general elections. Election judges shall be appointed and compensated by the board of county commissioners, and their powers and duties shall be defined and exercised pursuant to the comparable provisions of law governing general elections, except that they shall be appointed without regard to political affiliation. All costs of such election shall be paid out of the county general fund.

(5) If a majority of those electors of the authority voting at said election have voted in favor of such proposition, said authority shall be approved and the resolution creating the same shall become effective as provided in section 30-11-404.

Source: L. 69: p. 240, § 5. **C.R.S. 1963:** § 36-27-5. **L. 70:** p. 145, § 18. **L. 71:** pp. 337, 347, 348, §§ 5, 7, 5, 9. **L. 81:** (3) amended, p. 1612, § 10, effective June 19.

30-11-406. Powers of law enforcement authority.

(1) Each law enforcement authority formed pursuant to this part 4 has the following powers, except as otherwise limited by the resolution creating the same:

(a) To have perpetual existence;

(b) To sue and be sued and be a party to suits, actions, and proceedings;

(c) To enter into contracts and agreements with the sheriff of the county in which the authority is located to provide law enforcement services for the authority, except as otherwise provided in this part 4;

(d) To employ such administrative, clerical, and professional employees as may be necessary to carry out the purposes of the authority;

(e) To levy a tax not to exceed five mills for the 1982 property tax year or seven mills for the 1983 property tax year and each property tax year thereafter on the taxable property within the area of the authority, for the payment of the operating expenses of the authority. In any case in which an authority proposes to impose a mill levy which is the maximum mill levy allowable under this paragraph (e) or which is in excess of the certified mill levy computed pursuant to section 30-11-406.5, such authority shall follow the procedure set forth in section 30-11-406.5.

Source: L. 69: p. 241, § 6. **C.R.S. 1963:** § 36-27-6. **L. 81:** (1)(e) amended, p. 1399, § 13, effective June 19.

30-11-406.5. Procedure for levying property tax - public disclosure - county assessor's duties.

(1) No later than August 25 of each year, each county assessor shall certify to each authority within the assessor's county the total valuation for assessment of all taxable property located within the territorial limits of the authority and the mill levy that when applied to such valuation for assessment, exclusive of the increased valuation for assessment attributable to annexation or inclusion of additional land, the improvements thereon, and personal property connected therewith within the authority for the preceding year, or attributable to new construction and personal property connected therewith within the authority for the preceding year, or attributable to increased volume of production for the preceding year by a producing mine if said mine is wholly or partially within the authority and if such increase in volume of production causes an increase in the level of services provided by the authority, or attributable to previously legally exempt federal property that becomes taxable if such property causes an increase in the level of services provided by the authority, will raise the same property tax revenue as was raised the previous year.

(2) Any authority which proposes to impose a mill levy in excess of the mill levy for the previous year shall submit such proposal at an election in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(3) to (6) (Deleted by amendment, L. 94, p. 1188, § 84, effective July 1, 1994.)

Source: L. 81: Entire section added, p. 1399, § 14, effective June 19. **L. 82:** (1) amended, p. 458, § 3, effective March 17. **L. 83:** (1) amended, p. 2073, § 3, effective October 13. **L. 87:** (1) amended, p. 1188, § 3, effective March 12. **L. 94:** Entire section amended, p. 1188, § 84, effective July 1. **L. 96:** (1) amended, p. 17, § 2, effective February 22.

30-11-407. Short-term loans for new authorities.

In order to provide funds for a new authority to operate prior to the receipt of revenues from property taxes, an authority may contract with any person, corporation, association, or company for a short-term loan, not to exceed the amount necessary for such operation, and such loan shall be fully paid within twelve months; but subsequent short-term loans may be made in each budget

year in smaller amounts and shall be paid within six months. Such subsequent loans shall be scheduled to liquidate the accumulated debt fully in a period not to exceed ten years after the date of the first loan. Interest paid on such loans shall be exempt from taxation by the state or any political subdivision thereof.

Source: L. 69: p. 241, § 7. **C.R.S. 1963:** § 36-27-7.

30-11-408. Detachment - dissolution.

(1) Upon the effective date of the annexation to any city, town, or city and county, or the incorporation of any territory included in an authority, upon the certification thereof by the clerk of such municipality, the territory so annexed or incorporated shall be detached from such authority as of the effective date thereof, if such be January 1 of any year; otherwise, such detachment shall take effect on the following January 1, for purposes of general property taxation. Property so detached shall not thereafter be liable for any portion of the outstanding indebtedness of the authority.

(2) Upon the annexation or incorporation of fifty percent or more of the area of the territory included in any authority, or upon petition by ten percent of the electors and the approval of a majority of the electors of the authority voting at a special election called for that purpose, pursuant to the applicable provisions of section 30-11-405, any authority formed under this part 4 shall be dissolved effective the following January 1, except that if any indebtedness of the authority is unpaid and outstanding, the authority shall continue in existence for taxation purposes only until all obligations of the authority are paid.

Source: L. 69: p. 241, § 8. **C.R.S. 1963:** § 36-27-8. **L. 70:** p. 146, § 19. **L. 71:** pp. 337, 347, §§ 6, 6.

30-11-409. Payments to sheriff.

Moneys paid to any sheriff for services pursuant to the provisions of this part 4 shall be expended by the sheriff only for law enforcement purposes, including administration and capital expenditures, pursuant to agreements entered into as authorized by this part 4.

Source: L. 69: p. 241, § 9. **C.R.S. 1963:** § 36-27-9.

30-11-410. Power to contract for provision of law enforcement services.

(1) The governing body of a municipality and the board of county commissioners may contract for the purpose of providing law enforcement, including enforcement of municipal ordinances, by the sheriff within the boundaries of the municipality.

(2) The law enforcement authority and the sheriff may contract with other law enforcement agencies or with municipalities for the provision of law enforcement services within the unincorporated areas of the county.

Source: L. 71: p. 347, § 8. **C.R.S. 1963:** § 36-27-10. **L. 89:** Entire section amended, p. 1270, § 3, effective April 23.

30-11-411. Inclusion of land.

An additional area may be included in a law enforcement authority, upon petition of all electors and landowners in such area, by resolution of the board of county commissioners or by such resolution and a vote of a majority of electors of such area in the same manner as provided for the organization of a law enforcement authority.

Source: L. 71: p. 348, § 8. **C.R.S. 1963:** § 36-27-11.

PART 5

COUNTY HOME RULE CHARTERS

Cross references: For provisions on home rule counties, see article 35 of this title.

30-11-501. County home rule charters.

Any county in this state, pursuant to the provisions of this part 5, may establish the organization and structure of county government which shall be submitted to and adopted by a majority vote of the registered electors of the county which shall be known as a county home rule charter.

Source: L. 71: p. 349, § 1. **C.R.S. 1963:** § 36-28-1. **L. 85:** Entire section amended, p. 1344, § 8, effective April 30.

30-11-502. Charter commission.

(1) Following the adoption of a resolution by the board of county commissioners, or upon the submission of a petition of not less than five percent of the registered electors of the county, requesting that a charter commission be established, the board of county commissioners shall call an election to be held on or before the next general election for the purpose of determining whether or not a charter commission shall be elected. The board of county commissioners shall publish notice of the election at least sixty days prior to the election.

(2) (a) At least sixty days before the election provided for in section 30-11-503, the board of county commissioners shall divide the county into three compact districts; such districts to be as nearly equal in population as possible, for the purpose of electing charter commission members by district according to subsection (4) of this section.

(b) If the provisions of paragraph (a) of this subsection (2) are not met before sixty days prior to the election provided for in section 30-11-503, no member of the board of county commissioners of the county shall thereafter be entitled to or earn any compensation for his services or receive any payment for salary or expenses, nor shall any member be eligible to succeed himself in office.

(3) (a) The charter commission shall consist of the following members and be elected from the district as follows:

(I) In counties having a population of less than fifty thousand, eleven members, three of whom shall reside in and be elected from each commissioner district within the county and two to be elected at large;

(II) In counties having a population of fifty thousand or more, twenty-one members, six of whom shall reside in and be elected from each commissioner district and three to be elected at large.

(b) Eligibility to serve on the commission shall extend to all qualified electors of the county. Any vacancy in the charter commission shall be filled by majority vote of the members of the charter commission.

(4) Candidates for the charter commission shall be nominated by filing with the county clerk and recorder, on forms supplied by the county clerk and recorder, a nomination petition signed by at least twenty-five registered electors of the county and a statement by the candidate consenting to serve if elected. Said petition and statement must be filed within thirty days after

publication of the election notice. A second notice of the election shall be published by the said commissioners and include the names of candidates for the charter commission.

Source: L. 71: p. 349, § 1. **C.R.S. 1963:** § 36-28-2. **L. 85:** (1) and (4) amended, p. 1344, § 9, effective April 30.

Editor's note: In 2004, the provisions within subsection (3) were renumbered on revision to conform to statutory format.

ANNOTATION

Law reviews. For article, "Ballot Measures: The Scope of Authority in Statutory Counties", see 52 Colo. Law 22 (May 2023).

30-11-503. Election on formation of charter convention and designation of members.

(1) At the election, voters shall cast ballots for or against forming the charter commission. If a majority of the registered electors voting thereon vote for forming the charter commission, a commission to frame a charter shall be deemed formed.

(2) At the election voters shall also cast ballots for electing the requisite number of charter commission members. Those candidates receiving the highest number of votes shall be elected. In the event of tie votes for the last available vacancy, the clerk shall determine by lot the person who shall be elected.

Source: L. 71: p. 350, § 1. **C.R.S. 1963:** § 36-28-3. **L. 85:** (1) amended, p. 1345, § 10, effective April 30.

30-11-504. Development of proposed charter.

(1) A charter commission elected pursuant to section 30-11-503 shall meet on a date designated by the board of county commissioners for the purposes of organization within thirty days after the election. The charter commission shall elect a chairman and a vice-chairman from among its membership. Further meetings of the commission shall be held upon call of the chairman or a majority of the members of the commission. All meetings shall be open to the public. A majority of the charter commission shall constitute a quorum. The commission may

adopt such other rules for its operations and proceedings as it deems necessary or desirable. Members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

(2) The charter commission shall conduct a comprehensive study of the operation of county government and of the ways in which the conduct of county government might be improved or reorganized. Within two hundred forty days after its initial meeting, the charter commission shall present to the board of county commissioners a proposed charter, upon which it shall have held three public hearings at intervals of not less than fifteen nor more than thirty days, and notice of these public hearings shall be published not less than fifteen days prior to each public hearing in a newspaper of general circulation within the county. Within ten days of the last of such public hearings, the charter commission shall incorporate any amendments it deems desirable. A majority vote of the members of the charter commission in favor of a proposed charter for the county shall be required to forward said charter to the board of county commissioners for the setting of a referendum election as provided in section 30-11-505.

(3) In the event that the charter commission fails to present a charter to the board of county commissioners after the specified time, the charter commission shall recess for a period of not less than thirty days nor more than ninety days. The board of county commissioners shall then call the charter commission to begin a second attempt to present a charter which shall be presented within a period of ninety days. In the event a second attempt to present a charter to the board of county commissioners also fails, the charter commission shall be excused from its duties and dissolved by the board. All records, files, and proceedings of the charter commission shall be submitted to the board of county commissioners for storage and safekeeping as a public record. A new charter commission shall be elected on dissolution as provided in section 30-11-502.

(4) The board of county commissioners is authorized to establish a special county charter fund and establish a mill levy therefor when the charter commission has submitted a preliminary budget approved by the board of county commissioners. The expenses of the charter commission shall be verified by a majority vote of the commission and shall be submitted to the board of county commissioners for approval, which approval shall not be unreasonably withheld. If approved, payment shall be made from the special county charter fund. The charter commission may employ a staff, may consult and retain experts, and may purchase, lease, or otherwise provide for such supplies, materials, equipment, and facilities as it deems necessary or desirable. The board of county commissioners may accept funds, grants, gifts, and services for the charter commission from the state of Colorado, the government of the United States or any of its agencies, or other sources, public or private.

Source: L. 71: p. 350, § 1. **C.R.S. 1963:** § 36-28-4. **L. 75:** Entire section amended, p. 993, § 1, effective June 4.

30-11-505. Referendum election on charter - adoption or rejection.

(1) Upon submission to the board of county commissioners of a charter by the charter commission, the board of county commissioners shall call a special election, to be paid for from the special county charter fund and held pursuant to the Colorado election laws. The special election shall be held not more than ninety days nor less than forty-five days after the board of county commissioners receives the proposed charter; however, if a coordinated election or general election is to be held within sixty days after the board of county commissioners receives the proposed charter, the special election shall be held as part of the coordinated election or general election. The board of county commissioners shall publish in a newspaper of general circulation within the county a complete text of the proposed charter not less than ten days prior to the special election. At the special election a referendum of the registered electors of the county shall be held to determine the question of whether the proposed charter as submitted shall be adopted. Notice of the election on the proposed charter shall be published at least thirty days prior to the election.

(2) If a majority of those voting on the question favor the adoption of the charter, the said charter shall become effective January 1 of the succeeding year or at such other time as the charter may provide. Such charter, once adopted by the electors, may be amended only by the registered electors of the county.

(3) If a majority of the voters disapprove the proposed charter, the charter commission may proceed to prepare a revised proposed charter in the same manner provided for preparation, submission, and election on the proposed charter. The election on any revised proposed charter must be held not less than ninety nor more than one hundred eighty days after the election rejecting the proposed charter. The charter commission shall not submit more than one proposed charter and one revised proposed charter. If a majority of the voters disapprove the proposed charter, or the revised proposed charter, if one is submitted, no new referendum may be held during the next twelve months following the date of the last disapproval.

(4) Upon acceptance or rejection of the proposed charter or the revised proposed charter, if one is submitted by the registered electors of the county, the charter commission shall be dissolved, and all property of the charter commission shall thereupon become the property of the county, and the board of county commissioners shall adopt a resolution to that effect.

Source: L. 71: p. 351, § 1. **C.R.S. 1963:** § 36-28-5. **L. 85:** (1), (2), and (4) amended, p. 1345, § 11, effective June 4. **L. 2006:** (1) amended, p. 2036, § 25, effective June 6.

30-11-506. Procedure to amend or repeal charter.

(1) Action to amend a charter shall be initiated by:

(a) A petition signed by at least five percent of the registered electors of the county; or

(b) A resolution adopted by the board of county commissioners submitting the proposed amendment to the registered electors.

(2) Action to repeal a charter or to form a new charter commission may be initiated by a petition signed by at least fifteen percent of the registered electors of the county.

(3) (a) Within thirty days of initiation of a proposed amendment, repeal, or charter convention measure, the board of county commissioners shall publish notice of and call an election to be held not less than thirty nor more than one hundred twenty days after said publication. The text of any proposed amendment shall be published with said notice.

(b) If the proposal is for a charter commission, the election shall be scheduled at least sixty days after publication of the notice. The procedure for the forming and functioning of a new charter commission shall comply as nearly as practicable with provisions relating to formation and functioning of an initial charter commission.

(4) If a majority of the registered electors voting thereon vote for a proposed amendment, the amendment shall be deemed approved. If a majority of the registered electors voting thereon vote for repeal of the charter, the charter shall be deemed repealed, and the county shall proceed to organize and operate pursuant to the statutes applicable to statutory counties.

Source: L. 71: p. 352, § 1. **C.R.S. 1963:** § 36-28-6. **L. 85:** (1)(a), (1)(b), (2), and (4) amended, p. 1345, § 12, effective June 4.

30-11-507. Filings - effect of.

(1) Within twenty days after voter approval, a certified copy of the charter shall be filed with the division of local government and with the county clerk and recorder.

(2) This section shall also apply to an amendment or repeal of a charter.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-7.

30-11-508. Initiative, referendum, and recall.

Every charter shall contain procedures for the initiative and referendum of measures and for the recall of elected officers.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-8.

ANNOTATION

The equal protection clause of the fourteenth amendment to the U.S. Constitution does not command Colorado to grant the power of initiative to the electors of statutory counties simply because it has granted that power to the electors of home rule counties. Save Palisade FruitLands v. Todd, 279 F.3d 1204 (10th Cir. 2002).

30-11-509. Time limit on submission of similar proposals.

No proposal for a charter commission, charter amendment, or repeal of a charter shall be initiated within twelve months after rejection of a substantially similar proposal.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-9.

30-11-510. Publication requirements.

"Publish" or "publication" means one publication in one newspaper of general circulation in the county. If there is no such newspaper, publication shall be by posting in at least three public places within the county.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-10.

30-11-511. Board of county commissioners - home rule counties.

A home rule county shall provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers required by statute. A home rule county may provide such permissive functions, services, and facilities and may exercise such permissive powers as authorized by statute applicable to nonhome rule counties, except as may be otherwise prohibited

or limited by the county charter or the constitution of Colorado. Any power, function, service, or facility vested by statute in a particular county officer, agency, or board, including a board of county commissioners, may be exercised or performed within a home rule county by such county officer, agency, or board or by any other county officer, agency, or board designated in the home rule charter. For home rule counties, the term "board of county commissioners" means the governing body of the county designated by the county.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-11. **L. 76:** Entire section R&RE, p. 693, § 1, effective March 16.

30-11-512. Finality.

No proceeding contesting the adoption of a charter, charter amendment, or repeal thereof shall be brought unless commenced within one hundred eighty days after the election adopting the measure.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-12.

30-11-513. Officers.

Officers of a home rule county shall be appointed or elected as provided for in the charter; the terms of office and qualifications of such officers shall also be provided for in the charter; however, the duties of such officers shall be as provided by statute. The charter shall designate the officers who shall respectively perform the acts and duties required of county officers by statute. No elected official shall receive any increase or decrease in compensation under any resolution passed during the term for which he was elected.

Source: L. 71: p. 353, § 1. **C.R.S. 1963:** § 36-28-13.

PART 6

TELECOMMUNICATIONS RESEARCH FACILITIES OF THE UNITED STATES

30-11-601. Short title.

This part 6 shall be known and may be cited as the "Telecommunications Research Facilities of the United States Protection Act of 1969".

Source: L. 69: p. 235, § 1. **C.R.S. 1963:** § 36-26-1.

30-11-602. Legislative declaration.

(1) The general assembly hereby declares that it is the purpose of this part 6 to assist in promoting and protecting telecommunications research facilities of the United States which are located within the state of Colorado.

(2) Specifically, it is the purpose of this part 6 to:

(a) Avoid undue interferences caused by emanation of electrical impulses from electrical equipment functioning in the area surrounding telecommunications research facilities of the United States;

(b) Promote the public interest by encouraging economic improvement and development of this state, and further, to promote educational and scientific research within this state;

(c) Encourage the continued operational capability of telecommunications research facilities of the United States in areas of this state, which, in turn, will encourage and contribute to the economic improvement and development of the state and will promote educational and scientific research within this state.

Source: L. 69: p. 235, § 1. **C.R.S. 1963:** § 36-26-2.

30-11-603. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "Expressways" or "major arterials" means those rights-of-way used primarily for fast or heavy traffic; and "collector streets" means those rights-of-way which have four lanes or more of

moving traffic which carry traffic from local streets to the system of major arterials and highways and move traffic to parks, schools, and shopping centers serving residential neighborhoods.

(2) "Governing body" means a city council, a board of trustees of a town, or a board of county commissioners.

(3) "Planning commission" means the regional planning commission, county planning commission, district planning commission, or zoning commission, as the case may be, which has the responsibility of preparing plans for zoning or the making or adopting of plans for the physical development of the unincorporated and incorporated territory located within a distance of two miles from the perimeter of any telecommunications research facility of the United States.

(4) "Telecommunications research facility of the United States" means a site presently owned by the United States in this state consisting of not less than fifteen hundred contiguous acres in area and having located thereon technical electronic facilities of a value of more than five million dollars operated by an agency of the United States, and which technical electronic facilities are principally utilized in a program of scientific research in telecommunications and related atmospheric science, involving highly sensitive reception, observation, measurement, and recording of radio waves from distant emanation of experimental signals, radio astronomical sources, or electromagnetic phenomena of the atmosphere or ionosphere.

Source: L. 69: p. 236, § 1. **C.R.S. 1963:** § 36-26-3.

Cross references: For definitions applicable to this article, see § 30-26-301 (2)(d).

30-11-604. Scope of part 6.

Nothing in this part 6 shall be construed to change any zoning or restrict or limit any land use in effect on and after April 23, 1969, within a city, town, or a county in which a telecommunications research facility of the United States is wholly or partially located.

Source: L. 69: p. 236, § 1. **C.R.S. 1963:** § 36-26-4.

30-11-605. Powers and duties of governing bodies, planning commissions, and boards of adjustment.

(1) Upon being requested to do so by an agency of the United States, the governing body shall determine if any telecommunications research facility of the United States is located wholly or partially within its jurisdiction. If such determination results in a finding that such a facility is so located, the planning commission, the board of adjustment, and the governing body shall, from and after April 23, 1969, be bound by the following: When considering any request for rezoning, exceptions to or variances from the terms of zoning regulations, or changed or additional uses of land within a distance of two miles from the perimeter of any telecommunications research facility of the United States, the planning commission, the board of adjustment, and the governing body shall consider, in a like manner as those criteria set forth in sections 30-28-115 and 31-23-303, C.R.S., and other criteria applied to the consideration of requests for rezoning, exceptions to or variances from zoning regulations, or changed or additional uses of land, any data presented as to the effect that development made pursuant to such request will have on such telecommunications research facility of the United States, including what interference may be caused to said facility by the emanation of electrical impulses from electrical equipment that may be installed if such request is approved.

(2) If approval for any request for rezoning to a zoning district, for an exception to or variance from the terms of any zoning regulation, or for a changed or additional use of land, which will permit hospitals, industrial, business, or commercial uses is sought within a distance of two miles from the perimeter of any telecommunications research facility of the United States, the planning commission, the board of adjustment, and the governing body may request reasonable information regarding the proposed use to be made from the applicant submitting the request for approval, including, but not limited to, a summary of the kinds of industrial electrical equipment expected to be installed on such property if the approval being sought is given.

(3) Within a distance of two miles from the perimeter of any telecommunications research facility of the United States, any approval of a subdivision plat in a residential zoning district and any approval for rezoning from existing districts to other districts that may exist or be created by the zoning resolution of any city, town, or county in which a telecommunications research facility of the United States is located shall be granted only if the covenants set forth in paragraphs (a) to (e) of subsection (4) of this section are included in the subdivision plat or as part of the rezoning request, which covenants shall be filed for recording with the county clerk and recorder following approval by the governing body; but said governing body may, under reasonable circumstances, waive the application of any one or more of said covenants with respect to all or any part of the affected land. The requirements set forth in this subsection (3) shall not apply to the approval of subdivision plats in single-family residential zoning districts where the minimum lot area permitted is one acre or more if the subdivision plat is approved, to requests for rezoning to single-family residential zoning districts in which the minimum lot area

on unsubdivided land will be one acre or more if the rezoning request is approved, or to requests for rezoning to forestry or agricultural districts.

(4) The covenants referred to in subsection (3) of this section are as follows:

(a) All electrical distribution lines and service lines and all telephone lines shall be placed underground.

(b) No neon signs of any kind shall be permitted on any part of the property.

(c) No electrical fences shall be erected on any part of the property.

(d) All street lights shall be shielded so as to minimize upward illumination.

(e) No arc welding equipment or remote control garage door openers which employ a radiating type of receiver shall be installed or operated from a permanent location on the property.

(5) No expressways or major arterials shall be authorized or constructed within a distance of one mile from the perimeter of any telecommunications research facility of the United States and, unless the governing body specifically makes an exception therefor, no collector streets shall be authorized or constructed within a distance of one mile from the perimeter of any telecommunications research facility of the United States.

(6) The limitations of this part 6 shall be incorporated in any zoning resolution, building code resolution, or both, in any city, town, or county in which a telecommunications research facility of the United States is located, and each such city, town, or county shall enforce the same as provided by law.

(7) The governing body shall determine, with the assistance of a surveyor, if necessary, the boundaries of lands located in such city, town, or county, or both, as the case may be, affected by the limitations imposed by this part 6 and shall record such boundaries in the office of the county clerk and recorder of said county.

Source: L. 69: p. 236, § 1. **C.R.S. 1963:** § 36-26-5. **L. 75:** (1) amended, p. 1271, § 9, effective May 1.

ARTICLE 12

Local Access to Health Care Pilot Program

30-12-101 to 30-12-107. (Repealed)

Editor's note: (1) This article 12 was added in 2007. For amendments to this article 12 prior to its repeal in 2017, consult the 2016 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 30-12-107 (3) provided for the repeal of this article 12, effective July 1, 2017. (See L. 2012, p. 479.)

ARTICLE 15

Regulation Under Police Power

PART 1
CONTROL AND LICENSING OF PET ANIMALS

30-15-100.3. Definitions.

30-15-101. Pet animal control and licensing.

30-15-102. Violations - penalties.

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PART 2
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PART 5
DANCE HALLS

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30-15-503. Revocation or cancellation of licenses.

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PART 1

CONTROL AND LICENSING OF PET ANIMALS

Editor's note: This article was numbered as article 12 of chapter 36, C.R.S. 1963. The substantive provisions of this part 1 were repealed and reenacted in 1977, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1977, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

30-15-100.3. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) (a) "Pet animal" means and includes any animal owned or kept by a person for companionship or protection or for sale to others for such purposes.

(b) Except as otherwise provided in this subsection (1), "pet animal" does not include wildlife, livestock used for any purpose or which is estray as defined in section 35-44-101, or animals which are owned or bought and sold through the efforts of those that are licensed, inspected, or both by the United States department of agriculture, the Colorado department of agriculture, or both; however, nothing in this subsection (1) shall be construed to exempt such animals from county control regulations.

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2087, § 256, effective August 6.

Editor's note: This section is similar to former § 30-15-101 (3) as it existed prior to 2025.

30-15-101. Pet animal control and licensing.

(1) (a) The board of county commissioners of any county may adopt a resolution for the control and licensing of dogs and other pet animals as provided in this part 1. The resolution may:

(I) Require licensing of dogs and other pet animals by owners and impose reasonable conditions and fees on the same. No registration permit or license shall be issued by any board of county commissioners unless and until the owner of a dog, cat, or ferret exhibits to the board or designated official a valid rabies vaccination certificate indicating the dog, cat, or ferret has been vaccinated against rabies by a licensed veterinarian. The county pet animal control resolution may exempt dogs, cats, or ferrets below a specified age from licensing and registration or vaccination requirements, or both; except that the recommendations of the department of public health and environment shall be followed concerning the minimum age for the vaccination.

(II) Require that dogs and other pet animals be under control at all times and define "control", which may vary from time to time, place to place, and animal to animal;

(III) Define "vicious dog" and "vicious animal";

(IV) Establish a dog pound, or other animal holding facility, and engage personnel to operate it and otherwise to enforce the county dog control resolution or any other resolution concerning the control of pet animals;

(V) Provide for the impoundment of animals which are vicious, not under control, or otherwise not in conformity with the resolutions;

(VI) Establish terms and conditions for the release or other disposition of impounded animals;

(VII) Establish such other reasonable regulations and restrictions for the control of dogs and other pet animals as the board of county commissioners may deem necessary.

(b) The control provisions of such resolution, as provided in subparagraph (II) of paragraph (a) of this subsection (1), shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter, or assisting law enforcement officers or while actually being trained for any of these pursuits.

(2) In order to implement the provisions of this section, any county or municipality may enter into an intergovernmental agreement pursuant to the provisions of part 2 of article 1 of title 29, C.R.S., to provide for the control, licensing, impounding, or disposition of dogs or other pet animals or to provide for the accomplishment of any other aspect of a county or municipal dog control or pet animal control licensing resolution or ordinance.

(3) Repealed.

Source: L. 77: Entire part R&RE, p. 1443, § 1, effective July 7. **L. 94:** Entire section amended, p. 1239, § 10, effective May 22; (1)(a)(I) amended, p. 2799, § 556, effective July 1. **L. 2005:** IP(1)(a) and (1)(a)(I) amended, p. 773, § 55, effective June 1. **L. 2014:** IP(1)(a) and (1)(a)(I) amended, (HB 14-1313), ch. 368, p. 1758, § 1, effective August 6. **L. 2025:** (3) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6.

Editor's note: (1) This section is similar to former §§ 30-15-101 and 30-15-102 as they existed prior to 1977.

(2) Amendments to this section by House Bill 94-1137 and House Bill 94-1029 were harmonized.

(3) Subsection (3) was relocated to § 30-15-100.3 in 2025.

30-15-102. Violations - penalties.

(1) Any violation of any provision of a county resolution adopted pursuant to this part 1 not involving bodily injury to any person is a petty offense. If authorized by the county resolution, the penalty assessment procedure provided in section 16-2-201 may be followed by an animal control officer or any arresting law enforcement officer for any such violation. As part of said county resolution authorizing the penalty assessment procedure, the board of county

commissioners may adopt a graduated fine schedule for violations of said resolution not involving bodily injury to any person. Such graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same individual.

(2) Any offense involving bodily injury to any person by a dog or other pet animal shall be a class 2 misdemeanor, and any violator shall be punished as provided in section 18-1.3-501, C.R.S., for each separate offense.

(3) Whenever a county animal control officer has probable cause to believe that a violation of subsection (1) or (2) of this section, of the county's dog control and licensing resolution, or of the county's resolution concerning the control of pet animals has been committed, the officer may issue a citation or summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator.

Source: L. 77: Entire part R&RE, p. 1444, § 1, effective July 7. **L. 81:** (1) amended, p. 2028, § 33, effective July 7. **L. 87:** (3) amended, p. 617, § 11, effective July 1. **L. 91:** (3) amended, p. 417, § 2, effective July 1. **L. 94:** Entire section amended, p. 1240, § 11, effective May 22. **L. 2002:** (1) and (2) amended, p. 1542, § 288, effective October 1. **L. 2003:** (1) amended, p. 2095, § 8, effective July 1. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3248, § 501, effective March 1, 2022.

Editor's note: This section is similar to former § 30-15-101 as it existed prior to 1977.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1) and (2), see section 1 of chapter 318, Session Laws of Colorado 2002.

30-15-103. Disposition of fines and forfeitures.

All fines and forfeitures for the violation of county resolutions adopted pursuant to this part 1 and all moneys collected by the county for licenses or otherwise shall be paid into the treasury of the county at such times and in such manner as may be prescribed by resolution; or, if there is no resolution providing for the payment, it shall be paid to the county treasurer at once.

Source: L. 77: Entire part R&RE, p. 1444, § 1, effective July 14.

Editor's note: This section is similar to former § 30-15-105 as it existed prior to 1977.

30-15-104. Liability for accident or subsequent disease from impoundment.

The board of county commissioners, city council, board of trustees, or other governing body of a municipality, any of their assistants or employees, or any other person authorized to enforce the provisions of any dog control resolution or ordinance or any resolution concerning the control of pet animals shall not be held responsible for any accident or subsequent disease that may occur to the animal in connection with the administration of the resolution or ordinance.

Source: L. 77: Entire part R&RE, p. 1444, § 1, effective July 7. **L. 94:** Entire section amended, p. 1241, § 12, effective May 22.

Editor's note: This section is similar to former § 30-15-104 as it existed prior to 1977.

30-15-105. Animal control officers - peace officer designation.

Personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance without regard to the certification requirements of part 3 of article 31 of title 24, C.R.S. Personnel so engaged shall be included within the definition of "peace officer, firefighter, or emergency medical service provider engaged in the performance of his or her duties" in section 18-3-201 (2), C.R.S. Nothing in this part 1 is intended to vest authority in any person so engaged to enforce any resolution, ordinance, or statute other than the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance.

Source: L. 77: Entire part R&RE, p. 1445, § 1, effective July 7. **L. 83:** Entire section amended, p. 962, § 9, effective July 1, 1984. **L. 92:** Entire section amended, p. 1098, § 8, effective March 6. **L. 94:** Entire section amended, p. 1241, § 13, effective May 22. **L. 97:** Entire section amended, p. 1027, § 56, effective August 6. **L. 2014:** Entire section amended, (HB 14-1214), ch. 336, p. 1499, § 13, effective August 6.

Editor's note: This section is similar to former § 30-15-103 as it existed prior to 1977.

Cross references: For the legislative declaration contained in the 1992 act amending this section, see section 12 of chapter 167, Session Laws of Colorado 1992.

PART 2

CAMPFIRES - EXTINGUISHING

30-15-201. Penalty for leaving campfire unattended.

(1) (a) Any person who starts or maintains a campfire commits the offense of leaving a campfire unattended if he or she knowingly or recklessly:

(I) Fails to reasonably attend the campfire at all times; or

(II) Fails to thoroughly extinguish the campfire before leaving the site.

(b) (I) A person who commits the offense of leaving a campfire unattended commits a petty offense.

(II) A person who commits the offense of leaving a campfire unattended where the campfire is located in a forested or grassland area commits a class 2 misdemeanor.

(2) (Deleted by amendment, L. 2018.)

Source: L. 1885: p. 161, § 1. **L. 1891:** p. 115, § 1. **R.S. 08:** § 1227. **C.L.** § 8704. **CSA:** C. 45, § 51. **CRS 53:** § 36-14-1. **C.R.S. 1963:** § 36-14-1. **L. 73:** p. 1402, § 27. **L. 74:** (1) amended, p. 407, § 21, effective April 11. **L. 84:** (1) amended, p. 924, § 18, effective May 11. **L. 2002:** (2) amended, p. 1247, § 21, effective August 7. **L. 2018:** Entire section amended, (HB 18-1051), ch. 57, p. 598, § 1, effective July 1. **L. 2021:** (1)(b) amended, (SB 21-271), ch. 462, p. 3248, § 502, effective March 1, 2022.

Cross references: For transfer of duties of the state board of forestry to the state board of agriculture, see part 2 of article 31 of title 23; for unlawful acts concerning fires, see § 33-15-106.

30-15-202. Penalty for defacing or destroying notices.

Any person who willfully destroys, removes, injures, or defaces any such notice erected on any such highway, or willfully injures or defaces any inscription or device comprising such notice, commits a petty offense.

Source: L. 1885: p. 162, § 2. **R.S. 08:** § 1228. **C.L.** § 8705. **CSA:** C. 45, § 52. **CRS 53:** § 36-14-2. **C.R.S. 1963:** § 36-14-2. **L. 64:** p. 223, § 54. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3248, § 503, effective March 1, 2022.

Cross references: For the provision in the criminal code concerning the defacing of a posted notice, see § 18-4-510.

PART 3

UNINCORPORATED AREAS - DISCHARGE OF FIREARMS PROHIBITED

30-15-301. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Firearm" or "firearms" means any pistol, revolver, rifle, or other weapon of any description from which any shot, projectile, or bullet may be discharged.

Source: L. 66: p. 4, § 1. **C.R.S. 1963:** § 36-22-1.

Cross references: For definitions applicable to this article, see § 30-26-301 (2)(d).

ANNOTATION

The word "firearm" as defined in subsection (1) and used in a county resolution includes bows and arrows. Moss v. Bd. of County Comm'rs for Boulder County, 2015 COA 35, 411 P.3d 918.

30-15-302. Board of county commissioners to designate area.

(1) The board of county commissioners of any county in this state may designate, by resolution, areas in the unincorporated territory of such county in which it is unlawful for any person to discharge any firearms, except a duly authorized law enforcement officer acting in the line of duty, but nothing in this subsection (1) shall prevent the discharge of any firearm in shooting galleries or in any private grounds or residence under circumstances when such firearm can be discharged in such a manner as not to endanger persons or property and also in such a manner as to prevent the projectile from any such firearm from traversing any grounds or space outside the limits of such shooting gallery, grounds, or residence.

(2) No area shall be so designated under authority of subsection (1) of this section unless it has an average population density of not less than one hundred persons per square mile in the area designated, and, before making any such designation, the board of county commissioners shall hold a public hearing thereon at which any interested person shall have an opportunity to be heard. The provisions of article 3 of title 33, C.R.S., concerning the state's liability for damages done to property by wild animals protected by the game laws of the state shall not apply to any area designated by a board of county commissioners under authority of this part 3.

(3) Nothing in this section shall be construed to restrict or otherwise affect any person's constitutional right to bear arms or his right to the defense of his person, his family, or his property.

Source: L. 66: p. 4, § 1. **C.R.S. 1963:** § 36-22-2.

ANNOTATION

This section does not impliedly ban all firearm hunting within a designated county area. Moss v. Members of Colo. Wildlife Comm'n, 250 P.3d 739 (Colo. App. 2010).

The word "firearm" as defined in § 30-15-301 (1) and used in this section and in a county resolution includes bows and arrows. Moss v. Bd. of County Comm'rs for Boulder County, 2015 COA 35, 411 P.3d 918.

Apart from the public hearing requirement under subsection (2), this section does not subject a board of county commissioners to any procedural requirements that must be followed, including the procedures specified in § 24-4-105 of the State Administrative Procedure Act. Moss v. Bd. of County Comm'rs for Boulder County, 2015 COA 35, 411 P.3d 918.

30-15-303. Violation - penalty.

Any person violating any provisions of this part 3 commits a petty offense.

Source: L. 66: p. 5, § 1. **C.R.S. 1963:** § 36-22-3. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3248, § 504, effective March 1, 2022.

30-15-304. Jurisdiction - enforcement.

County courts, in their respective counties, have jurisdiction in prosecutions of violations of this part 3. It is the duty of the sheriff and his undersheriffs and deputies, in their respective counties, to enforce the provisions of this part 3.

Source: L. 66: p. 5, § 1. **C.R.S. 1963:** § 36-22-4.

PART 4

GENERAL REGULATIONS

30-15-401. General regulations - definitions.

(1) In addition to the powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article 15, the board of county commissioners may adopt ordinances for control or licensing of matters that are of purely local concern and that are described in the following enumerated powers:

(a) (I) (A) To provide for and compel the removal of rubbish, including trash, junk, and garbage, from property within the county except agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102 (1.6) and from any public right of way immediately adjacent to the property to the extent the condition is caused by the property owner or occupant or originates from the property, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove the rubbish, and to assess the reasonable cost of the removal of the rubbish, including ten percent for inspection and other incidental costs in connection with the cost of the county's removal of the rubbish, upon the property from which the county has removed the rubbish. Ordinances passed by a board of county commissioners for the removal of rubbish pursuant to this subsection (1)(a)(I)(A) must include provisions for applying for and exercising an administrative entry and seizure warrant issued by a county or district court that has jurisdiction over the property from which the county

will remove the rubbish. Any assessment pursuant to this subsection (1)(a)(I)(A) is a lien against the property until paid and has priority over all other liens except general taxes and prior special assessments. In a case when the assessment is not paid within a reasonable time as specified by ordinance, the clerk and recorder or county attorney may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments by the county treasurer pursuant to this subsection (1)(a)(I)(A).

(B) A county court or district court that has jurisdiction over property from which the county will remove rubbish pursuant to the ordinances authorized by subsection (1)(a)(I)(A) of this section shall issue an administrative entry and seizure warrant for the county's removal of the rubbish. The court shall issue the warrant upon a county's presentation to the court of ordinance provisions that meet the requirements of subsection (1)(a)(I)(A) of this section and a sworn or affirmed affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove the rubbish within a reasonable prescribed period, a general description of the location of the property that is the subject of the warrant, a general list of any rubbish to be removed from the property, and the proposed disposal or temporary impoundment of the rubbish, whichever the court deems appropriate. Within thirty days following the date of the court's issuance of an administrative entry and seizure warrant pursuant to this subsection (1)(a)(I)(B), the executing authority shall execute the warrant in accordance with the issuing court's directions, provide or mail a copy of the issued warrant to the property owner, and submit to the court proof of the execution of the warrant, including a written inventory of any property impounded by the executing authority.

(I.5) (A) To provide for and compel the removal of weeds and brush from property within the county except agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102 (1.6), and from any public right of way immediately adjacent to the property to the extent the condition is caused by the property owner or occupant or originates from the property, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove the weeds and brush, and to assess the reasonable cost of the removal of the weeds and brush, including ten percent for inspection and other incidental costs in connection with the county's removal of weeds and brush, upon the property from which the county has removed weeds and brush. Ordinances passed by a board of county commissioners for the removal of weeds and brush pursuant to this subsection (1)(a)(I.5)(A) must include provisions for applying for and exercising an administrative entry and seizure warrant issued by a county or district court that has jurisdiction over the property from which the county will remove weeds and brush. Any assessment assessed by the county pursuant to this

subsection (1)(a)(I.5)(A) is a lien against the property until paid and has priority based on its date of recording.

(B) In case such assessment is not paid within a reasonable time specified by ordinance, it may be certified by the clerk to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments pursuant to this sub-subparagraph (B).

(C) A county court or district court that has jurisdiction over property from which the county will remove weeds and brush pursuant to the ordinances authorized by subsection (1)(a)(I.5)(A) of this section shall issue an administrative entry and seizure warrant for the county's removal of the weeds and brush. The court shall issue the warrant upon a county's presentation to the court of ordinance provisions that meet the requirements of subsection (1)(a)(I.5)(A) of this section and a sworn or affirmed affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove the weeds and brush within a reasonable prescribed period, a general description of the location of the property that is the subject of the warrant, and the proposed disposal of the weeds and brush. Within thirty days following the date of the court's issuance of an administrative entry and seizure warrant pursuant to this subsection (1)(a)(I.5)(C), the executing authority shall execute the warrant in accordance with directions by the issuing court, provide or mail a copy of the issued warrant to the property owner, and submit to the court proof of the execution of the warrant.

(II) To inspect vehicles proposed to be operated in the conduct of the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials and to determine, among other things, that any such vehicle has the following:

(A) A permanent cover of canvas or equally suitable or superior material designed to cover the entire open area of the body of such vehicle;

(B) A body so constructed as to be permanently leakproof as to such discarded materials;

(C) Extensions of sideboards and tailgate, if any, constructed of permanent materials;

(III) To contract with persons in the business of transporting and disposing of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials to provide such services, but in no event on an exclusive territorial basis, to every lot and tract of land requiring such services within the unincorporated area of the county or in conjunction with the county on such terms as shall be agreed to by the board of county commissioners. Nothing in this subparagraph (III) shall be deemed to preclude the owner or tenant of any such lot or tract from removing discarded materials from his lot, so long as appropriate standards of safety and health are observed.

(IV) To regulate the activities of persons in the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials within the unincorporated area by requiring each such person to secure a license from the county and charging a fee therefor to cover the cost of administration and enforcement and by requiring adherence to such reasonable standards of health and safety as may be prescribed by the board of county commissioners and to prohibit any person from commercially collecting or disposing of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials within the unincorporated area without a license and when not in compliance with such standards of health and safety as may be prescribed by the board;

(V) To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, limited to the following:

(A) In addition to the authority given counties under section 18-4-511, C.R.S., to restrain, fine, and punish persons for dumping rubbish, including trash, junk, and garbage, on public or private property;

(B) (Deleted by amendment, L. 2008, p. 2054, § 11, effective July 1, 2008.)

(C) To adopt reasonable regulations for controlling pollution caused by wood smoke;

(D) In addition to the authority given counties under article 5 of title 35, C.R.S., to establish mosquito control areas, to assess the whole cost thereof against those persons especially benefitted by the service, and, if a person's portion of the assessment is not paid within a reasonable time as specified by ordinance, to direct that the assessment, which shall be a lien against the property of such person, be certified by the county clerk and recorder to the county treasurer for collection in the same manner as other taxes are collected;

(VI) To require every person in the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials to and from disposal sites to have, before commencing such operations, in such motor vehicle a motor vehicle liability insurance policy or evidence of such policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado in the sum of not less than one hundred fifty thousand dollars for damages for or on account of any bodily injury to or the death of each person as the result of any one accident, in the sum of not less than one hundred fifty thousand dollars for damages to the property of others as the result of any one accident, and in the total sum of not less than four hundred thousand dollars for damages for or on account of any bodily injury to or the death of all persons and for damages to the property of others. Any liability for failure to comply with the requirements of this subparagraph (VI) shall be borne by the individual, partnership, or corporation who owns such vehicle.

(b) To prevent and suppress riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place;

(c) To suppress bawdy and disorderly houses and houses of ill fame or assignation; to suppress gaming and gambling houses, lotteries, and fraudulent devices and practices for the purpose of gaining or obtaining money or property; and to regulate the promotion or wholesale promotion of obscene material and obscene performances, as defined in part 1 of article 7 of title 18, C.R.S.;

(d) To restrain and punish loiterers and prostitutes;

(d.5) To discourage juvenile delinquency through the imposition of curfews applicable to juveniles, the restraint and punishment of loitering by juveniles, and the restraint and punishment of defacement of, including the affixing of graffiti to, buildings and other public or private property by juveniles by means that may include restrictions on the purchase or possession of graffiti implements by juveniles. The board of county commissioners, when enacting an ordinance to carry out the powers granted by this subsection (1)(d.5), may make it unlawful for a retailer to sell graffiti implements to juveniles but shall not dictate the manner in which the retailer displays graffiti implements. For purposes of this subsection (1)(d.5), "juvenile" means a juvenile as defined in section 19-2.5-102 and "graffiti implement" means an aerosol paint container, broad-tipped marker, gum label, paint stick or graffiti stick, or etching equipment.

(e) To control unleashed or unclaimed animals, except those animals defined in section 35-44-101 (1), C.R.S.;

(f) To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the board of county commissioners;

(g) To authorize the acceptance of a bail bond when any person has been arrested for the violation of any ordinance and a continuance or postponement of trial is granted. When such bond is accepted, it shall have the same validity and effect as bail bonds provided for under the criminal statutes of this state.

(h) (I) To control and regulate the movement and parking of vehicles and motor vehicles on public property; except that:

(A) Misdemeanor traffic offenses and the posted speed limit on any state highway located within the county are matters of statewide interest;

(B) For the purposes of any minimum parking requirement a board of county commissioners imposes, the board of county commissioners is subject to article 35 of title 29 and section 30-28-140; and

(C) For the purpose of regulating the installation of electric vehicle charging stations, the board of county commissioners is subject to section 30-28-212.

(II) The county may establish fire lanes and emergency vehicle access on public or private property zoned commercial or residential and provide for fines and punishment of violators;

(i) To regulate and license escort bureaus, escorts, and escort bureau runners to the extent permitted under article 11.8 of title 29;

(j) To regulate and license secondhand dealers to the extent permitted under article 13 of title 18, C.R.S.;

(k) To regulate and license pawnbrokers as provided in section 29-11.9-102;

(k.5) To require registration of persons who engage in door-to-door selling of merchandise or goods and the delivery thereof within the county; except that nonprofit organizations which are exempt from the income tax imposed under article 22 of title 39, C.R.S., and schools shall not be subject to county requirements imposed under this paragraph (k.5);

(l) (I) To adopt reasonable regulations for the operation of establishments open to the public in which persons appear in a state of nudity for the purpose of entertaining the patrons of such establishment; except that such regulations shall not be tantamount to a complete prohibition of such operation. Such regulations may include the following:

(A) Minimum age requirements for admittance to such establishments;

(B) Limitations on the hours during which such establishments may be open for business; and

(C) Restrictions on the location of such establishments with regard to schools, churches, and residential areas.

(II) The board of county commissioners may enact ordinances which provide that any establishment which engages in repeated or continuing violations of regulations adopted by the board shall constitute a public nuisance. The county attorney of such county, or the district attorney acting pursuant to section 16-13-302, C.R.S., may bring an action in the district court of such county for an injunction against the operation of such establishment in a manner which violates such regulations.

(III) Nothing in the regulations adopted by the board of county commissioners pursuant to this paragraph (l) shall be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education, or other similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

(m) (I) In addition to the authority given counties in article 12 of title 25, C.R.S., to enact ordinances which regulate noise on public and private property except as provided in subparagraph (II) of this paragraph (m); prohibit the operation of any vehicle that is not equipped with a muffler in constant operation and is not properly maintained to prevent an increase in the

noise emitted by the vehicle above the noise emitted when the muffler was originally installed; and prohibit the operation of any vehicle having a muffler that has been equipped or modified with a cutoff and bypass or any similar device or modification. For the purposes of this paragraph (m), "vehicle" shall have the same meaning as that set forth in section 42-1-102 (112), C.R.S.

(II) Ordinances enacted to regulate noise on public and private property pursuant to subsection (1)(m)(I) of this section do not apply to:

(A) Property used for purposes which are exempt, pursuant to section 25-12-103, C.R.S., from noise abatement; and

(B) Property used for: Manufacturing, industrial, or commercial business purposes; and public utilities regulated pursuant to title 40.

(n) To provide for and compel the removal of snow on sidewalks within the county, at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including removal performed by the county upon notice to and failure of the property owner to remove such snow and to assess the whole cost thereof, and other incidental costs in connection therewith, upon the property from which such snow has been removed;

(n.5) (I) To ban open fires to a degree and in a manner that the board of county commissioners deems necessary to reduce the danger of wildfires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high based on competent evidence.

(II) Subject to subparagraph (IV) of this paragraph (n.5), the board of county commissioners in each county that has a substantial forested area shall, by January 1, 2012, develop an open burning permit system for the purpose of safely disposing of slash. In developing an open burning permit system, the board is encouraged to consult with the division of fire prevention and control, established in section 24-33.5-1201, C.R.S., and shall:

(A) Collaborate with county and local jurisdictions such as the sheriff's office and fire protection districts, identify the agencies responsible for burner education, permitting, and compliance, and consider developing an education plan to inform private property owners of the benefits, criteria, and required processes for slash pile burning;

(B) Consider and be consistent with existing laws and processes that ban, regulate, or have developed recommendations concerning open burning, including sections 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)(a)(II) and (6)(a)(III), 25-7-106 (7) and (8), 25-7-123, 29-20-105.5, and 30-11-124, C.R.S.;

(C) Consider existing county ordinances;

(D) Consider existing scientific and applied knowledge of safe burning conditions, including consideration of, and the advisability of specifying permit limitations concerning, the number of slash piles that may be burned at one time per person who is monitoring the burn, the size of slash piles, temperature, humidity, snow cover, wind conditions, overhead and other types of electric utility facilities, including adequate distances from such facilities, fuel type and moisture content, slope, and setbacks from real estate improvements;

(E) Exempt broadcast burns conducted within federal and state guidelines that have a written prescribed fire plan and agricultural burns; and

(F) Include mechanisms to notify individuals with respiratory conditions, if requested by the individual, and contiguous landowners of the date, time, and location of slash pile burns.

(III) Nothing in this paragraph (n.5) infringes upon or otherwise affects the ability of agricultural producers to conduct burning on their property.

(IV) A board of county commissioners that has an open burning permit system on April 13, 2011, need not comply with the requirements of subparagraph (II) of this paragraph (n.5) until the board materially alters the system.

(V) For purposes of this subsection (1)(n.5):

(A) "Competent evidence" includes the use of the national fire danger rating system, predictions of future fire danger such as those issued by the national interagency coordination center or any successor entity, localized evidence of low fuel moisture content, and any other similar indices or information.

(B) "County that has a substantial forested area" means a county that has at least forty-four percent forest cover as determined by the state forester appointed pursuant to section 23-31-207, C.R.S.

(C) "Open burning" means fire that a person starts and that is intentionally used for forest management.

(D) "Slash" means woody material less than six inches in diameter consisting of limbs, branches, and stems that are free of dirt. "Slash" does not include tree stumps, roots, or any other material.

(n.7) To prohibit or restrict the sale, use, and possession of fireworks, including permissible fireworks, as defined in section 24-33.5-2001 (5) and (11), for a period no longer than one year within all or any part of the unincorporated areas of the county. Such an ordinance shall be in effect for the period between May 31 and July 5 of any year only if the county adopts a resolution specifying that the ordinance remains in effect for such period, which resolution includes an express finding of high fire danger, based on competent evidence, as defined in subsection (1)(n.5) of this section. However, if the county adopts a resolution specifying that the

ordinance remains in effect for such period, or any portion of such period, and subsequent to the adoption of the resolution, a change in the weather occurs resulting in competent evidence that the high fire danger is not present and no longer will be present during the remainder of the period, the county shall endeavor to promptly consider whether to exercise its legislative discretion to rescind the restrictions it has adopted on the sale, use, and possession of fireworks. Notwithstanding any other provision of this subsection (1)(n.7), the ordinance remains in effect and is fully enforceable until the restrictions have been rescinded.

(o) In addition to the authority given counties under sections 30-10-513.5 and 30-15-401.5, to enact ordinances to restrain and punish any person who gives, makes, or causes to be given a false alarm of fire and to assess costs associated with such false alarms;

(o.5) To provide by ordinance for the regulation and licensing of alarm systems which transmit information to law enforcement or other public safety officials located within the county;

(p) In addition to the authority given counties under article 7 of title 29, C.R.S., and part 7 of article 20 of this title, to establish by ordinance and regulation the fees for certificates, permits, licenses, and passes for users in order to provide the funds for recreational facility development and to offset the costs of emergency search and rescue operations on public lands and the construction, operation, and maintenance of recreation paths on public property; except that areas, lakes, properties, and facilities under the control and management of the division of parks and wildlife shall be exempt from any such fees for certificates, permits, licenses, passes, or any other special charges;

(q) (I) To provide for and compel the removal or securing of any building or structure, except for a building or structure on affected land subject to the "Colorado Mined Land Reclamation Act", as the term "affected land" is defined in sections 34-32-103 (1.5) and 34-32.5-103 (1), or on lands subject to the "Colorado Surface Coal Mining Reclamation Act", pursuant to article 33 of title 34, the condition of which presents a substantial danger or hazard to public health, safety, or welfare, or any dilapidated building of whatever kind that is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard, or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or that becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter, at such time, upon such notice, and in such manner as the board of county commissioners may prescribe by ordinance, including the removal or securing performed by the county upon notice to and failure of the property owner to remove or secure the building or structure, and to assess the whole cost of the removal or securing, including incidental costs and a reasonable fee for inspection that shall not exceed ten percent of the total amount due in connection with the removal or securing of the building or structure, upon the property from which such building or structure has been removed or secured. Ordinances passed by a board of county commissioners for the removal or securing of any building or structure pursuant to this subsection (1)(q)(I) must

include provisions for the county applying for and exercising an administrative entry and seizure warrant issued by a county or district court that has jurisdiction over the property from which the building is removed or secured.

(II) Any assessment pursuant to this subsection (1)(q) is a lien against the property until paid. If the assessment is not paid within a reasonable time as specified by ordinance, the clerk and recorder or county attorney may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected.

(III) A county court or district court that has jurisdiction over property from which a building or structure is removed or secured pursuant to the ordinances authorized by subsection (1)(q)(I) of this section shall issue an administrative entry and seizure warrant for the removal or securing of the building or structure. The court shall issue the warrant upon a county's presentation of ordinance provisions that meet the requirements of this subsection (1)(q)(III) and a sworn or affirmed affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to remove or secure the building or structure within a reasonable prescribed time, a general description of the location of the property that is the subject of the warrant, a general description of the building or structure to be removed from property or secured, and the proposed disposal or temporary impoundment of remnants of the building or structure, whichever the court deems appropriate. Within thirty days following the date of the court's issuance of an administrative entry and seizure warrant pursuant to this subsection (1)(q)(III), the executing authority shall execute the warrant in accordance with directions by the issuing court, provide or mail a copy of such issued warrant to the property owner, and submit to the court proof of the execution of the warrant, including a written inventory of any property impounded by the executing authority.

(r) (I) To regulate distressed real property by requiring that such real property be secured, maintained, and insured by the owner of such real property or, if applicable, by a holder of a lien that has taken possession of such real property pursuant to part 6 of article 38 of title 38, C.R.S., or any receiver appointed to take possession of or to preserve the real property. The county may require that real property owners, a holder in possession pursuant to part 6 of article 38 of title 38, C.R.S., or any receiver appointed to preserve or take possession of real property provide to the county planning and zoning department contact information for the person or entity responsible for the preservation of the real property.

(II) For purposes of this paragraph (r), "distressed real property" means any real property in foreclosure or any vacant or abandoned real property.

(s) (I) To license and regulate an owner or owner's agent who rents or advertises the owner's lodging unit for a short-term rental, and to fix the fees, terms, and manner for issuing and revoking licenses issued therefor. As used in this subsection (1)(s)(I), "owner's agent" does not include a vacation rental service, except as set forth in subsection (1)(s)(IV) of this section.

(II) The licensing or regulation under the authority conferred in subsection (1)(s)(I) of this section does not affect whether a lodging unit is a residential improvement, as defined in section 39-1-102 (14.3).

(III) To regulate a vacation rental service; except that this authority is limited to:

(A) Requiring a vacation rental service that displays a short-term rental listing for a lodging unit located in the county to require the lodging unit owner or owner's agent to include a local short-term rental license or permit number, if applicable, in any listing for the short-term rental on the vacation rental service's website or other digital platform; and

(B) Requiring a vacation rental service to remove a listing for a short-term rental from the vacation rental service's website or other digital platform after notification by the county that the owner of the listed lodging unit has had the owner's local short-term rental license or permit suspended or revoked or has been issued a notice of violation or similar legal process for not possessing a valid local short-term rental license or permit or that the county has a prohibition on short-term rentals that applies to the lodging unit. The notification must identify the listing's uniform resource locator (URL) or other specified digital location to be removed and state the reason for the removal. The vacation rental service shall remove the listing from the website or other digital platform within seven days of receiving the notification from the county.

(IV) If a vacation rental service provides additional services for the owner that are related to the owner's lodging unit but unrelated to providing a means of offering the lodging unit for short-term rentals through the person's website or other digital platform, then the board of county commissioners may license or regulate the vacation rental service as an owner's agent under subsection (1)(s)(I) of this section with respect to those additional services.

(V) To facilitate a vacation rental service's ability to comply with an ordinance adopted by a county under the authority conferred by subsection (1)(s)(III) of this section, a county, upon request of the owner of a hotel unit that is located in a building with one or more lodging units or a vacation rental service on which a hotel unit that is located in a building with one or more lodging units is listed, shall provide written verification that the hotel unit is exempt from the ordinance because it is not a lodging unit. Multiple hotel units may be included in one request. The written verification provided may include an exemption number or other type of identifier for the hotel unit and a single exemption number or other type of identifier may be used for multiple hotel units.

(s.5) As used in subsection (1)(s) of this section, unless the context otherwise requires:

(I) "Hotel unit" means a portion of a structure that is:

(A) Used by a business establishment to provide commercial lodging to the general public for predominantly overnight or weekly stays;

(B) Classified as a hotel or motel for purposes of property taxation;

(C) Not a unit, as defined in section 38-33.3-103 (30), in a condominium; and

(D) Zoned or otherwise permitted by the local jurisdiction for the use specified in subsection (1)(s.5)(I)(A) of this section.

(II) "Lodging unit" means any property or portion of a property that is available for lodging; except that the term excludes a hotel unit.

(III) "Short-term rental" means the rental of a lodging unit for less than thirty days.

(IV) "Vacation rental service" means a person that operates a website or any other digital platform that provides a means through which an owner or owner's agent may offer a lodging unit, or portion thereof, for short-term rentals, and from which the person financially benefits;

(t) To require registration of businesses in the unincorporated portions of the county; except that such power does not include the power to license, collect a fee, or collect fines for such registrations. The county shall only publish registration information in a manner such that the business type is aggregated and does not allow for segregation of individuals or business who supplied the information.

(1.5) In addition to any other powers, the board of county commissioners has the power to adopt a resolution or an ordinance to:

(a) Regulate the possession or sale of cigarettes, tobacco products, or nicotine products, as defined by section 18-13-121 (5), to a minor consistent with section 18-13-121 (3);

(b) Limit smoking, as defined in section 25-14-203 (16), in any manner that is no less restrictive than the limitations set forth in the "Colorado Clean Indoor Air Act", part 2 of article 14 of title 25; and

(c) License or otherwise regulate the sale of cigarettes, tobacco products, or nicotine products.

(1.7) In addition to any other powers, a board of county commissioners may charge a fee for a local license and adopt resolutions or ordinances to establish requirements on businesses engaged in the storage, extraction, processing, or manufacturing of industrial hemp, as defined in section 35-61-101 (7), or hemp products, as defined in section 25-5-427 (2)(d). A county shall not impose additional food production regulations on hemp processors or hemp products if the regulations conflict with state law.

(2) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), the ordinances described in subsection (1) of this section shall apply throughout the unincorporated area of the county including public and state lands and to any incorporated town or city that elects by ordinance or resolution to have the provisions thereof apply.

(II) The board of county commissioners may designate, by resolution, areas in the unincorporated territory of the county exclusively within which an ordinance adopted pursuant to this section shall apply. The board shall set forth a rational basis for the designation and hold a public hearing prior to making the designation at which any interested person shall have an opportunity to be heard.

(b) Any regulation imposed prior to January 1, 1980, by resolution adopted under any provision of law may, upon suitable accommodation to the pertinent ordinance adoption procedure set forth in this part 4, be reimposed by ordinance. In such cases the resolution shall continue in force and effect until the ordinance which replaces it becomes effective.

(c) Nothing in this part 4 shall be construed to affect any proceeding arising under or pursuant to the provisions of law in effect immediately prior to January 1, 1980.

(d) In addition to any other remedies provided by law, a county may enforce ordinances enacted pursuant to subsections (1)(a)(I), (1)(a)(I.5), (1)(a)(V)(A), and (1)(q) of this section as follows:

(I) To proceed with an action pursuant to subsection (2)(d)(II) of this section, the county shall provide written notice to the property owner of the violation and the time in which the violation must be remedied. The written notice must describe any potential enforcement authority of the county, including any possible liens due to abatement costs.

(II) If, after the county has given written notice to the property owner as described in subsection (2)(d)(I) of this section, the property owner fails to abate the violations described in the notice, the property owner violating the county ordinance shall, at the request of the county, be subject to the imposition of, by order of the county or district court, a civil penalty of not less than one hundred dollars or more than two thousand six hundred fifty dollars per day of the violation. The civil penalty must be in accordance with the county ordinance. Each day that a violation occurs is deemed a separate offense and the penalty continues until the violation is remedied. Until paid, any civil penalty ordered by the county or district court and assessed pursuant to this subsection (2)(d)(II) is, as of recording, a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty days, the clerk and recorder or county attorney may certify the lack of payment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant to this subsection (2)(d)(II). Any lien placed against the property pursuant to this subsection (2)(d)(II) must be recorded with the clerk and recorder of the county in which the property is located.

(III) The minimum civil penalty that the court may impose for a violation of a county building code or amendment thereto is one hundred dollars per violation, and the maximum civil

penalty is two thousand six hundred fifty dollars per violation. The presumptive maximum penalty for a first violation is five hundred dollars. The presumptive maximum penalty for a second violation is one thousand dollars. The presumptive maximum penalty for a third or subsequent violation is two thousand six hundred fifty dollars. The court must specify the basis for the civil penalty on the record. In cases where sufficient aggravating factors are present, the court may impose a penalty that is higher than the presumptive maximum. The court must base the determination of the appropriate civil penalty for a violation of a county building code or amendment thereto on the following factors:

(A) The impact of the violation on public health, safety, and welfare;

(B) The impact of the violation on neighboring properties;

(C) The violator's willingness to comply with or demonstrated disregard for the applicable laws;

(D) The violator's ability to comply with the applicable laws;

(E) Whether the violation is the use of the property for activities prohibited in the property's zone district;

(F) Whether multiple violations exist on the property;

(G) Prior violations by the violator on the property; and

(H) Any other relevant factors determined by the court.

(IV) In addition to the civil penalties ordered by a court pursuant to subsection (2)(d)(II) of this section, the county attorney may bring an action in the county court or district court that has jurisdiction over the property for an order enjoining the violation; ordering the violation's restraint, removal, termination, or abatement by the property owner; and authorizing abatement by the county or its agent. In bringing that action, the county attorney shall file a verified complaint. The court shall review the verified complaint and schedule a hearing on the request for an abatement order, injunction, or other appropriate remedy and direct the issuance of a summons stating the time, date, and place of the preliminary hearing, which the court shall schedule no later than thirty days after the county attorney files the complaint. The county attorney must serve the summons and complaint on the property owner in accordance with applicable rules of civil procedure at least ten days prior to the hearing. If the county's reasonable efforts to personally serve the summons and complaint are unsuccessful, the county may post the summons and complaint on the property and mail the summons and complaint, certified mail and return receipt requested, to the property owner's address in the records of the county assessor as a means of providing alternative service. If the county provides alternative service, the county must provide the alternative service at least ten days prior to the preliminary hearing. At the time, date, and place stated in the summons, the court shall review and consider the request for relief provided for in this subsection (2)(d)(IV), any statement of the county in support of the relief

provided for in this subsection (2)(d)(IV), and any statement and evidence presented by the property owner, if present. On the date and at the time set for the hearing, if the property owner fails to appear, and if the county proves that proper service was made on the property owner, the court may grant the relief as requested by the county. A property owner's failure to appear on any date set for a preliminary hearing held pursuant to this subsection (2)(d)(IV) is grounds for the court to enter a default judgment thereon against a nonappearing property owner. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.

(V) If the county abates the violation pursuant to an order of a court, the actual costs of abatement, plus ten percent of the abatement costs for inspection and other incidental costs of abatement are a lien against the property until paid and have priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within thirty days, the county attorney or county clerk may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant this subsection (2)(d)(V).

(VI) For purposes of subsection (2)(d)(II) of this section, "property owner" does not include a state agency.

(3) Paragraph (a) of subsection (1) of this section shall not apply to the transportation of sludge and fly ash or to the transportation of hazardous materials, as defined in the rules and regulations adopted by the chief of the Colorado state patrol pursuant to section 42-20-104 (1), C.R.S.

(4) Paragraph (a) of subsection (1) of this section shall not apply to the transporting of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials which are collected by a city, county, city and county, town, or other local subdivision within its jurisdictional limits, provided every vehicle so engaged in transporting the discarded materials has conformed to vehicle standards at least as strict as those prescribed in subparagraph (II) of paragraph (a) of subsection (1). Such governing body shall not grant an exclusive territory or regulate rates for the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials.

(5) Any provision of paragraph (a) of subsection (1) of this section to the contrary notwithstanding, the governing body of a city and county shall not be precluded from adopting ordinances, regulations, codes, or standards or granting permits issued pursuant to home rule authority; except that such governing body shall not grant an exclusive territory or regulate rates for the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials.

(6) If the board of county commissioners or the governing body of any other local governmental entity is providing waste services, including the collection and transportation of ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials, within the limits of any county or other local subdivision on or after April 19, 1994, any private person seeking also to offer those services shall first give a one-year public notice advising of the intent to offer the services. If a private person or persons are providing waste services within the limits of any county or other local subdivision on or after April 19, 1994, any board of county commissioners or the governing body of any other local governmental entity seeking also to offer those services shall first give a one-year public notice advising of the intent to offer the services. The public notice shall be given in a local newspaper of general circulation in the area served by the waste service provider. The requirements of this subsection (6) shall not apply to any municipality or city and county subject to subsection (7.5) of this section.

(7) (a) Notwithstanding any other provision of law, nothing in this section shall prohibit the providing of waste services by a private person, if that person is in compliance with applicable rules and regulations, within the limits of any municipality, city and county, or special district operating pursuant to article 1 of title 32, if those services also are provided by a governmental body within the limits of that governmental unit. The governmental body may not compel industrial or commercial establishments or multifamily residences of eight or more units to use or pay user charges for waste services provided by the governmental body in preference to those services provided by a private person.

(b) Subject to the limitation set forth in subsection (6) of this section and notwithstanding paragraph (a) of this subsection (7) and subsection (7.5) of this section or any other provision of law, nothing in this section shall prohibit the providing of waste services by a private person within the limits of any county or other local subdivision if that person is in compliance with applicable rules and regulations. If services also are provided by a governmental body within the limits of the county or other local subdivision, the governmental body shall not compel any resident, including, but not limited to, an owner or tenant of industrial or commercial establishments or multifamily residences, to use or pay user charges for waste services provided by the governmental body in preference to those services provided by a private person.

(7.5) (a) Any requirement that municipal residents use or pay user charges for residential waste services pursuant to paragraph (a) of subsection (7) of this section may be affected by utilization of the initiative and referendum power reserved to the municipal electors in section 1 (9) of article V of the Colorado constitution.

(b) The governing body of any municipality or city and county that chooses, after April 19, 1994, to require use of or to commence the imposition of a fee for residential waste services pursuant to paragraph (a) of subsection (7) of this section in all or any portion of the jurisdiction, including any portion of the jurisdiction annexed after April 19, 1994, may do so subject to the following requirements:

(I) The governing body shall provide written notice to any private person who lawfully provides waste services within the jurisdiction and shall give a six-month public notice in a newspaper of general circulation within the jurisdiction prior to requiring the use or initial imposition of the fee. The notice shall include:

(A) The date upon which, and the area within the jurisdiction where, requiring use of or billing for residential waste services will commence; and

(B) An explanation of the option to request an opportunity to submit a proposal to provide residential waste services to that area.

(II) Any person may, within thirty days following publication or receipt of the notice, request in writing the opportunity to submit a proposal to provide residential waste services within the portion of the jurisdiction where required use of those services or imposition of the fee will commence. A request for an opportunity to submit a proposal shall suspend required use of the services or imposition of the residential waste services fee until a request for proposal process, as set forth in paragraph (c) of this subsection (7.5), is completed. Any person who has requested in writing an opportunity to submit a proposal to provide residential waste services pursuant to this subparagraph (II) is eligible to participate in the proposal process. If no written request is received within the time permitted, the governing body may proceed to require use of or impose a fee for residential waste services without conducting a request for proposal process as set forth in paragraph (c) of this subsection (7.5).

(III) Any municipality or city and county that complies with paragraph (c) of this subsection (7.5) shall not be subject to the provisions of section 31-12-119, C.R.S.

(IV) The requirements set forth in this subsection (7.5) shall not apply to any municipality or city and county that is legally requiring use of or imposing a fee for residential waste services within its jurisdiction pursuant to paragraph (a) of subsection (7) of this section on April 19, 1994, and, having complied with the notice requirements of subsection (6) of this section applicable at the time of the initiation of such residential waste services, chooses to extend the requirement for use of or imposition of the fee for residential waste services to areas within the jurisdiction that have not been annexed after April 19, 1994.

(c) The governing body shall conduct any request for a proposal process required pursuant to this subsection (7.5) as follows:

(I) The governing body shall mail a request for proposals to all private persons who are eligible to submit a proposal. The request for proposals shall include a description of the portion of the jurisdiction to which residential waste services will be provided and shall request a proposed price of providing those services.

(II) When the jurisdiction issuing the request for proposals chooses to submit a proposal, a certification of an independent auditor stating that the public entity's proposed price is not based

on subsidization from entity revenue streams or operations unrelated to the provision of waste services shall be appended to the proposal.

(III) Following review of all proposals properly submitted, the governing body shall award a contract for the provision of residential waste services based upon the criteria set forth in the request for proposals.

(d) As used in this subsection (7.5), "residential waste services" means the collection and transportation of ashes, trash, waste, rubbish, garbage or industrial waste products, or any other discarded materials from sources other than industrial or commercial establishments or multifamily residences of eight or more units.

(7.7) (a) If the governing body of a jurisdiction selects a proposal submitted by the jurisdiction, any private person who submitted a proposal may request a review of the selection as provided in this subsection (7.7). A request for review shall be submitted to the governing body in writing within ten days following selection of the jurisdiction's proposal. The filing of a request shall suspend the award until the completion of the review provided in this subsection (7.7).

(b) (I) Upon receipt of a request, the governing body, or its designee, shall promptly select a reviewing auditor to conduct the review. The reviewing auditor shall commence and complete its review as expeditiously as practicable.

(II) As a part of that review, the reviewing auditor shall afford the person who submitted the request for review the opportunity to present the reviewing auditor his or her views with respect to the governing body's determination, subject to any reasonable procedures, guidelines, and limitations as the reviewing auditor may prescribe, including but not limited to requiring that those views be expressed in writing and submitted by a specific date and time. No person shall be permitted to alter any previously submitted proposal in any respect.

(III) The reviewing auditor shall review each of the proposals submitted, but the review shall be limited to determining:

(A) Whether the selection of the jurisdiction's proposal was made in a manner contrary to the procedure set forth in subsection (7.5) of this section or in the request for proposals;

(B) Whether the selection of the jurisdiction's proposal was clearly erroneous in light of the criteria set forth in the request for proposals; and

(C) Whether the certification of an independent auditor provided pursuant to subparagraph (II) of paragraph (c) of subsection (7.5) of this section is materially inaccurate.

(IV) Should the reviewing auditor find that the governing body's selection of a proposal was improper, the determination of the governing body shall be void, and the governing body shall reconsider as expeditiously as is practicable all proposals timely submitted and determine which

proposals it will accept, giving due regard to the determination of the reviewing auditor. No person shall be entitled to alter any previously submitted proposal in any respect. If the reviewing auditor finds that the governing body's selection of a proposal was proper, the selection shall be valid and conclusive and shall not be subject to further challenge or review.

(V) The reviewing auditor's fee for performing a review pursuant to this subsection (7.7) shall be paid by the private person requesting the review; except that, if the governing body's selection of a proposal is found to be improper by the reviewing auditor, the municipality or city and county shall pay the fee.

(c) As used in this subsection (7.7), a reviewing auditor shall be a qualified, licensed, independent public accountant or public accounting firm selected by the governing body and shall certify to the governing body in writing that it is not being retained currently, has not been retained within the previous five years, and currently has no basis for believing it will be retained in the future by the governing body, any persons who have submitted proposals, or, to the accountant's or firm's knowledge after due inquiry, any of the governing body's or person's affiliates, partners, or relatives for the performance of accounting or other services.

(8) No ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power pursuant to this section or section 30-11-101 (1)(f) or (1)(g) or 30-11-107 (1)(u), (1)(w), (1)(y), (1)(z), or (1)(bb) or 25-1-508 (5)(g) or (5)(j), C.R.S., shall apply within the corporate limits of any incorporated municipality, nor to any municipal service, function, facility, or property whether owned by or leased to the incorporated municipality, outside the municipal boundaries, unless the municipality consents. If the municipality consents that any ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall apply within the municipality or to municipal services, functions, facilities, or property outside the municipal boundaries, such ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall be uniform within the municipality and the applicable unincorporated areas of the county, unless the county and the municipality agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S.

(9) (a) No ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power pursuant to this section shall apply within the jurisdictional boundaries of any special district enumerated in this subsection (9), nor to any special district service, function, facility, or property whether owned by or leased to the special district outside the special district boundaries if such ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power would duplicate or interfere with any service or facility authorized and provided by such special district or contravene any power authorized and exercised by such special district, unless the county is specifically empowered by law to exercise authority with respect thereto, or the county and the special district agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S.

(b) For purposes of this subsection (9), "special district" means any special district established pursuant to article 1 of title 32, C.R.S., the three lakes water and sanitation district established pursuant to article 10 of title 32, C.R.S., the urban drainage and flood control district established pursuant to article 11 of title 32, C.R.S., any metropolitan sewage disposal district established pursuant to part 4 of article 4 of title 32, C.R.S., any drainage district established pursuant to article 20 of title 37, C.R.S., the Cherry Creek basin water quality authority established pursuant to article 8.5 of title 25, C.R.S., any regional service authority established pursuant to article 7 of title 32, C.R.S., and the regional transportation district established pursuant to article 9 of title 32, C.R.S.

(10) Repealed.

(11) (a) (I) If a county is the permittee of a municipal separate storm sewer system permit issued pursuant to part 5 of article 8 of title 25, C.R.S., the board of county commissioners may adopt a storm water ordinance to develop, implement, and enforce the storm water management program required by the permit.

(II) The storm water ordinance may specify that the county may:

(A) Provide for and compel the abatement of any condition that causes or contributes to a violation of the permit or requirement from any property located within the unincorporated portion of the county at such time, upon such notice, and in such manner consistent with the terms of the permit as the board of county commissioners may prescribe by ordinance;

(B) Perform the abatement upon notice to and failure of the property owner to abate such condition; and

(C) Assess the reasonable cost of the abatement, including five percent for inspection and other incidental costs in connection therewith, upon the property from which such condition has been abated.

(III) Storm water ordinances adopted pursuant to this subsection (11) shall include provisions for applying for and exercising an administrative entry and seizure warrant issued by a county or district court having jurisdiction over the property from which the condition is to be abated. An assessment pursuant to this subsection (11) shall, once recorded, be a lien against such property until paid and shall have priority based upon its date of recording. If the assessment is not paid within a reasonable time specified by ordinance, the county clerk and recorder may certify that fact to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection (11).

(b) (I) A county court or district court having jurisdiction over the property from which such condition is to be abated pursuant to the storm water ordinance shall issue an administrative entry and seizure warrant for the abatement of such condition upon presentation by a county of:

(A) Ordinance provisions that meet the requirements of paragraph (a) of this subsection (11);

(B) A sworn or affirmed affidavit stating the factual basis for such warrant;

(C) Evidence that the property owner has received notice of the condition and has failed to abate the condition within a reasonable prescribed period;

(D) A general description of the location of the property that is the subject of the warrant; and

(E) A general list of corrective action needed.

(II) Within ten days after the date of issuance of an administrative entry and seizure warrant pursuant to the provisions of this paragraph (b), the executing authority shall:

(A) Execute such warrant in accordance with directions by the issuing court;

(B) Provide or mail a copy of such warrant to the property owner; and

(C) Submit proof of the execution of such warrant, including a written inventory of any property impounded by the executing authority, to the court.

Source: L. 79: Entire part added, p. 1144, § 1, effective May 24. **L. 80:** (1)(a) amended and (3) to (7) added, p. 744, § 7, effective June 30; (1)(i) added, p. 479, § 2, effective July 1. **L. 82:** (1)(c) amended, p. 626, § 31, effective April 12. **L. 83:** (1)(a)(I) amended, p. 1488, § 3, effective June 1; (1)(j) added, p. 718, § 2, effective July 1. **L. 84:** (1)(n) added, p. 442, § 2, effective March 16. **L. 85:** (1)(l) added, p. 1059, § 1, effective July 1. **L. 86:** (1)(c) amended, p. 784, § 6, effective April 21. **L. 87:** (1)(a)(I) amended and (1)(a)(I.5) added, p. 1208, § 1, effective May 14; (3) amended, p. 1570, § 5, effective July 1. **L. 88:** (1)(m) added, p. 1115, § 1, effective May 19. **L. 90:** IP(1), (1)(a)(V), and (1)(h) amended and (1)(n) to (1)(q), (8), and (9) added, p. 1449, §§ 3, 4, effective July 1. **L. 91:** (1)(p) amended, p. 1919, § 44, effective June 1. **L. 92:** (1)(a)(I) and (1)(a)(I.5) amended, p. 967, § 11, effective June 1. **L. 93:** (1)(q) amended, p. 1199, § 18, effective July 1. **L. 93, 1st Ex. Sess.:** (1)(d.5) added, p. 34, § 2, effective September 13. **L. 94:** (6) and (7) amended and (7.5) and (7.7) added, p. 698, § 1, effective April 19; (1)(a)(V)(D) amended and (1)(k.5) and (1)(o.5) added, p. 1238, § 9, effective May 22; (1)(m)(I) and (3) amended, p. 2564, § 77, effective January 1, 1995. **L. 95:** (1)(n.5) added, p. 546, § 1, effective May 22. **L. 98:** (1.5) added, p. 153, § 1, effective July 1; (1)(d.5) amended, p. 826, § 41, effective August 5. **L. 99:** (1)(d.5) amended, p. 270, § 1, effective August 4; (1)(h) amended, p. 368, § 3, effective August 4. **L. 2002, 3rd Ex. Sess.:** (1)(n.5) amended, p. 43, § 1, effective July 18. **L. 2004:** (1)(n.5) amended, p. 1966, § 5, effective August 4. **L. 2006:** (1)(a)(I.5)(A) amended, p.

138, § 1, effective August 7. **L. 2006, 1st Ex. Sess.:** (10) added, p. 29, § 2, effective January 1, 2007. **L. 2007:** (11) added, p. 400, § 1, effective April 9; (1)(n.5) amended and (1)(n.7) added, p. 492, § 2, effective August 3. **L. 2008:** (1)(a)(V)(B) and (8) amended, p. 2054, § 11, effective July 1; (2)(a) amended, p. 58, § 3, effective August 5. **L. 2010:** (1)(r) added, (HB 10-1118), ch. 348, p. 1606, § 1, effective August 11. **L. 2011:** IP(1) and (1)(n.5) amended, (SB 11-110), ch.110, p. 342, § 2, effective April 13. **L. 2013:** (1) (a) (I.5) (A) amended, (HB 13-1137), ch. 15, p. 39, § 1, effective August 7; IP (1) (n.5) (II) amended, (HB 13-1300), ch. 316, p. 1694, § 98, effective August 7. **L. 2017:** IP(1), (1)(i), and (1)(k) amended, (SB 17-228), ch. 246, p. 1041, § 6, effective August 9; IP(1) and (1)(n.7) amended, (SB 17-222), ch. 245, p. 1027, § 4, effective August 9. **L. 2019:** IP(1)(n.5)(V), (1)(n.5)(V)(A), and (1)(n.7) amended, (SB 19-019), ch. 44, p. 150, § 1, effective March 21; IP(1), IP(1)(m)(II), and (1)(m)(II)(B) amended, (SB 19-181), ch. 120, p. 505, § 5, effective April 16; (1.7) added, (SB 19-240), ch. 351, p. 3244, § 2, effective May 29; (1.5) amended, (HB 19-1033), ch. 53, p. 185, § 4, effective July 1; (1.5) amended, (HB 19-1076), ch. 337, p. 3098, § 9, effective July 1. **L. 2020:** (1.5) amended, (HB 20-1001), ch. 302, p. 1505, § 5, effective July 14; (1)(s) added, (HB 20-1093), ch. 65, p. 265, § 1, effective September 14; (7)(a) amended, (HB 20-1074), ch. 48, p. 166, § 2, effective September 14. **L. 2021:** (1)(t) added, (SB 21-070), ch. 23, p. 108, § 1, effective September 7; (10) repealed, (SB 21-077), ch. 186, p. 997, § 5, effective September 7; (1)(d.5) amended, (SB 21-059), ch. 136, p. 751, § 137, effective October 1; (10) repealed, (SB 21-199), ch. 351, p. 2282, § 5, effective July 1, 2022. **L. 2023:** (1)(h) amended, (HB 23-1233), ch. 245, p. 1320, § 5, effective May 23; (1.7) amended, (SB 23-271), ch. 444, p. 2618, § 12, effective June 7; (1)(s)(I) amended and (1)(s)(III), (1)(s)(IV), (1)(s)(V), and (1)(s.5) added, (HB 23-1287), ch. 380, p. 2279, § 1, effective August 7. **L. 2024:** (1)(h)(I)(B) amended, (HB 24-1304), ch. 159, p. 741, § 3, effective August 7. **L. 2026:** IP(1), (1)(a)(I), (1)(a)(I.5)(A), (1)(a)(I.5)(C), and (1)(q) amended and (2)(d) added, (HB 26-1239), ch. 207, p. 1175, § 2, effective August 12.

Editor's note: Amendments to subsection (1.5) by HB 19-1033 and HB 19-1076 were harmonized.

Cross references: (1) For similar provisions concerning the exercise of police power by municipalities, see § 31-15-401.

(2) For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsection (1)(n.5), see section 1 of chapter 110, Session Laws of Colorado 2011. For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of Colorado 2023.

ANNOTATION

Law reviews. For article, "Trash Hauling and Recycling Solutions for Municipalities", see 23 Colo. Law. 2339 (1994). For article, "2006 Immigration Legislation in Colorado", see 35 Colo. Law. 79 (Oct. 2006). For article, "The State of Short-Term Rentals in Colorado", see 51 Colo. Law. 34 (Apr. 2022).

Subsection (1)(l) does not violate the right to equal protection of the laws under the United States and Colorado Constitutions. 7250 Corp. v. Bd. of County Comm'rs, 799 P.2d 917 (Colo. 1990).

Club that offered nude entertainment was "open to the public" and therefore subject to county regulation pursuant to subsection (1)(l). The club was not a private club, despite claims to the contrary, because: The club was not genuinely selective of its members; the membership fee was minimal; the club members had no control over the club's operations; the formalities of a private club such as by-laws and membership meetings were not present; the club was only recently converted to a private format and was advertised as being open to the public and in business in the same location for nineteen years; and the sole purpose of the club's purported conversion to a private club format appeared to be the avoidance of county ordinances. People v. A Business or Businesses located at 2896 W. 64th Ave., 989 P.2d 235 (Colo. App. 1999).

This section does not authorize an ordinance requiring the removal of a building because it was not "neat and orderly". Hibbard v. County of Adams, 900 P.2d 1254 (Colo. App. 1994).

Trial court erred in determining that county possesses requisite authority to require that private access road across ranch parcels comply with county's fire code and its access requirements. The "farms or ranches" exception to the provisions of § 30-15-401.5 (3) found in § 30-15-401.5 (6) does not refer to access, roads, or the purposes thereof. Instead, it refers to the use or status of the land. If the land traversed by the road currently satisfies the "farms or ranches" exception, then so long as the fundamental character of the land does not change in a manner that would make the exception inapplicable, the county may not regulate the road under subsection (1) of this section. Zweygardt v. Bd. of County Comm'rs of Elbert County, 190 P.3d 848 (Colo. App. 2008).

Whether a private road that begins at a public road, crosses various parcels, and dead-ends on private land may be regulated in its entirety or not at all should be determined by the predominant use of the private land that it crosses. The predominant use of these various parcels may change, which will affect whether, at some point in time, the county can require the entire road to comply with its fire code, although some parcels may still meet the "farm and ranch" exception. Zweygardt v. Bd. of County Comm'rs of Elbert County, 190 P.3d 848 (Colo. App. 2008).

30-15-401.4. Statewide policy to prevent the operation of illicit massage businesses - local regulation authorized - background checks required - legislative declaration - definitions.

(1) (a) The general assembly finds and declares that:

(I) Illicit massage businesses present a facade of legitimate services, concealing that the primary business is the sex and labor trafficking of victims who are trapped in these businesses. The reputation and success of legitimate massage therapy businesses is denigrated and undermined by individuals who conceal unlawful activities, such as human trafficking, by falsely posing as massage therapy businesses.

(I.5) The operation of illicit massage therapy businesses is dangerous to the public and can result in unlawful sexual activities, human trafficking, illegal building improvements, zoning violations, and nuisance activities;

(II) Human trafficking is a growing problem throughout Colorado. From 1977 until 2015, the Colorado massage parlor code authorized local governments to regulate massage parlors through licensure programs. In 2014, a sunset review recommended sunsetting the massage parlor code based on a view that the code was not "a significant factor in the fight against prostitution" and was not necessary to protect the public health, safety, and welfare. The Colorado massage parlor code was repealed in 2015 by Senate Bill 15-122, dismantling dozens of local licensing systems that local governments had enacted to address human trafficking.

(II.5) The "Massage Therapy Practice Act", article 235 of title 12, was enacted in 2008 to regulate the profession of massage therapy and to provide for consistent statewide certification and oversight of massage therapists. The "Massage Therapy Practice Act" permits local governments to inspect massage therapy licenses and business premises where massage therapy is conducted to ensure compliance with applicable laws.

(III) All local governments in the state already have authority to enact resolutions or ordinances to establish licensing authorities to regulate or otherwise regulate massage facilities and to deter and shut down illicit massage facilities where the facilities exist or are reasonably likely to occur;

(III.5) In 2018, through its authority as a home rule municipality, the city of Aurora enacted an ordinance to regulate massage facilities to combat human trafficking by focusing directly on the perpetrators of trafficking and the deterrence of unlawful behavior as an alternative to traditional law enforcement approaches. Other municipalities followed suit and the general assembly subsequently enacted House Bill 22-1300 in 2022 to authorize counties to enact similar regulations.

(IV) Because preventing the operation of illicit massage facilities by requiring current and prospective operators, owners, and employees of massage facilities to submit to periodic

background checks and other regulation of massage facilities is a matter of mixed statewide and local concern, and because local governments have significant discretion to adopt ordinances and resolutions in accordance with local needs, it is necessary, appropriate, and in the best interest of all Coloradans to:

(A) Require that every current and prospective operator, owner, and employee of a massage facility submit to a background check, which generally means a fingerprint-based criminal history record check, as required by this section; and

(B) Require every local government in the state that has a massage facility within its jurisdictional boundaries to establish a local process that ensures that the background checks are conducted throughout the state in accordance with the requirements and limitations set forth in this section.

(V) to (VIII) Repealed.

(IX) Local regulation of massage facilities has been effective in reducing the number of illicit massage businesses, deterring the location of new illicit massage businesses, and focusing on the behavior of perpetrators of human trafficking; and

(X) The local regulation of massage facilities, implemented consistently with the "Massage Therapy Practice Act", recognizes that massage therapy is a legitimate health-care profession that provides benefits to the residents of Colorado.

(b) The general assembly further finds and declares that:

(I) A local government may adopt a resolution or ordinance to establish business licensure requirements to regulate massage facilities or to regulate and prohibit unlawful activities at massage facilities for the purpose of deterring illicit massage businesses, preventing human trafficking, protecting legitimate massage therapy businesses, and safeguarding and promoting public health, safety, and welfare;

(II) It is critical for effective local enforcement against human trafficking that local governments work together against this increasing criminal activity;

(III) Licensing authorities and local law enforcement agencies are encouraged to report to the department of regulatory agencies information regarding criminal activities involving massage therapists;

(IV) Most licensed massage therapists in Colorado are practicing lawfully and ethically; and

(V) The general assembly does not intend to make the practice of lawful massage therapy more difficult for massage therapists in Colorado.

(2) As used in this section, unless the context otherwise requires:

(a) "Advertise" means to publish, display, or disseminate information and includes, but is not limited to, the issuance of any card, sign, or direct mail, or causing or permitting any sign or marking on or in any building or structure or in any newspaper, magazine, or directory, or any announcement or display via any televised, computerized electronic, or telephonic networks or media.

(a.3) "Applicant" means a person who has submitted an application to a licensing authority for an initial license or renewal of a license to operate a massage facility.

(a.5) "Background check" means a fingerprint-based criminal history record check conducted in accordance with subsection (4)(c.5) of this section and section 24-33.5-424.5. "Background check" also includes, to the extent allowed or required, as applicable, by section 24-33.5-424.5 (1)(g) when a fingerprint-based criminal history record check cannot be completed or reveals a record of arrest without disposition, a criminal history record check using the Colorado bureau of investigation's records and a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), performed using state judicial department records.

(a.7) Except as otherwise provided in subsection (2)(a.7)(II) of this section, "employee" means:

(I) (A) An individual who is employed by a massage facility; or

(B) An independent contractor who is hired by a massage facility to perform work that is part of the routine operations of the massage facility.

(II) For the purpose of determining who is required to submit to a background check required by subsection (4)(c.5) of this section, "employee" does not include:

(A) A massage therapist; or

(B) An independent contractor who performs janitorial services or other routine facility maintenance services for a massage facility and has no contact with or only incidental contact with clients of the massage facility.

(b) "Erotic parlor" means a facility that entices clients through advertising or other business practices directed towards sexual desire, lust, or passion.

(c) "Fully clothed" means fully opaque, nontransparent material that must not expose an employee's genitalia or substantially expose the employee's undergarments.

(d) "Illicit massage business" means a business that provides massage and:

(I) Engages in human-trafficking-related offenses, as described in section 18-3-503 or 18-3-504; or

(II) Commits other offenses as defined by state law or local ordinance.

(e) "Licensing authority" means the governing body of a local government or, if a local government has exercised its authority to adopt a resolution or ordinance that establishes licensure requirements for massage facilities or to regulate and prohibit unlawful activities related to massage facilities, any authority designated by the local government's charter or in a resolution or ordinance to administer or enforce the business licensure requirements, regulations, or prohibitions for massage facilities established by the local government.

(e.5) "Local government" means a home rule or statutory county, a city and county, or a home rule or statutory municipality.

(e.7) "Local law enforcement agency" means:

(I) A county sheriff's office;

(II) A municipal police department; or

(III) A town marshal's office.

(f) "Massage" or "massage therapy" has the same meaning as defined in section 12-235-104 (4).

(g) "Massage facility" means any place of business where massage therapy or full body massage is practiced or administered.

(h) "Massage therapist" has the same meaning as defined in section 12-235-104 (5).

(h.3) "Operator" means a person that is licensed by a licensing authority to operate a massage facility in accordance with a local resolution or ordinance or a person that is operating a massage facility without a license within the territory of a local government that does not require licensure of massage facilities; except that, for the purpose of determining whether a person is required to submit to a background check required by subsection (4)(c.5) of this section, "operator" does not include a massage therapist.

(h.5) "Owner" means a person other than an operator that holds a legal ownership interest in a massage facility; except that a person that is not involved in the operation of a massage facility and whose ownership interest consists only of stock in a publicly traded company that owns or operates a massage facility is not an owner.

(i) "Person" means a natural person, partnership, association, company, corporation, or organization or managing agent, servant, officer, partner, owner, operator, or employee of any of them.

(j) "Solo practitioner" means a licensed massage therapist, as defined in section 12-235-104 (5), performing the practice of massage therapy independently.

(k) "Table shower" means an apparatus for the bathing or massaging of a person on a table or in a tub.

(3) (a) In addition to any other powers, a local government may adopt a resolution or ordinance to establish business licensure requirements or to regulate and prohibit unlawful activities to prevent the operation of illicit massage businesses that engage in human trafficking-related offenses as described in sections 18-3-503 and 18-3-504 or commit other offenses as defined by state law or local ordinance.

(b) When developing a resolution or ordinance for adoption pursuant to this section, a county and a municipality within the county shall consult with each other. By mutual agreement between a county and a municipality within the county, a municipality may elect to have a county's resolution or ordinance adopted pursuant to this section apply to massage facilities operating within the jurisdictional boundaries of the municipality in lieu of adopting its own ordinance or resolution.

(c) A local government is not required to adopt a resolution or ordinance as otherwise required by this subsection (3) if there are no massage facilities operating within the jurisdictional boundaries of the local government.

(d) On and after August 13, 2026, when adopting a resolution or ordinance pursuant to this section, a local government shall consider the impacts of the resolution or ordinance on legitimate massage therapy businesses and conduct outreach to massage therapists and massage therapy businesses in the local government's jurisdiction and statewide organizations of massage therapists.

(3.5) Except as otherwise provided in subsection (3)(c) of this section, a local government shall establish a process in accordance with 34 U.S.C. sec. 41101, which must be established by ordinance or resolution, in accordance with 34 U.S.C. sec. 41101; must meet the criteria established by the federal bureau of investigation in implementing 34 U.S.C. sec. 41101; and must be performed in accordance with section 24-33.5-424.5, to require that, as a condition for a person remaining as or becoming an operator, owner, or employee:

(a) An operator, owner, or employee on the effective date of the resolution or ordinance submit to a background check performed in accordance with section 24-33.5-424.5 on or before the earlier of July 1, 2026, or any other date specified by a local government in its process;

(b) A prospective employee submit to a background check performed in accordance with section 24-33.5-424.5 before commencing employment with a massage facility; and

(c) A prospective operator or owner submit to a background check performed in accordance with section 24-33.5-424.5 before, as applicable, being granted a license to operate a massage facility or assuming an ownership interest in a massage facility that would make the prospective owner an owner.

(4) (a) If a local government adopts a resolution or ordinance to establish business licensure requirements for massage facilities as set forth in subsection (3)(a) of this section, the business licensure requirements may include:

(I) Requiring that a massage facility obtain a license prior to opening for business and operating as a massage facility;

(II) Requiring a reasonable administrative fee for issuing or renewing licensure applications. The fee must not be based on the number of employees. The administrative fee adopted by the local government must be reasonably related to the costs of the local government in administering the resolution or ordinance and the licensing of massage facilities. A fee that exceeds five hundred dollars is presumed to be unreasonable unless the local government establishes that a fee greater than five hundred dollars is necessary to cover the local government's costs of administering the resolution or ordinance and the licensing of massage facilities. The fee may be adjusted for inflation or deflation beginning on January 1, 2028, and on January 1 of each year thereafter. As used in this subsection (4)(a)(II), "inflation or deflation" means the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index, or a successor index, for Denver-Aurora-Lakewood for all items paid for by urban consumers. The local government may round the adjusted fee amount upward or downward to the nearest dollar.

(III) Designating a licensing authority to receive, review, approve, or deny applications;

(IV) Allowing a licensing authority, or the licensing authority's designee, to deny an application for reasons described in the ordinance or resolution adopted by the local government, including if:

(A) A required administrative fee is not paid;

(B) The local government zoning or subdivision regulations do not allow for the operation of a massage facility;

(C) The applicant or an owner, prospective owner, or employee has been convicted of or entered a plea of guilty or nolo contendere that is accepted by the court for a felony or misdemeanor for solicitation of a prostitute, as described in section 18-7-202; a human trafficking-related offense, as described in section 18-3-503 or 18-3-504; money laundering, as described in section 18-5-309;

(D) The applicant or an owner, prospective owner, or employee is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103;

(E) (Deleted by amendment, L. 2024).

(F) The applicant has one or more previous revocations or suspensions of a license to operate a massage facility;

(G) An employee of the massage facility for which the applicant has filed an application for a license has not submitted to a required background check before commencing employment with the massage facility pursuant to subsections (4)(c) and (4)(c.5) of this section; or

(H) The applicant or an owner or prospective owner of the massage facility for which the applicant has filed an application for a license has not submitted to a required background check pursuant to subsections (4)(c) and (4)(c.5) of this section at least thirty days before, as applicable, being granted a license to operate the massage facility or assuming an ownership interest in a massage facility that would make the prospective owner an owner.

(V) Allowing a licensing authority or a licensing authority's designee the discretion to deny an application after considering, in accordance with section 24-5-101, an applicant's, owner's or prospective owner's, or employee's or prospective employee's conviction of or plea of guilty or nolo contendere that is accepted by the court for a felony or a misdemeanor for fraud or theft or embezzlement, as described in section 18-4-401;

(VI) Requiring licensees to maintain a list of employees on site with the start date of employment, full legal name, date of birth, home address, telephone number, and employment position of each employee;

(VII) Requiring licensees and employees to have valid government identification, including but not limited to a form of identification described in section 24-21-521 (4)(a) and, for licensed massage therapists, a form of identification required for licensed massage therapists as described in section 24-34-107 (1), that must be immediately presented to a licensing authority or the licensing authority's designees upon request;

(VIII) Requiring licensed massage therapists to maintain copies of valid massage therapy licensure, as required by article 235 of title 12, that must be immediately presented to a licensing authority, the licensing authority's designees, or law enforcement upon request;

(IX) Requiring licensees to maintain a complete set of records, which may include accounts, invoices, payroll, employment records, and a log book of all massage therapy administered at the massage facility. The log book must include, but need not be limited to, the date, time, and type of massage therapy administered, and the name of the massage therapist administering the massage therapy. The licensee shall retain the records in the log book for a minimum of one year following the administration of massage therapy. Local law enforcement or the licensing authority, or the licensing authority's designee, may inspect the set of records during business hours.

(X) Designating the licensing authority, or the licensing authority's designees, responsible for the enforcement of the resolution or ordinance;

(XI) Setting penalties for the violation of prohibited activities as described in subsection (5) of this section;

(XI.5) Granting a licensing authority, or the licensing authority's designees, authority to revoke or suspend a license for reasons described in the ordinance or resolution adopted by the local government, including if:

(A) The licensee employs a person who has not submitted to a background check or an owner of the massage facility has not submitted to a background check as required pursuant to subsections (4)(c) and (4)(c.5) of this section;

(B) The licensee employs a person who has been convicted of or entered a plea of nolo contendere that is accepted by the court for an offense listed in subsection (4)(a)(IV)(C) of this section or is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103; or

(C) An owner of the licensed massage facility has been convicted of or entered a plea of nolo contendere that is accepted by the court for an offense listed in subsection (4)(a)(IV)(C) of this section or is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103;

(XII) Granting a licensing authority, or the licensing authority's designees, the authority to revoke or suspend a license for violating prohibited acts pursuant to subsection (5) of this section. A licensing authority, or the licensing authority's designees, may temporarily suspend a license and schedule a hearing within fifteen days after the licensing authority makes findings as described in the ordinance or resolution adopted by the local government or finds:

(A) The licensee willfully failed to disclose any information on the application as required;

(B) The licensee knowingly permitted a person who does not hold a valid license pursuant to section 12-235-107 to perform massage therapy;

(C) A pattern of activity that the massage facility is committing human trafficking-related offenses, as described in sections 18-3-503 and 18-3-504; and

(D) The licensee failed to permit an inspection at a time the massage facility was open for business; and

(XIII) Any other provisions related to the business licensure or operation of massage facilities that are deemed necessary by the local government for the protection of public health, safety, and welfare, so long as the resolution or ordinance does not conflict with the regulation of the practice of massage therapy pursuant to article 235 of title 12.

(b) The licensing authority may issue a temporary massage facility license upon receipt of a completed massage facility license application involving the sale or change of ownership in a business. The temporary massage facility license is valid for thirty days, and the licensing authority shall renew the temporary massage facility license every thirty days until approval or denial of the massage facility license.

(c) In investigating the fitness of any applicant, owner or prospective owner, or employee or prospective employee, a licensing authority shall require the applicant, owner or prospective owner, or employee or prospective employee to submit to a background check in accordance with subsection (4)(c.5) of this section. When considering an applicant's, owner's or prospective owner's, or employee's or prospective employee's criminal history record, the licensing authority shall also consider any information provided by the applicant, owner or prospective owner, or employee or prospective employee regarding the criminal history, including, but not limited to, evidence of mitigating factors, rehabilitation, character references, and educational achievements, especially the mitigating factors pertaining to the period between the applicant's, owner's or prospective owner's, or employee's or prospective employee's last criminal conviction and the consideration of the applicant's, owner's or prospective owner's, or employee's or prospective employee's application for a license or renewal, ownership or prospective ownership of a massage facility, or employment or prospective employment by a massage facility.

(c.5) Repealed.

(d) A licensing authority, or the licensing authority's designee, may report information to the department of regulatory agencies regarding criminal activity involving a licensed massage therapist.

(4.5) (a) If a local government adopts a resolution or ordinance to establish business licensure requirements for massage facilities in accordance with this section, the business licensure requirements must prohibit a person from owning a massage facility if the person:

(I) Has not submitted to a required background check before assuming an ownership interest in a massage facility that would make the prospective owner an owner pursuant to subsections (4)(c) and (4)(c.5) of this section; or

(II) Has been convicted of or entered a plea of nolo contendere that is accepted by the court for an offense listed in subsection (4)(a)(IV)(C) of this section or is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103.

(b) An operator or owner is prohibited from employing as an employee a person who has not submitted to a required background check pursuant to subsections (4)(c) and (4)(c.5) of this section.

(c) An operator or owner that learns that a prospective employee or employee has been convicted of or entered a plea of nolo contendere that is accepted by the court for an offense listed in subsection (4)(a)(IV)(C) of this section or is registered as a sex offender or is required by law to register as a sex offender, as described in section 16-22-103, may hire the prospective employee to work at a massage facility or continue to employ the employee at a massage facility if the operator or owner believes that employing the prospective employee or employee does not pose a threat to customers or employees of the massage facility.

(5) A local government may adopt a resolution or ordinance to prohibit activities to prevent the operation of illicit massage businesses that engage in human trafficking-related offenses as described in sections 18-3-503 and 18-3-504. Prohibited activities may include:

(a) Allowing a person who does not hold a massage therapy license pursuant to section 12-235-107 to perform massage in a massage facility;

(b) Advertising to a prospective client that services, including prostitution, sexual acts, escort services, sexual services, or services related to human trafficking disguised as legitimate services, are available;

(c) Permitting sexual acts or sexual services within or near a massage facility or in relation to massage therapy;

(d) Denying inspection of a massage facility by law enforcement or inspectors of a licensing authority;

(e) Refusing, interfering with, or eluding immediate identification of employees of the massage facility to law enforcement or a licensing authority's appointed inspectors;

(f) Failing to immediately report to law enforcement any act of sexual misconduct occurring in a massage facility;

(g) Allowing an employee or contractor of a massage facility to provide massage therapy without being fully clothed;

(h) Requiring client nudity as part of a massage without the client's prior consent;

(i) Allowing a massage facility to be open and practicing massage therapy without a licensed massage therapist on the premises;

(j) Permitting a person in a massage facility to make an agreement with an employee or contractor to engage in any prostitution-related offense in the massage facility or any other location;

(k) Permitting a massage facility to be used for housing, sheltering, or harboring any person, or as living or sleeping quarters for any person; except that an owner and the owner's family members who operate a massage facility as a home business are exempt from the prohibited activity in this subsection (5)(k); and

(l) Operating an erotic parlor on the premises of a massage facility.

(6) (a) If authorized by the county resolution or ordinance, a law enforcement officer may follow the penalty assessment procedure described in section 16-2-201 for any violation of the prohibitions set forth in subsection (5) of this section. As part of the county ordinance or resolution authorizing the penalty assessment procedure, the county may adopt a graduated fine schedule for violations of the prohibitions set forth in subsection (5) of this section. A graduated

fine schedule may provide for increased penalty assessments for repeat offenses by the same person.

(b) A county may specify in the resolution or ordinance that a massage facility that engages in two or more violations of the resolution or ordinance is a public nuisance, as described in section 16-13-303, unless the violation is already a public nuisance, as described in section 16-13-303. The county attorney of a county, the city attorney of a city and county, or the district attorney acting pursuant to section 16-13-302 may bring an action in the district court of the county for an injunction against the massage facility that violates the resolution or ordinance.

(7) A resolution or ordinance adopted by a local government pursuant to this section must not consider any of the following to be a massage facility:

(a) Training rooms in public and nonpublic institutions of higher education, as defined in section 23-3.1-102 (5);

(b) Training rooms of recognized professional or amateur athletic teams;

(c) Offices, clinics, or other facilities in which medical professionals licensed by the state of Colorado, or any other state, provide massage services to the public in the ordinary course of the medical profession;

(d) Medical facilities licensed by the state;

(e) Barber shops, beauty salons, and other facilities in which barbers and cosmetologists licensed by the state provide massage services to the public in the ordinary course of the profession;

(f) Bona fide athletic clubs that are not engaged in the practice of providing massage therapy to the members or to the public for remuneration or if an athletic club does not receive more than ten percent of its gross income providing massages to the athletic club's members or to the public;

(g) A place of business where a person offers to perform or performs massage therapy:

(I) For seventy-two hours or less in a six-month period; and

(II) As part of a public or charity event in which the primary purpose is not to provide massage therapy;

(h) A place of business where a licensed massage therapist practices as a solo practitioner and:

(I) Does not use a business or assumed name; or

(II) Uses a business or assumed name and provides the massage therapist's full legal name or license in each advertisement, and each time the business name or assumed name appears in writing; and

(III) Does not maintain or operate a table shower; and

(i) A hotel or resort with at least fifty rooms, at which massage services are provided as an ancillary amenity.

Source: L. 2022: Entire section added, (HB 22-1300), ch. 439, p. 3085, § 1, effective August 10. **L. 2024:** (1)(a)(III), (1)(a)(IV), (1)(b), (2)(e), (3), IP(4)(a), (4)(a)(IV), (4)(a)(V), (4)(a)(XI), (4)(c), IP(5), and (6) amended, (1)(a)(V) to (1)(a)(VIII) repealed, and (2)(a.3), (2)(a.5), (2)(a.7), (2)(e.5), (2)(e.7), (2)(h.3), (2)(h.5), (3.5), (4)(a)(XI.5), (4)(c.5), and (4.5) added, (HB 24-1371), ch. 462, p. 3210, § 1, effective August 7. **L. 2025:** (2)(a.5) and (3.5) amended and (4)(c.5) repealed, (SB 25-146), ch. 342, p. 1854, § 6, effective June 2. **L. 2026:** (1)(a)(I), (1)(a)(II), (1)(a)(III), IP(1)(a)(IV), (1)(a)(IV)(A), (1)(b)(I), (2)(d), (3)(a), (3.5)(c), IP(4)(a), (4)(a)(II), IP(4)(a)(IV), IP(4)(a)(XI.5), (4)(a)(XI.5)(C), IP(4)(a)(XII), (4)(a)(XII)(D), IP(4.5)(a), (4.5)(a)(I), IP(5), (6), IP(7), (7)(g)(II), and (7)(h)(III) amended and (1)(a)(I.5), (1)(a)(II.5), (1)(a)(III.5), (1)(a)(IX), (1)(a)(X), (3)(d), (4)(a)(XIII), and (7)(i) added, (HB 26-1257), ch. 101, p. 401, § 1, effective August 12.

30-15-401.5. Fire safety standards.

(1) In addition to any other powers granted by the general assembly, the board of county commissioners of each county has the power to adopt ordinances to provide for minimum fire safety standards which shall be modeled upon those contained in the uniform fire code, including the table of contents, indices, appendices, and tables, as promulgated by the international conference of building officials, the international fire code institute, and the western fire chiefs association.

(2) A board of county commissioners may adopt such ordinances only after it has approved the formation of and received the recommendations of a permanent commission, to be known as the fire code adoption and revision commission. The commission shall consist of the board or its designees, the fire chiefs whose departments or districts lie partially or wholly within the portion of the affected county encompassed by the proposed fire code, and such other members as the board may appoint. Members of the commission appointed by the board shall serve at the pleasure of the board. Members of the commission shall receive no compensation or reimbursement of expenses for their services on the commission.

(3) Such ordinances shall apply to all or a portion of the unincorporated area of the county and any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

(4) A fire protection district or county improvement district providing fire protection services may propose fire code provisions for its district that may be different from the minimum fire safety standards adopted by the county. Such provisions shall be effective within the petitioning fire protection district or county improvement district providing fire protection services only upon the approval of the board.

(5) No fire code provisions adopted pursuant to this section shall apply within any municipality unless the governing body of the municipality adopts a resolution stating that such provisions shall be applicable within its boundaries.

(6) The provisions of subsection (3) of this section shall not apply to farms or ranches.

(7) Fire protection districts organized pursuant to article 1 of title 32, C.R.S., and county improvement districts providing fire protection services organized pursuant to part 5 of article 20 of this title shall enforce the fire safety standards adopted by county ordinances within the fire district's jurisdiction. The county commissioners may contract with an enforcement agency for areas of the county not receiving fire protection.

(8) Nothing in this section shall be construed to affect the validity of any ordinance adopted by a board of county commissioners before July 1, 1985.

(9) Nothing in this section shall be construed to require a board of county commissioners to provide fire protection services to any area of the county or to require a board of county commissioners to adopt fire safety standards.

(10) Notwithstanding any other provision of this section, no fire protection district shall prohibit the sale of permissible fireworks, as defined in section 24-33.5-2001 (11), within its jurisdiction.

Source: L. 85: Entire section added, p. 1061, § 1, effective July 1. **L. 90:** (4) and (7) amended, p. 1459, § 3, effective March 22. **L. 96:** (1) amended and (10) added, p. 282, § 1, effective April 11. **L. 2007:** (10) amended, p. 493, § 3, effective August 3. **L. 2017:** (10) amended, (SB 17-222), ch. 245, p. 1028, § 5, effective August 9.

ANNOTATION

Law reviews. For article, "The Lawyer's Role in Fire Code Enforcement Actions", see 24 Colo. Law. 2201 (1995).

Trial court erred in determining that county possesses requisite authority to require that private access road across ranch parcels comply with county's fire code and its access requirements. The "farms or ranches" exception to the provisions of subsection (3) found in subsection (6) does not refer to access, roads, or the purposes thereof. Instead, it refers to the use or status of the land. If the land traversed by the road currently satisfies the "farms or ranches" exception, then so long as the fundamental character of the land does not change in a manner that would make the exception inapplicable, the county may not regulate the road under § 30-15-401 (1). Zweygardt v. Bd. of County Comm'rs of Elbert County, 190 P.3d 848 (Colo. App. 2008).

Whether a private road that begins at a public road, crosses various parcels, and dead-ends on private land may be regulated in its entirety or not at all should be determined by the predominant use of the private land that it crosses. The predominant use of these various parcels may change, which will affect whether, at some point in time, the county can require the entire road to comply with its fire code, although some parcels may still meet the "farm and ranch" exception. Zweygardt v. Bd. of County Comm'rs of Elbert County, 190 P.3d 848 (Colo. App. 2008).

30-15-401.7. Determination of fire hazard area - community wildfire protection plans - adoption - legislative declaration - definitions.

(1) (a) The general assembly hereby finds, determines, and declares that:

(I) Community wildfire protection plans, or CWPPs, are authorized and defined in section 101 of Title I of the federal "Healthy Forests Restoration Act of 2003", Pub.L. 108-148, referred to in this section as "HFRA". Title I of HFRA authorizes the secretaries of agriculture and the interior to expedite the development and implementation of hazardous fuel reduction projects on federal lands managed by the United States forest service and the bureau of land management when these agencies meet certain conditions. HFRA emphasizes the need for federal agencies to work collaboratively with local communities in developing hazardous fuel reduction projects, placing priority on treatment areas identified by the local communities themselves in a CWPP. The wild land-urban interface area is one of the identified property areas that qualify under HFRA for the use of this expedited environmental review process.

(II) The development of a CWPP can assist a local community in clarifying and refining its priorities for the protection of life, property, and critical infrastructure in its wildland-urban interface area. The CWPP brings together diverse federal, state, and local interests to discuss their mutual concerns for public safety, community sustainability, and natural resources. The CWPP process offers a positive, solution-oriented environment in which to address challenges

such as local fire-fighting capability, the need for defensible space around homes and housing developments, and where and how to prioritize land management on both federal and nonfederal lands. CWPPs can be as simple or complex as a local community desires.

(III) The adoption of a CWPP brings many benefits to the state and adopting local community, including:

(A) The opportunity to establish a locally appropriate definition and boundary for the wildland-urban interface area;

(B) The opportunity to study the effect of fire ratings and combustibility standards for building materials used in wildland-urban interface areas;

(C) The establishment of relations with other state and local government officials, local fire chiefs, state and national fire organizations, federal land management agencies, private homeowners, electric, gas, and water utility providers in the subject area, and community groups, thereby ensuring collaboration among these groups in initiating a planning dialogue and facilitating the implementation of priority actions across ownership boundaries;

(D) Specialized natural resource knowledge and technical expertise relative to the planning process, particularly in the areas of global positioning systems and mapping, vegetation management, assessment of values and risks, and funding strategies; and

(E) Statewide leadership in developing and maintaining a list or map of communities at risk within the state and facilitating work among federal and local partners to establish priorities for action.

(IV) CWPPs give priority to projects that provide for the protection of at-risk communities or watersheds or that implement recommendations in the CWPP.

(V) CWPPs assist local communities in influencing where and how federal agencies implement fuel reduction projects on federal lands and how additional federal funds may be distributed for projects on nonfederal lands, and in determining the types and methods of treatment that, if completed, would reduce the risk to the community.

(VI) The development of CWPPs promotes economic opportunities in rural communities.

(b) By enacting this section, the general assembly intends to facilitate and encourage the development of CWPPs in counties with fire hazard areas in their territorial boundaries and to provide more statewide uniformity and consistency with respect to the content of CWPPs in counties needing protection against wildfires.

(2) As used in this section, unless the context otherwise requires:

(a) "CWPP" means a community wildfire protection plan as authorized and defined in section 101 of Title I of the federal "Healthy Forests Restoration Act of 2003", Pub.L. 108-148.

(b) "Fire hazard area" means an area mapped by the Colorado state forest service, identified in section 23-31-302, C.R.S., as facing a substantial and recurring risk of exposure to severe fire hazards.

(3) (a) Not later than January 1, 2011, the board of county commissioners of each county, with the assistance of the state forester, shall determine whether there are fire hazard areas within the unincorporated portion of the county.

(b) Not later than one hundred eighty days after determining there are fire hazard areas within the unincorporated portion of a county, the board of county commissioners, in collaboration with the representatives of the organizations or entities enumerated in section 23-31-312 (3), C.R.S., that established the guidelines and criteria, shall prepare a CWPP for the purpose of addressing wildfires in fire hazard areas within the unincorporated portion of the county. In preparing the CWPP, the board shall consider the guidelines and criteria established by the state forester and such representatives pursuant to section 23-31-312 (3), C.R.S.

(c) Notwithstanding any other provision of this section, a county that has already prepared a CWPP or an equivalent plan as of August 5, 2009, and, in connection with such preparation, considered the guidelines and criteria established by the state forester and designated representatives pursuant to section 23-31-312 (3), C.R.S., shall not be required to prepare a new CWPP to satisfy the requirements of this section.

Source: L. 2009: Entire section added, (SB 09-001), ch. 30, p. 125, § 2, effective August 5.

30-15-402. Violations - penalty - surcharges - victim and witness assistance - brain injury trust fund.

(1) Except for a traffic offense, any person who violates any county ordinance adopted by the board of county commissioners pursuant to this part 4 commits a civil infraction and, upon conviction of that infraction, shall be punished by a fine of not more than one thousand dollars for each separate violation. In the case of a traffic offense, the person that commits a traffic infraction, upon conviction of that infraction, shall be punished by a fine in accordance with applicable county or state law. If authorized by the county ordinance, an arresting law enforcement officer may follow the penalty assessment procedure provided in section 16-2-201 for any such violation. As part of the county ordinance authorizing the penalty assessment procedure for a violation of a county ordinance adopted by the board of county commissioners pursuant to this part 4, the board of county commissioners may adopt a graduated fine schedule for the violations. The graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same individual. In the case of county traffic ordinance violations, the provisions of sections 42-4-1701 and 42-4-1703, and sections 42-4-1708 to 42-4-1718 apply;

except that the fine or penalty for a violation charged and the surcharge thereon if authorized by county ordinance is paid to the county.

(2) In addition to the penalties prescribed in subsection (1) of this section, persons convicted of a violation of any ordinance adopted pursuant to this part 4 are subject to:

(a) A surcharge of ten dollars that shall be paid to the clerk of the court by the defendant. Each clerk shall transmit the moneys to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district pursuant to section 24-4.2-103, C.R.S.

(b) (Deleted by amendment, L. 2004, p. 1012, § 1, effective August 4, 2004.)

(3) In addition to the penalties prescribed in subsection (1) of this section, persons convicted of operating a vehicle in excess of the speed limit in violation of an ordinance adopted pursuant to section 30-15-401 (1)(h) are subject to a surcharge of twenty dollars that shall be paid to the clerk of the court by the defendant. Each clerk shall transmit the money to the state treasurer, who shall credit the same to the Colorado brain injury trust fund created pursuant to section 26-1-309.

Source: L. 79: Entire part added, p. 1145, § 1, effective May 24. **L. 81:** Entire section R&RE, p. 1449, § 1, effective May 22. **L. 93:** Entire section amended, p. 1254, § 2, effective July 1. **L. 96:** (1) amended, p. 334, § 1, effective July 1. **L. 99:** (1) amended, p. 367, § 2, effective August 4. **L. 2002:** (2) amended, p. 1610, § 6, effective January 1, 2004. **L. 2004:** (2) amended and (3) added, p. 1012, § 1, effective August 4. **L. 2009:** (3) amended, (SB 09-133), ch. 392, p. 2119, § 1, effective August 5. **L. 2019:** (3) amended, (HB 19-1147), ch. 178, p. 2033, § 13, effective August 2. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3249, § 505, effective March 1, 2022. **L. 2026:** (1) amended, (HB 26-1239), ch. 207, p. 1181, § 3, effective August 12.

30-15-402.5. Enforcement personnel - peace officer designation.

(1) Personnel designated by ordinance duly adopted to enforce county ordinances adopted pursuant to this part 4, however titled or administratively assigned, may issue citations or summonses and complaints enforcing county ordinances without regard to the certification requirements of part 3 of article 31 of title 24, C.R.S.

(2) Nothing in this section is intended to vest authority in any person so engaged to enforce any resolution or ordinance through execution of an administrative entry and seizure warrant issued pursuant to section 30-15-401 or through exercise of any power other than the power to issue a citation or summons and complaint as described in subsection (1) of this section.

Source: L. 94: Entire section added, p. 1241, § 14, effective May 22.

30-15-403. Style of ordinances.

The style of the ordinances in counties shall be: "Be it ordained by the board of county commissioners of ..... county."

Source: L. 79: Entire part added, p. 1145, § 1, effective May 24.

30-15-404. Majority must vote for ordinances - proving ordinances.

All ordinances shall require for their passage or adoption the concurrence of a majority of the board of county commissioners. All ordinances may be proven by the seal of the county, and, when printed in book or pamphlet form and purporting to be printed and published by authority of the county, the same shall be received in evidence in all courts and places without further proof.

Source: L. 79: Entire part added, p. 1145, § 1, effective May 24.

30-15-405. Record and publication of ordinances.

All ordinances, as soon as may be after their adoption, shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the chairman of the board of county commissioners and the county clerk and recorder. All ordinances of a general or permanent nature and those imposing any fine, penalty, or forfeiture, following adoption, shall be published by title only and shall contain the date of the initial publication and shall reprint in full any section, subsection, or paragraph of the ordinance which was amended following the initial publication. Publication following adoption may be in full at the discretion of the board of county commissioners. It is a sufficient defense to any suit or prosecution for such fine, penalty, or forfeiture to show that no publication was made. If there is no newspaper published or having a general circulation within the limits of the county, then, upon a resolution being passed by the board of county commissioners to that effect, ordinances may be published by posting copies thereof in three public places within the limits of the county, to be designated by the board of county commissioners. Except for ordinances calling for special elections or necessary to the immediate preservation of the public health or safety and containing the reasons making the

same necessary in a separate section, such ordinances shall not take effect and be in force before thirty days after they have been so published. The excepted ordinances shall take effect upon adoption. A copy of an appropriate section or sections of the book of ordinances provided for in this section, certified as correct by the county clerk and recorder, shall be taken and considered in all courts of this state as prima facie evidence that such ordinances have been published as provided by law.

Source: L. 79: Entire part added, p. 1145, § 1, effective May 24.

30-15-406. Reading before board of county commissioners - publication.

No ordinance shall be adopted by any board of county commissioners of any county in this state unless the same has been previously introduced and read at a preceding regular or special meeting of such board and published in full in one newspaper of general circulation published in such county at least ten days before its adoption. If there is no such newspaper published in the county, copies of the proposed ordinance shall be posted in at least six public places in such county at least ten days prior to its adoption. Such previous introduction of such ordinance at such preceding meeting of the board of county commissioners and the fact of its publication in such newspapers or by posting shall appear in the certificate and the attestation of the county clerk and recorder on such ordinance after its adoption.

Source: L. 79: Entire part added, p. 1146, § 1, effective May 24.

30-15-407. Reading - adoption of code.

Whenever the reading of an ordinance or of a code, which is to be adopted by reference, is required by statute, any such requirement shall be deemed to be satisfied if the title of the proposed ordinance or code is read and the entire text of the proposed ordinance or of any code which is to be adopted by reference is submitted in writing to the board of county commissioners before adoption.

Source: L. 79: Entire part added, p. 1146, § 1, effective May 24.

30-15-408. Disposition of fines and forfeitures.

All fines and forfeitures for the violation of ordinances and, except as otherwise provided for surcharges levied pursuant to section 30-15-402 (2) and (3), all moneys collected for licenses or otherwise shall be paid into the treasury of the county at such times and in such manner as may be prescribed by ordinance, or, if there is no ordinance referring to the case, it shall be paid to the treasurer at once.

Source: L. 79: Entire part added, p. 1146, § 1, effective May 24. **L. 93:** Entire section amended, p. 1254, § 3, effective July 1. **L. 2004:** Entire section amended, p. 1013, § 2, effective August 4.

30-15-409. One-year limitation of suits.

All suits for the recovery of any fine and prosecutions for the commission of any offense made punishable under any ordinance of any county shall be barred one year after the commission of the offense for which the fine is sought to be recovered.

Source: L. 79: Entire part added, p. 1146, § 1, effective May 24.

30-15-410. County courts - jurisdiction.

County courts, in their respective counties, have jurisdiction in prosecutions of violations of county ordinances. The simplified county court procedures set forth in part 1 of article 2 of title 16, C.R.S., and the penalty assessment procedures set forth in part 2 of said article shall be applicable to the prosecution of violations of county ordinances. Any summons and complaint brought in any county court shall be filed in the name of the county by and on behalf of the people of the state of Colorado. Any process issued from a county court shall be likewise denominated. It is the duty of the sheriff and undersheriff and deputies, in their respective counties, to enforce the provisions of county ordinances.

Source: L. 79: Entire part added, p. 1147, § 1, effective May 24. **L. 81:** Entire section R&RE, p. 1449, § 2, effective May 22.

Cross references: For the jurisdiction of the county court generally, see §§ 13-6-103 to 13-6-106.

30-15-411. Conflicts with state statutes.

No county shall adopt an ordinance that is in conflict with any state statute.

Source: L. 79: Entire part added, p. 1147, § 1, effective May 24.

ANNOTATION

Determination and effect of conflict. No local government may adopt an ordinance or resolution that is in conflict with a state statute. If it does conflict, the ordinance or resolution is void. However, for a conflict to exist, both the state statute and the local ordinance or resolution must contain express or implied conditions which are inconsistent and irreconcilable one with the other. C & M Sand & Gravel v. Bd. of County Comm'rs, 673 P.2d 1013 (Colo. App. 1983).

County ordinance which purportedly conflicts with a state statute may coexist with such state statute if the ordinance does not have provisions which irreconcilably conflict with state statute, but, if there is such a conflict, the state statute preempts the county ordinance. Bd. of County Comm'rs v. Martin, 856 P.2d 62 (Colo. App. 1993).

A county ordinance and a state statute may both remain effective and enforceable as long as they do not contain express or implied conditions that are irreconcilably in conflict with each other. Wilkinson v. Bd. of County Comm'rs, 872 P.2d 1269 (Colo. App. 1993).

Applied in Hudspeth v. Bd. of County Comm'rs, 667 P.2d 775 (Colo. App. 1983).

PART 5

DANCE HALLS

Editor's note: This part 5 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

30-15-501. License required.

No person, partnership, or corporation shall operate, conduct, carry on, or maintain a public dance hall, booth, pavilion, or other place where public dances are held without first obtaining a license therefor. Any person, firm, or corporation desiring such license shall make application therefor in writing to the board of county commissioners of the county in which the public dance hall, booth, pavilion, or other place is proposed to be located. The application shall state the name and address of the applicant, if a person; the names and addresses of all the persons composing the partnership, if a partnership; and the names and addresses of the officers and directors of the corporation, if a corporation; a full description of the place and premises at which it is proposed to conduct and carry on such public dances; and the term for which the license is desired. The board of county commissioners has the authority, within its discretion, to grant such license to an applicant for the current calendar year or part thereof unexpired upon the payment by the applicant of a fee of twenty-five dollars to the county treasurer. The license shall authorize the person, firm, or corporation receiving it to operate, conduct, and carry on a public dance hall, booth, or pavilion at such place for the term from the date of its issue to the end of the current calendar year for which it is issued. This part 5 shall not apply to incorporated cities and towns.

Source: L. 2017: Entire part added, (SB 17-228), ch. 246, p. 1030, § 1, effective August 9.

Editor's note: This section is similar to former § 12-18-101 as it existed prior to 2017.

ANNOTATION

Annotator's note. The case cited below was decided under C.L. § 4149.1, the subject matter of which was similar to this section.

This section provides that public dance halls may be regulated under the police power; that, uncontrolled, their tendency is to weaken morals and breed disorder and indolence. Dwyer v. People, 82 Colo. 574, 261 P. 858 (1927).

The exemption of incorporated towns and cities from the operation of this article, is a reasonable and valid classification. Dwyer v. People, 82 Colo. 574, 261 P. 858 (1927).

If a person is injured by unlawful action, or failure of county commissioners to act on his application for a license for a public dance hall, the writs of certiorari and mandamus are available remedies. Dwyer v. People, 82 Colo. 574, 261 P. 858 (1927).

30-15-502. License not transferable.

No license issued under the provisions of this part 5 shall be assigned or transferred by the person, firm, or corporation to whom it is issued, and no license shall be available or used for more than one particular place, building, or premises described in the application and in the license.

Source: L. 2017: Entire part added, (SB 17-228), ch. 246, p. 1031, § 1, effective August 9.

Editor's note: This section is similar to former § 12-18-102 as it existed prior to 2017.

30-15-503. Revocation or cancellation of licenses.

The board of county commissioners issuing such licenses has full power and authority, at its discretion, to revoke and cancel any license issued by the board under this part 5 whenever the board, by proper resolution, determines that the public morals or public safety or public health of the community requires revocation or cancellation.

Source: L. 2017: Entire part added, (SB 17-228), ch. 246, p. 1031, § 1, effective August 9.

Editor's note: This section is similar to former § 12-18-103 as it existed prior to 2017.

ANNOTATION

Annotator's note. The cases cited below were decided under C.L. § 4149.3, the subject matter of which was similar to this section.

The board has full power to grant, refuse to grant, revoke, and cancel licenses. Walker v. Hunter, 86 Colo. 483, 283 P. 48 (1929).

For nonaction or wrongful action on an application for a license, certiorari or mandamus will lie. Dwyer v. People, 82 Colo. 574, 261 P. 858 (1927).

30-15-504. Penalty.

Any person violating any of the provisions of this part 5 commits a petty offense.

Source: L. 2017: Entire part added, (SB 17-228), ch. 246, p. 1031, § 1, effective August 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3249, § 506, effective March 1, 2022.

Editor's note: This section is similar to former § 12-18-104 as it existed prior to 2017.

30-15-505. Jurisdiction.

The county court of the county wherein such licenses are issued has full jurisdiction to try and punish all cases for violation of the provisions of this part 5, subject to the right of appeal in such cases as provided by law.

Source: L. 2017: Entire part added, (SB 17-228), ch. 246, p. 1031, § 1, effective August 9.

Editor's note: This section is similar to former § 12-18-105 as it existed prior to 2017.

ARTICLE 17

County Assistance for the Poor

PART 1
GENERAL ASSISTANCE

30-17-101. Legislative declaration.

30-17-102. Counties may provide temporary general assistance to the poor.

30-17-103. Standards and guidelines.

30-17-104. Burial expenses.

30-17-105. Temporary general assistance account.

30-17-106. Establishment of poorhouse. (Repealed)

30-17-107. Reimbursement to county.

30-17-108. Temporary general assistance payments limited to appropriation.

PART 2
COUNTY JOB DIVERSION PROGRAM

30-17-201 to 30-17-206. (Repealed)

PART 3
JOB ALTERNATIVE PROGRAM

30-17-301 to 30-17-306. (Repealed)

PART 4 INTERNSHIP PROGRAM FOR UNEMPLOYMENT CLAIMANTS 30-17-401 to 30-17-403. (Repealed)

PART 1

GENERAL ASSISTANCE

30-17-101. Legislative declaration.

It is the intent of the general assembly in the enactment of this part 1 to enable each county to provide a means of temporary general assistance to poor persons who reside in the county or to transients. Such temporary general assistance is necessarily restricted by the limited ability of county government to make appropriations therefor.

Source: L. 81: Entire article R&RE, p. 1451, § 1, effective May 22. **L. 82:** Entire section amended, p. 428, § 5, effective July 1.

30-17-102. Counties may provide temporary general assistance to the poor.

Each county may provide temporary general assistance to the poor who reside in the county or to transients. If such provision is made, each county may provide eligible recipients with such relief as, in the judgment of the board of county commissioners, is needed.

Source: L. 81: Entire article R&RE, p. 1451, § 1, effective May 22.

30-17-103. Standards and guidelines.

(1) If a temporary general assistance program is undertaken, the board of county commissioners of each county, by ordinance, shall establish standards and guidelines for determining who is eligible to receive temporary general assistance, what types of assistance shall be offered, what amounts of assistance shall be paid, and for what periods of time such assistance shall be offered.

(2) In adopting and promulgating such standards and guidelines, the board of county commissioners may establish requirements of residency for a specified minimum period, not to exceed six months, and may also set different residency requirements for different types of relief.

(3) The board of county commissioners, in the standards and guidelines adopted pursuant to this article, may require that any applicant for temporary general assistance search for employment and accept employment that is offered and also enroll with the divisions of employment and training and unemployment insurance in order to be eligible to receive temporary general assistance. The requirements, however, do not apply to an applicant who is unable to work due to a temporary disability. The board may require verification of a disability by a medical examination. The requirements to search for employment do not apply to persons who are sixty-five years of age and older.

Source: L. 81: Entire article R&RE, p. 1451, § 1, effective May 22. **L. 2012:** (3) amended, (HB 12-1120), ch. 27, p. 112, § 30, effective June 1.

Editor's note: The effective date for amendments to subsection (3) by House Bill 12-1120 (chapter 27, Session Laws of Colorado 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of Colorado 2012).

30-17-104. Burial expenses.

Each county shall also provide for the decent burial of any person who dies within the county who does not leave sufficient funds for such burial and whose family is either financially unable to provide for such burial or cannot be contacted within a reasonable time.

Source: L. 81: Entire article R&RE, p. 1452, § 1, effective May 22.

30-17-105. Temporary general assistance account.

Each board of county commissioners, upon its determination to undertake a temporary general assistance program, shall establish a temporary general assistance account for the purpose of providing money for the temporary general assistance program in the county; and each board shall appropriate money for such account for such purpose.

Source: L. 81: Entire article R&RE, p. 1452, § 1, effective May 22.

30-17-106. Establishment of poorhouse. (Repealed)

Source: L. 81: Entire article R&RE, p. 1452, § 1, effective May 22. **L. 82:** (4) amended, p. 428, § 6, effective July 1. **L. 2003:** Entire section repealed, p. 914, § 23, effective August 6.

30-17-107. Reimbursement to county.

If at any time the recipient of temporary general assistance acquires funds or other property, he shall be answerable to the county for the expense of the relief furnished. If the recipient fails to reimburse the county upon demand, the county may assert its claim for reimbursement in any court of competent jurisdiction.

Source: L. 81: Entire article R&RE, p. 1452, § 1, effective May 22.

ANNOTATION

At common law, as a general rule, there was no obligation on the part of a pauper to reimburse public authorities for support furnished. Denver Dept. of Welfare v. Gomer, 141 Colo. 65, 346 P.2d 1016 (1959) (decided under former § 36-10-9, CRS 53).

This section was intended to subject to reimbursement only property acquired after parties are on relief rolls and which is not disclosed on the application for assistance; a home owned and occupied by the parties during the entire time they received assistance with full knowledge of the authorities is not such property. Denver Dept. of Welfare v. Gomer, 141 Colo. 65, 346 P.2d 1016 (1959) (decided under former § 36-10-9, CRS 53).

30-17-108. Temporary general assistance payments limited to appropriation.

In no event shall payment of temporary general assistance benefits exceed, in the aggregate, the appropriation made by the board of county commissioners for the temporary general assistance account.

Source: L. 81: Entire article R&RE, p. 1452, § 1, effective May 22.

PART 2

COUNTY JOB DIVERSION PROGRAM

30-17-201 to 30-17-206. (Repealed)

Source: L. 91: Entire part repealed, p. 1871, § 24, effective July 1.

Editor's note: This part 2 was added in 1982. For amendments to this part 2 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 3

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30-17-301 to 30-17-306. (Repealed)

Source: L. 91: Entire part repealed, p. 1871, § 24, effective July 1.

Editor's note: This part 3 was added in 1986. For amendments to this part 3 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 4

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30-17-401 to 30-17-403. (Repealed)

Editor's note: (1) This part 4 was added in 1987. For amendments to this part 4 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing

the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 30-17-403 provided for the repeal of this part 4, effective January 1, 1991. (See L. 87, p. 409.)

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PART 1

SOLID WASTES DISPOSAL SITES AND FACILITIES

Law reviews: For article, "Solid Waste Disposal: Caught in the Act?", see 16 Colo. Law. 1010 (1987).

30-20-100.5. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) Proper disposal of solid wastes is a matter of mixed statewide and local concern;

(b) Improper disposal of solid wastes poses significant public health risks, environmental hazards, and long-term liability for the citizens of the state;

(b.5) State and local governments have a joint responsibility to work in partnership to address environmental and public health risks that may result from local-government-owned landfills, and public officials must ensure the safe and cost-effective management and disposal of solid waste for their communities;

(c) (I) Colorado citizens are increasingly voicing their concerns about solid waste issues. Such concerns include the following:

(A) How citizens can make maximum use of waste reduction and recycling programs as part of such citizens' personal environmental commitment;

(B) Concerns of citizens relating to the siting of a solid wastes site and facility near their homes; and

(C) Challenges to public officials to react responsibly to assure safe and cost-effective solid waste management and disposal for their community over the next five to ten years.

(II) Reflecting such concerns, private citizens and companies have joined with local and state officials to address the needs of Colorado concerning solid waste.

(d) Optimal solid waste management in Colorado should include the following elements:

(I) The state government, local governments, and private companies and citizens of Colorado each must play important roles in the management of solid waste in Colorado.

(II) A statewide system of integrated solid waste management planning is necessary to meet Colorado's solid waste disposal needs over the next twenty years. Local governments and their citizens should be encouraged to work toward consensus concerning their solid waste disposal needs and concerning the types and numbers of solid wastes sites and facilities necessary or desirable in their areas.

(III) State and local efforts in this area must be focused toward the reduction of the volume and toxicity of the waste stream. Realistic waste reduction goals should be established and state and local solid waste management goals should strive to achieve such goals through source reduction, recycling, composting, and similar waste management strategies.

(IV) Renewed efforts and new mechanisms are needed to ensure the full participation of the public in all phases of solid waste decision-making. All participants and concerned parties must contribute to a continuing, dedicated effort to inform and educate the public concerning solid waste and its impact on public health and the environment.

(V) A strong component of statewide waste management efforts shall be the minimization of illegal disposal of solid wastes through the provision of the appropriate kinds and numbers of solid waste sites and facilities as needed to handle, treat, and dispose of solid waste in all areas of the state.

Source: L. 91: Entire section added, p. 963, § 1, effective June 5. **L. 2023:** (1)(b.5) added, (HB 23-1194), ch. 225, p. 1160, § 1, effective August 7.

Cross references: For the legislative declaration in HB 23-1194, see section 1 of chapter 225, Session Laws of Colorado 2023.

30-20-101. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Approved site or facility" means a site or facility for which a certificate of designation has been obtained, as provided in this part 1.

(1.5) "Closed site or facility" means a site or facility that has been closed in accordance with provisions of the federal regulations pursuant to subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended, as published in 40 CFR 258.60, and in the manner specified in the approved certificate of designation application at the time of approval of the site or facility or in a closure plan that has been approved by the department.

(2) "Department" means the department of public health and environment.

(2.3) "Excluded scrap metal" means processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

(2.5) "Governing body having jurisdiction" means the board of county commissioners if a site and facility is located in any unincorporated portion of a county and means the governing body of the appropriate municipality if a site and facility is located within an incorporated area.

(2.6) "Home scrap metal" means scrap metal generated by steel mills, foundries, and refineries, including, but not limited to, turnings, cuttings, punchings, and borings.

(2.7) "Landfill gases" means gases formed by the decomposition of buried solid waste. Landfill gases include, but are not limited to, methane.

(2.8) "Municipality" means a home rule or statutory city, town, or city and county or a territorial charter city.

(3) "Person" means an individual, partnership, private or municipal corporation, firm, board of a metropolitan district or sanitation district, or other association of persons.

(3.5) "Processed scrap metal" means scrap metal that has been manually or physically altered to separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to:

(a) Scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type; and

(b) Fines, drosses, and related materials that have been agglomerated.

(3.7) "Prompt scrap metal" means scrap metal generated by the metal working or fabrication industries, including, but not limited to, turnings, cuttings, punchings, and borings. "Prompt scrap metal" includes industrial metal scrap and new scrap metal.

(4) "Recyclable materials" means any type of discarded or waste material that is not regulated under section 25-8-205 (1)(e), C.R.S., and can be reused, remanufactured, reclaimed, or recycled, but not including recycled auto parts or excluded scrap metal that is being recycled, or scrap that is composed of worn out metal or a metal product that has outlived its original use, commonly referred to as obsolete scrap.

(5) "Recycling operation" means that part of a solid wastes disposal facility or a part of a general disposal facility at which recyclable materials may be separated from other materials for further processing.

(5.5) "Shredded circuit boards" means shredded electronic circuit boards that:

(a) Are stored in containers that are sufficient to prevent any release to the environment prior to recovery; and

(b) Do not contain mercury switches, mercury relays, nickel-cadmium batteries, or lithium batteries.

(5.8) "Solid and hazardous waste commission" means the solid and hazardous waste commission created in section 25-15-302, C.R.S.

(6) (a) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities.

(b) "Solid waste" does not include:

(I) Any solid or dissolved materials in domestic sewage;

(II) Agricultural wastes;

(III) Solid or dissolved materials in irrigation return flows;

(IV) Industrial discharges which are point sources subject to permits under the provisions of the "Colorado Water Quality Control Act", article 8 of title 25, C.R.S.;

(V) Materials handled at facilities licensed pursuant to the provisions on radiation control in article 11 of title 25, C.R.S.;

(VI) Exploration and production wastes, as defined in section 34-60-103, except as the exploration and production wastes may be deposited at a commercial solid waste facility;

(VII) Excluded scrap metal that is being recycled; or

(VIII) Shredded circuit boards that are being recycled.

(7) "Solid wastes disposal" means the storage, treatment, utilization, processing, or final disposal of solid wastes.

(8) "Solid wastes disposal site and facility" means the location and facility at which the deposit and final treatment of solid wastes occur.

(8.5) (Deleted by amendment, L. 2006, p. 1133, § 14, effective July 1, 2006.)

(9) "Transfer station" means a facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of containerized collection receptacle and placed into another or is processed for compaction.

(10) "Water quality control commission" means the water quality control commission created in section 25-8-201, C.R.S.

Source: L. 67: p. 759, § 1. **C.R.S. 1963:** § 36-23-1. **L. 71:** p. 340, §§ 1, 2. **L. 83:** (6) R&RE, p. 1239, § 1, effective July 1. **L. 91:** (2.5) and (2.7) added, p. 964, § 2, effective June 5. **L. 92:** (1.5) added and (7) and (9) amended, p. 1275, § 1, effective July 1. **L. 94:** (8.5) added, p. 32, § 1,

effective March 9; (2) amended, p. 2800, § 557, effective July 1. **L. 95:** (6) amended, p. 120, § 2, effective March 31. **L. 98:** (2.3), (2.6), (3.5), (3.7), (5.5), (6)(b)(VII), and (6)(b)(VIII) added and (6)(b)(V) amended, pp. 171, 172, §§ 2, 3, effective April 6; (3) amended, p. 1071, § 4, effective June 1; (4) amended, p. 880, § 5, effective July 1. **L. 2001:** (2.7) amended and (2.8) added, p. 1100, § 2, effective July 1. **L. 2006:** (8.5) amended and (5.8) and (10) added, p. 1133, § 14, effective July 1. **L. 2024:** (6)(b)(VI) amended, (HB 24-1346), ch. 216, p. 1344, § 18, effective May 21.

Editor's note: Subsection (5.8) was originally numbered as (5.5) in Senate Bill 06-171 but has been renumbered on revision for ease of location.

Cross references: (1) For definitions applicable to this part 1, see § 30-26-301 (2)(d).

(2) For the legislative declaration contained in the 1995 act amending subsection (6), see section 1 of chapter 42, Session Laws of Colorado 1995. For the legislative declaration contained in the 1998 act enacting subsections (2.3), (2.6), (3.5), (3.7), (5.5), (6)(b)(VII), and (6)(b)(VIII) and amending subsection (6)(b)(V), see section 1 of chapter 68, Session Laws of Colorado 1998. For the legislative declaration contained in the 1998 act amending subsection (4), see section 1 of chapter 236, Session Laws of Colorado 1998.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For article, "Synthetic Fuels — Policy and Regulation", see 51 U. Colo. L. Rev. 465 (1980).

Denver is a "person" subject to the provisions of the solid wastes act. City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

Applied in PII of Colo., Inc. v. District Court, 197 Colo. 239, 591 P.2d 1316 (1979).

30-20-101.5. Additional powers of the department - legislative declaration.

(1) The general assembly hereby finds and declares that a solid waste management program shall be created in and administered by the department and shall be implemented to protect human health and the environment in a manner that:

(a) Promotes a community ethic to reduce or eliminate waste problems;

(b) Is credible and accountable to the industry and the public;

(c) Is innovative and cost effective; and

(d) Protects the environmental quality of life for affected residents as required by the requirements of this part 1 and any rules promulgated in connection therewith.

(2) The department shall develop, implement, and continuously improve as necessary policies and procedures for carrying out its statutory responsibilities at the lowest possible cost while satisfying the legislative intent expressed in subsection (1) of this section. At a minimum, the policies and procedures shall, to the extent practicable, include the establishment of the following:

(a) Cost-effective level-of-effort guidelines for reviewing submittals, including without limitation permit applications and design and operation plans to assure conformity with regulatory requirements, taking into consideration the degree of risk addressed and the complexity of the issues raised;

(b) Cost-effective level-of-effort guidelines for performing inspections that focus on major violations of regulatory requirements that pose an immediate and significant threat to human health and the environment;

(c) Cost-effective level-of-effort guidelines for enforcement activity;

(d) Schedules for the timely completion of department activities including without limitation submittal reviews, inspections, and inspection reports;

(e) A prioritization methodology for completing activities that focuses on actual risk to human health and the environment;

(f) A preference for compliance assistance with at least ten percent of the annual budget amount of the program being allocated to compliance assistance efforts;

(g) A preference for alternative dispute resolution mechanisms to timely resolve disputed issues; and

(h) A mechanism that continuously assesses and provides incentives for further improvements and policies and procedures of the department.

(3) Notwithstanding section 24-1-136 (11)(a)(I), on or before February 1, 2008, and not later than February 1 of each year thereafter, the department shall submit a report to the standing committee of reference in each house of the general assembly exercising jurisdiction over matters concerning public health and the environment that describes the status of the solid waste management program, the department's efforts to satisfy its statutory responsibilities at the lowest possible cost while meeting the legislative intent specified in subsection (1) of this section, and the department's implementation of the authority to accept environmental covenants created pursuant to section 25-15-321.

Source: L. 2007: Entire section added, p. 1142, § 9, effective July 1. **L. 2017:** (3) amended, (SB 17-056), ch. 33, p. 96, § 14, effective March 16.

Cross references: For the short title "Recycling Resources Economic Opportunity Act" and legislative declaration contained in the 2007 act enacting this section, see sections 1 and 2 of chapter 278, Session Laws of Colorado 2007.

30-20-102. Unlawful to operate site and facility without certificate of designation - rules - exceptions.

(1) Except as otherwise specified in this section, a person who owns or operates a solid wastes disposal site and facility shall first obtain a certificate of designation from the governing body having jurisdiction over the area in which such site and facility is located.

(2) Except as otherwise specified in this section, solid wastes disposal by any person is prohibited except on or at a solid wastes disposal site and facility for which a certificate of designation has been obtained as provided in section 30-20-105.

(3) A person other than a governmental unit may dispose of the person's own solid wastes on the person's own property, as long as such solid wastes disposal site and facility complies with the rules of the solid and hazardous waste commission and does not constitute a public nuisance. For the purposes of this part 1, such solid wastes disposal site and facility shall be an approved site for which obtaining a certificate of designation under section 30-20-105 is unnecessary. This subsection (3) does not preclude any person from applying for a certificate of designation for the disposal of the person's own solid wastes on the person's own property.

(4) A person who is engaged in mining operations pursuant to a permit issued by the mined land reclamation board or office of mined land reclamation that contains an approved plan of reclamation may dispose of solid wastes generated by such operations within the permitted area for such operations. For the purposes of this part 1, such solid wastes disposal site and facility is an approved site for which obtaining a certificate of designation under section 30-20-105 is unnecessary.

(5) Any site and facility operated for the purpose of processing, reclaiming, or recycling recyclable materials shall not be considered a solid wastes disposal site and facility and shall not require a certificate of designation as a solid wastes disposal site and facility; except that, after an initial accumulation period specified by rule, such a site or facility shall maintain documentation that proves recyclable materials are being recycled at the site at a rate that approximately equals the rate at which recyclable materials are being collected. The solid and hazardous waste

commission shall promulgate rules to specify what time periods and volumes of recyclable materials constitute operations that qualify for this exemption and to define what materials shall be deemed to be recyclable materials for the purposes of this subsection (5); except that such rules shall not define the term "recyclable materials" to include materials that are likely to contaminate groundwater or create off-site odors as a result of processing, reclaiming, recycling, or storage prior to recycling. This subsection (5) does not apply to activities regulated under section 25-8-205 (1)(e), C.R.S.

(6) The final use for beneficial purposes, including fertilizer, soil conditioner, fuel, and livestock feed, of biosolids that have been processed and certified or designated as meeting all applicable rules of the solid and hazardous waste commission and the department of agriculture does not require a certificate of designation for such final use. In addition, the use of manure as a fertilizer or soil conditioner or the composting on the site of generation of manure with other compatible materials necessary for effective composting as part of a standard agricultural practice does not require a certificate of designation.

(7) A transfer station shall not be deemed to be a solid wastes disposal site and facility and shall not require a certificate of designation as a solid wastes disposal site and facility. The department shall promulgate regulations establishing health and safety standards for the operation of transfer stations.

(7.5) (a) On or after August 8, 2012, a governing body having jurisdiction shall not require a certificate of designation for waste impoundments or other solid wastes disposal operations of drinking water treatment residuals generated on-site at a drinking water treatment facility. A certificate of designation for waste impoundments or other solid wastes disposal operations of drinking water treatment residuals generated on-site at a drinking water treatment facility issued before August 8, 2012, is voidable at the option of the facility.

(b) A drinking water treatment facility that does not require a certificate of designation pursuant to paragraph (a) of this subsection (7.5) shall comply with the rules of the solid and hazardous waste commission for waste impoundments and solid wastes disposal.

(c) Nothing in paragraph (a) or (b) of this subsection (7.5) limits the application of other local government land use regulations to waste impoundments or solid wastes disposal operations at a drinking water treatment facility.

(8) The solid and hazardous waste commission, by rule, may specify types of composting facilities, by size, volume, or other suitable criteria that provide equivalent protection of public health and the environment that would not be required to obtain a certificate of designation.

Source: L. 67: p. 759, § 2. **C.R.S. 1963:** § 36-23-2. **L. 71:** p. 341, § 3. **L. 76:** (3) added, p. 694, § 1, effective April 19. **L. 77:** (1) amended, p. 286, §§ 56, 57, effective July 1. **L. 79:** (1.5)

added, p. 1148, § 1, effective July 1. **L. 81:** Entire section amended, p. 1358, § 2, effective July 1. **L. 83:** (2) amended, p. 1239, § 2, effective July 1. **L. 89:** (5) amended, p. 1282, § 1, effective July 1. **L. 91:** (1) and (2) amended, p. 965, § 3, effective June 5. **L. 92:** (1) amended, p. 2177, § 37, effective June 2; (4) amended, p. 1971, § 77, effective July 1; (5) amended and (7) added, p. 1275, § 2, effective July 1. **L. 94:** (3) and (6) amended, p. 32, § 2, effective March 9. **L. 98:** (5) and (6) amended and (8) added, p. 881, § 6, effective July 1. **L. 2006:** (3), (5), (6), and (8) amended, p. 1133, § 15, effective July 1. **L. 2012:** (1), (2), (3), (4), and (6) amended and (7.5) added, (HB 12-1078), ch. 48, p. 177, § 1, effective August 8.

Editor's note: (1) Subsection (7) was originally numbered as (6) in Senate Bill 92-130 but has been renumbered on revision for ease of location.

(2) Section 2 of chapter 48, Session Laws of Colorado 2012, provides that the act amending subsections (1), (2), (3), (4), and (6) and adding (7.5) applies to solid wastes impounded or disposed of before, on, or after August 8, 2012.

ANNOTATION

Private parties who are adversely affected or aggrieved have standing to seek judicial review of the department's action. Nat'l Wildlife Fed'n v. Cotter Corp., 665 P.2d 598 (Colo. 1983).

30-20-102.5. Requirement for certificate of designation deemed satisfied - when.

A certificate of designation for a hazardous waste disposal site issued pursuant to article 15 of title 25, C.R.S., shall be deemed to satisfy any requirement for a certificate of designation imposed by this part 1.

Source: L. 81: Entire section added, p. 1359, § 3, effective July 1.

30-20-103. Application for certificate.

(1) Any person desiring to own or operate a solid wastes disposal site and facility shall make application to the governing body having jurisdiction over the area in which such site and facility is or is proposed to be located for a certificate of designation. Such application shall be accompanied by a fee to be established by the governing body having jurisdiction, which fee shall be based on the anticipated costs that may be incurred by such governing board in the

application review and approval process and shall not be refundable. The application shall set forth the location of the site and facility; the type of site and facility; the type of processing to be used, such as sanitary landfill, composting, or incineration; the hours of operation; the method of supervision; the rates to be charged, if any; and such other information as may be required by the governing body having jurisdiction over the area. The application shall also contain such engineering, geological, hydrological, and operational data as may be required by the department by rule. All such applications shall be referred to the department for review and for recommendation as to approval or disapproval, which shall be based upon criteria established by the solid and hazardous waste commission, the water quality control commission, and the air quality control commission. Such review and recommendation of an application by the department shall include a technical review of the environmental and public health issues provided in section 30-20-110 that are raised by the proposed site and facility. As a part of the department's review of an application for a solid wastes site and facility, the department shall provide a period of not less than thirty days during which members of the public may review and make comments concerning such application.

(2) Upon receiving an application for a solid wastes disposal site and facility, the department shall perform an initial examination to establish the completeness of the information submitted. Such initial examination shall be completed within thirty days after the department receives such application. The department shall mail written notification to the applicant within such time period of the department's decision either to begin its review of such application or to reject such application because of incompleteness.

(3) After the initial approval of an application pursuant to the provisions of subsection (2) of this section, the department shall determine whether it shall complete the review of the application or whether it shall offer the applicant the option of having such application reviewed by a private contractor. Such determination shall be made pursuant to the provisions of section 30-20-103.7 (1). If the department reviews such application, the department shall complete such review within one hundred fifty days after the date of issuance of its initial approval of such application.

Source: L. 67: p. 759, § 3. **C.R.S. 1963:** § 36-23-3. **L. 71:** p. 341, § 4. **L. 79:** Entire section amended, p. 1059, § 7, effective June 20. **L. 84:** Entire section amended, p. 819, § 1, effective July 1. **L. 91:** Entire section amended, p. 965, § 4, effective June 5; entire section amended, p. 955, § 1, effective July 1. **L. 2006:** (1) amended, p. 1134, § 16, effective July 1.

Editor's note: Amendments to this section by Senate Bill 91-168 and Senate Bill 91-174 were harmonized.

ANNOTATION

Applied in City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-103.5. Existing solid wastes disposal sites and facilities - application procedures.

Except as specified in section 30-20-109 (1.5), no existing solid wastes disposal site and facility that is operating pursuant to a valid certificate of designation shall be deemed to be in violation of any provision of this part 1 because of any failure to comply with application procedures that are enacted after the issuance of such certificate of designation.

Source: L. 91: Entire section added, p. 966, § 5, effective June 5. **L. 2008:** Entire section amended, p. 2170, § 3, effective June 4.

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 421, Session Laws of Colorado 2008.

30-20-103.7. Review of applications by private contractors.

(1) (a) Upon issuing an initial approval of an application for a solid wastes disposal site and facility under the provisions of section 30-20-103 (2), the department shall determine whether it will be able to complete review of such application within one hundred fifty days. If the department determines that it is capable of completing the review within the required time period, it shall commence review under the provisions of section 30-20-103. If the department determines that it cannot complete the review of an application within such time period, the department shall offer the applicant the option of having such application reviewed by a private contractor within one hundred fifty days or having such application reviewed by the department. If the applicant chooses to have such application reviewed by the department, the department shall not be required to complete its review within the one-hundred-fifty-day time period.

(b) A county shall not reject an application for a solid wastes disposal site and facility solely because the review of such application was performed by a private contractor under the provisions of this section.

(2) (a) The department shall maintain a register of private contractors to review applications for solid wastes disposal sites and facilities. The department is hereby authorized to contract with

such private contractors pursuant to the provisions of part 14 of article 30 of title 24, C.R.S., for inclusion on such register. Any such contract shall be between the department and the private contractor. An applicant shall be responsible for the fee charged by a private contractor for the review of such applicant's application, but shall not be a party to such contract. The department shall contract with a sufficient number of private contractors to allow reassignment of an application if it is necessary to disqualify one or more private contractors because of conflicts of interest or other reasons.

(b) If the department assigns an application to a private contractor under the provisions of this section, such private contractor shall provide the department and the applicant with the fee schedule of such private contractor and with an estimate of the fee to be charged for the review of such application.

(c) Upon being notified of the identity of the assigned private contractor and upon receiving such private contractor's fee schedule and estimated fee, an applicant has the option to allow the application review to commence or to reject the private contractor. If such applicant rejects a private contractor, the department shall assign a second private contractor. If such applicant rejects the second private contractor, the department shall review such applicant's application, but the department shall not be required to complete such review within the one-hundred-fifty-day time period.

(d) The review of an application for a solid wastes disposal site and facility by a private contractor shall be based upon the same criteria as is used by the department of public health and environment under the provisions of section 30-20-103.

(e) During the review period for an application, a private contractor shall contact the applicant and the department concerning any problems such private contractor finds in such application and shall offer the applicant an opportunity to provide such materials or explanations as the private contractor determines are necessary to complete review of such application or to make necessary amendments to such application.

(3) Any moneys which are collected by the department from solid wastes disposal site and facility applicants in payment for private contractor application review fees shall be transmitted to the state treasurer, who shall credit the same to the solid waste management fund created in section 30-20-118. Such moneys collected for the fees charged by private contractors shall be annually appropriated by the general assembly to the department for the sole purpose of transferring such fees to such private contractors in payment for their services.

Source: L. 91: Entire section added, p. 956, § 2, effective July 1. **L. 94:** (2)(d) amended, p. 2800, § 558, effective March 9.

30-20-104. Factors to be considered.

(1) In considering an application for a proposed solid wastes disposal site and facility, the governing body having jurisdiction shall take into account:

(a) The effect that the solid wastes disposal site and facility will have on the surrounding property, taking into consideration the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;

(b) The convenience and accessibility of the solid wastes disposal site and facility to potential users;

(c) The ability of the applicant to comply with the health standards and operating procedures provided for in this part 1 and such rules and regulations as may be prescribed by the department;

(d) Recommendations by county, district, or municipal public health agencies.

(2) Except as provided in this part 1, designation of approved solid wastes disposal sites and facilities shall be discretionary with the governing body having jurisdiction, subject to judicial review by the district court of appropriate jurisdiction.

(3) (a) Prior to the issuance of a certificate of designation, the governing body having jurisdiction shall require that the report, which shall be submitted by the applicant under section 30-20-103, be reviewed and a recommendation as to approval or disapproval be made by the department and shall be satisfied that the proposed solid wastes disposal site and facility conforms to the local government's comprehensive land use plan and zoning restrictions, if any. Any technical conditions of approval made by the department in its final report shall be incorporated as requirements in the certificate of designation. The application, report of the department, comprehensive land use plan, relevant zoning ordinances, and other pertinent information shall be presented to the governing body having jurisdiction at a public hearing to be held after notice. Such notice shall contain the time and place of the hearing, shall state that the matter to be considered is the applicant's proposal for a solid wastes disposal site and facility, shall provide a description of such proposed site and facility, and shall provide a description of the geographic area that is within three miles of such proposed site and facility. The notice shall be published in a newspaper having general circulation in the county or municipality in which the proposed solid wastes disposal site and facility is located at least ten but no more than thirty days prior to the date of the hearing. In addition, the notice of such public hearing shall be posted at a conspicuous point in at least one location at the offices of the governing body having jurisdiction and in at least one location at the proposed site. Such notice shall be posted for a period beginning at least thirty days before the public hearing and continuing through the date of such hearing.

(b) At the public hearing held pursuant to the provisions of this subsection (3), the governing body shall hear any written or oral testimony presented by governmental entities and residents concerning such proposed site or facility. All such testimony shall be considered by the governing body having jurisdiction in making a decision concerning such application. For the purposes of this subsection (3), "residents" means all individuals who reside within the geographic area controlled by the governing body having jurisdiction or within three miles of the proposed site and facility or who own property which lies within three miles of such proposed site and facility without regard to which county or municipality such individuals reside within.

Source: L. 67: p. 760, § 4. **C.R.S. 1963:** § 36-23-4. **L. 71:** p. 341, § 5. **L. 91:** Entire section amended, p. 966, § 6, effective June 5. **L. 98:** (3)(a) amended, p. 881, § 7, effective July 1. **L. 2010:** (1)(d) amended, (HB 10-1422), ch. 419, p. 2119, § 164, effective August 11.

ANNOTATION

Quasi-judicial action must be preceded by reasonable notice. Under the solid wastes act (§§ 30-20-101 through 30-20-116), quasi-judicial action by county commissioners must be preceded by reasonable notice. City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

Proper notice of quasi-judicial agency action must reasonably describe the subject matter of the hearing, any charges to be considered, and the action contemplated. City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

Solid Wastes Act provides a local government with authority to regulate disposal sites, incidental to which may be inferred the authority to delay the approval of permits for certificates of designation while guidelines and regulations are being developed. Dill v. Bd. of County Comm'rs of Lincoln County, 928 P.2d 809 (Colo. App. 1996).

30-20-104.5. Closure and postclosure care estimates - corrective action cost estimates - financial assurance requirements - rules.

(1) The solid and hazardous waste commission shall promulgate rules that implement financial assurance requirements for the final closure of solid wastes disposal sites and facilities, the conduct of postclosure care for such sites and facilities, and the undertaking of any corrective action made necessary by the migration of contaminants from such sites and facilities into groundwater. Such rules shall include, but are not limited to, the following requirements:

(a) That the owner or operator of any solid wastes disposal site and facility shall maintain:

(I) A detailed written estimate of the cost of hiring a third party to close the largest area of such site and facility which has or will require a cover during the active life of such site and facility; and

(II) A detailed written estimate of the cost of hiring a third party to conduct postclosure care at such site and facility;

(b) That the owner or operator of any solid wastes disposal site and facility that is required to undertake a corrective action program pursuant to the requirements of subpart E of the federal regulations promulgated pursuant to the provisions of subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended, shall maintain a detailed written estimate of the cost of hiring a third party to perform such corrective action;

(c) That the owner or operator of any solid wastes disposal site and facility shall notify the department when the cost estimates required by paragraphs (a) and (b) of this subsection (1) have been placed in the operating file for such site and facility;

(d) That the owner or operator of any solid wastes disposal site and facility shall:

(I) Express the cost estimates required by paragraphs (a) and (b) of this subsection (1) in current dollars;

(II) Annually adjust such cost estimates to account for inflation; and

(III) Increase such cost estimates under the following circumstances:

(A) The cost estimate for the cost of hiring a third party to close such site and facility maintained pursuant to the provisions of subparagraph (I) of paragraph (a) of this subsection (1) shall be increased if changes to the closure plan for such site and facility or changes in the conditions of such site and facility increase the maximum cost of closure at any time during the remaining active life of such site and facility.

(B) The cost estimate for the cost of hiring a third party to conduct postclosure care for such site and facility maintained pursuant to the provisions of subparagraph (II) of paragraph (a) of this subsection (1) shall be increased if changes to the postclosure plan for such site and facility or changes in the conditions of site and facility increase the maximum cost of postclosure care for such site and facility.

(C) The cost estimate, if any, for the cost of hiring a third party to undertake corrective action for such site and facility maintained pursuant to the provisions of paragraph (b) of this subsection (1) shall be increased if changes in the corrective action program for such site and facility or changes in the conditions of such site and facility increase the maximum cost of corrective action for such site and facility.

(e) That the owner or operator of any solid wastes disposal site and facility shall comply with the financial assurance requirements mandated by the rules of the solid and hazardous waste commission promulgated pursuant to subsection (3) of this section.

(2) The owner or operator of a solid wastes disposal site and facility may reduce the amount of a cost estimate maintained pursuant to the provisions of paragraph (a) or (b) of subsection (1) of this section if such cost estimate exceeds the maximum cost of completing the actions contemplated by such cost estimate.

(3) (a) The solid and hazardous waste commission shall promulgate rules that require the owner or operator of a solid wastes disposal site and facility to establish sufficient financial assurance to pay for the cost estimates required by paragraphs (a) and (b) of subsection (1) of this section. No solid wastes disposal site and facility shall operate without being in compliance with the financial assurance requirements contained in such rules. Such rules shall include, but shall not be limited to, provisions that define the mechanisms that may be used by the owner or operator of a solid wastes disposal site and facility to establish sufficient financial assurance pursuant to this section. The mechanisms to establish financial assurance that are defined by the commission shall include, but are not limited to, those mechanisms authorized by the federal regulations promulgated pursuant to subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended.

(b) (I) The sufficiency of the financial assurance provided pursuant to the provisions of paragraph (a) of this subsection (3) for any proposed solid wastes disposal site and facility shall be reviewed as part of the department's review of the application for such proposed site and facility pursuant to the provisions of this section.

(II) The sufficiency of the financial assurance provided pursuant to the provisions of paragraph (a) of this subsection (3) for any solid wastes disposal site and facility that is in existence at the time the applicable regulations of the department become effective shall be reviewed pursuant to the procedures established by the department. Such review may be performed either by the department or by a private contractor hired by the department for the purpose of completing such review. The department is authorized to impose a fee for any such review that is performed by the department; except that such fee shall not exceed the actual documented costs incurred by the department in the performance of such review. Except as otherwise provided in this section, any such review that is performed by a private contractor shall be conducted pursuant to the provisions of section 30-20-103.7.

(3.5) The department, pursuant to the provisions of part 14 of article 30 of title 24, C.R.S., is authorized to contract with one or more private contractors for the purpose of conducting the third-party closure, postclosure care, or corrective action at a solid waste facility as may be necessary. The department is authorized to expend such moneys for closure, postclosure care, or corrective action as is made available to the department by operation of law from the financial assurance mechanisms provided by the owner or operator of the solid wastes site and facility.

Any such contract shall be between the department and the private contractor. The owner or operator shall not be a party to such contract. The department may disallow a contractor because of conflicts of interest or other reasons. The department may contract with the governing body that issued the certificate of designation to conduct such closure, postclosure care, or corrective action.

(4) The rules promulgated by the solid and hazardous waste commission pursuant to this section shall comply with the federal regulations promulgated pursuant to subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended. Such rules shall require that all solid wastes disposal sites and facilities be fully in compliance with such rules by the date established in the federal "Resource Conservation and Recovery Act of 1976", as amended, and its regulations.

Source: L. 92: Entire section added, p. 1276, § 3, effective July 1. **L. 94:** (4) amended, p. 33, § 3, effective March 9. **L. 98:** (3.5) added, p. 882, § 8, effective July 1. **L. 2006:** IP(1), (1)(e), (3)(a), and (4) amended, p. 1135, § 17, effective July 1.

30-20-105. Certificate - state financial assurance requirements.

(1) If the governing body having jurisdiction deems that a certificate of designation should be granted to the applicant, it shall issue the certificate, and such certificate shall be displayed in a prominent place at the site and facility. Such governing body shall not issue a certificate of designation if the department has recommended disapproval pursuant to section 30-20-103.

(2) No governing body having jurisdiction shall require an applicant for a certificate of designation to obtain any financial assurance mechanism or amount in addition to that required by the provisions of section 30-20-104.5.

(3) The department, on behalf of the solid and hazardous waste commission, shall consult the governing body having jurisdiction prior to the promulgation of the rules called for in this section and prior to accepting a financial assurance. The recommendations of such governing body shall be considered in formulating the rules and establishing the amount of financial assurance to be posted.

Source: L. 67: p. 760, § 5. **C.R.S. 1963:** § 36-23-5. **L. 71:** p. 342, § 6. **L. 91:** Entire section amended, p. 967, § 7, effective June 5. **L. 92:** Entire section amended, p. 1279, § 4, effective July 1; (2) amended, p. 2187, § 71, effective July 1. **L. 2006:** (3) amended, p. 1135, § 18, effective July 1.

ANNOTATION

Applied in PII of Colo., Inc. v. District Court, 197 Colo. 239, 591 P.2d 1316 (1979).

30-20-106. Private disposal prohibited - when. (Repealed)

Source: L. 67: p. 760, § 6. **C.R.S. 1963:** § 36-23-6. **L. 71:** p. 343, § 7. **L. 81:** Entire section repealed, p. 1360, § 7, effective July 1.

30-20-107. Designation of exclusive sites and facilities.

The governing body of any county or municipality may by ordinance designate and approve one or more solid wastes disposal sites and facilities, either within or without its corporate limits, if designated and approved by the governing body having jurisdiction, as its exclusive solid wastes disposal site and facility or sites and facilities, and thereafter each such site and facility shall be used by such county or municipality for the disposal of its solid wastes; but, prior to any such designation and approval, such governing body shall hold a public hearing to review the disposal method to be used and the fees to be charged, if any.

Source: L. 67: p. 760, § 7. **C.R.S. 1963:** § 36-23-7. **L. 71:** p. 343, § 8. **L. 91:** Entire section amended, p. 967, § 8, effective June 5.

30-20-107.5. Operation of landfill gas facilities within solid wastes disposal sites and facilities.

The governing body of any municipality or county shall have the authority to make such provisions as may be necessary for the operation of landfill gas facilities within any solid wastes disposal site or facility under its jurisdiction to enable the municipality or county to exercise its powers relating to landfill gas operations under sections 30-11-307 and 31-15-716, C.R.S.

Source: L. 80: Entire section added, p. 653, § 4, effective July 1.

30-20-108. Contracts with governmental units authorized.

(1) An approved solid wastes disposal site and facility may be operated by any person pursuant to contract with any governmental unit.

(2) Any municipality or county acting by itself or in association with any other such governmental unit may establish and operate an approved site and facility under such terms and conditions as may be approved by the governing bodies of the governmental units involved.

(3) Any county or municipality acting by itself or in association with any other such governmental unit may acquire by condemnation such sites as are needed for trash disposal purposes.

Source: L. 67: p. 760, § 8. **C.R.S. 1963:** § 36-23-8. **L. 71:** p. 343, § 9. **L. 91:** (2) and (3) amended, p. 968, § 9, effective June 5.

ANNOTATION

Operation of site through contract under governmental unit's certificate. A governmental unit which has received a certificate of designation for an "approved solid wastes disposal site and facility", may then operate that site and facility through contract under the governmental unit's certificate, as long as the site and facility comply with the solid wastes act (§§ 30-20-101 through 30-20-116). City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-109. Commission to promulgate rules - definitions.

(1) The solid and hazardous waste commission shall promulgate rules for the engineering design and operation of solid wastes disposal sites and facilities, which may include:

(a) The establishment of engineering design criteria applicable, but not limited, to protection of surface and subsurface waters, suitable soil characteristics, distance from solid wastes generation centers, access routes, distance from water wells, disposal facility on-site traffic control patterns, insect and rodent control, methods of solid wastes compaction in the disposal fill, confinement of windblown debris, recycling operations, fire prevention, and final closure of the compacted fill;

(b) The establishment of criteria for solid wastes disposal sites and facilities which will place into operation the engineering design for such disposal sites and facilities;

(c) (Deleted by amendment, L. 91, p. 958, § 3, effective July 1, 1991.)

(d) The establishment of a reviewing fee to be charged by the department for the review of any written recommendation and findings of a private contractor who has acted in lieu of the department to review an application for a solid wastes disposal site and facility under the provisions of section 30-20-103.7 for compliance with the state's requirements. Such fee shall not exceed actual and reasonable costs and shall not exceed five thousand dollars.

(e) The establishment of a fee for the technical review described in section 30-20-119 (2), which fee shall not exceed ten thousand dollars, or the actual cost of such technical review.

(1.5) (a) As used in this subsection (1.5):

(I) "EP waste" means exploration and production waste, as that term is defined in section 34-60-103, C.R.S.

(II) "EP waste disposal facility" means a commercial solid wastes disposal site and facility that accepts the deposit of EP waste.

(b) The solid and hazardous waste commission shall promulgate rules that are specifically applicable to the deposit of EP waste at an EP waste disposal facility. The rules shall include the following:

(I) Mandatory set-backs of EP waste disposal facilities of one-half mile from all residences, educational facilities, day care centers, hospitals, nursing homes, jails, hotels, motels, other occupied structures, or outside activity areas such as parks and playing fields as designated in the rules;

(II) Mandatory fabricated liners and monitoring requirements as necessary to prevent the migration of EP waste to groundwater;

(III) Waste analysis and reporting requirements to ensure that only EP waste is disposed of at an EP waste disposal facility;

(IV) Fencing and netting requirements to prevent the public and wildlife from accessing EP waste disposal facilities;

(V) Contingency plans to respond to emergencies, including adequate freeboard, overflow ponds, or both; and

(VI) Financial assurance requirements that are adequate to cover closure and reclamation costs.

(c) Except as provided in paragraph (e) of this subsection (1.5), an EP waste disposal facility that accepted EP waste on or before June 4, 2008, and that had not begun closure by June 4, 2008, shall:

(I) File an application pursuant to section 30-20-103 within three months after the rules promulgated pursuant to this subsection (1.5) become effective with the governing body having

jurisdiction to amend the facility's certificate of designation to incorporate the requirements specified in the rules; and

(II) Comply with the rules promulgated pursuant to this subsection (1.5) within twenty-four months after they become effective, unless the EP waste disposal facility demonstrates to the department no later than eighteen months after the rules become effective why it cannot timely comply with the rules and the department agrees to a compliance schedule. In such case, the department may extend the compliance deadline to no more than thirty-six months after the rules become effective; except that nothing in this subsection (1.5) shall be deemed to:

(A) Require an EP waste disposal facility that lawfully accepted EP waste on or before June 4, 2008, to comply with the set-back requirements of this subsection (1.5); or

(B) Place an EP waste disposal facility into noncompliance because of an alleged violation of a set-back requirement of this subsection (1.5) due solely to the fact that a residential or other occupied structure or a designated outside activity area is established within the set-back distance on or after issuance of the certificate of designation pursuant to this subsection (1.5).

(d) The department shall:

(I) Coordinate with the energy and carbon management commission created in section 34-60-104.3 (1), governing bodies having jurisdiction, and the federal bureau of land management to identify potential EP waste disposal sites that are located reasonably close to oil and gas operation areas on either federal or nonfederal land and that meet the set-back requirements of this subsection (1.5); and

(II) To the extent practicable, encourage governing bodies having jurisdiction and the federal bureau of land management to approve the siting of EP waste disposal sites at locations identified pursuant to this paragraph (d) when so requested by a commercial operator.

(e) (I) Upon the recommendation of the department, the solid and hazardous waste commission may waive, for individual impoundments, the requirement imposed pursuant to paragraph (c) of this subsection (1.5) that an EP waste disposal facility that accepted EP waste on or before June 4, 2008, but had not begun closure by that date, must install fabricated liners. The department may recommend a waiver only if all of the following conditions are met:

(A) There have been no unpermitted discharges to groundwater or surface water from the operation of the facility;

(B) Each impoundment for which a waiver is requested is located more than one thousand feet from any public or private water well or surface water;

(C) The owner or operator complies with mandatory monitoring and reporting requirements as determined by the department, including, but not limited to, individual impoundment leak detection monitoring; and

(D) The owner or operator is not subject to any outstanding compliance orders or enforcement actions with regard to the design, operation, or closure of the facility.

(II) If, at any time, the department determines that one or more of the conditions specified in subparagraph (I) of this paragraph (e) are no longer met, the department may bring the relevant information to the solid and hazardous waste commission with a recommendation to rescind the waiver of the requirement to install fabricated liners. If the solid and hazardous waste commission determines that one or more of the conditions are no longer being met, the solid and hazardous waste commission may rescind the waiver and instruct the department to establish a compliance schedule for the owner or operator to install fabricated liners.

(2) The solid and hazardous waste commission may promulgate rules concerning:

(a) The establishment of an initial examination of each application for a solid wastes disposal site and facility to establish the completeness of the information submitted. Such initial examination shall be completed within thirty days after the department receives such application, and the department shall mail written notification to an applicant and to the governing body having jurisdiction within such time period stating the decision of the department to begin its review of such application or to reject the application based on incompleteness.

(b) The establishment of a fee for the review of solid wastes disposal site and facility submittals and the preoperation inspection for such site and facility, for the attendance of department staff at public meetings and associated activities, and for the assessment of remediation activities concerning closed or old disposal sites or spill and incident clean-ups. The total fee charged for the review of an application or amendments to an application shall not exceed the actual documented costs incurred by the department in the performance of these activities and shall be subject to the maximum levels established in accordance with the provisions of subsection (2.5) of this section. Such review shall be completed within one hundred fifty days from date of issuance of the department's decision to begin its review. Moneys from the collection of such fees shall be credited to the solid waste management fund pursuant to the provisions of section 30-20-118. Such moneys shall be used solely to support the application review process and to support the staff of the department involved with such process.

(c) (Deleted by amendment, L. 98, p. 882, § 9, effective July 1, 1998.)

(d) The establishment of criteria for composting sites and facilities for which a certificate of designation is not required under section 30-20-102 (8).

(2.5) The solid and hazardous waste commission shall promulgate rules pertaining to the assessment of annual fees and document review and activity fees to offset program costs from solid waste disposal sites and facilities in accordance with the following requirements:

(a) Annual fees shall be established for solid waste disposal sites and facilities that are not required to pay solid waste user fees imposed pursuant to section 25-16-104.5, C.R.S. The fee

imposed by this paragraph (a) shall not exceed five thousand dollars per year per facility; except that a monofill facility that contains coal combustion products shall be exempt from the fee imposed by this paragraph (a). The annual fee shall be uniform among owners of the same type of, and similarly sized, facility and shall consider the department's level of effort in regulating the facilities.

(b) The hourly charge for the document review and activity fees shall be established at a rate comparable to industry rates for performing similar tasks with maximum levels on document review and activity fees that reflect timely and cost-effective reviews.

(c) The department shall provide a receipt for the fees paid pursuant to this subsection (2.5), shall transmit such payments to the state treasurer, and accept the state treasurer's receipt in return for the payments transmitted. The state treasurer shall credit one hundred percent of the fees transmitted pursuant to this paragraph (c) to the solid waste management fund created in section 30-20-118 (1) to be used by the department in carrying out its duties and responsibilities concerning solid waste management.

(2.7) If the department determines that a site or facility is or has been subject to payment of the annual fee requirements pursuant to subsection (2.5) of this section and has not paid any portion of the amount of fees due and owing, in addition to any other remedies the department may have in such circumstances as provided by law, the department may assess the site or facility an additional fee to offset program costs caused by the site or facility, which additional fee shall be equivalent to double the amount of the estimated annual fee, without interest, that the site or facility would have paid the department if the fee had been paid as required by law.

(3) Any applicant aggrieved by a recommendation of the department concerning an application for a solid wastes disposal site and facility shall be entitled to a hearing and review pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(4) (a) Any and all rules promulgated by the department of public health and environment prior to the transfer of its rule-making authority under this section to the state board of health shall remain in full force and effect after the date of such transfer.

(b) All acts, orders, and rules adopted by the state board of health under the authority of this part 1 prior to July 1, 2006, that were valid prior to said date and not otherwise subject to judicial review shall, to the extent that they are not inconsistent with said part, be deemed and held to be legal and valid in all respects, as though issued by the solid and hazardous waste commission under the authority of this part 1. No provision of this part 1 shall be construed to validate any actions, orders, or rules that were not valid when adopted by the board of health prior to such date.

Source: L. 67: p. 761, § 9. **C.R.S. 1963:** § 36-23-9. **L. 71:** p. 343, § 10. **L. 85:** (1)(c) added, p. 1065, § 1, effective July 1. **L. 91:** Entire section amended, p. 968, § 10, effective June 5; (1)(c) amended and (1)(d) and (2) added, pp. 958, 954, §§ 3, 2, 4, effective July 1. **L. 93:** (1)(d) amended, p. 475, § 1, effective April 21. **L. 94:** IP(1), IP(2), and (2)(c)(I) amended and (4) added, p. 33, § 4, effective March 9; (2)(c)(I) and (4) amended, pp. 2616, 2620, 2800, §§ 26, 33, 559, effective July 1. **L. 95:** IP(2) and (2)(c) amended, p. 156, § 1, effective July 1. **L. 96:** (2)(c)(I) amended, p. 33, § 1, effective March 18. **L. 98:** (1)(d), IP(2), (2)(b), and (2)(c) amended and (2)(d) added, p. 882, § 9, effective July 1. **L. 2006:** IP(1), IP(2), and (4) amended, p. 1136, § 19, effective July 1. **L. 2007:** (1)(d) and (2)(b) amended and (2.5) and (2.7) added, p. 1144, § 10, effective July 1. **L. 2008:** (1.5) added, p. 2168, § 2, effective June 4. **L. 2009:** IP(1.5)(c) amended and (1.5)(e) added, (HB 09-1056), ch. 301, p. 1607, § 3, effective May 21. **L. 2023:** (1.5)(d)(I) amended; (SB 23-285), ch. 235, p. 1255, § 32, effective July 1.

Editor's note: Amendments to this section by Senate Bill 91-160, Senate Bill 91-168, and Senate Bill 91-174 were harmonized. Amendments to subsection (2)(c)(I) by House Bill 94-1077 and House Bill 94-1029 were harmonized.

Cross references: (1) In 2007, subsections (1)(d) and (2)(b) were amended by the "Recycling Resources Economic Opportunity Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 278, Session Laws of Colorado 2007.

(2) For the legislative declaration contained in the 2008 act enacting subsection (1.5), see section 1 of chapter 421, Session Laws of Colorado 2008.

ANNOTATION

Applied in City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-110. Minimum standards.

(1) The rules promulgated by the solid and hazardous waste commission and implemented by the department shall contain the following minimum standards:

(a) Such sites and facilities shall be located, operated, and maintained in a manner so as to control obnoxious odors and prevent rodent and insect breeding and infestation, and they shall be kept adequately covered during their use.

(b) Such sites and facilities shall comply with the health laws, standards, rules, and regulations of the department, the water quality control commission, and all applicable zoning laws and ordinances.

(c) No radioactive materials or materials contaminated by radioactive substances shall be disposed of in sites or facilities not specifically designated for that purpose.

(d) A site and facility operated as a sanitary landfill shall provide means of finally disposing of solid wastes on land in a manner to minimize nuisance conditions such as odors, windblown debris, insects, rodents, and smoke; and shall provide compacted fill material; shall provide adequate cover with suitable material and surface drainage designed to prevent ponding and water and wind erosion and prevent water and air pollution; and, upon being filled, shall be left in a condition of orderliness and good esthetic appearance and capable of blending with the surrounding area. In the operation of such a site and facility, the solid wastes shall be distributed in the smallest area consistent with handling traffic to be unloaded; shall be placed in the most dense volume practicable using moisture and compaction or other method approved by the department; shall be fire, insect, and rodent resistant through the application of an adequate layer of inert material at regular intervals; and shall have a minimum of windblown debris which shall be collected regularly and placed into the fill.

(e) Sites and facilities shall be adequately fenced so as to prevent waste material and debris from escaping therefrom, and material and debris shall not be allowed to accumulate along the fence line.

(f) Solid wastes deposited at any site and facility shall not be burned, other than by incineration in accordance with a certificate of designation issued pursuant to section 30-20-105; except that, in extreme emergencies resulting in the generation of large quantities of combustible materials, authorization for burning under controlled conditions may be given by the department.

(g) All facilities shall have a waste characterization plan approved by the department that is consistent with the certificate of designation for the facility. The plan shall outline screening methodologies and waste handling procedures and shall include a hazardous waste exclusion plan.

(h) Material that is beneficially used shall be incorporated into the soil in the shortest time frame that is practicable, allowing for weather conditions. Materials that may be beneficially used under this section may not be stockpiled for long periods or used in such a manner that the material constitutes a public nuisance.

(i) Minimum standards for facilities that do not need a certificate of designation under section 30-20-102 (5) shall include an annual report of quantities of materials managed at the site.

(j) Such minimum standards shall require the reporting, documentation, or remediation of spills at illegal disposal sites, abandoned disposal sites, or contaminated sites.

(2) Any provision of section 25-7-108, C.R.S., to the contrary notwithstanding, the board of county commissioners in any county with less than twenty-five thousand population, according to the latest federal census, and any municipality within a county which county has a population under ten thousand and subject to approval of the board of county commissioners, is authorized to develop regulations, by resolution or ordinance, permitting the noncommercial burning of trash in the unincorporated area and, if appropriate, the incorporated areas of said county; except that no permit shall be issued which shall allow the county, or municipality if appropriate, to exceed primary and secondary ambient air quality standards as prescribed by federal laws and regulations adopted pursuant thereto, or which would contribute to any other county or municipality exceeding primary or secondary ambient air quality standards as prescribed by federal laws and regulations adopted pursuant thereto.

(3) As used in subsection (2) of this section, "noncommercial burning of trash" includes the burning of wood waste in wigwam wood waste burners.

Source: L. 67: p. 761, § 10. **C.R.S. 1963:** § 36-23-10. **L. 71:** p. 344, § 11. **L. 79:** (3) added, p. 1059, § 8, effective June 20; (1)(f) amended and (2) added, p. 1148, § 2, effective June 29. **L. 81:** IP(1) amended, p. 1359, § 4, effective June 19. **L. 89:** (2) amended, p. 1284, § 1, effective April 12. **L. 98:** IP(1) amended and (1)(g) to (1)(j) added, p. 884, § 10, effective July 1. **L. 2006:** IP(1) amended, p. 1136, § 20, effective July 1.

Cross references: For the "Colorado Air Pollution Prevention and Control Act", see article 7 of title 25; for water quality control, see article 8 of title 25.

ANNOTATION

Noncommercial burning may not be authorized by implication or inaction but only by regulations adopted in accordance with subsection (2) of this section. Westfall v. Town of Hugo, 851 P.2d 299 (Colo. App. 1993).

Applied in City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-110.5. Beneficial use of biosolids - water quality control commission to set fees - fund created - repeal. (Repealed)

Source: L. 86: Entire section added, p. 1042, § 1, effective July 1. **L. 96:** (2) repealed, pp. 1217, 1245, §§ 6, 111, effective August 7. **L. 2006:** (1) and (3) amended, p. 1136, § 21, effective July 1. **L. 2023:** (4) added, (SB 23-274), ch. 216, p. 1116, § 6, effective May 17.

Editor's note: Subsection (4)(b) provided for the repeal of this section, effective July 1, 2026. (See L. 2023, p. 1116.)

30-20-111. Departments to render assistance.

The department and county, district, and municipal public health agencies shall render technical advice and services to owners and operators of solid wastes disposal sites and facilities and to municipalities and counties in order to assure that appropriate measures are being taken to protect the public health, safety, and welfare. In addition, the department has the duty to coordinate the solid wastes program under this part 1 with all other programs within the department and with the other agencies of state and local government which are concerned with solid wastes disposal.

Source: L. 67: p. 761, § 12. **C.R.S. 1963:** § 36-23-12. **L. 71:** p. 344, § 12. **L. 2010:** Entire section amended, (HB 10-1422), ch. 419, p. 2119, § 165, effective August 11.

30-20-112. Revocation of certificate.

The governing body having jurisdiction, after reasonable notice and public hearing, shall temporarily suspend or revoke a certificate of designation that has been granted by it for failure of a site and facility to comply with all applicable laws, resolutions, and ordinances or to comply with the provisions of this part 1 or any rule or regulation adopted pursuant thereto.

Source: L. 67: p. 761, § 13. **C.R.S. 1963:** § 36-23-13. **L. 71:** p. 344, § 13. **L. 91:** Entire section amended, p. 970, § 11, effective June 5.

ANNOTATION

Quasi-judicial action must be preceded by reasonable notice. Under the solid wastes act (§§ 30-20-101 through 30-20-116), quasi-judicial action by county commissioners must be preceded by reasonable notice. City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

Proper notice of quasi-judicial agency action must reasonably describe the subject matter of the hearing, any charges to be considered, and the action contemplated. City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-113. Inspection - enforcement - nuisances - violations - civil penalty.

(1) A person shall not:

(a) Abandon a solid wastes disposal site and facility or operate, maintain, or close such a facility in a manner that violates any of the provisions of this part 1, any rule or regulation adopted pursuant thereto, or any certificate of designation issued under section 30-20-104;

(b) Dispose of solid waste at a location other than a site designated for such use by a county or municipality, unless otherwise exempted by this part 1 or unless the person is disposing of his or her own waste on his or her own property;

(c) Dispose of solid wastes in any manner that violates any of the provisions of part 10 of this article or any rule adopted pursuant thereto;

(d) Repealed.

(e) Violate any provision of part 14 of this article or any rule adopted pursuant to part 14 of this article.

(2) (a) Whenever the department finds that any solid wastes disposal site and facility or any person is in violation of subsection (1) of this section, the department may issue an order requiring that the site and facility or person comply with any such requirement, rule, or certificate of designation and may request the attorney general to bring suit for injunctive relief or for penalties pursuant to this section. The department shall not be required to conduct a hearing in accordance with section 24-4-105, C.R.S., before issuing an order pursuant to this subsection (2).

(b) (I) An order issued pursuant to this subsection (2) may include an administrative penalty assessment as provided in subsection (4) or (5) of this section. In lieu of imposing an administrative penalty assessment for a violation of subsection (1) of this section, the department may seek to have a civil penalty imposed, as provided in subsection (4) or (5) of this section, for such violation. The department shall bring an action for a civil penalty in the district court for the judicial district in which the violation occurred.

(II) If the department issues an order that does not contain an administrative penalty assessment, the department shall not be precluded from subsequently imposing an administrative penalty assessment or seeking a civil penalty for the violations detailed in the order.

(c) The department shall serve an order issued pursuant to this subsection (2) on the person who is the subject of the order by personal service or by certified mail. In addition to imposing an administrative penalty, the order may prohibit the person from engaging in specified activity in violation of subsection (1) of this section or may require the person to comply with the requirements of part 1 or part 10 of this article. The order shall take effect upon issuance unless otherwise specified in the order.

(2.5) (a) A person against whom an order has been issued, referred to in this section as the "requesting party", may submit a written request to the office of administrative courts in the department of personnel for a hearing on the order and shall provide a copy of the request to the executive director of the department or the executive director's designee. The requesting party shall file the request for hearing by personal service or by certified mail within thirty calendar days after the effective date of the order. An administrative law judge from the office of administrative courts shall conduct the hearing in accordance with section 24-4-105, C.R.S., except as otherwise specified in this section.

(b) If a request for a hearing is filed, payment of any monetary penalty is stayed pending a final decision by the administrative law judge after the hearing on the merits. Absent a motion to stay the order pursuant to paragraph (c) of this subsection (2.5), the requesting party shall comply with any other requirements of the order. If the administrative law judge grants a motion to stay the order, the department shall not be precluded from imposing a penalty against the requesting party for subsequent violations of subsection (1) of this section.

(c) (I) The requesting party may submit a motion to the administrative law judge to stay the enforcement of the order pending the outcome of the hearing. The administrative law judge may grant the motion to stay any portion of the order if he or she determines that the balance of equities favors the requesting party. In making his or her determination, the administrative law judge shall consider the following factors:

(A) The probability of serious harm to the requesting party if the motion for a stay is denied;

(B) The probability that no serious harm to the public health or the environment will occur if the motion for a stay is granted;

(C) The merits of the requesting party's case; and

(D) The public interest.

(II) If the administrative law judge grants a stay of all or a portion of the order, the requesting party shall not be excused from its obligations under applicable laws, rules, permits, and valid, existing orders.

(III) The administrative law judge shall expedite hearings and determinations on a motion to stay an order. The requesting party bears the burden of proof in a motion to stay an order.

(d) Except as provided in subparagraph (III) of paragraph (c) of this subsection (2.5), the department bears the burden of proof by a preponderance of the evidence in a hearing pursuant to this subsection (2.5).

(e) (I) Upon the motion of a party to the hearing, and in the discretion of the administrative law judge, an administrative law judge may request an interpretive rule from the solid and hazardous waste commission pertaining to any rule that is at issue in the hearing, but only if there is no genuine issue of material fact or the parties have stipulated to the material facts for the purposes of the interpretive rule. The administrative law judge may adjust the schedule of the hearing to accommodate the receipt of an interpretive rule. In making a determination on a motion to request an interpretive rule, the administrative law judge shall consider the following factors:

(A) Whether the plain language of the rule in question is clear and unambiguous;

(B) Whether the proposed construction of the rule in question would lead to an absurd result; and

(C) Whether the solid and hazardous waste commission has previously issued an interpretive rule concerning the subject of the request for an interpretive rule.

(II) Notwithstanding section 24-4-103 (1), C.R.S., if the administrative law judge requests, and the solid and hazardous waste commission agrees to issue, an interpretive rule, the commission shall give notice to the public of the interpretive rule-making proceeding in accordance with section 24-4-103, C.R.S. The commission shall provide the notice within forty-five days after receipt of the request. The commission shall accept written material, not to exceed fifteen pages in length, from any interested person if it is provided within fifteen days after the date that notification is given. The commission shall issue the written interpretive rule no later than thirty days after the deadline for the submission of written material. The legal effect of any such interpretive rule shall be determined in accordance with applicable law and is not presumed to be binding on any party to the hearing.

(f) Notwithstanding section 24-4-105 (15), C.R.S., any appeal of a determination of the administrative law judge pursuant to this subsection (2.5) shall be filed in the appropriate district court in accordance with section 24-4-106, C.R.S.

(2.7) The department shall bring an action for a violation of subsection (1) of this section within two years after the date the department discovers an alleged violation or within five years after the date the alleged violation occurred, whichever date occurs earlier; except that the limitation period is tolled during any period that a person intentionally conceals the alleged

violation. For the purposes of this section, "intentionally" shall have the meaning provided for such term in section 18-1-501 (5), C.R.S.

(3) Any solid wastes disposal site and facility found to be abandoned or inactive or that is operated, maintained, or closed in a manner so as to violate any of the provisions of this part 1 and part 10 of this article or any rule adopted pursuant thereto shall be deemed a public nuisance, and such violation may be enjoined by the department, the board of county commissioners of the county wherein the violation occurred, or the governing body of the municipality wherein the violation occurred.

(4) Any person who violates paragraphs (b) and (c) of subsection (1) of this section shall be subject to a clean-up and cease-and-desist order issued by the department or by the board of county commissioners if the violation occurred in the unincorporated area of the county or by the governing body of a municipality if the violation occurred within the municipality. Any person who fails to comply with such orders shall be subject to an administrative or civil penalty of not more than ten thousand dollars for each day of such violation. The violation and civil penalty shall be determined and enforced by a court of competent jurisdiction upon action instituted by the board or governing body that issued the orders. The violation and administrative penalty shall be determined and enforced in accordance with subsections (2), (2.5), and (5.5) of this section. Any penalty collected shall be distributed to the county or municipality that instituted the action.

(5) (a) Any person who is found pursuant to subsection (2) of this section to be in violation of subsection (1) of this section or who fails to comply with an order issued by the department shall be subject to an administrative or civil penalty of not more than ten thousand dollars for each day of such violation.

(b) Any penalty collected by the department under this part 1 or part 10 of this article shall be paid to the state treasurer; however, notwithstanding this paragraph (b), the department may enter into settlement agreements regarding any penalty or claim under this part 1 or part 10 of this article. Any settlement agreement may include but is not necessarily limited to the payment or contribution of moneys to state or local agencies for environmentally beneficial purposes.

(5.5) (a) In determining the amount of an administrative or civil penalty imposed pursuant to subsection (4) or (5) of this section for a violation of subsection (1) of this section, the department, the administrative law judge, or the court shall consider the following factors:

(I) The seriousness of the violation;

(II) Whether the violation was intentional, reckless, or negligent;

(III) The impact upon or the threat to public health or the environment as a result of the violation;

(IV) The degree, if any, of recalcitrance or recidivism upon the part of the violator;

(V) The economic benefit realized by the violator as a result of the violation;

(VI) The voluntary and complete disclosure by the violator of the violation in a timely manner after discovery of, and prior to the department's knowledge of, the violation, as long as all reports required to be submitted under state environmental laws have been submitted as and when required;

(VII) The full and prompt cooperation by the violator following disclosure of the violation, including, when appropriate, entering into and implementing a good faith and legally enforceable agreement to undertake compliance and remedial efforts;

(VIII) The existence of a regularized and comprehensive environmental compliance program or an environmental audit program that was adopted in a timely and good faith manner and that includes sufficient measures to identify and prevent future noncompliance; and

(IX) Other aggravating or mitigating circumstances or factors.

(b) The factors contained in subparagraphs (VI), (VII), and (VIII) of paragraph (a) of this subsection (5.5) shall be mitigating factors and may be applied, together with other factors, to reduce the amount of the penalty.

(6) The department, by its duly authorized representatives, shall have the power to enter and inspect each solid wastes disposal site and facility, as well as any property, premises, or place in which solid waste is reasonably believed to be located for the purposes of determining compliance with the requirements, rules, and certificate of designation issued pursuant to this part 1 and part 10 of this article. Such employee or representative shall have access to all such sites and facilities during any time when the site or facility is open to the public. If such entry or inspection is denied or not consented to and no emergency exists, the department is empowered to and shall obtain from the district court for the judicial district in which such property, premises, or place is located a warrant to enter and inspect any such property, premises, or place prior to entry and inspection. The district courts of this state are empowered to issue such warrants upon a showing that such entry and inspection is required to verify that the purposes of this part 1 and part 10 of this article are being carried out.

(7) The solid and hazardous waste commission shall establish such rules as are necessary to implement this section.

(8) Nothing in this section shall preclude or preempt the authority of a county or municipality to adopt or enforce its own local resolutions or ordinances.

(9) Notwithstanding any other provision of this part 1 or part 10 of this article 20, the processing, application, storage, or composting of biosolids or other materials under rules promulgated pursuant to section 25-8-205 (1)(e) are excluded from this part 1 and part 10 of this article 20.

Source: L. 67: p. 762, § 14. **C.R.S. 1963:** § 36-23-14. **L. 71:** p. 345, § 14. **L. 83:** Entire section amended, p. 1240, § 3, effective July 1. **L. 85:** Entire section amended, p. 1067, § 1, effective July 1. **L. 98:** Entire section amended, p. 884, § 11, effective July 1. **L. 2005:** (1)(c) added and (3), (4), (5)(b), (6), and (9) amended, p. 1257, §§ 3, 4, effective August 8. **L. 2006:** (7) and (9) amended, p. 1137, § 22, effective July 1. **L. 2009:** (2), (4), and (5)(a) amended and (2.5), (2.7), and (5.5) added, (HB 09-1056), ch. 301, p. 1603, § 1, effective May 21. **L. 2010:** (1)(d) added, (HB 10-1125), ch. 349, p. 1608, § 1, effective August 11. **L. 2012:** (1)(d) amended, (SB 12-077), ch. 87, p. 287, § 2, effective April 6. **L. 2014:** IP(1) amended and (1)(e) added, (HB 14-1352), ch. 351, p. 1594, § 6, effective July 1. **L. 2020:** (1)(d) repealed, (HB 20-1374), ch. 167, p. 772, § 2, effective July 1. **L. 2023:** (9) amended, (SB 23-274), ch. 216, p. 1119, § 11, effective July 1, 2026.

Cross references: For the legislative declaration contained in the 2005 act enacting subsection (1)(c) and amending subsections (3), (4), (5)(b), (6), and (9), see section 1 of chapter 285, Session Laws of Colorado 2005.

ANNOTATION

The solid waste act imposes a nontortious statutory duty on solid waste facility operators to comply with the substantive provisions of the solid waste act. Bd. of County Comm'rs v. Dept. of Pub. Health, 2020 COA 50, 490 P.3d 695, aff'd, 2021 CO 43, 488 P.3d 1065.

Applied in City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-114. Violation - penalty.

Any person who violates any provision of this part 1 commits a petty offense. Nothing in this part 1 shall preclude or preempt a municipality from enforcement of its local ordinances. Each day of violation shall be deemed a separate offense under this section.

Source: L. 67: p. 762, § 15. **C.R.S. 1963:** § 36-23-15. **L. 71:** p. 345, § 15. **L. 83:** Entire section amended, p. 1240, § 4, effective July 1. **L. 91:** Entire section amended, p. 970, § 12, effective June 5. **L. 2009:** Entire section amended, (HB 09-1056), ch. 301, p. 1607, § 2, effective May 21. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3249, § 507, effective March 1, 2022.

ANNOTATION

Applied in City & County of Denver v. Eggert, 647 P.2d 216 (Colo. 1982).

30-20-115. Solid wastes disposal site and facility fund - tax - fees.

(1) Any governing body having jurisdiction is authorized to establish a solid wastes disposal site and facility fund. The governing body having jurisdiction may levy a solid wastes disposal site and facility tax, in addition to any other tax authorized by law, on the taxable property within a county or municipality, the proceeds of which shall be deposited to the credit of said fund and appropriated to pay the cost of land, labor, equipment, and services needed in the operation of solid wastes disposal sites and facilities and for any other solid wastes management purpose in or on behalf of that county or municipality. Any governing body having jurisdiction is also authorized, after a public hearing, to fix, modify, and collect service charges from users of solid wastes disposal sites and facilities or transfer stations for the purpose of financing solid wastes management in that county or municipality. In the event that a countywide solid waste disposal site and facility tax has been imposed with the consent of a majority of the voters in the county, that tax may continue to be collected countywide and may accrue to the county's solid waste disposal site and facility fund, notwithstanding any subsequent taxes as may be levied by any municipalities within the county under this section.

(2) (a) Nothing in subsection (1) of this section shall be construed to authorize any governing body having jurisdiction to collect service charges from users of any privately owned or operated site and facility that is for the primary purpose of processing, reclaiming, or recycling:

(I) Recyclable materials;

(II) Excluded scrap metal;

(III) Auto parts; or

(IV) Scrap that is composed of worn out metal or a metal product that has outlived its original use, commonly referred to as obsolete scrap.

(b) Nothing in this subsection (2) shall be construed to prohibit any governing body having jurisdiction from levying or collecting service charges from users of a solid wastes disposal site and facility at which recycling occurs.

Source: L. 67: p. 762, § 16. **C.R.S. 1963:** § 36-23-16. **L. 71:** p. 345, § 16. **L. 81:** Entire section amended, p. 1359, § 5, effective June 19. **L. 89:** Entire section amended, p. 1282, § 2,

effective July 1. **L. 91:** Entire section amended, p. 970, § 13, effective June 5. **L. 92:** Entire section amended, p. 1279, § 5, effective July 1. **L. 2010:** Entire section amended, (HB 10-1329), ch. 358, p. 1704, § 5, effective June 7.

30-20-116. Privately owned solid wastes disposal site and facility - user fees.

Unless otherwise provided by home rule charter or contractual agreements, user fees to be charged at any privately owned solid wastes disposal site and facility shall not be increased unless notice of such increase is published in a newspaper of general circulation within the county where such site and facility is located at least once thirty days prior to the effective date of such increase. The provisions of this section shall not apply to any hazardous waste disposal site.

Source: L. 81: Entire section added, p. 1360, § 6, effective June 19.

30-20-117. Siting and operation of solid waste-to-energy incineration system.

The siting and operation of a solid waste-to-energy incineration system by any county or municipality separately or according to an intergovernmental agreement as authorized in part 9 of this article or part 10 of article 15 of title 31, C.R.S., shall not be subject to the provisions of this part 1, but such exemption shall, in no manner, limit the authority of a county or municipality to regulate a solid waste-to-energy incineration system as otherwise provided by law.

Source: L. 83: Entire section added, p. 1241, § 1, effective May 31.

30-20-118. Solid waste management fund - created.

(1) There is hereby created in the state treasury a fund to be known as the solid waste management fund, which consists of money collected pursuant to sections 30-20-103.7 and 30-20-109. The money shall be appropriated annually to the department by the general assembly. Except as provided in section 25-15-314, the money in the solid waste management fund shall not be credited or transferred to the general fund or any other fund of the state.

(2) Moneys in the solid waste management fund may be appropriated by the general assembly for the implementation of the department's solid waste program pursuant to this part 1.

(3) Notwithstanding subsection (1) of this section, on June 30, 2020, the state treasurer shall transfer three hundred sixty-three thousand two hundred forty-three dollars from the solid waste management fund to the general fund.

Source: L. 85: Entire section added, p. 1065, § 2, effective June 6. **L. 91:** Entire section amended, p. 971, § 14, effective June 5; entire section amended, p. 954, § 3, effective July 1; entire section amended, p. 960, § 5, effective July 1. **L. 98:** Entire section amended, p. 886, § 12, effective July 1. **L. 2006:** (1) amended, p. 1137, § 23, effective July 1. **L. 2010:** (1) amended, (HB 10-1125), ch. 349, p. 1608, § 2, effective August 11. **L. 2020:** (3) added, (HB 20-1406), ch. 178, p. 813, § 17, effective June 29; (1) amended, (HB 20-1374), ch. 167, p. 772, § 3, effective July 1.

Editor's note: Amendments to this section by Senate Bill 91-160, Senate Bill 91-168, and Senate Bill 91-174 were harmonized.

30-20-119. Disposal of low-level radioactive waste.

(1) No person shall dispose of low-level radioactive waste generated through the production of nuclear power or nuclear weapons, or any tools and equipment contaminated with slight amounts of radioactivity at power plants, hospitals, or research laboratories, that the United States nuclear regulatory commission or department of energy classified as low-level radioactive waste as of July 3, 1990, but which may be classified as below regulatory concern after that date, at any solid wastes disposal site and facility without the express written permission of the appropriate governmental entity which has the authority to grant a certificate of designation for such solid wastes disposal site and facility pursuant to section 30-20-102. This prohibition does not apply to products and materials specifically exempted by the United States nuclear regulatory commission prior to July 3, 1990; however, all other federal, state, and local regulations governing any other toxic or hazardous property of these products and materials shall still apply.

(2) The appropriate governmental entity described in subsection (1) of this section shall require a technical review by the department of the low-level radioactive waste proposed to be disposed when permission is requested pursuant to subsection (1) of this section, and the department shall make a written recommendation to the governmental entity as to whether such waste should be accepted. The appropriate governmental entity shall charge a fee established pursuant to section 30-20-109 (1)(d) to the applicant for such technical review and transmit such fee to the department.

Source: L. 91: Entire section added, p. 953, § 1, effective July 1.

30-20-120. Imminent and substantial endangerment from solid waste - definitions.

(1) As used in this section, "imminent and substantial endangerment from solid waste" means:

(a) Conditions involving landfill gases, groundwater contamination, landfill leachate, or discharges to surface water; and

(b) Physical hazards originating from solid waste that present a threat to public health and safety or the environment.

(2) (a) The department is authorized to expend moneys from the solid waste management fund created in section 30-20-118 to respond to and mitigate imminent and substantial endangerment from solid waste.

(b) When expending any moneys pursuant to this section, the department shall give priority to mitigating the imminent nature of the endangerment instead of expending moneys for characterizing the endangerment. The department shall use its best efforts to minimize moneys expended for characterizing the endangerment.

(3) The department shall not pursue an action under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", 42 U.S.C. sec. 9601 to 9675, to seek recovery of its costs incurred pursuant to this section.

(4) At any reasonable time, in order to implement this section, the department, upon consent or upon obtaining a search warrant, shall have free and unimpeded access to all property that is the site of the solid waste, including all buildings, yards, warehouses, and storage facilities on such property in which it is reasonably believed that an imminent and substantial endangerment from solid waste exists.

(5) The provisions of this section do not apply to sites regulated by the energy and carbon management commission created in section 34-60-104.3 (1) or by the oil inspection section of the department of labor and employment pursuant to article 20 of title 8.

(6) Nothing in this section shall be construed to constitute a waiver of immunity that is otherwise applicable to the department or its employees, agents, or representatives.

(7) Repealed.

Source: L. 2001: Entire section added, p. 1100, § 3, effective July 1. **L. 2003:** (7) amended, p. 1811, § 2, effective May 21. **L. 2008:** (7) repealed, p. 177, § 18, effective March 24. **L. 2023:** (5) amended, (SB 23-285), ch. 235, p. 1256, § 33, effective July 1.

30-20-121. Moratorium on monofill for tires - whole tire disposal ban - reports - plan - definition - repeal. (Repealed)

Source: L. 2004: Entire section added, p. 1785, § 1, effective July 1. **L. 2009:** (2) amended and (3), (4), and (5) added, (SB 09-289), ch. 314, p. 1699, § 2, effective August 5. **L. 2013:** (4) amended, (SB 13-050), ch. 384, p. 2249, § 6, effective August 7. **L. 2014:** Entire section repealed, (HB 14-1352), ch. 351, p. 1596, § 13, effective July 1.

30-20-122. Additional duties of the department - data collection on recycling, solid waste, and solid waste diversion - report.

(1) (a) The department shall collect information and data on recycling, solid waste, and solid waste diversion. Data required to be collected by the department on recycling, solid waste, and solid waste diversion as required by this subsection (1) includes:

(I) Statewide and regional solid waste stream components such as type of material, quantities of each material, and flow of each material;

(II) The proportion of solid waste generated in the state that has been diverted to other uses that may be based upon a model established by the federal environmental protection agency for the purpose of calculating a recycling rate;

(III) Reutilized materials, amounts, and rates;

(IV) Technical and innovative solid waste management developments;

(V) A statewide inventory of sites and facilities performing recycling or other solid waste processing or diversion;

(VI) The number of jobs created and any other economic impacts resulting from the awarding of Colorado circular community enterprise grants and funding made available pursuant to section 25-16.5-109 (6); and

(VII) Other data as necessary to further the purposes of this part 1.

(b) On or before February 1, 2009, and annually on or before February 1 of each calendar year thereafter, the department shall submit a report to the standing committee of reference in

each house of the general assembly exercising jurisdiction over matters concerning public health and the environment that includes a summary of the information or data collected pursuant to paragraph (a) of this subsection (1) and all evaluations and conclusions drawn from the information or data collected.

(2) The department shall hold any information or data submitted to it by solid waste entities pursuant to subsection (1) of this section as confidential business information upon request of the submitting entity if the information or data satisfies the definition of trade secret as specified in sections 7-7-102 (4) and 18-4-408 (2)(d), C.R.S. The burden of proving that the information or data is protected as a trade secret shall be upon the party asserting the claim.

Source: L. 2007: Entire section added, p. 1145, § 11, effective July 1. **L. 2024:** IP(1)(a) and (1)(a)(VI) amended, (HB 24-1449), ch. 192, p. 1131, § 10, effective July 1.

Cross references: For the short title "Recycling Resources Economic Opportunity Act" and legislative declaration contained in the 2007 act enacting this section, see sections 1 and 2 of chapter 278, Session Laws of Colorado 2007.

30-20-123. Trap grease - registration - fees - record keeping - violations - rules - definitions - legislative declaration. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1125), ch. 349, p. 1609, § 3, effective August 11. **L. 2012:** (1), (2)(d), and (2)(i) amended and (13) added, (SB 12-077), ch. 87, p. 286, § 1, effective April 6. **L. 2020:** Entire section repealed, (HB 20-1374), ch. 167, p. 767, § 1, effective July 1.

30-20-124. Closed landfill remediation grant program - creation - administration - application process - uses of grant program money - advisory committee - rules - fund - evaluation - report - definitions - repeal.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Advisory committee" means the closed landfill remediation grant program advisory committee created in subsection (6) of this section.

(b) "Cleanup program" means an investigation or remediation conducted and funded pursuant to a state or federal law or program other than this part 1, such as:

(I) The federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", 42 U.S.C. sec. 9601 et seq., as amended;

(II) The brownfields program of the federal environmental protection agency and the department;

(III) A federal radiation control program such as the "Uranium Mill Tailings Radiation Control Act", 42 U.S.C. sec. 7901 et seq., as amended;

(IV) Article 11 of title 25 concerning radiation control;

(V) Article 15 of title 25 concerning hazardous waste; or

(VI) The federal "Resource Conservation and Recovery Act of 1976", 42 U.S.C. sec. 6901 et seq., as amended.

(c) "Closed landfill" means a landfill that no longer accepts new waste for disposal.

(d) "Commission" means the solid and hazardous waste commission created in section 25-15-302.

(e) "Eligible local government" means a local government that owns a closed landfill that:

(I) Was formerly but is no longer operated by the local government or by any state or federal agency and for which the local government is solely financially responsible for closure and post-closure care;

(II) Is not subject to any investigation or remediation pursuant to a cleanup program; and

(III) Does not have any fully funded private sector financial assurance mechanism in place that adequately resolves the public health and environmental risks associated with the landfill.

(f) "Fund" means the closed landfill remediation grant program fund created in subsection (8) of this section.

(g) "Grant program" means the closed landfill remediation grant program created in subsection (2) of this section.

(h) (I) "Landfill" means a discrete area of land or an excavation where solid wastes are placed for final disposal.

(II) "Landfill" includes:

(A) An ash monofill;

(B) A construction and demolition waste landfill;

(C) An industrial landfill;

(D) A sanitary landfill;

(E) A tire monofill; and

(F) Any similar facility where final disposal of solid waste occurs.

(III) "Landfill" does not include a land application unit, a waste impoundment, or a waste pile.

(i) "Local government" means a home rule or statutory city, county, or city and county.

(2) **Grant program created.** The closed landfill remediation grant program is created to provide grants to eligible local governments to help pay the costs of environmental remediation efforts for and management of closed landfills that are owned by the eligible local governments. Subject to annual appropriation, grants shall be paid from money in the fund.

(3) **Administration.** On and after July 1, 2024, the department shall administer the grant program in accordance with rules promulgated by the commission pursuant to subsection (7) of this section and shall consult with the advisory committee to:

(a) Evaluate grant applications using criteria established by the rules; and

(b) Award grants to eligible local governments.

(4) **Application process.** To receive a grant, an eligible local government must apply to the department in accordance with the rules promulgated by the commission pursuant to subsection (7)(a)(I) of this section.

(5) **Uses of grant program money.**

(a) An eligible local government that receives a grant from the grant program shall use the grant money only to pay for reasonable costs necessary to assess and remediate risks posed by the local government's closed landfill and to comply with applicable law, including paying reasonable expenses necessary to:

(I) Take emergency, preventive, or corrective actions at a closed landfill;

(II) Investigate, design, and implement appropriate remediation actions in accordance with applicable regulations, including retaining private third parties to advise the local government and to perform tasks;

(III) Develop, prepare, and implement plans such as work plans, implementation plans, annual monitoring plans, contingency plans, community relations plans, materials management plans, and post-closure plans, including document review and activity fees in accordance with rules promulgated by the commission;

(IV) Develop and implement a plan for public involvement in the development, implementation, modification, or expansion of remediation measures; and

(V) Perform post-closure care activities, including:

(A) The use of institutional and engineering controls to ensure site conditions remain protective of public health, safety, and welfare and the environment; and

(B) Post-closure monitoring.

(b) When expending any money pursuant to this section, the department, the commission, and any eligible local government that receives a grant from the grant program shall give priority to mitigating the risks posed by solid waste in accordance with section 30-20-101.5 (2) and rules promulgated by the commission concerning the management of solid waste.

(6) **Advisory committee created.**

(a) The closed landfill remediation grant program advisory committee is created in the department to review grant applications and advise the department as described in subsection (3) of this section. On or before May 1, 2024, the commission shall appoint five members to the advisory committee, including:

(I) Two members representing local governments;

(II) Two members representing the department; and

(III) One member with technical expertise who is not affiliated with a local government or with the department.

(b) The members of the advisory committee serve terms of three years; except that:

(I) One of the members initially appointed pursuant to subsection (6)(a)(I) of this section serves an initial term of one year; and

(II) One of the members initially appointed pursuant to subsection (6)(a)(II) of this section serves an initial term of two years.

(c) The members of the advisory committee serve without compensation.

(7) **Rules.**

(a) On or before June 1, 2024, the commission shall promulgate rules for the administration of the grant program as described in this section. At a minimum, the rules must include:

(I) Procedures and timelines by which an eligible local government may apply for a grant;

(II) Safeguards that ensure that the department awards grants on a fair and equitable basis consistent with established priorities;

(III) Criteria for evaluating grant applications and awarding grants;

(IV) Criteria for determining grant amounts;

(V) Reporting requirements for grant recipients; and

(VI) The circumstances, if any, under which a grant applicant may be required to demonstrate matching funds.

(b) When developing criteria for evaluating grant applications and awarding grants pursuant to subsection (7)(a)(III) of this section, the commission shall require that the department:

(I) Before finalizing any decision to award or deny a grant, interview an official of the applicant eligible local government who is familiar with the closed landfill site that is the basis of the grant application;

(II) Give priority to grant applications that concern remediation efforts at closed landfills that are subject to existing compliance orders and at closed landfills that pose the greatest actual risk to public health and the environment. When determining actual risk to public health and the environment, the commission shall require the department to:

(A) Prioritize remediation that enables the state and local governments to protect public health and the environment in a manner that makes efficient use of limited grant funding; and

(B) Consider an eligible local government's technical assessment of the actual risk posed to public health and the environment.

(III) (A) Consider giving priority to grant applications received from eligible local governments that commit matching funds from other sources to pay the costs of the remediation activities that are the basis of the grant application and consider giving priority to grant applications received from eligible local governments based on expenses incurred to date by the eligible local governments in attempting to implement the remediation that is the basis of their grant applications.

(B) In making the considerations described in subsection (7)(b)(III)(A) of this section, consider whether certain eligible local governments should be required to contribute a lower amount or percentage of matching funds than other eligible local governments based on population, as determined pursuant to the most recently published population estimates from the state demographer appointed by the executive director of the department of local affairs.

(8) **Cash fund created.**

(a) The closed landfill remediation grant program fund is created in the state treasury. The fund consists of:

(I) Money that the general assembly may appropriate or transfer to the fund from the general fund or any other fund; and

(II) Money credited to the fund as gifts, grants, and donations pursuant to subsection (8)(d) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and shall not be credited or transferred to the general fund or any other fund.

(c) The money in the fund is subject to annual appropriation by the general assembly to the department for use for the purposes set forth in this section. The department may expend up to two and one-half percent of the money that is annually appropriated to the department from the fund to pay administrative costs incurred by the department, the commission, and the advisory committee.

(d) The department is authorized to seek, accept, and expend gifts, grants, and donations for the purposes of this section and shall transmit any money received from gifts, grants, or donations to the state treasurer for deposit in the fund.

(e) On August 31, 2033, the state treasurer shall transfer all unexpended and unencumbered money in the fund to the general fund.

(9) **Evaluation and funding recommendations.** On or before February 1, 2026, and on or before February 1 every three years thereafter, the commission shall evaluate the current and future financial needs of the grant program and make written recommendations to the general assembly regarding funding.

(10) **Report.**

(a) On or before November 1, 2025, and on or before November 1 of each year thereafter, the department shall prepare and post on its public website a report that summarizes the use of all grant money awarded under the grant program in the preceding fiscal year. At a minimum, the report must include:

(I) The number of grant applicants;

(II) The amount of grant money requested by each applicant;

(III) The eligible local governments that were awarded grants;

(IV) The amount of grant money awarded to each grant recipient;

(V) A description of the grant recipient's use of the grant money; and

(VI) The amount of money remaining in the fund on the date of the report.

(b) The department may include the report described in subsection (10)(a) of this section in the department's annual report to the committees of reference of the general assembly pursuant to section 30-20-122 (1)(b).

(11) **Repeal.** This section is repealed, effective September 1, 2033. Prior to the repeal, the grant program and the advisory committee are scheduled for review in accordance with section 24-34-104.

Source: L. 2023: Entire section added, (HB 23-1194), ch. 225, p. 1160, § 3, effective August 7.

Cross references: For the legislative declaration in HB 23-1194, see section 1 of chapter 225, Session Laws of Colorado 2023.

30-20-125. Preproduction plastic materials - disposal requirements - definition.

[*Editor's note: This section is effective August 12, 2027.*]

(1) As used in this section, unless the context otherwise requires, "preproduction plastic materials" has the meaning set forth in section 25-8-1102 (3).

(2) A person shall not dispose of preproduction plastic materials at a location that has not been issued a certificate of designation pursuant to section 30-20-105.

Source: L. 2026: Entire section added, (SB 26-171), ch. 220, p. 1294, § 2, effective August 12, 2027.

PART 2

DISPOSAL DISTRICTS (1953 ACT)

Cross references: For the "Special District Act", see article 1 of title 32.

30-20-201. Legislative declaration.

It is declared that the creation of disposal districts, having purposes and powers provided in this part 2, will serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of said districts.

Source: L. 53: p. 475, § 1. **CRS 53:** § 89-11-1. **C.R.S. 1963:** § 89-11-1.

30-20-202. Creation - proviso.

(1) Whenever a county has established and maintains a county public health agency or, in conjunction with one or more adjacent counties, a district public health agency as provided by part 5 of article 1 of title 25, C.R.S., such county may establish one or more disposal districts. Such district shall be composed of the unincorporated area benefited by the establishment of the proposed disposal district for the collection and disposal of garbage, waste, and trash. The boundaries of such district are to be designated by the board of county commissioners of the county.

(2) It is the duty of the county board of health or the district board of health, which the county maintains under the authority of part 5 of article 1 of title 25, C.R.S., upon request from the board of county commissioners of such county, to formulate a tentative plan for the formation of such disposal district, said plan to include: Recommendations as to the area to be benefited; a detailed estimate of annual costs for the operation and maintenance of the district affairs and the equipment and personnel thereof; boundaries and the approximate valuation for assessment therein; and proposed rules, regulations, and schedules for the district. Upon completion of said plan, the board of health shall certify such plan to the board of county commissioners.

(3) Before the adoption of any resolution of the board of county commissioners creating a disposal district, a public hearing shall be held by the board to ascertain the sentiment of residents within the proposed area toward the establishment of such district. For the purposes of such hearing, the board of county commissioners shall give notice thereof, which notice shall set forth the time, date, place, and purpose of such hearing, shall set forth a description of the proposed boundaries, and shall be published once weekly for three consecutive weeks in a newspaper published and of general circulation in the county. The date for such hearing shall not be sooner than five days nor later than thirty days following the date of the last publication of said notice.

(4) After the hearing, the board of county commissioners may, at any regularly scheduled meeting, change, amend, reject, or adopt the certified plan, and by resolution create a disposal district.

(5) Any provisions in this part 2 to the contrary notwithstanding, no tract or parcel of real estate used for manufacturing, mining, railroad, or industrial purposes, which, together with the buildings, improvements, machinery, and equipment thereon situate, shall have a valuation for assessment in excess of twenty-five thousand dollars at the date of the adoption by the board of county commissioners of a resolution creating a disposal district, shall be included in any district organized under this part 2 without the written consent of the owner thereof. No personal property shall be included within any district which is situate upon real estate not included in

such district. If, contrary to the provisions of this subsection (5), any such tract, parcel, or personal property is included in any district, the owner thereof, on petition to the board of county commissioners which adopted the resolution creating the district, shall be entitled to have such property excluded from the district free and clear of any contract, obligations, lien, or charge to which it may or might have been liable as a part of the district.

Source: L. 53: p. 475, § 2. **CRS 53:** § 89-11-2. **C.R.S. 1963:** § 89-11-2. **L. 2010:** (1) amended, (HB 10-1422), ch. 419, p. 2119, § 166, effective August 11.

30-20-203. Powers.

(1) The board of county commissioners, following the creation of such district and acting on behalf thereof:

(a) Shall in each year determine the amount of money necessary to be raised by taxation after taking into consideration all sources of revenue of the district, and shall fix, in addition to such other taxes as may be levied by such board of county commissioners, a rate of levy, not to exceed one-half mill, to be levied upon every dollar of valuation for assessment of the property within the district, which levy, together with other revenues of the district, will raise the amount required by the district annually to supply funds for paying the expenses, acquisition of equipment, costs of operation, maintenance, and employment of personnel therefor;

(b) May establish and fill a position of county sanitation engineer to supervise and manage the manner of collection and disposing of trash, waste, and garbage of the district, and fix the compensation attached to such position to be paid from the funds of the district, or may authorize an administrative official of the county to assume the functions of such position in addition to his customary duties, and provide for the additional compensation that may be allowed for such official to be paid from the funds of the district;

(c) May provide with the funds of the district for the employment of personnel to operate and manage the facilities for the collection and disposal of trash, waste, and garbage within the district;

(d) May enter into and execute contracts on behalf of the district with any firm, corporation, or individual to provide for the collection or disposal, or both, of trash, wastes, and garbage within the district, the revenues from which, if any, shall be solely for the uses and benefits of the district;

(e) May enter into and execute contracts on behalf of the district with any incorporated village, town, city, or other district for the joint operation of any dump, sanitary fill, or other

satisfactory means of garbage and trash disposal, the revenue from which, if any, shall be solely for the uses and benefits of the district;

(f) May by lease, contract, or otherwise provide areas or dumps within or without the boundaries of the district for the disposal of waste, trash, and garbage collected by the district, the costs for which shall be borne by the district;

(g) May acquire by purchase or lease or otherwise provide for equipment for the collection and disposal of garbage, waste, and trash, the costs of which shall be borne by the district;

(h) May promulgate and adopt on behalf of the district such schedules, rules, or regulations as may be necessary for the orderly collection of trash, wastes, or garbage from the district, and for the maintenance and operation of dumps, sanitary fills, or other satisfactory disposal methods and collection areas, which, when so adopted, may be administered and enforced by the county or district public health agency, as the case may be, as provided in other cases by sections 25-1-506 and 25-1-514, C.R.S.;

(i) May enlarge the area of the district by inclusion of other unincorporated areas, after giving notice of and holding a public hearing thereof, as provided for the creation of the district under section 30-20-202. The area to be included may or may not be adjacent to the district.

(j) May exclude any area from the district or dissolve any district created under this part 2, after giving notice of and holding a public hearing thereon, as provided for the creation of the district under section 30-20-202.

Source: L. 53: p. 476, § 3. **CRS 53:** § 89-11-3. **C.R.S. 1963:** § 89-11-3. **L. 2008:** (1)(h) amended, p. 2054, § 12, effective July 1.

ANNOTATION

Law reviews. For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law. 2527 (1982).

30-20-204. Budget.

The operations of the disposal district shall be conducted pursuant to the provisions of the local government budget law of Colorado.

Source: L. 53: p. 478, § 4. **CRS 53:** § 89-11-4. **C.R.S. 1963:** § 89-11-4.

Cross references: For the local government budget law, see part 1 of article 1 of title 29.

30-20-205. Character of this part 2.

Nothing in this part 2 shall repeal or affect any other law. It is intended that this part 2 shall provide a separate method of accomplishing its objects, and not an exclusive one.

Source: L. 53: p. 478, § 5. **CRS 53:** § 89-11-5. **C.R.S. 1963:** § 89-11-5.

PART 3

PUBLIC PROJECTS

30-20-301. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Governmental agency" means any county or municipality in the state only.

(2) "Public project" means any lands, buildings, structures, works, machinery, equipment, or facilities suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public education (where county boundaries and school district boundaries are coterminous), public welfare, or the conservation of natural resources, including the planning of any such lands, buildings, improvements, structures, works, machinery, equipment, or facilities, and shall also include existing lands, buildings, improvements, structures, works, and facilities, as well as improvements, renovations, or additions to any such lands, buildings, improvements, structures, works, or facilities.

(3) "Public purposes" includes, but is not limited to, the supplying of public water services and facilities, public sewer services and facilities, and lands, buildings, improvements, equipment, and facilities for public education (where county boundaries and school district boundaries are coterminous).

(4) Repealed.

Source: L. 55: p. 259, § 1. **CRS 53:** § 36-20-1. **L. 57:** p. 315, § 1. **C.R.S. 1963:** § 36-19-1. **L. 71:** p. 339, § 1. **L. 77:** (2) and (3) amended and (4) added, p. 1448, § 1, effective June 1. **L. 78:**

(2) and (3) amended and (4) repealed, pp. 272, 273, §§ 93, 94, effective May 23. **L. 91:** (1) amended, p. 744, § 6, effective April 4.

Cross references: For definitions applicable to this part 3, see § 30-26-301 (2)(d).

ANNOTATION

No unconstitutional delegation of legislative power. Vesting in the county commissioners authority to acquire, construct, and maintain public projects particularly defined in the act as intended for use in the promotion of the public health is not so broad or vague as to constitute an unconstitutional delegation of legislative power. Garel v. Bd. of County Comm'rs, 167 Colo. 351, 447 P.2d 209 (1968).

The purpose of the general welfare clause in a statute is to extend the powers of a municipality beyond those specifically enumerated to other things which are necessary to accomplish the purposes of municipal government. Garel v. Bd. of County Comm'rs, 167 Colo. 351, 447 P.2d 209 (1968).

A sewage system is a public necessity, and may be authorized to make all regulations necessary to secure the general health. Garel v. Bd. of County Comm'rs, 167 Colo. 351, 447 P.2d 209 (1968).

The power to issue the anticipation warrants for the financing of the proposed project is expressly vested by the act. Garel v. Bd. of County Comm'rs, 167 Colo. 351, 447 P.2d 209 (1968).

30-20-302. Public improvements within and without boundaries.

Any governmental agency may acquire, construct, maintain, add to, and improve any public project, which public project may be located within or without or partly within and partly without the territorial limits of such governmental agency.

Source: L. 55: p. 259, § 2. **CRS 53:** § 36-20-2. **C.R.S. 1963:** § 36-19-2. **L. 91:** Entire section amended, p. 744, § 7, effective April 4.

30-20-303. Anticipation warrants.

For the purpose of defraying the cost of construction, erection, reconstruction, or improvement of existing facilities, the legislative body of any governmental agency may, pursuant to a

resolution or ordinance, issue anticipation warrants, which order, resolution, or ordinance shall set forth the proposed public project, the amount of warrants to be issued, and the maximum rate of interest. In every instance, the order, resolution, or ordinance shall provide that the project is being undertaken under the provisions of this part 3.

Source: L. 55: p. 259, § 3. **CRS 53:** § 36-20-3. **C.R.S. 1963:** § 36-19-3. **L. 91:** Entire section amended, p. 744, § 8, effective April 4.

30-20-304. Power to lease.

Any governmental agency is authorized to rent or lease such public project or any portion thereof to any persons, partnerships, associations, or corporations, either public or private.

Source: L. 55: p. 260, § 4. **CRS 53:** § 36-20-4. **C.R.S. 1963:** § 36-19-4.

30-20-305. Terms and interest.

All anticipation warrants issued under the provisions of this part 3 shall bear interest at a rate not exceeding a net effective interest rate to be established by the official legislative body of the governmental agency prior to the sale or issuance of such warrants. All warrants shall be executed in such a manner and be payable serially in annual installments beginning not later than two years and extending not more than twenty years from the date thereof and at such place as the governmental agency determines.

Source: L. 55: p. 260, § 5. **CRS 53:** § 36-20-5. **L. 57:** p. 315, § 1. **C.R.S. 1963:** § 36-19-5. **L. 69:** p. 233, § 1. **L. 70:** p. 147, § 1. **L. 91:** Entire section amended, p. 744, § 9, effective April 4.

30-20-306. Revenue and sinking fund - pledge of general income prohibited.

The official legislative body of any governmental agency is authorized to set aside a special sinking fund in the office of the treasurer of the governmental agency for the payment of anticipation warrants authorized by and issued under the provisions of this part 3 and for the payment of interest due on such warrants; except that the general income of the governmental agency shall not be pledged for the payment of the principal of the warrants and interest thereon.

The treasurer of the governmental agency shall deposit in said sinking fund all rents, royalties, fees, rates, and charges derived from or rendered by the project.

Source: L. 55: p. 260, § 6. **CRS 53:** § 36-20-6. **L. 57:** p. 316, § 1. **C.R.S. 1963:** § 36-19-6. **L. 91:** Entire section amended, p. 744, § 10, effective April 4.

30-20-307. Donations or gifts.

Any governmental agency is authorized to accept donations or gifts to the public project from any source, to be used in the best interests of such project.

Source: L. 55: p. 260, § 7. **CRS 53:** § 36-20-7. **C.R.S. 1963:** § 36-19-7.

30-20-308. Authentication before delivery.

In case any of the officers whose signatures or countersignatures appear on the said anticipation warrants or coupons attached thereto cease to be such officers before delivery of such warrants, such signatures and countersignatures shall nevertheless be valid and sufficient for all purposes, with the same force and effect as if they had remained in office until such delivery.

Source: L. 55: p. 260, § 8. **CRS 53:** § 36-20-8. **C.R.S. 1963:** § 36-19-8.

30-20-309. Obligations payable from project revenue only.

Nothing in this part 3 shall be construed to authorize or permit any governmental agency to incur any obligation of any kind or nature, except such as shall be payable solely from moneys accruing to the special sinking fund created pursuant to section 30-20-306, and it shall be plainly stated on the face of each warrant that has been issued under the provisions of this part 3 that it does not constitute an indebtedness of the governmental agency within the meaning of any constitutional provision or limitation.

Source: L. 55: p. 260, § 9. **CRS 53:** § 36-20-9. **C.R.S. 1963:** § 36-19-9. **L. 91:** Entire section amended, p. 744, § 11, effective April 4.

30-20-310. Numbering and retirement.

The anticipation warrants issued under this part 3 shall be serially numbered and shall be paid off and retired in the order in which they were issued.

Source: L. 55: p. 261, § 10. **CRS 53:** § 36-20-10. **C.R.S. 1963:** § 36-19-10.

PART 4

SEWER AND WATER SYSTEMS

30-20-401. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Board" means the board of county commissioners.

(2) "Consumer" means any public or private user of water facilities or sewerage facilities, or both.

(3) "Joint system" or "joint water and sewer system" means water facilities and sewerage facilities combined, operated, and maintained as a single public utility and income-producing project.

(4) "Sewerage facilities" means any one or more of the various devices used in the collection, treatment, or disposition of sewage or industrial wastes of a liquid nature, or storm, flood, or surface drainage waters, including all inlets, collection, drainage, or disposal lines, intercepting sewers, joint storm and sanitary sewers, sewage disposal plants, and outfall sewers; all pumping, power, and other equipment and appurtenances; all extensions, improvements, remodeling, additions, and alterations thereof; and any and all rights or interest in such sewerage facilities.

(5) "System" means sewerage facilities or water facilities or water and sewerage facilities combined.

(6) "Water facilities" means any one or more devices used in the collection, treatment, or distribution of water for domestic and other legal uses, including systems of raw and clear water and distribution storage reservoirs, deep and shallow wells, pumping, ventilating, and gaging stations, inlets, tunnels, flumes, conduits, canals, collection, transmission, and distribution lines, infiltration galleries, hydrants, meters, and filtration and treatment plants and works; all pumping, power, and other equipment and appurtenances; all extensions, improvements,

remodeling, additions, and alterations thereof; and any and all rights or interests in such water facilities.

Source: L. 71: p. 354, § 1. **C.R.S. 1963:** § 36-29-1.

Cross references: For definitions applicable to this part 4, see § 30-26-301 (2)(d).

30-20-402. Powers.

(1) In addition to the powers which it may now have, any county without an election of the qualified electors thereof has power under this part 4:

(a) To acquire by gift, purchase, lease, or exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better, and to extend water facilities or sewerage facilities, or both, wholly within or wholly without the county, or partially within and partially without the county, and to acquire by gift, purchase, or the exercise of the right of eminent domain lands, easements, and rights in land in connection therewith;

(b) To operate and maintain water facilities or sewerage facilities, or both, for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the county, but no water service or sewerage service, or combination of them, shall be furnished in any other county or in any municipality unless the approval of such other county or municipality is obtained as to the territory in which the service is to be rendered;

(c) To accept loans or grants, or both, from the United States under any federal law to aid in financing the cost of engineering, architectural, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other action preliminary to the construction of water facilities or sewerage facilities, or both;

(d) To accept loans or grants, or both, from the United States under any federal law for the construction of necessary water facilities or sewerage facilities, or both;

(e) To enter into joint operating agreements, contracts, or arrangements with consumers concerning water facilities or sewerage facilities, or both, whether acquired or constructed by the county or consumer, and to accept grants and contributions from consumers for the construction of water facilities or sewerage facilities, or both. When determined by its board to be in the public interest and necessary for the protection of the public health, any county is authorized to enter into and perform contracts, whether long-term or short-term, but in no event exceeding fifty years, with any consumer for the provision and operation by the county of sewerage facilities to abate or reduce the pollution of waters caused by discharges of wastes by a consumer and the

payment periodically by the consumer to the county of amounts at least sufficient, in the determination of such board, to compensate the county for the cost of providing, including payment of principal and interest charges, if any, and of operating and maintaining the sewerage facilities serving such consumer.

(f) To prescribe, revise, and collect in advance or otherwise from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom rates, fees, tolls, and charges, or any combination thereof, for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from, such water facilities or sewerage facilities, or both, including, without limiting the generality of the foregoing, minimum charges, charges for the availability of service, tap fees, disconnection fees, reconnection fees, and reasonable penalties for any delinquencies, including but not necessarily limited to interest on delinquencies from any date due at a rate of not exceeding one percent per month, or fraction thereof, reasonable attorney fees, and other costs of collection, without any modification, supervision, or regulation of any such rates, fees, tolls, or charges by any board, agency, bureau, commission, or official other than the board of county commissioners collecting them; and, in anticipation of the collection of the revenues of such water facilities or sewerage facilities, or joint system, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of the water facilities or sewerage facilities, or both; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds;

(g) To pledge to the punctual payment of said bonds and interest thereon all or any part of the revenues of the water facilities or sewerage facilities, or both, including the revenues of improvements, betterments, or extensions thereto, thereafter constructed or acquired, as well as the revenues of existing water facilities or sewerage facilities, or both;

(h) To enter into and perform contracts and agreements with other counties or with municipalities for or concerning the planning, construction, lease, or other acquisition and the financing of water facilities or sewerage facilities, or both, and the maintenance and operation thereof. Any such counties or municipalities so contracting with each other may also provide in any contract or agreement for a board, commission, or such other body as their boards or governing bodies may deem proper for the supervision and general management of the water facilities or sewerage facilities, or both, and for the operation thereof, and may prescribe its powers and duties and fix the compensation of the members thereof.

(i) To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; except that no encumbrance, mortgage, or other pledge of property, excluding any pledged revenues, of the county is created thereby, and except that no property, other than money, of the county is liable to be forfeited or taken in

payment of said bonds, and except that no debt on the credit of the county is thereby incurred in any manner for any purpose; and

(j) To issue water, or sewer, or joint water and sewer refunding revenue bonds to refund, pay, or discharge all or any part of its outstanding water, or sewer, or joint water and sewer revenue bonds issued under this part 4 or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs or effecting other economies or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any county water facilities or sewerage facilities, or both, as provided in section 30-20-410.

Source: L. 71: p. 355, § 1. **C.R.S. 1963:** § 36-29-2.

ANNOTATION

Section gives counties legally protected interest and therefore standing to file suit. Bd. of County Comm'rs v. Denver Bd. of Water Comm'rs, 718 P.2d 235 (Colo. 1986).

Authority to serve noncounty users. Denver is also a county as well as a city, and, as such, could be said to have parallel powers to serve noncounty water users under subsection (1)(b). Colo. Open Space Council, Inc. v. City & County of Denver, 190 Colo. 122, 543 P.2d 1258 (1975).

Permissive grants of power that allow the county to construct, operate, improve, and extend storm water facilities and levy taxes to finance the acquisition, construction, operation, improvement, and extension thereof, do not impose a mandatory duty to remedy a particular harm and, therefore, do not establish a clear legislative intent to create a private cause of action. Larry H. Miller Corp.-Denver v. Bd. of County Comm'rs, 77 P.3d 870 (Colo. App. 2003).

30-20-403. Authorization of facilities and bonds.

(1) The acquisition, construction, reconstruction, lease, improvement, betterment, or extension of any water facilities or sewerage facilities, or both, and the issuance in anticipation of the collection of revenues of such facilities of bonds to provide funds to pay the cost thereof may be authorized under this part 4 by action of the board of county commissioners taken at a regular or special meeting by a vote of a majority of the members of the board.

(2) The board, in determining such cost, may include all costs and estimated costs of the issuance of said bonds; all engineering, inspection, fiscal, and legal expenses; interest which it is estimated will accrue during the construction or other acquisition period and for a period of not

exceeding one year thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part 4; any discount on the sale of the bonds; costs of financial, professional, and other estimates and advice; contingencies; any administrative, operating, and other expenses of the county prior to and during such acquisition period and for a period of not exceeding one year thereafter, as may be determined by the board; and all other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of any water or sewerage facilities, joint water and sewer system, or part thereof, and the placing of the same in operation; and also such provision or reserves for working capital, operation, maintenance, or replacement expenses or for payment or security of principal of or interest on any bonds during or after such an acquisition or improvement and equipment as the board may determine; and also reimbursements to the federal government, or any agency, instrumentality, or corporation thereof, of any moneys theretofore expended for or in connection with any such water or sewerage facilities, or both.

Source: L. 71: p. 357, § 1. **C.R.S. 1963:** § 36-29-3.

30-20-404. Bond provisions.

(1) Revenue bonds issued under this part 4 shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually or annually, and evidenced by one or two sets of coupons, if any, executed with the facsimile or manually executed signature of any official of the county; except that the first coupon appertaining to any bond may evidence interest not in excess of one year. The resolution authorizing the issuance of such bonds shall specify the maximum net effective interest rate. Such bonds may be issued in one or more series, may bear such date, may mature at such time not exceeding the estimated life of the water facilities or sewerage facilities, or both, to be acquired with the bonds proceeds, as determined by the board, but in no event beyond forty years from their respective dates, may be in such denomination, may be payable in such medium of payment, at such place within or without the state, including but not limited to the office of the county treasurer, may carry such registration privileges, may be subject to such terms of prior redemption in advance of maturity in such order or by lot or otherwise at such time with or without a premium, may be executed in such manner, may bear such privileges for reissuance in the same or other denomination, may be so reissued, without modification of maturities and interest rates, and may be in such form, either coupon or registered, as may be provided by the board.

(2) The board may provide for preferential security for any bonds, both principal and interest, to be issued under this part 4 to the extent deemed feasible and desirable by such board over any bonds that may be issued thereafter.

(3) Said bonds may be sold at, above, or below the principal amounts thereof, but they may not be sold at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized.

(4) Bonds may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both; and, where interest accruing on the bonds is not represented by interest coupons, the bonds may provide for the endorsing of payments of interest thereon; and the bonds generally shall be issued in such manner, in such form, either coupon or registered, with such recitals, terms, covenants, and conditions, and with such other details as may be provided by the board, except as otherwise provided in this part 4.

(5) Subject to the payment provisions in this part 4 specifically provided, said bonds, any interest coupons thereto attached, and any temporary bonds shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the board may otherwise provide; and each holder of each such security, by accepting such security, shall be conclusively deemed to have agreed that such security, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of article 8 of title 4, C.R.S.

(6) Notwithstanding any other provision of law, the board in any proceedings authorizing bonds under this part 4:

(a) May provide for the initial issuance of one or more bonds, in this subsection (6) called "bond", aggregating the amount of the entire issue;

(b) May make such provision for installment payments of the principal amount of any such bond as it may consider desirable;

(c) May provide for the making of any such bond, payable to bearer or otherwise, registrable as to principal or as to both principal and interest and, where interest accruing thereon is not represented by interest coupons, for the endorsing or payments of interest on such bonds; and

(d) May further make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both.

(7) If lost or completely destroyed, any security in this part 4 authorized may be reissued in the form and tenor of the lost or destroyed security upon the owner furnishing, to the satisfaction of the board: Proof of ownership; proof of loss or destruction; a surety bond in twice the face amount of the security, including any unmatured coupons appertaining thereto; and payment of the cost of preparing and issuing the new security.

(8) Any officer authorized to execute any bond, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature any bond authorized in this part 4 if such a

filing is not a condition of execution with a facsimile signature of any interest coupon and if at least one signature required or permitted to be placed on each such bond, excluding any interest coupon, shall be manually subscribed. An officer's facsimile signature has the same legal effect as his manual signature.

(9) The county clerk and recorder may cause the seal of the county to be printed, engraved, stamped, or otherwise placed in facsimile on any bond. The facsimile seal has the same legal effect as the impression of the seal.

(10) The resolution authorizing any bonds or other instrument appertaining thereto may contain any agreement or provision customarily contained in instruments securing revenue bonds, including, without limiting the generality of the foregoing, covenants designated in section 30-20-407.

Source: L. 71: p. 357, § 1. **C.R.S. 1963:** § 36-29-4. **L. 75:** (5) amended, p. 219, § 61, effective July 16.

30-20-405. Signatures on bonds.

(1) The bonds and any coupons bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations of the county, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers of the county issuing the same.

(2) Any officer authorized or permitted to sign any bond or interest coupon, at the time of its execution and of the execution of a signature certificate, may adopt as and for his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon the bond or coupons appertaining thereto, or upon both the bond and such coupons.

Source: L. 71: p. 359, § 1. **C.R.S. 1963:** § 36-29-5.

30-20-406. Tax exemption.

The bonds and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

Source: L. 71: p. 359, § 1. **C.R.S. 1963:** § 36-29-6.

30-20-407. Covenants in bond resolution.

(1) Any resolution under this part 4 authorizing the issuance of bonds, or trust indentures, or other instruments appertaining thereto to finance in whole or in part the acquisition, construction, reconstruction, improvement, betterment, or extension of water facilities or sewerage facilities, or both, may contain covenants as to:

(a) The rates, fees, tolls, or charges, or combination thereof, to be charged for the services, facilities, and commodities of said water facilities or sewerage facilities, or both, and the use and disposition thereof, including but not limited to the foreclosure of liens for, and collection of, delinquencies, the discontinuance of services, facilities, or commodities, or use of any water system or any sewer system, or joint system, prohibition against free service, the collection of penalties and collection costs, including disconnection and reconnection fees, and the use and disposition of any revenues of the county, derived or to be derived from any water facilities or sewerage facilities, or both;

(b) The creation and maintenance of reserves or sinking funds and the regulation, use, and disposition thereof to secure the payment of the principal of and interest on any bonds or of operation and maintenance expenses of any water system, sewer system, joint system, or part thereof; the determination or definition of revenues from any water system, sewer system, or joint system and of the expenses of operation and maintenance of such system; and the source, custody, security, use, and disposition of any such reserves or sinking funds, including but not limited to the powers and duties of any trustee with regard thereto;

(c) A fair and reasonable payment by the county to the account of said water facilities or sewerage facilities, or both, for the services, commodities, or facilities furnished said county by said water facilities or sewerage facilities, or both;

(d) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of such water facilities or sewerage facilities, or both; the payment of the principal of and interest on any bonds and the sources and methods thereof; the rank or priority of any bonds as to any lien or security for payment, or the acceleration of any maturity of any bonds, or the issuance of other or additional bonds payable from or constituting a charge against or lien upon any revenues pledged for the payment of bonds and the creation of future liens and encumbrances thereagainst and limitations thereon; and the purpose to which the proceeds of the sale of bonds may be applied and the custody, security, use, expenditure, application, and disposition thereof;

(e) Books of account, the inspection and audit thereof, and other records appertaining to a water system, sewer system, or joint system; the insurance to be carried by the county and use

and disposition of insurance moneys; the acquisition of completion or surety bonds appertaining to any project, funds or personnel, and the use and disposition of any proceeds of such bonds; the assumption or payment or discharge of any indebtedness, other obligation, lien, or other claim relating to any part of a water system, sewer system, or joint system or any securities having or which may have a lien on any part of any revenues of such system; and limitations on the powers of the county to acquire or operate, or permit the acquisition or operation of, any plants, structures, facilities, or properties which may compete or tend to compete with the water system, sewer system, or joint system;

(f) The rights, liabilities, powers, and duties arising upon the breach by the county of any covenants, conditions, or obligations; defining events of default; the payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the resolution authorizing the bonds or any trust indenture or other instrument appertaining thereto or of any covenant or contract with the holders of the bonds; the procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds, the bond resolution, any trust indenture, or other instrument may be amended or abrogated; the amount of bonds to which the holders, or any trustee, must consent and the manner in which such consent may be given or evidenced; and the terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(g) The terms and conditions upon which the holders of the bonds or any portion or percentage of them may enforce any covenants or provisions made under this part 4 or duties imposed thereby; and

(h) All such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the discretion of the board of county commissioners, tend to make the bonds more marketable, notwithstanding that such covenant, act, or thing may not be enumerated in this part 4, it being the intention of this part 4 to give a county power to do all things in the issuance of bonds and for their security consistent with continued public ownership of the sewerage facilities or water facilities.

Source: L. 71: p. 359, § 1. **C.R.S. 1963:** § 36-29-7.

30-20-408. No county liability on bonds.

Revenue bonds issued under this part 4 shall not constitute an indebtedness of the county within the meaning of any constitutional or statutory limitations. Each bond issued under this part 4 shall recite in substance that said bond, including interest thereon, is payable solely from

the revenues pledged to the payment thereof and that said bond does not constitute a debt of the county within the meaning of any constitutional or statutory limitations.

Source: L. 71: p. 361, § 1. **C.R.S. 1963:** § 36-29-8.

30-20-409. Remedies of bondholders.

(1) Subject to any contractual limitations binding upon the holders of any issue of bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(a) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the county and its board and any of its officers, agents, and employees and to require and compel such county or such board or any such officers, agents, or employees to perform and carry out their duties and obligations under this part 4 and their covenants and agreements with the bondholders;

(b) By action or suit in equity to require the county and the board thereof to account as if they were the trustee of an express trust;

(c) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders; and

(d) To bring suit upon the bonds.

(2) No right or remedy conferred by this part 4 upon any holder of bonds or any trustee therefor is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this part 4 or by any other law.

Source: L. 71: p. 361, § 1. **C.R.S. 1963:** § 36-29-9.

30-20-410. Refunding bonds.

(1) Any bonds issued for any refunding purpose authorized in section 30-20-402 (1)(j) may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in this part 4.

(2) No bonds may be refunded under this part 4 unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds or unless the holders thereof voluntarily surrender them for exchange or payment. No maturity of any bond refunded may be extended over fifteen years. The rate of interest on such refunding bonds shall be determined by the board. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, excluding from the computation of such limitation the amount of the principal of any refunding bonds issued to pay any interest in arrears or about to become due on the bonds refunded.

(3) The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow to be applied to the payment of the bonds upon their presentation therefor. Any escrowed proceeds, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such escrowed proceeds and investments, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient to pay the bonds refunded as they become due at their respective maturities or due at prior redemption dates as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom.

(4) Refunding revenue bonds may be made payable from any revenues derived from the operation of any water facilities or sewerage facilities or of both water facilities and sewerage facilities comprising a joint water and sewer system, notwithstanding the pledge of any such revenues for the payment of the outstanding bonds issued by the county which are to be refunded is thereby modified.

(5) Bonds for refunding and bonds for any other purpose authorized in this part 4 may be issued separately or issued in combination in one series or more.

(6) Except as expressly provided or necessarily implied in this section and in section 30-20-402 (1)(j), the relevant provisions in this part 4 pertaining to revenue bonds not issued for refunding purposes shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the bond resolution, rates, fees, tolls, service charges, and other aspects of the bonds.

(7) The determination of the board, that the limitations under this part 4 imposed upon the issuance of refunding bonds have been met, shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

Source: L. 71: p. 362, § 1. **C.R.S. 1963:** § 36-29-10. **L. 89:** (3) amended, p. 1114, § 23, effective July 1.

30-20-411. Incontestable recital in bonds.

Any resolution authorizing, or any trust indenture or other instrument appertaining to, any bonds under this part 4 may provide that each bond therein authorized shall recite that it is issued under authority of this part 4. Such recital shall conclusively impart full compliance with all of the provisions of this part 4, and all bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Source: L. 71: p. 363, § 1. **C.R.S. 1963:** § 36-29-11.

30-20-412. Application of bond proceeds.

(1) All moneys received from the issuance of any bonds authorized in this part 4 shall be used solely for the purpose for which issued and the cost of any project thereby delineated.

(2) Any accrued interest and any premium shall be applied to the payment of the interest on or the principal of the bonds, or both interest and principal, or shall be deposited in a reserve therefor, as the board may determine.

(3) Any unexpended balance of such bond proceeds remaining after the completion of the acquisition or improvement and equipment of the project or the completion of the purpose for which such bonds were issued shall be paid immediately into the fund created for the payment of the principal of said bonds and shall be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing or otherwise appertaining to their issuance, or into a reserve therefor.

(4) The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement and equipment of the project or the proper completion of any project for which the bonds are issued.

(5) The purchaser of the bonds shall in no manner be responsible for the application of the proceeds of the bonds by the county or any of its officers, agents, and employees.

Source: L. 71: p. 363, § 1. **C.R.S. 1963:** § 36-29-12.

30-20-413. Continuing rights of bondholders.

The failure of any holder of any bond or coupon issued under this part 4 to proceed, as provided in section 30-20-409, or in any proceedings appertaining to the issuance of such bond or coupon, shall not relieve the county, its board, or any of its officers, agents, and employees of any liability for failure to perform or carry out any duty, obligation, or other commitment.

Source: L. 71: p. 363, § 1. **C.R.S. 1963:** § 36-29-13.

30-20-414. Validation.

All revenue bonds or other obligations payable solely from revenues of a water or sewer system, and any coupons appertaining thereto, appertaining to a water system, sewer system, or joint water and sewer system issued or purportedly issued prior to June 2, 1971, and all acts and proceedings had or taken or purportedly had or taken before that date, by or on behalf of any county under law or under color of law, preliminary to and in the authorization, execution, sale, and issuance of all water revenue bonds, sewer revenue bonds, and joint water and sewer revenue bonds, including any coupons appertaining thereto, the authorization and execution of all other contracts, and the exercise of other powers in this part 4, are validated, ratified, approved, and confirmed, except as provided in section 30-20-415, notwithstanding any lack of power, authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such securities, acts, and proceedings in such authorization, execution, sale, and issuance and in such exercise of powers; and such securities and other contracts are and shall be binding, legal, valid, and enforceable obligations of such county to which they appertain in accordance with their terms and their authorization proceedings.

Source: L. 71: p. 363, § 1. **C.R.S. 1963:** § 36-29-14.

30-20-415. Effect of and limitations upon validation.

This part 4 shall operate to supply such legislative authority as may be necessary to validate any such securities issued prior to June 2, 1971, and other contracts of such counties executed before said date and any acts and proceedings taken before said date appertaining to the issuance of such securities or execution of other contracts by such counties or otherwise which the general assembly could have supplied or provided for in the law under which such securities were issued or such other contracts were executed and such acts or proceedings were taken; but this part 4

shall be limited to the validation of such securities, other contracts, acts, and proceedings to the extent to which the same can be effectuated under the state and federal constitutions. This part 4 shall not operate to validate, ratify, approve, confirm, or legalize any bond or coupon, other contract, act, proceedings, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined, and it shall not operate to confirm, validate, or legalize any bond or coupon, other contract, act, proceedings, or other matter which was determined in any legal proceeding prior to June 2, 1971, to be illegal, void, or ineffective.

Source: L. 71: p. 364, § 1. **C.R.S. 1963:** § 36-29-15.

30-20-416. Compulsory sewer connections - owner to be notified.

(1) In addition to the powers already had by counties, they have the following powers as enumerated below:

(a) Whenever the board of county commissioners of a county having a public sewerage system determines that the county sewer line is within four hundred feet of the boundary line of any premises located within the county and the board deems it necessary for the protection of public health that the owners of one or more of such premises shall connect their premises with the public sewer, thirty days' notice in writing shall be given to said owners, by registered mail, notifying them to connect their premises with the sewer, the date of the notice to begin as of the date of registering the same for mailing.

(b) If the work of making the connection is not begun within thirty days, the board shall notify the county engineer to prepare plans and specifications for making the connection with the public sewer, including water and service pipe for flushing purposes, if the owner has given notice and proof to said board of his financial inability to make the connection himself and if it is only for the necessary connection of a water closet or of a privy in an outhouse or both.

Source: L. 71: p. 364, § 1. **C.R.S. 1963:** § 36-29-16.

30-20-417. Resolution adopted.

The plans or specifications shall be filed in the county clerk and recorder's or engineer's office, and a resolution shall be adopted by the board ordering or prescribing in general terms the contemplated sewerage connections, giving location of the premises and the name of the owner and authorizing the county clerk and recorder to advertise for bids. The advertisement for bids shall be the same as is now provided for in other cases wherein counties receive bids. The board

of county commissioners shall let the contract to the lowest responsible bidder who shall furnish satisfactory security, but it shall have the right to reject all bids.

Source: L. 71: p. 364, § 1. **C.R.S. 1963:** § 36-29-17.

30-20-418. Cost of connection.

The entire costs of all sewerage and water connections, closets, equipment pipe, sewer pipe, labor, and necessary engineering, legal, and publication expenses shall be ascertained by the board of county commissioners, including an amount of six percent additional for costs of inspection, collections, and other incidentals. The cost to each owner shall be determined according to the material used and work done under the contract in connecting such property to the public sewer and water main. The engineering, legal, and publication expenses shall be charged in proportion as each connection bears to the whole. The cost to each owner shall be billed to him and if unpaid shall be collected in the same manner as other rates, fees, tolls, and charges of the system.

Source: L. 71: p. 365, § 1. **C.R.S. 1963:** § 36-29-18.

30-20-419. Appropriation from system.

The board of county commissioners may make adequate appropriations from the revenues of the system to defray such costs until such time as the charges are received, and, when received, the system shall be reimbursed to the amount of any such appropriation.

Source: L. 71: p. 365, § 1. **C.R.S. 1963:** § 36-29-19.

30-20-420. Failure to pay rates and charges - lien.

In the event any user of the system neglects, fails, or refuses to pay the rates, fees, tolls, and charges fixed by the board of county commissioners for the connection with and use of the system, said user shall not be disconnected from said system or refused the use of said system unless the user is outside the boundaries of the county, but the rates, fees, tolls, and charges due therefor may be certified by the county clerk and recorder to the board of county commissioners of the county in which said delinquent user's property is located and shall become a lien upon the

real property so served by said system and collected in the manner as though they were part of the taxes.

Source: L. 71: p. 365, § 1. **C.R.S. 1963:** § 36-29-20.

30-20-421. Prior rates and charges declared valid.

Any such rates and charges for the connections with, and use of, the system of any county declared or established prior to June 2, 1971, by resolution of the board of county commissioners are, and the same are declared to be, valid and ratified.

Source: L. 71: p. 365, § 1. **C.R.S. 1963:** § 36-29-21.

30-20-422. Construction of this part 4.

The powers conferred by this part 4 shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this part 4 shall not affect, the powers conferred by any other law. Bonds may be issued under this part 4 without regard to the provisions of any other law. The water facilities or sewerage facilities, or both, may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this part 4 for said purposes, notwithstanding that any law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension for like purposes, and without regard to the requirements, restrictions, debt, or other limitations or other provisions contained in any other law, including, but not limited to, any requirement for any restriction or limitation on the incurring of indebtedness or the issuance of bonds. Insofar as the provisions of this part 4 are inconsistent with the provisions of any other law, the provisions of this part 4 shall be controlling.

Source: L. 71: p. 365, § 1. **C.R.S. 1963:** § 36-29-22.

PART 5

COUNTY PUBLIC IMPROVEMENT DISTRICT ACT

Law reviews: For article, "Improvement Districts for Colorado Counties, Cities, and Towns", see 30 Colo. Law. 53 (Jan. 2001).

30-20-501. Short title.

This part 5 shall be known and may be cited as the "County Public Improvement District Act of 1968".

Source: L. 68: p. 162, § 2. **C.R.S. 1963:** § 36-25-2.

30-20-502. Legislative declaration.

It is hereby declared that the organization of public improvement districts, having the purposes and powers provided in this part 5, shall serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of said districts.

Source: L. 68: p. 162, § 1. **C.R.S. 1963:** § 36-25-1.

30-20-503. Definitions.

As used in this part 5, unless the context otherwise requires:

(1) (a) (I) (A) An "elector" of a district is a person who, at the designated time or event, is registered to vote in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S.; and

(B) Who is a resident of the district or the area to be included in the district; or

(C) Who or whose spouse or civil union partner owns taxable real or personal property within the district or the area to be included in the district whether or not said person resides within the district.

(II) Where the owner of taxable real or personal property specified in sub-subparagraph (C) of subparagraph (I) of this paragraph (a) is not a natural person, an "elector" of the district shall include a natural person designated by such owner to vote for such person. Such designation

shall be in writing and filed with the county clerk and recorder. Only one such person may be designated by an owner.

(b) A "taxpaying elector" of a district is an elector of a district who or whose spouse or civil union partner owns taxable real or personal property within the district or the area to be included within the district, whether or not said person resides within the district. Where the owner of taxable real or personal property specified in this paragraph (b) is not a natural person, a "taxpaying elector" of the district shall include a natural person designated by such owner to vote for such person. Such designation shall be in writing and filed with the county clerk and recorder. Only one person may be designated by an owner.

(c) A person who is obligated to pay general taxes under a contract to purchase real property within the district shall be considered an owner within the meaning of this subsection (1). The ownership of property on which a specific ownership tax is paid pursuant to law shall not qualify a person as an elector nor as a taxpaying elector. Taxable property means real or personal property subject to general ad valorem taxes.

(d) Registration pursuant to the general election laws or any other laws shall not be required.

(2) "Governing body" means a board of county commissioners in a county.

(3) "Improvement district", referred to in this part 5 as a "district", means a taxing unit that may be created by any county in this state for the purpose of constructing, installing, acquiring, operating, or maintaining any public improvement or for the purpose of providing any service so long as the county that forms the district is authorized to perform such service or provide such improvement under the county's home rule charter, if any, or the laws of this state, and except as otherwise provided in this subsection (3). "Public improvement" or "service" shall not include any facility identified in section 30-20-101 (8) or (9), nor shall the terms include services identified in section 30-15-401 (4) to (7.7) unless the district provides such services consistent with part 4 of article 15 of this title. No such district shall provide the same improvement or service as an existing special district within the territory of such existing special district unless the existing special district consents. A district may consist of noncontiguous tracts or parcels and may be organized wholly or partially within an existing special district if it is not providing the same service as the special district. For purposes of this part 5, a district may be created by or within a county for the purpose of constructing, installing, acquiring, operating, maintaining or providing fire protection regardless of whether or not the county is authorized to provide fire protection improvements or services. For purposes of this subsection (3), "fire protection" shall have the same meaning as "firehouses, equipment, and firefighters" as described in section 30-35-201 (22).

(4) "Publication", if no manner of publication is specified, means publication once a week for three consecutive weeks in a newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three consecutive

weeks, but not less than fourteen days, excluding the day of first publication, shall intervene between the day of the first publication and the day of the last publication, and publication shall be complete on the day of the last publication.

Source: L. 68: p. 162, § 3. **C.R.S. 1963:** § 36-25-3. **L. 69:** p. 234, § 1. **L. 70:** p. 141, § 10. **L. 71:** p. 336, § 2. **L. 81:** Entire section amended, p. 1454, § 1, effective May 27. **L. 85:** (5) amended, p. 1069, § 1, effective April 24. **L. 90:** (3) amended, p. 1458, § 1, effective March 22. **L. 96:** (1)(a) amended, p. 1767, § 60, effective July 1. **L. 99:** (3) amended, p. 506, § 1, effective April 30. **L. 2002:** (1)(a) and (1)(b) amended, p. 267, §§ 1, 2, effective August 7. **L. 2005:** (3) amended, p. 265, § 1, effective August 8. **L. 2014:** (1)(a)(I) and (1)(b) amended, (HB 14-1164), ch. 2, p. 57, § 8, effective February 18.

Cross references: (1) For definitions applicable to this part 5, see § 30-26-301 (2)(d).

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

30-20-504. Authority of governing body.

(1) Within the unincorporated territory of any county, the governing body of such county is hereby vested with jurisdiction, power, and authority to establish districts for the acquisition, construction, installation, operation, or maintenance of improvements or the provision of services authorized by this part 5. The governing body of a county may establish a district wholly or partially within the boundaries of any municipality or partially within the unincorporated territory of another county if such municipality or county consents by resolution to the establishment of such district.

(2) If a municipality annexes or incorporates any territory within an established district, such territory shall remain in the district unless the municipality notifies the district's board of the municipality's intent to exclude the territory annexed or incorporated from the district. If the municipality notifies the board of its intent to exclude such territory, such exclusion shall take effect January 1 of the year following such notice. Any property excluded from the district under this subsection (2) shall remain subject to payment of its share of any indebtedness or bonds that are outstanding on the date of such exclusion.

(3) At such time as all of the territory included within an existing district that has no outstanding indebtedness or bonds is annexed or incorporated into a municipality, the governing body of the municipality shall exercise all duties of the governing body of the district but continue to act under this section as if it were the board of county commissioners. The presiding

officer of the governing body of the municipality shall be ex officio the presiding officer of the board, the clerk of the municipality shall be ex officio the secretary of the board, and the treasurer of the municipality shall be ex officio the treasurer of the board and district.

Source: L. 68: p. 163, § 4. **C.R.S. 1963:** § 36-25-4. **L. 99:** Entire section amended, p. 507, § 2, effective April 30. **L. 2002:** (3) added, p. 268, § 3, effective August 7.

30-20-505. Organization petition - contents.

(1) The organization of a district shall be initiated by a petition filed in the office of the clerk of the board of county commissioners of the county creating the district. The petition shall be signed by not less than thirty percent or two hundred of the electors of the proposed district, whichever is less. After the filing of a petition, no signer shall be permitted to withdraw his or her name therefrom.

(2) The petition shall set forth:

(a) The name of the proposed district, which shall include the name of the county creating the district, a descriptive name or number, and the words "public improvement district";

(b) A general description of the improvements to be constructed, installed, acquired, operated, or maintained or the services to be provided by the district;

(c) The estimated cost of the proposed improvements or the estimated annual cost of providing the proposed services;

(d) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable a property owner to determine whether or not his or her property is within the district;

(e) The names of three persons who shall represent the petitioners and who have the power to enter into agreements relating to the organization of the district, which agreements shall be binding on the district, if created;

(f) A prayer for the organization of the district; and

(g) A statement that either:

(I) The boundaries of the proposed district include at least one hundred eligible electors;

(II) The boundaries of the proposed district include at least one eligible elector for each five acres of land included within the proposed district; or

(III) The petition is signed by one hundred percent of the owners of taxable real property to be included in the proposed district.

(3) No petition with the requisite signatures shall be declared void on account of alleged defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and together shall be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body the same as though filed with the first petition.

(4) If the petition is signed by one hundred percent of the owners of the taxable real property to be included in the district and the petition contains a waiver request, the board of county commissioners may, at its discretion, waive all or any of the requirements for notice, publication, and a hearing set forth in sections 30-20-507 and 30-20-508.

Source: L. 68: p. 163, § 5. **C.R.S. 1963:** § 36-25-5. **L. 69:** p. 234, § 2. **L. 70:** p. 141, § 11. **L. 81:** (1) amended, p. 1458, § 1, effective July 1. **L. 85:** (3) amended, p. 1069, § 2, effective April 24. **L. 99:** (1) and (2) amended and (4) added, p. 507, § 3, effective April 30. **L. 2002:** (2)(e) amended, p. 268, § 4, effective August 7.

30-20-506. Bond of petitioners.

At the time of filing the petition or at any time prior to the time of hearing on said petition a bond shall be filed, with security approved by the governing body, or cash deposit made sufficient to pay all expenses connected with the proceedings in case the organization of the district is not effected. If at any time during the organization proceedings the governing body is satisfied that the bond first executed or the amount of cash deposited is insufficient in amount, it may require the execution of an additional bond or the deposit of additional cash within a time to be fixed, not less than ten days distant, and upon failure of the petitioners to file or deposit the same, the petition shall be dismissed.

Source: L. 68: p. 164, § 6. **C.R.S. 1963:** § 36-25-6.

30-20-507. Notice of hearing.

As soon as possible after the filing of such petition, the governing body shall fix, by order, a place and time, not less than twenty days nor more than forty days after the petition is filed, for a

hearing thereon. Thereupon the clerk of the governing body shall cause notice by publication to be made of the pendency of the petition, of the purposes and boundaries of the proposed district, and of the time and place of hearing thereon. The clerk shall also forthwith cause a copy of said notice to be mailed to each elector of the district at the elector's last-known address, as disclosed by the tax records of the counties and the last official voter registration lists. The clerk shall also cause a copy of said notice to be mailed to each municipality located within three miles of the boundaries of the proposed district at the same time notice is mailed to the electors of the district.

Source: L. 68: p. 164, § 7. **C.R.S. 1963:** § 36-25-7. **L. 70:** p. 142, § 12. **L. 99:** Entire section amended, p. 509, § 4, effective April 30.

30-20-508. Hearing - dismissal - findings - declaration - when action barred.

(1) On the day fixed for such hearing or at any adjournment thereof or, if the hearing is waived under section 30-20-505 (4), at any meeting at which a resolution creating a district is considered, the governing body shall ascertain from the tax rolls of the counties in which the district is located, from the last official registration list, and from such other evidence which may be adduced, the total number of electors of the district.

(2) If it appears that said petition is not signed by at least the number of electors required under section 30-20-505 (1) or if it is shown that the proposed improvement or service will not confer a general benefit on the district or that the cost of the improvement or service would be excessive as compared with the value of the property in the district, the governing body shall thereupon dismiss the petition and adjudge the cost against those executing the bond filed to pay such costs. No appeal or other remedy shall lie from an order dismissing said proceeding. Nothing in this section shall be construed to prevent the filing of subsequent petitions for similar improvements or services or for a similar district. The right so to renew such proceeding is hereby expressly granted and authorized.

(3) The finding of the governing body upon the question of the genuineness of the signatures and all matters of fact incident to such determination shall be final and conclusive on all parties in interest, whether appearing or not.

(4) (a) Upon the hearing, if required, or without a hearing pursuant to section 30-20-505 (4), if it appears that a petition for the organization of a district has been duly signed and presented in conformity with this part 5 and that the allegations of the petition are true, the governing body, by resolution duly adopted and made effective, shall adjudicate all questions of jurisdiction and may order that the question of the organization of the district and such other matters as the governing body deems appropriate including, but not limited to, the issuance of bonds or other matters for which voter approval is required under section 20 of article X of the Colorado

constitution, be submitted to the electors at an election to be held for that purpose in accordance with the provisions of articles 1 to 13 of title 1, C.R.S. Unless provided otherwise in section 20 of article X of the Colorado constitution, such election may be held either at a special election within not less than sixty days but not more than one hundred eighty days after the date the governing body adopted the resolution or in conjunction with a general election, ballot issue election, or ballot question election.

(b) At an election held under paragraph (a) of this subsection (4), the electors of the district shall vote for or against the organization of the district and such other matters as the governing body deems appropriate, including, but not limited to, the issuance of bonds or matters for which voter approval is required under section 20 of article X of the Colorado constitution. If a majority of the votes cast at the election are in favor of the organization, the governing body shall adopt a resolution declaring the district organized.

(c) If a petition filed with the governing body complies with section 30-20-505 (4), the governing body may adopt a resolution declaring the district organized without any notice, hearing, election, or the filing of a bond.

(d) If the governing body adopts a resolution in accordance with paragraph (b) or (c) of this subsection (4), the governing body shall give the district the corporate name specified in the petition by which, in all proceedings, it shall thereafter be known. Thereupon the district shall be a public or quasi-municipal subdivision of the state of Colorado and a body corporate with the limited proprietary powers set forth in this part 5.

(e) Nothing in this subsection (4) authorizes a governing body to waive an election otherwise required under section 20 of article X and section 6 of article XI of the Colorado constitution or to hold an election inconsistent with the election requirements in said section 20.

(5) If a resolution is adopted establishing the district, such resolution shall finally and conclusively establish the regular organization of the district against all persons, unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty days after the adoption of such resolution.

Source: L. 68: p. 164, § 8. **C.R.S. 1963:** § 36-25-8. **L. 70:** p. 142, § 13. **L. 81:** (1) and (2) amended, p. 1458, § 2, effective July 1. **L. 99:** (1), (2), and (4) amended, p. 509, § 5, effective April 30.

30-20-508.1. Exclusion proviso. (Repealed)

Source: L. 81: Entire section added, p. 1459, § 3, effective July 1. **L. 99:** Entire section repealed, p. 526, § 28, effective April 30.

30-20-509. Recording of resolution.

Within thirty days after a district is organized, the clerk of the governing body shall transmit for recording a copy of the resolution establishing the district to the county clerk and recorder of each of the counties in which the district or a part thereof is located.

Source: L. 68: p. 165, § 9. **C.R.S. 1963:** § 36-25-9. **L. 83:** Entire section amended, p. 1227, § 8, effective July 1. **L. 99:** Entire section amended, p. 510, § 6, effective April 30.

30-20-510. Governing body constitutes board - duties.

The governing body of the county in which the district is located shall constitute ex officio the board of directors of the district. The presiding officer of the governing body shall be ex officio the presiding officer of the board, the clerk of the governing body shall be ex officio the secretary of the board, and the treasurer of the county shall be ex officio the treasurer of the board and district. Such board shall adopt a seal. The secretary shall keep in a visual text format that may be transmitted electronically a record of all its proceedings, minutes of all meetings, certificates, contracts, and all corporate acts, which shall be open to inspection by the owners of property in the district, as well as by all other interested parties. The treasurer shall keep permanent records containing accurate accounts of all money received by and disbursed for and on behalf of the district.

Source: L. 68: p. 165, § 10. **C.R.S. 1963:** § 36-25-10. **L. 2009:** Entire section amended, (HB 09-1118), ch. 130, p. 561, § 6, effective August 5.

30-20-511. Meetings.

The board shall hold meetings, which shall be open to the public, in a place to be designated by the board as often as the needs of the district require, on notice to each member of the board. A quorum of the governing body shall constitute a quorum at any meeting. Notice of time and place of all regular and special meetings shall be posted in three public places within the limits of the district and in the county courthouse at least three days previous to such meetings.

Source: L. 68: p. 165, § 11. **C.R.S. 1963:** § 36-25-11.

Cross references: For quorum of the governing body of a county, see § 1-4-205.

30-20-512. General powers of district.

(1) The district has the following limited powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued, and be a party to suits, actions, and proceedings;

(d) Except as otherwise provided in this part 5, to enter into contracts and agreements affecting the affairs of the district, including contracts with the United States and any of its agencies or instrumentalities. A notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of one thousand dollars or more. The district may reject any and all bids, and if it appears that the district can perform the work or secure material for less than the lowest bid, it may proceed so to do.

(e) To borrow money and incur general obligation indebtedness and evidence the same by bonds, certificates, warrants, notes, and debentures in accordance with the provisions of this part 5 and to issue revenue bonds or special assessment bonds in accordance with the provisions of this part 5;

(f) To acquire, construct, install, operate, and maintain the improvements or provide the services contemplated by this part 5, including improvements located outside the boundaries of the district, and all property, rights, or interest incidental or appurtenant thereto, and to dispose of real and personal property and any interest therein, including leases and easements in connection therewith; but any improvement or service, other than described in the organization petition, shall be first approved by either a petition signed by not less than fifty percent of the taxpaying electors in the district or by election;

(g) To refund any general obligation indebtedness, revenue bonds, or special assessment bonds of the district without an election; otherwise, the terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds of the district;

(h) To have the management, control, and supervision of all the business and affairs of the district and of the acquisition, construction, installation, operation, and maintenance of district improvements or the provision of services;

(i) To have and exercise the power of eminent domain in the same manner provided by law for the condemnation of private property for public use, to take any property necessary to the exercise of the powers granted in this part 5;

(j) To construct and install improvements across or along any public street, alley, or highway, and to construct works across any stream of water or watercourses. However, the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as completely or unnecessarily to impair the usefulness thereof. The use and occupation of streets, alleys, and highways, and the construction or installation of improvements by any district, shall be in accordance with the provisions of all applicable county resolutions and with such reasonable rules and regulations as may be prescribed by the governing body of the county.

(k) To fix, and from time to time to increase or decrease, rates, tolls, or charges for any revenue-producing services or facilities furnished by the district, and to pledge such revenue for the payment of any indebtedness of the district. Until paid, all rates, tolls, or charges shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of the state of Colorado for the foreclosure of mechanics' liens. With respect to revenue-producing services or facilities, the board shall shut off or discontinue service for delinquencies in the payment of such rates, tolls, or charges, or for delinquencies in the payment of taxes levied pursuant to this part 5, and shall prescribe and enforce rules and regulations for connecting with and disconnecting from such services and facilities.

(l) To adopt and amend bylaws, not in conflict with the constitution and laws of the state or with the resolution of the county affected, for carrying on the business, objects, and affairs of the board and of the district;

(m) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 5. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5.

(n) In a district providing fire protection services:

(I) To create and maintain a firefighters' pension fund, under the provisions of parts 2 and 4 of article 30.5 of title 31, C.R.S., subject to the provisions of article 31 of said title, and a volunteer firefighter pension fund under part 11 of article 30 of title 31, C.R.S.; and

(II) To adopt and enforce fire codes, as the board deems necessary, but no such code shall apply within any municipality or the unincorporated portion of any county unless the governing body of the municipality or county, as the case may be, adopts a resolution stating that the code or specific portions thereof shall be applicable within the portion of the municipality or the county that is within the district's boundaries; except that nothing in this subsection (1)(n) shall

be construed to affect any existing fire codes that have been adopted by the governing body of a municipality or county. Notwithstanding any other provision of this section, no district providing fire protection service shall prohibit the sale of permissible fireworks, as defined in section 24-33.5-2001 (11), within its jurisdiction.

(o) To conduct an election in accordance with articles 1 to 13 of title 1, C.R.S., for any purpose the board deems necessary or required.

(2) A district has the power to construct, maintain, and operate safety measures that are necessary to allow the county to restrict the sounding of locomotive horns at highway-rail grade crossings in compliance with 49 U.S.C. sec. 20153, as amended, and the applicable rules of the federal railroad administration. The district shall construct, maintain, and operate the safety measures in accordance with the provisions of section 40-4-106, C.R.S., and the standards of safety prescribed by the public utilities commission pursuant to section 40-29-110, C.R.S.

Source: L. 68: p. 165, § 12. **C.R.S. 1963:** § 36-25-12. **L. 81:** (1)(f) amended, p. 1459, § 4, effective July 1. **L. 90:** (1)(n) added, p. 1459, § 2, effective March 22. **L. 95:** (1)(n)(I) amended, p. 1380, § 4, effective June 30. **L. 96:** (1)(n)(II) amended, p. 283, § 2, effective April 11; (1)(n)(I) amended, p. 941, § 4, effective May 23. **L. 99:** (1)(e), (1)(f), (1)(g), and (1)(h) amended and (1)(o) added, p. 510, § 7, effective April 30. **L. 2006:** (2) added, p. 347, § 1, effective August 7. **L. 2017:** (1)(n)(II) amended, (SB 17-222), ch. 245, p. 1028, § 6, effective August 9.

Cross references: (1) For the power of eminent domain, see article 1 of title 38; for foreclosure of mechanics' liens, see article 22 of title 38.

(2) For the legislative declaration contained in the 1995 act amending this section, see section 1 of chapter 254, Session Laws of Colorado 1995.

30-20-512.5. Local improvement districts - authority to establish.

In order to defray all or any portion of the costs of the improvements or services provided by the district, the board may establish local improvement districts within the boundaries of the district. Such local improvement districts may be established whenever the board determines that property in the district will be especially benefitted by such improvements or services. The method of creating local improvement districts, making the improvements or providing the services, and assessing the costs thereof shall be as provided in part 6 of this article. However, the electors eligible to vote on any question under this section shall either be electors of the district or electors within the proposed local improvement district, as determined by the board. In addition, the board shall perform the duties of the governing body as set forth in part 6 of this

article, and the secretary of the district shall perform the duties of the county clerk and recorder as set forth in part 6 of this article. The improvements that the local improvement district may construct and the services that the local improvement district may provide shall be the improvements and the services that the district may provide under this part 5.

Source: L. 99: Entire section added, p. 513, § 10, effective April 30.

30-20-513. Determination of special benefits - factors considered.

(1) The term "benefit", for the purposes of assessing a particular property within a public improvement district, particularly with respect to storm sewer drainage and to drainage improvements to carry off surface waters, includes, but is not limited to, the following:

(a) Any increase in the market value of the property;

(b) The provision for accepting the burden from specific dominant property for discharging surface water onto servient property in a manner or quantity greater than would naturally flow because the dominant owner made some of his property impermeable;

(c) Any adaptability of property to a superior or more profitable use;

(d) Any alleviation of health and sanitation hazards accruing to particular property or accruing to public property in the improvement district if the provision of health and sanitation is paid for wholly or partially out of funds derived from taxation of property owners of the improvement district;

(e) Any reduction in the maintenance costs of particular property or accruing to public property in the improvement district if the maintenance of the public property is paid for wholly or partially out of funds derived from taxation of property owners of the improvement district;

(f) Any increase in convenience or reduction in inconvenience accruing to particular property owners, including the facilitation of access to and travel over streets, roads, and highways;

(g) Recreational improvements accruing to particular property owners as a direct result of drainage improvement.

Source: L. 75: Entire section added, p. 996, § 1, effective July 1.

Editor's note: This section was originally numbered as § 30-20-512.5 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-514. Power to levy taxes.

In addition to the other means of providing revenue for such districts, the board has the power to levy and collect ad valorem taxes on and against all taxable property within the district. Such power shall not prevent the issuance of obligations payable solely from the income of revenue-producing facilities.

Source: L. 68: p. 167, § 13. **C.R.S. 1963:** § 36-25-13.

Editor's note: This section was originally numbered as § 30-20-513 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-515. Determining and fixing rate of levy.

The board shall determine annually the amount of money necessary to be raised by a levy on the taxable property in the district, taking into consideration other sources of revenue of the district, and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the district, together with other revenues, shall raise the amount required by the district during the ensuing fiscal year for paying expenses of organization and the costs of acquiring, constructing, installing, operating, and maintaining the improvements or works of the district or providing the services of the district and promptly to pay in full when due all interest on and principal of general obligation bonds or indebtedness and other obligations of the district. In the event of accruing defaults or deficiencies, additional levies may be made as provided in section 30-20-516. At the time of certifying other tax levies, the board shall certify to the board of county commissioners of each county in which the district or a portion thereof lies the rate of levy so determined with directions that, at the time and in the manner required by law for levying of taxes for county purposes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the district at the rate so fixed and determined, in addition to such other taxes as may be levied by such board of county commissioners.

Source: L. 68: p. 167, § 14. **C.R.S. 1963:** § 36-25-14. **L. 99:** Entire section amended, p. 511, § 8, effective April 30.

Editor's note: This section was originally numbered as § 30-20-514 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-516. Levies to cover deficiencies.

The board, in fixing and determining the rate of levy, shall take into account the maturing indebtedness for the current and ensuing year on the contracts, bonds, interest on bonds, deficiencies, and defaults of prior years of the district, and shall make provision for the payment thereof. In case the money produced from such levy, together with other revenues of the district, is not sufficient to punctually meet the payments on the contracts, bonds, and interest on bonds of the district, and to pay defaults and deficiencies of the district, then the board, from year to year, shall make such additional levies of taxes as may be necessary for meeting such payments, and notwithstanding any limitations, such levies shall be made and continued until the indebtedness of the district is fully paid.

Source: L. 68: p. 167, § 15. **C.R.S. 1963:** § 36-25-15.

Editor's note: This section was originally numbered as § 30-20-515 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-517. County officers to levy and collect taxes - liens.

It is the duty of the governing body to levy the taxes certified to it, as provided in this part 5. It is the duty of all officials charged with the duty of collecting taxes to collect and enforce such taxes at the time, in the form and manner, and with like interest and penalties as other taxes are collected and, when collected, to pay the same to the district ordering its levy and collection. The payment of such collections shall be made monthly to the treasurer of the district and paid into the depository thereof to the credit of the district. All taxes levied under this part 5, together with the penalties for default in payment thereof, and all costs of collecting same, shall constitute a lien, until paid, on and against the property taxed, as in the case of other general taxes.

Source: L. 68: p. 167, § 16. **C.R.S. 1963:** § 36-25-16.

30-20-518. Property sold for taxes.

The taxes provided for in this part 5 shall be a part of the general taxes and shall be paid accordingly. Sales of properties for delinquencies shall be in the same manner as is provided in the statutes of the state of Colorado for the sale of property for nonpayment of taxes.

Source: L. 68: p. 167, § 17. **C.R.S. 1963:** § 36-25-17.

Editor's note: This section was originally numbered as § 30-20-517 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

Cross references: For procedures on sale of property for nonpayment of taxes, see part 11 of article 25 of title 31 and article 11 of title 39.

30-20-519. Reserve fund.

Whenever any indebtedness has been incurred by a district, it is lawful for the board to levy taxes and collect revenue for the purpose of creating a reserve fund in such amount as the board may determine, which may be used to meet the obligations of the district, for operating charges and depreciation, and to provide extensions and betterments of the authorized improvements of the district.

Source: L. 68: p. 168, § 18. **C.R.S. 1963:** § 36-25-18.

Editor's note: This section was originally numbered as § 30-20-518 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-520. Inclusion or exclusion - petition - notice - hearing - order.

(1) The boundaries of any district organized under the provisions of this part 5 may be changed in the manner prescribed in this section, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it might be liable or chargeable had any such change of boundaries not

been made. The owners of property proposed to be included or excluded may file with the board a petition, in writing, praying that such property be included in or excluded from the district. The petition shall describe the property owned by the petitioners and shall be verified. The petition shall be accompanied by a deposit of money sufficient to pay all costs of the inclusion or exclusion proceedings. The secretary of the board shall cause notice of filing of such petition to be given and published, which notice shall state the filing of such petition, names of petitioners, and descriptions of property sought to be included or excluded, and the prayer of said petitioners.

(2) Such notice shall state that all persons having objections to the petition may appear in the office of the board at the time set in said notice, and show cause why the petition should not be granted. The board, at the time and place set in the notice, or at such times to which the hearing may be adjourned, shall proceed to hear the petition and all objections thereto. The failure of any person interested to show cause shall be deemed an assent on his part to the inclusion or exclusion of such property as prayed for in the petition. If the petition is granted, the board shall adopt a resolution to that effect and file a certified copy of same with the county clerk and recorder of the county in which the property is located. Thereupon said property shall be included or excluded from the district.

Source: L. 68: p. 168, § 19. **C.R.S. 1963:** § 36-25-19.

Editor's note: This section was originally numbered as § 30-20-519 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-521. Liability of property.

All property included within or excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion.

Source: L. 68: p. 168, § 20. **C.R.S. 1963:** § 36-25-20.

Editor's note: This section was originally numbered as § 30-20-520 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-522. Board can issue bonds - form - legislative declaration.

(1) To carry out the purposes of this part 5, the board is hereby authorized to issue bonds of the district. Such bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable at such times as determined by the board, and shall be due and payable in installments at such times as determined by the board and extending not more than twenty years from date of issuance. The form and terms of said bonds, including provisions for their sale, payment, and redemption, shall be determined by the board. To the extent required by section 20 of article X of the Colorado constitution, such bonds shall not be issued unless first approved at an election held for that purpose in accordance with articles 1 to 13 of title 1, C.R.S. If the board so determines, such bonds may be redeemable prior to maturity, with or without payment of a premium, but no premium shall exceed three percent of the principal thereof. The bonds shall be executed in the name of and on behalf of the district and signed by the presiding officer of the board with the seal of the district affixed thereto and attested by the secretary of the board. Such bonds shall be in such denominations as the board shall determine. Interest coupons, if any, shall bear the original or facsimile signature of the presiding officer of the board. Under no circumstances shall any of said bonds be considered or held to be an indebtedness, obligation, or liability of the counties or municipalities in which the district or any portion thereof is located, and bonds issued pursuant to the provisions of this part 5 shall contain a statement to that effect.

(2) The general assembly finds and declares that:

(a) In performing its duties under section 20 of article X and section 6 of article XI of the Colorado constitution, the general assembly must balance the interests of controlling public debt, preserving local control, and reasonably restraining most of the growth of government;

(b) In balancing these constitutional interests through the exercise of its legislative authority, the general assembly has enacted limitations on the ability of county public improvement districts to incur indebtedness;

(c) A statutory restriction has been imposed on the amount of bonded indebtedness that county public improvement districts can incur with voter approval;

(d) From time to time, changes to such limitations imposed on county public improvement districts are necessary in order to keep these constitutional interests properly balanced in light of changing circumstances;

(e) Section 20 (1) of article X of the Colorado constitution prohibits the weakening of "other limits on district revenue, spending, and debt" without future voter approval;

(f) No change in county public improvement district debt occurs by virtue of statutory changes that increase a limit when the debt would not actually increase without such district voter approval;

(g) Any actual weakening of county public improvement district debt limitation occurs only when such district voter approval is obtained under an increased limit; and

(h) By requiring voters to give approval at the county public improvement district level for any weakening of a county public improvement district limit on debt, the voter approval requirement of section 20 (1) of article X of the Colorado constitution is satisfied in a manner achieving a reasonable result through legislative harmonization of constitutional provisions.

Source: L. 68: p. 168, § 21. **C.R.S. 1963:** § 36-25-21. **L. 70:** p. 143, § 14. **L. 99:** Entire section amended, p. 512, § 9, effective April 30.

Editor's note: This section was originally numbered as § 30-20-521 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-523. Submission of debt question - form. (Repealed)

Source: L. 68: p. 169, § 22. **C.R.S. 1963:** § 36-25-22. **L. 70:** p. 143, § 15. **L. 71:** p. 337, § 7. **L. 99:** Entire section repealed, p. 526, § 28, effective April 30.

Editor's note: This section was originally numbered as § 30-20-522 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-524. Notice of election. (Repealed)

Source: L. 68: p. 169, § 23. **C.R.S. 1963:** § 36-25-23. **L. 99:** Entire section repealed, p. 526, § 28, effective April 30.

Editor's note: This section was originally numbered as § 30-20-523 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-525. Conduct of election - canvass. (Repealed)

Source: L. 68: p. 169, § 24. **C.R.S. 1963:** § 36-25-24. **L. 99:** Entire section repealed, p. 526, § 28, effective April 30.

Editor's note: This section was originally numbered as § 30-20-524 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-526. Effect - subsequent elections. (Repealed)

Source: L. 68: p. 169, § 25. **C.R.S. 1963:** § 36-25-25. **L. 70:** p. 144, § 16. **L. 71:** p. 337, § 3. **L. 99:** Entire section repealed, p. 526, § 28, effective April 30.

Editor's note: This section was originally numbered as § 30-20-525 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-527. Procedure.

Any district organized pursuant to this part 5 may be dissolved after notice given and a hearing held in the manner prescribed by sections 30-20-507 and 30-20-508. After hearing any protests against, or objections to, dissolution, if the board determines that it is in the best interests of all concerned to dissolve the district, it shall so provide by resolution, a certified copy of which shall be filed in the office of the county clerk and recorder in the county in which the district is located. Upon such filing, the dissolution shall be complete. However, no district shall be dissolved until it has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities, or until funds are on deposit and available therefor.

Source: L. 68: p. 170, § 26. **C.R.S. 1963:** § 36-25-26.

Editor's note: This section was originally numbered as § 30-20-526 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-528. Correction of faulty notices.

In any case where a notice is provided for in this part 5, if the governing body finds for any reason that due notice was not given, the governing body shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated, but the governing body in that case shall order due notice given, and shall continue the proceeding until such time as notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

Source: L. 68: p. 170, § 27. **C.R.S. 1963:** § 36-25-27.

Editor's note: This section was originally numbered as § 30-20-527 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-529. Early hearings.

All actions in which there may arise a question of the validity of the organization of a district, or a question of the validity of any proceeding under this part 5, shall be advanced as a matter of immediate public interest and concern, and shall be heard at the earliest practicable moment.

Source: L. 68: p. 170, § 28. **C.R.S. 1963:** § 36-25-28.

Editor's note: This section was originally numbered as § 30-20-528 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-530. County jurisdiction unimpaired.

Nothing in this part 5 shall affect or impair the control and jurisdiction which a county has over all property within its boundaries. All powers granted by this part 5 shall be subject to such control and jurisdiction.

Source: L. 68: p. 170, § 29. **C.R.S. 1963:** § 36-25-29.

Editor's note: This section was originally numbered as § 30-20-529 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-531. Method not exclusive.

No part of this part 5 shall repeal or affect any other law or any part thereof, it being intended that this part 5 shall provide a separate method of accomplishing its objects, and not an exclusive one.

Source: L. 68: p. 170, § 30. **C.R.S. 1963:** § 36-25-30.

Editor's note: This section was originally numbered as § 30-20-530 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-532. Confirmation of board actions and powers.

(1) In its discretion, the board may file a petition at any time in the district court in any county in which the district or a portion thereof is located for a judicial examination and determination of any power conferred, any securities issued by the district or authorized to be issued by the district, any taxes, assessments, or service charges levied or otherwise made by the district or contracted to be levied by the district or otherwise made by the district, or of any other act, proceeding, or contract of the district whether or not such act, proceeding, or contract has been taken or executed, including proposed contracts for any improvement, proposed securities of the district to defray in whole or in part the cost of the project, the proposed acquisition, improvement, equipment, maintenance, operation, or disposal of any property pertaining thereto, or any combination thereof.

(2) A petition filed under subsection (1) of this section shall set forth the facts upon which the validity of such power, securities, taxes, assessments, charges, act, proceeding, or contract is founded. The presiding officer of the district shall verify the petition before it is filed with the district court by signing said petition.

(3) Any action filed under this section shall be in the nature of a proceeding in rem. The district court shall have jurisdiction over all parties interested in the proceeding upon the publication and posting of a notice in accordance with this part 5.

(4) The clerk of the district court in which a petition is filed shall provide notice of such filing. The notice shall include: A brief outline of the contents of the petition; the time, date, and

location of the hearing; and the location where a complete copy of any documents at issue in the petition may be examined. The clerk shall serve the notice by:

(a) Publishing the notice at least once a week for five consecutive weeks by five weekly insertions in a newspaper of general circulation in the counties and municipalities in which the district is located; and

(b) Posting the notice in the office of the district at least thirty days prior to the date of the hearing on the petition.

(5) Any owner of property within the boundaries of the district or any other person interested in the petition filed by the board may appear at the hearing by either filing a motion to dismiss or an answer to the petition at least five days prior to the hearing date or within such time as the court may allow. The petition shall be taken as confessed by all persons who fail to appear.

(6) The petition and notice shall be sufficient to give the district court jurisdiction, and, upon hearing, the district court shall examine and determine all matters affecting the question submitted, shall make such findings with reference thereto, and shall render such judgment and decree thereon as the case warrants.

(7) Unless otherwise specified in this part 5, the Colorado rules of civil procedure shall govern any actions filed under this section in matters of pleading and practice.

(8) Costs may be divided or apportioned among any contesting parties in the discretion of the district court.

(9) Review of the judgment of the district court may be had as in other similar cases; except that such review shall be applied for within thirty days after the time of the rendition of such judgment or within such additional time as may be allowed by the court within thirty days.

(10) The district court shall disregard any error, irregularity, or omission that does not affect the substantial rights of the parties.

(11) All cases in which there may arise a question of validity of any matter provided for under this section shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment.

Source: L. 99: Entire section added, p. 513, §10, effective April 30.

30-20-533. Exemption from taxation.

The income or other revenues of the district, any property owned by the district, any bonds issued by the district, and the transfer of and any income from any bonds issued by the district

shall be exempt from all taxation and assessments by the state. In the resolution authorizing the bonds, the district may waive the exemption from federal income taxation for any interest on the bonds.

Source: L. 99: Entire section added, p. 513, § 10, effective April 30.

30-20-534. Limitation of actions.

Any legal or equitable action brought with respect to any acts or proceedings of the district, the creation of a district, the authorization of any bonds, or any other action taken under this part 5 shall commence within thirty days after the performance of such action or else shall be thereafter perpetually barred.

Source: L. 99: Entire section added, p. 513, § 10, effective April 30. **L. 2002:** Entire section amended, p. 268, § 5, effective August 7.

PART 6

LOCAL IMPROVEMENT DISTRICTS - COUNTIES

Law reviews: For article, "Improvement Districts for Colorado Counties, Cities, and Towns", see 30 Colo. Law. 53 (Jan. 2001).

30-20-601. Power to make local improvements.

Except as otherwise provided in this part 6, any county in this state may construct any of the local improvements mentioned in this part 6 and fund such improvements by assessing the cost thereof, wholly or in part, upon the property especially benefited by such improvements or, for the funding of improvements authorized by section 30-20-603 (1)(a), (1)(a.5), and (1)(c), by imposing a sales tax throughout the district or by utilizing a combination of such assessments and tax. The improvements shall be authorized by resolution duly adopted and shall be constructed under the direction of the county engineer or other officer having similar duties or under the direction of the board in accordance with plans and specifications adopted by the board.

Source: L. 73: p. 483, § 1. **C.R.S. 1963:** § 36-30-1. **L. 87:** Entire section amended, p. 1210, § 1, effective May 7. **L. 99:** Entire section amended, p. 515, § 11, effective April 30. **L. 2000:** Entire section amended, p. 1989, § 1, effective August 2.

ANNOTATION

Applied in Wheeler v. Baker, 636 P.2d 1326 (Colo. App. 1981).

30-20-601.5. Legislative declaration - inclusion of energy efficiency and renewable energy production projects in local improvement districts.

(1) The general assembly finds, determines, and declares that:

(a) The production and efficient use of energy will continue to play a central role in the future of this state and the nation as a whole; and

(b) The development, production, and efficient use of renewable energy will advance the security, economic well-being, and public and environmental health of this state, as well as contributing to the energy independence of our nation.

(2) The general assembly further finds, determines, and declares that the inclusion of energy efficiency and renewable energy production projects for residential and commercial use in local improvement districts, and powers conferred under this part 6, as well as the expenditures of public moneys made pursuant to this article, will serve a valid public purpose and that the enactment of this part 6 is expressly declared to be in the public interest.

Source: L. 2008: Entire section added, p. 1294, § 8, effective May 27.

30-20-602. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "Assessment unit" means an area within a district which is separately defined for determining assessments payable pursuant to this part 6.

(1.5) "Board" means:

(a) The board of county commissioners of a county or city and county.

(b) Repealed.

(1.7) and (1.8) Repealed.

(2) "District" means the geographical division of the county or counties within which any local improvements are made or proposed, when so declared by resolution of the board. There may be noncontiguous parts or sections within the same county included in one district; except that, in a district in which a sales tax is levied, a noncontiguous part or section may only be included if the owners of any property within such part or section petitioned to be included in the district. No district shall include territory that is included in an undissolved district that was formed for the same type of improvement. Notwithstanding any other provision of this part 6 and except in the case of a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado, no district in which a sales tax is levied pursuant to section 30-20-604.5 shall be formed that includes territory within a municipality, and any such district shall be as compact as possible. Except as provided in section 30-20-603 (11.5)(b)(I), no district that crosses county boundaries may be formed by intergovernmental agreement or otherwise.

(2.5) "Drainage facility" means any land and improvements thereon, if any, used for the conveyance of water runoff.

(2.7) (a) "Elector of the district" means a person who, at the designated time or event, is registered to vote in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., and:

(I) Who is a resident of the district or the area to be included in the district; or

(II) Who or whose spouse or civil union partner owns taxable real or personal property within the district or the area to be included in the district whether or not said person resides within the district.

(b) Where the owner of taxable real or personal property specified in subparagraph (II) of paragraph (a) of this subsection (2.7) is not a natural person, an "elector of the district" shall include a natural person designated by such owner to vote for such person. Such designation shall be in writing and filed with the county clerk and recorder. Only one such person may be designated by an owner.

(2.8) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential or commercial buildings and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a residential or commercial building unless such increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

(g) Energy recovery systems;

(h) Daylighting systems; and

(i) Any other modification, installation, or remodeling approved as a utility cost-savings measure by the board.

(2.9) "Informational products and materials" means any marketing or advertising device used to promote the general development of business within a district, but does not include any marketing or advertising device used to promote a single store or company.

(3) "Owner" means the person holding record fee title to real property; except that a person obligated to pay general taxes under a contract to purchase real property shall be considered the owner thereof for the purposes of this part 6, and in such case any other person holding record fee title to such property shall not be considered the owner thereof.

(4) "Property" means all land, whether platted or unplatted, regardless of improvements thereon and regardless of lot or land lines. Lots may be designated in accordance with any recorded map or plat thereof and unplatted lands by any definite description.

(4.3) "Qualified community location" means:

(a) If the affected local electric utility is not an investor-owned utility, an off-site location of a renewable energy improvement that:

(I) Is wholly owned, through either an undivided or a fractional interest, by the owner or owners of the residential or commercial building or buildings that are directly benefited by the renewable energy improvement;

(II) Provides energy as a direct credit on the owner's utility bill; and

(III) Is an encumbrance on the property specifically benefited;

(b) If the affected local electric utility is an investor-owned utility, a community solar garden, as that term is defined in section 40-2-127 (2), or a community geothermal garden, as that term is defined in section 40-2-127.5 (2).

(4.5) "Registered elector" means an elector, as defined in section 1-1-104 (12), C.R.S., who has complied with the registration provisions of the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., and who resides within or is eligible to vote in the county.

(4.7) (a) "Renewable energy improvement" means a fixture, product, system, device, or interacting group of devices that produces energy from renewable resources, including photovoltaic systems, solar thermal systems, small wind systems, biomass systems, hydroelectric systems, or geothermal systems, as may be included in the approval of the district by the board, and that either:

(I) Is installed behind the meter of a residential or commercial building; or

(II) Directly benefits a residential or commercial building through a qualified community location.

(b) No renewable energy improvement shall be authorized that interferes with a right held by a public utility under a certificate issued by the public utilities commission under article 5 of title 40, C.R.S. Nothing in this part 6 limits the right of a public utility, subject to article 3 or 3.5 of title 40, C.R.S., or section 40-9.5-106, C.R.S., to assess fees for the use of its facilities, or modifies or expands the net metering limitations established in sections 40-2-124 (7) and 40-9.5-118, C.R.S. Primary jurisdiction to hear any disputes concerning whether a renewable energy improvement interferes with such a right shall lie:

(I) In the case of a regulated utility, with the public utilities commission; and

(II) In the case of a municipally owned utility, with the governing body of such municipality.

(c) "Renewable energy improvement" includes an improvement to the efficiency of a traditional energy fixture.

(5) "Street" means any road or other public thoroughfare.

(6) "Unincorporated area" means any territory within a county which is not within the boundaries of any municipality.

Source: L. 73: p. 483, § 1. **C.R.S. 1963:** § 36-30-2. **L. 83:** (1.5) added, p. 1235, § 2, effective June 3. **L. 86:** (1), (1.5), and (2) R&RE and (2.5) added, p. 1058, §§ 25, 26, effective April 17. **L. 87:** (2) amended, p. 1210, § 2, effective May 7. **L. 99:** (2.7) and (4.5) added, p. 515, § 12, effective April 30. **L. 2000:** (1.5) and (2) amended and (1.7) and (1.8) added, p. 1989, § 2, effective August 2. **L. 2002:** (2.9) added, p. 335, § 1, effective April 19; (2.7) amended, p. 268, §

6, effective August 7. **L. 2008:** (2.8) and (4.7) added, p. 1295, § 9, effective May 27. **L. 2010:** (2) and (4.7) amended and (4.3) added, (SB 10-100), ch. 207, p. 899, § 1, effective May 5. **L. 2012:** (4.7)(c) added, (HB 12-1315), ch. 224, p. 975, § 37, effective July 1. **L. 2013:** (2) amended, (HB 13-1036), ch. 182, p. 669, § 1, effective August 7. **L. 2014:** (2.7)(a) amended, (HB 14-1164), ch. 2, p. 58, § 9, effective February 18. **L. 2022:** (4.3)(b) amended, (SB 22-118), ch. 335, p. 2379, § 13, effective August 10. **L. 2023:** (4.3)(b) amended, (HB 23-1301), ch. 303, p. 1839, § 71, effective August 7.

Editor's note: Subsection (1.5)(b)(II) provided for the repeal of subsection (1.5)(b), effective December 31, 2002. (See L. 2000, p. 1989.) Subsection (1.7)(b) provided for the repeal of subsection (1.7), effective December 31, 2002. (See L. 2000, p. 1989.) Subsection (1.8)(b) provided for the repeal of subsection (1.8), effective December 31, 2002. (See L. 2000, p. 1989.)

Cross references: (1) For definitions applicable to this part 6, see § 30-26-301 (2)(d).

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

30-20-603. Improvements and funding authorized - how instituted - conditions - definitions.

(1) (a) (I) A district may be formed in accordance with the requirements of this part 6 for the purpose of constructing, installing, acquiring, or funding, in whole or in part, any public improvement so long as the county that forms the district is authorized to provide such improvement or provide for such funding under the county's home rule charter, if any, or the laws of this state. Public improvements or the funding of public improvements must not include any facility identified in section 30-20-101 (8) or (9). A district shall not provide the same improvement as an existing special district within the territory of the existing special district unless the existing special district consents.

(II) The improvements authorized by this part 6 may consist, without limitation, of constructing, grading, paving, pouring, curbing, guttering, lining, or otherwise improving the whole or any part of any street or providing street lighting, drainage facilities, or service improvements, in the unincorporated area of a county or wholly or partly within the boundaries of any municipality within the county if such municipality consents by ordinance to the improvements. If improvements within a municipality are so included in a county improvement district by municipal consent, the county may construct or acquire such improvements, assess property within the municipality benefited by the improvements, and enforce and collect such

assessments, in the manner provided in this part 6. The improvements authorized by this part 6 may include, without limitation, the construction of sidewalks adjacent to any such streets or maintenance roads adjacent to any such drainage facilities.

(III) Prior to the establishment of any improvement district for the purpose of providing street lighting, arrangements, by contract or otherwise, must be established under which the owners of property included within the district are responsible for the maintenance and operation of the street lighting improvement. The costs of maintenance and operation of the street lighting improvements shall not be paid from the county general fund.

(IV) Drainage facilities shall not be provided in any area that is within an existing drainage district organized or created pursuant to law without the approval of the district.

(V) As used in this subsection (1)(a), "service" includes the services provided by a public utility as defined in section 40-1-103, as well as broadband internet service as defined in section 40-15-102 (3.5), cable television service as defined in section 29-27-102 (2), telecommunications service as defined in section 40-15-102 (29), and information service as defined in 47 U.S.C. sec. 153 (24), or any successor section.

(a.5) In a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and in which a sales tax is levied pursuant to section 30-20-604.5, the improvements may also consist of the provision of transportation services, vehicles, equipment, parking, and improvements in the district. Transportation services may be provided by the district in an area within the regional transportation district as described in section 32-9-106.1, C.R.S., if the regional transportation district consents to the provision of such services.

(b) Additionally, the improvements authorized by this part 6 may consist of constructing, installing, or otherwise improving the whole or any part of any system for the transmission or distribution of water or for the collection or transmission of sewage, or both such systems.

(c) If any improvement or transportation services authorized by this subsection (1) are funded by sales tax, the tax may also be used for the operation and maintenance of such improvement or services, for the production and distribution of informational products and materials, and for the organization, promotion, marketing, and management of public events.

(d) The improvements authorized by this part 6 may include the construction, maintenance, and operation of safety measures that are necessary to allow the county to restrict the sounding of locomotive horns at highway-rail grade crossings in compliance with 49 U.S.C. sec. 20153, as amended, and the applicable rules of the federal railroad administration. The district shall construct, maintain, and operate the safety measures in accordance with the provisions of section 40-4-106, C.R.S., and the standards of safety prescribed by the public utilities commission pursuant to section 40-29-110, C.R.S.

(e) The improvements authorized by this part 6 may include, where specified or generally provided for in the resolution of the board approving the district, any renewable energy improvement or energy efficiency improvement to any residential or commercial property within the district.

(f) Any district formed pursuant to this part 6 and the county that forms the district shall implement the funding authorized by this part 6 for service improvements as defined in paragraph (a) of this subsection (1) in a nondiscriminatory and technologically and competitively neutral manner.

(g) (I) A public utility or telecommunications service improvement funded by a district established pursuant to this part 6 shall be constructed only by or in agreement with a public utility or telecommunications service provider duly authorized by the public utilities commission, as applicable, to provide service, facilities, plants, or systems in the area in which the public utility or telecommunications service improvement is to be constructed and shall be owned, operated, and maintained by the public utility or telecommunications service provider. All other service improvements as defined in subsection (1)(a) of this section funded pursuant to this part 6 shall be constructed by or in agreement with the service provider and owned and operated by the service provider. Neither a district formed pursuant to this part 6, nor the county that forms the district, shall:

(A) Use the authority set forth in this section to provide, directly or indirectly, any services as defined in subsection (1)(a) of this section; or

(B) Have any right, title, or interest in any service improvement as defined in subsection (1)(a) of this section funded by a district established pursuant to this part 6.

(II) In compliance with the procedures set forth in subsection (1)(g)(I) of this section, a rural county may establish a local improvement district only in an unserved area to contract with a telecommunications service provider or a broadband internet service provider to fund the construction of broadband internet service improvement.

(III) For purposes of this subsection (1)(g):

(A) Repealed.

(A.5) "Broadband internet service" has the same meaning as set forth in section 40-15-102 (3.5).

(B) "Rural county" means any county that has a population of fewer than sixty thousand inhabitants.

(C) "Unserved area" has the same meaning as set forth in section 40-15-102 (32)(a).

(h) Nothing in this part 6 shall extend, diminish, or otherwise alter the jurisdiction of the public utilities commission created in section 40-2-101, C.R.S.

(2) (a) The board may declare by resolution any local improvement district authorized by this part 6 and may by resolution order the improvements authorized by subsection (3) of this section; except that, if written protests are submitted prior to the hearing referred to in subsection (6) of this section by the owners of property within the proposed district or assessment unit, which property, based upon the proposed method of assessment, would bear more than one-half of the total proposed assessments within the district or the assessment unit, the board shall not proceed with such local improvement district or assessment unit based on the preliminary order so protested. Such protests shall not prevent the board from adopting a subsequent preliminary order for such improvements, subject to notice, hearing, and protest as provided in this part 6.

(b) If the district is initiated by resolution of the board of county commissioners, the commissioners shall, in addition to the notice provided for in subsection (6) of this section, make reasonable attempts to deliver or mail to each address within the district a brief written synopsis of the proposed improvements no less than ten days before the hearing. This shall not be interpreted to mean that insufficient notice has been given if any property owner claims not to have received the notice, provided that the commissioners have made a bona fide effort to comply.

(2.5) (a) The boundaries of any district organized under the provisions of this part 6 may be changed in the manner prescribed in this subsection (2.5); except that the change of boundaries of the district shall not impair or affect the district's organization or rights in or to property or any of the district's rights or privileges whatsoever, nor shall the change affect or impair or discharge any contract, obligation, lien, or charge for or upon which the district might be liable or chargeable had any such change of boundaries not been made. The owners of property proposed to be included or excluded may file a petition with the board, in writing, requesting that such property be included in or excluded from the district. The petition shall describe the property owned by the petitioners and shall be verified. The petition shall be accompanied by a deposit of moneys sufficient to pay all costs of the inclusion or exclusion proceedings. The county clerk and recorder shall cause notice of the filing of such petition to be given and posted, which notice shall state the filing of such petition, the names of the petitioners, descriptions of the property sought to be included or excluded, and the request of said petitioners.

(b) The notice of the filing of a petition required by paragraph (a) of this subsection (2.5) shall inform all persons having objections to appear at the time and place stated in said notice and show cause why the petition should not be granted. The board, at the time and place mentioned in the notice or at any time to which the hearing may be adjourned, shall proceed to hear the petition and all objections thereto that may be presented by any person showing cause why said petition should not be granted. The failure of any interested person to show cause shall be deemed as an assent on the person's part to the inclusion or exclusion of such property as requested in the petition. If the change of boundaries of the district does not adversely affect the district and if the petition is granted, the board shall adopt a resolution changing the boundaries of the district accordingly and record a certified copy of the resolution with the county clerk and

recorder of the county in which the property is located, and the property is thereafter included in or excluded from the district as applicable.

(c) The board shall take into consideration and make a finding regarding all of the following factors when determining whether to grant or deny the petition:

(I) The best interests of all of the following:

(A) The property to be included or excluded in the local improvement district;

(B) The local improvement district for which the change of boundaries is proposed; and

(C) The county or counties in which the local improvement district is located;

(II) The relative cost and benefit to the property to be included in or excluded from the district; and

(III) The ability of the local improvement district to provide economical and sufficient improvements or services to both the property to be included or excluded and all of the properties within the district's boundaries.

(d) All property included in or excluded from a district is subject to the levy of taxes, assessments, or both, for the payment of the property's proportionate share of any indebtedness of the district outstanding at the time of the property's inclusion or exclusion.

(3) (a) Except as to improvements initiated by the board as authorized by subsection (2) of this section, no improvement shall be ordered under this part 6 unless a petition for the same is first presented, subscribed by the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed, and, except as specified in this section, nothing in this part 6 shall restrict the right of such owners from securing any particular kind or variety of improvements petitioned for. In any case where a proposed improvement district includes two or more assessment units, the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed in each assessment unit shall petition as specified in this part 6. In any case where a proposed improvement district formed prior to December 31, 2002, plans to provide transportation services and improvements pursuant to paragraph (a.5) of subsection (1) of this section and to levy a sales tax pursuant to section 30-20-604.5 to fund such services and improvements, the owners of the taxable real and personal property within the proposed improvement district having a valuation for assessment of not less than fifty percent of the valuation for assessment of all real or personal property within the district shall sign the petition presented to the board.

(b) If the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed shall petition for any particular kind of improvement and for any particular materials to be used in the same, the improvement must be ordered in

accordance with the petition, and the materials so designated shall be used, except as otherwise provided in this section.

(c) If the material petitioned for by the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed is one that does not encourage competition, it shall be the right of the petitioners to state in the petition the maximum price per square yard, or linear foot, or per unit at which the improvement is desired, and no contract shall be let for any such improvement at a price exceeding the maximum price fixed in said petition, excluding the cost of engineering, collection, inspection, incidentals, and interest.

(4) The board shall encourage competition, by advertising for and receiving bids for such construction, and, so far as possible within the limits of the petition, shall describe all materials by standard or quality in the specifications.

(5) Before contracting for or ordering any work to be constructed whether initiated by the board or by petition, a preliminary order shall be made by the board, adopting preliminary plans and specifications for the same, definitely describing the materials to be used, or stating that one of several specified materials shall be chosen, determining the number of installments and time in which the cost of the improvement shall be payable, if any, and the property, if any, to be assessed for the same, as provided in this part 6, and requiring an estimate of the cost to be made by the county engineer or any similar officer or employee, together with a map of the district in which the improvement is to be made, and a schedule showing the approximate amounts, if any, to be assessed upon the several lots or parcels of property within the district. The cost estimates and approximate amounts to be assessed shall be formulated in good faith on the basis of the best information available to the board but shall not be binding.

(6) The county clerk and recorder shall give notice, by advertisement once in a newspaper of general circulation in such county, to the owners of any property to be assessed of:

(a) The kind of improvements proposed;

(b) The number of installments;

(c) The time in which the cost will be payable;

(d) Repealed.

(e) The extent of the district to be improved;

(f) The probable cost per front foot or other unit basis which, in the judgment of the board, reflects the benefits which accrue to the properties to be assessed, as shown by the estimates of the engineer;

(g) The time, not less than thirty days after the publication, when a resolution authorizing the improvements will be considered;

(h) That said map and estimate and schedule showing the approximate amounts to be assessed and all resolutions and proceedings are on file and may be seen and examined by any person interested at the office of the county clerk and recorder or other designated place at any time within said period of thirty days; and

(i) That all complaints and objections that may be made in writing concerning the proposed improvement by the owners of any real estate to be assessed will be heard and determined by the board before final action thereon.

(7) The finding by resolution of the board that said improvements were duly ordered after notice duly given and after hearing duly held and that such proposal was properly initiated by the said board or that a petition was presented and that the petition was subscribed by the required number of owners shall be conclusive of the facts so stated in every court or other tribunal.

(8) Any resolution or order in the premises may be modified, confirmed, or rescinded at any time prior to the passage of the resolution authorizing the improvements.

(9) The specifications for paving may include sidewalks, curbs, gutters, and grading, and sufficient culverts, sewers, or drains necessary to carry off the surface waters across or along the line of the street improved, and such other incidentals to paving as, in the judgment of the board, may be required. The specifications may also provide that bidders shall agree to enter into contract to do the work and maintain the same in good repair for a period of five years; and the contract may be entered into in accordance therewith.

(10) If, before any such improvements are made, any piece of real estate to be assessed already has an improvement conforming to the general plan or satisfactory to the board, an allowance therefor may be made to the owner, and such allowance may be deducted from the owner's assessment and from the contract price.

(11) Any other provision of this part 6 notwithstanding, the board may initiate an improvement district for the purpose of acquiring existing improvements of a character authorized by this part 6, in which case the provisions of section 30-20-601 concerning construction under the direction of county officers and the provisions of subsections (4) and (5) of this section concerning competitive bidding and preliminary plans and specifications shall not apply.

(11.5) (a) Any other provision of this part 6 notwithstanding, the board may initiate an improvement district for the purpose of encouraging, accommodating, and financing improvements of a character authorized by paragraph (e) of subsection (1) of this section. Any such district shall include only property for which the owner has executed a contract or agreement consenting to the inclusion of such property within the district, and such consent may occur subsequent to the adoption of the resolution of the board forming the district. The contract or agreement shall note the existence of any first priority mortgage or deed of trust on the property, the identity of the record holder thereof, and the penalty for default provided in section

30-20-615 clearly stating that default, like the penalties that exist for default on any mortgage or any other special assessment, may result in the loss of the applicant's home. Within thirty days of a person's submission of an application to the district, the board shall provide written notice to the record holder of any first priority mortgage or deed of trust on the real property that the person is participating in the district. The inclusion of such property within the district subsequent to the adoption of the resolution of the board forming the district may be made by the adoption of a supplemental or amending resolution of the board. For districts formed for the purpose of encouraging, accommodating, and financing renewable energy improvements or energy efficiency improvements, subsections (4), (5), and (6) of this section concerning competitive bidding, preliminary plans and specifications, and notice, section 30-20-601 concerning construction under the direction of county officers, section 30-20-622 concerning contracts for construction, and section 30-20-623 concerning contract provisions do not apply. For such districts, the owner of property within a district may arrange improvements that qualify pursuant to the resolution of the board authorizing improvements for the district and may obtain financing for said improvements from the district through the process set forth in the resolution forming the district.

(b) (I) Districts formed for the purposes authorized in paragraph (e) of subsection (1) of this section may cross county boundaries and include properties in multiple counties, whether such counties are contiguous or noncontiguous, if the boards of county commissioners of the affected counties have entered into an intergovernmental agreement or memorandum of understanding regarding the sharing of incremental costs attributable to the district's crossing of county boundaries, with such costs becoming part of the total assessment allocated to each participating landowner.

(II) For any district that may include properties in other counties, the board shall notify the boards of county commissioners and the county treasurers of such counties, at least ten days in advance of the public meeting at which it will be discussed, of the potential inclusion of such properties. The originating board shall consider comments sent by such boards of county commissioners or county treasurers concerning the potential addition of properties from their counties if the comments have been received by the date of the public meeting.

(III) If a municipality that has territory in multiple counties, one of which has created a district for the purposes authorized in paragraph (e) of subsection (1) of this section, desires to consent to the inclusion within such district of any of the properties within its entire incorporated boundary, the municipality shall expressly state in its ordinance granting consent that any property located in the municipality, irrespective of the county in which such property is located, may be included in the district.

(12) The board is authorized to enter into contracts and agreements with any owner of property within the district or any other person concerning the construction or acquisition of

improvements, the assessment of the cost thereof, the waiver or limitation of legal rights, or any other matter concerning the district.

(13) At or about the time of the adoption by the board of any resolution creating a district, a copy of such resolution shall be provided to the county assessor, the county treasurer, and the division of local government in the department of local affairs. The board shall make a good faith attempt to comply with this subsection (13), but failure to comply shall not affect or impair the organization of any district, the construction or acquisition of improvements therein, the levying and collection of assessments, or any other matter pursuant to the provisions of this part 6.

Source: L. 73: p. 484, § 1. **C.R.S. 1963:** § 36-30-3. **L. 79:** (1) amended, p. 1150, § 1, effective April 25. **L. 83:** (1) amended, p. 1235, § 1, effective March 22; (1) amended, p. 1245, § 3, effective July 1. **L. 85:** (1)(a), (2)(a), (5), and (6)(f) amended, (6)(d) repealed, and (11) added, pp. 1071, 1077, §§ 1, 14, effective May 24. **L. 86:** (2)(a), (3), (5), (6)(f), (6)(i), (7), and (9) to (11) amended and (12) added, p. 1052, § 17, effective July 1. **L. 87:** (5) and IP(6) amended, p. 1211, § 3, effective May 7. **L. 90:** (13) added, p. 1471, § 1, effective October 1. **L. 99:** (1)(c) added, p. 516, § 13, effective April 30. **L. 2000:** (1)(c) and (3)(a) amended and (1)(a.5) added, p. 1990, § 3, effective August 2. **L. 2002:** (1)(c) amended, p. 335, § 2, effective April 19; (1)(a) amended, p. 269, § 7, effective August 7. **L. 2006:** (1)(d) added, p. 347, § 2, effective August 7. **L. 2007:** (1)(a.5) amended, p. 833, § 2, effective May 14. **L. 2008:** (1)(e) and (11.5) added, p. 1296, §§ 10, 11, effective May 27. **L. 2009:** (1)(a) amended and (1)(f), (1)(g), and (1)(h) added, (HB 09-1217), ch. 251, p. 1125, § 1, effective August 5. **L. 2010:** (11.5) amended, (SB 10-100), ch. 207, p. 900, § 2, effective May 5. **L. 2013:** (1) (c) amended and (2.5) added, (HB 13-1036), ch. 182, p. 670, § 2, effective August 7. **L. 2017:** (1)(g) amended, (HB 17-1174), ch. 134, p. 449, § 1, effective August 9. **L. 2023:** (1)(a) and (1)(g)(II) amended, (1)(g)(III)(A) repealed, and (1)(g)(III)(A.5) added, (SB 23-183), ch. 139, p. 589, § 10, effective May 1; (1)(a) amended, (HB 23-1252), ch. 166, p. 762, § 7, effective August 7; (1)(a) amended, (HB 23-1301), ch. 303, p. 1839, § 72, effective August 7.

Editor's note: (1) Amendments to subsection (1) by House Bill 83-1163 and House Bill 83-1033 were harmonized.

(2) Amendments to subsection (1)(a) by SB 23-183, HB 23-1252, and HB 23-1301 were harmonized.

Cross references: For the legislative declaration in HB 23-1252, see section 1 of chapter 166, Session Laws of Colorado 2023.

30-20-604. Cost assessed in accordance with benefits.

(1) Except for those improvements fully funded by the sales tax pursuant to section 30-20-604.5, the cost of improvements constructed or acquired pursuant to this part 6, or such part thereof as may be assessed against the property specially benefited, including the intersections of streets, may be assessed on property, without regard to lot or land lines, on a frontage, zone, or other equitable basis, in accordance with benefits, as the same may be determined by the board.

(2) When the board determines that the improvement of any street or alley, including the intersections of streets and alleys, or any other improvement authorized by this part 6 results in special benefits to the county and the owners of property within the district, that portion of the cost of the improvement which results in a special benefit to the county may be assessed against the county and be payable in installments, as provided in this part 6. The determination by the board as to the property to be assessed and the amount of special benefits shall be conclusive of the facts stated therein.

(3) No cost of improvements to streets or alleys shall be assessed to any property where reasonable access to the street or alley is denied the owner of the property.

(4) Any district formed for the purpose of encouraging, accommodating, and financing improvements as authorized in section 30-20-603 (11.5) shall assess the costs of the improvements to each property whose owner has entered into a contract or agreement for the improvements. The contracts and agreements entered into with the owner of property, as authorized by the board, shall be conclusive regarding the special benefit to the property and the amount that may be assessed against the property.

Source: L. 73: p. 486, § 1. **C.R.S. 1963:** § 36-30-4. **L. 86:** Entire section amended, p. 1055, § 18, effective July 1. **L. 87:** (1) amended, p. 1211, § 4, effective May 7. **L. 2008:** (4) added, p. 1296, § 12, effective May 27.

30-20-604.5. District sales tax - repeal.

(1) (a) The board of any county or of any city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and that subsequently becomes a city and county for the purpose of funding all or a portion of the cost of any improvements constructed or transportation services provided pursuant to section 30-20-603 (1)(a), (1)(a.5), and (1)(c), may levy a sales tax throughout the district upon every transaction or other incident with respect to

which a sales tax is authorized pursuant to section 29-2-105; except that such tax may be levied only upon those transactions specified in section 39-26-104 (1)(a), (1)(b), (1)(e), and (1)(f).

(b) This subsection (1) is repealed, effective December 31, 2028.

(2) (a) The tax shall be collected, administered, and enforced as specified in part 2 of article 2 of title 29. The department of revenue shall retain an amount not to exceed the net incremental cost of such collection, administration, and enforcement and shall transmit such amount to the state treasurer, who shall credit the same to the districtwide sales tax fund, which fund is hereby created; except that in no event shall:

(I) Any district formed prior to or on July 1, 1993, pay in any given fiscal year commencing on or after July 1, 1994, more than an amount equal to the amount paid by the district in the 1993-94 fiscal year; as adjusted in accordance with changes in the department of labor, bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index;

(II) Any district formed after July 1, 1993, pay in any given fiscal year commencing after the first full fiscal year of operation more than an amount equal to the amount paid by the district in the first full fiscal year of operation, as adjusted in accordance with changes in the department of labor, bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index.

(a.5) Repealed.

(b) The general assembly shall appropriate annually from the districtwide sales tax fund to the department of revenue the amount necessary for the department's collection, administration, and enforcement of the districtwide sales tax. Any moneys remaining in said fund attributable to districtwide sales taxes collected in the prior fiscal year shall be transmitted to the county which established the district for which a districtwide sales tax has been levied; except that, prior to the transmission to the county of such moneys, any moneys appropriated from the general fund to the department of revenue for collection, administration, and enforcement of a districtwide sales tax shall be repaid.

(3) The tax authorized by this section shall not exceed one percent.

(4) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), a proposal for a districtwide sales tax shall be referred to the registered electors of the county who reside within the boundaries of the district, either by resolution of the board or by petition initiated and signed by five percent of the registered electors who reside within the boundaries of the district.

(II) In a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado, a proposal for a districtwide sales

tax shall be referred to the electors of the district, either by resolution of the board or by petition initiated and signed by five percent of the electors of the district.

(b) Such proposal shall contain a description of the proposed tax, including its purposes, and shall state the amount of tax to be imposed.

(c) (I) Any election held under this section shall conform to the requirements of section 20 of article X of the Colorado constitution.

(II) (A) Except as provided in sub-subparagraph (B) of this subparagraph (II), upon its being presented with a petition requesting a proposal for such sales tax, the board, upon certification of the signatures on the petition, shall submit such proposal to the registered electors residing within the district.

(B) In a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado, the board, after being presented with a petition requesting a proposal for such sales tax and upon certification of the signatures on the petition, shall submit such proposal to the electors of the district.

(d) (Deleted by amendment, L. 99, p. 516, § 14, effective April 30, 1999.)

(e) (I) (A) If approved by a majority of the registered electors voting thereon, the sales tax shall become effective as provided in part 2 of article 2 of title 29.

(B) (Deleted by amendment, L. 2024.)

(II) (Deleted by amendment, L. 99, p. 516, § 14, effective April 30, 1999.)

(5) (a) Except as provided in paragraph (b) of this subsection (5), all revenue collected from such sales tax, except the amounts retained under subsection (2) of this section, shall be credited to a special fund designated as the sales tax street improvement fund, such designation to include the name or description of the district. The fund shall be used only to pay the costs of the district improvements authorized by section 30-20-603 (1)(a) and (1)(c), the costs of debt service on bonds issued pursuant to section 30-20-619 (4), if any, or both of such costs.

(b) In a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado, all revenue collected from such sales tax, except the amounts retained under subsection (2) of this section, shall be credited to a special fund designated as the sales tax street improvement fund, such designation to include the name or description of the district. The fund shall be used only to pay the costs of the district improvements and transportation services authorized by section 30-20-603 (1)(a.5) and (1)(c), the costs of debt service on bonds issued pursuant to section 30-20-619 (4), if any, the costs of operations, maintenance, and replacement, and the costs of organization of the district.

(6) (a) When the total cost of the improvements constructed pursuant to section 30-20-603 (1)(a), including the cost of all debt service thereon, if any, has been paid, the board shall cease to levy and collect the sales tax originally imposed pursuant to this section and shall repeal the ordinance authorizing such tax.

(b) Notwithstanding paragraph (a) of this subsection (6), if an improvement includes the use of sales tax for the improvement's operation or maintenance, the board shall continue to levy and collect the sales tax as specified in the resolution authorizing such tax.

(7) (a) Notwithstanding the provisions of section 30-20-602 (2), if any territory within a district is annexed by or incorporated into a municipality and revenue bonds have been issued pursuant to section 30-20-619 (4) prior to the date of such annexation or incorporation, the levy of the sales tax authorized by this section shall continue in such annexed or incorporated territory until the later of:

(I) The date upon which no bonds remain outstanding, whether issued before, on, or after the date of annexation or incorporation, so long as such bonds are refunding bonds or such bonds are issued for improvements which were authorized as of the date of annexation or incorporation; or

(II) The date of completion of all improvements which were authorized for such district as of the date of annexation or incorporation.

(b) The provisions of this subsection (7), as amended, shall apply to any territory within a district which has been annexed by or incorporated into a municipality, regardless of the date of annexation or incorporation.

(8) Notwithstanding subsection (7) of this section, that portion of the sales tax authorized by this section that is used for the operation or maintenance of improvements constructed pursuant to section 30-20-603 (1) shall not apply to any territory within a district that has been annexed by or incorporated into a municipality.

(9) The board may appoint an independent board of directors to perform the functions of the board under this part 6 in a district providing transportation services and improvements in accordance with the terms of the resolution or ordinance establishing the district.

(10) Notwithstanding any other provision of law, the provisions of this part 6 relating to the assessment of local improvement costs upon the property in a district that benefits from such improvements shall not apply to any district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and that levies a sales tax pursuant to this section to fund local improvements authorized by section 30-20-603 (1)(a.5) and (1)(c).

Source: L. 87: Entire section added, p. 1211, § 5, effective May 7. **L. 92:** (7) amended, p. 962, § 1, effective May 20. **L. 94:** (2) amended, p. 318, § 3, effective March 29. **L. 99:** (1), (4), (5), and (6) amended and (8) added, p. 516, § 14, effective April 30; (1) amended, p. 983, § 9, effective May 28; (2)(a.5) added, p. 14, § 6, effective January 1, 2000. **L. 2000:** (1), (4)(a), (4)(c)(II), (4)(e)(I), and (5) amended and (9) and (10) added, p. 1991, § 4, effective August 2. **L. 2004:** (1) amended, p. 1039, § 5, effective July 1. **L. 2007:** (3) amended, p. 1460, § 2, effective August 3. **L. 2008:** (3) amended, p. 992, § 11, effective August 5. **L. 2010:** (1) amended, (HB 10-1243), ch. 385, p. 1802, § 1, effective August 11. **L. 2013:** (1) amended, (HB 13-1295), ch. 314, p. 1655, § 11, effective July 1, 2014. **L. 2019:** (1) amended, (HB 19-1240), ch. 264, p. 2502, § 10, effective June 1. **L. 2022:** (2)(a.5)(II) amended, (HB 22-1312), ch. 202, p. 1359, § 2, effective August 10. **L. 2024:** (1) amended, (HB 24-1036), ch. 373, p. 2528, § 15, effective August 7; (2)(a) and (4)(e)(I) amended, (SB 24-025), ch. 144, p. 568, § 22, effective July 1, 2025; (2)(a.5)(III) added by revision, (SB 24-025), ch. 144, pp. 568, 585, §§ 22, 55.

Editor's note: (1) Amendments to subsection (1) by House Bill 99-1159 and House Bill 99-1271 were harmonized.

(2) Subsection (2)(a.5)(III) provided for the repeal of subsection (2)(a.5), effective July 1, 2025. (See L. 2024, pp. 568, 585.)

Cross references: For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 314, Session Laws of Colorado 2013. For the legislative declaration in HB 24-1036, see section 1 of chapter 373, Session Laws of Colorado 2024.

ANNOTATION

Law reviews. For article, "Recent Developments in Colorado Sales and Use Taxes", see 18 Colo. Law. 2101 (1989).

30-20-605. Property of irregular form - assessment.

Whenever any lot or parcel of land is V-shaped or of any irregular form, such allowance may be made by resolution in any assessment as may be equitable and just, or any allowance may be refused, and, in case of any unusual area or proportion of intersections, the county may pay not exceeding one-half of the cost of any such intersection, and in such case the remainder only shall be assessed against the property improved.

Source: L. 73: p. 486, § 1. **C.R.S. 1963:** § 36-30-5.

30-20-606. Determination of special benefits - factors considered.

(1) The term "benefit", for the purposes of assessing a particular property within an improvement district, particularly with respect to drainage improvements to carry off surface waters, includes, but is not limited to, the following:

(a) Any increase in the market value of the property;

(b) The provision for accepting the burden from specific dominant property for discharging surface water onto servient property in a manner or quantity greater than would naturally flow because the dominant owner made some of his property impermeable;

(c) Any adaptability of property to a superior or more profitable use;

(d) Any alleviation of health and sanitation hazards accruing to particular property or accruing to public property in the improvement district if the provision of health and sanitation is paid for wholly or partially out of funds derived from taxation of property owners of the improvement district;

(e) Any reduction in the maintenance costs of particular property or accruing to public property in the improvement district if the maintenance of the public property is paid for wholly or partially out of funds derived from taxation of property owners of the improvement district;

(f) Any increase in convenience or reduction in inconvenience accruing to particular property owners, including the facilitation of access to and travel over streets, roads, and highways;

(g) Recreational improvements accruing to particular property owners as a direct result of drainage improvement.

(2) As used in connection with any district formed for the purpose of encouraging, accommodating, and financing improvements as authorized in section 30-20-603 (11.5), the term "benefit" shall include, but not be limited to, any acknowledged value set forth in the contracts and agreements entered into by the owner of the assessed property.

Source: L. 75: Entire section added, p. 997, § 2, effective July 1. **L. 2008:** (2) added, p. 1297, § 13, effective May 27.

Editor's note: This section was originally numbered as § 30-20-605.5 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-607. Statement of expenses - apportionment.

Upon completion of any local improvement or upon completion from time to time of any part thereof and upon acceptance thereof by the board or whenever the total cost of any improvement or of any such part thereof can be reasonably ascertained either prior to, during, or subsequent to the construction of the improvements, the board shall cause to be prepared a statement showing the whole cost of the improvement, including costs of inspection and collection, capitalized interest on any bonds issued for such period as the board may deem necessary, capitalized bond reserves, and all other incidental costs, the portion thereof, if any, to be paid by assessments, the portion thereof, if any, to be paid through the sales tax imposed pursuant to section 30-20-604.5, the portion thereof, if any, to be paid by the county, and the portion thereof to be assessed upon each lot or tract of land to be assessed for the same, which statement shall be filed in the office of the county clerk and recorder. If the board should deem the basis of assessment to be inequitable in any case, a just and equitable assessment shall be made upon the basis of benefits accruing to any property assessed by reason of the improvements made.

Source: L. 73: p. 486, § 1. **C.R.S. 1963:** § 36-30-6. **L. 85:** Entire section amended, p. 1073, § 2, effective May 24. **L. 86:** Entire section amended, p. 1058, § 27, effective July 1. **L. 87:** Entire section amended, p. 1213, § 6, effective May 7.

Editor's note: This section was originally numbered as § 30-20-606 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-608. Notice of apportionment.

(1) Upon receipt of the statement filed pursuant to section 30-20-607, the county clerk and recorder shall notify, by advertisement once in some newspaper of general circulation in said county, the owners of any property to be assessed that said improvements have been, or are about to be, completed and accepted, therein specifying:

(a) The whole cost of the improvement;

(b) The portion, if any, to be paid by such county and the portion, if any, to be paid from a districtwide sales tax;

(c) The share, if any, apportioned to each lot or tract of land;

(d) That any complaints or objections which may be made in writing by the owners to the board of county commissioners, and filed in the office of the clerk within twenty days from the publication of such notice, will be heard and determined by the said board before the passage of any resolution assessing the cost of said improvements; and

(e) The date when and place where such complaints or objections will be heard.

(2) Any district formed for the purpose of encouraging, accommodating, and financing improvements as authorized in section 30-20-603 (11.5) shall not be required to provide a notice of apportionment by publication; rather, such notice, if any, may be provided in the time and manner set forth in the contract or agreement entered into for each property included in the district.

Source: L. 73: p. 486, § 1. **C.R.S. 1963:** § 36-30-7. **L. 87:** IP(1), (1)(b), and (1)(c) amended, p. 1213, § 7, effective May 7. **L. 2008:** (2) added, p. 1297, § 14, effective May 27.

Editor's note: This section was originally numbered as § 30-20-607 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-609. Hearing on objections.

Except for a district formed for the purposes authorized in section 30-20-603 (11.5), at the time specified in the notice required pursuant to section 30-20-608 (1) or at some adjourned time, the board shall hear and determine all such complaints and objections and may make such modifications and changes as may seem equitable and just or may confirm the first apportionment. The board shall, by resolution, assess the cost of the improvements, and the passage of the resolution shall be prima facie evidence of the fact that the property assessed is benefited in the amount of the assessments and that the assessments have been lawfully levied.

Source: L. 73: p. 487, § 1. **C.R.S. 1963:** § 36-30-8. **L. 86:** Entire section amended, p. 1058, § 28, effective July 1. **L. 2010:** Entire section amended, (SB 10-100), ch. 207, p. 902, § 3, effective May 5.

Editor's note: This section was originally numbered as § 30-20-608 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-610. Assessment constitutes a lien - filing with county clerk and recorder - corrections.

(1) All assessments made in pursuance of this part 6, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same shall constitute, from the effective date of the assessing resolution, a perpetual lien in the several amounts assessed against each lot or tract of land and shall have priority over all other liens excepting general tax liens. As to any subdivisions of any land assessed in pursuance of this part 6, the assessment lien may be apportioned by the board in such manner, if any, as may be provided in the assessing resolution.

(2) The county clerk and recorder shall file with his office copies of the assessing resolution after its final adoption by the board for recording on the land records of each lot or tract of land assessed within the county, as provided in article 30, article 35, or article 36 of title 38, C.R.S. In addition, the county clerk and recorder shall file copies of such assessing resolution after its final adoption by the board with the county assessor and the county treasurer. The county assessor is authorized to create separate schedules for each lot or tract of land assessed within the county pursuant to such resolution.

(3) No delays, mistakes, errors, or irregularities in any act or proceeding authorized or required by this part 6 shall prejudice or invalidate any final assessment; but the same may be remedied by subsequent filings, amending acts, or proceedings, as the case may require. When so remedied, the same shall take effect as of the date of the original filing, act, or proceeding. If in any court of competent jurisdiction any final assessment made in pursuance of this part 6 is set aside or if for any other reason the board determines it to be necessary to alter any final assessment made pursuant to this part 6, the board, upon notice as required in the making of an original assessment, may make a new assessment in accordance with the provisions of this part 6.

(4) To provide for unanticipated increases in the costs of improvements, the amount of any assessment imposed before the completion of the related improvements may be increased to a total amount not in excess of the special benefit conferred upon the affected property if, not more than ninety days following the completion of such improvements, the board gives notice of its intent to consider the amendment of such assessment, stating the time and place that a public hearing shall be held thereon, and holds such public hearing, in the same manner as provided for hearings held pursuant to sections 30-20-608 and 30-20-609. At the conclusion of such public hearing, the board may determine whether to amend one or more assessments within a district. Any such amendment shall take effect as of the date of the original assessment.

(5) If, as the result of any subdivision, resubdivision, vacation of right-of-way, or other action taken subsequent to the adoption of the assessment resolution, any new lot or parcel is

created within a district, the board may, without a public hearing and with the consent of the owner of the new lot or parcel, modify the assessment resolution to reapportion all or any part of the total amount assessed in the district to such new lot or parcel.

Source: L. 73: p. 487, § 1. **C.R.S. 1963:** § 36-30-9. **L. 85:** Entire section amended, p. 1073, § 3, effective May 24. **L. 86:** Entire section amended, p. 1056, § 20, effective July 1. **L. 88:** (2) amended, p. 1432, § 17, effective June 11. **L. 90:** (2) and (3) amended, p. 1471, § 2, effective October 1. **L. 2008:** (4) and (5) added, p. 1297, § 15, effective May 27.

Editor's note: This section was originally numbered as § 30-20-609 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

ANNOTATION

Law reviews. For article, "Survey of Colorado Tax Liens", see 14 Colo. Law. 1765 (1985).

30-20-611. Assessment roll.

The county clerk and recorder, or such other officer or agent of the county as may be directed by the board in the preliminary order, shall prepare a local assessment roll in book form showing, in suitable columns, each piece of land assessed, the total amount of assessment, the amount of each installment of principal and interest if, in pursuance of this part 6, the same is payable in installments, and the date when each installment will become due, with suitable columns for use, in case of payment of the whole amount or of any installment or penalty, and he shall deliver the same, duly certified, under the county seal, to the county treasurer for collection.

Source: L. 73: p. 487, § 1. **C.R.S. 1963:** § 36-30-10. **L. 85:** Entire section amended, p. 1073, § 4, effective May 24. **L. 86:** Entire section amended, p. 1059, § 29, effective July 1.

Editor's note: This section was originally numbered as § 30-20-610 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-612. When assessments payable - installments.

All special assessments for local improvements shall be due and payable within thirty days after the effective date of the assessing resolution without demand, but all such assessments may be paid, at the election of the owner, in installments with interest as provided in section 30-20-614. All special assessments for local improvements authorized in section 30-20-603 (11.5) may be due and payable at such alternate time or times as set forth in the assessing resolution.

Source: L. 73: p. 487, § 1. **C.R.S. 1963:** § 36-30-11. **L. 75:** (2) repealed, p. 1000, § 1, effective June 16. **L. 2008:** Entire section amended, p. 1298, § 16, effective May 27.

Editor's note: This section was originally numbered as § 30-20-611 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-613. Effect of payment in installments.

Failure to pay the whole assessment within said period of thirty days shall be conclusively considered and held to be an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively held and considered as consenting to said improvements. Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the county to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof; except that, with respect to local improvements authorized in section 30-20-603 (11.5), the owner for each property included in the district shall retain all rights otherwise existing by contract or by law against parties other than the county with respect to the financed energy efficiency improvement or renewable energy improvement.

Source: L. 73: p. 488, § 1. **C.R.S. 1963:** § 36-30-12. **L. 2008:** Entire section amended, p. 1298, § 17, effective May 27.

Editor's note: This section was originally numbered as § 30-20-612 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-614. How installments paid - interest.

In case of such election to pay in installments, the assessments shall be payable in two or more installments of principal, the first of which installments shall be payable as prescribed by the board in not more than five years and the last in not more than twenty years, with interest in all cases on the unpaid principal. The number and amounts of payment of installments, the period of payment, and the rate and times of payment of interest shall be determined by the board and set forth in the assessing resolution. The times of payment of installments shall be the same as the times of payment for installments of property taxes as specified in section 39-10-104.5 (2), C.R.S.; except that all special assessments for local improvements authorized in section 30-20-603 (11.5) may be payable at such alternate times as provided by the board in the assessing resolution and the board may enter into agreements with third parties to assist the treasurer with the administration and collection of such installments.

Source: L. 73: p. 488, § 1. **C.R.S. 1963:** § 36-30-13. **L. 85:** Entire section amended, p. 1074, § 5, effective May 24. **L. 86:** Entire section amended, p. 1059, § 30, effective July 1. **L. 90:** Entire section amended, p. 1472, § 3, effective October 1. **L. 92:** Entire section amended, p. 2184, § 63, effective June 2. **L. 2008:** Entire section amended, p. 1298, § 18, effective May 27.

Editor's note: This section was originally numbered as § 30-20-613 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-615. Penalty for default - payment of balance.

Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and collectible immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate established pursuant to section 5-12-106 (2) and (3), C.R.S., until the day of sale; but, at any time prior to the day of sale, the owner may pay the amount of all unpaid installments, with interest at the penalty rate set by the assessing resolution, and all costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment of interest or principal; except that any owner who pays the whole of the unpaid balance pursuant to this section may be assessed a prepayment premium not to exceed three percent of the unpaid principal, the amount of which premium shall be specified in the resolution imposing the assessment.

Source: L. 73: p. 488, § 1. **C.R.S. 1963:** § 36-30-14. **L. 85:** Entire section amended, p. 1074, § 6, effective May 24. **L. 86:** Entire section amended, p. 1056, § 21, effective July 1. **L. 2002:** Entire section amended, p. 269, § 8, effective August 7.

Editor's note: This section was originally numbered as § 30-20-614 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

ANNOTATION

Law reviews. For article, "Survey of Colorado Tax Liens", see 14 Colo. Law. 1765 (1985).

Applied in Resolution Trust Corp. v. Shipley, 809 P.2d 1073 (Colo. App. 1990).

30-20-616. Payment in full - assessment roll returned - payment of share.

(1) Except for a district formed for the purposes authorized in section 30-20-603 (11.5), as to which the assessments shall be paid pursuant to the contracts and agreements entered into by the owner of the assessed property, payment may be made to the county treasurer at any time within thirty days after the effective date of the assessing resolution. At the expiration of said thirty-day period, the county treasurer shall return the local assessment roll to the county clerk and recorder, therein showing all payments made thereon, with the date of each payment. The county clerk and recorder shall certify the roll under the seal of the county and deliver it to the county treasurer, with the clerk's warrant for the collection of the same. The county treasurer shall provide a receipt for the roll, and all such rolls shall be numbered for convenient reference.

(2) The owner of any divided or undivided interest in the property assessed may pay his share of any assessment, upon producing evidence of the extent of his interest, satisfactory to the treasurer having the roll in charge; but the assessment lien shall remain on the entire property assessed until the entire assessment is paid, except as otherwise provided pursuant to section 30-20-610.

Source: L. 73: p. 488, § 1. **C.R.S. 1963:** § 36-30-15. **L. 77:** (1) amended, p. 1450, § 1, effective July 1. **L. 85:** (2) amended, p. 1074, § 7, effective May 24. **L. 2010:** (1) amended, (SB 10-100), ch. 207, p. 902, § 4, effective May 5.

Editor's note: This section was originally numbered as § 30-20-615 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-617. Sale of property for nonpayment - county may purchase property on default.

(1) In case of default in the payment of any installment of principal or interest when due, the county treasurer shall advertise and sell all property concerning which such default is suffered for the payment of the whole of the unpaid assessments thereon. Said advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real estate in default of payment of the general property tax.

(2) At any sale by the county treasurer of any property for the purpose of paying any special assessment for local improvements made under the provisions of this part 6 in the district, the county treasurer, having written authority from the board, may purchase any such property without paying for the same in cash and shall receive certificates of purchase therefor in the name of the county. The certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the county treasurer at their face value, with all interest and penalties accrued, and assigned by him to the purchaser in the name of the county. The proceeds of such sale shall be credited to the fund created by resolution for the payment of such assessments respectively. In the event that all bonded indebtedness incurred in payment for said local improvements has been discharged in full, said certificates may be sold by the board for the best price obtainable at public sale, at auction, or by sealed bids in the same manner and under the same conditions as is provided in subsection (4) of this section. The proceeds shall be credited to the general fund of said county. Such assignments shall be without recourse, and the sale and assignments shall operate as a lien in favor of the purchaser and assignee as is provided by law in the case of sale of real estate in default of payment of the general property tax.

(3) Any county as such purchaser has the right to apply for tax deeds on such certificates of purchase at any time after three years from the date of issuance of said certificates, and such deeds shall be issued as provided by law for issuance of tax deeds for the nonpayment of the general property tax.

(4) Cumulatively with all other remedies, any county which is the owner of property by virtue of a tax deed, or is the owner of property otherwise acquired, in satisfaction or discharge of the liens represented by such certificates of sale, may sell such property for the best price obtainable at public sale, at auction, or by sealed bids. Such sales shall be after public notice by the county treasurer or the county clerk and recorder to all persons having or claiming any interest in the property to be sold or in the proceeds of such sale by publication of such notice

three times, a week apart, in a weekly or daily newspaper of general circulation within the county in which the property is located. Such notice shall describe the property and state the time, place, and manner of receiving bids; except that the time fixed for the sale shall not be less than ten days after the last publication. The county may reject any and all bids. Any interested party, at any time within ten days after the receipt of bids for the sale of property, may file with the county a written protest as to the sufficiency of the amount of any bid made or the validity of the proceedings for the sale. If the protest is denied, such person, within ten days thereafter, shall commence an action in a court of competent jurisdiction to enjoin or restrain the county from completing the sale. If no such action is commenced, all protests or objections to the sale shall be waived, and the county shall then convey the property to the successful bidder by quitclaim deed.

(5) In addition to all other remedies, any county which is a holder of certificates of purchase may bring a civil action for foreclosure thereof in accordance with article 38 of title 38, C.R.S., joining as defendants all persons holding record title, persons occupying or in possession of the property, persons having or claiming any interest in the property or in the proceeds of foreclosure sale, all governmental taxing units having taxes or other claims against said property, and all unknown persons having or claiming any interest in said property. Any number of certificates may be foreclosed in the same proceeding. In such proceeding the county, as plaintiff, is entitled to all relief provided by law in actions for an adjudication of rights with respect to real property, including actions to quiet title.

(6) The proceeds of any such sale of property shall be credited to the appropriate special assessment fund. The county shall deduct therefrom the necessary expenses in securing deeds and taking proceedings for the sale or foreclosure.

(7) When any county has sold or conveyed at a fair market value certificates of purchase or property which it has acquired in satisfaction or discharge of special assessment liens, such sales and conveyances are hereby validated and confirmed as against all parties having or claiming any interest in such property or the proceeds of such sale.

(8) It is hereby declared that the purpose of this section is to restore delinquent property to the tax rolls and to realize the greatest possible amount from such property for the benefit of all persons and taxing bodies having liens thereon.

Source: L. 73: p. 489, § 1. **C.R.S. 1963:** § 36-30-16. **L. 81:** Entire section amended, p. 1613, § 11, effective July 1. **L. 83:** Entire section amended, p. 1247, § 1, effective June 19. **L. 86:** (2) amended, p. 1059, § 31, effective July 1. **L. 93:** (5) amended, p. 81, § 2, effective March 26.

Editor's note: This section was originally numbered as § 30-20-616 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

Cross references: For foreclosure proceedings by municipal corporations or taxing districts, see part 11 of article 25 of title 31; for sale of real estate in default of payment of the general property tax, see article 11 of title 39.

30-20-618. Power of board to contract debt - question submitted to voters.

The board shall have power to contract an indebtedness on behalf of the county, and upon the credit thereof, by borrowing money or issuing the negotiable interest-bearing bonds of the county for the purpose of providing a fund to pay such part of the cost of improvements authorized by this part 6 as may be determined by the board, subject, however, to constitutional limitations. No such debt shall be created for such purposes unless the question of incurring the same, including the question of the maximum net effective interest rate, shall be submitted at a special election, which election shall be called and conducted, the votes canvassed, and the result declared in the same manner as other county elections on questions of incurring bonded indebtedness.

Source: L. 73: p. 489, § 1. **C.R.S. 1963:** § 36-30-17. **L. 86:** Entire section amended, p. 1060, § 32, effective July 1.

Editor's note: This section was originally numbered as § 30-20-617 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-619. Issuing bonds - property specially benefited.

(1) For the purpose of paying all or such portion of the cost of any improvement constructed or acquired under the provisions of this part 6 as may be assessed against the property specially benefited and not paid by the sales tax authorized by section 30-20-604.5 or by the county, special assessment bonds of the county may be issued, of such date, in such form, and on such terms, including, without limitation, provisions for their sale, payment, and redemption, as may be prescribed by the board, bearing the name of the street or district improved and payable in a sufficient period of years after such date to cover the period of payment provided, and in convenient denominations. All such bonds shall be issued upon estimates approved by the board, and the county treasurer shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the chair of the board, countersigned by the county treasurer, with the county seal affixed, and attested by the county clerk and recorder; except that the county treasurer need not countersign a bond issued by a district formed for the

purposes authorized in section 30-20-603 (11.5). Such bonds shall be payable out of the moneys collected on account of the assessments made for said improvements, from reserve accounts, if any, established to secure the payment of such bonds, and from any other legally available moneys. All moneys collected from such assessments for any improvement shall be applied to the payment of the bonds issued, until payment in full is made of all the bonds, both principal and interest, or to fund or replenish reserve accounts, if any, established to secure the payment of such bonds. The bonds may be sold, under such terms and conditions as are established by the board, in such amounts as will be sufficient to pay for the cost of the improvements.

(2) Whenever three-fourths of the bonds issued pursuant to subsection (1) of this section for an improvement constructed under this part 6 have been paid and canceled and for any reason any remaining assessments are not paid in time to pay the remaining bonds for the district and the interest due thereon, the county may pay, from legally available moneys, the bonds when due and the interest due thereon and may reimburse itself by collecting the unpaid assessments due the district.

(3) When all bonds of an improvement district have been paid, any moneys remaining to the credit of such district may be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any improvement district bond fund to meet the payment of outstanding bonds for other improvement districts and interest due thereon, or to redeem such outstanding bonds in accordance with any estimated redemption schedule used in connection with the sale of such bonds, the deficiency may be paid from the moneys available therefor in the surplus and deficiency fund.

(4) For the purpose of paying all or such portion of the costs of any improvement constructed pursuant to section 30-20-603 (1)(a) and (1)(c) to which the revenues from any sales tax imposed pursuant to section 30-20-604.5 have been pledged, revenue bonds may be issued, which shall be payable solely from such sales tax. Such bonds shall be issued on the terms set forth in section 29-2-112, C.R.S.

(5) In connection with the issuance of bonds payable solely from special assessments as provided in subsection (1) of this section, the board may provide by resolution for the submission of the question of issuing such bonds to the electors eligible to vote on the question. In that case, the board may provide by resolution that all registered electors of the county shall be eligible to vote on the question or that only electors of the district shall be eligible to vote on the question.

(6) In connection with the issuance of bonds payable from special assessments which are additionally secured as provided in subsection (2), (3), or (4) of this section, the board may provide by resolution for the submission of the question of issuing the bonds to all registered electors of the county.

(7) Notwithstanding any other provision of this part 6, bonds issued in accordance with the requirements of this section may be payable from the assessments levied in one or more improvement districts.

(8) Notwithstanding any other provision of this part 6, any district formed for the purpose of encouraging, accommodating, and financing improvements as authorized in section 30-20-603 (11.5) may be authorized to:

(a) Issue one or more series of bonds, and bonds of any such district may be payable from the assessments levied pursuant to one or more assessment resolutions; and

(b) Jointly finance the improvements of multiple such districts located in one or more counties by intergovernmental agreement of the organizing counties or through other legally available means. Such intergovernmental agreement may include provisions for, among other things, the transfer of revenues collected pursuant to this part 6, including assessment payments, penalty payments pursuant to section 30-20-615, and property sale proceeds pursuant to section 30-20-617, from the county treasurer of the county in which a property is located to the county treasurer for the county issuing bonds pursuant to this section.

Source: L. 73: p. 489, § 1. **C.R.S. 1963:** § 36-30-18. **L. 83:** Entire section amended, p. 1245, § 2, effective March 22. **L. 85:** (1) amended and (3) added, p. 1075, § 8, effective May 24. **L. 86:** (1) amended, p. 1060, § 33, effective July 1. **L. 87:** (1) and (2) amended and (4) added, p. 1214, § 8, effective May 7. **L. 94:** (5) and (6) added, p. 1190, § 85, effective July 1. **L. 99:** (4) and (5) amended, p. 518, § 15, effective April 30. **L. 2002:** (1) amended and (7) added, p. 270, § 9, effective August 7. **L. 2008:** (1) and(2) amended and (8) added, p. 1298, § 19, effective May 27. **L. 2010:** (1) and (8) amended, (SB 10-100), ch. 207, p. 902, § 5, effective May 5.

Editor's note: This section was originally numbered as § 30-20-618 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-619.5. Issuing refunding bonds.

(1) The board may issue one or more series of bonds to refund all or any portion of the outstanding bonds issued by one or more improvement districts pursuant to section 30-20-619. Any such bonds shall be issued in accordance with the provisions of article 56 of title 11, C.R.S. In such case, for purposes of complying with the requirements of article 56 of title 11, C.R.S., any bonds issued to refund all or any portion of the outstanding bonds of one or more improvement districts shall be deemed to be revenue bonds, the refunded bonds shall be deemed to be revenue obligations, and the assessments shall be deemed to be revenue.

(2) Any bonds issued pursuant to this section may refund all or any portion of the outstanding bonds of one or more improvement districts and may be secured by a combination of assessments levied on all or a specifically identified portion of the assessed property located within such districts.

(3) Two or more series of bonds may be issued to refund the outstanding bonds of one or more districts, and each series may be secured by assessments levied on different portions of the assessed property located within the districts that have outstanding bonds.

(4) Except as otherwise provided in subsection (5) or (6) of this section, in connection with the issuance of refunding bonds pursuant to this section, the board may amend the resolution imposing the assessment to modify all or any portion of the following terms describing the assessment as specified in the resolution:

(a) The rate of interest the board charges on unpaid installments;

(b) Any penalty for prepayment of an assessment;

(c) The principal balance due and owing on the assessment;

(d) The dates upon which unpaid assessments are due;

(e) The number of years over which unpaid assessments are due; or

(f) Any other term specified in the resolution as necessary to make the resolution conform to the requirements of this section.

(5) Before the board may amend the resolution imposing the assessment to increase the amount of principal and interest due and owing under the assessment, the number of years over which unpaid assessments are due, or the amount of any unpaid assessments, the board shall:

(a) Obtain consent in writing to the amendment to the resolution from the owner of each tract of land that would be affected by the amendment; or

(b) (I) Set a place and time, not less than twenty days nor more than forty days after the date of such setting, for a hearing on the proposed amendment.

(II) Thereupon, the clerk of the board shall cause notice by publication to be made of the pendency of the proposed amendment, a summary of the terms of such amendment as described in subsection (4) of this section, and of the time and place of the hearing on the proposed amendment.

(III) All complaints and objections made in writing concerning the proposed amendment by the owners of any property in the district shall be heard and determined by the board before final action is taken. If the owners of the tracts upon which more than one-half of the affected assessments, measured by the unpaid assessment balance, submit written protests to the amendment to the board on or before the date specified in the notice, the board shall not adopt

the proposed amendment. Any proposed amendment may be modified, confirmed, or rescinded prior to passage of the resolution authorized under subsection (4) of this section.

(6) Notwithstanding any other provision of law, in order either to issue refunding bonds or to amend a resolution of the board imposing an assessment pursuant to this section, the board shall make written findings that:

(a) The obligation of the county shall not be materially or adversely impaired with respect to any outstanding bond secured by the assessments; and

(b) The principal balance of any assessment shall not increase to an amount such that the aggregate amount that is assessed against any one particular tract of land exceeds the maximum benefit to the tract that is estimated to result from the project that is financed by the assessment and refunding of the outstanding bonds.

Source: L. 2002: Entire section added, p. 270, § 10, effective August 7.

30-20-620. Bonds negotiable - interest.

All bonds issued pursuant to section 30-20-619 (1) and (2) shall be negotiable in form and shall bear such interest as may be fixed by the board, not exceeding a maximum net effective interest rate specified by the board, prior to the use of said bonds in payment for improvements or the sale thereof.

Source: L. 73: p. 489, § 1. **C.R.S. 1963:** § 36-30-19. **L. 85:** Entire section amended, p. 1075, § 9, effective May 24. **L. 86:** Entire section amended, p. 1060, § 34, effective July 1. **L. 87:** Entire section amended, p. 1214, § 9, effective May 7.

Editor's note: This section was originally numbered as § 30-20-619 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-621. Manner of redemption. (Repealed)

Source: L. 73: p. 489, § 1. **C.R.S. 1963:** § 36-30-20. **L. 85:** Entire section amended, p. 1075, § 10, effective July 1. **L. 86:** Entire section amended, p. 1057, § 23, effective May 24. **L. 2002:** Entire section repealed, p. 278, § 22, effective August 7.

Editor's note: This section was originally numbered as § 30-20-620 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-622. Contracts for construction - bond - default.

(1) Except as provided in this section, all local improvements made under the provisions of this part 6 shall be constructed by independent contract, and all contracts shall be let by the board. All such contracts shall be let to the lowest reliable and responsible bidder, after public advertisement once in a newspaper of general circulation in such county; except that after such advertisement, if it be determined by the board that the bids are too high or that the proposed improvement can be made by the county for less than the bid of the lowest reliable and responsible bidder, such county is empowered to provide for doing the work by hiring labor by the day or otherwise and to arrange for purchasing necessary material, all under the supervision of the board.

(2) Except when the county does the work, no contract shall be made without a surety bond for its faithful performance, with sufficient sureties, to be approved by the board. No surety shall be accepted or approved by the board other than a corporate surety company, unless he is the owner of real estate in this state, free and clear of all encumbrances, in double the amount of his liability on all bonds upon which he may then be surety. Upon default in the performance of any contract, the board may advertise and relet the remainder of the work in like manner, without further resolution, and deduct the cost from the original contract price or, with the approval of the board, advance any excess out of the funds of the county and recover the same by suit on the original bond. In all advertisements the right shall be reserved to reject any or all bids, and, upon rejecting all bids, if deemed advisable by the board, other bids may be advertised for.

(3) Notwithstanding the provisions of subsection (1) of this section and the provisions of section 24-92-104 (3), C.R.S., all construction contracts for any improvements funded in whole or in part by the district sales tax authorized by section 30-20-604.5 or by revenue bonds issued pursuant to section 30-20-619 (4) shall be awarded by competitive sealed bidding pursuant to the procedures set forth in article 92 of title 24, C.R.S.

Source: L. 73: p. 490, § 1. **C.R.S. 1963:** § 36-30-21. **L. 85:** (1) amended, p. 1076, § 11, effective May 24. **L. 86:** Entire section amended, p. 1061, § 35, effective July 1. **L. 87:** (3) added, p. 1215, § 10, effective May 7.

Editor's note: This section was originally numbered as § 30-20-621 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-623. Provisions to be inserted.

Every contract shall provide that it is subject to the provisions of the laws under which the county exists and of the resolution authorizing the improvement; that the aggregate payment thereon shall not exceed the amount appropriated; that, upon ten days' written notice to the contractor, the work under such contract, without cost or claim against the county, may be suspended for substantial cause; and that, upon complaint of any owner of land to be assessed for the improvement that the improvement is not being constructed in accordance with the contract, the board may consider the complaint and make such order in the premises as shall be just, and such order shall be final.

Source: L. 73: p. 490, § 1. **C.R.S. 1963:** § 36-30-22. **L. 85:** Entire section amended, p. 1076, § 12, effective May 24. **L. 86:** Entire section amended, p. 1061, § 36, effective July 1.

Editor's note: This section was originally numbered as § 30-20-622 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-624. Utility connections may be ordered before paving - costs - default.

Before paving in any district in pursuance of this part 6, the board may order the owners of property therein to connect their several premises with the gas, water, or sewer mains or with any other utility in the street in front of their several premises. Upon default of any owner for thirty days after such order to make such connections, the city or town may contract for and make the connections at such distance, under such regulations, and in accordance with such specifications as may be prescribed by the board. The whole cost of each connection shall be assessed against the property with which the connection is made, and the cost shall be paid upon the completion of the work and in one sum. The cost shall be assessed, shall become a lien, and shall be collected in the same manner as is provided in this part 6 for the assessment and collection of the cost of other special improvements. Upon default in the payment of any such assessment, the property shall be sold in like manner and with like effect.

Source: L. 73: p. 490, § 1. **C.R.S. 1963:** § 36-30-23. **L. 86:** Entire section amended, p. 1061, § 37, effective July 1.

Editor's note: This section was originally numbered as § 30-20-623 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-625. No action maintainable - exception - grounds - limitations.

(1) No legal or equitable action shall be brought or maintained to enjoin the collection of assessments levied under this part 6 except upon the grounds:

(a) That notice of a hearing upon the amount of the assessment was not given as required in this part 6, and any person presenting objections to the board at or before the hearing on assessment shall be deemed to have waived this ground;

(b) That the hearing upon the amount of the assessment as provided in this part 6 was not held;

(c) That the improvement ordered was not one authorized by this part 6.

(2) No action shall be brought under paragraph (c) of subsection (1) of this section unless the objections on which such action is based have been presented to the board in writing prior to the hearing on the proposed improvements as provided in section 30-20-603 (6)(i). Any action brought with respect to the ordering of any improvements, the creation of any district, the authorization or issuance of any bonds, the levying of any assessments, or any other action taken under this part 6 shall be commenced within thirty days after the effective date of the resolution ordering the improvements, creating the district, authorizing or issuing bonds, or levying assessments or the performance of any other action complained of or else shall be thereafter perpetually barred.

Source: L. 73: p. 491, § 1. **C.R.S. 1963:** § 36-30-24. **L. 85:** (2) amended, p. 1076, § 13, effective May 24. **L. 86:** (1)(a) and (2) amended, p. 1062, § 38, effective July 1.

Editor's note: This section was originally numbered as § 30-20-624 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-626. Requirements of publication of notice.

Notwithstanding any provisions of part 1 of article 70 of title 24, C.R.S., compliance with the requirements of publication of notice specified in this part 6 shall be deemed in full compliance for all purposes of this part 6.

Source: L. 73: p. 491, § 1. **C.R.S. 1963:** § 36-30-25.

Editor's note: This section was originally numbered as § 30-20-625 in C.R.S. 1973 but was renumbered on revision in the 1977 replacement volume for ease of location.

30-20-627. Local improvements completed - dissolution.

When the local improvements specified in the preliminary order referred to in section 30-20-603 (5) and specified in the resolution authorizing the improvements have been completed and any debt incurred or bonds issued have been paid, the board shall take all steps necessary to dissolve the district and, upon completion of such steps, shall declare, by resolution, that the district is dissolved; except that this requirement does not apply to a district formed for the purposes authorized in section 30-20-603 (11.5). Upon dissolution, any moneys remaining to the credit of such district that have not been transferred to a special surplus and deficiency fund as permitted in section 30-20-619 (3) may be used for any county purpose as determined by the board, including, without limitation, the reimbursement to the county of any county moneys spent to provide any portion of the costs of the local improvements completed within the dissolved district.

Source: L. 87: Entire section added, p. 1215, § 11, effective May 7. **L. 2002:** Entire section amended, p. 272, § 11, effective August 7. **L. 2010:** Entire section amended, (SB 10-100), ch. 207, p. 903, § 6, effective May 5.

30-20-628. County treasurer - policies and procedures.

The county treasurer may adopt policies and procedures which the county treasurer deems necessary and reasonable for the administration and collection of assessments imposed and payable pursuant to the provisions of this part 6 and which are consistent with the provisions of said part 6.

Source: L. 90: Entire section added, p. 1472, § 4, effective October 1.

PART 7

RECREATION DISTRICTS - COUNTY

30-20-701. Legislative declaration.

It is declared that the creation of recreation districts, having the purposes and powers provided in this part 7, will serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of said districts.

Source: L. 47: p. 698, § 1. **CSA:** C. 136, § 5. **CRS 53:** § 114-2-1. **C.R.S. 1963:** § 114-2-1.

ANNOTATION

Law reviews. For article, "Legal Classification of Special Districts Corporate Forms in Colorado", see 45 Den. L.J. 347 (1968).

30-20-702. County may establish districts.

(1) Whenever a county has acquired property for recreational purposes, as authorized in sections 29-7-101 to 29-7-104, C.R.S., such county may establish a recreation district. This district shall be composed of the unincorporated area benefited by the establishment of the proposed recreational facility, the boundaries to be designated by the board of county commissioners. If a county planning commission has been created in the county under the authority of part 1 of article 28 of this title, it is the duty of such planning commission, upon request from the board of county commissioners, to formulate a tentative plan for the formation of such recreation district. The plan shall include recommendations as to the area to be benefited and boundaries and powers of the district. Upon completion of the plan, the county planning commission shall certify such plan to the board of county commissioners.

(2) Before the creation of a recreation district, a hearing thereon shall be held by the board of county commissioners to ascertain the sentiment of residents of the area toward the establishment of such a district. Notice of the hearing, stating the time, place, date, and purpose of the hearing, and including a description of the proposed boundaries, shall be published once weekly for three consecutive weeks in a newspaper published and of general circulation in the county.

(3) After the hearing, the board of county commissioners, at any regularly scheduled meeting, may change, amend, reject, or adopt the plan formulated and certified by the county planning commission and by resolution create a recreation district.

Source: L. 47: p. 698, § 2. **CSA:** C. 136, § 6. **CRS 53:** § 114-2-2. **C.R.S. 1963:** § 114-2-2.

30-20-702.5. Acquisition of land by Larimer county authorized.

(1) The general assembly finds and declares that it is in the best interests of the state for Larimer county to acquire certain properties in the floodplain areas of the Big Thompson canyon and the north fork thereof. In making such acquisitions, Larimer county shall be subject to the findings of the Colorado water conservation board with respect to the location of said floodplain areas. The county shall establish a recreation district pursuant to the provisions of this article for the purpose of making the acquisitions authorized and for the further purposes of the future management, control, and financing of all park and recreational areas developed following such acquisitions. In acquiring lands as authorized, the county and the recreation district shall seek primarily lands near inhabited areas which are unlikely to be the subject of direct acquisition by the federal forest service or other federal agency.

(2) The division of parks and wildlife, as a part of its duties under section 33-10-108, C.R.S., shall undertake the duties of coordinating federal, state, and local efforts and contributions, in the development of the land acquired pursuant to this section, in order that the people of the state shall receive benefits from the park and recreational facilities thus acquired.

Source: L. 77: Entire section added, p. 1451, § 1, effective June 19. **L. 85:** (2) amended, p. 1363, § 29, effective June 28.

30-20-703. Powers of county commissioners.

(1) Acting on behalf of such district, the board of county commissioners may:

(a) Levy a tax on all real and personal property situated within the district not to exceed one mill, the proceeds of which shall be used within the district for operation, maintenance, capital improvements, acquisition of additional property, and employment of a staff to supervise a program of activities, and receive gifts of money or property for construction and operation of recreational facilities and programs; but if the recreational district comprises the entire county, the board of county commissioners is authorized to appropriate from the general fund for this purpose and no special levy is authorized;

(b) Establish a board of five residents of the district who own real estate within the district and who have paid a tax thereon for at least one year preceding their selection, to administer the facility, and to supervise the conduct of the recreational programs. Each member of the board, upon approval by a majority of the taxpaying electors residing in the district voting on the question at a general election, may receive as compensation for his services a sum not in excess of six hundred dollars per annum, payable not to exceed twenty-five dollars per meeting attended. Terms of such board members shall be so arranged that the term of one member expires each year. The manner of selection and the powers shall be determined by the board of county commissioners in its order creating the recreation district.

(c) Provide for the employment of personnel to operate and manage the facilities and recreation programs, and cooperate with other public and private agencies in the operation and management of the facilities and program;

(d) Provide for the creation of a reserve fund adequate to meet the obligations of the district, for maintenance and operating charges and depreciation, and to provide replacements of and betterments to the improvements of the district.

Source: L. 47: p. 699, § 3. **CSA:** C. 136, § 7. **L. 53:** p. 220, § 2. **CRS 53:** § 114-2-3. **C.R.S. 1963:** § 114-2-3. **L. 67:** p. 714, § 4.

Cross references: For procedure to increase tax levy beyond statutory limits, see § 29-1-302.

30-20-704. Budget.

The operations of the recreation district shall be conducted in accordance with the provisions of the local government budget law. The proposed budget shall be submitted to the board of county commissioners by the district board on or before the same date that is set for other departments of county government. In no event shall the provisions of this section be construed to prevent the creation of a reserve fund as provided in section 30-20-703.

Source: L. 47: p. 699, § 4. **CSA:** C. 136, § 8. **CRS 53:** § 114-2-4. **C.R.S. 1963:** § 114-2-4.

30-20-705. Purpose.

No part of this part 7 shall repeal or affect any other act or any part thereof, it being intended that this part 7 shall provide a separate method of accomplishing its objects, and not an exclusive one.

Source: L. 47: p. 700, § 5. **CSA:** C. 136, § 9. **CRS 53:** § 114-2-5. **C.R.S. 1963:** § 114-2-5.

PART 8

CEMETERY DISTRICTS

Editor's note: Prior to the enactment of this part 8 in 1981, the substantive provisions of this part 8 were located in part 1 of article 5 of title 32. For a detailed comparison of this part 8, see the comparative tables located in the back of the index.

Cross references: For definitions applicable to this part 8, see § 30-26-301 (2)(d).

30-20-801. Creation of cemetery districts.

The board of county commissioners of any county shall create cemetery districts within its county upon petition of the property owners within said districts, in accordance with the provisions of this part 8.

Source: L. 81: Entire part added, p. 1613, § 12, effective June 19.

30-20-802. Petition for creation of district.

Upon presentation to the board of county commissioners of a petition setting forth the name of the proposed cemetery district, a description of the boundaries of said district, the names of three taxpaying electors resident within such district to be appointed as the first board of directors of said proposed district, and a request for the organization thereof, signed by a majority of the taxpaying electors resident therein, it is the duty of the board of county commissioners of such county to examine the petition and, if it finds that the petition is regular and in due form as provided, and if the board of county commissioners finds that said petition has been signed by a majority of the taxpaying electors, to enter a resolution in its proceedings establishing said

cemetery district and to file a certified copy of such resolution with the county clerk and recorder.

Source: L. 81: Entire part added, p. 1613, § 12, effective June 19.

30-20-803. Board of directors - meetings.

(1) Immediately after the creation of a cemetery district, the board of county commissioners shall appoint a board of directors for the cemetery district, consisting of the three members recommended in the petition filed with the board of county commissioners. One of the members shall hold the office for two years, one for four years, and one for six years. Thereafter the term of office for each director is six years. Vacancies in the board of directors shall be filled by the board of county commissioners. The board of county commissioners may remove any director for cause, but only after the director is given notice and an opportunity to be heard before the board of county commissioners at a public hearing.

(2) All special and regular meetings of the board of directors must be held at locations that are within the boundaries of the cemetery district or that are within the boundaries of any county in which the cemetery district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (2) governing the location of meetings may be waived only if the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board and if a resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (2) and further stating the date, time, and place of such meeting.

Source: L. 81: Entire part added, p. 1613, § 12, effective June 19. **L. 90:** Entire section amended, p. 1496, § 3, effective July 1. **L. 2022:** Entire section amended, (SB 22-075), ch. 35, p. 188, § 1, effective August 10.

30-20-804. District officers.

The officers of such cemetery district shall be the president and a secretary who shall be elected annually by the board of directors from its own members.

Source: L. 81: Entire part added, p. 1613, § 12, effective June 19.

30-20-805. Powers of district.

(1) From and after the filing of the resolution establishing such district with the county clerk and recorder, the cemetery district shall be a body corporate and shall have the following powers:

(a) To acquire, hold, and convey real and personal property for cemetery purposes within said district;

(b) To sue and be sued in its corporate name;

(c) To receive, acquire, and hold donations or bequests of real or personal property;

(d) To sell burial plots in the cemetery property acquired by said district;

(e) To draw warrants upon the county treasurer for cemetery purposes;

(f) To determine annually the amount of tax not to exceed four mills, to be levied upon the taxable property of said district, to acquire, care for, and maintain such cemetery for the ensuing year, and to certify the same to the board of county commissioners. Any amount of tax levy not previously established by resolution nor previously approved by the electors must be authorized by a vote of the electors of that cemetery district.

Source: L. 81: Entire part added, p. 1614, § 12, effective June 19. **L. 95:** (1)(f) amended, p. 61, § 1, effective March 23.

30-20-806. Taxation.

The board of county commissioners is authorized to levy a tax not to exceed four mills so certified to it by said cemetery district against all taxable property within said cemetery district which tax shall be collected by the county treasurer. If the district embraces the entire county, the board of county commissioners is authorized to appropriate from the general fund money for this purpose and no special tax shall be made.

Source: L. 81: Entire part added, p. 1614, § 12, effective June 19. **L. 95:** Entire section amended, p. 61, § 2, effective March 23.

30-20-807. Cemetery district fund.

All moneys belonging to or collected on behalf of said cemetery district may be deposited with the county treasurer of the county in which said district is located in a fund known as ..... cemetery district fund. Expenditures therefrom shall be made by the county treasurer upon warrants drawn thereon by the president and secretary of said cemetery district.

Source: L. 81: Entire part added, p. 1614, § 12, effective June 19. **L. 2008:** Entire section amended, p. 107, § 1, effective August 5.

30-20-808. Abandoned graves - right to reclaim.

(1) If there is a lot, grave space, niche, or crypt in a cemetery in which no remains have been interred, no burial memorial has been placed, and no other improvement has been made for a continuous period of no less than seventy-five years, a cemetery district may initiate the process of reclaiming title to the lot, grave space, niche, or crypt in accordance with this section.

(2) A cemetery district seeking to reclaim a lot, grave space, niche, or crypt shall:

(a) Send written notice of the cemetery district's intent to reclaim title to the lot, grave space, niche, or crypt to the owner's last-known address by first-class mail; and

(b) Publish a notice of the cemetery district's intent to reclaim title to the lot, grave space, niche, or crypt in a newspaper of general circulation in the area in which the cemetery is located once per week for four weeks.

(3) The notice required by subsection (2) of this section shall clearly indicate that the cemetery district intends to terminate the owner's rights and title to the lot, grave space, niche, or crypt and include a recitation of the owner's right to notify the cemetery district of the owner's intent to retain ownership of the lot, grave space, niche, or crypt.

(4) If the cemetery district does not receive from the owner of the lot, grave space, niche, or crypt a letter of intent to retain ownership of the lot, grave space, niche, or crypt within sixty days after the last publication of the notice required by paragraph (b) of subsection (2) of this section, all rights and title to the lot, grave space, niche, or crypt shall transfer to the cemetery district. The cemetery district may then sell, transfer, or otherwise dispose of the lot, grave space, niche, or crypt without risk of liability to the prior owner of the lot, grave space, niche, or crypt.

(5) A cemetery district that reclaims title to a lot, grave space, niche, or crypt in accordance with this section shall retain in its records for no less than one year a copy of the notice sent pursuant to paragraph (a) of subsection (2) of this section and a copy of the notice published pursuant to paragraph (b) of subsection (2) of this section.

(6) If a person submits to a cemetery district a legitimate claim to a lot, grave space, niche, or crypt that the cemetery district has reclaimed pursuant to this section, the cemetery district shall transfer to the person at no charge a lot, grave space, niche, or crypt that, to the extent possible, is equivalent to the reclaimed lot, grave space, niche, or crypt.

(7) Notwithstanding any provision of law to the contrary, on and after August 7, 2006, a cemetery district shall not convey title to the real property surveyed as a lot in a cemetery for use as a burial space. A cemetery district may grant interment rights to a lot, grave space, niche, or crypt in a cemetery.

Source: L. 2006: Entire section added, p. 443, § 3, effective August 7.

Editor's note: Section 5 of chapter 128, Session Laws of Colorado 2006, provides that the act enacting this section applies to cemetery lots, grave spaces, niches, and crypts purchased before, on, or after August 7, 2006.

PART 9

SOLID WASTE-TO-ENERGY INCINERATION SYSTEMS

Cross references: For the calculation by the public utilities commission of avoided cost information prior to construction of a solid waste-to-energy incineration system, see § 40-3-112; for authorization for municipalities to develop solid waste-to-energy systems, see part 10 of article 15 of title 31.

Law reviews: For article, "The Legal Structure and Financing of Waste-to-Energy Projects -- Part 1", see 14 Colo. Law. 574 (1985).

30-20-901. Legislative declaration.

The general assembly hereby finds and declares that methods for the efficient and economical production of usable energy should be achieved whenever possible and that the use of flammable waste material for the conversion of heat into steam, electrical power, or any other form of energy could provide energy in an efficient and economical manner. For such purposes, the provisions of this part 9 are enacted to authorize counties to develop this type of energy for their own use and the use of the public.

Source: L. 83: Entire part added, p. 1241, § 2, effective May 31.

30-20-902. Definitions.

As used in this part 9, unless the context otherwise requires:

(1) "Solid waste-to-energy incineration system" means the use of flammable waste material as a primary or supplemental fuel for the conversion of heat into steam, electrical power, or any other form of energy.

Source: L. 83: Entire part added, p. 1242, § 2, effective May 31.

30-20-903. County authority relating to solid waste-to-energy incineration systems.

(1) The board of county commissioners of any county has the power to:

(a) Acquire, hold, use, transfer, and convey any real or personal property for the purpose of developing and operating a solid waste-to-energy incineration system;

(b) Engage in any activities relating to the siting, development, and operation of a solid waste-to-energy incineration system and to the production and sale of energy from such system;

(c) Issue revenue bonds authorized by action of the board of county commissioners, without the approval of the qualified electors of the county, for purposes of financing the siting and development of a solid waste-to-energy incineration system and the production and marketing of energy from such system. Such revenue bonds shall be issued in the manner provided in part 4 of article 35 of title 31, C.R.S., for the issuance of revenue bonds by municipalities; except that such revenue bonds may be sold in one or more series at par, or below or above par, at public or private sale, in such manner and for such price as the county, in its discretion, shall determine. Such revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the county within the meaning of any provision or limitation of the state constitution or statutes, and shall not constitute nor give rise to a pecuniary liability of the county or a charge against its general credit or taxing powers. Such revenue bonds and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

(d) Enter into contracts, including intergovernmental contracts pursuant to section 29-1-203, relating to the acts authorized by this part 9;

(e) Establish such terms and conditions by contract, resolution, or any other method for the siting, development, and operation of a solid waste-to-energy incineration system and the production and sale of energy from such system;

(f) Set, maintain, and revise charges for the disposal of solid waste at a solid waste-to-energy incineration system facility and for the sale of energy from such system for the purpose of financing the property, facilities, and operation of the system;

(g) Exercise any other powers which are essential in performing the acts authorized by this part 9;

(h) Perform any nonlegislative acts authorized by this part 9 by means of an agent or by contract with any person, firm, or corporation.

Source: L. 83: Entire part added, p. 1242, § 2, effective May 31.

30-20-904. Department of public health and environment rules.

The department of public health and environment may promulgate rules for the engineering design and operation of solid waste-to-energy incineration systems, and any such system shall comply with such rules before beginning operations.

Source: L. 83: Entire part added, p. 1243, § 2, effective May 31. **L. 94:** Entire section amended, p. 2800, § 560, effective July 1.

PART 10

SOLID WASTES DISPOSAL LIMITATIONS

Cross references: For the legislative declaration contained in the 2005 act enacting this part 10, see section 1 of chapter 285, Session Laws of Colorado 2005.

30-20-1001. Definitions.

As used in this part 10, unless the context otherwise requires:

(1) "Consumer product" means any device that is primarily intended for personal or household use and is typically sold, distributed, or made available to the general population through retail or mail-order distribution. Such term does not include vehicles, motorcycles,

wheelchairs, boats, or other forms of motive power. The term does include, but is not limited to, computers, games, telephones, radios, and similar electronic devices.

(2) "De minimis quantities of used oil" means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations; except that the term shall not include used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases.

(3) "Land disposal" means placing, discarding, or otherwise disposing of residentially generated solid wastes:

(a) In any solid wastes disposal site and facility, transfer station, or treatment, storage, or disposal facility operated by the state, a local government, or a private entity;

(b) In sewers, drainage systems, septic tanks, surface or groundwaters, watercourses, or any body of water; or

(c) On the ground.

(4) "Lead-acid battery" means a battery that:

(a) Consists of lead and sulfuric acid;

(b) Is used as a power source; and

(c) Is not intended as a power source for consumer products.

(5) "Lubricating oil" means the fraction of crude oil or synthetic oil used to reduce friction in motorized equipment. "Lubricating oil" includes rerefined oil.

(6) (a) "Person" means an individual.

(b) "Person" shall not include waste haulers as defined in subsection (16) of this section.

(7) "Residentially generated" means used lead-acid batteries and used oil generated by a person.

(8) "Retailer" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity that engages in the sale of new lead-acid batteries or lubricating oil directly to the end user.

(9) "Solid waste" shall have the same meaning as set forth in section 30-20-101 (6).

(10) "Solid wastes disposal" shall have the same meaning as set forth in section 30-20-101 (7).

(11) "Solid wastes disposal site and facility" shall have the same meaning as set forth in section 30-20-101 (8).

(12) Repealed.

(13) "Transfer station" shall have the same meaning as set forth in section 30-20-101 (9).

(14) "Used lead-acid battery" means any lead-acid battery that is no longer functional or no longer used for its primary purpose.

(15) "Used oil" means any residentially generated motor oil, refined from crude oil or a synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities.

(16) "Waste hauler" means any individual or any employee or agent of a partnership, private, county, or municipal corporation, firm, board of a metropolitan district, or other association of persons that haul waste under contract, agreement, or as otherwise provided by law, to solid wastes disposal sites and facilities.

(17) and (18) Repealed.

(19) "Wholesaler" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity that sells new lead-acid batteries or lubricating oil for resale.

Source: L. 2005: Entire part added, p. 1251, § 2, effective August 8. **L. 2010:** (17) amended, (HB 10-1018), ch. 421, p. 2180, § 13, effective June 10. **L. 2014:** (7), (8), and (19) amended and (12), (17), and (18) repealed, (HB 14-1352), ch. 351, p. 1594, § 7, effective July 1.

30-20-1002. Lead-acid batteries - disposal limitations.

(1) On and after July 1, 2007, land disposal of residentially generated used lead-acid batteries shall be prohibited.

(2) A person shall dispose of used lead-acid batteries by delivering the batteries to:

(a) A retailer or wholesaler engaged in lead-acid battery collection or recycling;

(b) A secondary lead smelter; or

(c) A collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

(3) A retailer shall dispose of used lead-acid batteries by delivering the batteries to:

(a) The agent of a wholesaler or a secondary lead smelter;

(b) A battery manufacturer for delivery to a secondary lead smelter; or

(c) A collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

(4) (a) Waste haulers shall notify customers that the land disposal of lead-acid batteries is prohibited.

(b) The notice required by paragraph (a) of this subsection (4) shall explain that lead-acid batteries shall be disposed of by delivery to a retailer or wholesaler engaged in lead-acid battery collection or recycling, a secondary lead smelter, or a collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

Source: L. 2005: Entire part added, p. 1253, § 2, effective August 8.

30-20-1003. Lead-acid batteries - collection for recycling.

(1) A retailer selling replacement lead-acid batteries in the state may:

(a) Accept from customers, at the point of transfer, used lead-acid batteries of the same general type and in a quantity at least equal to the number of new batteries purchased, if offered by customers; and

(b) Collect a deposit of at least ten dollars on the sale of an automotive-type replacement lead-acid battery that is not accompanied by the return of a used lead-acid battery of the same general type. All deposits shall inure to the benefit of the retailer unless the person paying the deposit pursuant to this subsection (1) returns a used automotive lead-acid battery to the retailer within thirty days of the date of sale, in which case the deposit shall be returned to the customer.

Source: L. 2005: Entire part added, p. 1254, § 2, effective August 8.

30-20-1004. Lead-acid battery wholesalers.

Any wholesaler selling replacement lead-acid batteries may accept from customers at the point of transfer used lead-acid batteries of the same general type and in a quantity at least equal to the number of new batteries purchased, if offered by customers.

Source: L. 2005: Entire part added, p. 1254, § 2, effective August 8.

30-20-1005. Used oil disposal limitations.

(1) On and after July 1, 2007, land disposal of residentially generated used oil shall be prohibited.

(2) Notwithstanding subsection (1) of this section, a person may dispose of an item or substance that contains de minimis quantities of used oil in a solid wastes disposal site and facility under subsection (1) of this section if:

(a) To the extent reasonably possible, all oil has been removed from the item or substance; and

(b) No free-flowing oil remains in the item or substance.

(3) A person shall dispose of used oil by delivery to:

(a) A retailer or wholesaler engaged in used oil collection or recycling; or

(b) A collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

(4) A retailer shall dispose of used oil by delivery to the agent of a wholesaler or to a collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

(5) Every quart of improperly disposed oil shall constitute a separate violation.

(6) (a) Waste haulers shall notify customers that the land disposal of used oil is prohibited.

(b) The notice required in paragraph (a) of this subsection (6) shall explain that used oil shall be disposed of by delivery to a retailer or wholesaler engaged in used oil collection or recycling or a collection or recycling facility operating under the laws of this state or under rules promulgated by the United States environmental protection agency.

Source: L. 2005: Entire part added, p. 1254, § 2, effective August 8.

30-20-1006. Limitations on the disposal of tires. (Repealed)

Source: L. 2005: Entire part added, p. 1255, § 2, effective August 8. **L. 2009:** (2) amended, (SB 09-289), ch. 314, p. 1700, § 4, effective August 5. **L. 2014:** Entire section repealed, (HB 14-1352), ch. 351, p. 1596, § 13, effective July 1.

30-20-1007. Waste tires - collection for recycling. (Repealed)

Source: L. 2005: Entire part added, p. 1256, § 2, effective August 8. **L. 2009:** Entire section amended, (SB 09-289), ch. 314, p. 1700, § 5, effective August 5. **L. 2014:** Entire section repealed, (HB 14-1352), ch. 351, p. 1596, § 13, effective July 1.

30-20-1008. Tire wholesalers. (Repealed)

Source: L. 2005: Entire part added, p. 1256, § 2, effective August 8. **L. 2014:** Entire section repealed, (HB 14-1352), ch. 351, p. 1596, § 13, effective July 1.

30-20-1009. Inspection - enforcement - nuisances - violations - civil penalty.

(1) The inspection, enforcement, nuisance, violation, and civil penalty provisions in section 30-20-113 shall apply to this part 10.

(2) Notwithstanding subsection (1) of this section and section 30-20-1010, if a person is able to establish that due diligence has been conducted and no reasonable options for recycling the solid wastes are available, then the person may dispose of the solid wastes in a solid wastes disposal site and facility or transfer station.

(3) Notwithstanding subsection (1) of this section and sections 30-20-1010 and 30-20-113 (1)(c), any solid wastes disposal site and facility in substantial compliance with its waste characterization plan developed pursuant to section 30-20-110 (1)(g), and rules promulgated thereunder, is in compliance with this part 10 so long as the waste characterization plan contains waste acceptance procedures to minimize the disposal of lead-acid batteries and used oil consistent with this part 10.

Source: L. 2005: Entire part added, p. 1256, § 2, effective August 8. **L. 2014:** (3) amended, (HB 14-1352), ch. 351, p. 1595, § 8, effective July 1.

30-20-1010. Violation - penalty.

Any person who violates any provision of this part 10 commits a civil infraction. Each day of violation shall be deemed a separate offense under this section.

Source: L. 2005: Entire part added, p. 1256, § 2, effective August 8. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3249, § 508, effective March 1, 2022.

PART 11

PUBLIC IMPROVEMENTS - COUNTY CONTRACTS

30-20-1101. Short title.

This part 11 shall be known and may be cited as the "Integrated Delivery Method for County Public Improvements Act".

Source: L. 2007: Entire part added, p. 1810, § 2, effective August 3.

30-20-1102. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) It is the policy of the state of Colorado to encourage public contracting procedures that encourage competition, openness, and impartiality to the maximum extent possible.

(b) Competition exists not only in the costs of goods and services, but in the technical competence of the providers and suppliers in their ability to make timely completion and delivery and in the quality and performance of their products and services.

(c) Timely and effective completion of public projects can be achieved through a variety of methods when procuring goods and services for public projects.

(d) In enacting this part 11, the general assembly intends to establish for county governments and certain districts formed by county governments an optional alternative public project delivery method.

Source: L. 2007: Entire part added, p. 1810, § 2, effective August 3.

30-20-1103. Definitions.

As used in this part 11, unless the context otherwise requires:

(1) "Agency" means any county, city and county, home rule county formed in accordance with the provisions of article 35 of this title, any county public improvement district formed in accordance with the provisions of part 5 of article 20 of this title, any other district that a county or a city and county may create pursuant to the authority provided in article 20 of this title that is a budgetary unit exercising construction contracting authority or discretion, and any special taxing district formed by a home rule county in accordance with the provisions of part 9 of article 35 of this title.

(2) "Contract" means any agreement for designing, building, altering, repairing, improving, demolishing, operating, maintaining, or financing a public project.

(3) "Cost-reimbursement contract" means a contract under which a participating entity is reimbursed for costs that are allowable and allocable in accordance with the contract terms and provisions of this part 11.

(4) "Integrated project delivery" or "IPD" means a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these services, for a public project.

(5) "IPD contract" means a contract using an integrated project delivery method.

(6) "Participating entity" means a partnership, corporation, joint venture, unincorporated association, or other legal entity that provides appropriately licensed planning, architectural, engineering, development, construction, operating, or maintenance services as needed in connection with an IPD contract.

(7) "Public project" means any lands, buildings, structures, works, machinery, equipment, or facilities suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare, or public education, to the extent the boundaries of an agency and a school district are coterminous, or for the conservation of natural resources, including the planning of any such lands, buildings, improvements, structures, works, machinery, equipment, or facilities. "Public project" shall also include existing lands, buildings, improvements, structures, works, and facilities, as well as improvements, renovations, or additions to any such lands, buildings, improvements, structures, works, or facilities, including without limitation any sewerage facility as defined in section 30-20-401 (4), any water facility as defined in section 30-20-401 (6), any joint system as defined in section 30-20-401 (3), and any operation or maintenance programs for the operation and upkeep of such projects.

(8) "Public purposes" includes, but is not limited to, the supplying of public water services and facilities, public sewerage services and facilities, and lands, buildings, improvements, equipment, and facilities for public education, to the extent the boundaries of the agency and school district are coterminous.

Source: L. 2007: Entire part added, p. 1810, § 2, effective August 3.

30-20-1104. Integrated project delivery contracts - authorization - effect of other laws.

(1) Notwithstanding any other provision of law, any agency may award an IPD contract for a public project under the provisions of this part 11 upon the determination by such agency that integrated project delivery represents a timely or cost-effective alternative for a public project.

(2) Nothing in this part 11 shall be construed as exempting any agency or participating entity from applicable federal, state, or local laws, rules, resolutions, or ordinances governing labor relations, professional licensing, public contracting, or other related laws, except to the extent that an exemption is granted under such legal authority or is created by necessary implication from such legal authority.

Source: L. 2007: Entire part added, p. 1812, § 2, effective August 3.

30-20-1105. Integrated project delivery contracting process - prequalification of participating entities - apprentice training.

(1) An agency may prequalify participating entities for IPD contracts by public notice of its request for qualifications prior to the date set forth in the notice. A request for qualifications may contain the following elements and such additional information as may be requested by the agency:

(a) A general description of the proposed public project;

(b) Relevant budget considerations;

(c) Requirements of the participating entity, including:

(I) If the participating entity is a partnership, limited partnership, limited liability company, joint venture, or other association, a listing of all of the partners, general partners, members, joint venturers, or association members known at the time of the submission of qualifications;

(II) Evidence that the participating entity, or the constituent entities or members thereof, has completed or has demonstrated the experience, competency, capability, and capacity, financial and otherwise, to complete projects of similar size, scope, or complexity;

(III) Evidence that the proposed personnel of the participating entity have sufficient experience and training to completely manage and complete the proposed public project; and

(IV) Evidence of all applicable licenses, registrations, and credentials required to provide the proposed services for the public project, including but not limited to information on any revocation or suspension of any such license, registration, or credential.

(d) The criteria for prequalification.

(2) From the participating entities responding to the request for qualifications, the agency shall prepare and announce a short list of participating entities that it determines to be most qualified to receive a request for proposal.

(3) Where an apprentice training program registered by the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor exists in the county, or a comparable agency for the training of apprentices is available in the county:

(a) Each participating entity shall demonstrate to the agency that it has access to the certified or recognized program or a comparable alternative; and

(b) Each participating entity shall demonstrate that each of its subcontractors, at any tier, selected to perform work under a contract with a value of two hundred fifty thousand dollars or more has access to the certified or recognized program or a comparable alternative.

Source: L. 2007: Entire part added, p. 1812, § 2, effective August 3. **L. 2021:** (3) amended, (HB 21-1007), ch. 309, p. 1893, § 13, effective July 1. **L. 2023:** IP(3) amended, (SB 23-051), ch. 37, p. 149, § 30, effective March 23.

30-20-1106. Requests for proposals - evaluation and award of integrated project delivery contracts.

(1) An agency shall prepare and publish a request for proposals for each IPD contract that may contain the following elements and such other elements as may be requested by the agency:

(a) The procedures to be followed for submitting proposals;

(b) The criteria for evaluation of a proposal, which criteria may provide for selection of a proposal on a basis other than solely the lowest costs estimates submitted;

(c) The procedures for making awards;

(d) Required performance standards as defined by the participating entity;

(e) A description of the drawings, specifications, or other submittals to be provided with the proposal, with guidance as to the form and the acceptable level of completion of the drawings, specifications, or submittals;

(f) Relevant budget considerations or, for an IPD contract that includes operation or maintenance services, the life-cycle cost analysis for the contract;

(g) The proposed scheduling for the project; and

(h) The stipend, if any, to be paid to participating entities responding to the request for proposals who appear on the agency's short list pursuant to section 30-20-1105 (2) but whose proposals are not selected for award of the IPD contract.

(2) After obtaining and evaluating proposals according to the criteria and procedures set forth in the request for proposals in accordance with the requirements specified in subsection (1) of this section, an agency may accept the proposal that, in its estimation, represents the best value to the agency. Acceptance of a proposal shall be by written notice to the participating entity that submitted the accepted proposal.

(3) With respect to performance under each IPD contract, the agency and participating entity shall comply with all laws applicable to public projects.

(4) Notwithstanding any other provision of law, a participating entity selected for award of an IPD contract is not required to be licensed or registered to provide professional services as defined in section 24-30-1402 (6), C.R.S., if the person or firm actually performing any such professional services on behalf of the participating entity is appropriately licensed or registered and if the participating entity otherwise complies with applicable state licensing laws and requirements related to such professional services.

Source: L. 2007: Entire part added, p. 1813, § 2, effective August 3.

30-20-1107. Supplemental provisions.

The governing body of an agency may establish supplemental provisions that are designed to implement the provisions of this part 11.

Source: L. 2007: Entire part added, p. 1814, § 2, effective August 3.

30-20-1108. Types of contracts.

Subject to the requirements of this section, an agency making use of the provisions of this part 11 may award any type of contract that will promote the best interests of the agency; except that the use of a cost-plus-a-percentage-of-cost contract under this part 11 is prohibited. An agency may award a cost-reimbursement contract only when a determination is made in writing that such contract is either likely to be less costly to the agency than any other type of contract or that it is impracticable to obtain the required construction or other services authorized under this part 11 unless the cost-reimbursement contract is used. Operation and maintenance elements may be procured on a cost-reimbursement basis under or in connection with an IPD contract.

Source: L. 2007: Entire part added, p. 1814, § 2, effective August 3.

PART 12

RURAL CLEAN ENERGY PROJECT FINANCE PROGRAM

30-20-1201. Short title.

This part 12 shall be known and may be cited as the "Rural Clean Energy Project Finance Program Act".

Source: L. 2008: Entire part added, p. 1315, § 3, effective May 27.

30-20-1202. Definitions.

As used in this part 12, unless the context otherwise requires:

(1) "Board" means the board of county commissioners of a county or a city and county.

(2) "Clean energy" means energy derived from biomass, as defined in section 40-2-124 (1)(a)(I); geothermal energy; solar energy; small hydroelectricity; nuclear energy, including nuclear energy projects awarded funding through the United States department of energy's advanced nuclear reactor programs; wind energy; and hydrogen derived from the other energy sources listed in this subsection (2).

(3) "Cooperative electric association" shall have the same meaning as set forth in section 40-9.5-102, C.R.S.

(4) "Eligible applicant" means an individual property owner or a group of property owners that do not own the entirety of a cooperative electric association and that seek to construct, expand, or upgrade an eligible clean energy project located or to be located on the applicant's property.

(5) "Eligible clean energy project" means a project owned by an eligible applicant that produces or transmits clean energy for public benefit only, has a nameplate rating of no more than fifty megawatts and is not a part of a larger project with a nameplate rating of more than fifty megawatts, and is located within the certificated service area of a cooperative electric association. "Eligible clean energy project" includes transmission lines to the point of entry to the power grid of a cooperative electric association, a generation and transmission electric corporation or association, or any federal agency and any other equipment or facility, including, but not limited to, substation upgrades needed to deliver the clean energy produced by an eligible clean energy project to a market.

Source: L. 2008: Entire part added, p. 1315, § 3, effective May 27. **L. 2025:** (2) amended, (HB 25-1040), ch. 45, p. 209, § 2, effective August 6.

Cross references: For the legislative declaration in HB 25-1040, see section 1 of chapter 45, Session Laws of Colorado 2025.

30-20-1203. Eligible clean energy project financing - county approval - private activity bond financing.

(1) An eligible applicant may apply to the board of the county or city and county in which it proposes to construct, expand, or upgrade an eligible clean energy project for assistance in the financing of the project. Subject to the requirements and limitations specified in federal law, the "Colorado Private Activity Bond Ceiling Allocation Act", part 17 of article 32 of title 24, C.R.S., and subsection (2) of this section, if the board approves the application, it may provide financing assistance by issuing tax-exempt private activity bonds in a minimum amount of five hundred thousand dollars for a geothermal energy project and one million dollars for any other type of eligible clean energy project on behalf of the eligible applicant.

(2) A board shall issue tax-exempt private activity bonds on behalf of an eligible applicant to finance an eligible clean energy project subject to the following requirements and limitations:

(a) The board shall enter into agreements with the eligible applicant under which:

(I) The board agrees to loan to the eligible applicant the net proceeds of the bonds issued so that the eligible applicant can finance all or a portion of the eligible clean energy project; and

(II) The eligible applicant agrees that it has the sole responsibility to pay, either directly or indirectly through the board or a bond trustee, all financial obligations owed to bondholders and that it shall provide and maintain any reserve deemed necessary by the board to ensure that the financial obligations are paid;

(b) The bonds issued shall specify that bondholders may not look to any county or city and county revenues for repayment of the bonds. The bonds shall further specify that the only sources of repayment for the bonds are revenues provided by the eligible applicant, property of the eligible applicant, or credit enhancement obtained by the eligible applicant that may be pledged to the payment of the bonds; and

(c) The repayment term for the bonds issued shall not exceed fifteen years for a geothermal energy project and ten years for any other type of eligible clean energy project and may, for a geothermal energy project only, be correlated to the revenue stream of the eligible clean energy project being financed by the bonds so long as the amount of scheduled bond payments for any fiscal year does not exceed seventy-five percent of the estimated amount of project revenues for the fiscal year.

(3) Because private activity bonds are payable only from the sources specified in paragraph (b) of subsection (2) of this section, such bonds shall not be deemed to create county or city and county indebtedness or a multiple-fiscal year obligation within the meaning of any provision of the state constitution or the laws of this state, and a board may issue such bonds without voter approval.

(4) The rates charged by an eligible applicant for the delivery of clean energy produced by an eligible clean energy project shall be set to allow recovery of all costs necessarily incurred to deliver the clean energy to a market, including, but not limited to, the costs of substation upgrades, transmission lines to the point of entry to the power grid of a cooperative electric association, and any wheeling charges imposed by a cooperative electric association.

Source: L. 2008: Entire part added, p. 1316, § 3, effective May 27. **L. 2014:** (1) and (2)(c) amended, (HB 14-1222), ch. 284, p. 1168, § 1, effective May 30.

PART 13

FEDERAL MINERAL LEASE DISTRICTS

30-20-1301. Short title.

This part 13 shall be known and may be cited as the "Federal Mineral Lease District Act".

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 580, § 1, effective May 9.

30-20-1302. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that it is committed to making sure that all available funding received from federal mineral leasing and distributed as specified in section 34-63-102 (5.4)(c), C.R.S., is used to alleviate social, economic, and public finance impacts resulting from the development of natural resources in this state, subject to the limitations provided for in the federal act.

(2) The general assembly further finds and declares that the purpose of this legislation is to maximize the long-term benefit of funding derived from federal mineral leasing by authorizing the creation of federal mineral lease districts as funding and service delivery mechanisms, which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered in the federal act.

(3) The general assembly further finds and declares that federal mineral lease districts provide an effective mechanism to expedite the distribution of funding, without the use or increase of ad valorem and other taxes, to those communities designated as impacted by the development of natural resources covered by the federal act.

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 580, § 1, effective May 9. **L. 2012:** Entire section amended, (SB 12-031), ch. 84, p. 275, § 1; effective April 6.

30-20-1303. Definitions.

As used in this part 13, unless the context otherwise requires:

(1) "County" means a home rule or statutory county in this state and includes a city and county.

(1.5) "Distribute" means to grant, loan, commit, or otherwise expend available funding to achieve the purposes of the district consistent with this part 13.

(2) "District" means a federal mineral lease district created pursuant to this part 13.

(2.5) "Federal act" means section 35 of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended.

(3) "Funding" means the direct distribution of money from the local government mineral impact fund to counties as described in section 34-63-102 (5.4)(c) or a distribution to the county in accordance with section 34-63-104 (3).

(4) "Resolution" means a resolution initiated and adopted by a board of county commissioners of a county to create a federal mineral lease district as described in section 30-20-1304 (2).

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169 p. 581, § 1, effective May 9. **L. 2012:** (1.5) and (2.5) added, (SB 12-031), ch. 84, p. 276, § 2, effective April 6. **L. 2018:** (3) amended, (HB 18-1249), ch. 51, p. 491, § 1, effective March 22.

30-20-1304. Power to create federal mineral lease districts.

(1) Except as otherwise provided in this part 13, any county may create a district, so long as the district is created through a resolution adopted as specified in subsection (2) of this section no later than June 30, 2011, and each June 1 of every year thereafter.

(2) A board of county commissioners shall create a district by duly adopting, by majority vote, a resolution to that effect, and the resolution shall set forth:

(a) The name of the county creating the district;

(b) Repealed.

(c) A description of the boundaries of the district, which may include any municipality within the county creating the district;

(d) The name of the district; and

(e) The number of directors of the district. There shall be no fewer than three directors for a district, and the total number of directors shall be an odd number.

(3) Repealed.

(4) No later than the first business day after the adoption of a resolution, the county clerk and recorder shall transmit a certified copy of the resolution to the executive director of the

department of local affairs, who shall, upon receipt of the certified copy of the resolution, allocate all future funding directly to the district. The state treasurer shall allocate all funding in accordance with section 34-63-104 (3) directly to the district.

(5) A district organized pursuant to this part 13 may be dissolved by the district board after not less than fifteen days' notice to the public is given and a hearing is held. The notice shall be published in at least one newspaper of general circulation in the county in which the district is located. After hearing any protests against or objections to dissolution, if a majority of the district board determines that it is in the best interests of all concerned to dissolve the district, the district board shall so provide by resolution, and verified copies of the resolution shall be filed within three business days with the office of the county clerk and recorder in the county in which the district is located and with the executive director of the department of local affairs. Upon such filings, the dissolution shall be complete, except that no district shall be dissolved until all funding is distributed consistent with this part 13 and has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities.

(6) Notwithstanding any other provision in subsection (5) of this section, any board of county commissioners of a county that initiated and passed a resolution to create a district as described in section 30-20-1304 (2) as such section existed before April 6, 2012, may, within ninety days of April 6, 2012, initiate and pass a resolution to dissolve the district. For any district dissolved pursuant to this subsection (6), all undistributed funding shall be paid over to the county.

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 581, § 1, effective May 9. **L. 2012:** (2)(c), (4), and (5) amended, (3) repealed, and (6) added, (SB 12-031), ch. 84, p. 276, § 3, effective April 6. **L. 2013:** (2) (b) repealed, (HB 13-1300), ch. 316, p. 1695, § 99, effective August 7. **L. 2018:** (4) amended, (HB 18-1249), ch. 51, p. 491, § 2, effective March 22.

30-20-1305. Approval of service plan. (Repealed)

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 582, § 1, effective May 9. **L. 2012:** Entire section repealed, (SB 12-031), ch. 84, p. 277, § 4, effective April 6.

30-20-1305.5. Powers of a district.

(1) Each district formed pursuant to this part 13 is an independent public body politic and corporate. Each district is a public instrumentality, and its exercise of the powers specified in this

part 13 are deemed and held to be the performance of an essential public function. A district is not an agency of county or state government and is not subject to administrative direction by any department, commission, board, or agency of a county or the state.

(2) In addition to any other powers granted to a district by this part 13, a district has the following powers:

(a) To sue and be sued;

(b) To enter into contracts and agreements including those described in section 29-1-201, C.R.S.;

(c) To acquire real or personal property or an interest in real or personal property;

(d) To sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the district's property or assets;

(e) To enter into grant or loan agreements;

(f) In order to carry out the purposes of this part 13, to borrow money as evidenced by revenue bonds, certificates, warrants, notes, and debentures in accordance with the provisions of this part 13;

(g) To adopt an official seal;

(h) To distribute funding to an area outside the district boundaries consistent with this part 13;

(i) To provide services consistent with the federal act and this part 13; and

(j) To invest funding as set forth in section 30-20-1307.

(3) A district does not have the power to levy and collect taxes or to use the power of eminent domain.

(4) Each district formed under this part 13 is subject to the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., and the "Colorado Local Government Audit Law", part 6 of article 1 of title 29, C.R.S.

Source: L. 2012: Entire section added, (SB 12-031), ch. 84, p. 278, § 5, effective April 6. **L. 2017:** (2)(h) and (2)(i) amended and (2)(j) added, (HB 17-1152), ch. 103, p. 380, § 1, effective August 9.

30-20-1306. Board of directors - appointment or election - removal.

(1) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), immediately after the creation of a district, the board of county commissioners of the county shall, by majority vote, appoint a board of directors for the district. The number of directors on the board shall be as set forth in the resolution creating the district.

(II) If the board of county commissioners finds that the board of directors for the district should be elected rather than appointed, the board of county commissioners shall outline the method of such an election by duly adopting by majority vote a resolution to that effect. The election procedures shall comply with the election requirements set forth in articles 1 to 13 of title 1, C.R.S.

(b) Members of the board of directors may be county commissioners from the county that created the district, representatives of the governing body of municipalities included in the district, or other officials representing the interests of areas impacted by mineral lease activities.

(c) County commissioners serving on the board of directors, if any, shall not constitute a majority on the board of directors.

(d) The officers of the board of directors shall be the president and a secretary who shall be elected annually by the board of directors from its own members.

(e) (I) Members of the board of directors shall serve staggered terms so that not more than one director's term expires in any one year, and thereafter terms shall be for three years each, and each term shall commence on January 15.

(II) Notwithstanding subparagraph (I) of this paragraph (e), every board of county commissioners of a county that initiated and passed a resolution to create a district as described in section 30-20-1304 (2) as such section existed before April 6, 2012, shall, within ninety days of April 6, 2012, pass a resolution fixing the initial terms of all existing directors. The resolution shall designate at least one director whose initial term shall expire on January 15, 2013, at least one director whose initial term shall expire on January 15, 2014, and at least one director whose initial term shall expire on January 15, 2015. Successor directors shall serve three-year terms.

(2) (a) Each director shall hold office until the expiration of the term to which such director is appointed or elected or until a successor has been duly appointed or elected.

(b) Vacancies on the board of directors shall be filled by a majority vote of the board of county commissioners.

(c) The board of county commissioners of the county may remove any director for official misconduct, incompetence, neglect of duty, or other good cause shown, so long as the removal occurs after the director in question is given notice and an opportunity to be heard before the board of county commissioners at a public hearing.

(3) All special and regular meetings of the board of directors for a district shall be held pursuant to part 4 of article 6 of title 24, C.R.S.

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 582, § 1, effective May 9. **L. 2012:** Entire section amended, (SB 12-031), ch. 84, p. 279, § 6, effective April 6.

30-20-1307. Board of directors - powers and duties.

(1) (a) Except as otherwise provided in subsection (1)(b) of this section, the board of directors of a district shall distribute all of the funding the district receives from the department of local affairs to areas that are socially or economically impacted, either directly or indirectly, by the development, processing, or energy conversion of fuels and minerals leased under the federal act; except that the board of directors may elect to invest up to fifty percent of the funding as specified in subsection (5) of this section.

(b) The board of directors may use up to ten percent of the annual funding for any administrative costs of the district; except that any investment-related expenses are excluded from the calculation of the district's administration costs.

(c) Notwithstanding any other provision of this part 13, the board of directors of a district may reserve, or invest as specified in subsection (5) of this section, all or a portion of the funding for use in subsequent years.

(2) The board of directors may review any reports or studies made and may seek any additional reports or studies it deems necessary regarding the distribution of funding in the district.

(3) The board of directors may cooperate or contract with any other district to provide any function or service lawfully authorized to each of the cooperating or contracting districts, including the sharing of costs, only if the cooperation or contracts are authorized by each district with the approval of each district's board of directors. Any contract providing for the sharing of costs may be entered into for any period, not to exceed the existence of the district and notwithstanding any provision of law limiting the length of any financial contracts or obligations of governments. Any such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the contracting parties. Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

(4) The board of directors may exercise any of the powers set forth in section 30-20-1305.5.

(5) If the board of directors elects to invest the portion of the funding as allowed in subsection (1)(a) of this section:

(a) The portion of the funding to be invested shall be held in a fund established by a resolution enacted by the district;

(b) The board of directors shall make investments pursuant to the investment policy described in subsection (6) of this section and in a manner that complies with the "Uniform Prudent Investor Act", article 1.1 of title 15;

(c) The board of directors may invest the portion of the funding in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206;

(d) The board of directors may engage the services of investment advisors. The selection of investment advisors must be made following an open and competitive process.

(e) The board of directors may appropriate and disburse any part of the invested funding and all sums in excess thereof, including interest, dividends, or similar appreciated values, but shall do so only upon the enactment of a resolution identifying the reason for the appropriation and disbursement;

(f) The board of directors shall ensure that, at all times, liquid investment assets or other funding not invested remain at a level sufficient to pay for all budgeted and outstanding obligations of the district in any fiscal year; and

(g) The board of directors, individually or as a group, shall not engage in any activities that might result in a conflict of interest with respect to their fiduciary responsibility for the district.

(6) The board of directors shall adopt an investment policy resolution and shall review the investment policy annually. The investment policy must include:

(a) An acknowledgment of the board of director's fiduciary responsibility with respect to oversight of the district's investment policy;

(b) Performance benchmarks for all investments and for all investment advisors who may be hired by the board of directors;

(c) A requirement for the preparation and publication of annual financial statements that must include, at minimum, information regarding starting balances, contributions, investment income, and losses, if any, and any investment fees incurred;

(d) Careful consideration of investment fees or other brokerage costs which might reduce investment returns; and

(e) A requirement that the board of directors annually review the investments and annually set appropriations to be included in the trust fund.

Source: L. 2011: Entire part added, (HB 11-1218), ch. 169, p. 583, § 1, effective May 9. **L. 2012:** Entire section amended, (SB 12-031), ch. 84, p. 280, § 7, effective April 6. **L. 2017:** (1) amended and (5) and (6) added, (HB 17-1152), ch. 103, p. 380, § 2, effective August 9.

PART 14

STRATEGIES FOR WASTE TIRES

30-20-1401. Legislative declaration - rules - enforcement - recyclable material.

(1) The general assembly finds and declares that:

(a) In order to protect the environment and the public health, there is a special need to address problems created by the disposal of waste tires and the lack of recycling and beneficial reuse of waste tires;

(b) In adopting this part 14, the general assembly has encouraged the development of techniques for resource recovery, recycling, and reuse of waste tires; however, there is still room for improvement regarding the management of waste tires in Colorado;

(c) The management of waste tires at the state level promotes economic development and provides substantial environmental impacts across the state;

(d) It is in the state's interest to provide for the recovery, recycling, reuse, and management of waste tires through a government-run enterprise;

(e) Providing statewide waste tire recycling, beneficial reuse, and management constitutes a valuable service and benefit, and a waste tire management enterprise would provide useful business services to tire retailers, automobile dealers, automobile repair shops, service stations, automotive fleet centers, waste tire haulers, waste tire collection facilities, waste tire processors, recycling and waste facilities, landfills, consumers, and all residents of Colorado;

(f) The waste tire management enterprise will aid in the proper management of waste tires by providing financial incentives and rebates for the recycling of waste tires into end-use tire-derived products, which financial incentives and rebates directly compensate people who properly dispose of or recycle waste tires, provide fee payers more convenient waste tire and disposal options, increase the production of tire-derived products, and positively impact human health and safety and the environment;

(g) It is necessary, appropriate, and in the best interest of the state to acknowledge that, by providing the business services specified in this part 14, the enterprise engages in an activity conducted in the pursuit of a benefit, gain, or livelihood and therefore operates as a business;

(h) Consistent with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with enterprise status under section 20 of article X of the state constitution, it is the conclusion of the general assembly that the waste tire enterprise fee collected by the enterprise is a fee, not a tax, because the fee is imposed for the specific purpose of allowing the enterprise to defray the costs of providing the business services specified in sections 30-20-1404 and 30-20-1405 to consumers who ultimately pay the enterprise fee, which enterprise fee is imposed at rates that are reasonably calculated based on the cost of providing the services needed by those consumers;

(i) So long as the enterprise qualifies as an enterprise for the purposes of section 20 of article X of the state constitution, the revenue from the waste tire enterprise fee collected by the enterprise is not state fiscal year spending, as defined in section 24-77-102 (17), or state revenues, as defined in section 24-77-103.6 (6)(c), and does not count against either the state fiscal year spending limit imposed by section 20 of article X of the state constitution or the excess state revenues cap, as defined in section 24-77-103.6 (6)(b)(I); and

(j) The enterprise created in this part 14 is necessary to continue Colorado's management of waste tires and provide incentives to local governments; for-profit waste tire management, recycling, and reuse companies; and other organizations that are involved in waste tire recycling, beneficial reuse, and management.

(2) (a) The commission, in consultation with the enterprise, shall promulgate rules for the implementation and enforcement of sections 30-20-1403, 30-20-1404, and 30-20-1405, as applicable.

(b) The commission, in consultation with the department, shall promulgate rules for the implementation and enforcement of sections 30-20-1403 and 30-20-1405.5 and other sections of this part 14, as applicable.

(3) The department shall enforce this part 14 through its enforcement authorities, including those specified in sections 30-20-113 and 30-20-114.

(4) After tires are used for their original intended purpose, they must be used beneficially, recycled, or reused; except that, if authorized by section 30-20-1414 (1)(b), they may be disposed of at a permitted solid waste facility. Because they can be reused, remanufactured, reclaimed, or recycled, waste tires are a recyclable material as defined in section 30-20-101 (4). As recyclable materials, waste tires must be collected, managed, and transported in accordance with the manifest system required by section 30-20-1417 (2) and recycled into tire-derived product, thereby being transformed from a recyclable material into a new product. The department shall consider tires that have been collected under a tire collection program registered pursuant to section 30-20-1411 to have been managed under an approved established tire

collection program for purposes of the federal commercial industrial solid waste incinerator rules, 40 CFR part 60 subparts CCCC and DDDD.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1576, § 1, effective July 1. **L. 2024:** (1) and (2) amended, (SB 24-123), ch. 444, p. 3094, § 1, effective June 6.

30-20-1402. Definitions.

As used in this part 14, unless the context otherwise requires:

(1) "Alternative daily cover" means at least three inches of earthen material or other suitable material placed over the exposed solid waste at the end of each operating day, or at such frequencies as needed to prevent or minimize nuisance conditions.

(1.2) "ASTM standard D6270" means the American Society for Testing and Materials standard entitled "Standard Practice for Use of Scrap Tires in Civil Engineering Applications", effective on December 15, 2017.

(1.5) "Beneficial user" means a person who uses solid waste for energy recovery in a manufacturing process or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use.

(1.7) "Board of directors" or "board" means the board of directors of the enterprise.

(2) "Commission" means the solid and hazardous waste commission created in section 25-15-302, C.R.S.

(3) "Department" means the department of public health and environment.

(4) "End user" means a person who:

(a) Uses a tire-derived product for a commercial or industrial purpose;

(b) Uses a whole waste tire to generate energy or fuel; or

(c) Consumes tire-derived product or uses tire-derived product in its final application or in making new materials with a demonstrated sale to a third-party customer.

(4.5) "Enterprise" means the waste tire management enterprise created in section 30-20-1403.

(5) "Mobile processor" means a person who processes waste tires at a location other than the location of the person's certificate of registration.

(6) "Motor vehicle" means a self-propelled vehicle that is designed for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low speed electric vehicle. "Motor vehicle" includes automobiles, minivans, all trucks, motor homes, and motorcycles.

(7) "Public project" means:

(a) A publicly funded contract entered into by a governmental body of the executive branch of this state that is subject to the "Procurement Code", articles 101 to 112 of title 24, C.R.S.; and

(b) A publicly funded contract entered into by a county, municipal government, or special district, including a school district or recreation district.

(7.5) "Rural county" means a county with a population of fewer than sixty thousand residents.

(8) "Tire" means a rubber cushion that fits around a wheel.

(9) "Tire-derived product" means matter that:

(a) Is derived from a process that uses whole tires as a feedstock, including shredding, crumbing, and chipping;

(b) Adheres to established engineering or other appropriate specifications or to established product end user specifications or customer conditions of acceptance;

(c) Has a demonstrated benefit associated with the end use;

(d) Can be used as a substitute for or in conjunction with a commercial product or raw material; and

(e) Has either been sold and removed from the facility of a processor or has been used on site by the processor.

(9.5) "Ton" means a unit of weight equal to two thousand pounds.

(10) "Trailer" means a wheeled vehicle, without motive power, that is designed to be drawn by a motor vehicle.

(11) "Used tire" means a tire that was previously used as a tire and is graded and classified for reuse as a tire based on specifications and criteria maintained pursuant to section 30-20-1410 (1)(a).

(12) "Waste tire" means a tire that is modified from its original specifications but not processed into a tire-derived product, is no longer being used for its initial intended purpose as a tire, and is not a used tire.

(12.5) "Waste tire administration fee" or "administration fee" means money collected pursuant to section 30-20-1403 (2.5)(b).

(13) "Waste tire cleanup program" or "program" means the program created by this part 14.

(14) "Waste tire collection facility" means a facility at which waste tires are stored awaiting pickup by a registered waste tire hauler for transportation to a registered waste tire processor or registered waste tire monofill.

(14.5) "Waste tire enterprise fee" or "enterprise fee" means money collected pursuant to section 30-20-1403 (2.5)(a).

(15) "Waste tire generator" means a person who generates waste tires. The term includes new tire retailers, used tire retailers, automobile dealers, automobile dismantlers, public and private vehicle maintenance shops, garages, service stations, car care centers, automotive fleet centers, local government fleet operators, and rental fleet operators.

(16) "Waste tire hauler" means a person who transports ten or more waste tires in any one load.

(17) "Waste tire monofill" means part or all of a solid wastes disposal site and facility that has been issued a certificate of designation and at which only waste tires are accepted.

(18) "Waste tire processor" means a person who processes a waste tire into a tire-derived product.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1577, § 1, effective July 1. **L. 2019:** (1) amended and (1.2), (1.5), (7.5), and (9.5) added, (SB 19-198), ch. 402, p. 3558, § 1, effective August 2. **L. 2024:** (1.7), (4.5), (12.5), and (14.5) added, (SB 24-123), ch. 444, p. 3096, § 2, effective June 6.

30-20-1403. Waste tire recycling, beneficial reuse, and management - waste tire fees - distribution - rules.

(1) Repealed.

(1.5) **Enterprise.**

(a) (I) There is created in the department the waste tire management enterprise. The enterprise is and operates as a government-owned business within the department to collect the waste tire enterprise fee charged by retailers of new tires pursuant to subsection (2.5) of this section and to use the waste tire enterprise fee to promote waste tire recycling, beneficial reuse, and management strategies in Colorado.

(II) The enterprise is and operates as a government-owned business within the department for the purpose of conducting the business activities specified in this section. The enterprise is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(III) The enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (1.5)(a), the enterprise is not subject to section 20 of article X of the state constitution.

(b) The enterprise's primary powers and duties are to:

(I) Collect the waste tire enterprise fee;

(II) Promote waste tire recycling, beneficial reuse, and management strategies throughout Colorado;

(III) Issue revenue bonds payable from the revenues of the enterprise to promote the waste tire recycling, beneficial reuse, and management strategies specified in this section;

(IV) Publish each year, on the department's website and as otherwise deemed appropriate by the board, the waste tire recycling, beneficial reuse, and management strategies that the board has prioritized through the collection of the waste tire enterprise fee;

(V) Adopt, amend, or repeal policies for the regulation of the enterprise's affairs and the conduct of the enterprise's business consistent with this part 14;

(VI) (A) Contract with any public or private entity, including state agencies, consultants, and the attorney general's office, for professional and technical assistance, office space and administrative services, advice, and other services related to the conduct of the affairs of the enterprise. The board shall encourage diversity in applicants for contracts and shall generally avoid using single-source bids.

(B) The enterprise shall pay a fair market rate to any public entity, private entity, contractor, or consultant, which may include a state agency, the attorney general's office, or the department, that is hired by the enterprise to perform duties pursuant to this subsection (1.5)(b).

(VII) Prepare and submit an annual financial report pursuant to subsection (1.5)(i) of this section.

(c) The enterprise is governed by a board of directors. The board consists of the following nine members:

(I) Two members appointed by the executive director of the department to represent the department, including one with expertise in sustainability and one with expertise in compliance;

(II) One member appointed by the executive director of the department who represents a county that has experience with the management of waste tires; and

(III) Six members appointed by the executive director of the department who are representatives of nonprofit and for-profit entities engaged in the recovery, recycling, reuse, and management of waste tires, including a tire retailer, a waste tire collection facility, a waste tire processor, and a waste tire hauler. To the extent practicable, the representation of nonprofit and for-profit entities must be balanced equally.

(d) Of the members appointed to the board of directors pursuant to subsection (1.5)(c)(III) of this section, at least one member must do business in a rural county in the state.

(e) (I) The member representing the department who has expertise in sustainability and is appointed pursuant to subsection (1.5)(c)(I) of this section shall call the first meeting of the board.

(II) The board shall elect a chair from among its members to serve for a term not to exceed two years.

(III) The board shall meet quarterly, and the chair of the board may call additional meetings as necessary for the board to complete its duties.

(IV) The term of office for a board member is three years; except that four of the six members appointed pursuant to subsection (1.5)(c)(III) of this section serve initial terms of two years. A board member may serve unlimited terms.

(f) (I) A member of the board of directors, except for members appointed pursuant to subsections (1.5)(c)(I) and (1.5)(c)(II) of this section, may receive a per diem stipend while on official enterprise business.

(II) The per diem stipend shall be at least equal to the Colorado state employee per diem for intra-state travel as established by the department of personnel.

(III) All members of the board of directors may receive reimbursement for actual and necessary expenses incurred while on official enterprise business.

(IV) The enterprise may use money in the waste tire management enterprise fund, created in section 30-20-1404, to pay the per diem stipend to a board member and to reimburse a board member for actual and necessary expenses incurred as part of the enterprise's operating expenses.

(g) The department shall provide office space and administrative staff to the enterprise, if requested by the board. In accordance with subsection (1.5)(b)(VI)(B) of this section, the enterprise shall pay the department a fair market rate for any office space or administrative staff used by the board in performance of the enterprise's duties.

(h) (I) The department may transfer money from any legally available source to the enterprise for the purpose of defraying expenses incurred by the enterprise before it receives fee revenue. The enterprise may accept and expend any money so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer is a loan from the department to the enterprise that is required to be repaid and is not a grant for purposes of section 20 (2)(d) of article X of the state constitution or as defined in section 24-77-102 (7).

(II) All money transferred as a loan to the enterprise must be credited to the waste tire administration, enforcement, market development, and cleanup fund, created in section 30-20-1404 (1)(a). Loan liabilities that are recorded in the waste tire administration, enforcement, market development, and cleanup fund but that are not required to be paid in the current state fiscal year shall not be considered when calculating sufficient statutory fund balance for purposes of section 24-75-109.

(III) As the enterprise receives sufficient revenue in excess of expenses, it shall reimburse the department for the principal amount of any loan made by the department, plus interest at a rate agreed upon by the department and the enterprise.

(i) (I) On or before June 30, 2026, and every June 30 of each year thereafter, the enterprise shall prepare and submit an annual financial report to legislative council staff and the joint budget committee of the general assembly.

(II) The financial report prepared by the enterprise pursuant to subsection (1.5)(i)(I) of this section must include the enterprise's projected revenue and expenditures and proposed budget for the following fiscal year.

(III) The enterprise shall post a copy of the enterprise's financial report on the enterprise's public website.

(2) Repealed.

(2.5) **Waste tire enterprise fee and waste tire administration fee.**

(a) (I) Effective July 1, 2025, retailers of new motor vehicle tires and new trailer tires shall collect a waste tire enterprise fee in an amount to be set by the enterprise, in coordination with the commission. The waste tire enterprise fee amount must not exceed two dollars and fifty cents on the sale of each new tire. The maximum per tire enterprise fee amount may be adjusted by the enterprise every two years in accordance with any annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for the Denver-Aurora-Lakewood metropolitan area for all items paid by all urban consumers, or its applicable successor index.

(II) Effective July 1, 2025, the board of directors may review the waste tire enterprise fee on an annual basis and, in accordance with the fee amount limit set forth in subsection (2.5)(a)(I) of

this section, adjust the waste tire fee amount so that the waste tire enterprise fee is imposed in an amount that is:

(A) Reasonably related to the direct and indirect costs of operating the enterprise in accordance with this part 14 and the services provided by the enterprise, which costs must not exceed the equivalent of one-half of the waste tire enterprise fee collected for each new tire sold pursuant to this subsection (2.5);

(B) Sufficient to pay costs associated with providing rebates as described in section 30-20-1405; and

(C) Sufficient to provide grants to eligible entities pursuant to the waste tire management grant program established in section 30-20-1418.

(b) (I) Effective July 1, 2025, retailers of new motor vehicle tires and new trailer tires shall collect a waste tire administration fee in an amount to be set by the commission, in coordination with the department.

(II) The commission may review the waste tire administration fee on an annual basis and adjust the administration fee amount so that it covers the direct and indirect costs of conducting the regulatory and administrative functions of the department in implementing this part 14.

(III) The waste tire administration fee amount must not exceed half of the amount of the waste tire enterprise fee; except that the minimum amount of the waste tire administration fee on the sale of each new tire must be fifty cents or more.

(c) (I) On and after July 1, 2025, retailers of new motor vehicle tires and new trailer tires shall collect both the enterprise fee and the administration fee from the consumer at the point of sale.

(II) The receipt from the retailer to the consumer for every new motor vehicle tire or new trailer tire purchased must contain the following statement in the largest bold-faced type capable based on point-of-sale software and on existing invoice printers, not to exceed fifteen points: **"Section 30-20-1403, Colorado Revised Statutes, requires retailers to collect a waste tire enterprise fee set by the waste tire management enterprise, which is a government-owned business within the department of public health and environment, and a waste tire administration fee set by the solid and hazardous waste commission on the sale of each new motor vehicle tire and each new trailer tire."**

(III) The retailer shall submit to the enterprise by the twentieth day of each quarter of each calendar year the enterprise fee collected pursuant to this section in the preceding quarter of the calendar year, together with any report required by the enterprise. The enterprise shall transmit the enterprise fees to the state treasurer, who shall credit them in accordance with subsection (3)(a) of this section or as specified in rules promulgated by the commission.

(IV) The retailer shall submit to the department by the twentieth day of each quarter of each calendar year the administration fee collected pursuant to this section in the preceding quarter of the calendar year, together with any report required by the department. The department shall transmit the administration fees to the state treasurer, who shall credit them in accordance with subsection (3)(b) of this section or as specified in rules promulgated by the commission.

(3) (a) Beginning on July 1, 2025, the state treasurer shall distribute the revenue from the waste tire enterprise fee assessed in subsection (2.5)(a) of this section as follows:

(I) The portion of the enterprise fee collected to cover the costs described in subsection (2.5)(a)(II)(A) of this section to the waste tire management enterprise fund created in section 30-20-1404;

(II) The portion of the enterprise fee collected to cover the costs described in subsection (2.5)(a)(II)(B) of this section to the end users fund created in section 30-20-1405;

(III) All interest earned on the investment of money in the waste tire management enterprise fund to the waste tire management enterprise fund. Any unexpended and unencumbered money in the waste tire management enterprise fund at the end of any fiscal year shall remain in the waste tire management enterprise fund.

(IV) All interest earned on the investment of money in the end users fund to the end users fund. Any unexpended and unencumbered money in the end users fund at the end of any fiscal year shall remain in the end users fund.

(b) (I) Beginning on July 1, 2025, the state treasurer shall distribute the revenue from the waste tire administration fee assessed in subsection (2.5)(b) of this section to the waste tire administration fund created in section 30-20-1405.5.

(II) All interest earned on the investment of money in the waste tire administration fund shall be credited to the waste tire administration fund. Any unexpended and unencumbered money in the waste tire administration fund in excess of sixteen and one-half percent of the previous state fiscal year's expenditures at the end of any fiscal year shall remain in the waste tire administration fund.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1579, § 1, effective July 1. **L. 2019:** (1)(a) and (2) amended, (SB 19-198), ch. 402, p. 3559, § 2, effective August 2. **L. 2024:** (1)(c), (1.5), (2)(c), and (3) added, (SB 24-123), ch. 444, p. 3096, § 3, effective June 6; (2.5) added, (SB 24-123), ch. 444, p. 3096, § 3, effective July 1, 2025.

Editor's note: (1) Subsection (1)(a)(I)(B) provided for the repeal of subsection (1)(a)(I), effective July 1, 2020. (See L. 2019, p. 3559.)

(2) Subsections (1)(c) and (2)(c) provided for the repeal of subsections (1) and (2), respectively, effective July 1, 2025. (See L. 2024, p. 3096.)

30-20-1404. Waste tire management enterprise fund - creation - rules.

(1) (a) There is created in the state treasury the waste tire management enterprise fund, referred to in this section as the "fund", consisting of the fee revenue credited pursuant to section 30-20-1403 (2.5)(a) and any other money appropriated or transferred to it. Money credited to the fund is continuously appropriated to the enterprise for the purposes set forth in this section and to pay the enterprise's reasonable and necessary operating expenses.

(b) The state treasurer shall credit all interest earned on the investment of money in the fund to the fund. Any unexpended and unencumbered money in the fund at the end of any fiscal year shall remain in the fund.

(2) The enterprise may, in consultation with the department, use the money in the fund for:

(a) Collecting the waste tire enterprise fee assessed in section 30-20-1403 (2.5)(a);

(b) to (e) Repealed.

(f) Hiring a contractor to clean up waste tires and tire-derived product that have been illegally disposed of or have been disposed of at a landfill pursuant to section 30-20-1009 (2) and funding a grant program to reimburse local governing authorities for cleaning up waste tires and tire-derived products that have been illegally disposed of or have been disposed of at a landfill pursuant to section 30-20-1009 (2);

(g) Financing one-time or occasional community cleanup events where waste tires are accepted for drop-off by persons not engaged in commercial or industrial activity and where, at the conclusion of the event, the waste tires are either picked up by a registered waste tire hauler or transported to a registered waste tire hauler or to any registered facility;

(h) Training and hiring contractors to provide training in the implementation of this part 14;

(i) to (n) Repealed.

(o) Encouraging waste tire market development;

(p) Repealed.

(q) The payment of any bonds issued pursuant to section 30-20-1403 (1.5)(b);

(r) Reimbursement of any contractors used for cleanup and remediation activities engaged in pursuant to subsections (2)(f) and (2)(g) of this section;

(s) The payment of per diem and the reimbursement of actual and necessary expenses for board members while on official enterprise business;

(t) Funding grants in accordance with the waste tire management grant program established in section 30-20-1418; and

(u) Any other activity necessary to implement section 30-20-1403, as determined by the board of directors.

(3) and (4) Repealed.

(5) (a) In providing assistance pursuant to this section, the enterprise shall give primary consideration to protection of public health and the environment.

(b) In awarding contracts for services pursuant to this section, the enterprise may give preferential bidding treatment to individuals or entities that will recycle, pursuant to rules of the department concerning recycling, and reuse, rather than dispose of, the waste tires.

(6) The enterprise shall, either itself or through a contractor, create a priority abatement list of illegal waste tire disposal sites.

(7) The enterprise, in coordination with the department and the department of transportation, shall systematically investigate and research the use of tire-derived aggregates in technically feasible and economically viable civil applications associated with the department of transportation's roadway mission. The department shall include any findings regarding tire-derived aggregates, as appropriate, in the department's annual report to the general assembly.

(8) Repealed.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1580, § 1, effective July 1. **L. 2019:** (1), IP(2), (2)(l), and (2)(m) amended and (2)(o) added, (SB 19-198), ch. 402, p. 3560, § 3, effective August 2. **L. 2020:** (8) added, (HB 20-1406), ch. 178, p. 814, § 18, effective June 29. **L. 2022:** (2)(m) repealed, (2)(o) amended, and (2)(p) added, (SB 22-170), ch. 470, p. 3435, § 1, effective June 8. **L. 2024:** (1), IP(2), (2)(a), (2)(o), (5), (6), and (7) amended and (2)(q) to (2)(u) added, (SB 24-123), ch. 444, p. 3102, § 4, effective July 1, 2025; (2)(b)(II), (2)(c)(II), (2)(d)(II), (2)(i)(II), (2)(j)(II), (2)(k)(II), (2)(l)(II), (2)(p)(III), (3)(b), (4)(c), and (8)(b) added by revision, (SB 24-123), ch.444, pp. 3102, 3111, §§ 4, 10.

Editor's note: (1) Subsection (2)(n)(II) provided for the repeal of paragraph (n), effective September 1, 2015. (See L. 2014, p. 1580.)

(2) Subsection (2)(e)(II) provided for the repeal of subsection (2)(e), effective September 1, 2017. (See L. 2014, p. 1580.)

(3) Subsections (2)(b)(II), (2)(c)(II), (2)(d)(II), (2)(i)(II), (2)(j)(II), (2)(k)(II), (2)(l)(II), (2)(p)(III), (3)(b), (4)(c), and (8)(b) provided for the repeal of subsections (2)(b), (2)(c), (2)(d), (2)(i), (2)(j), (2)(k), (2)(l), (2)(p), (3), (4), and (8), respectively, effective July 1, 2025. (See L. 2024, pp. 3102, 3111.)

30-20-1405. End users fund - creation - quarterly rebates - rules - repeal.

(1) (a) There is created in the state treasury the end users fund, referred to in this section as the "fund", consisting of the fee revenue credited pursuant to section 30-20-1403 (3)(a)(II).

(b) The state treasurer shall credit all interest and any other return on the investment of money in the fund to the fund. Money credited to the fund is continuously appropriated to the enterprise for the purposes set forth in this section.

(1.5) Repealed.

(2) (a) The enterprise, in consultation with the department, shall use the money in the fund to provide quarterly rebates to in-state:

(I) End users; and

(II) Retailers that sell tire-derived products.

(b) A waste tire hauler of tires in a rural county is only eligible for rebates pursuant to this subsection (2) if the waste tire hauler is also an end user or has contracted with an end user that is also a waste tire hauler.

(3) The rebate is subject to the following conditions:

(a) The enterprise shall pay the rebate amount quarterly, on a per-ton basis; and

(b) Once the enterprise has paid a rebate on a particular quantity of tire-derived product, every part of that particular quantity of tire-derived product is no longer eligible for payment of the rebate.

(4) (a) The enterprise, in consultation with the commission, shall annually set the amount of the rebate, on a per-ton basis, and the enterprise shall pay the set rebate amount for each ton of qualified tire-derived product. The enterprise shall calculate the rebate to equal, but not exceed, the amount of the anticipated income transferred into the fund during each succeeding twelve-month period.

(b) Each year, the enterprise shall continue to provide the rebate in accordance with the tiered structure set forth in subsection (5)(e) of this section until:

(I) All qualified rebate requests submitted in that year are satisfied; or

(II) There is insufficient money in the fund to support additional rebate payments.

(5) The commission shall promulgate rules governing administration of the rebate. On and after July 1, 2025, the commission shall consult with the enterprise in adopting rules governing administration of the rebate. The commission's rules must include the following:

(a) A quarterly rebate schedule for qualified recipients, with the first end user payout in July 2020, to be issued for end uses that occur between April 1, 2020, and June 30, 2020;

(b) A requirement that twenty-five percent of the expected annual rebate amount be held in reserve before paying the first quarterly rebate;

(c) If the balance of the fund is anticipated to be insufficient to pay out all of the rebates applied for, a requirement that the enterprise:

(I) Give notice of the anticipated insufficiency to all end users that during the preceding twelve months have submitted an application for a rebate; and

(II) Pay a proportionally reduced rebate beginning with tier 1 and rural waste tire hauler rebate recipients, continuing to tier 2 rebate recipients, and ending with tier 3 rebate recipients;

(d) A requirement that an end user that qualifies for a rebate by utilizing waste tires for:

(I) Alternative daily cover must verify with the enterprise that the alternative daily cover meets all specification standards for all type-B tire-derived aggregate, as established by the ASTM standard D6270; and

(II) Tire-derived aggregate must verify with the enterprise that the tire-derived aggregate meets all specification standards for all type-A and type-B tire-derived aggregate, as established by the ASTM standard D6270; and

(e) Three tiers of rebate amounts that the enterprise may pay out based on the amount of the waste tire that was used and destroyed as follows:

(I) Tier 1: Full rebates going to crumbed rubber end uses and end uses that completely destroy the waste tire for the purpose of energy recovery or other clean technologies as defined and approved by rule;

(II) Tier 2: Fifty percent of the full rebate going to end uses such as molded products and rubber mulch; and

(III) Tier 3: Twenty-five percent of the full rebate going to tire bale end uses and end uses for alternative daily cover and tire-derived aggregate that meet the ASTM standard D6270.

(6) The enterprise:

(a) Shall pay:

(I) The rebate only for waste tires that are generated and processed in Colorado; and

(II) An end user only if the end use involves tire-derived products in Colorado or use of the entire waste tire to generate energy or fuel in Colorado; and

(b) May deny:

(I) The rebate to a person that is out of compliance with any state or federal environmental laws, rules, or regulations; and

(II) All future rebates pursuant to this section and grants of money from the waste tire management enterprise fund created in section 30-20-1404 to an applicant that knowingly or intentionally provides false information to the enterprise when applying for a rebate or for a grant of money from the waste tire management enterprise fund.

(7) Waste tires obtained from rural counties are eligible for an additional rebate amount of twenty-five dollars per ton; however, the additional rebate amount must not exceed the rebate amount for tier 3 rebates as determined by rule pursuant to subsection (5)(e)(III) of this section. To qualify for the additional rebate amount set forth in this subsection (7), an end user must provide evidence to the enterprise documenting the county of origin for each waste tire.

(8) The enterprise shall require that an end user submit an application for a rebate that contains self-certifications provided by the end user regarding:

(a) The total tonnage of tires processed; and

(b) The total tonnage of tires collected in rural counties.

(9) (a) On or after January 1, 2026, and until December 31, 2041, the enterprise may issue rebates applied for pursuant to this section.

(b) The commission, in consultation with the enterprise, shall repeal any rules concerning the fund and implementation of this section once the enterprise has issued the final rebates pursuant to subsection (9)(a) of this section.

(c) On July 1, 2042, the state treasurer shall transfer any money left in the fund to the general fund.

(10) This section is repealed, effective December 31, 2042.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1582, § 1, effective July 1. **L. 2019:** Entire section RC&RE, (SB 19-198), ch. 402, p. 3560, § 4, effective August 2. **L. 2020:** (1.5) added, (HB 20-1406), ch. 178, p. 814, § 19, effective June 29. **L. 2024:** (1), IP(2)(a), (3), (4)(a), IP(4)(b), IP(5), IP(5)(c), (5)(d), IP(5)(e), (5)(e)(I), IP(6), (6)(b)(II), (7), IP(8), (9), and (10)

amended, (SB 24-123), ch. 444, p. 3104, § 5, effective July 1, 2025; (1.5)(b) added by revision, (SB 24-123), ch. 444, pp. 3104, 3111, §§ 5, 10.

Editor's note: (1) Subsection (5) provided for the repeal of this section, effective January 1, 2018. (See L. 2014, p. 1582.) However, this section was recreated August 2, 2019.

(2) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2025. (See L. 2024, pp. 3104, 3111.)

30-20-1405.5. Waste tire administration fund - creation - clean up - reimbursement - penalties - rules.

(1) (a) There is created in the state treasury the waste tire administration fund, referred to in this section as the "fund".

(b) The fund consists of the waste tire administration fee revenue credited to the fund pursuant to section 30-20-1403 (3)(b) and any other money appropriated or transferred to it.

(c) Money credited to the fund is continuously appropriated to the department for the purposes set forth in subsection (2) of this section.

(2) The department may use the money in the fund for the reasonable direct and indirect costs of conducting the regulatory and administrative functions of the department in implementing this part 14, including:

(a) Inspecting new motor vehicle tire and new trailer tire retailers to determine whether all fees are being collected;

(b) Enforcing the requirements of this part 14 pursuant to existing authority, including sections 30-20-113 and 30-20-114;

(c) Developing a system to address the receipt by registered persons of unmanifested waste tires from unregistered waste tire haulers;

(d) Maintaining an online complaint form and process for law enforcement, fire departments, and citizens to report potential waste tire violations;

(e) Reimbursing the division of fire prevention and control in the department of public safety for:

(I) Inspections of facilities where waste tires are present conducted by the division of fire prevention and control to determine whether the waste tire collection facilities, waste tire processors, and waste tire monofills are in compliance with the rules promulgated by the director of the division pursuant to section 24-33.5-1203.5 (2); and

(II) Technical and other assistance the division of fire prevention and control provides to the department or the public related to waste tires, including assistance related to:

(A) The development of fire prevention education materials; and

(B) Review of fire prevention plans;

(f) Registering and regulating waste tire haulers, waste tire generators, used tire managers, waste tire collection facilities, waste tire processors, mobile processors, waste tire monofills, and end users in accordance with sections 30-20-1408 to 30-20-1417;

(g) Providing grants to law enforcement, fire departments, local health departments, state agencies, and any other applicable entities for purchasing equipment and supplies to implement this part 14;

(h) Training of and enforcement by entities that enforce this part 14;

(i) Awarding grants and developing educational programs for enforcement, fire prevention and suppression, proper waste tire management and disposal, training, and customer technical assistance; and

(j) Any other regulatory or administrative costs related to the department's authority and duties in implementing this part 14.

(3) If the department is denied access or if consent to access has not been given to clean up a site where the department reasonably believes waste tires exist illegally, the department may obtain from the district court for the judicial district in which the property is located a warrant to enter the property and remove the waste tires.

(4) (a) In addition to any penalties assessed, the department may issue an order requiring the owner or operator to compensate the department for the cost of remediation of the site, and the department may request the attorney general to bring suit for compensation from the owner or operator for money expended remediating the site. The department shall use the recovered money to reimburse the fund for actual costs of remediating the site and of seeking compensation pursuant to this section. The state treasurer shall credit all additional money to the general fund.

(b) The department may place a lien on a property on which the department funds the remediation of waste tires pursuant to this section until the costs of remediation have been repaid to the department. If complete repayment has not been made before a sale of the property, the department shall be repaid in full, to the extent possible, from proceeds of the sale.

Source: L. 2024: Entire section added, (SB 24-123), ch. 444, p. 3106, § 6, effective July 1, 2025.

30-20-1406. Waste tire market development fund - creation - incentive programs - legislative declaration - repeal. (Repealed)

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1584, § 1, effective July 1. **L. 2017:** IP(2)(f)(III) amended, (HB 17-1051), ch. 99, p. 353, § 72, effective August 9.

Editor's note: Subsection (5) provided for the repeal of this section, effective January 1, 2018. (See L. 2014, p. 1584.)

30-20-1407. Scope.

A person shall comply with every requirement of this part 14 that applies to the person's activities.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1585, § 1, effective July 1.

30-20-1408. Waste tire haulers.

(1) A person who transports ten or more waste tires in any one load shall:

(a) Transport the waste tires either out of state or to a registered waste tire generator, waste tire hauler, waste tire collection facility, waste tire processor, waste tire monofill, approved beneficial user of whole waste tires, municipal or county-owned waste tire collection area, or municipal or privately owned solid waste landfill in compliance with the rules promulgated pursuant to this article;

(b) Register with the department as a waste tire hauler pursuant to rules promulgated pursuant to this section;

(c) Affix to the vehicle used for such transportation a waste tire hauler decal acquired from the department pursuant to section 30-20-1417 (1);

(d) Comply with the manifest requirements of section 30-20-1417 (2), including creating and maintaining, for at least three years, records relating to such transportation;

(e) Submit an annual report to the department; and

(f) Complete and submit self-certification documentation as required by the department.

(2) A waste tire hauler that is not also registered as a waste tire collection facility, waste tire processor, or waste tire monofill shall not have on site:

(a) More than one thousand five hundred waste tires at any one time;

(b) A waste tire for more than three days; or

(c) Waste tires outside the waste hauler's vehicle or trailer.

(3) Law enforcement officers have authority to stop a person or persons hauling waste tires in violation of this section; impound the vehicle being used in violation of this section; and issue a citation to the driver.

(4) A government entity that removes illegally disposed waste tires is exempt from this section if the waste tires are disposed of or recycled in accordance with this part 14.

(5) Nothing in this section prohibits a beneficial user of waste tires from transporting waste tires to a department-approved beneficial use location.

(6) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1585, § 1, effective July 1.

30-20-1409. Waste tire generators - requirements - exemptions.

(1) A waste tire generator shall, as specified by the commission by rule:

(a) Register with the department;

(b) Affix a decal required pursuant to section 30-20-1417 (1) to the required location;

(c) Maintain records, including the manifest required by section 30-20-1417 (2), relating to such generation;

(d) Engage only a registered waste tire hauler to transport the waste tires the generator generates;

(e) Develop and maintain written criteria for distinguishing waste tires from used tires, keep the criteria on site, and make the criteria available for inspection;

(f) Clearly identify waste tires and used tires according to the criteria developed pursuant to paragraph (e) of this subsection (1); and

(g) Organize used tires for sale in a manner that allows the inspection of each individual tire.

(2) A waste tire generator is subject to the following requirements:

(a) A generator that is not also registered as a waste tire collection facility, waste tire processor, or waste tire monofill shall not have on site more than one thousand five hundred waste tires at any one time;

(b) A generator that sells replacement tires in Colorado shall not refuse to accept from a customer, at the point of transfer, waste tires of the same general type and in a quantity at least equal to the number of new tires purchased;

(c) A generator may accept waste tires; and

(d) A generator shall complete and submit to the department self-certification documentation as required by the department.

(3) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1587, § 1, effective July 1.

30-20-1410. Used tire management.

(1) A person who accumulates, stores, transports, or dispenses used tires shall:

(a) (I) Develop written criteria for distinguishing waste tires from used tires, maintain the criteria on site, and make the criteria available for inspection;

(II) Clearly identify waste tires and used tires according to the criteria developed pursuant to subparagraph (I) of this paragraph (a);

(b) (I) Develop written criteria for distinguishing used tires being held for sale in Colorado from used tires being held for sale outside Colorado, maintain the criteria on site, and make the criteria available for inspection;

(II) Clearly identify used tires being held for sale in Colorado and used tires being held for sale outside Colorado according to the criteria developed pursuant to subparagraph (I) of this paragraph (b); and

(c) Organize used tires for sale in a manner that allows the inspection of each individual tire.

(2) A person shall not sell a used tire if doing so would violate any of the conditions listed in section 42-4-228, C.R.S.

(3) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1587, § 1, effective July 1.

30-20-1411. Waste tire collection facility - requirements - exemptions.

(1) A person who owns or operates a waste tire collection facility shall, as specified by the commission by rule:

(a) Establish and maintain financial assurance;

(b) Register with the department;

(c) Affix a decal required pursuant to section 30-20-1417 (1) to the required location;

(d) Develop and maintain an engineering design and operations plan, including a fire prevention and control plan and a plan for emergency response;

(e) Maintain records, including the manifests required by section 30-20-1417 (2), relating to the collection of waste tires;

(f) Develop and maintain a closure plan;

(g) Submit an annual report to the department; and

(h) Complete and submit self-certification documentation as required by the department.

(2) A waste tire collection facility that is not also registered as a waste tire processor or waste tire monofill shall not have on site more than seven thousand five hundred waste tires at any one time.

(3) A local, state, or federal agency that stores waste tires as part of a roadside cleanup activity is exempt from this section if the agency stores fewer than one thousand five hundred waste tires at the facility and the waste tires are disposed of or recycled in accordance with this part 14.

(4) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1588, § 1, effective July 1.

30-20-1412. Waste tire processors - requirements.

(1) A waste tire processor shall, as specified by the commission by rule:

(a) Establish and maintain financial assurance;

(b) Register with the department;

(c) Affix a decal required pursuant to section 30-20-1417 (1) to the required location;

(d) Develop, maintain, keep available for inspection, and comply with an engineering design and operations plan, including a fire prevention and control plan, and a plan for emergency response;

(e) Maintain records, including the manifests required by section 30-20-1417 (2), relating to the collection of waste tires;

(f) Develop and maintain a closure plan;

(g) Submit an annual report to the department; and

(h) Complete and submit self-certification documentation as required by the department.

(2) A waste tire processor is subject to the following:

(a) A waste tire processor that is not also registered as a waste tire monofill shall not have at the processing facility at any one time more than the lesser of:

(I) One hundred thousand waste tires;

(II) The amount of waste tires allowed under local requirements; or

(III) The amount of waste tires anticipated in the waste tire processor's financial assurance instrument.

(b) Following a one-year accumulation period, the weight or volume of waste tires that are processed must be at least seventy-five percent of the total weight or volume of waste tires received and currently in storage over a three-year rolling average. The calculation and accumulation period specified in this paragraph (b) must be based on a measure approved by the commission by rule.

(3) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1589, § 1, effective July 1.

30-20-1413. Mobile processors - requirements.

(1) A mobile processor shall, as specified by the commission by rule:

(a) Establish and maintain financial assurance in the amount of ten thousand dollars if not already registered as a waste tire collection facility, waste tire processor, or waste tire monofill;

(b) Register the mobile processor's permanent business address with the department;

(c) Affix a decal required pursuant to section 30-20-1417 (1) to the required location;

(d) Develop and maintain an engineering design and operations plan, including a fire prevention and control plan;

(e) Maintain mobile processing records, including the manifests required by section 30-20-1417 (2), relating to the mobile processing of waste tires;

(f) Submit an annual report to the department;

(g) Not lease or own the property on which the processing occurs;

(h) Not accept or accumulate waste tires unless also registered as a waste tire processor at the property on which the processing occurs;

(i) Notify and receive permission from the local governing authority to process waste tires at the location for any period of time;

(j) Not process waste tires at a location for more than thirty consecutive days unless the mobile processor:

(I) Receives department approval to process at the location; and

(II) Remains in compliance with all state and local environmental requirements at the location of mobile processing; and

(k) Complete and submit self-certification documentation as required by the department.

(2) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1590, § 1, effective July 1.

30-20-1414. Limitations on the disposal of tires.

(1) (a) Except as specified in paragraph (b) of this subsection (1), a person shall dispose of waste tires only by delivery to a generator engaging in waste tire collection, to a waste tire processor, to a waste tire monofill, or to a waste tire collection facility.

(b) If a person is able to establish that due diligence has been conducted and no reasonable option for disposing of a waste tire as specified in paragraph (a) of this subsection (1) is available, then the person may dispose of the waste tire in a solid wastes disposal site and facility or transfer station.

(2) A waste tire generator and an owner or operator of a waste tire collection facility shall arrange for the commercial hauling of waste tires only with a hauler who is currently registered pursuant to section 30-20-1408.

(3) Each waste tire improperly disposed of constitutes a separate violation.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1590, § 1, effective July 1.

30-20-1415. Waste tire monofills - requirements.

(1) An owner or operator of a waste tire monofill shall, as specified by the commission by rule:

(a) Establish and maintain financial assurance;

(b) Register with the department;

(c) Affix a decal required pursuant to section 30-20-1417 (1) in the required location;

(d) Maintain a certificate of designation that contains an engineering design and operations plan, including a fire prevention and control plan, plan for emergency response, inventory reduction plan, and closure plan;

(e) Maintain records, including the manifests required by section 30-20-1417 (2), relating to the storage of waste tires;

(f) Submit an annual report to the department;

(g) Comply with the monofill's certificate of designation;

(h) Comply with the commission's rule on final disposal of waste tires;

(i) Complete and submit self-certification documentation as required by the department;

(j) On an annual basis, for every one waste tire received, end use at least two waste tires, or process at least two waste tires into tire-derived product; and

(k) Not place any waste tires into monofill storage after January 1, 2018, and shall close, or cause to be closed, the waste tire monofill by July 1, 2034.

(2) A governing body having jurisdiction shall not grant an application for a landfill designated for the disposal only of tires. Nothing in this section limits modifications to existing landfills that accept waste tires.

(3) After soliciting public comment, the department may issue a waiver relating to any requirement of this section; except that the department shall not issue a waiver of subsection

(1)(j) or (1)(k) of this section to a waste tire monofill owner or operator unless the owner or operator has demonstrated that it has achieved a net reduction on an annual basis in the number of waste tires in the monofill or unless an emergency event of limited duration such as a fire or flood, as defined by the commission, has occurred.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1591, § 1, effective July 1. **L. 2019:** (3) amended, (SB 19-198), ch. 402, p. 3563, § 5, effective August 2. **L. 2024:** (1)(k) amended, (SB 24-123), ch. 444, p. 3108, § 7, effective June 6.

30-20-1416. End users.

(1) End users who use more than an amount set by the commission by rule of tire-derived product or whole waste tires used to generate energy or fuel shall, as specified by the commission by rule:

(a) Register with the department;

(b) Submit an annual report to the department;

(c) Use only a registered hauler to haul waste tires; and

(d) Maintain records, including the manifests required by section 30-20-1417 (2), relating to waste tires.

(2) The department may issue a waiver relating to any requirement of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1592, § 1, effective July 1.

30-20-1417. Decals - manifests.

(1) **Decals.**

(a) A person shall not store in Colorado ten or more waste tires for any purpose unless:

(I) The department has issued a decal pursuant to this section; and

(II) The person has, pursuant to rules promulgated pursuant to section 30-20-1401 (2), affixed the decal to a uniform location at the address used to store the waste tires or the vehicle used to haul waste tires or processing equipment.

(b) The department shall issue a decal to a person if the person has submitted an application to the department containing all information required by rule promulgated pursuant to section 30-20-1401 (2) and is not in violation of any requirement of this part 14.

(c) Decals are valid for a period determined by the commission by rule. A decal issued pursuant to this section must contain the information required by rule promulgated pursuant to section 30-20-1401 (2), including at least an expiration date and the decal number.

(2) **Uniform manifests.**

(a) A person shall not accept for transportation ten or more waste tires unless the person has completed a uniform manifest, available from the department's website, in a form established by the department containing the information specified by rule promulgated pursuant to section 30-20-1401 (2), including at least the following:

(I) The manifest number;

(II) The decal number of the vehicle used to transport the tires;

(III) The person's name, address, telephone number, and signature, under penalty of perjury;

(IV) The current date; the waste tire registration number, name, address, and telephone number of the source of the tires; and the waste tire registration number, name, address, and telephone number of the facility to which the waste tires will be transported; and

(V) The number or weight of tires in the load.

(b) A waste tire hauler or mobile processor shall retain one copy of the manifest and, within a time period established by the commission by rule, shall provide one copy of the manifest to:

(I) The source of the waste tire; and

(II) The facility to which the waste tires are transported.

(c) (I) The waste tire hauler or mobile processor, the source of the waste tire, and the facility to which the waste tires are transported shall each keep a copy of the manifest for at least three years after the date stated on the manifest.

(II) The department may enter and inspect the facility of any of the entities named on the manifest during normal business hours and may request a copy of the manifest. Failure to keep the manifest as required by this subparagraph (II) or to produce the manifest upon request by the department or the department's agent is a violation of this section.

Source: L. 2014: Entire part added, (HB 14-1352), ch. 351, p. 1592, § 1, effective July 1.

30-20-1418. Waste tire management grant program - definitions - repeal.

(1) As used in this section, unless the context otherwise requires:

(a) "Eligible entity" means the following entities that provide services related to waste tire recycling, beneficial reuse, and management in Colorado:

(I) Municipalities, counties, and cities and counties;

(II) Nonprofit and for-profit businesses involved in waste tire recycling, beneficial reuse, and management; and

(III) Institutions of higher education and public or private schools.

(b) "Grant program" means the waste tire management grant program created in this section.

(2) (a) There is created the waste time management grant program, which shall be administered by the enterprise.

(b) The enterprise shall, subject to available appropriations and revenues, award grants from the waste tire management enterprise fund, created in section 30-20-1404, in accordance with this section.

(3) (a) The purpose of the grant program is to:

(I) Promote the development of waste tire recycling, beneficial reuse, and management strategies in accordance with this part 14;

(II) Develop waste tire recycling, beneficial reuse, and management facilities and infrastructure; and

(III) Expand waste tire recycling, beneficial reuse, and management services to fee payers.

(b) The grant program is intended to provide economic and technical assistance to eligible entities in their efforts related to the recycling, beneficial reuse, and management of waste tires.

(4) (a) An eligible entity may submit an application to the enterprise for a grant pursuant to the application policies and procedures established by the board.

(b) At a minimum, an application submitted to the board must include the following information:

(I) An application narrative that describes how the eligible entity will use the grant, including how the grant will promote the recycling, beneficial reuse, and management of waste tires;

(II) An estimate of the cost of the equipment, infrastructure, or project the eligible entity is intending to fund with the grant and whether the equipment, infrastructure, or project meets the requirements specified in subsection (5) of this section;

(III) The amount of in-kind contributions or matching funds, if any, to the project budget from the applicant or other sources outside of the grant; and

(IV) Whether there is local community support for the grant application.

(5) (a) The board may award grants to eligible entities for the following purposes:

(I) The purchase of waste tire recycling, beneficial reuse, and management equipment or infrastructure;

(II) Staffing of waste tire recycling, beneficial reuse, and management facilities;

(III) Marketing and communications for waste tire recycling, beneficial reuse, and management services;

(IV) Policy and research development related to waste tire recycling, beneficial reuse, and management strategies;

(V) Community engagement regarding waste tire recycling, beneficial reuse, and management; and

(VI) Other projects or uses as determined by the board.

(b) (I) The board may award grants to an eligible entity for the purchase of equipment or infrastructure, but no more than fifty percent of the cost of any equipment or infrastructure can be funded through the grant program.

(II) The board may award grants to an eligible entity that fund one hundred percent of the cost of a project that does not involve the purchase of equipment or infrastructure.

(c) In awarding grants to eligible entities, the board is subject to the following conditions:

(I) Up to forty percent of the enterprise's annual grant funding may go to a single award; and

(II) If the board awards a grant to an eligible entity for the purchase of infrastructure or equipment, the eligible entity is ineligible to receive a grant for the following five years.

(6) (a) (I) The board shall establish criteria and policies to determine which grants to award from the grant applications, which criteria and policies it shall make available to applicants.

(II) The board shall give priority to projects that advance sustainable design, production, recoverability, reuse, repair, or recycling of waste tires, with the highest priority given to projects that would keep waste tire material available for remanufacturing.

(b) The board shall establish policies for the grant program, which must include:

(I) An application form and application procedures;

(II) A deadline each year for when grant program applications must be submitted;

(III) A policy that requires a grant recipient to enter into a grant agreement with the board that includes a scope of work and deadlines for the achievement of that work;

(IV) Criteria for measuring progress of the projects that receive funding through the grant program;

(V) A policy that requires annual reporting by grant recipients on the progress of the project financed by the grant; and

(VI) A policy regarding a grant recipient's noncompliance with the grant agreement entered into by the grant recipient and the board, which policy may include a mechanism for the board to convert the grant recipient's grant to a loan with interest.

(7) (a) The grant program is funded by the waste tire enterprise fee. The board may designate up to ten percent of the revenue generated from the enterprise fee to the grant program in any given year.

(b) The board shall not award any grants to eligible entities through the grant program after December 31, 2040.

(8) This section is repealed, effective December 31, 2042.

Source: L. 2024: Entire section added, (SB 24-123), ch. 444, p. 3108, § 8, effective July 1, 2025.

ARTICLE 24

County Agricultural Research

30-24-101. Legislative declaration.
30-24-102. Authority of county commissioners.
30-24-103. Appropriation.
30-24-104. County agricultural fund.

30-24-101. Legislative declaration.

Agricultural crop and livestock producers are constantly faced with the problem of new insects, diseases, depletion of soil fertility, lack of information as to market demands and preferences, and of other distributive practices. Some counties have need for more research work than others. Such counties, if placed in a position to provide for agricultural research work with laboratory facilities, management, and some labor, would be able to cooperate with the technical

personnel of the state and federal research agencies and better meet these local demands for research work.

Source: L. 41: p. 88, § 1. **CSA:** C. 5, § 105. **CRS 53:** § 6-6-1. **C.R.S. 1963:** § 6-6-1.

30-24-102. Authority of county commissioners.

(1) For the purposes set forth in this article, the boards of county commissioners of the several counties of the state are authorized to:

(a) Purchase or rent land for use in county agricultural research work;

(b) Purchase or rent laboratory facilities for use in county agricultural research work;

(c) Purchase or rent laboratory equipment and supplies for use in county agricultural research work;

(d) Employ such management and common labor as they consider necessary to provide for the proper efficiency of the county agricultural research work;

(e) Make provision for a county agricultural research advisory committee, to serve without compensation, composed of members representing the different agricultural groups in the county and elected by such agricultural groups under such procedure and policy as the board of county commissioners may determine;

(f) Enter into cooperative agreements with the boards of county commissioners of other counties to economically carry out the purposes of this article;

(g) Enter into cooperative agreements with the board of governors of the Colorado state university system for the assistance of Colorado state university, including all of its agencies, in the developing and financing of the projects to be included in the operations of the county agricultural research work each year;

(h) Enter into cooperative agreements through Colorado state university with the proper federal research agencies.

Source: L. 41: p. 88, § 2. **CSA:** C. 5, § 106. **CRS 53:** § 6-6-2. **C.R.S. 1963:** § 6-6-2. **L. 2002:** (1)(g) amended, p. 1247, § 22, effective August 7.

30-24-103. Appropriation.

The boards of county commissioners of the several counties are authorized to appropriate from the county general fund such money as may be necessary to pay the obligations for county agricultural extension and research work as may be authorized.

Source: L. 41: p. 89, § 3. **CSA:** C. 5, § 107. **L. 51:** p. 296, § 7. **CRS 53:** § 6-6-3. **C.R.S. 1963:** § 6-6-3.

30-24-104. County agricultural fund.

The boards of county commissioners of the several counties are authorized to establish a county agricultural fund. This fund may be created out of the county general fund, and repayment of this fund may be made through a county agricultural research tax levy.

Source: L. 41: p. 89, § 4. **CSA:** C. 5, § 108. **CRS 53:** § 6-6-4. **C.R.S. 1963:** § 6-6-4.

County Finance

ARTICLE 25

Administration

PART 1
FISCAL PROCEDURES

30-25-101. Budgeting - appropriations - fiscal procedures.

30-25-102. County expenditures limited. (Repealed)

30-25-103. No liability against county beyond appropriation.

30-25-104. Judgment against a county, how paid - tax levy.

30-25-105. County general fund.

30-25-106. Fund - purposes.

30-25-106.5. Infrastructure loans to governmental entities within a county - authorization - limitations.

30-25-107. Contingent fund.

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30-25-110. Claims presented to board - when - how paid.

30-25-111. Proceedings published - failure - penalty.

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PART 2
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30-25-201. Tax levy for county fund purposes. (Repealed)

30-25-202. Capital expenditures fund - tax levy - purposes.

30-25-203. Validation of bonds.

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30-25-205. Levy not limited - when.

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PART 3
IMPACT ASSISTANCE GRANTS

30-25-301. Legislative declaration.

30-25-302. Eligibility - determination of impact - procedures - legislative declaration.

PART 1

FISCAL PROCEDURES

30-25-101. Budgeting - appropriations - fiscal procedures.

The provisions of part 1 of article 1 of title 29, C.R.S., shall govern budgeting, appropriations, and fiscal procedures of each county in this state.

Source: L. 1891: p. 111, § 1. **R.S. 08:** § 1215. **C.L.** § 8692. **CSA:** C. 45, § 39. **CRS 53:** § 36-2-1. **C.R.S. 1963:** § 36-2-1. **L. 77:** Entire section R&RE, p. 1441, § 2, effective June 9.

ANNOTATION

The intent of the former section was concisely stated in the title, as "An act to require the affairs of the counties of this state to be conducted from the revenues derived from taxation, and to prevent the expenses of any county from exceeding its revenues", and it must be accepted and enforced as it read, as the courts have no right to add to or take from its plain and positive provisions. Bd. of Comm'rs v. Hampson, 24 Colo. 127, 48 P. 1101 (1897).

And the evident purpose of that section was to compel the board in the last quarter of the fiscal year to consider and decide with great care the levy which should be made and the objects to which the moneys which might be realized from it should be put, in other words, the general assembly intended

to compel the board of county commissioners to particularize the purposes to which the moneys should be applied, and by this means all subsequent diversion of the public funds to illegal uses because of personal, political, or other considerations, was substantially prevented. Beshoar v. Bd. of Comm'rs, 7 Colo. App. 444, 43 P. 912 (1896).

A record is not always required to render the proceedings of the board of county commissioners binding. Mugrage v. People, 26 Colo. App. 27, 141 P. 522 (1914).

And where question arises as to a board's action a liberal discretion should be exercised in receiving evidence of the attending circumstances, to aid in ascertaining the real purpose of what is set down. Mugrage v. People, 26 Colo. App. 27, 141 P. 522 (1914).

Duty directory. Under the former section, it was the duty of the board to make the levy so that the assessor could certify the tax list and warrant to the treasurer on or before the first of January, but a failure of the commissioners, or the assessor, to do either within the time specified, in no manner affected the taxpayer and was directory. Tallon v. Vindicator Consol. Gold Mining Co., 59 Colo. 316, 149 P. 108 (1915).

Treasurer not responsible for omissions of board. Where the only resolution of the board which could be termed an appropriation, directed levies upon the taxable property, as follows: "For State Purposes, 4 mills; for County Redemption Fund, 5 mills; for County General Revenue, 10 mills; for Road Fund, 4 mills; for General School Fund, 4 mills — the same to be extended on the tax roll by the county assessor, and by him certified to the county treasurer for collection.", it was held that warrants regularly issued for unquestioned obligations of the county, and paid by the treasurer were to be credited to him in his account, in spite of the absence of any formal appropriation resolution, such as required by the former section, and that the treasurer shall not be penalized for the omissions of the governing body of the county. Mugrage v. People, 26 Colo. App. 27, 141 P. 522 (1914).

The holder of a valid warrant issued by a city for current expenses of a fiscal year is entitled to be paid out of the revenues of that year, appropriated for that purpose, because this is a part of the contract by virtue of the former section, and to hold that his rights thus fixed would be subject to the payment of warrants issued in previous years would impair the obligation of his contract. Ostling v. People ex rel. Bantley, 57 Colo. 22, 140 P. 173 (1914).

Applied in Beacom v. Bd. of County Comm'rs, 657 P.2d 440 (Colo. 1983).

30-25-102. County expenditures limited. (Repealed)

Source: L. 1891: p. 111, § 2. **R.S. 08:** § 1216. **C.L.** § 8693. **CSA:** C. 45, § 40. **CRS 53:** § 36-2-2. **C.R.S. 1963:** § 36-2-2. **L. 77:** Entire section repealed, p. 1441, § 3, effective June 9.

30-25-103. No liability against county beyond appropriation.

No contract shall be made by the board of county commissioners of any county, and no liability against the county shall be created by any officer of the county, whether the object of the expenditure has been ordered by the board of county commissioners or not, unless an appropriation shall have been previously made concerning such expense. Each member of the board of county commissioners and other officers of the county who undertake to create any liability against the county, except such as they are by statute required to do, shall be personally liable and, together with the sureties upon their official bonds, shall be held for such indebtedness.

Source: L. 1891: p. 112, § 3. **R.S. 08:** § 1217. **C.L.** § 8694. **CSA:** C. 45, § 41. **CRS 53:** § 36-2-3. **C.R.S. 1963:** § 36-2-3.

ANNOTATION

Rental payments. Where there was no appropriation providing for the rental of a building for county use for 25 years (the full term of the lease), and it was contended that for the reason the lease is void, this contention cannot be upheld, because the rent is to be paid monthly, and it is a current expense and is to be provided for, the same as the other current expenses, by annual levy and appropriation. Leadville Illuminating Gas Co. v. City of Leadville, 9 Colo. App. 400, 49 P. 268 (1897); City of Denver v. Hubbard, 17 Colo. App. 346, 68 P. 993 (1902); Heberer v. Bd. of Comm'rs, 88 Colo. 159, 293 P. 349 (1930).

Representations sheriff made to his deputies and clerks regarding cash compensation for overtime were made without approval of the board and, thus, are not binding on the county or the board. Johnson v. Bd. of County Comm'rs, 676 P.2d 1263 (Colo. App. 1984).

30-25-104. Judgment against a county, how paid - tax levy.

(1) When a judgment is given and rendered against a county of this state in the name of its board of county commissioners or against any county officer in an action prosecuted by or against him in his official capacity or name of office, when the judgment is for money and is a lawful county charge, no execution shall issue thereon, but the same may be paid by the levy of a

tax upon the taxable property of said county. When the tax is collected by the county treasurer, it shall be paid over, as fast as collected by him, to the judgment creditor, or his assigns, upon the execution and delivery of proper vouchers therefor; but nothing in this section shall operate to prevent the board of county commissioners from paying any such judgment by a warrant drawn by them upon the ordinary county fund in the county treasury. The power conferred to pay such judgment by a special levy of such tax shall be held to be in addition to the taxing power given and granted to such board to levy taxes for other county purposes. The board of county commissioners shall levy under this law such taxes as shall be sufficient to discharge such judgment in the next fiscal year; but in no event shall such annual levy exceed a total of ten mills for one or more judgments exclusive of mill levies for other county purposes. The board of county commissioners shall continue to levy such taxes, not to exceed a total of ten mills annually, exclusive of mill levies for other county purposes, but in no event less than ten mills if such judgment will not be discharged by a lesser levy until such judgment is discharged.

(2) Any and all taxes levied to pay the last payment upon or to pay any such judgment shall be valid, whether the sum sought to be raised thereby exceeds the sum due on such judgment, principal and interest or not; but such excess of the sum required shall not exceed a sum equal to ten percent of such required sum, and no sale of real estate made to make such taxes shall be invalid by reason of such excess, if the same is within the above specified limit. All levies to pay judgments shall be made as near as possible to raise a sum equal to that due on the judgment, for which payment the tax is levied; but, nevertheless, any excess levied, if such does not exceed the said ten percent of the sum due and desired to be paid, shall not invalidate any tax levy upon or tax sale of real or personal estate made to raise, make, or collect the said sum due and excess.

Source: G.L. § 435. **G.S.** § 527. **L. 1887:** p. 240, § 1. **R.S. 08:** § 1183. **C.L.** § 8664. **CSA:** C. 45, § 7. **CRS 53:** § 36-2-4. **C.R.S. 1963:** § 36-2-4. **L. 71:** p. 1212, § 5.

ANNOTATION

I. General Consideration.

II. Mandamus to Compel Payment.

I. GENERAL CONSIDERATION.

Board obligated to act. Before a county treasurer is authorized to pay a judgment against the county in either of the ways mentioned in this section the board of county commissioners shall take some action in the matter. Stoddard v. Benton, 6 Colo. 508 (1883).

It is for the board to determine how far the county will defend against the claim which has been prosecuted to judgment against it. Stoddard v. Benton, 6 Colo. 508 (1883).

And the county commissioners can not be deprived of their option to pay the

judgment against the county by a warrant drawn on the county fund or of their discretion as to levying a special tax, by a mandamus compelling them to levy a tax to pay the judgment. Bd. of Comm'rs v. King, 67 F. 202 (8th Cir. 1895); Stryker v. Bd. of Comm'rs, 77 F. 567 (8th Cir. 1896); King v. Bd. of Comm'rs, 77 F. 583 (8th Cir. 1896).

The effect of this section is not to leave it discretionary with the board of commissioners to say whether or not a judgment against a county should ever be paid, but should be construed as leaving it to the discretion of the board to pay a judgment either by levying the tax or by warrant drawn on the ordinary county fund, when the judgment can be paid by warrant, but if it cannot be paid by warrant on the ordinary fund the special tax must be levied. People ex rel. Reynolds v. Bd. of Comm'rs, 11 Colo. App. 124, 52 P. 748 (1898).

Thus discretion as to the levy of the tax is vested in the board of county commissioners, because they are charged with the administration of the affairs of the county, and familiar with its financial resources and its needs and the condition of its taxpayers. Bd. of Comm'rs v. King, 67 F. 202 (8th Cir. 1895).

The authority to issue a warrant at once instead of levying a tax contemplated the presence in the treasury of money applicable to the payment of the judgment, and unless there was money in the treasury to meet the warrant its issuance was unauthorized and the board of commissioners had no alternative except to levy the tax, and the warrants thus issued and received by plaintiff constituted no payment of the judgment. People ex rel. Reynolds v. Bd. of Comm'rs, 11 Colo. App. 124, 52 P. 748 (1898).

In all statutes of this description, the word "may" is interpreted to mean "must", and the permission is regarded equivalent to a mandate wherever the public interests or the rights of third persons are concerned, the discretion only exists where there are no third parties, either the public or persons, to be injuriously affected by its exercise. People ex rel. Rollins v. Bd. of Comm'rs, 7 Colo. App. 229, 42 P. 1032 (1895).

II. MANDAMUS TO COMPEL PAYMENT.

Unless forbidden by statute, mandamus lies to compel the levy of taxes to pay judgments against a county. Bd. of Comm'rs v. Schradsky, 43 Colo. 84, 95 P. 312 (1908).

And when there is no fund in the treasury applicable to the payment of a judgment against a county, the judgment creditor is, upon the refusal of the board of county commissioners to levy a tax for the payment of the judgment, entitled to peremptory mandamus to compel them to levy one for that purpose. People ex rel. Rollins v. Bd. of Comm'rs, 7 Colo. App. 229, 42 P. 1032 (1895).

So also in case the commissioners delay, or refuse to make provision for payment of a judgment against a county, a writ of mandamus will lie to compel them to act. Stoddard v. Benton, 6 Colo. 508 (1883).

It is also the proper proceeding to compel an officer to pay warrants drawn on a special fund who refuses to pay, but to make the remedy available, proof must be made that the officer has funds in his hands available for the purpose. Hockaday v. Bd. of County Comm'rs, 1 Colo. App. 362, 29 P. 287 (1892).

And a petition for a mandamus is to be construed in the same way and subject to the general rules applied in the construction of an ordinary complaint, but the certainty to a certain intent in every particular is no longer a prerequisite. Substantial accuracy is all that is necessary. People ex rel. Rollins v. Bd. of Comm'rs, 7 Colo. App. 229, 42 P. 1032 (1895).

Also since the merger of a debt into a judgment changes its form, but not its identity when the judgment is presented to a court for affirmative action, and is sought to be collected by a process not contained within itself, the court will look behind the judgment in order to ascertain from the nature of the original claim what method may be adopted for its enforcement. Bd. of Comm'rs v. People ex rel. New Hampshire Sav. Bank, 16 Colo. App. 215, 64 P. 675 (1901).

Conclusiveness of judgment. In an action for mandamus to compel the board of county commissioners to levy a tax to pay a judgment against a county the judgment is conclusive of all questions which were or might have been litigated in the suit. People ex rel. Reynolds v. Bd. of Comm'rs, 11 Colo. App. 124, 52 P. 748 (1898).

No collateral attack. In mandamus proceeding against a board of county commissioners, the judgment must be accepted as a verity, it cannot be collaterally attacked, and it must be assumed to represent an honest debt, regularly contracted, fairly and honestly put into collectible form. People ex rel. Rollins v. Bd. of Comm'rs, 7 Colo. App. 229, 42 P. 1032 (1895).

Insufficient cause of action stated. In an action of mandamus to compel a board of county commissioners to levy a tax to pay a judgment against the county where the petition shows that the judgment was rendered upon county warrants, the relator must make the same showing that he would have to make if the action had been brought upon the warrants, and unless the petition shows that the board has failed to levy the tax it was required by law to levy to pay such warrants, it fails to state a cause of action, and it is not sufficient to allege that the board has failed and refused to levy a tax to pay the judgment. Bd. of Comm'rs v. People ex rel. New Hampshire Sav. Bank, 16 Colo. App. 215, 64 P. 675 (1901).

When no issue has been made as to the capacity of the county to contract the indebtedness, it seems to be doubtful whether a judgment against a county on a void obligation can be enforced in any form. Wilder v. Bd. of County Comm'rs, 41 F. 512 (D. Colo. 1890).

30-25-105. County general fund.

A fund to be known as the county general fund is hereby created and established in each of the counties of the state of Colorado. The county general fund shall consist of all county revenue except that specifically allocated by law for other purposes.

Source: L. 51: p. 294, § 1. **CSA:** C. 45, § 7(1). **CRS 53:** § 36-2-5. **C.R.S. 1963:** § 36-2-5.

30-25-106. Fund - purposes.

(1) The board of county commissioners is authorized to appropriate money from the county general fund for all ordinary county expenses, including the administrative expenditures of elective and appointive offices, library, agricultural extension service, fire protection, fairs, advertising, airports, health, rodent control, water conservation, weed control, pest control, predatory animal control, and all other general county purposes authorized by law, except expenditures for public welfare, roads and bridges, debt service, public hospitals, public works, contingencies, and purposes voted by the electors.

(2) The board of county commissioners is authorized to appropriate money from the general fund derived from federal payment in lieu of taxes to public school districts containing lands from which the payment is derived.

(3) Notwithstanding the provisions of subsection (1) of this section, the board of county commissioners is authorized to transfer money from the county general fund to the county road and bridge fund created in section 43-2-202 if the governor declares, by executive order or proclamation, a disaster emergency in the applicable county pursuant to section 24-33.5-704 (4). The board of county commissioners is authorized to make the transfers until eight years after the date of the governor's declaration of an emergency in the county. The eight years begins the day after the date of the governor's final declaration of an emergency for the disaster, including all extensions to the declaration. Any county general fund money transferred into the county road and bridge fund must be used for the purposes of disaster response and recovery in a manner consistent with the permissible uses of money in the county road and bridge fund.

Source: L. 51: p. 294, § 2. **CSA:** C. 45, § 7(2). **CRS 53:** § 36-2-6. **C.R.S. 1963:** § 36-2-6. **L. 79:** Entire section amended, p. 1152, § 1, effective June 7. **L. 2014:** (3) added, (SB 14-007), ch. 3, p. 78, § 1, effective February 19. **L. 2017:** (3) amended, (SB 17-034), ch. 32, p. 90, § 1, effective August 9. **L. 2020:** (3) amended, (HB 20-1124), ch. 85, p. 340, § 1, effective September 14.

ANNOTATION

Funding for roads and bridges shall be from a special levy for roads and bridges, together with moneys from state or federal governments for expenditures on roads and bridges, and other moneys which may become available for roads and bridges, except money from the general fund. City of Greeley v. Bd. of County Comm'rs, 644 P.2d 76 (Colo. App. 1981).

The conflict between this section and § 29-1-111.5, if any, must be resolved in favor of the specific prohibition on roads and bridges found in this section. City of Greeley v. Bd. of County Comm'rs, 644 P.2d 76 (Colo. App. 1981).

Subsection (1) specifically prohibits the transfer of county general fund money for expenditures for roads and bridges. City of Colo. Springs v. Bd. of County Comm'rs, 648 P.2d 671 (Colo. App. 1982).

This section makes any money contained in the county general fund unavailable for road and bridge use. City of Aurora v. Bd. of County Comm'rs, 902 P.2d 375 (Colo. App. 1994), aff'd, 919 P.2d 198 (Colo. 1996).

30-25-106.5. Infrastructure loans to governmental entities within a county - authorization - limitations.

(1) Notwithstanding any other provision of law, the board of county commissioners of a county, in consultation with the county treasurer, is authorized to make loans to any governmental entity that is created by or located within the county and that undertakes infrastructure projects within the county. The board of county commissioners shall analyze or cause to be analyzed any such loan using the underwriting standards adopted pursuant to subsection (3) of this section before making the loan, and any such loan is also subject to the following requirements:

(a) The source of the loan must be legally available money that is not otherwise encumbered or obligated, and the amount loaned must not cause the total outstanding principal balance of all loans made pursuant to this subsection (1) to exceed eight percent of the amount of such money available at the time the loan is made;

(b) The loan must have a specified repayment term, and the loan recipient shall agree to pay the county interest on the loan at an initial rate that is equal to or greater than the rate of return earned on all county financial investments for the twelve months preceding the date on which the loan is made;

(c) The loan recipient shall use loan proceeds for the sole purpose of funding public infrastructure projects, including but not limited to the construction, operation, maintenance, or repair of transportation and recreational infrastructure; and

(d) The board of county commissioners shall make the loan by entering into an intergovernmental agreement with the loan recipient that establishes the terms and conditions of the loan. Before entering into such an intergovernmental agreement:

(I) The board of county commissioners shall approve the public infrastructure project to be funded by the loan and the terms and conditions of the loan at a meeting of the board held in accordance with the open meeting requirements of part 4 of article 6 of title 24; and

(II) The board of county commissioners or the loan recipient shall pursue private sector options, including but not limited to financial institutions doing business within the county, for funding the public infrastructure project to be funded by the loan and report regarding the options pursued at the board meeting held pursuant to subsection (1)(d)(I) of this section.

(2) Because it is required to be repaid, a loan made pursuant to subsection (1) of this section is not an expenditure to which the limitations on expenditures from the county general fund set forth in section 30-25-106 (1) apply.

(3) Before making loans as authorized by subsection (1) of this section, the board of county commissioners shall adopt underwriting standards. The underwriting standards must require, at a minimum, that each proposed loan be analyzed with respect to the risks of the loan, market rates, and loan terms.

Source: L. 2020: Entire section added, (SB 20-139), ch. 246, p. 1178, § 2, effective September 14.

30-25-107. Contingent fund.

The board of county commissioners is authorized to establish a contingent fund to provide for expenditures caused by an act of God, or the public enemy, or some contingency that could not have been reasonably foreseen at the time of adoption of the budget, to redeem outstanding warrants lawfully issued, and shall fix rates of levy annually for such fund.

Source: L. 51: p. 295, § 4. **CSA:** C. 45, § 7(3). **CRS 53:** § 36-2-7. **C.R.S. 1963:** § 36-2-7.

30-25-108. Board to examine county orders.

The board of county commissioners, at its January and July sessions of each year, or oftener if necessary, shall carefully examine the county orders returned by the county treasurer by comparing each order with the record of orders in the clerk's office. It shall cause to be entered on said record, opposite to the entry of each order issued, the date when the same was canceled.

Source: G.L. § 467. **G.S.** § 550. **R.S. 08:** § 1237. **C.L.** § 8714. **CSA:** C. 45, § 61. **CRS 53:** § 36-2-8. **C.R.S. 1963:** § 36-2-8.

30-25-109. Allowance of accounts.

No account shall be allowed by the board of county commissioners unless the same is made out in separate items, and the nature of each item stated, and where no specified fees are allowed by law the time actually and necessarily devoted to the performance of any service charged in such account shall be specified. Nothing in this section shall be construed to prevent any such board from disallowing any account, in whole or in part, when so rendered nor from requiring any other or further evidence of the truth and propriety thereof as it may think proper.

Source: G.L. § 462. **G.S.** § 545. **R.S. 08:** § 1219. **C.L.** § 8696. **CSA:** C. 45, § 43. **CRS 53:** § 36-2-9. **C.R.S. 1963:** § 36-2-9. **L. 71:** p. 333, § 1.

ANNOTATION

This section and section 30-25-110 have no application to actions to recover money paid for taxes illegally assessed. Bd. of Comm'rs v. Kipp Sheep Co., 87 Colo. 288, 288 P. 413 (1930); Boyer Bros. v. Bd. of Comm'rs, 87 Colo. 275, 288 P. 408 (1930).

Bill in compliance. A bill which stated an indebtedness claimed as "To transcribing that part of the records of the former county of Arapahoe affecting the present county of Adams as follows, General Real Estate Records, 311,419 folios at 10 cents $31,141.90" was not held in compliance with this section. Uzzell v. Lunney, 46 Colo. 403, 104 P. 945 (1909).

Oath to required affidavit may be administered by a deputy county clerk. Roberts v. People, 9 Colo. 458, 13 P. 630 (1886).

This section did not allow compensation to a coroner who held no inquest. McGovern v. Bd. of Comm'rs, 54 Colo. 411, 131 P. 273 (1913).

30-25-110. Claims presented to board - when - how paid.

(1) Any claim or demand held by any person against a county shall be presented for audit and allowance to the board of county commissioners of the proper county, in due form of law, before an action in any court shall be maintainable thereon, and all claims, when allowed, shall be paid by a county warrant or order, drawn by said board on the county treasury, upon the proper fund in the treasury, for the amount of such claim. It is the duty of the board of county commissioners to ensure that all warrants and orders issued on or after April 2, 1998, are drawn upon the proper fund in the treasury and that there are sufficient moneys in said fund. Such warrant or order shall be signed by the chairperson of the board, permanent or temporary, and attested by the county clerk and recorder, and said warrant or order shall specify the amount and value of the claim or service for which it is issued and be numbered and dated in the order in which it is issued.

(2) The general county fund shall be known and designated on the books of the county treasury as the "county general fund", and the general road fund shall be known and carried on the books of said county treasury as the "county road and bridge fund". Such warrants and orders, payable on demand, shall be drawn and issued upon the county treasurer, or against any funds in his hands, only when at the time of drawing and issuing the same there shall be sufficient moneys in the appropriate fund in the treasury to pay such warrants and orders. Whenever there are no moneys in the county treasury of a county to the credit of the proper fund to meet and defray the necessary expenses of the county, it is lawful for the board of county commissioners of such county to provide that county warrants and orders of such county may be drawn and issued against and in anticipation of the collection of taxes already levied for the payment of such expenses to the extent of eighty percent of the total amount of the taxes levied. Warrants and orders so drawn and issued under the provisions of this section shall show upon their faces that they are payable solely from the fund upon which the same are drawn and the taxes levied to form the same when collected and not otherwise.

(3) County warrants and orders may be in such form as the board of county commissioners may provide and may be made payable to the order of the payee or to the bearer. The board of county commissioners may direct the treasurer to pay by electronic transfer any written authorization issued by the board for electronic payment of claims against the county. For purposes of this section, "order" means all orders and authorizations issued by the board of county commissioners for the payment of claims against the county. "Order" includes any check issued by the board of county commissioners and any written authorization issued by the board of county commissioners directing the treasurer to make payment of claims against the county by electronic transfer.

(4) The person to whom such last-named warrants and orders are allowed and delivered shall be held to have accepted the same in full payment and satisfaction of the claim for which the

same were issued; and the obligations of said warrants are limited as stated; and said warrants shall be paid only from the fund drawn upon and the taxes levied, appropriated, collected, or paid into the county treasury to create, constitute, and form said fund. The taxes provided by law therefor shall be credited to said fund until all warrants drawn shall be fully paid, satisfied, and discharged, both principal and interest. Said limited and last-named warrants and orders shall not operate as a debt of said county and shall not be held to add to or increase the debt or indebtedness of said county.

Source: G.L. § 463. **G.S.** § 546. **L. 1887:** p. 241, § 2. **R.S. 08:** § 1220. **C.L.** § 8697. **CSA:** C. 45, § 44. **CRS 53:** § 36-2-10. **C.R.S. 1963:** § 36-2-10. **L. 71:** p. 1213, § 5. **L. 98:** (1) and (3) amended, p. 151, § 5, effective April 2.

Cross references: For creation of the "county road and bridge fund", see § 43-2-202.

ANNOTATION

This section is constitutional. People ex rel. v. Austin, 11 Colo. 134, 17 P. 485 (1887).

Purpose of section is to give the county an opportunity to pay a claim before being required to defend against it in court. Tisdel v. Bd. of County Comm'rs, 621 P.2d 1357 (Colo. 1980).

The procedures set forth in this section are mandatory. When one county seeks financial relief from another county for housing the second county's prisoner during criminal proceedings, legal action for civil relief may not be initiated until the procedures set forth in this section have been followed. Intervention in a criminal case to seek civil relief is not permitted absent truly exceptional circumstances. People v. Hood, 867 P.2d 203 (Colo. App. 1993).

Claim to board prerequisite to suit to enforce. If the claim here sued upon is a legal liability of the county, plaintiff is not entitled to maintain an action in court to enforce it, unless he previously presented the demand to its board of commissioners for audit and allowance and the same had been disallowed. Bd. of Comm'rs v. Locke, 2 Colo. App. 508, 31 P. 351 (1892); Bd. of Comm'rs v. Bloom, 14 Colo. App. 187, 59 P. 417 (1899); Gregg v. Bd. of Comm'rs, 32 Colo. 357, 76 P. 376 (1904); City & County of Denver v. Bottom, 44 Colo. 308, 98 P. 13 (1908); Mitchell v. Bd. of Comm'rs, 112 Colo. 582, 152 P.2d 601 (1944); Calahan v. County of Jefferson, 163 Colo. 212, 429 P.2d 301 (1967).

This presentment statute does not apply to a court's order designating the source of payment for services to be rendered by a facility pursuant to a court's custodial orders,

but the facility must still comply with the presentment statute prior to seeking enforcement of liability for an actual claim. Heim v. District Court, 195 Colo. 107, 575 P.2d 850 (1978).

And in an action begun before a court of record this fact must be alleged in the complaint, and in an action begun before a justice of the peace and appealed from the county court to the supreme court upon an agreed statement of facts, the statement had to show that the claim was presented to the board before action was begun in order to sustain a judgment against the county. Beeney v. Irwin, 6 Colo. App. 66, 39 P. 900 (1895); Parks v. Hays, 11 Colo. App. 415, 53 P. 893 (1898); Bd. of Comm'rs v. Phye, 27 Colo. 107, 59 P. 55 (1899); City & County of Denver v. Bottom, 44 Colo. 308, 98 P. 13 (1908).

The statute of limitations is tolled between the time a claim is presented and the time it is acted upon by the county where there is no suggestion that contractor failed to prosecute its claims in good faith and with diligence. CAMAS Colo., Inc. v. Bd. of County Comm'rs, 36 P.3d 135 (Colo. App. 2001).

Objection in supreme court. An objection that a claim against a county was not presented to the board of county commissioners for audit and allowance before suit was brought thereon may be raised for the first time in the supreme court. Bd. of Comm'rs v. Phye, 27 Colo. 107, 59 P. 55 (1899).

It does not lie with plaintiff, after he sues the county, to say that his claim is not a charge upon the general county fund, and therefore not one that the county board can provide for because if he thought the claim was a specific charge upon a special fund created by law and placed in the hands of the county treasurer for liquidating the same, he should not have sued the county, but proceeded directly, in an appropriate action, against the county treasurer. Gregg v. Bd. of Comm'rs, 32 Colo. 357, 76 P. 376 (1904).

An injury to land caused by the county unlawfully entering thereon and constructing a road, is a "claim or demand" within the meaning of this section, and must be presented to the board for audit and allowance before an action can be maintained thereon. Henry v. Bd. of Comm'rs, 41 Colo. 267, 92 P. 697 (1907).

This section does not apply to tort actions brought against a county government. Forrest v. County Comm'rs, 629 P.2d 1105 (Colo. App. 1981).

No enforceable contract. In an action by a nurse against the board of county commissioners for compensation for his services, it was held that there was no implied contract by the board to pay plaintiff for his services and the county is not liable. Bd. of Comm'rs v. Phye, 27 Colo. 107, 59 P. 55 (1899).

This section has no application to actions to recover money paid for taxes illegally assessed. Boyer Bros. v. Bd. of Comm'rs, 87 Colo. 275, 288 P. 408 (1930); Bd. of Comm'rs v. Kipp Sheep Co., 87 Colo. 288, 288 P. 413 (1930).

30-25-111. Proceedings published - failure - penalty.

(1) It is the duty of the board of county commissioners of each county to publish in at least one legal newspaper in the county a report of each claim, except salary warrants, and expenditure by it allowed and paid and taxes rebated, disclosing the name of and the amount paid to each individual or firm, a description of the services or material furnished to the county, and, as to other items, the nature of the claim and disclosing the fund charged with each expenditure. Such report shall contain a statement of any contracts for the expenditure of money not paid immediately made by the board of county commissioners, disclosing the nature and purpose of the contract, the parties thereto, and the amounts involved therein. Such reports shall be published at least monthly within thirty days following the end of the period for which made. If no legal newspaper is located in the county, either such reports shall be published in a newspaper of an adjacent county which has general circulation in the county for which the report is made, or the board shall cause such statements to be posted in three conspicuous places in said county, one of which shall be the courthouse door. The county accounting office, if there is one, and otherwise the county clerk and recorder, if he is acting as the accounting agency for the county, shall provide to the board of county commissioners all information necessary for the publication. The published report shall state that it is published under the direction of the board of county commissioners. Nothing in this section shall be construed as requiring the board of county commissioners to publish or make public the names of or individual public welfare payments to, or in behalf of, indigent persons receiving assistance from public welfare programs financed, in whole or in part, by federal or state funds, or any combination thereof, when such publication is specifically forbidden by law.

(1.5) Salary information for all county employees and officials shall be published twice annually in the manner provided in subsection (1) of this section. The first publication shall be in August and shall include each employee's title and gross monthly salary for the prior June. The second publication shall be in February and shall list each employee by title, along with the total amount of gross salary paid to such employee during the prior calendar year. Each publication of salary information shall be accompanied by the countywide average percentage of salary that is paid in addition to regular wages as fringe benefits, including, but not limited to, insurance, medical care, retirement plans, housing, transportation, or other subsidized employee expenses.

(2) It is the duty of the board of county commissioners of each county to publish in some legal newspaper published in the county the semiannual financial statement furnished to the board of county commissioners by the county treasurer which shall include in separate columns the balance at the beginning of the period in each fund kept by the treasurer, the collections to each fund from current taxes, delinquent taxes, miscellaneous collection and transfers, withdrawals from each fund showing cash disbursements, transfers and treasurer's fees, and the balance at the end of the period in each fund. The statement shall be published within sixty days

following June thirtieth and December thirty-first each year. If no legal newspaper is located in the county, either such reports shall be published in a newspaper of an adjacent county which has general circulation in the county for which the report is made or the board of county commissioners shall cause such statements to be posted in three conspicuous places in said county, one of which shall be the courthouse door. The county clerk and recorder shall furnish a copy of such proceedings for such publication.

(3) Any willful violation of any provision of this section by any county commissioner or by any person acting as clerk or otherwise for the board of county commissioners in connection with such published reports and the statements contained therein is a misdemeanor, and any person convicted of any violation shall be punished by a fine not exceeding one hundred dollars.

(4) Failure to publish salary information as provided in subsection (1.5) of this section shall be punishable by a civil penalty of not less than five hundred nor more than one thousand five hundred dollars.

Source: L. 01: p. 147, §§ 1-4. **R.S. 08:** §§ 1221-1224. **C.L.** §§ 8698-8701. **CSA:** C. 45, §§ 45-48. **CRS 53:** § 36-2-11. **L. 55:** p. 251, § 1. **C.R.S. 1963:** § 36-2-11. **L. 71:** p. 334, § 1. **L. 89:** (1) amended and (1.5) and (4) added, p. 1285, § 1, effective April 12. **L. 2007:** (1.5) amended, p. 256, § 1, effective March 26.

Cross references: For the requisites of legal newspapers, see § 24-70-103.

30-25-112. Appeal on disallowance of claim.

When any claim of any person against a county is disallowed, in whole or in part, by the board of county commissioners, such person may appeal from the decision of such board to the district court for the same county by causing a written notice of such appeal to be served on the clerk of such board within thirty days after the making of such decision and executing a bond to such county, with sufficient security, to be approved by the clerk of said board, conditioned for the faithful prosecution of such appeal and the payment of all costs that are adjudged against the appellant.

Source: G.L. § 464. **G.S.** § 547. **R.S. 08:** § 1225. **C.L.** § 8702. **CSA:** C. 45, § 49. **CRS 53:** § 36-2-12. **C.R.S. 1963:** § 36-2-12.

ANNOTATION

Appeal only from final board action. This section gives a right of appeal to the district court from the action of the board of commissioners disallowing a claim but only when its action is final, and without the right of further consideration reserved, and the defeat of a motion to allow a bill, followed by its reference to the county attorney for investigation and report, is not such final action as this section contemplates in the provision granting the right of appeal. Bd. of County Comm'rs v. McCormick, 1 Colo. App. 319, 29 P. 25 (1892); Bd. of County Comm'rs v. Madan, 90 Colo. 10, 5 P.2d 866 (1931).

Board retains right of subsequent action on claim even absent reconsideration vote. Where a motion for the allowance of a claim against the county is rejected, it is not necessary that the board of commissioners formerly reconsider the vote in order to retain the right of subsequent action on the claim, being a governing body as well as a deliberative one, so long as its acts are within the scope of its powers, and the intentions of its members can be fairly and plainly ascertained from their proceedings, they will be enforced. Bd. of County Comm'rs v. McCormick, 1 Colo. App. 319, 29 P. 25 (1892).

There is no provision for an appeal from the district court, and the court determined that neither appeal nor writ of error would lie from the judgment of the district court. Pilgrim Consol. Mining Co. v. Bd. of Comm'rs, 20 Colo. App. 311, 78 617 (1904); Bd. of Comm'rs v. Pinnacle Gold Mining Co., 36 Colo. 492, 85 P. 1005 (1906).

This section and section 30-25-113 are confined to appeals from orders disallowing claims against a county. Golden Canal Co. v. Bright, 8 Colo. 144, 6 P. 142 (1884).

Hence under this section there was no appeal from the decision of the county commissioners fixing the rate to be charged for water by ditch owners. Golden Canal Co. v. Bright, 8 Colo. 144, 6 P. 142 (1884).

One whose claim against a county has been presented to and disallowed by the board of county commissioners has the right to elect to appeal from the decision of the board, or bring an independent action. Bd. of Comm'rs v. Brown, 2 Colo. App. 473, 31 P. 525 (1892); Bd. of Comm'rs v. Locke, 2 Colo. App. 508, 31 P. 351 (1892).

Waiver of objection to overruling of motion to dismiss appeal. Where an appeal was taken to the district court from the board of county commissioners in a matter that might have been brought directly in the district court, and a motion was made to dismiss the appeal on the ground that the appeal bond was not filed within the time prescribed and that no notice had been served upon the clerk, the objection to the overruling of the motion was waived by the county attorney afterwards appearing and participating in the trial. Smith v. District Court, 4 Colo. 235 (1878); Todd v. De La Mott, 9 Colo. 222, 11 P. 90 (1886); Mackey v. Briggs, 16 Colo. 143, 26 P. 131 (1891);

Coe v. Britton, 5 Colo. App. 85, 37 P. 37 (1894); Bd. of Comm'rs v. Stone, 11 Colo. App. 476, 53 P. 616 (1898).

30-25-113. Proceedings upon appeal - pleadings.

The clerk of the board, upon such appeal being taken, shall immediately give notice thereof to the chairman of the board of county commissioners, and shall make out a brief return of the proceedings in the case before the board with its decision thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the district court. The appeal shall be docketed and tried in a summary manner, and costs shall be awarded as in appeals from county courts to district courts. If the amount involved exceeds the sum of three hundred dollars, the applicant, within ten days after taking such appeal, shall file a complaint as in other cases in the district court, a copy of which shall also be served upon the clerk of the board, and answer shall be made thereto as in other cases. If the county clerk and recorder is an interested party in such claim, the giving of notice shall be made on the chairman of the board of county commissioners, and the bond provided for in section 30-25-112 shall be approved by the chairman of the board of county commissioners.

Source: G.L. § 465. **G.S.** § 548. **L. 1891:** p. 110, § 1. **R.S. 08:** § 1226. **C.L.** § 8703. **CSA:** C. 45, § 50. **CRS 53:** § 36-2-13. **C.R.S. 1963:** § 36-2-13. **L. 64:** p. 223, § 53.

ANNOTATION

Under this section, an appeal can be taken only from a definite and certain order disallowing a claim and an order upon a claim for $300 allowing $50 "in full payment of the claim" was not of this character. Washington County v. Murray, 45 Colo. 115, 100 P. 588 (1909).

An appeal to the district court from the order of the county commissioners disallowing a claim against the county is an ordinary action. Washington County v. Murray, 45 Colo. 115, 100 P. 588 (1909).

It also lies from the judgment of the district court to the supreme court under this section, in an appeal from the order of the county commissioners, disallowing a claim. Washington County v. Murray, 45 Colo. 115, 100 P. 588 (1909).

Appeal perfected. The appeal to the district court should be considered as properly perfected whether the notices be served on the clerk or the assessor, whether the bond be approved or the record be sent up by the one or the other. Phillips v. Bd. of Comm'rs, 78 Colo. 387, 242 P. 70 (1925).

On appeal from the decision of an assessor to the district court, if the amount involved is over $300, a complaint

must be filed in court. E. J. Longyear Co. v. Lake County, 84 Colo. 441, 271 P. 183 (1928).

Jurisdiction. The court did not think that the filing in the district court of a complaint by the aggrieved taxpayer is a jurisdictional requirement in the sense contended for by the county, although it is necessary before the final hearing. E. J. Longyear Co. v. Lake County, 84 Colo. 441, 271 P. 183 (1928).

Where defendant contended that the amount involved in an appeal from the decision of a tax assessor exceeds $300 and that as no complaint was filed in the district court within 10 days after taking the appeal, the district court was without jurisdiction, the contention was without merit. Grand Junction Sugar Co. v. Fellows, 74 Colo. 242, 220 P. 992 (1923).

30-25-114. Special taxes not levied - when.

In all cases where a special district tax is levied against all property in the county, the board of county commissioners is authorized to make an appropriation from the general fund as provided in section 30-25-106, and no special tax shall be levied for such purpose.

Source: L. 53: p. 221, § 3. **CRS 53:** § 36-2-15. **C.R.S. 1963:** § 36-2-14.

PART 2

LIMITATION OF LEVY

30-25-201. Tax levy for county fund purposes. (Repealed)

Source: L. 13: p. 557, § 1. **C.L.** § 7204. **CSA:** C. 142, § 29. **L. 51:** p. 295, § 3. **CRS 53:** § 36-3-1. **L. 61:** p. 302, § 1. **C.R.S. 1963:** § 36-3-1. **L. 69:** p. 229, § 1. **L. 70:** p. 117, § 4. **L. 72:** p. 589, § 52. **L. 81:** Entire section repealed, p. 1400, § 15, effective June 19.

30-25-202. Capital expenditures fund - tax levy - purposes.

(1) For the purpose of providing and accumulating moneys for capital expenditures, the board of county commissioners of each county is authorized to create, by resolution, a capital expenditures fund which shall be used solely for capital expenditures. Moneys from any source may be credited to such fund unless otherwise provided by law; except that no moneys dedicated to the payment of general obligation bonds shall be credited to such fund and except that no

moneys restricted to county road and bridge funds pursuant to sections 43-2-202 and 43-2-203, C.R.S., and no moneys required to be expended from such funds pursuant to such sections shall be credited to or expended from a capital expenditures fund. Moneys credited to a capital expenditures fund shall not revert to or be transferred to any other fund.

(2) For the purposes of this section, "capital expenditure" means an expenditure made by a county for long-term additions or betterments, which expenditure, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. The term includes, but is not limited to, expenditures for the acquisition, development, construction, and renovation of capital facilities, capital projects, and capital equipment.

(3) In any year, in the course of the preparation and adoption of the county budget pursuant to part 1 of article 1 of title 29, C.R.S., the board of county commissioners may levy a property tax on all taxable real and personal property in the county for the purpose of raising revenue for capital expenditures. Moneys raised from such tax shall be credited to the capital expenditures fund. Nothing in this section shall be construed as preventing the use of any other moneys which are not contained in the capital expenditures fund from being used for capital expenditures. Nothing in this section shall be construed to violate or to exceed the revenue limitation of part 3 of article 1 of title 29, C.R.S.

(4) Any county which has any moneys in a public works fund on April 3, 1984, shall establish a capital expenditures fund, shall transfer all moneys in its public works fund to its capital expenditures fund, and shall make appropriations out of such capital expenditures fund to fund projects which otherwise would have been funded from such public works fund.

Source: L. 51: p. 295, § 5. **CSA:** C. 45, § 7(4). **CRS 53:** § 36-3-3. **C.R.S. 1963:** § 36-3-2. **L. 69:** p. 229, § 1. **L. 70:** p. 135, § 1. **L. 73:** p. 466, § 2. **L. 84:** Entire section R&RE, p. 821, § 1, effective April 5.

Cross references: For the issuance of bonds to secure the cost for public buildings, roads, bridges, etc., see part 3 of article 26 of this title.

ANNOTATION

Funds can be spent on vacant land as a necessary and implied incident of that general power as conferred in this section. Peroulis v. Bd. of County Comm'rs, 665 P.2d 134 (Colo. App. 1982).

30-25-203. Validation of bonds.

Any and all negotiable coupon bonds authorized by any county, city, town, or school district in the state of Colorado prior to March 29, 1917, which might be invalid by reason of the debt-limiting or tax-limiting provisions of section 29-1-301, C.R.S., are validated as fully and completely as if said section and the amendments thereof had never been made a part thereof.

Source: L. 17: p. 431, § 1. **C.L.** § 7215. **CSA:** C. 142, § 40. **CRS 53:** § 36-3-4. **C.R.S. 1963:** § 36-3-3.

30-25-204. Levy in excess unlawful.

Any levy which may be certified to the county assessor in excess of the limitations placed by this part 2 shall be unlawful, and, in any such case, it shall be unlawful for the county assessor of any county within this state to enter upon the tax roll of the county any such excessive levy, and, in case of any such excess in any levy it is the duty of the county assessor to reduce such levy and extend upon the tax roll only such part thereof as will comply with the provisions of this part 2.

Source: L. 13: p. 561, § 13. **C.L.** § 7217. **CSA:** C. 142, § 42. **CRS 53:** § 36-3-6. **C.R.S. 1963:** § 36-3-4.

30-25-205. Levy not limited - when.

This part 2 shall in no way limit the amount of any levy necessary to be made for the purpose of paying any bonded indebtedness and interest thereon lawfully incurred, or any judgment against any county, city, town, or school district, or the interest on such judgment, or for special assessments for local improvements, in any county, town, city, or city and county.

Source: L. 13: p. 561, § 14. **L. 17:** p. 430, § 2. **C.L.** § 7218. **CSA:** C. 142, § 43. **CRS 53:** § 36-3-7. **C.R.S. 1963:** § 36-3-5. **L. 73:** p. 491, § 2.

30-25-206. Violation - penalty.

Any officer of any taxing district or any county assessor who violates any provision of this part 2 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not

more than one thousand dollars and shall also be liable to removal from office as provided by law.

Source: L. 13: p. 561, § 15. **C.L.** § 7219. **CSA:** C. 142, § 44. **CRS 53:** § 36-3-8. **C.R.S. 1963:** § 36-3-6.

PART 3

IMPACT ASSISTANCE GRANTS

30-25-301. Legislative declaration.

The general assembly hereby recognizes that withdrawal of lands from county tax rolls for the purpose of wildlife conservation and public recreation may create financial impacts on counties in which such lands are located. The general assembly further recognizes that such withdrawal may necessitate financial support and assistance by the state. It is the intent of the general assembly in enacting this part 3 to provide the means by which the state may provide such necessary assistance through impact assistance grants.

Source: L. 79: Entire part added, p. 1153, § 1, effective June 22.

30-25-302. Eligibility - determination of impact - procedures - legislative declaration.

(1) (a) Except as provided in section 33-60-104.5, C.R.S., for real property interests acquired with funds made available from the great outdoors Colorado trust fund, in any county in which the division of parks and wildlife owns property, the board of county commissioners of the county shall certify once a year during the regular tax assessment period, to the parks and wildlife commission, the current dollar amount representing the negative financial impact that the ownership has on the county's finances and the finances of any political subdivision that lies within the county. In calculating the dollar amount, the board of county commissioners shall take into consideration the following factors:

(I) The estimated assessment of ad valorem taxes on such land if such land was zoned for agriculture and was privately owned;

(II) The cost incurred by the county for services required or provided on such land which would not be required or provided if the land was not owned by said divisions; and

(III) The costs incurred by other political subdivisions which provide services on or to such land.

(b) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1389, § 15, effective July 1, 2011.)

(2) The board of county commissioners of any county certifying the current dollar amount pursuant to subsection (1) of this section shall include with such certification an itemized statement of its reasons for determining the amount.

(3) The parks and wildlife commission shall review the dollar amounts certified pursuant to subsection (1) of this section and shall certify to the general assembly these dollar amounts. In making its determinations, the parks and wildlife commission shall consider the factors set forth in subsection (1) of this section and may consider any additional relevant factors. All certifications to the general assembly must include an explanation of the grounds upon which the determinations of the certified amounts are based. The parks and wildlife commission shall include an estimate of the amount to be certified for impact assistance grants in their budget requests for each fiscal year.

(4) (a) The general assembly may make an appropriation in the form of an impact assistance grant to any county qualifying for such grant upon certification by the parks and wildlife commission of the amount for the grant. Appropriations concerning lands purchased with wildlife cash or other wildlife moneys must be made from the wildlife cash fund. Appropriations concerning lands purchased with general fund or parks and outdoor recreation cash or other parks and outdoor recreation moneys must be made from the general fund or the parks and outdoor recreation cash fund.

(b) As soon as possible after receiving an impact assistance grant, the board of county commissioners shall pay to each school district, special district, or other political subdivision located within the county that portion of the impact assistance grant attributable to the amount certified by the county on behalf of the school district, special district, or political subdivision. Prior to making such payment, the total amount of the impact assistance grant shall be reduced by an amount equal to the costs incurred by the treasurer in administering the grants.

(c) Nothing in this section shall be construed to alter the requirement set forth in section 10 of article XXVII of the state constitution that, for property acquired by a state agency pursuant to article XXVII of the state constitution, payments in lieu of taxes shall be made with moneys made available from the great outdoors Colorado trust fund as provided in section 33-60-104.5, C.R.S.

(5) Repealed.

(6) The general assembly hereby finds and declares that the acquisition of large amounts of property by the division of parks and wildlife, through the great outdoors Colorado program or

otherwise, can have serious financial consequences for the counties and political subdivisions in which the property is located. It is therefore the intent of the general assembly that any plans for acquisition of property by the division of parks and wildlife include provisions for the payment of impact assistance grants pursuant to this section or payments in lieu of taxes pursuant to section 33-60-104.5, C.R.S., whichever is applicable.

Source: L. 79: Entire part added, p. 1153, § 1, effective June 22. **L. 94:** (1)(a), (3), and (4) amended and (5) and (6) added, p. 2575, § 1, effective July 1. **L. 96:** IP(1)(a), (4)(c), and (6) amended, p. 745, § 2, effective May 22; (5)(a) repealed, p. 1221, § 18, effective August 7. **L. 2011:** IP(1)(a), (1)(b), (3), (4)(a), and (6) amended, (SB 11-208), ch. 293, p. 1389, § 15, effective July 1. **L. 2012:** IP(1)(a), (3), and (4)(a) amended, (HB 12-1317), ch. 248, p. 1205, § 11, effective June 4; (5)(b) repealed, (HB 12-1240), ch. 258, p. 1310, § 9, effective June 4.

Cross references: (1) For the legislative declaration contained in the 1996 act repealing subsection (5)(a), see section 1 of chapter 237, Session Laws of Colorado 1996.

(2) For the legislative declaration in the 2011 act amending the introductory portion to subsection (1)(a) and subsections (1)(b), (3), (4)(a), and (6), see section 1 of chapter 293, Session Laws of Colorado 2011.

ARTICLE 26

Bonds

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PART 1

BONDS - FUNDING - FLOATING INDEBTEDNESS

30-26-101. Exchange of warrants for bonds - notice.

(1) It is the duty of the board of county commissioners of any county having a floating indebtedness exceeding five thousand dollars, upon the petition of fifty registered qualified electors of said county, to publish for the period of thirty days, in a newspaper published within said county, a notice requesting the holders of the warrants of such county to submit, in writing,

to the board of county commissioners of said county, within sixty days from the date of the first publication of such notice, a statement of the amount of warrants of such county which they will exchange for the bonds of such county, to be issued under the provisions of this part 1, and the rate at which they will exchange such warrants for such bonds, taking such bonds at par. In case no newspaper is published within such county, such notice may be published in such newspaper published in the city of Denver as the board of county commissioners may select.

(2) It is the duty of such board of county commissioners, upon the petition of fifty of the registered qualified electors of such county, to publish, for the period of at least thirty days immediately preceding a general election, in some newspaper published within such county a notice that at said general election there will be submitted the question whether the board of county commissioners shall issue bonds of such county under the provisions of this part 1 in exchange, at a certain rate, for the warrants of such county issued prior to the date of the first publication of the notice, which rate shall be determined by the board of county commissioners, and it shall be stated in said notice. The question of whether such county indebtedness shall be funded under the provisions of this part 1 and the maximum net effective interest rate such funding bonds shall bear shall be submitted at the next ensuing general election or may be submitted at a special election which said board is empowered to call for that purpose, at any time after the expiration of sixty days from the date of the first publication of the notice, on the petition of fifty registered qualified electors. Said board shall publish, for the period of at least thirty days immediately preceding such special election, in some newspaper published within such county a notice that such question will be submitted at such election. In case no newspaper is published within such county, the board of county commissioners shall cause such notice to be posted in at least two conspicuous places in each of the election precincts of such county, at least thirty days prior to the said election, general or special. Such election shall be held and the results thereof determined in the same manner as provided for authorization of other bonded indebtedness in accordance with part 3 of this article.

(3) The county clerk and recorder of such county shall make out and cause to be delivered to the judges of election in each election precinct in the county, prior to the election, a certified list of the registered qualified electors in such county; and no person shall vote upon the question of the funding of the county indebtedness unless he has the necessary qualifications as provided by law.

(4) If the issuance of said bonds is approved at such election, the board of county commissioners may issue to any person or corporation holding any county warrant issued prior to the date of the first publication of the notice coupon bonds of such county in exchange therefor at a rate not exceeding that named in the notice published by the board of county commissioners. Should any of the bonds so voted be not exchanged for county warrants, as provided in this part 1, the board of county commissioners may sell the bonds so voted at, above, or below their par values and with the proceeds of such sale redeem or buy the warrants not so

exchanged, subject to the provisions of this part 1, but the proceeds of such sale of bonds shall be applied to the purchase or redemption of such warrants and for no other purpose whatever.

(5) No bond shall be issued of less denomination than fifty dollars and, if issued for a greater amount, for some multiple of that sum. The bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, the interest to be paid semiannually at the office of the county treasurer or at the city of New York, at the option of the holders thereof, upon the production of the proper coupons for the same, the bonds to be payable at the pleasure of the county after ten years from the date of their issuance, but absolutely due and payable twenty years after the date of issue. The whole amount of bonds issued under this part 1 shall not exceed the sum of the county indebtedness at the date of the first publication of the notice submitting the question of funding the county indebtedness; and the amount shall be determined by the board of county commissioners, and a certificate made of the same, and made a part of the records of the county; and any bond issued in excess of that sum shall be void.

Source: L. 1881: p. 85, § 1. **G.S.** § 676. **L. 1885:** p. 232, § 1. **R.S. 08:** § 1369. **C.L.** § 8847. **CSA:** C. 45, § 199. **CRS 53:** § 36-4-1. **C.R.S. 1963:** § 36-4-1. **L. 70:** p. 136, § 2. **L. 98:** (5) amended, p. 1338, § 56, effective June 1. **L. 2017:** (5) amended, (HB 17-1005), ch. 8, p. 24, § 3, effective August 9.

Cross references: For clarification of terms and requirements for notice by publication, see part 1 of article 70 of title 24; for how county indebtedness is created, the limits on such indebtedness and refunding, see § 6 of art. XI, Colo. Const.

ANNOTATION

The issuance of funding bonds, in exchange for valid warrants, is in no sense the creation of a debt; it is but the substitution of new evidence for a preexisting debt, it changes the form, but does not increase the indebtedness. Bd. of Comm'rs v. Standley, 24 Colo. 1, 49 P. 23 (1897).

Each bond constitutes a separate and independent cause of action against the county, and the presumption of its validity goes with it to the end, and must prevail unless it is overcome by a fair preponderance of competent evidence that the warrants for which that particular bond was exchanged evidence unauthorized obligations. Bd. of Comm'rs v. Keene Five-Cents Sav. Bank, 108 F. 505 (8th Cir. 1901); Bd. of Comm'rs v. Standley, 24 Colo. 1, 49 P. 23 (1897); Bd. of Comm'rs v. Sutliff, 97 F. 270 (8th Cir. 1899).

Validity of each bond tested by validity of each debt. When, in compliance with this section, the county issued a bond in exchange for outstanding valid warrants, its validity could in no way be affected by the fact that other bonds in the same series, issued in exchange for invalid warrants, were unauthorized and void, the validity of each bond, therefore, must be tested by the character of the indebtedness for which it is exchanged, because it is an independent contract, and when issued for preexisting indebtedness, it becomes a valid enforceable obligation against the county. Bd. of Comm'rs v. Standley, 24 Colo. 1, 49 P. 23 (1897).

Merely because some illegal consideration for some one or more of the bonds of a series may have been given, is not sufficient to invalidate the entire series, and though some illegal consideration may have entered into all, or some, of the other bonds of the series than those involved, still unless that taint can be traced into the bonds in question, the county may not escape liability thereon. Bd. of Comm'rs v. Linn, 29 Colo. 446, 68 P. 839 (1902).

But bonds issued upon a contract creating indebtedness in excess of the constitutional limitation render the whole series void. Bd. of Comm'rs v. Standely, 24 Colo. 1, 49 P. 23 (1897).

Presumed validity. In an action upon coupons the county funding bonds issued under this section, where the defense set up in the answer was that the bonds were invalid because the county warrants for which the bonds were exchanged were issued in excess of the limit of indebtedness allowed by the constitution, when plaintiff produced in evidence his coupons and the bonds to which they were attached, regularly and in due form executed by the authorized officers of the county and with the county seal attached, the presumption was that they were valid, and the same presumption attached to the warrants similarly executed and tested which became merged in the bonds, introduced in evidence by the defendant. Bd. of Comm'rs v. Linn, 29 Colo. 446, 68 P. 839 (1902).

Mandamus. An action for a money judgment will not lie upon coupons from county refunding bonds, but mandamus is the exclusive remedy, except in certain cases, such as a diversion of the fund, and if the tax has been levied and collected and is in the hands of the treasurer sufficient to pay the coupons the remedy is mandamus against the treasurer to compel payment, also, if the board of county commissioners fails to levy a tax to pay the coupons the remedy is mandamus against the board to compel the levy. Bd. of Comm'rs v. Sims, 31 Colo. 483, 74 P. 457 (1903).

Purchasers are charged with notice of the prescribed mode of payment, and this method of payment and enforcement of the same is exclusive except, as in case of county warrants, where for some exceptional reason, such as a diversion of the fund, a different procedure may be resorted to. Bd. of Comm'rs v. Sims, 31 Colo. 483, 74 P. 457 (1903).

Burden of proof. The burden was on defendant to show by a fair preponderance of the evidence that the alleged indebtedness

which was merged in the bonds was invalid because contracted at a time when the county could not lawfully incur further indebtedness. Bd. of Comm'rs v. Linn, 29 Colo. 446, 68 P. 839 (1902).

In an action upon county bonds, the fact that the county officers failed to preserve in the public records evidence that the indebtedness on which the bonds were founded was contracted after the constitutional limit had been reached does not absolve the county from the ordinary rules relating to the sufficiency of proof or cast upon plaintiff the burden of showing that the bonds were issued for a valid indebtedness. Bd. of Comm'rs v. Linn, 29 Colo. 446, 68 P. 839 (1902).

30-26-102. Election on bond issue - duties of judges.

(1) All persons voting on the question of funding indebtedness shall vote by separate ballot, which shall be deposited in a box to be used for that purpose only and on which ballot shall be printed the words "for funding county debt" or "against funding county debt"; and if, upon canvassing the vote, which shall be canvassed in the same manner as the vote for county officers, it appears that a majority of all the votes cast upon the question so submitted is for funding the county debt, the board of county commissioners shall be authorized to carry out the provisions of this part 1, and the canvassing board shall certify the vote, and it shall be made a part of the county records.

(2) The judges of election shall make and certify to the county clerk and recorder a separate list of the names of the electors voting upon the question of the funding of the county indebtedness in the order in which the ballot of the elector so voting is received, and each ballot shall be numbered in the order in which it is received and the number recorded on the said list of voters opposite the name of the voter who presents the ballot.

Source: L. 1881: p. 88, § 5. **G.S.** § 680. **R.S. 08:** § 1390. **C.L.** § 8851. **CSA:** C. 45, § 203. **CRS 53:** § 36-4-5. **C.R.S. 1963:** § 36-4-5.

Cross references: For manner of canvassing votes for county officers, see part 1 of article 10 of title 1.

ANNOTATION

Mandamus. Where a county, by an election conducted in substantial conformity to this section, voted to issue bonds as a means of funding its indebtedness, it was held, that the plaintiff, a holder of county warrants constituting a part of such floating

debt, was entitled, upon tendering his warrants, and refusal on the part of the county commissioners to issue to him bonds to the amount of such warrants, to a mandamus to compel them to do so. Bd. of County Comm'rs v. People ex rel. Hurlbut, 10 Colo. 14, 14 P. 47 (1887).

30-26-103. Officers to proceed as authorized after election.

As soon as possible after such election if the bonds shall be voted, the officers mentioned and authorized shall proceed to execute the provisions of this part 1.

Source: L. 1881: p. 89, § 6. **G.S.** § 681. **R.S. 08:** § 1391. **C.L.** § 8852. **CSA:** C. 45, § 204. **CRS 53:** § 36-4-6. **C.R.S. 1963:** § 36-4-6.

30-26-104. Bonds - how executed.

All bonds which may be issued under the provisions of this part 1 shall be signed by the chairman of the board of county commissioners, countersigned by the county treasurer of the county, and attested by the clerk and recorder of said county, and shall bear the seal of the county upon each bond, and shall be numbered and registered in a book kept for that purpose by the county treasurer in the order in which they are issued; each bond shall state upon its face the amount for which the same is issued, to whom issued, and the date of its issuance.

Source: L. 1881: p. 87, § 2. **G.S.** § 677. **R.S. 08:** § 1387. **C.L.** § 8848. **CSA:** C. 45, § 200. **CRS 53:** § 36-4-2. **C.R.S. 1963:** § 36-4-2.

30-26-105. Form of bonds - redemption fund.

The board of county commissioners is authorized to prescribe the form of such bonds, and the coupons thereto, and to provide for the half-yearly interest accruing on such bonds actually issued and delivered; they shall levy annually a sufficient tax to fully discharge such interest; and, for the ultimate redemption of such bonds, they shall levy annually, after nine years from the date of such issuance, such tax upon all the taxable property in their county as shall create a yearly fund equal to ten percent of the whole amount of such bonds issued, which fund shall be called the redemption fund. All taxes for interest on and for the redemption of such bonds shall be paid in cash only and shall be kept by the county treasurer as a special fund to be used in payment of interest on and for the redemption of such bonds only; and such taxes shall be levied and collected as other taxes.

Source: L. 1881: p. 87, § 3. **G.S.** § 678. **R.S. 08:** § 1388. **C.L.** § 8849. **CSA:** C. 45, § 201. **CRS 53:** § 36-4-3. **C.R.S. 1963:** § 36-4-3.

30-26-106. Redemption - order of payment - notice.

It is the duty of the county treasurer, when there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and interest of any such bonds, immediately to call in and pay as many of such bonds and accrued interest thereon as the funds on hand will liquidate. Such bonds shall be paid in the order of their number; and, when any bonds or coupons issued under this part 1 are taken up, it is the duty of such treasurer to certify his action to the board of county commissioners, who shall cancel the same, so that they can be plainly identified, and cause a record to be made of the same. When it is desired to redeem any of such bonds, the county treasurer shall cause to be published for thirty days, in some newspaper at or nearest the county seat of the county and in a newspaper published in the city of Denver, a notice that certain county bonds, by numbers and amounts, will be paid upon presentation, and at the expiration of thirty days such bonds shall cease to bear interest.

Source: L. 1881: p. 88, § 4. **G.S.** § 679. **R.S. 08:** § 1389. **C.L.** § 8850. **CSA:** C. 45, § 202. **CRS 53:** § 36-4-4. **C.R.S. 1963:** § 36-4-4.

Cross references: For clarification of terms and requirements for notice by publication, see part 1 of article 70 of title 24.

PART 2

BONDS - FUNDING AND REFUNDING BY NEW COUNTY

Cross references: For the "Public Securities Refunding Act", see article 56 of title 11.

30-26-201. Fund or refund liabilities.

Any county in this state, formed and established from the territory of another county, or other counties, may fund, or refund, any of the liabilities imposed on such new county by section 4 of article XIV of the state constitution and the law forming and establishing such county, in the

same manner, and with the like force and effect, as if such liabilities were originally contracted, in the form in which they may exist, by such new county.

Source: L. 01: p. 148, § 1. **R.S. 08:** § 1384. **C.L.** § 8862. **CSA:** C. 45, § 214. **CRS 53:** § 36-5-1. **C.R.S. 1963:** § 36-5-1.

30-26-202. County shall assume payment of bonds.

To render the amount, kind, and character of such liabilities definite and certain and fix their status under the funding and refunding laws of this state, the county imposed with the payment thereof, by the proper action of its board of county commissioners entered of record in the proceedings of the board, shall undertake and assume the payment thereof, designate and describe the same, and state their character and amount and the form in which they exist.

Source: L. 01: p. 149, § 2. **R.S. 08:** § 1385. **C.L.** § 8863. **CSA:** C. 45, § 215. **CRS 53:** § 36-5-2. **C.R.S. 1963:** § 36-5-2.

PART 3

BONDS - BUILDINGS, ROADS, OTHER

30-26-300.3. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Registered qualified elector" means an individual who is legally qualified to register to vote in this state and in the county wherein the individual's vote is offered and who has complied with the registration provisions of the "Uniform Election Code of 1992".

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2088, § 257, effective August 6.

30-26-301. Creation of debt for buildings and roads - election - definitions.

(1) When the board of county commissioners of any county deems it necessary to create an indebtedness for the purpose of erecting necessary public buildings, making or repairing public

roads or bridges, developing, maintaining, and operating mass transportation systems, acquiring or building or acquiring and building airports and landing strips including the necessary land therefor and approaches thereto, by an order entered of record specifying the amount required and the object for which such debt is created, they shall submit the question to a vote at a general or special election. The general or special election provided for under this part 3 may be combined with the election on a proposal for a countywide sales tax, use tax, or both, provided for in part 1 of article 2 of title 29. The board shall cause to be posted a notice of such order, which states, among other things, the maximum net effective interest rate at which such bonds may be issued, in some conspicuous place in each voting precinct in the county, for at least thirty days preceding the election, and all persons voting on that question shall vote by separate ballot whereon are placed the words "for county indebtedness" or "against county indebtedness", such ballots to be deposited in a box provided by the board of county commissioners for that purpose.

(2) (a) No county shall contract any debt by loan in any form unless the proposition to create such debt shall first be submitted to and approved by the registered qualified electors of the county.

(b) If a majority of those electors of the county voting at such election vote in favor of the proposition to contract said debt, the board of county commissioners is authorized to contract said debt.

(c) The board of county commissioners of any county shall submit to the registered qualified electors of the county the question of contracting a bonded indebtedness for any one or more of the purposes authorized by law.

(d) The order submitting the question of contracting an indebtedness shall contain a statement of the maximum net effective interest rate at which said indebtedness may be incurred. As used in articles 11, 15, and 17, parts 1, 3 to 6, and 8 of article 20, articles 25 and 26, and part 2 of article 28 of this title 30 and part 2 of article 6 of title 25, article 3 of title 29, part 5 of article 15 of this title 30, and article 5 of title 41, unless the context otherwise requires:

(I) "Net effective interest rate" of a proposed issue of bonds means the net interest cost of said issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities.

(II) "Net interest cost" of a proposed issue of bonds means the total amount of interest to accrue on said bonds from their date of issuance to their respective maturities, plus the amount of any discount below par or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net effective interest rate and net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(e) (I) The board of county commissioners of any county, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may submit at another general or special election either the question of issuing the bonds, or any portion thereof, at a higher maximum net effective interest rate than the maximum interest rate or maximum net effective interest rate approved at the original election, or the question of issuing the bonds, or any portion thereof, to mature over a longer period of time than the maximum period of maturity approved at the original election, or both such questions.

(II) An election held pursuant to this paragraph (e) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question or questions permitted under this paragraph (e).

(III) If the changes submitted are not approved at an election held pursuant to this paragraph (e), such result shall not impair the authority of the board at a later time to issue the bonds originally approved within the limitations established at the first election.

(3) If, upon canvassing the vote, which shall be canvassed in the same manner as the vote for county officers, it appears that a majority of all the votes cast are for county indebtedness, the board of county commissioners shall be authorized to contract the debt in the name of the county. The aggregate amount of indebtedness of any county shall not be in excess of three percent of the actual value, as determined by the assessor, of the taxable property in the county.

Source: G.L. § 448. **G.S.** § 671. **R.S. 08:** § 1364. **C.L.** § 8842. **CSA:** C. 45, § 194. **L. 45:** p. 296, § 3. **CRS 53:** § 36-6-1. **C.R.S. 1963:** § 36-6-1. **L. 70:** p. 137, §§ 3, 4. **L. 71:** pp. 336, 337, §§ 1, 7. **L. 73:** pp. 467, 469, §§ 3, 1. **L. 79:** (1), (2)(e)(I), and (3) amended, p. 1157, § 1, effective May 4. **L. 80:** (2)(c) amended, p. 414, § 20, effective January 1, 1981. **L. 81:** IP(2)(d) amended, p. 1614, § 13, effective June 19. **L. 92:** (2)(c) amended, p. 874, § 102, effective January 1, 1993. **L. 2003:** (3) amended, p. 655, § 1, effective March 20. **L. 2017:** IP(2)(d) amended, (SB 17-228), ch. 246, p. 1042, § 7, effective August 9. **L. 2024:** (1) amended, (SB 24-025), ch. 144, p. 569, § 23, effective July 1, 2025. **L. 2025:** (2)(c) amended, (SB 25-275), ch. 377, p. 2088, § 258, effective August 6.

Cross references: For the manner of canvassing votes for county officers, see part 1 of article 10 of title 1; for the "Uniform Election Code of 1992", see articles 1 to 13 of title 1.

ANNOTATION

Constitutionality. Section 6 of art. XI, Colo. Const., providing that any county may contract a debt by loan by the issuance of bonds for the purpose of liquidating the indebtedness incurred prior to December 31, 1886, does not repeal by implication this section, or prevent counties from funding, under it, valid obligations incurred subsequent to said date, viz., December 31, 1886. Opinion of the Justices, 15 Colo. 421, 24 P. 877 (1890).

Duty to evaluate vote and amount of indebtedness. This section entrusted the power and imposed the duty upon the commissioners to examine, to see and to decide whether or not a favorable vote had been taken, and whether or not the amount of the indebtedness exceeded the limitation, whenever they considered the question of issuing the bonds, and they could not discharge their duty in the issuance of these bonds without a consideration and determination of these questions. Bd. of Comm'rs v. Sutliff, 97 F. 270 (8th Cir. 1899).

"Roads" defined. To restrict the term "roads" to the definition of that term under the conditions of the time, and which had acceptance in the year 1876, when the constitution was adopted, would be most unreasonable, the word has a much broader meaning and may be said to include "overland ways of every character" even though not then envisioned by the framers of the constitution, and the airports of this nation are links in the transportation system, hence runways and landing strips, being a necessary unit of that system, need no longer be regarded as unique or peculiar, hence, they are as logically within the term "roads" as are automobile highways, and the statute authorizing such a bond issue is not unconstitutional. Hale v. Sullivan, 146 Colo. 512, 362 P.2d 402 (1961).

30-26-302. Bond issue - limitation - interest - redemption.

The board of county commissioners, when authorized as provided in section 30-26-301, may make and issue coupon bonds of the county not exceeding the amounts authorized by the electors, payable at the pleasure of the county but absolutely due and payable twenty years after such date, bearing interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable annually or semiannually; such interest and principal, when due, shall be payable at the office of the county treasurer of the county or at such other location as the board of county commissioners may designate. The board of county commissioners shall prescribe the form of said bonds and the coupons thereto; and, to provide for the principal and interest and redemption premiums accruing on the bonds, it shall provide for the levying of a tax which, together with such other revenue, assets, or funds as may be pledged, will be sufficient to pay the principal, interest and redemption premiums, if any, accruing on the bonds.

Source: G.L. § 449. **G.S.** § 672. **L. 1889:** p. 103, § 1. **R.S. 08:** § 1365. **C.L.** § 8843. **CSA:** C. 45, § 195. **CRS 53:** § 36-6-2. **C.R.S. 1963:** § 36-6-2. **L. 70:** p. 139, § 5. **L. 79:** Entire section amended, p. 1158, § 2, effective May 4.

30-26-303. Redemption - notice - interest - order of payment.

When it appears to the board of county commissioners upon examination of the books and accounts of the county treasurer that there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and accrued interest of any of such bonds, it is the duty of such board immediately to call in and pay as many of such bonds and accrued interest thereon as the funds ascertained to be on hand will liquidate, and said board shall thereupon cancel such redeemed bonds and all uncanceled interest coupons issued therewith. The bonds shall be called in and paid in the order of their issuance, as nearly as may be practicable, and when it is desired to redeem any of such bonds by said board it shall cause to be published for thirty days in some newspaper at or nearest the county seat of the county a notice that certain county bonds, specifying the number and amounts, will be paid upon presentation, and at the expiration of such thirty days such bonds shall cease to bear interest.

Source: G.L. § 450. **G.S.** § 673. **R.S. 08:** § 1366. **C.L.** § 8844. **CSA:** C. 45, § 196. **CRS 53:** § 36-6-3. **C.R.S. 1963:** § 36-6-3.

Cross references: For clarification of terms and requirements for notice by publication, see part 1 of article 70 of title 24.

30-26-304. Bonds - signed - attested - sealed - denomination - amount.

The bonds shall be signed by the chairman of the board of county commissioners and attested by the county clerk and recorder and bear the seal of the county upon each bond and shall be numbered and registered in a book kept for that purpose in the order in which they are issued. Each bond shall state upon its face the amount for which the same is issued, to whom issued, and the date of its issuance; but no bond shall be of a lesser denomination than fifty dollars, and, if issued for a greater amount, for some multiple of that sum; and the aggregate amount of such bonds issued shall not exceed the sum entered of record by the board of county commissioners, and any bond issued in excess of said sum shall be null and void.

Source: G.L. § 451. **G.S.** § 674. **R.S. 08:** § 1367. **C.L.** § 8845. **CSA:** C. 45, § 197. **CRS 53:** § 36-6-4. **C.R.S. 1963:** § 36-6-4.

30-26-305. Sale of bonds - rate - redemption - cancellation.

The board of county commissioners has the right to sell any of such bonds, but no bond shall be sold unless for cash, and not then at a discount of more than fifteen percent of its par value. The money arising from the sale of such bonds shall be forthwith used for the objects for which the debt was created, and for no other purpose whatever. When any such bonds or any coupons are redeemed, the board of county commissioners, in the presence of the clerk of said board or his deputy, shall cancel such bonds or coupons by writing the word "canceled" on the face of such bonds or coupons, and such board shall make a record of the proceedings, stating what bonds or coupons were canceled.

Source: G.L. § 452. **G.S.** § 675. **R.S. 08:** § 1368. **C.L.** § 8846. **CSA:** C. 45, § 198. **CRS 53:** § 36-6-5. **C.R.S. 1963:** § 36-6-5.

PART 4

BONDS - REFUNDING

Cross references: For the "Public Securities Refunding Act", see article 56 of title 11.

30-26-401. Refunding bonds authorized.

The board of county commissioners of any county in this state may issue negotiable coupon bonds, to be denominated refunding bonds, for the purpose of refunding any of the bonded indebtedness of such county, whether due or not due, or which may become payable at the option of such county, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness existed on March 30, 1917, or was thereafter created, and there are not funds in the treasury of such county available for the payment or redemption of such bonds; but the amount of such refunding bonds to be issued under the provisions of this part 4 shall first be determined by such board of county commissioners, and a certificate of such determination shall be made and entered in the records of the county prior to the issuance of said refunding bonds.

Source: L. 17: p. 154, § 1. **C.L.** § 8865. **CSA:** C. 45, § 217. **CRS 53:** § 36-7-1. **C.R.S. 1963:** § 36-7-1.

30-26-402. Issuance - no election.

Whenever such board of county commissioners deems it expedient to issue refunding bonds under the provisions of this part 4, such refunding bonds may be issued without the submission of the question of issuing such refunding bonds to a vote of the registered qualified electors of such county.

Source: L. 17: p. 154, § 2. **C.L.** § 8866. **CSA:** C. 45, § 218. **CRS 53:** § 36-7-2. **C.R.S. 1963:** § 36-7-2. **L. 70:** p. 139, § 6.

30-26-403. Resolution for issue - form of bonds - coupons - term.

(1) If the board of county commissioners determines to issue refunding bonds, such board shall thereupon adopt a resolution which shall not be subject to the referendum provisions of any statute providing for the issue of said refunding bonds in accordance with the provisions of this part 4. Such resolution shall fix the date of said refunding bonds, shall designate the denomination thereof, the rate of interest, the maturity date, which shall not be more than twenty-five years from the date of said refunding bonds, and the place of payment, within or without the state of Colorado, of both principal and interest, and shall prescribe the form of said refunding bonds.

(2) Such refunding bonds shall be negotiable in form, shall recite the title of the act under which they are issued, shall be executed in the name of the county and signed by the chairman of the board of county commissioners and countersigned by the county treasurer, with the seal of the county affixed thereto and attested by the county clerk and recorder. The interest accruing on such refunding bonds shall be evidenced by semiannual interest coupons thereto attached, bearing the engraved facsimile signature of the county treasurer, and when so executed such coupons shall be the binding obligations of the county, according to their import.

(3) In the adoption of said resolution providing for the issue of such refunding bonds, the board of county commissioners shall make the principal of the debt payable in equal annual installments during the currency of the period, not exceeding twenty-five years, within which the debt is to be discharged; but the date of maturity of the first installment of the debt shall be not more than five years from the date of said refunding bonds.

Source: L. 17: p. 155, § 3. **C.L.** § 8867. **CSA:** C. 45, § 219. **CRS 53:** § 36-7-3. **C.R.S. 1963:** § 36-7-3.

30-26-404. Disposition of bonds - outstanding canceled.

All such refunding bonds may be exchanged, dollar for dollar, for the bonds to be refunded, or they may be sold at not less than their par value, as directed by the board of county commissioners, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. Such refunding bonds shall not be issued until the outstanding bonds to be refunded have been called in and canceled in an amount equal to or in excess of the bonds so issued, and all accrued interest on any such bonds to be refunded shall be paid before such refunding bonds are issued.

Source: L. 17: p. 156, § 4. **C.L.** § 8868. **CSA:** C. 45, § 220. **CRS 53:** § 36-7-4. **C.R.S. 1963:** § 36-7-4.

30-26-405. Interest - how paid - redemption fund.

The interest accruing on such refunding bonds issued pursuant to the provisions of this part 4 prior to the time when tax levies are available therefor shall be paid out of the general revenues of the county, and, for the purpose of reimbursing such general revenues and for the payment of subsequently accruing interest, the board of county commissioners issuing such refunding bonds or the proper tax-assessing and tax-collecting officers upon whom shall devolve the duty of levying and collecting county taxes shall levy annually a sufficient tax upon all the taxable property in the county fully to discharge such interest, and, for the ultimate redemption of such refunding bonds, they shall levy annually such a tax upon all the taxable property in such county as will create a fund sufficient to discharge each annual installment of such refunding bonds at the maturity thereof, which fund shall be called the redemption fund. All taxes for interest on and for the redemption of such bonds shall be paid in cash only and shall be kept by the county treasurer as a special fund to be used only in payment of the interest upon and for the redemption of such bonds, and such tax shall be levied and collected as other county taxes are levied and collected. The tax provisions for the ultimate redemption of such bonds shall be set forth in the resolution authorizing their issue and shall set forth the years in which such taxes shall be levied for the creation of said redemption fund.

Source: L. 17: p. 156, § 5. **C.L.** § 8869. **CSA:** C. 45, § 221. **CRS 53:** § 36-7-5. **C.R.S. 1963:** § 36-7-5.

30-26-406. No repeal or alteration of resolution.

Any resolution authorizing an issue of refunding bonds under the provisions of this part 4 and providing for the levy of taxes for the payment of the interest upon and the principal of such refunding bonds shall not be altered or repealed until the indebtedness thereby authorized has been fully paid.

Source: L. 17: p. 157, § 6. **C.L.** § 8870. **CSA:** C. 45, § 222. **CRS 53:** § 36-7-6. **C.R.S. 1963:** § 36-7-6.

PART 5

COUNTY CAPITAL IMPROVEMENT TRUST FUNDS

30-26-501. Short title.

This part 5 shall be known and may be cited as the "County Capital Improvement Trust Fund Financing Act".

Source: L. 82: Entire part added, p. 484, § 1, effective July 1.

30-26-502. Legislative declaration.

(1) It is hereby declared to be the public policy of the state to facilitate, assist, and promote the efforts of counties within this state in the planning, construction, acquisition, improvement, equipping, maintenance, and operation of public projects.

(2) It is further the intent of the general assembly:

(a) To authorize counties in this state to finance the acquisition, construction, and improvement of public improvements, buildings, and facilities which such counties are authorized to acquire, construct, and improve;

(b) That this part 5 shall operate only as a grant of additional financing authority and shall not be construed to authorize counties to finance the acquisition, construction, or improvement of any public improvements, buildings, or facilities which such counties are not otherwise authorized to acquire, construct, or improve pursuant to applicable provisions of law;

(c) To vest such counties with all powers that may be necessary to enable them to accomplish such financing purposes, including the power to issue negotiable revenue bonds, notes, and other

obligations payable as set forth in this part 5, which powers in all respects shall be exercised for the benefit of the inhabitants of this state and for the promotion of their health, safety, and welfare.

Source: L. 82: Entire part added, p. 484, § 1, effective July 1.

30-26-503. Definitions.

As used in this part 5, unless the context otherwise requires:

(1) "Board" means the board of county commissioners or other governing body of any county.

(2) "Bonds" means any revenue bonds or other obligations issued by a county pursuant to this part 5 but does not include general obligation bonds.

(3) "County" means any county within this state.

(4) "County capital improvement trust fund" means any one or more of the county capital improvement trust funds established pursuant to this part 5.

(5) "Obligations" means notes, contracts, leases, and refunding obligations issued by a county pursuant to this part 5.

(6) "Person" means any individual, firm, partnership, association, or corporation or two or more or any combination of such entities.

(7) "Political subdivision" means counties, special districts, water conservation districts, irrigation districts, municipal corporations, school districts, and all other political subdivisions of the state.

(8) "Project" means any land, building, facility, or other improvement and all real or personal property, and any undivided or other interest in any of the foregoing, which is acquired, constructed, or improved or which is to be acquired, constructed, or improved by any county with the proceeds of any bonds issued by such county pursuant to this part 5 or with the principal of any county capital improvement trust fund expended by such county pursuant to this part 5, to the extent and only to the extent that such county is authorized to undertake any acquisition, construction, or improvement of such project under the laws of this state.

Source: L. 82: Entire part added, p. 485, § 1, effective July 1.

Cross references: For definitions applicable to this article, see § 30-26-301 (2)(d).

30-26-504. Authority for establishment of county capital improvement trust funds.

(1) Each county is hereby authorized to create a county capital improvement trust fund to be used for the purposes set forth in this part 5.

(2) Moneys on deposit in any county capital improvement trust fund, and the proceeds from the investment of such funds, shall be used solely and exclusively for the purposes authorized by this part 5 and shall be inviolate for any other purpose.

(3) Moneys on deposit in any county capital improvement trust fund shall be under the exclusive control of the board of the county for which such fund shall be established and shall be invested by the county treasurer of such county in accordance with the applicable provisions of laws concerning the investment of county funds. Earnings from the investment of moneys in any county capital improvement trust fund shall remain in such fund until applied in accordance with the provisions of this part 5. Any county may, to the extent otherwise authorized by law, appropriate funds of such county for deposit in such county capital improvement trust fund from any revenues, funds, or moneys of such county which are legally available for such purposes. Any moneys so appropriated by the board for deposit in any county capital improvement trust fund may be invested and reinvested as set forth in this part 5, and all such moneys on deposit in any county capital improvement trust fund shall be applied by the board only in accordance with the provisions of this part 5.

(4) The board of each county for which a county capital improvement trust fund is created may:

(a) Appropriate moneys on deposit in the county capital improvement trust fund of such county for any lawful county project, to the extent that such funds are not otherwise encumbered;

(b) Allocate and distribute among any political subdivision within such county all or any portion of the county capital improvement trust fund of such county for the purpose of assisting any capital improvement to be undertaken by any such political subdivision, to the extent that such funds are not otherwise encumbered;

(c) Pledge to the payment of the principal of, any premium on, and the interest on any bonds issued by such county pursuant to provisions of this part 5 all or any portion of the county capital improvement trust fund of such county; and

(d) Do any and all things necessary to effect the purposes and exercise the powers authorized under the provisions of this part 5.

(5) The board of each county for which a county capital improvement trust fund is established shall prepare guidelines consistent with the provisions of this part 5 for the

allocation, distribution, pledging, investment, and expenditure of any moneys from time to time on deposit in the county capital improvement trust fund established for such county.

(6) If any portion of this part 5 is held unconstitutional by a decision of the Colorado court of appeals, the Colorado supreme court, or any federal court, moneys on deposit in each county capital improvement trust fund shall be transferred to the county general fund; such transfer shall take effect on the day after such decision becomes final.

(7) No moneys deposited in a capital improvement trust fund shall be appropriated, allocated, pledged, or distributed for a project if any statute, ordinance, resolution, or contract otherwise limits or restricts the use of such money for the particular type of project.

Source: L. 82: Entire part added, p. 485, § 1, effective July 1.

30-26-505. Bonds - issuance - terms.

(1) Any county, in addition to all other powers authorized by law, may, from time to time:

(a) Issue revenue bonds, in such principal amounts as the county may deem necessary or appropriate, for the purpose of financing any project, including the payment, funding, or refunding of the principal of, any premium on, and the interest on any bonds issued by such county, whether the bonds or interest to be funded or refunded have or have not become due;

(b) Establish or increase any reserve funds deemed necessary to secure payment of such bonds or interest thereon; and

(c) Appropriate moneys necessary to pay for all other costs or expenses of the county incident to and necessary to carry out its authorized corporate and public purposes powers under this part 5.

(2) Bonds issued pursuant to the authority of this part 5 shall constitute special obligations of the county issuing such bonds and shall be payable solely out of any county capital improvement trust fund moneys or the income from the investment thereof, to the extent that all or a portion of the same are made available for such purpose by the board of the county issuing such bonds. Bonds issued by any county pursuant to the authority of this part 5 may also be payable, in whole or in part, from any funds, revenues, income, or other moneys which are otherwise lawfully available for such purpose and which may be pledged by such county for the purpose of paying the principal of, any premium on, and the interest on its bonds.

(3) Any such bonds may also be payable, in whole or in part, from the revenues and receipts derived from the project financed with such issue of bonds and may be additionally secured by a pledge of any grant, subsidy, or contribution from the United States or any agency or

instrumentality thereof, from the state or any governmental agency thereof, or from any person unless otherwise prohibited by applicable state or federal law.

(4) Whether or not such bonds are of such form and character as to be negotiable instruments under the terms of the "Uniform Commercial Code", title 4, C.R.S., all such bonds are hereby made negotiable instruments within the meaning of and for all the purposes of said title, subject only to the provisions contained in such bonds for registration.

(5) Any such bonds shall be authorized by the board, may be issued in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the state, and be subject for such terms of redemption, with or without premium, as the board may provide.

(6) Any such bonds may be sold at public or private sale at such price or prices and in such manner as the board shall determine.

(7) Any such bonds may be issued under the provisions of this part 5 without obtaining the consent of any department, division, commission, board, bureau, or agency of the state and without any other proceeding or happening of any other conditions for other things than those proceedings, conditions, or things which are specifically required by this part 5, including, in particular, all such bonds, so long as and to the extent that such bonds are payable exclusively from all or any portion of any county capital improvement trust fund created pursuant to this part 5, and such bonds may be issued without the requirement of any approval by the electorate of the county issuing such bonds.

(8) Any such bonds shall not be in any way construed to be a debt or liability of the state or any political subdivision thereof and shall not create or constitute any indebtedness, liability, or obligation to the state or to any such political subdivision or be or constitute a pledge of the faith and credit of the state or of any such political subdivision; but all such bonds, unless funded or refunded by bonds of such county, shall be payable solely from revenues or funds pledged or available for the payment as authorized in this part 5. Each bond issued by a county pursuant to this part 5 shall contain on its face a statement to the effect that the county issuing such bonds is obligated to pay the principal of, any premium on, and the interest on such bonds only from revenues or funds of such county pledged for such payment, that neither the state nor any other political subdivision thereof is obligated to pay such principal of, any premium on, and the interest on such bonds, and that neither the faith and credit of the taxing power of the state nor any political subdivision thereof is pledged for the payment of the principal of, any premium on, and the interest on any such bonds.

(9) All expenses incurred in carrying out the provisions of this part 5 shall be payable solely from the revenues or funds provided or to be provided under the provisions of this part 5, and nothing in this part 5 shall be construed to authorize any county to incur any indebtedness on behalf of or payable by the state or any political subdivision thereof other than such county.

(10) The board of a county may, in any resolution relating to the issuance of any such bonds and in order to secure the payment of such bonds, make such covenants as otherwise authorized by law to do or refrain from doing such acts and things as may be necessary, convenient, and desirable in order to better secure bonds, which covenants will, in the opinion of the board, tend to make such bonds more marketable.

Source: L. 82: Entire part added, p. 486, § 1, effective July 1.

30-26-506. Pledge of revenues, funds, or other property lien.

Any pledge of revenues, moneys, funds, or other property made by a county pursuant to the provisions of this part 5 shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds, or other property so pledged and thereafter received by such county shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the county, irrespective of whether such parties have notice thereof. Any resolution or any other instrument by which a pledge of revenues, moneys, or funds is created shall be filed or recorded with the county.

Source: L. 82: Entire part added, p. 488, § 1, effective July 1.

30-26-507. Personal liability.

Neither the members of the board of a county nor any person executing bonds or notes issued pursuant to this part 5 shall be personally liable on any bonds of such county by reason of the issuance of such bonds.

Source: L. 82: Entire part added, p. 488, § 1, effective July 1.

30-26-508. Bonds - exempt from taxation.

Any bonds issued under the provisions of this part 5, the transfer of any such bonds, and the income from such bonds shall be free from taxation by the state or any political subdivision or other instrumentality of the state.

Source: L. 82: Entire part added, p. 488, § 1, effective July 1.

30-26-509. Annual audit.

Each county for which a county capital improvement trust fund has been established shall prepare and submit, in accordance with the provisions of article 1 of title 29, C.R.S., an annual audit report of its activities with respect to such fund for the preceding fiscal year.

Source: L. 82: Entire part added, p. 488, § 1, effective July 1.

30-26-510. Bonds - eligible for investment.

Bonds issued under the provisions of this part 5 are hereby made securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest moneys, including capital, under the control of or belonging to such entities. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds is authorized by law.

Source: L. 82: Entire part added, p. 489, § 1, effective July 1. **L. 89:** Entire section amended, p. 1130, § 70, effective July 1.

30-26-511. Agreement of counties.

(1) Any county is authorized to enter into agreements with the state or any of its agencies or departments, any of its political subdivisions, any agency or department of the United States, or any person with respect to any project in order to facilitate the financing, acquisition, and

construction of such project and to promote the purposes of this part 5. Such agreements may be for a term covering the life of a project, for any other term, or for any indefinite period. Pursuant to any such agreement, counties or persons may obligate themselves to make payments in amounts which shall be sufficient to enable such counties or persons to pay their expenses and the interest and principal payments (whether at maturity or upon sinking fund redemption) for any bonds issued pursuant to this part 5, to maintain reasonable reserves for debt service, operation and maintenance, and renewals and replacements, and to meet the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture, or other security instrument.

(2) The obligations of a governmental agency or persons under an agreement with the county or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the governmental agency or persons. To the extent provided in agreements with the county, such obligations shall constitute special obligations of the governmental agency or persons and shall be payable solely from the revenues and other moneys derived by the governmental agency or persons.

Source: L. 82: Entire part added, p. 489, § 1, effective July 1.

30-26-512. Effect on inconsistent acts and rules and regulations.

It is the intent of the general assembly that, in the event of any conflict or inconsistency between the provisions of this part 5 and any other statute pertaining to matters established or provided for in this part 5 or in any rules and regulations adopted under this part 5 or under any other statutes, to the extent of such conflict or inconsistency, the provisions of this part 5 and the rules and regulations adopted under this part 5 shall be enforced, and the provisions of any other statute or rules and regulations adopted under such statute shall have no force and effect.

Source: L. 82: Entire part added, p. 489, § 1, effective July 1.

30-26-513. Construction of this part 5.

This part 5 shall be liberally construed to effectuate the legislative intent and the purposes of this part 5 as the complete and independent authority for the performance of each and every act and thing authorized in this part 5. All the powers granted in this part 5 shall be broadly interpreted to effectuate such intent and purposes and shall not be interpreted as a limitation of such powers.

Source: L. 82: Entire part added, p. 489, § 1, effective July 1.

COUNTY PLANNING AND BUILDING CODES

ARTICLE 28

County Planning and Building Codes

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COUNTY PLANNING

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PART 1

COUNTY PLANNING

30-28-101. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Disposition" means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

(2) "Evidence" means any map, table, chart, contract, or other document or testimony, prepared or certified by a qualified person to attest to a specific claim or condition, which evidence shall be relevant and competent and shall support the position maintained by the subdivider.

(3) "Municipal planning commission" means any planning commission or other body charged with the functions of such commission of any city, city and county, or incorporated town, whether created pursuant to the authority of state statute or of home rule charter.

(4) "Planning commission" means either a planning commission or, in a county where there is no planning commission, the board of county commissioners.

(5) "Plat" means a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

(6) "Preliminary plan" means the map of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

(7) "Region" means the area encompassed by a regional planning commission, being the combined land areas subject to the jurisdiction of the participating governmental units.

(8) "Sketch plan" means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning.

(9) "Subdivider" or "developer" means any person, firm, partnership, joint venture, association, or corporation participating as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision.

(10) (a) "Subdivision" or "subdivided land" means any parcel of land in the state which is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land when previously subdivided was accompanied by a filing which complied with the provisions of this part 1 with substantially the same density, or which is divided into two or more parcels, separate interests, or interests in common, unless exempted under paragraph (b), (c), or (d) of this subsection (10). As used in this section, "interests" includes any and all interests in the surface of land but excludes any and all subsurface interests.

(b) The terms "subdivision" and "subdivided land", as defined in paragraph (a) of this subsection (10), shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners.

(c) Unless the method of disposition is adopted for the purpose of evading this part 1, the terms "subdivision" and "subdivided land", as defined in paragraph (a) of this subsection (10), shall not apply to any division of land:

(I) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;

(II) Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the board of county commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this part 1 prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty days after receipt of such notice by the court, then such action may proceed before the court;

(III) Which is created by a lien, mortgage, deed of trust, or any other security instrument;

(IV) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;

(V) Which creates cemetery lots;

(VI) Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;

(VII) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this subsection (10) as only one interest;

(VIII) Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph (VIII).

(IX) Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land which he is to acquire pursuant to the contract;

(X) Which creates a cluster development pursuant to part 4 of this article.

(d) The board of county commissioners may, pursuant to rules and regulations or resolution, exempt from this definition of the terms "subdivision" and "subdivided land" any division of land if the board of county commissioners determines that such division is not within the purposes of this part 1.

(11) "Subdivision improvements agreement" means one or more security arrangements which a county shall accept to secure the actual cost of construction of such public improvements as are required by county subdivision regulations within the subdivision. The "subdivision improvements agreement" may include any one or a combination of the types of security or collateral listed in this subsection (11), and the subdivider may substitute security in order to release portions of the subdivision for sale. The types of collateral which may be used as security under the "subdivision improvements agreement" are as follows: Restrictions on the conveyance, sale, or transfer of any lot, lots, tract, or tracts of land within the subdivision as set forth on the plat or as recorded by separate instrument; performance or property bonds; private or public escrow agreements; loan commitments; assignments of receivables; liens on property; letters of credit; deposits of certified funds; or other similar surety agreements. Security, other than plat restrictions, required under the "subdivision improvements agreement" shall equal in value the cost of improvements to be completed but shall not be required on the portion of the subdivision subject to plat restriction. The county shall not require security arrangements with collateral arrangements in excess of the actual cost of construction of the public improvements. The amount of security may be incrementally reduced as subdivision improvements are completed.

(12) "Unincorporated" means situated outside of cities and towns, so that, when used in connection with "territory", "areas", or the like, it covers, includes, and relates to territory or areas which are not within the boundaries of any city or town.

Source: L. 39: p. 309, § 28. **CSA:** C. 45A, § 28. **CRS 53:** §§ 106-2-28, 106-2-34. **L. 59:** p. 624, § 6. **L. 61:** p. 591, § 1. **C.R.S. 1963:** §§ 106-2-27, 106-2-33. **L. 72:** pp. 499, 500, §§ 4, 5. **L. 73:** pp. 1083, 1084, §§ 1, 1. **L. 74:** (3)(a) amended, p. 334, § 1, effective May 14. **L. 75:** (11) R&RE, p. 988, § 2, effective July 14. **L. 77:** (10)(a) amended, p. 1453, § 1, effective May 24; (10)(c)(II) R&RE, p. 1455, § 1, effective May 26. **L. 83:** (10)(c)(IX) added, p. 1250, § 1, effective May 20. **L. 96:** (10)(c)(X) added, p. 1880, § 1, effective June 6.

Cross references: (1) For municipal planning and zoning, see article 23 of title 31.

(2) For definitions applicable to this article, see § 30-26-301 (2)(d).

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For article, "Inverse Condemnation — A Viable Alternative", see 51 Den. L.J. 529 (1974). For article, "Synthetic Fuels — Policy and Regulation",

see 51 U. Colo. L. Rev. 465 (1980). For article, "Cumulative Impact Assessment of Western Energy Development: Will it Happen?", see 51 U. Colo. L. Rev. 551 (1980). For article, "Winning the Rezoning", see 11 Colo. Law. 634 (1982). For article, "The Emerging Relationship Between Environmental Regulations and Colorado Water Law", see 53 U. Colo. L. Rev. 597 (1982). For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law. 2527 (1982). For article, "Subdivision Improvement Requirements and Guarantees in Colorado", see 14 Colo. Law. 554 (1985). For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987).

No authority to impose subdivision regulations on larger tracts. By the exemption of subsection (10)(b), the general assembly gave the counties no authority to impose subdivision regulations on the larger tracts. Pennobscot, Inc. v. Bd. of County Comm'rs, 642 P.2d 915 (Colo. 1982).

Or to adopt contrary definition of subdivision. Sections 29-20-101 to 29-20-107 do not confer the authority upon a county to adopt a definition of "subdivision" in its regulations which is contrary to the express statutory definition found in subsection (10). Pennobscot, Inc. v. Bd. of County Comm'rs, 642 P.2d 915 (Colo. 1982).

Power to adopt means to defray costs of considering exemption requests. Flowing from the grant of express power to grant exemptions from the provisions of title 30, article 8, is the implied power to adopt means to defray the costs of considering requests for exemptions. Hopkins v. Bd. of County Comm'rs, 193 Colo. 230, 564 P.2d 415 (1977).

The requirement of a metes and bounds description of a tract for purposes of qualifying the tract for exemption from the limitations of § 30-28-110(4)(a) was not unreasonable or arbitrary, and the denial of the exemption was not an abuse of discretion. Hopkins v. Bd. of County Comm'rs, 193 Colo. 230, 564 P.2d 415 (1977).

The exemption described in subsection (10)(b) is inapplicable where property owner seeks to construct multiple residences on the parcel which is more than 35 acres. Wilkinson v. Bd. of County Comm'rs, 872 P.2d 1269 (Colo. App. 1993).

Applied in VanHuysen v. Adams County Bd. of Adjustments, 41 Colo. App. 570, 588 P.2d 392 (1978); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982); Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985).

30-28-102. Unincorporated territory.

The boards of county commissioners of the respective counties within this state are authorized to provide for the physical development of the unincorporated territory within the county and for

the zoning of all or any part of such unincorporated territory in the manner provided in this part 1.

Source: L. 39: p. 294, § 1. **CSA:** C. 45A, § 1. **CRS 53:** § 106-2-1. **C.R.S. 1963:** § 106-2-1.

ANNOTATION

Law reviews. For article, "Effect on Title of Violations of Building Covenants and Zoning Ordinances", see 27 Rocky Mt. L. Rev. 255 (1955). For note, "Colorado Cases on Zoning — Validity of Zoning Undeveloped Areas", see 29 Rocky Mt. L. Rev. 202 (1957). For article, "Colorado Needs a Constitutional and Effective Roadside Sign Law", see 36 Dicta 475 (1959).

Section delegates authority to county commissioners to zone unincorporated areas. This section is a delegation of authority by the state to the boards of county commissioners of the respective counties to zone unincorporated areas of the state. City of Greeley v. Ells, 186 Colo. 352, 527 P.2d 538 (1974).

Authority to zone and appoint planning commission. By this and § 30-28-103 the commissioners of the respective counties are authorized to provide for the zoning of all or any part of the unincorporated territory in their county, and they are authorized to appoint a planning commission. Gordon v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

The Land Use Act (§ 29-20-101, C.R.S., et seq.) and the County Planning Code (§ 30-28-101, C.R.S., et seq.) authorize county regulation of land use in the unincorporated areas of the county. Wilkinson v. Bd. of County Comm'rs, 872 P.2d 1269 (Colo. App. 1993).

Courts should not interfere with decisions of zoning authorities unless the record shows a clear abuse of discretion. Bd. of County Comm'rs v. Simmons, 177 Colo. 347, 494 P.2d 85 (1972).

No clear abuse of discretion shown. Where the question of whether the character of the neighborhood had changed sufficiently to justify a change in zoning was fairly debatable and the zoning decision of a board of county commissioners was supported by some competent evidence, the certiorari record did not show a clear abuse of discretion. Bd. of County Comm'rs v. Simmons, 177 Colo. 347, 494 P.2d 85 (1972).

Standing to challenge of property owner outside territory of zoning authority. An owner of property adjacent to property being rezoned but not within the territory of the zoning authority has standing to challenge the rezoning. Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981).

Applied in Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-103. County planning commission.

(1) Except as otherwise provided in this subsection (1), the board of county commissioners of any county within the state is authorized to appoint a commission of not less than three and not more than nine members, to be known as the county planning commission; except that, in counties of the state having a population of fifteen thousand or less desiring to establish a commission, the board of county commissioners may constitute the commission, or the board of county commissioners may appoint a separate body to serve as the commission. In counties of the state having a population of one hundred thousand or more, the board of county commissioners is authorized to appoint a commission of not less than three and not more than fifteen members.

(2) Each of such members of the commission shall be a resident of the county. The term of appointed members of the commission shall be three years and until their respective successors have been appointed, but the terms of office shall be staggered by making the appointments so that approximately one-third of the members' terms expire each year. Members of the commission on July 1, 1977, shall serve the remainder of the terms for which they were appointed. Thereafter, members shall be appointed pursuant to this subsection (2).

(3) The members of the commission shall receive such compensation as may be fixed by the board of county commissioners, and the board of county commissioners shall provide for reimbursement of the members of the commission for actual expenses incurred. The board of county commissioners shall provide for the filling of vacancies in the membership of the commission and for the removal of a member for nonperformance of duty or misconduct. The board of county commissioners may appoint associate members of such commission, each of whom shall be a resident of the county, and, in the event any regular member is temporarily unable to act owing to absence from the county, illness, interest in any matter before the commission, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.

Source: L. 39: p. 295, § 3. **CSA:** C. 45A, § 3. **CRS 53:** § 106-2-3. **L. 56:** p. 179, § 1. **C.R.S. 1963:** § 106-2-3. **L. 77:** Entire section amended, p. 1456, § 1, effective July 1. **L. 2007:** (1) amended, p. 32, § 1, effective August 3.

ANNOTATION

Commission authority. By this and § 30-28-102 the commissioners of the respective counties are authorized to provide for the zoning of all or any part of the

unincorporated territory in their county, and they are authorized to appoint a planning commission. Gordon v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Adoption of master plan not mandated. The statutory scheme in Colorado does not mandate the adoption of a master plan by a county, but rather it authorizes the board of county commissioners to appoint a planning commission whose duty it is to make and adopt a master plan. Concerned Citizens v. Bd. of County Comm'rs, 636 P.2d 1338 (Colo. App. 1981).

And is not prerequisite to zoning resolution. Absent a statutory requirement that a county adopt a master plan, a zoning resolution need not be preceded by the adoption of a formal written plan. Concerned Citizens v. Bd. of County Comm'rs, 636 P.2d 1338 (Colo. App. 1981).

County cannot enforce provisions of master plan adopted solely by county planning commission when the county planning commission is not a legislative body that affords landowners due process. Bd. of County Comm'rs v. Conder, 927 P.2d 1339 (Colo. 1996).

Although master plans are generally advisory only, a county has the authority to require compliance with a master plan when the county includes compliance with the master plan in its legislatively adopted subdivision regulations so long as the master plan is drafted with sufficient exactitude that proponents of a subdivision are afforded due process, the county does not retain unfettered discretion, and the basis for a county's decision is clear for purposes of a reasoned judicial review. Bd. of County Comm'rs v. Conder, 927 P.2d 1339 (Colo. 1996).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-104. Chairman - rules - staff - information - grants and gifts.

(1) The county planning commission shall elect a chairman from its members, whose term shall be for one year, and the commission may create and fill such other offices as it may determine. The commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable and shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times. The board of county commissioners has the authority to employ experts and a staff and shall pay such expenses as may be deemed necessary for carrying out the powers conferred and the duties prescribed in this article. The county planning commission is directed to make use of the expert advice and information which may be furnished by appropriate federal, state, county, and municipal officials, departments, and agencies and in particular by the director of the division of planning in the department of local affairs of the state of Colorado. All state officials, departments, and agencies having information, maps, and data pertinent to county planning or zoning are authorized and directed to make the same available for the use of the county planning

commission as well as to furnish such other technical assistance and advice as they may have available for such purpose.

(2) The county planning commission is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purposes for which the commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The county planning commission may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequests, and contractual assistance are available on such basis.

Source: L. 39: p. 294, § 2. **CSA:** C. 45A, § 2. **L. 53:** p. 225, § 1. **CRS 53:** § 106-2-2. **L. 59:** p. 616, § 1. **C.R.S. 1963:** § 106-2-2. **L. 67:** p. 72, § 1. **L. 77:** (1) amended, p. 1457, § 2, effective July 1.

ANNOTATION

Function and duty of planning commission initially is to make and adopt a master plan for the physical development of the unincorporated territory of a county. To that end, the commission is empowered to employ experts and to make detailed surveys and studies to accomplish the harmonious development of the county in terms of the general welfare of the inhabitants and the efficient and economic use of its land. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

30-28-105. Regional planning commission.

(1) The governing body or, in charter cities, the officials having charge of public improvements of any municipality or group of municipalities, together with the boards of county commissioners of any counties in which such municipality or group of municipalities is located or of any adjoining counties; or the governing bodies or, in charter cities, the officials having charge of public improvements of any municipality or group of municipalities, acting independently of the boards of county commissioners in which such municipality or group of municipalities is located; or the boards of county commissioners of any two or more counties may cooperate in the creation of a regional planning commission for any region defined as may be agreed upon by said cooperating governing bodies or officials or boards limited to a region within the jurisdiction of said cooperating governing bodies.

(2) The number and qualifications of members of any such regional planning commission, their terms, and the method of their appointment or removal shall be such as may be determined and agreed upon by said cooperating governing bodies or officials and boards; but each participating county or municipality shall be entitled to at least one voting representative. The regional planning commission shall elect its chairman, whose term shall be one year, with eligibility for reelection. The commission may create and fill such other offices as it may determine.

(3) Any board of county commissioners or other county officials or the chief executive officer of any municipality, from time to time, upon the request of the commission and for the purpose of special surveys, may assign or detail to the commission any members of staffs of county or municipal administrative departments or may direct any such department to make for the commission special surveys or studies requested by the commission.

(4) The proportion of the expenses of the regional planning commission to be borne respectively by any governing body cooperating in the establishment and maintenance of the commission shall be such as may be determined and agreed upon by the cooperating bodies or officials or boards, and they are authorized to appropriate or cause to be appropriated their respective shares of such expense.

(5) Within the amounts duly appropriated or otherwise received, the regional planning commission has the power to appoint such clerical and stenographic employees and such technically qualified staff as are necessary to do the work of the commission. The regional planning commission has the further power to contract for such other services, facilities, and personnel as it may require within its means, including the services of professional planners and other consultants.

(6) The regional planning commission is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purposes for which the commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The regional planning commission may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequests, and contractual assistance are available on such basis.

(7) A regional planning commission shall be a body politic and corporate, with power to sue and be sued. It shall be liable on its undertakings, contractual or otherwise. The individual members thereof and the cooperating governing bodies or officials and boards shall not be liable on the undertakings of the commission, contractual or otherwise, regardless of the procedure by which such undertakings, or any of them, may be entered into.

(8) The regional planning commission has the power to adopt articles to regulate and govern its affairs, whether as an incorporated association or otherwise, in the performance of the regional planning functions as defined by statute; such articles shall contain rules pertaining to

the transaction of the commission's business. The regional planning commission shall keep records of its resolutions, transactions, contractual undertakings, findings, and determinations, which records shall be public records. The regional planning commission has and shall exercise all powers necessary or incidental to exercise fully the powers and authority conferred in this section.

(9) A regional planning commission may, to the extent provided for in a resolution adopted by a board of county commissioners, perform the functions of a county planning commission as provided for in this part 1.

(10) Nothing in this part 1 shall preclude participation by any county or municipality in more than one regional planning commission.

Source: L. 39: p. 295, § 4. **CSA:** C. 45A, § 4. **CRS 53:** § 106-2-4. **L. 56:** p. 181, § 1. **L. 59:** p. 617, § 2. **C.R.S. 1963:** § 106-2-4. **L. 72:** p. 498, § 1.

ANNOTATION

Law reviews. For article, "Land Controls in an Urban Society", see 28 Rocky Mt. L. Rev. 502 (1956). For article, "An Engineering — Legal Solution to Urban Drainage Problems", see 45 Den. L.J. 381 (1968). For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For comment, "Regionalism or Parochialism: The Land Use Planner's Dilemma", see 48 U. Colo. L. Rev. 575 (1977).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-106. Master plan - definitions.

(1) It is the duty of a county planning commission to make and adopt a master plan for the physical development of the unincorporated territory of the county, subject to the approval of the county commission having jurisdiction thereof. When a county planning commission decides to adopt a master plan, the commission shall conduct public hearings, after notice of such public hearings has been published in a newspaper of general circulation in the county in a manner sufficient to notify the public of the time, place, and nature of the public hearing, prior to final adoption of a master plan in order to encourage public participation in and awareness of the development of such plan and shall accept and consider oral and written public comments throughout the process of developing the plan.

(2) (a) It is the duty of a regional planning commission to make and adopt a regional plan for the physical development of the territory within the boundaries of the region, but no such plan shall be effective within the boundaries of any incorporated municipality within the region unless such plan is adopted by the governing body of the municipality for the development of its territorial limits and under the terms of paragraph (b) of this subsection (2). When a regional planning commission decides to adopt a master plan, the commission shall conduct public hearings, after notice of such public hearings has been published in a newspaper of general circulation in the region in a manner sufficient to notify the public of the time, place, and nature of the public hearing, prior to final adoption of a master plan in order to encourage public participation in and awareness of the development of such plan and shall accept and consider oral and written public comments throughout the process of developing the plan.

(b) Any plan adopted by a regional planning commission shall not be deemed an official advisory plan of any municipality or county unless adopted by the planning commission of such municipality or county.

(3) (a) The master plan of a county or region, with the accompanying maps, plats, charts, and descriptive and explanatory matter, must show the county or regional planning commission's recommendations for the development of the territory covered by the master plan. The master plan of a county or region is an advisory document to guide land development decisions; however, the master plan or any part thereof may be made binding by inclusion in the county's or region's adopted subdivision, zoning, platting, planned unit development, or other similar land development regulations after satisfying notice, due process, and hearing requirements for legislative or quasi-judicial processes, as appropriate.

(a.3) (I) The county or regional planning commission shall follow the procedures in section 24-32-3209. For purposes of this section, any special district that supplies water to the area covered by the master plan is a neighboring jurisdiction as defined in section 24-32-3209 (1)(h).

(II) In adopting or amending a master plan, the county or regional planning commission shall consider the following, where applicable or appropriate, and any other information deemed relevant by the county or regional planning commission:

(A) The applicable housing needs assessments published pursuant to sections 24-32-3702 (1)(b), 24-32-3703, and 24-32-3704;

(B) The statewide strategic growth report created pursuant to section 24-32-3707;

(C) The natural land and agricultural opportunities report published pursuant to section 24-32-3708; and

(D) The Colorado water plan adopted pursuant to section 37-60-106.3.

(a.5) The master plan must include:

(I) A narrative description of the procedure used for the development and adoption of the master plan, including a summary of any objections to the master plan made by neighboring jurisdictions as defined in section 24-32-3209 (1)(h) and a description of the resolution or outcome of the objections;

(II) (A) A water supply element developed in consultation with entities that supply water for use within the county or region to ensure coordination on water supply and facility planning. Nothing in this section requires the public disclosure of confidential information related to water supply or facilities.

(B) The water supply element must estimate a range of water supplies and facilities needed to support the potential public and private development described in the master plan, and include water conservation policies, to be determined by the county or local governments within a region, which may include goals specified in the Colorado water plan adopted pursuant to section 37-60-106.3 and policies to implement water conservation and other Colorado water plan goals as a condition of development approval, for subdivisions, planned unit developments, special use permits, and zoning changes.

(C) A county or region with a master plan that includes a water supply element shall ensure that its master plan includes water conservation policies at the first amending of the master plan, but not later than July 1, 2025.

(D) Nothing in this subsection (3)(a.5)(II) supersedes, abrogates, or otherwise impairs the allocation of water pursuant to the state constitution or any other provision of law, the right to beneficially use water pursuant to decrees, contracts, or other water use agreements, or the operation, maintenance, repair, replacement, or use of any water facility.

(E) The department of local affairs may hire and employ one full-time employee to provide educational resources and assistance to a county or region that includes water conservation policies in the water supply elements of master plans as required by this subsection (3)(a.5)(II).

(III) A strategic growth element that integrates elements of the master plan to discourage sprawl and promote the development or redevelopment of vacant and underutilized parcels in urban areas to address the demonstrated housing needs of the county or region and mitigate the need for extension of infrastructure and public services to develop natural and agricultural lands for residential uses. The strategic growth element must include:

(A) A description of existing and potential policies and tools to promote strategic growth and prevent sprawl;

(B) An analysis of vacant and underutilized sites that identifies vacant, partially vacant, and underutilized land near existing or planned transit or job centers that could be used for infill development, redevelopment, and new development of housing; assesses the general feasibility of the development or redevelopment of such sites for residential use based on existing and

needed infrastructure, transportation capacity, access to public transit, and public facilities and services to serve such sites; describes the public benefits of the development or redevelopment of such sites to the county or region as an alternative to the development of previously undeveloped natural or agricultural land; and, in a manner that is consistent with the master plan, designates such sites for which development or redevelopment is deemed to be generally feasible for future uses that include residential uses in a manner that addresses the demonstrated housing needs of the county or region at all income levels; and

(C) An analysis of undeveloped sites that identifies previously undeveloped parcels that are not adjacent to developed land, including existing natural and agricultural land, under consideration for future development, and, for a county or region in a metropolitan planning organization established under the "Federal Transit Act of 1998," 49 U.S.C. sec. 5301 et seq., as amended, land outside of census urban areas as defined by the United States bureau of the census; assesses the general feasibility of the development of such sites for residential use based on existing and needed infrastructure, transportation capacity, access to public transit, and public facilities and services to serve such sites; and describes the long-term fiscal impact to the county or region of the construction, ownership, maintenance, and replacement of infrastructure and public facilities and the provision of public services to serve development of such sites;

(IV) The most recent housing action plan or plans adopted by the county or municipalities within the region pursuant to section 24-32-3705; and

(V) For a master plan by a regional planning commission, the most recent version of the master plan required by section 31-12-105 (1)(e) by each municipality that is part of the regional planning commission and a description of how each jurisdiction will integrate that plan into the master plan.

(a.7) (I) A county or region with a master plan shall ensure that its master plan includes a water supply element and a strategic growth element as required by subsection (3)(a.5) of this section at the first amending of the master plan that occurs on or after January 1, 2026, but not later than December 31, 2026. The master plan of a county or region adopted or amended after December 31, 2026, must include a water supply element and strategic growth element as required by subsection (3)(a.5) of this section. The county or region must update the water supply element and strategic growth element no less frequently than every five years.

(II) A county or region with a master plan is not required to include a strategic growth element, if the county or region has not received funding to include the strategic growth element pursuant to section 24-32-3710 and either:

(A) Has a population of twenty thousand or less in the county's unincorporated territory and has experienced negative population change in the most recent decennial census; or

(B) Has a population of five thousand or less in the county's unincorporated territory.

(a.9) The master plan may include, where applicable or appropriate:

(I) The general location, character, and extent of existing, proposed, or projected streets or roads, rights-of-way, viaducts, bridges, waterways, waterfronts, parkways, highways, mass transit routes and corridors, and any transportation plan prepared by any metropolitan planning organization that covers all or a portion of the county or region and that the county or region has received notification of or, if the county or region is not located in an area covered by a metropolitan planning organization, any transportation plan prepared by the department of transportation that the county or region has received notification of and that applies to the county or region;

(II) The general location of public places or facilities, including public schools; culturally, historically, or archaeologically significant buildings, sites, and objects; playgrounds, forests, reservations, squares, parks, airports, aviation fields, military installations; and other public ways, grounds, open spaces, trails, and designated federal, state, and local wildlife areas. For purposes of this section, "military installation" has the same meaning as specified in section 29-20-105.6 (2)(b).

(III) The general location and extent of public utilities, terminals, capital facilities, and transfer facilities, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication, heat, and other purposes and any proposed or projected needs for capital facilities and utilities, including the priorities, anticipated costs, and funding proposals for such facilities and utilities;

(IV) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, modification, or change of use of any of the public ways, rights-of-way, including the coordination of such rights-of-way with the rights-of-way of other counties, regions, or municipalities, grounds, open spaces, buildings, properties, utilities, or terminals referred to in subsections (3)(a.5)(II)(C), (3)(a.9)(I), (3)(a.9)(II), and (3)(a.9)(III) of this section;

(V) Methods for assuring access to appropriate conditions for solar, wind, or other alternative energy sources, including geothermal energy used for water heating or space heating or cooling in a single building, for space heating for more than one building through a pipeline network, or for electricity generation;

(VI) The general character, location, and extent of community centers, townsites, housing developments, whether public or private; the existing, proposed, or projected location of residential neighborhoods and sufficient land for future housing development for the existing and projected economic and other needs of all current and anticipated residents of the county or region; and urban conservation or redevelopment areas. If a county or region has entered into a regional planning agreement, the agreement may be incorporated by reference into the master plan.

(VII) The general location and extent of forests, agricultural areas, flood control areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, flood control, or the protection of urban development;

(VIII) A land classification and utilization program;

(IX) Projections of population change and housing needs to accommodate the projected population for specified increments of time. The county or region may base these projections upon data from the department of local affairs and upon the county's or region's local objectives.

(X) The location of areas containing steep slopes, geological hazards, endangered or threatened species, wetlands, floodplains, floodways, and flood risk zones, highly erodible land or unstable soils, and wildfire hazards. For purposes of determining the location of such areas, the planning commission should consider the following sources for guidance:

(A) The Colorado geological survey for defining and mapping geological hazards;

(B) The United States fish and wildlife service of the United States department of the interior and the parks and wildlife commission created in section 33-9-101 for locating areas inhabited by endangered or threatened species;

(C) The United States army corps of engineers and the United States fish and wildlife service national wetlands inventory for defining and mapping wetlands;

(D) The federal emergency management agency for defining and mapping floodplains, floodways, and flood risk zones;

(E) The natural resources conservation service of the United States department of agriculture for defining and mapping unstable soils and highly erodible land; and

(F) The Colorado state forest service for locating wildfire hazard areas.

(b) Any master plan of a county or region which includes mass transportation shall be coordinated with that of any adjacent county, region, or other political subdivision, as the case may be, to eliminate conflicts or inconsistencies and to assure the compatibility of such plans and their implementation pursuant to this section and sections 30-11-101, 30-25-202, and 30-26-301.

(c) The master plan of a county or region shall also include a master plan for the extraction of commercial mineral deposits pursuant to section 34-1-304, C.R.S.

(d) The master plan of a county or region may also include plans for the development of drainage basins in all or portions of the county or region. When county subdivision regulations require the payment of drainage fees, as provided in section 30-28-133 (11), the master plan shall include the plan for the development of drainage basins.

(e) In creating the master plan of a county or region, the county or regional planning commission may take into consideration the availability of affordable housing within the county

or region. Counties are encouraged to examine any regulatory impediments to the development of affordable housing.

(f) (Deleted by amendment, L. 2007, p. 612, § 1, effective August 3, 2007.)

(g) The master plan of a county or region may include designated utility corridors to facilitate the provision of utilities to all developments in the county or region.

(4) (a) Each county that has not already adopted a master plan and that meets one of the following descriptions shall adopt a master plan within two years after January 8, 2002:

(I) Each county or city and county that has a population equal to or greater than ten thousand and the population of which has demonstrated an increase of either:

(A) Ten percent or more during the calendar years 1994 to 1999; or

(B) Ten percent or more during any five-year period ending in 2000 or any subsequent year;

(II) Each county or city and county that has a population of one hundred thousand or more.

(b) To the extent the county does not meet a description specified in subparagraph (I) or (II) of paragraph (a) of this subsection (4), the counties of Clear Creek, Gilpin, Morgan, and Pitkin shall adopt a master plan within two years after January 8, 2002.

(c) The department of local affairs shall annually determine, based on the population statistics maintained by said department, whether a county is subject to the requirements of this subsection (4), and shall notify any county that is newly identified as being subject to said requirements. Any such county shall have two years following receipt of notification from the department to adopt a master plan.

(d) Once a county is identified as being subject to the requirements of this subsection (4), the county shall at all times thereafter remain subject to the requirements of this subsection (4), regardless of whether it continues to meet any of the descriptions in paragraph (a) of this subsection (4).

(5) A master plan adopted in accordance with the requirements of subsection (4) of this section shall contain a recreational and tourism uses element pursuant to which the county shall indicate how it intends to provide for the recreational and tourism needs of residents of the county and visitors to the county through delineated areas dedicated to, without limitation, hiking, mountain biking, rock climbing, skiing, cross country skiing, rafting, fishing, boating, hunting, shooting, or any other form of sports or other recreational activity, as applicable, and commercial facilities supporting such uses.

(6) The master plan of any county adopted or amended in accordance with the requirements of this section on and after August 8, 2005, shall satisfy the requirements of section 29-20-105.6, C.R.S., as applicable.

(7) Notwithstanding any other provision of this section, no master plan originally adopted or amended in accordance with the requirements of this section shall conflict with a master plan for the extraction of commercial mineral deposits adopted by the county pursuant to section 34-1-304, C.R.S.

(8) A county or regional planning commission shall submit the master plan and any separately approved water supply element and strategic growth element to the division of local government in the department of local affairs. The division of local government shall review master plans and may provide comments to the commission.

(9) (a) As used in this subsection (9):

(I) "Equestrian" has the meaning set forth in section 31-23-206 (9)(a)(I).

(II) "Equestrian zone" means an area that a county determines is suburban or urban and contains:

(A) An equestrian fairground, public equestrian riding arena, public equestrian center, or public riding trail;

(B) An equestrian-centric residential neighborhood where equestrians regularly ride and that was zoned in such a manner as to allow housing privately owned equines but is now being developed for primarily residential use or that is zoned in such a manner as to allow housing privately owned equines;

(C) A keystone property; or

(D) Roads or trails that equestrians use and that are related to an area described in subsections (9)(a)(II)(A) to (9)(a)(II)(C) of this section.

(III) "Keystone property" means a property that has at least one of the following equestrian facilities:

(A) Boarding facilities that provide housing for equines, training for equestrians, or equine service and education programs;

(B) Equine stables that facilitate animal welfare rescue programs or equine therapy programs;

(C) Breeding facilities for equines; or

(D) Nonpublic equestrian venues that provide services to the equestrian community.

(IV) "Suburban or urban" means the population and traffic density are sufficient to cause significant and regular interactions between equestrians and motor vehicles or other residents.

(b) A county planning commission may identify and show on the master plan the location of and character of existing or proposed equestrian infrastructure, venues, and equestrian zones.

(c) A county may organize public events to educate the public about equestrian use of recreational trails and roads and the duties of users of trails and roads with regard to equestrian users. A county may partner with local horse advocacy groups to educate the public about these matters or to hold the public events.

Source: L. 39: p. 296, § 5. **CSA:** C. 45A, § 5. **CRS 53:** § 106-2-5. **L. 59:** p. 618, § 3. **C.R.S. 1963:** § 106-2-5. **L. 66:** p. 41, § 4. **L. 73:** pp. 467, 1054, §§ 4, 17. **L. 79:** (3)(a) amended, p. 1159, § 1, effective May 25. **L. 83:** (3)(d) added, p. 1236, § 4, effective April 23. **L. 97:** (3)(e) to (3)(g) added, p. 414, § 1, effective April 24. **L. 2000:** (1), (2)(a), and (3)(a) amended, p. 869, § 1, effective August 2. **L. 2001, 2nd Ex. Sess.:** (4) and (5) added, p. 21, § 1, effective January 8, 2002. **L. 2002:** (5) amended, p. 1036, § 83, effective June 1. **L. 2005:** (6) added, p. 223, § 2, effective August 8. **L. 2007:** IP(3)(a) and (3)(f) amended and (7) added, p. 612, § 1, effective August 3. **L. 2010:** (3)(a)(II) and (6) amended, (HB 10-1205), ch. 242, p. 1078, § 2, effective August 11. **L. 2012:** IP(3)(a) and (3)(a)(XI)(B) amended, (HB 12-1317), ch. 248, p. 1205, § 12, effective June 4. **L. 2020:** IP(3)(a) and (3)(a)(IV) amended, (HB 20-1095), ch. 82, p. 331, § 1, effective September 14. **L. 2022:** (3)(a)(VI) amended, (SB 22-118), ch. 335, p. 2371, § 5, effective August 10. **L. 2024:** (1) amended, (3)(a) R&RE, and (3)(a.3), (3)(a.5), (3)(a.7), (3)(a.9), and (8) added, (SB 24-174), ch. 290, p. 1964, § 2, effective May 30. **L. 2025:** (9) added, (SB 25-149), ch. 266, p. 1374, § 4, effective August 6.

Cross references: For the legislative declaration in SB 25-149, see section 1 of chapter 266, Session Laws of Colorado 2025.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For comment, "Regionalism or Parochialism: The Land Use Planner's Dilemma", see 48 U. Colo. L. Rev. 575 (1977). For article, "Synthetic Fuels — Policy and Regulation", see 51 U. Colo. L. Rev. 465 (1980). For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987). For article, "Growth Management: Recent Developments in Municipal Annexation and Master Plans", see 31 Colo. Law. 61 (Mar. 2002).

Function and duty of planning commission initially is to make and adopt a master plan for the physical development of the unincorporated territory of a county. To that end, the commission is empowered to employ experts and to make detailed surveys and studies to accomplish the harmonious development of the county in terms of the general welfare of the inhabitants and the efficient and economic

use of its land. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

It is the duty of zoning officials to have proper information available in a public office so that those affected can determine their rights and privileges, as well as the duties and restrictions applicable to them. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Master plan is advisory only. The master plan is only one source of comprehensive planning, and is generally held to be advisory only, and not the equivalent of zoning, nor binding upon the zoning discretion of the legislative body. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

Conceptually, a master plan is a guide to development rather than an instrument to control land use. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

Planning commission's decisions regarding an amendment to the land use plan are advisory only and legislative in nature. Stuart v. Bd. of County Comm'rs, 699 P.2d 978 (Colo. App. 1985).

And does not confer standing to challenge the plan. Considered alone, a master plan is merely advisory and does not affect legally protected interests of property owners so as to confer standing to challenge the plan. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

And is implemented through zoning ordinances. In order to have a direct effect on property rights, the master plan must be further implemented through zoning, with proper notice and hearing. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

The master plan embodies policy determination and guiding principles; the zoning ordinances provide the detailed means of giving effect to those principles. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

Master plan was not used as a guide to future zoning but was used, in effect, to rezone property into a classification in which residences are not permitted. Vick v. Bd. of County Comm'rs, 689 P.2d 699 (Colo. App. 1984).

Although master plans are generally advisory only, a county has the authority to require compliance with a master plan when the county includes compliance with the master plan in its legislatively adopted subdivision regulations so long as the master plan is drafted with sufficient exactitude that proponents of a subdivision are afforded due process, the county does not retain unfettered discretion, and the basis for a county's decision is clear for purposes of a reasoned judicial review. Bd. of County Comm'rs v. Conder, 927 P.2d 1339 (Colo. 1996).

Reference to master plan in land development regulations does not necessarily make the master plan binding. A master plan is generally an advisory document, and language in subsection (3)(a)

stating that a master plan may be made binding by inclusion in a county's or region's adopted subdivision, zoning, platting, planned unit development, or other similar land development regulations does not mean that including a reference to a master plan in a county's land development regulations necessarily makes the master plan binding in all respects. Friends of the Black Forest Pres. Plan, Inc. v. Bd. of County Comm'rs of El Paso, 2016 COA 54, 381 P.3d 396.

Adoption authorized but not mandated. That statutory scheme in Colorado does not mandate the adoption of a master plan by a county, but rather it authorizes the board of county commissioners to appoint a planning commission whose duty it is to make and adopt a master plan. Concerned Citizens v. Bd. of County Comm'rs, 636 P.2d 1338 (Colo. App. 1981).

Adoption not prerequisite to zoning resolution. Absent a statutory requirement that a county adopt a master plan, a zoning resolution need not be preceded by the adoption of a formal written plan. Concerned Citizens v. Bd. of County Comm'rs, 636 P.2d 1338 (Colo. App. 1981).

County had authority under the Local Government Land Use Control Enabling Act, article 20 of title 29 (enabling act), to impose temporary moratorium on developmental approvals concerning certain land within county. The enabling act is designed to give local governments additional or supplemental powers for the purposes set forth in the act, including development in hazardous areas, protecting wildlife habitats, protecting areas of historical or archeological significance, controlling population density, and providing for the phasing in of infrastructure. These special considerations, in many instances, supplement those normally involved in creating a zoning master plan or administering a zoning regimen. Accordingly, the enabling act and this article (county planning statute) have different, though complementary, purposes, and the limitation on temporary zoning in § 30-28-121 does not prohibit or limit a moratorium on development for the purpose of studies under the enabling act. Droste v. Bd. of County Comm'rs of Pitkin, 141 P.3d 852 (Colo. App. 2005), aff'd, 159 P.3d 601 (Colo. 2007).

Applied in City & County of Denver v. Bergland, 517 F. Supp. 155 (D. Colo. 1981); Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985).

30-28-107. Surveys and studies.

In the preparation of a county or regional master plan, a county or regional planning commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the territory within its jurisdiction. The county or regional master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county or region which, in accordance with present

and future needs and resources, will best promote the health, safety, morals, order, convenience, prosperity, or general welfare of the inhabitants, as well as efficiency and economy in the process of development, including such distribution of population and of the uses of land for urbanization, trade, industry, habitation, recreation, agriculture, forestry, and other purposes as will tend to create conditions favorable to health, safety, energy conservation, transportation, prosperity, civic activities, and recreational, educational, and cultural opportunities; will tend to reduce the wastes of physical, financial, or human resources which result from either excessive congestion or excessive scattering of population; and will tend toward an efficient and economic utilization, conservation, and production of the supply of food and water and of drainage, sanitary, and other facilities and resources.

Source: L. 39: p. 297, § 6. **CSA:** C. 45A, § 6. **CRS 53:** § 106-2-6. **C.R.S. 1963:** § 106-2-6. **L. 79:** Entire section amended, p. 1159, § 2, effective May 25.

ANNOTATION

Statute does not support conclusion that consideration of demand-side alternatives is a prerequisite to a finding of reasonableness under statutory section requiring conformity to a county land use plan unless a variance is found reasonable. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 866 P.2d 919 (Colo. 1994).

Assuming energy conservation is a prerequisite to a finding of reasonableness, this assumption does not lead invariably to the conclusion that demand-side alternatives must be taken into account. To the contrary, demand-side alternatives are only one of many possible conservation measures that could be considered. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 866 P.2d 919 (Colo. 1994).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-108. Adoption of plan by resolution.

A county or regional planning commission may adopt the county or regional master plan as a whole by a single resolution or, as the work of making the whole master plan progresses, may adopt parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter which may be included in the plan. The commission may amend, extend, or add to the plan or carry any part of it into greater detail from time to time. The adoption of the plan or any part, amendment, extension, or addition shall be by resolution carried by the affirmative votes of not less than a majority of the entire membership of the commission.

The resolution shall refer expressly to the maps and descriptive matter intended by the commission to form the whole or part of the plan. The action taken shall be recorded on the map and descriptive matter by the identifying signature of the secretary of the commission.

Source: L. 39: p. 297, § 7. **CSA:** C. 45A, § 7. **CRS 53:** § 106-2-7. **C.R.S. 1963:** § 106-2-7.

ANNOTATION

This section deals with the powers and duties of the planning commission. Gordon v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Commission may amend, add, or extend plan once adopted and approved. Once the master plan is adopted by the commission and approved by the board, the commission then may amend, extend, or add to the plan as time and circumstances dictate. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Also, this section is applicable to the resolutions of county commissioners on the subject of zoning property. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Where a request for change in zoning originates before the planning commission this article contemplates that the question before the county commissioners shall be whether the recommendations of the planning commission shall be approved. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

A recommendation of the planning commission must be in the form of a resolution which itself identifies the property to be affected. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Therefore, in the absence of a resolution which identifies the property to be affected, there is nothing properly before the county commissioners to be approved or disapproved. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

In amending the zoning law, the official or body making the amendment is enacting law, binding on the public, and is not merely dealing with the rights of the owners of the particular property affected, and the act is legislative and based on present facts, rather than judicial and dependent on past facts. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Municipal ordinance precluded. Where a statute, such as this section, authorizes the adoption of zoning regulations by means of resolution, the municipality may not act by way of ordinance; but where the statute requires an ordinance for the attainment of

the zoning restriction, a resolution is ineffective to accomplish the desired result. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

The pronouncements of the supreme court in cases dealing with zoning ordinances adopted by cities are applicable to the actions of county commissioners in connection with zoning "resolutions" which they are now authorized to adopt, unless some specific statutory provision authorizes a different procedure. Gorden v. Bd. of County Comm'rs, 152 Colo. 376, 382 P.2d 545 (1963).

Applied in Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-109. Certification of plan.

The county planning commission shall certify a copy of its master plan, or any adopted part or amendment thereof or addition thereto, to the board of county commissioners of the county. The regional planning commission shall certify such copies to the boards of county commissioners of the counties lying wholly or partly within the region. The county or regional planning commission shall certify such copies to the planning commission of all municipalities within the county or region. Any municipal planning commission which receives any such certification may adopt so much of the plan, part, amendment, or addition as falls within the territory of the municipality as a part or amendment of or addition to the master plan of the municipality, and, when so adopted, it shall have the same force and effect as though made and prepared, as well as adopted, by such municipal planning commission.

Source: L. 39: p. 298, § 8. **CSA:** C. 45A, § 8. **CRS 53:** § 106-2-8. **C.R.S. 1963:** § 106-2-8.

ANNOTATION

Law reviews. For comment, "Regionalism or Parochialism: The Land Use Planner's Dilemma", see 48 U. Colo. L. Rev. 575 (1977).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-110. Regional planning commission approval - required when - recording.

(1) (a) Whenever any county planning commission or, if there is none, any regional planning commission has adopted a master plan of the county or any part thereof, no road, park, or other public way, ground, or space, no public building or structure, or no public utility, whether publicly or privately owned, shall be constructed or authorized in the unincorporated territory of

the county until and unless the proposed location and extent thereof has been submitted to and approved by such county or regional planning commission.

(b) In case of disapproval, the commission shall communicate its reasons to the board of county commissioners of the county in which the public way, ground, space, building, structure, or utility is proposed to be located. Such board has the power to overrule such disapproval by a vote of not less than a majority of its entire membership. Upon such overruling, said board or other official in charge of the proposed construction or authorization may proceed therewith.

(c) If the public way, ground, space, building, structure, or utility is one the authorization or financing of which does not, under the law governing the same, fall within the province of the board of county commissioners or other county officials or board, the submission to the commission shall be by the body or official having such jurisdiction, and the commission's disapproval may be overruled by said body by a vote of not less than a majority of its entire membership or by said official. In the case of a utility owned by an entity other than a political subdivision, the submission to the commission shall be by the utility and shall not be by the public utilities commission; however, the commission's disapproval may be overruled by the public utilities commission by a vote of not less than a majority of its entire membership.

(d) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale or lease of or acquisition of land for any road, park, or other public way, ground, place, property, or structure shall be subject to similar submission and approval, and the failure to approve may be similarly overruled.

(e) The failure of the commission to act within thirty days after the date of official submission to it shall be deemed approval, unless a longer period is granted by the submitting board, body, or official.

(2) (a) In any geographic area of common planning jurisdiction, which area consists of part or all of several counties for which a regional plan has been duly adopted, the district, county, or municipal planning commission shall refer to the regional planning commission for review any proposed new or changed land use plan, zoning amendments, subdivision proposals, housing codes, sign codes, urban renewal projects, proposed public facilities, or other planning functions which clearly affect another local governmental unit, or which affect the region as a whole, or which are the subject of primary responsibility of the regional planning commission.

(b) In any geographic area of common planning jurisdiction which involves part or all of only one county for which a regional plan has been duly adopted, the district, county, or municipal planning commission shall refer to the regional planning commission for review any proposed new or changed land use plan, zoning amendments, subdivision proposals, housing codes, sign codes, urban renewal projects, proposed public facilities, or other planning functions which clearly affect another local governmental unit, or which affect the region as a whole, or which are the subject of primary responsibility of the regional planning commission.

(c) The regional planning commission shall, within thirty days after the receipt of such referral, report to the district, county, or municipal planning commission on the effect of the referred matter on the regional plan. This time may be extended by mutual agreement. If, during the review time, a satisfactory adjustment in the referred matter cannot be worked out, the regional planning commission may report to the district, county, or municipal planning commission that this referred matter is inconsistent with the regional plan. In that case, if the district, county, or municipality has theretofore adopted the regional plan for the development of its area, the concurrent vote of two-thirds of the total membership of the district, county, or municipal planning commission shall be required to issue a different independent report on such matters. In all instances, the regional planning commission may also forward its report on the referred matter to the governing body of the governmental unit having authority to decide the matter.

(d) The failure of the regional planning commission to reply within thirty days after the receipt of the referral, or within the agreed extension of time, shall be deemed approval of the matter referred.

(e) A failure on the part of any district, county, or municipal planning commission to refer to the regional planning commission any plan or authorization provided for in paragraphs (a) and (b) of this subsection (2) shall be deemed a determination by such district, county, or municipal planning commission that the matter is local in nature.

(f) The regional planning commission, on its own initiative, may initiate a review of any matter involving its regional planning functions, whether such matter has been referred to it or not, if the subject of the review affects two or more local jurisdictions and may make a report of the result of such review to the governing bodies of the jurisdictions involved.

(g) The provisions of this subsection (2) shall not apply to any proposed business or industrial zoning change of less than twenty acres nor to any proposed residential zoning change or subdivision of less than forty acres.

(3) (a) All plans of streets or highways for public use, and all plans, plats, plots, and replots of land laid out in subdivision or building lots and the streets, highways, alleys, or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the board of county commissioners for review and subsequent approval, conditional approval, or disapproval. It is not lawful to record any such plan or plat in any public office unless the same bears thereon, by endorsement or otherwise, the approval of the board of county commissioners and after review by the appropriate planning commission.

(b) The approval of said plan or plat by such commission shall not be deemed an acceptance of the proposed dedication by the public. Such acceptance, if any, shall be given by action of the governing body of the municipality or by the board of county commissioners. The owners and

purchasers of such lots shall be presumed to have notice of public plans, maps, and reports of such commission affecting such property within its jurisdiction.

(4) (a) Any subdivider, or agent of a subdivider, who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the board of county commissioners and recorded or filed in the office of the county clerk and recorder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of or interest in subdivided land which is sold. All fines collected under this paragraph (a) shall be credited to the general fund of the county. No person shall be prosecuted, tried, or punished under this paragraph (a) unless the indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen months after the recordation or filing in the office of the county clerk and recorder of the instrument transferring or selling such subdivided land. The board of county commissioners may provide for the enforcement of subdivision regulations by means of withholding building permits. No plat for subdivided land shall be approved by the board of county commissioners unless at the time of the approval of platting the subdivider provides the certification of the county treasurer's office that all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid.

(b) The board of county commissioners of the county in which the subdivided land is located has the power to bring an action to enjoin any subdivider from selling subdivided land before a final plat for such subdivided land has been approved by the board of county commissioners.

(c) The board of county commissioners shall distribute, or cause to be distributed, the sets of plans or plats submitted to the agencies as referred to in section 30-28-136 (1).

(d) Any violation of paragraph (a) of this subsection (4) is prima facie evidence of a fraudulent land transaction and shall be grounds for the purchaser to void the transfer or sale.

(e) This subsection (4) applies only with respect to parcels of land less than thirty-five acres in area.

(5) (a) Notice of the filing of preliminary plans of any type required by this section to be submitted to a district, regional, or county planning commission or to the board of county commissioners, if the situs of these plans lies wholly or partially within two miles of the corporate limits of a municipality but not within the corporate limits of another municipality, shall be referred to the town or city clerk of such municipality by the county planning commission or, if there be none, by the board of county commissioners. Within fourteen days of the receipt of such plans, the municipality, by action of its city council or town board, or, if one exists, by action of its planning commission, may make its recommendations to the board of county commissioners, which shall forward the same to the district, regional, or county planning commission, if any. Failure of the town board, city council, or agents designated by them to

make any recommendation within fourteen days of the receipt of such plans shall constitute waiver of its right to make such recommendation.

(b) If such recommendation is made by the municipality, it shall be taken into consideration by the board of county commissioners and district, regional, or county planning commission, if any, before action is taken upon the plans. The board of county commissioners and district, regional, or county planning commission, if any, shall take no action on such plans until the recommendation of the municipality is received or until fifteen days after receipt of the preliminary plans, whichever is sooner.

Source: L. 39: p. 298, § 9. **CSA:** C. 45A, § 9. **CRS 53:** § 106-2-9. **L. 59:** p. 619, § 4. **L. 61:** p. 592, § 3. **C.R.S. 1963:** § 106-2-9. **L. 72:** pp. 498, 499, §§ 2, 3. **L. 79:** (4)(a) amended, p. 1166, § 1, effective June 15. **L. 83:** (1)(c) amended, p. 1252, § 1, effective June 3; (4)(a) and (4)(b) amended and (4)(d) and (4)(e) added, p. 1250, § 2, effective July 1.

Cross references: For required monumentation within a subdivision before sales contract is executed, see § 38-51-105 (3) and (4).

ANNOTATION

Law reviews. For article, "Recent Developments in Zoning Law in Colorado", see 39 Dicta 211 (1962). For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For article, "Inverse Condemnation — A Viable Alternative", see 51 Den. L.J. 529 (1974).

The powers of the board of county commissioners must be construed strictly. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Express and implied county powers. As a political subdivision of the state, a county possesses only those powers which are expressly granted to it and those implied powers which are reasonably necessary to execute the express powers. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

One of the purposes of this section is to provide a method by which the county through its planning commission can inform an advise other governmental units of the effects of their proposed actions upon the county and its residents. Blue River Defense Comm. v. Town of Silverthorne, 33 Colo. App. 10, 516 P.2d 452 (1973).

This section does not provide that county approval of a plat is sufficient in itself to permit construction of any improvement. The effect of the approval and recording of a plat is to permit the owner to transfer or sell land by reference to the plat without penalty. Beyond that, the

approval has no specific effect by statute. SK Fin. SA v. La Plata County, Bd. of Comm'rs, 126 F.3d 1272 (10th Cir. 1997).

It is incumbent upon entity having jurisdiction over project to submit proposal to county planning commission, even though such entity has authority to later override the planning commission's disapproval. Blue River Defense Comm. v. Town of Silverthorne, 33 Colo. App. 10, 516 P.2d 452 (1973).

In order that county residents may present objections and views. Even though a town may affirmatively overrule a county's decision regarding the town's proposed construction of a sewage plant, the residents of the county are entitled to an opportunity to present their objections and views and to have these considered as part of the planning commission's approval or disapproval and to require that if construction is to proceed, the town must determine to proceed in the face of county's objection. Blue River Defense Comm. v. Town of Silverthorne, 33 Colo. App. 10, 516 P.2d 452 (1973).

Subsection (1)(a) of this section is limited by the public utilities commission's exercise of its police power to regulate transmission lines in the interest of public safety pursuant to § 40-4-106. Mtn. View Elec. Ass'n v. Pub. Utils. Comm'n, 686 P.2d 1336 (Colo. 1984).

Subsection (4) is in derogation of the common law and must be construed strictly. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Although subsection (4) does not address who bears the burden of obtaining a survey and exemption, the trial court possesses broad discretion in fashioning equitable remedies and did not abuse its discretion in ordering that the defendants shall bear the cost of the survey and the responsibility for obtaining the exemption required prior to the sale of a subdivided parcel of land. Schreck v. T&C Sanderson Farms, Inc., 37 P.3d 510 (Colo. App. 2001).

Subsection (4)(a) of this section is constitutional. Hopkins v. Bd. of County Comm'rs, 193 Colo. 230, 564 P.2d 415 (1977).

General assembly intended the permitting process under § 24-65.1-501 to apply to utility projects that involve designated activities of state interest and this section to apply to any other utility project. Colo. Springs v. Eagle Cty. Bd. of County Comm'rs, 895 P.2d 1105 (Colo. App. 1994).

Restriction on free alienation of property. The statutory provision requiring approval of the plat by a board prior to the conveyance places a restriction on the free alienation of property, which is one of the essential attributes of common-law property ownership. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Board remedies limited. The general assembly has clearly and expressly established the remedies available to the board in order to enforce its subdivision requirements, and they are so limited. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Subsection (4) specifies the relief a county would be entitled to where land is

transferred in violation of the terms of this section; namely, injunction prior to sale or initiation of prosecution for a misdemeanor following sale. Bd. of County Comm'rs v. Pfeifer, 35 Colo. App. 89, 532 P.2d 51 (1974), modified, 190 Colo. 275, 546 P.2d 946 (1976).

Subsection (4)(a) confers no power on court to set aside conveyance at request of board. Hinton v. Lake Fork Dev. Co., 35 Colo. App. 94, 531 P.2d 974 (1974), aff'd, 190 Colo. 394, 548 P.2d 122 (1976).

Word "enjoin" as used in subsection (4)(b) does not authorize the setting aside of a conveyance which occurred without the filing of a plat. Bd. of County Comm'rs v. Pfeifer, 35 Colo. App. 89, 532 P.2d 51 (1974), modified, 190 Colo. 275, 546 P.2d 946 (1976).

Although C.R.C.P. 65(f), provides for the issuance of a mandatory injunction, the strict construction of subsection (4) precludes the availability of such relief to a county. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Misdemeanor and fine adequate. A person who violates subsection (4)(a) may be fined and found guilty of a misdemeanor, but a county has no authority under subsection (4)(b) to seek the setting aside of a conveyance. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

This section creates a problem for the counties in preventing the sales of land where the sale is completed and the deed recorded before the county has had the opportunity to secure an injunction. However, the general assembly has sought to deter violations by making such conduct a misdemeanor. The general assembly apparently determined that this would be an adequate remedy. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Continuing violation. Ordinarily, actual or proposed use itself would constitute "violation" under this section. However, where alleged violation is the failure to secure the approval of the plat by the board, this violation will continue until the board actually approves the plat and, therefore, the board's claim for relief adequately pleaded the necessary facts upon which relief may be granted. Bd. of County Comm'rs v. Pfeifer, 190 Colo. 275, 546 P.2d 946 (1976).

Town exercising eminent domain beyond corporate limits must comply with section. A town must comply with county zoning procedures enunciated in this section when the town exercises its power of eminent domain for construction of sewage facilities beyond its corporate limits pursuant to § 38-6-122. Blue River Defense Comm. v. Town of Silverthorne, 33 Colo. App. 10, 516 P.2d 452 (1973).

Disregard of zoning regulations. Even without definite statutory direction, as found in this section, courts of last resort have recognized that districts, authorities, and other state authorized governmental subdivisions have the power to overrule or disregard the restrictions of county or municipal zoning regulations. Reber v. S. Lakewood San. Dist., 147 Colo. 70, 362 P.2d 877 (1961); Hygiene Fire Prot. Dist. v. Bd. of County Comm'rs, 205 P.3d 487 (Colo. App. 2008), aff'd, 221 P.3d 1063 (Colo. 2009).

BOA did not abuse its discretion by not requiring location and extent review prior to approval of mountain roller coaster development. Subsection (1)(a) and the regional development code contain a single express exception to the general rule that location and extent review is required only for public projects. The general assembly did not intend to include other privately owned entities, such as parks and recreation facilities, within their reach. Apart from one table in the code, every other indication in the code is that only public projects and (and privately owned utilities) are subject to location and extent review. The BOA concluded as much when it affirmed the staff decision without ordering a location and extent review. That decision was not an abuse of the BOA's discretion or a misunderstanding of the code. Yakutat Land Corp. v. Langer, 2020 CO 30, 462 P.3d 65.

Statutory county may not refuse to process an otherwise complete application for location and extent review of a public project under subsection (1)(a) on the basis that the applicant political subdivision must first seek modification of a planned unit development (PUD). The override authority of political subdivisions with special statutory purposes, codified in subsection (1), is applicable to the PUD act. Bd. of County Comm'rs v. Hygiene Fire Prot. Dist., 221 P.3d 1063 (Colo. 2009).

The extent and exact location as referred to in this section could not be determined in eminent domain proceedings until the question of necessity had been decided. Miller v. Pub. Serv. Co., 129 Colo. 513, 272 P.2d 283 (1954).

Application by town to the state water pollution control commission for approval of location for sewage treatment facilities did not constitute submission to the county planning commission as contemplated by this section where one page of the application contained a signature of approval on behalf of the planning commission. Blue River Defense Comm. v. Town of Silverthorne, 33 Colo. App. 10, 516 P.2d 452 (1973).

Denver did not need to first obtain the consent of Arapahoe county to the acquisition, for an airport, of lands already zoned for airport purposes by the Arapahoe county officials. City & County of Denver v. Bd. of Comm'rs, 113 Colo. 150, 156 P.2d 101 (1945).

The master plan is only one source of comprehensive planning, and is generally held to be advisory only, and not the equivalent of zoning, nor binding upon the zoning discretion of the legislative body. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

The requirement of a metes and bounds description of a tract for purposes of qualifying the tract for exemption from the limitations of subsection (4)(a) was not unreasonable or arbitrary, and the denial of the exemption was not an abuse of discretion. Hopkins v. Bd. of County Comm'rs, 193 Colo. 230, 564 P.2d 415 (1977).

Statute as basis for jurisdiction. See Bd. of County Comm'rs v. Hinton, 190 Colo. 394, 548 P.2d 122 (1976).

Applied in McArthur v. Zabka, 177 Colo. 337, 494 P.2d 89 (1972); Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981).

30-28-111. Zoning plan.

(1) The county planning commission of any county may, and upon order by the board of county commissioners in any county having a county planning commission shall, make a zoning plan for zoning all or any part of the unincorporated territory within such county, including both the full text of the zoning resolution and the maps, and representing the recommendations of the commission for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes. To the end that adequate safety may be secured, the county planning commission may include in said zoning plan provisions establishing, regulating, and limiting such uses on or along any storm or floodwater runoff channel or basin as such storm or floodwater runoff channel or basin has been designated and approved by the Colorado water conservation board in order to lessen or avoid the hazards to persons and damage to property resulting from the accumulation of storm or floodwaters.

(2) The county planning commission or the board of adjustment of any county, in the exercise of powers pursuant to this article, may condition any portion of a zoning resolution, any amendment thereto, or any exception to the terms thereof upon the preservation, improvement, or construction of any storm or floodwater runoff channel designated and approved by the Colorado water conservation board.

Source: L. 39: p. 299, § 10. **CSA:** C. 45A § 10. **CRS 53:** § 106-2-10. **C.R.S. 1963:** § 106-2-10. **L. 66:** p. 42, § 5. **L. 79:** (1) amended, p. 1160, § 3, effective May 25.

ANNOTATION

Law reviews. For article, "Winning the Rezoning", see 11 Colo. Law. 634 (1982). For article, "Judicial Review, Referral and Initiation of Zoning Decisions", see 13 Colo. Law. 387 (1984). For article, "Substantive Due Process and Zoning Decisions", see 25 Colo. Law. 71 (Mar. 1996).

In Colorado zoning resolutions by counties are authorized by statute which have been held constitutional. Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953).

And the principal constitutional limitation is that zoning provisions must

be reasonable and for the promotion of the public welfare, this must be determined by the court from the facts, circumstances, and locality in the particular case. Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953).

Zoning regulations must bear a real and substantial relationship to the public health, safety, morals, or welfare. Bd. of County Comm'rs v. Echternacht, 194 Colo. 311, 572 P.2d 143 (1977).

The purpose of this section is to regulate the density of population and use of lands, and where not so designated, the act clearly implies such intended purposes. Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953).

Courts will indulge every intendment in favor of a zoning resolution and that the presumption of constitutionality casts the heavy burden upon one who seeks a declaration of invalidity of proving beyond a reasonable doubt that the resolution is unconstitutional. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972); Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

A zoning plan is presumed to be constitutional, and one challenging such a plan has the burden of demonstrating its unconstitutionality. Bd. of County Comm'rs v. Echternacht, 194 Colo. 311, 572 P.2d 143 (1977).

To sustain an attack upon the validity of a zoning limitation, the aggrieved property owner must show that the enforced restriction upon his property will preclude its use for any purpose to which it is reasonably adapted, so where the reasonableness of a zoning ordinance is fairly debatable, it must be upheld. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

And a board of county commissioners, as the legislative body, has a wide prerogative in classifying and regulating uses of land for trade, industry, recreation, and other purposes, and it is not the function of the courts to determine how uses shall be defined or what uses shall be permitted in various districts under comprehensive zoning resolutions. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

Thus, whether one use of land is more or less objectionable than another is for legislative determination in classifying land uses in respective zoning districts. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

And a zoning ordinance is not to be held unconstitutional because it prohibits the most desirable and convenient use of the land. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

Nor is a zoning ordinance required to permit most profitable use of land. The due process and just compensation clauses of the state and federal constitutions do not require that zoning ordinances permit a landowner to make the most profitable use of his property. For there to be a taking, the landowner must show he has been deprived of all reasonable uses of his land. C.F. Lytle Co. v. Clark, 491 F.2d 834 (10th Cir. 1974).

No denial of due process or equal protection. Where land users make no showing that other land users within the same zoning district are permitted to do what they have been denied the right to do, a court finds no denial of due process or equal protection. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

And where zoning regulations relating to mineral conservation districts provide for sufficient uses, such uses of land are limited, but limitation upon land use is one of the fundamental purposes of zoning necessary to achieve the purposes of the mineral conservation district, and such regulations, on their face, do not amount to a taking of property without due process of law. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

Submission to county board required. This section does require the county planning commission, when it formulates a zoning plan or plans, to submit both the full text of the zoning resolution and the maps representing its recommendations to the board of county commissioners. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

The fact that the planning department and not the planning commission itself prepared zoning plan does not violate the provision of this section requiring the planning commission to make a zoning plan. Raygor v. Bd. of County Comm'rs, 21 P.3d 432 (Colo. App. 2000).

Minimizing adverse traffic conditions is a legitimate zoning objective. Western Paving Const. Co. v. Bd. of County Comm'rs, 689 P.2d 703 (Colo. App. 1984).

The regulation of the number of families to a given lot area is of vital importance to the orderly development of a rapidly growing territory adjoining a city, particularly for reasons of sanitation therein. Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953).

Landowner cannot create his own hardship and then require that zoning regulations be changed to meet that hardship. C.F. Lytle Co. v. Clark, 491 F.2d 834 (10th Cir. 1974).

Master plan not binding on zoning discretion. The master plan in only one source of comprehensive planning, and is generally held to be advisory only, and not the equivalent of zoning, nor binding upon the zoning discretion of the legislative body. Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

Applied in Western Paving Constr. Co. v. Bd. of County Comm'rs, 181 Colo. 77, 506 P.2d 1230 (1973); Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); C & M Sand & Gravel v. Bd. of County Comm'rs, 673 P.2d 1013 (Colo. App. 1983).

30-28-112. Certification of plan - hearings.

The county planning commission shall certify a copy of the plans for zoning all or any part of the unincorporated territory within the county, or any adopted part or amendment thereof or addition thereto, to the board of county commissioners of the county. After receiving the certification of said zoning plans from the commission and before the adoption of any zoning resolutions, the board of county commissioners shall hold a public hearing thereon, the time and place of which at least fourteen days' notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps so certified by the county planning commission may be examined. No substantial change in or departure from the text or map so certified by the county planning commission shall be made unless such change or departure is first submitted to the certifying county planning commission for its approval, disapproval, or suggestions and, if disapproved, shall receive the favorable vote of not less than a majority of the entire membership of the board of county commissioners. The county planning commission shall have thirty days after such submission within which to send its report to the board of county commissioners.

Source: L. 39: p. 299, § 11. **CSA:** C. 45A, § 11. **CRS 53:** § 106-2-11. **C.R.S. 1963:** § 106-2-11. **L. 92:** Entire section amended, p. 965, § 4, effective June 1.

ANNOTATION

Legislative intent was to provide the board with expertise of the commission in the form of recommendations on each specific amendment to that plan. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

If an amendment is proposed by the planning commission, this section applies. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Section applies if amendment intended to alter all zoned areas. This section is applicable where the proposed amendment is intended to alter the original zoning plan in comprehensive fashion and in a manner which would affect all zoned areas. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Substantially altered amendment resubmitted to commission. If the board of county commissioners concludes that an amendment should be substantially altered, then it must be resubmitted to the planning commission in order that the county commissioners receive the recommendations of the planning commission on the revised amendment which the board proposes to adopt. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd

sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Resubmission not required for nonfundamental changes. Where the resolution proposed by the county planning commission was most comprehensive, but it proposed numerous classifications for zoning districts, including five classes of each district, and the board of county commissioners eased the restrictions relating to the location of fur farms, kennels, portable sawmills, and veterinary buildings in an agricultural and forestry district, the change was not so fundamental in nature as to in any wise materially alter the basic overall zoning policy contained in the resolution of the board, and did not necessitate a resubmission of the matter to the commission. Grant v. Bd. of County Comm'rs, 164 Colo. 69, 432 P.2d 762 (1967).

Public hearing. This section provides that before the adoption of any part of a zoning plan there shall be a public hearing thereon the time and place of which at least 30 days notice shall be given by one publication in a newspaper of general circulation in the county, and such notice shall state the place at which the text and maps so certified by the county planning commission may be examined. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Legislative intent as to publicity. The legislative intent very properly was and is that overall plans or changes should be given such publicity as will reasonably inform those owners affected, as well as the public, of what is proposed. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Notice must be clear, definite, explicit, and not ambiguous; and unless its meaning can be apprehended without explanation or argument, it cannot be said to be clear. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

The plain language of this section does not require a board of county commissioners to give notice after the date the plan is certified by the planning commission. Rather, the plain language requires only that the public receive 14 days' advance notice of the hearing. Raygor v. Bd. of County Comm'rs, 21 P.3d 432 (Colo. App. 2000).

Notice adequate. Where all who appeared for the "first" meeting necessarily learned that the earlier date was incorrect, and presumably, if they made any inquiry, also ascertained that the actual hearing would be held two days later, and the public hearing was exceedingly well attended with about one-half of those persons present opposing with the remaining one-half testifying in support of the resolution, the notice in the instant case was not defective and incorrectly dated notice did not neutralize the "valid" first notice. Grant v. Bd. of County Comm'rs, 164 Colo. 69, 432 P.2d 762 (1967).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-113. Regulation of size and use - districts - definitions - repeal.

(1) (a) Except as otherwise provided in section 34-1-305, C.R.S., when the county planning commission of any county makes, adopts, and certifies to the board of county commissioners plans for zoning the unincorporated territory within any county, or any part thereof, including both the full text of a zoning resolution and the maps, after public hearing thereon, the board of county commissioners, by resolution, may regulate, in any portions of such county that lie outside of cities and towns:

(I) The location, height, bulk, and size of buildings and other structures;

(II) The percentage of lots that may be occupied;

(III) The size of yards, courts, and other open spaces;

(IV) The uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes;

(V) Access to sunlight for solar energy devices; and

(VI) The uses of land for trade, industry, residence, recreation, or other purposes and for flood control.

(b) (I) In order to accomplish such regulation, the board of county commissioners:

(A) May divide the territory of the county that lies outside of cities and towns into districts or zones of such number, shape, or area as it may determine, and, within such districts or any of them, may regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land; and

(B) May require and provide for the issuance of building permits as a condition precedent to the right to erect, construct, reconstruct, or alter any building or structure within any district covered by such zoning resolution.

(II) (A) Except as otherwise provided in this section, the aggregate of all charges or other related or associated fees a county shall impose or assess to install an active solar energy system or geothermal energy system shall not exceed the lesser of the county's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system, or that exceed the county's actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system. A county may increase its fees or other charges as authorized by this subsection (1)(b)(II) by no more than five percent on an annual basis until the five hundred dollar limitation specified in this subsection (1)(b)(II) is

achieved. The county shall clearly and individually identify all fees and taxes assessed on an application subject to this subsection (1)(b)(II) on the invoice. The general assembly hereby finds that there is a statewide need for certainty regarding the fees that can be assessed for permitting such devices or systems, and therefore declares that this subsection (1)(b)(II) is a matter of statewide concern. This subsection (1)(b)(II) is repealed, effective December 31, 2029.

(B) In the case of a nonresidential application, on an individual installation basis only, if the county incurs actual costs for issuing the permit that are greater than one thousand dollars, the county is entitled to recovery of its actual costs for issuing the permit by submitting in writing and disclosing to the applicant for the particular permit proof of the county's actual costs.

(C) As used in this subsection (1)(b)(II), "active solar energy system" means a single system that contains electric generation, a thermal device, or is an energy storage system as defined in section 40-2-202 (2), and "geothermal energy system" means a system that uses geothermal energy for water heating or space heating or cooling in a single building, for space heating for more than one building through a pipeline network, or for electricity generation.

(2) The county planning commission may make and certify a single plan for the entire unincorporated portion of the county or separate and successive plans for those parts which it deems to be urbanized or suitable for urban development and those parts which, by reason of distance from existing urban communities or for other causes, it deems suitable for nonurban development. Any resolution adopted by the board of county commissioners may cover and include the unincorporated territory covered and included in any such single plan or in any of such separate and successive plans. No resolution covering more or less than the territory covered by any such certified plan shall be adopted or put into effect until and unless it is first submitted to the county planning commission which certified the plan to the board of county commissioners and is approved by said commission or, if disapproved, receives the favorable vote of not less than a majority of the entire membership of such board. All such regulations shall be uniform for each class or kind of building or structure throughout any district, but the regulations in any one district may differ from those in other districts.

Source: L. 39: p. 300, § 12. **CSA:** C. 45A, § 12. **CRS 53:** § 106-2-12. **C.R.S. 1963:** § 106-2-12. **L. 66:** p. 43, § 6. **L. 73:** p. 1054, § 18. **L. 79:** (1) amended, p. 1160, § 4, effective January 1, 1980. **L. 2008:** (1) amended, p. 892, § 1, effective May 20. **L. 2011:** (1)(b)(II) amended, (HB 11-1199), ch. 311, p. 1518, § 2, effective June 10. **L. 2017:** (1)(b)(II) amended, (SB 17-179), ch. 170, p. 621, § 2, effective August 9. **L. 2021:** (1)(b)(II) amended, (HB 21-1284), ch. 327, p. 2090, § 3, effective September 7. **L. 2022:** (1)(b)(II)(A) and (1)(b)(II)(C) amended, (SB 22-118), ch. 335, p. 2371, § 6, effective August 10.

Cross references: (1) In 2011, subsection (1)(b)(II) was amended by the "Fair Permit Act". For the short title, see section 1 of chapter 311, Session Laws of Colorado 2011.

(2) For the legislative declaration in HB 21-1284, see section 1 of chapter 327, Session Laws of Colorado 2021.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974).

The limitations set forth in this section necessary regulate the density and distribution of population. Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953).

State has specifically granted county commissioners the authority to regulate, by resolution, the uses of land in unincorporated areas for trade, industry, residence, recreation, or other purposes, and for flood control, authorizing the establishment of districts or zones in order to accomplish such regulation. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973); Di Salle v. Giggal, 128 Colo. 208, 261 P.2d 499 (1953); Crittenden v. Hasser, 41 Colo. App. 235, 585 P.2d 928 (1978).

Parcel by parcel delineation and regulation of land use does not invalidate zoning regulations; nor does it constitute prohibited "spot zoning." Carron v. Bd. of County Comm'rs, 976 P.2d 359 (Colo. App. 1998).

And establishment of flood control district and mineral conservation district was within powers granted County commissioners to regulate uses of land in unincorporated areas. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

Regulations relating to mineral conservation districts do not so limit uses of land included in such districts as to be unconstitutional on their face or as applied. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

Highest and best use not test of validity of regulation. Although other uses of plaintiff's land would not be as profitable as mobile home use, validity of zoning regulations is not determined by the highest and best use concept or in terms of dollars and cents profitability. Famularo v. Bd. of County Comm'rs, 180 Colo. 333, 505 P.2d 958 (1973).

Applied in Pennobscot, Inc. v. Bd. of County Comm'rs, 642 P.2d 915 (Colo. 1982); Theobald v. Bd. of County Comm'rs, 644 P.2d 942 (Colo. 1982).

30-28-114. Enforcement - inspector - permits.

The board of county commissioners may provide for the enforcement of the zoning regulations by means of the withholding of building permits, and, for such purpose, may establish and fill a position of county building inspector and may fix the compensation attached to said position, or may authorize one or more administrative officials of the county to assume some or all functions of such position in addition to their customary functions. Such board may also fix a reasonable schedule of fees for the issuance of such permits. After the establishment of such position and the filling of the same, it shall be unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the unincorporated territory covered by such zoning regulations without obtaining a building permit from such county building inspector. Such building inspector shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all zoning regulations then in effect.

Source: L. 39: p. 300, § 13. **CSA:** C. 45A, § 13. **CRS 53:** § 106-2-13. **C.R.S. 1963:** § 106-2-13. **L. 77:** Entire section amended, p. 1458, § 1, effective June 9.

ANNOTATION

General assembly did not intend in this section and § 30-28-205 (1) to limit schedule of fees for county building permits to direct costs of operating building department. Indirect costs, including, for example, services furnished by county manager, county attorney's office, the assessor's office, and various other divisions of county government may be calculated in determining overall costs required to operate that department for purposes of imposing fees for building department services. Fees generated must generally approximate the overall costs of operating the building department to prevent the fees from constituting an unlawful tax in violation of the state constitutional provision mandating uniform property taxation. Bainbridge, Inc. v. Bd. of County Comm'rs, 964 P.2d 575 (Colo. App. 1998).

On remand, trial court correctly concluded that general governmental expenses relating to growth management are recoverable from builders under this section and § 30-28-205 (1) through permit fees charged as indirect costs. Evidence demonstrated that growth has driven the costs of the county's building department. The evidence also supports the finding that the fees charged by the building department were approximately required to offset the direct and indirect costs of operating the department. Mathematical exactitude is not required. Thus, it was permissible for part of the growth costs to be allocated to the building department as indirect costs. Bainbridge, Inc. v. Bd. of

County Comm'rs, 53 P.3d 646 (Colo. App. 2001).

A building permit is required from the county building inspector before the construction of any building or other structure within an unincorporated territory covered by a zoning regulation and such a permit may only be issued if the plans for the proposed building or structure conform to all zoning regulations then in effect. Bd. of County Comm'rs of La Plata County v. Moga, 947 P.2d 1385 (Colo. 1997).

30-28-115. Public welfare to be promoted - legislative declaration - construction - definitions.

(1) Such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the state, including lessening the congestion in the streets or roads or reducing the waste of excessive amounts of roads, promoting energy conservation, securing safety from fire, floodwaters, and other dangers, providing adequate light and air, classifying land uses and distributing land development and utilization, protecting the tax base, securing economy in governmental expenditures, fostering the state's agricultural and other industries, and protecting both urban and nonurban development.

(1.5) (a) The general assembly finds and declares that access to outpatient clinical facilities providing reproductive health care, as defined in section 25-6-402 (4), is a matter of statewide concern and that, for purposes of zoning and other land use planning, such facilities fall within the meaning of a medical office use, a medical clinic use, a health-care use, and other facilities that provide outpatient health-care services.

(b) For the purposes of zoning and other land use planning, every local government that has adopted or adopts a zoning ordinance shall recognize the provision of outpatient reproductive health care, as defined in section 25-6-402 (4), as a permitted use in any zone in which the provision of general outpatient health care is recognized as a permitted use.

(c) Nothing in this subsection (1.5) restricts or supersedes the authority of a local government to enact uniform zoning ordinances and other land use regulations that comply with this subsection (1.5).

(2) (a) The general assembly hereby finds and declares that it is the policy of the state to assist persons who have an intellectual and developmental disability to live in typical residential surroundings. Further, the general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with intellectual and developmental disabilities, which are known as community residential homes as defined in section 25.5-10-202, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with intellectual and developmental disabilities is a residential use of property for zoning purposes. The phrase "residential use of property for zoning purposes", as used in this subsection (2),

includes all forms of residential zoning and specifically, although not exclusively, single-family residential zoning. As used in this section, "person with a developmental disability" has the same meaning as "person with an intellectual and developmental disability" as set forth in section 25.5-10-202, C.R.S.

(b) (I) (Deleted by amendment, L. 2001, p. 103, § 1, effective March 21, 2001.)

(II) The general assembly declares that the establishment of group homes for the aged for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities and who so elect to live in normal residential surroundings, including single-family residential units. Group homes for the aged must be distinguished from nursing facilities, as defined in section 25.5-4-103, and institutions providing life care, as defined in section 11-49-101. Every county that adopts a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this subsection (2)(b)(II) must not be located within seven hundred fifty feet of another group home, unless otherwise provided for by the county.

(b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with behavioral or mental health disorders, as defined in section 27-65-102, is a matter of statewide concern and that a state-licensed group home for eight persons with behavioral or mental health disorders is a residential use of property for zoning purposes, as defined in section 31-23-301 (4). A group home for persons with behavioral or mental health disorders established pursuant to this subsection (2)(b.5) must not be located within seven hundred fifty feet of another such group home or of another group home as described in subsections (2)(a) and (2)(b) of this section, unless otherwise provided for by the county. A person must not be placed in a group home without being screened by either a professional person, as defined in section 27-65-102 (27), or any other mental health professional designated by the director of a facility, which facility is approved by the commissioner of the behavioral health administration. Persons determined to be not guilty by reason of insanity to a violent offense must not be placed in such group homes, and any person who has been convicted of a felony involving a violent offense is not eligible for placement in such group homes. This subsection (2)(b.5) must be implemented, where appropriate, by the rules of the department of public health and environment concerning residential treatment facilities for persons with behavioral or mental health disorders. Nothing in this subsection (2)(b.5) exempts such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

(b.7) The general assembly finds and declares that it is the policy of the state to encourage, promote, and assist persons who are in recovery from substance use disorders to live in residential neighborhoods. Further, the general assembly declares that the use of recovery residences, as defined in section 27-50-101, by persons in recovery from substance use disorders

is a matter of statewide concern and that recovery residences are a residential use of property for zoning purposes and subject only to the regulations of like dwellings in the same zone.

(c) Nothing in this subsection (2) shall be construed to supersede the authority of municipalities and counties to regulate such homes appropriately through local zoning ordinances or resolutions, except insofar as such regulation would be tantamount to prohibition of such homes from any residential district. This section is specifically not to be construed to permit violation of the provisions of any zoning ordinance or resolution with respect to height, setbacks, area, lot coverage, or external signage or to permit architectural designs substantially inconsistent with the character of the surrounding neighborhood. This section is also not to be construed to permit conducting of the ministerial activities of any private or public organization or agency or to permit types of treatment activities or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in the particular zoning district. If reasonably related to the requirements of a particular home, a local zoning or other development regulation may, without violating the provisions of this section, also attach specific location requirements to the approval of the group home, including the availability of such services and facilities as convenience stores, commercial services, transportation, and public recreation facilities.

(2.5) In connection with an application for development approval of the siting of a new facility to be used exclusively as a group home for the aged or for at-risk adults under the county's subdivision, zoning, platting, planned unit development, or other similar land development regulations, in addition to any other information required to be submitted, the county may request the applicant to submit a transportation plan showing how the operators of the facility intend to meet the transportation needs of the residents of the facility. The sufficiency of the transportation plan submitted pursuant to this subsection (2.5) may be considered by the county in reviewing the application but may not, by itself, constitute grounds for denying the application.

(3) (a) As used in this subsection (3), unless the context otherwise requires:

(I) Repealed.

(II) "Equivalent performance engineering basis" means that by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety, and functional requirements to the same extent as required for other single family housing units.

(b) (I) No county may have or enact zoning regulations, subdivision regulations, or any other regulation affecting development, which exclude or have the effect of excluding homes or structures from the county that are:

(A) Factory-built structures, as defined in section 24-32-3302 (11) and certified by the division of housing created in section 24-32-704 or a party authorized to act on its behalf;

(B) Manufactured homes certified by the United States department of housing and urban development through its office of manufactured housing programs, a successor agency, or a party authorized to act on its behalf; or

(C) Homes that meet or exceed, on an equivalent performance engineering basis, standards established by the county building code.

(I.5) A county shall not impose more restrictive standards on factory-built structures than those the county applies to site-built homes in the same residential zones. As used in this subsection (3)(b)(I.5), "restrictive standards" means zoning regulations, subdivision regulations, and any other regulation affecting development, including standards related to:

(A) Home size or sectional requirements;

(B) Improvement location;

(C) Minimum floor space;

(D) Permanent foundations;

(E) Setback standards; and

(F) Side-yard standards.

(II) Nothing in this subsection (3) prevents a county from enacting any zoning, developmental, use, aesthetic, or historical standard, including, but not limited to, requirements relating to permanent foundations, minimum floor space, unit size or sectional requirements, and improvement location, side yard, and setback standards to the extent that such standards or requirements are applicable to existing similar housing or structures or new site-built housing within the specific use district of the county.

(III) Nothing in this subsection (3) precludes any county from enacting county building code provisions for unique public safety requirements such as snow load roof, wind shear, wildfire risk, and energy conservation factors, unless it is a factory-built structure certified by the division of housing created in section 24-32-704 or a party authorized to act on its behalf or a manufactured home certified by the United States department of housing and urban development through its office of manufactured housing programs, a successor agency, or a party authorized to act on its behalf. A county must comply with the requirements established by the division of housing for factory-built structures and the United States department of housing and urban development for manufactured homes.

(IV) Nothing in this subsection (3) shall be deemed to supersede any valid covenants running with the land.

Source: L. 39: p. 301, § 14. **CSA:** C. 45A, § 14. **CRS 53:** § 106-2-14. **C.R.S. 1963:** § 106-2-14. **L. 66:** p. 43, § 7. **L. 75:** Entire section amended, p. 933, § 56, effective July 14. **L. 76:** (2)(a.5) added, p. 695, § 1, effective April 29. **L. 79:** (1) amended, p. 1161, § 5, effective January 1, 1980. **L. 84:** (3) added, p. 823, § 1, effective January 1, 1985. **L. 87:** (2)(b.5) added, p. 1216, § 1, effective July 1. **L. 90:** (2)(b) amended, p. 1476, § 1, effective July 1. **L. 91:** (2)(b)(II) amended, p. 1858, § 20, effective April 11. **L. 94:** (2)(b.5) amended, p. 2715, § 297, effective July 1. **L. 2001:** (2)(a), (2)(b), and (2)(b.5) amended, p. 103, § 1, effective March 21. **L. 2006:** (2)(b)(II) amended, p. 2021, § 114, effective July 1; (2)(b.5) amended, p. 1407, § 75, effective August 7. **L. 2008:** (2.5) added, p. 167, § 1, effective August 5. **L. 2010:** (2)(b.5) amended, (SB 10-175), ch. 188, p. 806, § 81, effective April 29. **L. 2013:** (2) (a) amended, (HB 13-1314), ch. 323, p. 1812, § 52, effective March 1, 2014. **L. 2017:** (2)(b.5) amended, (SB 17-242), ch. 263, p. 1378, § 299, effective May 25; (2)(b)(II) amended, (SB 17-226), ch. 159, p. 590, § 9, effective August 9. **L. 2021:** (3)(a)(I) repealed and (3)(b)(I) and (3)(b)(III) amended, (HB 21-1019), ch. 122, p. 485, § 29, effective September 7. **L. 2022:** (2)(b.5) amended, (HB 22-1256), ch. 451, p. 3237, § 48, effective August 10. **L. 2023:** (1.5) added, (SB 23-188), ch. 68, p. 252, § 27, effective April 14. **L. 2024:** (2)(b.7) added, (SB 24-048), ch. 405, p. 2786, § 7, effective August 7. **L. 2025:** IP(3)(b)(I), (3)(b)(I)(A), (3)(b)(I)(B), (3)(b)(II), and (3)(b)(III) amended and (3)(b)(I.5) added, (SB 25-002), ch. 172, p. 718, § 8, effective May 8; (2)(b)(II) amended, (HB 25-1184), ch. 210, p. 951, § 11, effective August 6. **L. 2026:** (2)(b.7) amended, (SB 26-113), ch. 302, p. 1732, § 9, effective August 12.

Cross references: (1) For the care and treatment of persons with developmental disabilities, see article 10.5 of title 27.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of Colorado 2023. For the legislative declaration in SB 25-002, see section 1 of chapter 172, Session Laws of Colorado 2025.

ANNOTATION

Law reviews. For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987). For article, "Group Homes: Mandated by Statute but Locally Regulated", see 21 Colo. Law. 1643 (1992). For article, "Group Home Regulations Under State and Federal Law", see 35 Colo. Law. 37 (Feb. 2006).

Purposes set forth. This section sets forth the many purposes for which zoning regulations may be designed and enacted, including not only the health, safety, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the state

but also, among other purposes, the classification of land uses and distribution of land development and utilization, protection of the tax base, fostering of the state's agricultural and other industries, and the protection of urban and non-urban development. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

Judicial presumption of adequate consideration. In the absence of evidence to the contrary, the court will presume that the board of county commissioners did give ample consideration to the multiple purposes of zoning when it adopted the zoning resolution. Bd. of County Comm'rs v. Thompson, 177 Colo. 277, 493 P.2d 1358 (1972).

Adoption of section permitting developmentally disabled persons to live in group homes reflects legislative intent to assist such persons to live in normal residential surroundings. Double D Manor v. Evergreen Meadows, 773 P.2d 1046 (Colo. 1989).

Delegation of zoning authority to county. A delegation of authority is not invalid simply because its terms are broad and general, although there must be sufficient standards and procedural safeguards involved in the delegation and subsequent implementation to ensure than any action taken by a county in response to a land use proposal will be rational and consistent and that judicial review of that action will be available and effective. Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985).

Zoning regulations precluding construction of church building in agricultural zone did not arise from an unconstitutional delegation of authority, nor did such regulations deny due process to the church or regulate religious beliefs of the church. Messiah Baptist Church v. County of Jefferson, Colo., 697 F. Supp. 396 (D. Colo. 1987), aff'd, 859 F.2d 820 (10th Cir. 1988).

Applied in City of Thornton v. Bd. of County Comm'rs, 42 Colo. App. 102, 595 P.2d 264 (1979); Info. Please, Inc. v. Bd. of County Comm'rs, 49 Colo. App. 392, 600 P.2d 86 (1979); Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Glennon Heights, Inc. v. Cent. Bank & Trust, 658 P.2d 872 (Colo. 1983); Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985); Courage to Change Ranches Holding Co. v. El Paso County, 73 F.4th 1175 (10th Cir. 2023).

30-28-116. Regulations may be amended.

From time to time the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. If disapproved by such commission within thirty days after such submission, such amendment, to become effective, shall receive the favorable

vote of not less than a majority of the entire membership of the board of county commissioners. Before finally adopting any such amendment, the board of county commissioners shall hold a public hearing thereon, and at least fourteen days' notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation in the county.

Source: L. 39: p. 301, § 15. **CSA:** C. 45A, § 15. **CRS 53:** § 106-2-15. **C.R.S. 1963:** § 106-2-15. **L. 92:** Entire section amended, p. 965, § 5, effective June 1.

ANNOTATION

Legislative intent was to provide board with expertise of commission in the form of recommendations on each specific amendment to that plan. Section 30-28-112 and this section were enacted to accomplish that purpose. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Substantial compliance with statutory provisions is required for lawful enactment of a zoning change and failure to comply with essential mandates of the statutes invalidates the proceeding. Wainwright v. City of Wheat Ridge, 38 Colo. App. 485, 558 P.2d 1005 (1976).

This section pertains to those instances in which an amendment to an existing zone is proposed. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Also section applies if amendment proposed by board or private citizen. When an amendment is proposed by the board or by private citizens directly to the board, then this section applies and the proposed amendment must be submitted first to the planning commission for its approval, disapproval, or recommendation. In this manner, the board receives the recommendations of the planning commission on the specific amendment that has been proposed. Johnson v. Bd. of County Comm'rs, 34 Colo. App. 14, 523 P.2d 159 (1974), aff'd sub nom. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Amendment cannot become effective until commission studies problem. If the board of county commissioners is considering a possible amendment to a previously zoned area, the amendment cannot become effective until the planning commission has had the opportunity to study the problem and the proposal and to convey its responses regarding the suggested change to the board. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

The power to amend is not arbitrary, it cannot be exercised merely because certain individuals want it done or think it ought to be done, the change must be necessary for the public good. Holly Dev., Inc. v. Bd. of

County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Therefore, amendments of zoning ordinances should be made with caution and only when changing conditions clearly require amendment. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Changes not estopped. Estoppel does not operate to prevent a legislative body or commission from carrying out its public functions, and if conditions warranted later changes it is the duty of such public bodies to act accordingly. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Readopted or comprehensive amendment not contemplated. This section permitting amendment to a zoning plan without first having maps prepared, does not sanction in that category a readopted or comprehensive amendment of the original zoning plan which affects all zoned areas, the legislative intent being that overall plans or changes should be given such publicity as will reasonably inform the owners affected, and is governed by § 30-28-112 dealing with the adoption of a zoning plan. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Notice by publication is the law's substitute for personal notice, but to be effective as against any one whose rights are involved in compliance with, an allegation of, or a showing of strict compliance with the proper statute is essential to a good complaint. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Strict compliance with notice provisions. A notice of hearing as the basis of a local ordinance should unambiguously set forth reasonable information concerning the subject matter of the hearing to the end that adequate warning be given to all persons whose rights may be affected by action of the local board, because changes in zoning ordinances affect property rights, and the provisions as to a notice of hearing must be strictly complied with, and a notice which does not warn of the nature of the proposed amendments is no notice. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Strict compliance with statutory provisions for notice and public hearing required for amendatory zoning resolution. Webster Props. v. Bd. of County Comm'rs, 682 P.2d 506 (Colo. App. 1984).

There is no statutory provision for notice of planning commission hearings. Center Land Co. v. Bd. of County Comm'rs, 44 Colo. App. 523, 619 P.2d 782 (1980).

Hearing requirement does not give landowner a right to an unlimited hearing with regard to zoning changes. Landowner's procedural due process rights not infringed when he sought permission to present 4 to 5 hours of evidence, but the board limited his presentation to 15 minutes, and landowner introduced 4 affidavits and 16 exhibits into the hearing record. Jafay v. Bd. of County Comm'rs of Boulder County, 848 P.2d 892 (Colo. 1993).

Condition precedent. If legislative authority is delegated by the state to some inferior body with a restriction by which it is to be used only on notice to persons whose interests are thereby affected, compliance therewith is a condition precedent to its lawful exercise. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Ambiguity resolved against notice. Any ambiguity in a notice to the public of an important zoning change, which is the only notice that the public has, should be resolved against the notice. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Lay meaning applied to notice. When a statute requires a notice to be given to the public, such a notice should fairly be given the meaning it would reflect upon the mind of the ordinary layman, and not as it would be construed by one familiar with the technicalities solely applicable to the laws and rules of the zoning commission, otherwise, such a notice, instead of informing, would actually mislead the public, including the persons immediately interested. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Factors to be considered in construing ordinance. Because zoning laws should be given a fair and reasonable construction in light of the setting in which employed, the factors surrounding adoption of an ordinance should be considered. Wainwright v. City of Wheat Ridge, 38 Colo. App. 485, 558 P.2d 1005 (1976).

As soon as reasonably possible after their adoption, actual changes should be placed upon an authorized copy of an original county zoning map or maps with the date of the action shown along with the type of change, because this enables the public readily to discover the relative location of the legal description contained in both the public notice and the commissioners' minutes. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

As soon as reasonably possible after adoption by the board of county commissioners of changes in zoning, they should be placed upon an authorized copy of an original map or maps with the date of the action shown along with the type of change. Wainwright v. City of Wheat Ridge, 38 Colo. App. 485, 558 P.2d 1005 (1976).

Effect of inadvertent change in zoning map. Where there was no resolution by the board of county commissioners amending a zoning map, the inadvertent or erroneous change in the zoning map was without effect. Wainwright v. City of Wheat Ridge, 38 Colo. App. 485, 558 P.2d 1005 (1976).

Failure to comply with section renders board's proceeding and resolution void. Where the amendment which the board enacted was neither proposed by the planning commission nor submitted for commission consideration, although the planning commission provided a recommendation, it was never given an opportunity to pass upon the amendment which the board of county commissioners adopted, the proceedings before the board, as well as the resultant zoning resolution,

were null and void. Colo. Leisure Prods., Inc. v. Johnson, 187 Colo. 443, 532 P.2d 742 (1975).

Arbitrary or capricious action. Where the board of county commissioners in amending a county zoning resolution, fails to give consideration to the need for reasonable stability in zoning regulations and the requirement of certainty of description as well as proper notice of the proposed change, it acts arbitrarily and capriciously, abuses its discretion and exceeds its jurisdiction. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

When a general zoning ordinance is passed, those who by property in zoned districts have the right to rely upon the rule of law that the classification made in the ordinance will not be changed unless the change will be required for the public good. Holly Dev., Inc. v. Bd. of County Comm'rs, 140 Colo. 95, 342 P.2d 1032 (1959).

Applied in Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985).

30-28-117. Board of adjustment.

(1) The board of county commissioners of any county which enacts zoning regulations under the authority of this part 1 shall provide for a board of adjustment of three to five members and for the manner of the appointment of such members. Not more than half of the members of such board may at any time be members of the planning commission. The board of county commissioners shall fix per diem compensation and terms for the members of such board of adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the board of adjustment may be removed for cause by the board of county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The board of county commissioners may appoint associate members of such board, and, in the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.

(2) The board of county commissioners shall provide and specify in its zoning or other resolutions general rules to govern the organization, procedure, and jurisdiction of said board of adjustment, which rules shall not be inconsistent with the provisions of this part 1. The board of adjustment may adopt supplemental rules of procedure not inconsistent with this part 1 or such general rules.

(3) Any zoning resolution of the board of county commissioners may provide that the board of adjustment, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the zoning resolution, may make special exceptions to the

terms of the zoning regulations in harmony with their general purpose and intent. Where feasible, special exception may be made for the purpose of providing access to sunlight for solar energy devices. The board of county commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations.

(4) Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings. All meetings of the board of adjustment shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(5) The governing body of a county that has entered into an intergovernmental agreement with a municipality located or partially located within that county for the purposes of joint participation in land use planning, subdivision procedures, and zoning pursuant to the authority granted in section 31-23-227 (2), C.R.S., may enter into an intergovernmental agreement with that municipality for the purpose of establishing a joint zoning board of adjustment for a specific area designated in the intergovernmental agreement.

Source: L. 39: p. 301, § 16. **CSA:** C. 45A, § 16. **CRS 53:** § 106-2-16. **C.R.S. 1963:** § 106-2-16. **L. 79:** (3) amended, p. 1161, § 6, effective May 25. **L. 98:** (5) added, p. 689, § 1, effective May 18.

ANNOTATION

Law reviews. For article, "Recent Developments in Zoning Law in Colorado", see 39 Dicta 211 (1962).

Rules of procedure and evidence not strictly followed. A hearing before a board of adjustment should be conducted in an orderly manner but need not strictly conform to the rules of procedure and evidence necessary in a judicial proceeding. Monte Vista Prof'l Bldg., Inc. v. City of Monte Vista, 35 Colo. App. 235, 531 P.2d 400 (1975).

County commissioners had authority to appoint themselves to a board of adjustment; such offices are not incompatible and statutory limitation applies only to the number of members of planning commission on such board. Fedder v. McCurdy, 768 P.2d 711 (Colo. App. 1989).

30-28-118. Appeals to board of adjustment.

(1) (a) Appeals to the board of adjustment may be taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning resolution. Appeals to the board of adjustment may be taken by any officer, department, board, or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning resolution. The time within which such appeal shall be made, and the form or other procedure relating thereto, shall be as specified in the general rules provided by the board of county commissioners to govern the procedure of such board of adjustment or in the supplemental rules of procedure adopted by such board.

(b) No such appeal to the board of adjustment shall be allowed for building use violations that may be prosecuted pursuant to section 30-28-124 (1)(b).

(2) Upon appeals the board of adjustment has the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of the zoning resolution;

(b) To hear and decide, in accordance with the provisions of any such resolution, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such resolution to pass;

(c) Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part 1 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolutions. In determining whether difficulties to, or hardship upon, the owner of such property exist, as used in this paragraph (c), the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980, may properly be considered. Regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation.

(3) The concurring vote of four members of the board in the case of a five-member board and of three members in the case of a three-member board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or agency or to decide in favor of the appellant.

Source: L. 39: p. 303, § 17. **CSA:** C. 45A, § 17. **CRS 53:** § 106-2-17. **C.R.S. 1963:** § 106-2-17. **L. 77:** (1) amended, p. 1458, § 2, effective June 9. **L. 79:** (2)(c) amended, p. 1161, § 7, effective May 25.

ANNOTATION

The board of adjustment has the powers enumerated in this section. Bd. of County Comm'rs of La Plata County v. Moga, 947 P.2d 1385 (Colo. 1997).

Requirement of hardship relates to variances, not to special exceptions or special use permits. Guildner, Way Inc. v. Bd. of Adjustment, 35 Colo. App. 70, 529 P.2d 332 (1974).

Proof required. In order to obtain rezoning to permit a use which an applicant seeks, he must prove that it is not possible to use and develop the property for any other use enumerated in the existing zoning; similarly, if one seeks a lower classification of zoning than the zone presently existing, he must prove that it is not possible to use and develop the land for any uses permitted in zones which are in between the zone sought and the presently existing zone. Garrett v. City of Littleton, 177 Colo. 167, 493 P.2d 370 (1972).

Applicant had the burden of proving that variance would avoid unnecessary hardship or was reasonably necessary for the convenience or welfare of the public. Monte Vista Prof'l Bldg., Inc. v. City of Monte Vista, 35 Colo. App. 235, 531 P.2d 400 (1975).

Courts may not substitute their judgment for that of the board or disturb an exercise of the board's discretion in zoning matters unless such discretion is clearly abused. Monte Vista Prof'l Bldg., Inc. v. City of Monte Vista, 35 Colo. App. 235, 531 P.2d 400 (1975).

A stop work order issued by a county building inspector for lack of compliance with a zoning variance is an administrative order made in enforcement of a zoning regulation and the board of adjustment has original jurisdiction to hear any challenge to such order. Bd. of County Comm'rs of La Plata County v. Moga, 947 P.2d 1385 (Colo. 1997).

A person challenging a stop work order must exhaust administrative remedies by seeking relief from the board of adjustment before requesting judicial intervention. Bd. of County Comm'rs of La Plata County v. Moga, 947 P.2d 1385 (Colo. 1997).

An injunction could not be obtained to prevent construction of buildings approved by board of adjustment, although lot was slightly smaller than zoning requirement, since remedy is review by court only to see if board has abused its discretion. Bacon v. Steigman, 123 Colo. 62, 225 P.2d 1046 (1950).

Applied in Johnson v. Bd. of County Comm'rs, 158 Colo. 311, 406 P.2d 338 (1965); Murray v. Bd. of Adjustments, 42 Colo. App. 113, 594 P.2d 596 (1979); Gramiger v. Crowley, 638 P.2d 797 (Colo. 1981); Gramiger v. Crowley, 660 P.2d 1279 (Colo. 1983).

30-28-119. District planning commissions.

(1) Whether or not a county planning commission has been created, the board of county commissioners of any county which is unzoned, on petition, from time to time, may appoint district planning commissions for the purpose of preparing plans for zoning certain portions of the unincorporated territory within such county. Such petition shall:

(a) Be signed by more than fifty percent of the qualified electors who are residents in the proposed district and more than fifty percent of the residents and nonresidents who own more than fifty percent of the area of real property situated within the boundaries of the district described in the petition;

(b) Request the appointment of a planning commission for such district;

(c) Contain all of the following:

(I) A list of the parcels of land as shown in the records of the county assessor to be included within the proposed district;

(II) A list of proposed planning commissioners; and

(III) A map that shows the boundaries of the proposed district and the total number of acres within the proposed district and that meets the minimum standards for land surveys and plats provided in article 51 of title 38, C.R.S.;

(d) Be submitted to the county clerk and recorder.

(1.3) The county clerk and recorder shall review the petition and prepare a report for the board of county commissioners. The board of county commissioners may adopt rules on processing the petition and establish a reasonable fee for the cost of reviewing the petition.

(1.6) At the next regular meeting following the receipt of the report, the board of county commissioners shall determine the sufficiency of the petition and, if found to be sufficient, shall order a public hearing to be held on the question of whether a planning commission for the proposed district should be appointed. The board of county commissioners shall hold the public hearing not more than sixty days after the date the petition is determined sufficient. The

petitioner has the burden of proof that a planning commission for the proposed district should be appointed.

(2) Notice of the time, place, and purpose of such hearing, containing a description of the boundaries of the proposed district, shall be given by publication in a newspaper of general circulation within the county by one publication at least fourteen days prior to the date of such hearing and shall be mailed by the petitioner for the appointment of a planning commission at least fourteen days before the hearing by certified mail to each person who owns property within the proposed district as shown in the records of the county assessor.

(2.3) Any owner of property included within the boundaries of the proposed district shall be entitled to protest the appointment of a planning commission by filing with the board of county commissioners a written statement setting forth in brief the grounds of the protest or by presenting evidence of the grounds of the protest at the hearing. At the time and place specified in said notice, the board of county commissioners shall sit for the purpose of determining whether the public interest requires that a planning commission for the proposed district should be appointed. A person protesting the appointment of the planning commission for the proposed district has the burden of proof that a planning commission should not be appointed.

(2.7) At the next regular meeting after termination of the hearing, the board of county commissioners, if satisfied that the public interest requires such action, may enter an order appointing a district planning commission and may exclude parcels of land from the proposed district. The district planning commission shall consist of three or five members, each of whom shall be a resident of the district and the owner of real property situated therein.

(3) (a) The members of such commission shall serve for terms of not more than three years as determined by the board of county commissioners. They shall serve without compensation. The board of county commissioners shall provide for the filling of vacancies in the membership of the commission and for the removal of a member for nonperformance of duty or misconduct.

(b) The district planning commission:

(I) Has all the powers and is subject to all the duties by this part 1 conferred and imposed upon county planning commissions insofar as such powers and duties relate to zoning and in respect to the territory included within the boundaries of such proposed district;

(II) Shall develop proposed plans and regulations for the zoning of the proposed district; and

(III) Shall hold public hearings and certify a copy of the proposed zoning plans, including the full text of the zoning resolution and the maps, to the board of county commissioners of the county, and, if a county planning commission has been created in the county wherein the said district is situated, such plans must first be reviewed by the commission.

(c) (I) After receiving the certification of said zoning plans from the commission and before the creation of the planning district and adoption of any zoning resolutions, the board of county

commissioners shall hold a public hearing in the manner prescribed in section 30-28-112 on the question of establishing the planning district. Notice of the time, place, and purpose of the hearing shall be made in the same manner as provided in subsection (2) of this section.

(II) Any property owner within the proposed district may protest inclusion of the owner's property within the district by filing with the board of county commissioners a written statement setting forth briefly the grounds of the protest or by presenting evidence of the grounds of the protest at the hearing. The owner has the burden of proof that the public interest requires exclusion of the owner's property from the district. The board of county commissioners may exclude any parcel of land from the proposed district if the board determines it is within the public interest.

(III) If the board of county commissioners determines it is in the public interest, the board may:

(A) Enter an order after the hearing that establishes the planning district, describes the boundaries of the district, and gives the district an appropriate and distinctive name;

(B) By resolution, adopt all or any part of the proposed zoning plan and regulations; and

(C) By resolution, exercise, as to the territory included within the boundaries of such district, all the powers conferred upon it by law.

(IV) The zoning regulations established for the district may be administered in the same manner as all other land use regulations of the county or as otherwise provided in the district zoning regulations.

(4) Wherever the regulations for a district made pursuant to this section require a greater width or size of yards, courts, or other open spaces, require a lower height of buildings or smaller number of stories, require a greater setback from a road or street, require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other regulations made under the authority of this part 1 and effective within the same territory, the provisions of the regulations for such district made pursuant to this section shall govern. Wherever the provisions of other regulations made under the authority of this part 1 and effective within the territory of a district established pursuant to this section impose higher standards than are imposed by the regulations for such district made pursuant to this section, the provisions of such other regulations shall govern.

(5) The boundaries of a planning district may be increased or decreased from time to time through the addition or deletion of contiguous property by order of the board of county commissioners pursuant to petition signed by the owners of more than fifty percent of the area of the real property to be added or deleted or on motion of the board of county commissioners after published notice, opportunity for protest, and hearing, as provided in the case of original establishment of a district.

(6) Planning districts may be dissolved by action of the board of county commissioners if the affected county adopts a zoning resolution which covers the district in question. Action for dissolution may also be initiated by a petition calling for dissolution of the district signed by more than fifty percent of the qualified electors who are residents in the district and more than fifty percent of the residents and nonresidents who own more than fifty percent of the area of real property situated within the boundaries of the district or by the board of county commissioners. The board shall hold a public hearing at the county seat within the county on the question of the dissolution of the district. A notice of the time, place, and purpose of such hearing, containing a description of the boundaries of the district, shall be given by publication in a newspaper of general circulation within the county by one publication at least fourteen days prior to the date of such hearing. Prior to the hearing, the county planning commission shall review the proposed dissolution at a public meeting and shall transmit its findings to the board of county commissioners. Any owner of property included within the boundaries of the proposed district shall be entitled to protest the dissolution by filing with the board of county commissioners a written statement setting forth in brief the grounds of the protest or by providing evidence on the grounds of the protest at the hearing. At the time and place specified in said notice, the board of county commissioners shall sit for the purpose of determining whether or not such district should be dissolved, and, at such time and place, it shall consider and pass upon any protests filed. The board of county commissioners, if satisfied that the public interest would be served by such action, shall enter an order dissolving the planning district, or, if satisfied that the public interest would be served by retaining such district, the board shall enter an order dismissing such petition.

Source: L. 39: p. 304, § 18. **CSA:** C. 45A, § 18. **CRS 53:** § 106-2-18. **C.R.S. 1963:** § 106-2-18. **L. 65:** p. 916, § 1. **L. 74:** (1), (5), and (6) amended, p. 332, § 1, effective April 5. **L. 94:** Entire section amended, p. 583, § 1, effective April 7.

30-28-120. Existing structures - county property.

(1) The lawful use of a building or structure or the lawful use of any land, as existing and lawful at the time of the adoption of a zoning resolution or, in the case of an amendment of a resolution, at the time of such amendment, may be continued, although such use does not conform with the provisions of such resolution or amendment, and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. The addition of a solar energy device or a device used as part of a system that uses geothermal energy for water heating or space heating or cooling to such building shall not necessarily be considered a structural alteration. The board of county commissioners may provide in any zoning resolution for the restoration, reconstruction,

extension, or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning resolution.

(2) If any county acquires title to any property by reason of tax delinquency and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the then provisions of the zoning resolution of the county, or with any amendment of such resolution, equally applicable to other like properties within the district in which the property acquired by the county is located.

Source: L. 39: p. 306, § 19. **CSA:** C. 45A, § 19. **CRS 53:** § 106-2-19. **C.R.S. 1963:** § 106-2-19. **L. 79:** (1) amended, p. 1162, § 8, effective May 25. **L. 2003:** (1) amended, p. 2667, § 3, effective June 6. **L. 2022:** (1) amended, (SB 22-118), ch. 335, p. 2372, § 7, effective August 10.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (1), see section 1 of chapter 420, Session Laws of Colorado 2003.

ANNOTATION

A county zoning resolution was not arbitrary, unreasonable, or unconstitutional in that it provided that, if a non-conforming use of land, preserved under this section, was discontinued for one year, any further use of the premises must conform to the provisions of the resolution. Beszedes v. Bd. of Comm'rs, 116 Colo. 123, 178 P.2d 950 (1947).

Declaration as to public nuisance. Where the legislative arm of the government has declared by statute and zoning resolution what activities may or may not be conducted in a prescribed zone, it has in effect declared what is or is not a public nuisance. Robinson Brick Co. v. Luthi, 115 Colo. 106, 169 P.2d 171 (1946).

Landowner cannot create his own hardship and then require that zoning regulations be changed to meet that hardship. C.F. Lytle Co. v. Clark, 491 F.2d 834 (10th Cir. 1974).

This section only applies to valid nonconforming uses. Bd. of County Comm'rs v. Mtn. Air Ranch, 192 Colo. 364, 563 P.2d 341 (1977).

Conditional use is a use which is permitted within the zone, but which because of the possibility that the permitted use could become incompatible in certain respects with other uses within the zone, special permission is required before the land may be put to that use. Elam v. Albers, 44 Colo. App. 281, 616 P.2d 168 (1980).

Uses permitted by particular zoning classification are not vested rights, and subsequent zoning changes are binding on

the owners of the property affected. Elam v. Albers, 44 Colo. App. 281, 616 P.2d 168 (1980).

And issuance of conditional use permit creates no greater right in property owners than they would have possessed had they desired to develop in conformance with any other use permitted within the zone. Elam v. Albers, 44 Colo. App. 281, 616 P.2d 168 (1980).

Conditional use permit only represents determination that, as to the land, a use additional to those generally permitted will be allowed. Elam v. Albers, 44 Colo. App. 281, 616 P.2d 168 (1980).

A restriction on the right to expand or extend a nonconforming use is valid. Bd. of County Comm'rs v. Mtn. Air Ranch, 192 Colo. 364, 563 P.2d 341 (1977).

For purposes of this section, preparation for use is not equal to actual use. There are no grounds for the operation of this section to protect a residential use where there was no residential use at the time the zoning resolution affecting the property was adopted. This is so even where prior law authorized the construction of a residence on the property affected. Wilkinson v. Bd. of County Comm'rs, 872 P.2d 1269 (Colo. App. 1993).

30-28-121. Temporary regulations.

The board of county commissioners of any county, after appointment of a county or district planning commission and pending the adoption by such commission of a zoning plan, where in the opinion of the board conditions require such action, may promulgate, by resolution without a public hearing, regulations of a temporary nature, to be effective for a limited period only and in any event not to exceed six months, prohibiting or regulating in any part or all of the unincorporated territory of the county or district the erection, construction, reconstruction, or alteration of any building or structure used or to be used for any business, residential, industrial, or commercial purpose.

Source: L. 39: p. 306, § 20. **CSA:** C. 45A, § 20. **CRS 53:** § 106-2-20. **C.R.S. 1963:** § 106-2-20. **L. 74:** Entire section amended, p. 354, § 2, effective May 17.

ANNOTATION

Section does not conflict with, preempt, or control necessarily implied authority of a local government under the Local Government Land Use Control Enabling Act (enabling act) to adopt a reasonable moratorium of sufficient duration to prepare a master plan. Section pertains to temporary moratoria adopted without a public hearing in connection with the adoption of a zoning plan. This section

constitutes an additional grant of authority to local governments in the context of zoning plan adoption: The local government is permitted to adopt a moratorium for a six-month period without a public hearing. Droste v. Bd. of County Comm'rs of Pitkin, 159 P.3d 601 (Colo. 2007).

County had authority under the enabling act to impose temporary moratorium on developmental approvals concerning certain land within county. The enabling act is designed to give the local governments additional or supplemental powers for the purposes set forth in the act, including development in hazardous areas, protecting wildlife habitats, protecting areas of historical or archeological significance, controlling population density, and providing for the phasing in of infrastructure. These special considerations, in many instances, supplement those normally involved in creating a zoning master plan or administering a zoning regimen. Accordingly, the enabling act and this article (county planning statute) have different, though complementary, purposes, and the limitation on temporary zoning authorized by this section does not prohibit or limit a moratorium on development for the purpose of conducting studies under the enabling act. Droste v. Bd. of County Comm'rs of Pitkin, 141 P.3d 852 (Colo. App. 2005), aff'd, 159 P.3d 601 (Colo. 2007).

Applied in Dollaghan v. Boulder County, 749 P.2d 444 (Colo. App. 1987).

30-28-122. Submission to division of planning.

Before finally adopting and certifying any plan, either master or zoning, the planning commission, regional, county, or district, making such plan shall submit such plan to the division of planning of the department of local affairs for advice and recommendations. The director of the division of planning, within thirty days after such submission, shall present his advice and criticism in respect to such plan. Such advice and criticism shall be advisory only, and the commission submitting such plan shall not be bound thereby. If such advice and criticism have not been presented within such period of thirty days, the approval of such plan by the director of the division of planning shall be presumed.

Source: L. 39: p. 307, § 21. **CSA:** C. 45A, § 21. **CRS 53:** § 106-2-21. **L. 63:** p. 145, § 7. **C.R.S. 1963:** § 106-2-21. **L. 67:** p. 468, § 13. **L. 71:** p. 1061, § 3.

30-28-123. Higher standards govern.

Wherever the regulations made under authority of this part 1 require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher

standards than are required in or under any other statute, the provisions of the regulations made under authority of this part 1 shall govern. Wherever the provisions of any other statute require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this part 1, the provisions of such statute shall govern.

Source: L. 39: p. 308, § 23. **CSA:** C. 45A, § 23. **CRS 53:** § 106-2-23. **C.R.S. 1963:** § 106-2-22.

ANNOTATION

Law reviews. For article, "The Lawyer's Role in Developing an Area", see 28 Rocky Mt. L. Rev. 453 (1956).

30-28-124. Penalties and enforcement.

(1) (a) It is unlawful to erect, construct, reconstruct, alter, or use any building or structure or use any land in violation of any regulation in, or of any provisions of, any zoning resolution or ordinance, or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. Any person, firm, or corporation that violates any such regulation, provision, or amendment thereof, or any provision of this part 1 shall, at the request of the county, be subject to the imposition, by order of the county or district court, of a civil penalty of not less than one hundred dollars or more than two thousand six hundred fifty dollars. Each day that a violation occurs is deemed a separate offense and the civil penalty continues to accrue until the violation is remedied.

(b) (I) (Deleted by amendment, L. 2026.)

(II) To pursue a violation pursuant to this subsection (1)(b)(II), a county zoning official authorized pursuant to section 30-28-114 who has personal knowledge of any violation of this subsection (1)(b)(II) based on competent evidence acquired during a reasonable investigation shall give written notice to the violator to correct the violation within ten days after the date of the notice. If the violator fails to correct the violation within the ten-day period, any designated county zoning official may issue, or request that the sheriff of the county or the county attorney issue, a summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. The summons and complaint must require that the violator appear in county or district court at a definite time and place stated in the summons and complaint to answer and defend the charge.

(III) (Deleted by amendment, L. 2026.)

(IV) The Colorado rules of civil procedure apply to district court proceedings and the Colorado county court rules of civil procedure apply to county court proceedings.

(c) It is the responsibility of the county attorney to enforce the provisions of this subsection (1); except that if there is not a county attorney or if the board of county commissioners deems it appropriate, the board of county commissioners may appoint the district attorney of the judicial district to perform the enforcement duties in lieu of the county attorney.

(d) The minimum civil penalty that the court may impose for a violation of a county zoning ordinance or resolution or amendment thereto is one hundred dollars per violation, and the maximum civil penalty is two thousand six hundred fifty dollars per violation. The presumptive maximum penalty for a first violation is five hundred dollars. The presumptive maximum penalty for a second violation is one thousand dollars. The presumptive maximum penalty for a third or subsequent violation is two thousand six hundred fifty dollars. The court must specify the basis for the civil penalty on the record. In cases where sufficient aggravating factors are present, the court may impose a penalty that is higher than the presumptive maximum. The court must base the determination of the appropriate civil penalty for a violation of a county zoning ordinance or resolution, or amendment thereto, on the following factors:

(I) The impact of the violation on public health, safety, and welfare;

(II) The impact of the violation on neighboring properties;

(III) The violator's willingness to comply with or demonstrated disregard for the applicable laws;

(IV) The violator's ability to comply with the applicable laws;

(V) Whether the violation is the use of the property for activities prohibited in the property's zone district;

(VI) Whether multiple violations exist on the property;

(VII) Prior violations by the violator on the property; and

(VIII) Any other relevant factors determined by the court.

(e) If the court finds by a preponderance of the evidence that a violation of any regulation or provision of a zoning ordinance or resolution, or amendment thereto, as enacted and adopted by the board of county commissioners, has occurred, the court shall order the violator to pay a civil penalty in an amount allowed pursuant to this subsection (1). The penalty is payable immediately by the violator to the county as designated in the zoning ordinance or resolution, or amendment thereto.

(f) Until paid, any civil penalty ordered by the court and assessed pursuant to this subsection (1) is, as of recording, a lien against the property on which the violation has been found to exist. If the assessment is not paid within thirty days, the clerk and recorder or county attorney may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant to this subsection (1). Any lien placed against the property pursuant to this subsection (1) must be recorded with the clerk and recorder of the county in which the property is located.

(g) For purposes of this subsection (1), "person" does not include a state agency.

(2) (a) If any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of any regulation or provision of any zoning ordinance or resolution, or amendment thereto, enacted or adopted by any board of county commissioners under the authority granted by this part 1, the county attorney of the county in which the building, structure, or land is situated, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action in county or district court to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, or use. If there is not a county attorney or if the board of county commissioners deems it appropriate, the board of county commissioners may appoint the district attorney of the judicial district to perform the enforcement duties in lieu of the county attorney.

(b) In addition to the civil penalties allowed pursuant to subsection (1) of this section, the county attorney may bring an action in the county court or district court that has jurisdiction over the property for an order enjoining the violation, ordering the violation's restraint, removal, termination, or abatement by the property owner, and authorizing abatement by the county or its agent or to enjoin the proposed use of the land. In bringing that action, the county attorney shall file a verified complaint. The court shall review the verified complaint and schedule a hearing on the request for an abatement order, injunction, or other appropriate remedy provided for pursuant to subsection (2)(a) of this section and direct the issuance of a summons stating the time, date, and place of the preliminary hearing, which the court shall schedule no later than thirty days after the county attorney files the complaint. The county shall serve the summons and complaint on the property owner in accordance with the applicable rules of civil procedure at least ten days prior to the preliminary hearing. If the county's reasonable efforts to personally serve the summons and complaint are unsuccessful, the county may post the summons and complaint on the property and mail the summons and complaint, certified mail, return receipt requested, to the property owner's address in the records of the county assessor as an alternative means of providing service. If the county attorney provides alternative service, the county must provide the alternative service at least ten days prior to the preliminary hearing. At the time, date, and place stated in the summons, the court shall review and consider the request for an abatement

order, injunction, or other appropriate remedy provided for pursuant to subsection (2)(a) of this section, any statement and evidence presented by the county in support thereof, and any statement and evidence presented by the property owner, if present. On the date and at the time set for the hearing, if the property owner fails to appear, and if the county proves that proper service was made on the property owner, the court may grant the relief as requested by the county. A property owner's failure to appear on any date set for a preliminary hearing held pursuant to this subsection (2)(b) is grounds for the court to enter a default and judgment thereon against a nonappearing property owner. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.

(c) If the county abates the violation pursuant to an order of a court, the actual costs of abatement, plus ten percent of the abatement costs for inspection and other incidental costs of abatement, is a lien against the property until paid and has priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within a reasonable time specified by the zoning resolution, the county attorney or county clerk may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant to this subsection (2)(c) of this section.

(3) (a) It is unlawful to erect, construct, reconstruct, alter, or use any building or structure or use any land in violation of any regulation in, or of any provisions of, any zoning ordinance or resolution or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. Any person, firm, or corporation that violates any such regulation, provision, or amendment thereof or any provision of this part 1 commits a civil infraction and, upon conviction thereof, shall be punished by a fine of up to three thousand dollars for each separate violation, according to the fine schedule adopted by the board of county commissioners. The fine schedule may include graduated fines and may provide increased civil penalties for repeat offenses by the same individuals. Each day during which such illegal erection, construction, reconstruction, alteration, or use occurs is deemed a separate offense, and the civil penalty continues to accrue until the violation is remedied.

(b) (I) To pursue a violation pursuant to this subsection (3), a county zoning official authorized pursuant to section 30-28-114 who has personal knowledge of any violation of subsection (3)(a) of this section based on competent evidence acquired during a reasonable investigation shall give written notice to the violator to correct the violation within ten days after the date of the notice. If the violator fails to correct the violation within the ten-day period, any designated zoning personnel may issue, or request that the sheriff issue, a summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. The summons and complaint must require that the violator

appear in county court at a definite time and place stated in the summons and complaint to answer and defend the charge.

(II) Designated zoning personnel or the sheriff shall serve one copy of a summons and complaint issued pursuant to subsection (3)(b)(I) of this section. The designated zoning personnel or the sheriff may personally serve the summons and complaint on the violator as set forth in the county court rules of civil procedure. If the designated zoning personnel or the sheriff's reasonable efforts to personally serve the summons and complaint on the property owner are unsuccessful, the county may post the summons and complaint on the property and mail the summons and complaint to the property owner's address listed in the records of the county assessor. Service is complete upon mailing the summons and complaint. The office serving the summons and complaint shall retain one copy of each and shall transmit one copy of each to the clerk of the county court.

(c) It is the responsibility of the county attorney to enforce the provisions of this subsection (3); except that if there is not a county attorney or if the board of county commissioners deems it appropriate, the board of county commissioners may appoint the district attorney of the judicial district to perform the enforcement duties in lieu of the county attorney.

(d) If there is a conflict between this subsection (3) and the rules of civil infractions, this subsection (3) controls.

(e) For purposes of this subsection (3), "person" does not include a state agency.

(4) The county attorney has the discretion to determine whether to pursue the remedies set forth in subsections (1), (2), or (3) of this section, or any combination thereof, or any other remedies available at law or in equity. None of these remedies are intended to be mutually exclusive.

Source: L. 39: p. 308, § 24. **CSA:** C. 45A, § 24. **CRS 53:** § 106-2-24. **C.R.S. 1963:** § 106-2-23. **L. 77:** Entire section R&RE, p. 1459, § 3, effective June 9. **L. 2006:** (1)(b)(II) amended, p. 233, § 1, effective July 1. **L. 2021:** (1)(a) and (1)(b)(I) amended, (SB 21-271), ch. 462, p. 3249, § 509, effective March 1, 2022. **L. 2026:** Entire section amended, (HB 26-1239), ch. 207, p. 1182, § 4, effective August 12.

ANNOTATION

A zoning resolution may legally restrict the right to extend or enlarge a nonconforming use, and the stopping of an expansion of a nonconforming use is not an arbitrary or unreasonable exercise of governmental power. Wasinger v. Miller, 154 Colo. 61, 388 P.2d 250 (1964).

"Use" defined. "Use" means "to employ" or "to be the subject of customary practice, employment, or occupation". Bd. of County Comm'rs v. Pfeifer, 35 Colo. App. 89, 532 P.2d 51 (1974), modified, 190 Colo. 275, 546 P.2d 946 (1976).

Sale or buying of land is not a "use" prohibited by this section. Bd. of County Comm'rs v. Pfeifer, 35 Colo. App. 89, 532 P.2d 51 (1974), modified, 190 Colo. 275, 546 P.2d 946, (1976).

Court's duties upon considering request for injunction. When considering a request for an injunction and the affirmative defenses to that request, the district court sits as a trial court, not a reviewing court, and therefore has the responsibility for determining the legal merit of those affirmative defenses. Garland v. Bd. of County Comm'rs, 660 P.2d 20 (Colo. App. 1982).

Nothing in this section precludes an investigation by the board of county commissioners of alleged zoning violations. Sundheim v. Bd. of County Comm'rs of Douglas County, 904 P.2d 1337 (Colo. App. 1995), aff'd, 926 P.2d 545 (Colo. 1996).

30-28-124.5. County court actions for civil penalties for zoning violations. (Repealed)

Source: L. 98: Entire section added, p. 338, § 1, effective July 1. **L. 2006:** (1), (2)(b), (2)(d), (3), and (4) amended, p. 233, § 2, effective July 1. **L. 2026:** Entire section repealed, (HB 26-1239), ch. 207, p. 1196, § 9, effective August 12.

30-28-125. Filing with county clerk and recorder.

Upon the adoption of any zoning ordinance or regulation, or map, the board of county commissioners shall file a certified copy of each in the office of the county clerk and recorder, which copies shall be accessible to the public. The county clerk and recorder shall index such ordinances and regulations as nearly as possible in the same manner as he indexes instruments pertaining to the title of land.

Source: L. 39: p. 309, § 25. **CSA:** C. 45A, § 25. **CRS 53:** § 106-2-25. **C.R.S. 1963:** § 106-2-24.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974).

30-28-126. Appropriation authorized.

The board of county commissioners is empowered to appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the county and district planning commissions and of the boards of adjustment, and to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes and other purposes, in accordance with this part 1, from either private or public sources, state or federal.

Source: L. 39: p. 309, § 26. **CSA:** C. 45A, § 26. **CRS 53:** § 106-2-26. **C.R.S. 1963:** § 106-2-25.

30-28-127. Public utilities exceptions.

None of the provisions of this part 1 shall apply to any existing building, structure, or plant or other equipment owned or used by any public utility. After the adoption of a plan, all extensions, betterments, or additions to buildings, structures, or plant or other equipment of any public utility shall only be made in conformity with such plan, unless, after public hearing first had, the public utilities commission orders that such extensions, betterments, or additions to buildings, structures, or plant or other equipment are reasonable and that such extensions, betterments, or additions may be made even though they conflict with the adopted plan.

Source: L. 39: p. 309, § 27. **CSA:** C. 45A, § 27. **CRS 53:** § 106-2-27. **C.R.S. 1963:** § 106-2-26.

ANNOTATION

Administrative agency proceeding by Public Utilities Commission (PUC) was quasi-judicial where it rendered its decision by applying the reasonableness standard set forth in this section, the parties adversely affected by the decision were identifiable, no new rule of general application resulted, and notice and a public hearing were required. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 829 P.2d 1303 (Colo. 1992).

The requirement that the PUC find a proposed improvement to be

"reasonable" before ordering an upgrade to equipment contrary to a county land use plan, read in the context of the statutory scheme covering county planning along with the rules that the PUC has adopted, provides an adequate standard. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 829 P.2d 1303 (Colo. 1992).

In determining whether any improvement or upgrade in accordance with this section is reasonable statutory considerations for county or regional planning commissions are also factors for the PUC to consider. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 829 P.2d 1303 (Colo. 1992).

It is within the discretion of the PUC to determine what factors are germane to assessing the reasonableness of an utility upgrade, because the PUC has the knowledge and expertise to determine when, and under what circumstances, an upgrade is reasonable and it is constitutionally authorized to make such determinations. Douglas County Bd. of Comm'rs v. Pub. Utils. Comm'n, 866 P.2d 919 (Colo. 1994).

PUC had jurisdiction and committed no error in determining that changes to rail station constituted "extensions, betterments, or additions to buildings, structures, or plant or other equipment". Am. Heritage Rys., v. Pub. Utils. Comm'n, 2025 CO 27, 569 P.3d 61.

30-28-128. Term of membership.

In order to ensure adequate time for the preparation of those plans which are specified as the primary responsibility of a regional planning commission, the term of membership of any governing body in a regional planning commission shall be not less than three years.

Source: L. 59: p. 622, § 6. **CRS 53:** § 106-2-29. **C.R.S. 1963:** § 106-2-28.

30-28-129. Inclusion of land in regional planning commission.

Any county or municipality adjacent to an area under the jurisdiction of a regional planning commission may be included in such regional planning commission by agreement between its board of county commissioners, or governing body, or in charter cities the officials having charge of public improvements and the governing bodies which are members of the regional planning commission. Any such county or municipality, upon being included in the regional planning commission, shall be subject to all provisions of this part 1 relating to regional planning commissions.

Source: L. 59: p. 623, § 6. **CRS 53:** § 106-2-30. **C.R.S. 1963:** § 106-2-29.

30-28-130. Notice of intent to withdraw.

Written notice of intent to withdraw shall be given to the regional planning commission at least ninety days prior to the date of intended withdrawal, and no withdrawal shall be effective until such notice has been given. In the event of withdrawal of a county or municipality, no refund shall be made of any moneys paid to the regional planning commission.

Source: L. 59: p. 623, § 6. **CRS 53:** § 106-2-31. **C.R.S. 1963:** § 106-2-30.

30-28-131. Planning commission responsibilities in a common geographic area.

The regional planning commission shall have primary responsibility for those broad plans described in section 30-28-106 (3) and surveys and studies described in section 30-28-107 which clearly affect the physical development of two or more governmental units. The district, county, or municipal planning commission shall have primary responsibility for all other plans, surveys, and studies and implementation thereof in zoning, subdivision, housing, recreation, transportation, public works, health and safety, and other similar subjects.

Source: L. 59: p. 623, § 6. **CRS 53:** § 106-2-32. **C.R.S. 1963:** § 106-2-31.

30-28-132. Concurrent planning jurisdiction - authorized agreements and contracts.

(1) In any instance where a regional planning commission is unable to perform on time and in sufficient detail a plan or survey or study which is its primary responsibility and where such plan or survey or study has been requested and is urgent for the development of a district, county, or municipality, then, upon formal notice to the regional planning commission, the local commission may proceed to make such plan or survey or study for its own area. In such instances, the regional planning commission may adopt such plan or survey or study as part of its regional plan and may take primary responsibility for the expansion of the study or plan into other jurisdictions.

(2) A regional planning commission may agree or contract with any governmental or quasi-governmental body within the region to make any plan or survey or study for such governmental or quasi-governmental body, irrespective of whether such plan or survey or study is the primary responsibility of such regional planning commission.

(3) A regional planning commission may agree or contract with any constituent government to have it make any plan or survey or study which is the primary responsibility of the regional planning commission.

Source: L. 59: p. 623, § 6. **CRS 53:** § 106-2-33. **C.R.S. 1963:** § 106-2-32.

30-28-133. Subdivision regulations.

(1) Every county in the state that does not have a county planning commission on July 1, 1971, shall create a county planning commission in accordance with the provisions of section 30-28-103. Every county planning commission in the state shall develop, propose, and recommend subdivision regulations, and the board of county commissioners shall adopt and enforce subdivision regulations for all land within the unincorporated areas of the county in accordance with this section not later than September 1, 1972. Before finally adopting any subdivision regulations, the board of county commissioners shall hold a public hearing thereon, and at least fourteen days' notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation in the county. Before adopting any such subdivision regulations, the board of county commissioners may revise, alter, or amend any such subdivision regulations developed, proposed, or recommended by the county planning commission. Such subdivision regulations shall be in full force and effect and enforced by the board of county commissioners.

(2) Prior to the adoption of the regulations referred to in this section, a public hearing shall be held thereupon in the county in which said territory or any part thereof is situated. A copy of such regulations shall be filed with the county clerk and recorder of the county in which said territory is situated.

(3) Subdivision regulations adopted by a board of county commissioners pursuant to this section shall require subdividers to submit to the board of county commissioners data, surveys, analyses, studies, plans, and designs, in the form prescribed by the board of county commissioners, of the following items:

(a) Property survey and ownership of the surface and mineral estates including mineral lessees, if any;

(b) Relevant site characteristics and analyses applicable to the proposed subdivision including the following, which shall be submitted by the subdivider with the sketch plan:

(I) Reports concerning streams, lakes, topography, and vegetation;

(II) Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision;

(III) In areas of potential radiation hazard to the proposed future land use, evaluations of these potential radiation hazards;

(IV) Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with any standard soil classifications and procedures therefor, for the proposed use;

(c) A plat and other documentation showing the layout or plan of development, including, where applicable, the following information:

(I) Total development area;

(II) Total number of proposed dwelling units;

(III) Total number of square feet of proposed nonresidential floor space;

(IV) Total number of proposed off-street parking spaces, excluding those associated with single-family residential development;

(V) Estimated total number of gallons per day of water system requirements where a distribution system is proposed;

(VI) Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed or sewage disposal means and suitability where no central sewage treatment facility is proposed;

(VII) Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the developer by the county;

(VIII) Maps and plans for facilities to prevent storm waters in excess of historic runoff, caused by the proposed subdivision, from entering, damaging, or being carried by conduits, water supply ditches and appurtenant structures, and other storm drainage facilities;

(d) Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed. Such evidence may include, but shall not be limited to:

(I) Evidence of ownership or right of acquisition of or use of existing and proposed water rights;

(II) Historic use and estimated yield of claimed water rights;

(III) Amenability of existing rights to a change in use;

(IV) Evidence that public or private water owners can and will supply water to the proposed subdivision stating the amount of water available for use within the subdivision and the feasibility of extending service to that area;

(V) Evidence concerning the potability of the proposed water supply for the subdivision.

(e) Evidence that provision has been made for facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric or, if applicable, natural gas service for the proposed subdivision. Submission of a letter of agreement between the subdivider and utility serving the site shall be deemed sufficient to establish that adequate provision for electric or, if applicable, natural gas service to a proposed subdivision has been made.

(4) Subdivision regulations adopted by the board of county commissioners pursuant to this section shall also include, as a minimum, provisions governing the following matters:

(a) Sites and land areas for schools and parks when such are reasonably necessary to serve the proposed subdivision and the future residents thereof. Such provisions may include:

(I) Reservation of such sites and land areas, for acquisition by the county;

(II) Dedication of the sites and land areas to the county, to a school district, or to the public or, in lieu thereof, payment of a sum of money not exceeding the fair market value of the sites and land areas or a combination of such dedication and such payment; except that the value of the combination shall not exceed the fair market value of the sites and land areas. Any sums, when required, or moneys to be paid to the board of county commissioners pursuant to this paragraph (a) may, if approved by the board of county commissioners, be paid directly to a school district. If the sites and land areas are dedicated to the county, to a school district, or the public, the board of county commissioners may, at the request of the affected entity, sell the land. The subdivider shall have a right of first refusal to purchase all or a portion of any land dedicated by the subdivider to a county, school district, or other public entity pursuant to this subparagraph (II) before the land is sold, transferred, or conveyed to any party other than a school district. Prior to selling or otherwise transferring ownership of the land, the county, school district, or other public entity selling the land shall provide written notice to the subdivider of its intention to sell or transfer ownership of all or any portion of the land. The subdivider shall then have sixty days to provide written notice to the county, school district, or other public entity of the subdivider's interest in purchasing all or a portion of the land to be sold. The purchase of the land by the subdivider shall be upon such terms and conditions and for such consideration as the parties may mutually agree; however, in no event shall the purchase price exceed the fair market value of the land at the time the subdivider dedicated the land to the county, school district, or other public entity. Any right of first refusal created pursuant to this subparagraph (II) shall expire twenty years from the date the land was dedicated by the subdivider to a county, school district, or other public entity. Except as provided in subsection (4.3) of this section, any such sums, when required, or moneys paid to the board of county commissioners from the sale of the dedicated sites and land areas shall be held by the board of county commissioners:

(A) For the acquisition of reasonably necessary sites and land areas or for other capital outlay purposes for schools or parks;

(B) For the development of the sites and land areas for park purposes; or

(C) For growth-related planning functions by school districts for educational purposes;

(III) Dedication of such sites and land areas for the use and benefit of the owners and future owners in the proposed subdivision;

(b) Standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways, which may require, in the opinion of the board of county commissioners, detention facilities which may be dedicated to the county or the public, as are deemed necessary to control, as nearly as possible, storm waters generated exclusively within a subdivision from a one hundred year storm which are in excess of the historic runoff volume of storm water from the same land area in its undeveloped and unimproved condition;

(c) Standards and technical procedures applicable to sanitary sewer plans and designs, including soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal systems when applicable;

(d) Standards and technical procedures applicable to water systems.

(4.3) After final approval of a subdivision plan or plat and receipt of dedications of sites and land areas or payments in lieu thereof required pursuant to subparagraph (II) of paragraph (a) of subsection (4) of this section, the board of county commissioners shall give written notification to the appropriate school districts and local government entities. Following such notice, a school district or local government entity may request periodic transfer on no longer than an annual basis of such land or moneys to the district or entity. When a board of county commissioners determines that the school district or local government entity has demonstrated a need for the land or moneys based on a long-range capital plan or evidence of the impact of the subdivision on the district or entity, or both, it shall periodically transfer on no longer than an annual basis the land or moneys to the appropriate school district or local government entity. The district or entity shall use the transferred land or moneys only for a purpose authorized by sub-subparagraphs (A) to (C) of subparagraph (II) of paragraph (a) of subsection (4) of this section. Any moneys received by the board of county commissioners that are transferred pursuant to this subsection (4.3) are not county revenues for purposes of paragraph (d) of subsection (7) of section 20 of article X of the state constitution.

(4.5) Subdivision regulations adopted by a board of county commissioners may provide for the protection and assurance of access to sunlight for solar energy devices by considering the use of restrictive covenants or solar easements, height restrictions, side yard and setback requirements, street orientation and width requirements, or other permissible forms of land use controls.

(5) No subdivision shall be approved under section 30-28-110 (3) and (4) until such data, surveys, analyses, studies, plans, and designs as may be required by this section and by the county planning commission or the board of county commissioners have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the county contained in its subdivision regulations.

(6) No board of county commissioners shall approve any preliminary plan or final plat for any subdivision located within the county unless the subdivider has provided the following materials as part of the preliminary plan or final plat subdivision submission:

(a) Evidence to establish that definite provision has been made for a water supply that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

(b) Evidence to establish that, if a public sewage disposal system is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with state and local laws and regulations which are in effect at the time of submission of the preliminary plan or final plat;

(c) Evidence to show that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions.

(7) and (8) (Deleted by amendment, L. 2005, p. 668, § 6, effective June 1, 2005.)

(9) The subdivision regulations adopted under this section may provide that, without a hearing or compliance with any of the submission, referral, or review requirements in this section and section 30-28-136, the board of county commissioners may approve a correction plat if the sole purpose of such correction plat is to correct one or more technical errors in an approved plat and where such correction plat is consistent with an approved preliminary plan. However, if the technical error or errors of an approved plat meet the description of any errors under section 38-51-111 (2), C.R.S., a surveyor's affidavit of correction, as defined in section 38-51-102, C.R.S., shall be prepared in lieu of a correction plat.

(10) It is recognized that surface and mineral estates are separate and distinct interests in land and that one may be severed from the other and that the owners of subsurface mineral interests and their lessees, if any, are entitled to the notice specified in section 24-65.5-103, C.R.S., and shall be recognized by the commission as having the same rights and privileges as surface owners.

(11) The subdivision regulations adopted under this section may provide for the payment of a sum of money or proof of a line of credit or other fees in connection with a subdivision on a per-acre basis, to represent an equitable contribution to the total costs of the drainage facilities in the drainage basin in which the subdivision is located. The subdivision regulations shall provide for

the repayment to a subdivider, from any surplus basin funds available, of any costs he incurs because of compliance with the plans for the development of drainage basins in excess of the sum of the drainage fees assessed against his acreage. When the subdivision regulations require such payment, a plan for the development of drainage basins shall be adopted pursuant to section 30-28-106 (3)(d). The provisions of this section shall not apply to any area which is within an existing drainage district organized or created pursuant to law without the approval of such district.

(12) The subdivision regulations adopted under this section may provide that a subdivider is entitled to fair-share reimbursement of the cost of any streets and related facilities, water distribution systems, sewage collection systems, storm drainage facilities, and other improvements the county requires the subdivider to construct adjacent to or outside the subdivision. Any such reimbursable costs shall be paid to the subdivider, less any reimbursement by the county, by the owner or owners of property that is adjacent to or has presumed use of the improvements when that property is developed. Subdivision regulations providing for such reimbursement shall prescribe the period, not to exceed fifteen years from the date of completion of an improvement, during which a subdivider may seek reimbursement. Subdivision regulations providing for such reimbursement may entitle subdividers to interest on the amount to be reimbursed.

Source: L. 61: p. 592, § 2. **CRS 53:** § 106-2-35. **C.R.S. 1963:** § 106-2-34. **L. 67:** p. 110, § 1. **L. 71:** p. 1055, §§ 1, 2. **L. 72:** p. 501, §§ 6, 7. **L. 73:** p. 1085, §§ 1, 2. **L. 75:** (3)(b)(IV) amended, p. 1001, § 1, effective July 14. **L. 77:** (9) added, p. 1453, § 2, effective May 24. **L. 79:** (3)(a) amended and (10) added, p. 1167, §§ 1, 2, effective July 1; (4)(a)(II) amended, p. 1169, § 1, effective July 1; (4.5) added, p. 1162, § 9, effective January 1, 1980. **L. 83:** (11) added, p. 1236, § 5, effective July 1. **L. 84:** (4)(a)(II) amended, p. 826, § 1, effective April 14; (4)(a)(II) amended and (4.3) added, p. 827, § 1, effective April 30. **L. 92:** (1) amended, p. 966, § 6, effective June 1. **L. 96:** (4)(a)(II) and (4.3) amended, p. 979, § 1, effective May 23. **L. 2000:** (3)(e) added, p. 1618, § 1, effective July 1. **L. 2001:** (10) amended, p. 490, § 4, effective July 1; (12) added, p. 242, § 1, effective August 8. **L. 2005:** (1), (2), (7), and (8) amended, p. 668, § 6, effective June 1. **L. 2007:** (10) amended, p. 2121, § 7, effective August 3. **L. 2010:** (9) amended, (HB 10-1085), ch. 95, p. 325, § 6, effective August 11.

Editor's note: Amendments to subsection (4)(a)(II) by House Bill 84-1087 and House Bill 84-1189 were harmonized.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For comment, "Pre-Enforcement Judicial Review: CF & I Steel Corp. v. Colorado Air Pollution Control Commission", see 58 Den. L.J. 693 (1981). For article, "Property Tax Incentives for Implementing Soil Conservation Programs Under Constitutional Taxing Limitations", see 59 Den. L.J. 485 (1982). For note, "The Permissible Scope of Compulsory Requirements for Land Development in Colorado", see 54 U. Colo. L. Rev. 447 (1983). For article, "Subdivision Improvement Requirements and Guarantees in Colorado", see 14 Colo. Law. 554 (1985). For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987). For comment, "School Impact Fees in Colorado: Gone, but Hopefully Not Forgotten", see 70 U. Colo. L. Rev. 257 (1998).

A landowner must comply with all county as well as state subdivision requirements. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

But county subdivision regulations are of primary importance. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

Land use regulations generally may be applied prospectively only. Bd. of County Comm'rs v. Goldenrod Corp., 43 Colo. App. 221, 601 P.2d 360 (1979).

Not necessary to pursue administrative remedies where county initiates court action to enforce regulations. Although usually a landowner must first present his objections to land use regulations to the appropriate administrative agency before challenging those regulations in the courts, where a board of county commissioners initiates an action to enforce its subdivision regulations, a landowner is under no obligation to first exhaust available administrative remedies prior to asserting a defense predicated upon allegations of unconstitutionality. Bd. of County Comm'rs v. Goldenrod Corp., 43 Colo. App. 221, 601 P.2d 360 (1979).

Subsection (3) neither mandates the submission of a sketch plan nor qualifies the language allowing the board of commissioners to decide what form submissions should take. Save Park County v. Bd. of County Comm'rs, 969 P.2d 711 (Colo. App. 1998), aff'd on other grounds, 990 P.2d 35 (Colo. 1999).

It is within the board of commissioners' discretion to find that the addition of two lots to a 34-lot subdivision proposal is not a significant change requiring resubmission of a preliminary plan, that a drainage plan and a radiation hazard study were not required, and that water quality issues were adequately addressed. Save Park County v. Bd. of County Comm'rs, 969 P.2d 711 (Colo. App. 1998), aff'd on other grounds, 990 P.2d 35 (Colo. 1999).

This section contains no deadline for submission of a final plat to a board of commissioners. Save Park County v. Bd. of County Comm'rs, 969 P.2d 711 (Colo. App. 1998), aff'd on other grounds, 990 P.2d 35 (Colo. 1999).

County commissioners have no implied power to require monetary exactions at the time of issuance of a building permit or certificate of occupancy above the cap set forth in subsection (4)(a)(II). County Comm'rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

Exaction payments can be utilized for a project on or off the site of a subdivision. County Comm'rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

The language of subsection (4) providing that subdivision regulations adopted by local governments shall also include "at a minimum" the land dedication or in lieu fees does not imply that a county has the authority to impose fees upon the issuance of the building permit or the certificate of occupancy. The use of the phrase "at a minimum" addresses the overall content of subdivision regulations. County Comm'rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

Applied in Stagecoach Prop. Owners Ass'n v. Young's Ranch, 658 P.2d 1378 (Colo. App. 1982); Winslow v. Morgan County Comm'rs, 697 P.2d 1141 (Colo. App. 1985); Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985); Delta County Bd. of County Comm'rs v. Sherrill, 757 P.2d 1085 (Colo. App. 1987).

30-28-133.1. Subdivision plan or plat - access to public highways.

No person may submit an application for subdivision approval to a local authority unless the subdivision plan or plat provides, pursuant to section 43-2-147, C.R.S., that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway access code.

Source: L. 80: Entire section added, p. 796, § 57, effective June 5. **L. 82:** Entire section amended, p. 626, § 32, effective April 2.

ANNOTATION

Law reviews. For article, "Local Government Exactions from Developers after Beaver Meadows", see 16 Colo. Law. 42 (1987).

Board of county commissioners abused its discretion in approving planned unit development because record contains no evidence of year-around access to the state highway system at the time of final approval. Plain language of this section does not allow postponing access beyond the application for final subdivision approval. Final approval of a subdivision application predicated on obtaining access to the state highway system by an as yet undetermined route would constitute an abuse of discretion because the subdivision might never have

the required statutory access. This section requires at a minimum year-round wheeled vehicle access between state highway and village. Because subject road is not usable by wheeled vehicles during winter, purpose of this section not satisfied. Wolf Creek Ski Corp. v. Bd. of County Comm'rs, 170 P.3d 821 (Colo. App. 2007).

Applied in Beaver Meadows v. Bd. of County Comm'rs, 709 P.2d 928 (Colo. 1985).

30-28-133.5. Review of plats and other plans.

(1) The process for review and approval of any plat or other plan required by section 30-28-133 or 30-28-133.1, for any agreement required by section 30-28-137, or for plans for extensions, betterments, or additions to buildings, structures or plant or other equipment of a public utility under section 30-28-127 shall be conducted pursuant to duly adopted county resolutions, ordinances, or regulations that are available to the applicant prior to commencement of such process. The denial of a plat, plan, or agreement shall be supported by written findings specifying the provisions that the plat, plan, or agreement failed to address or satisfy. The denial of any plat, plan, or agreement shall be based on a failure to conform to the requirements of the adopted resolution, ordinance, or regulation.

(1.5) (a) County resolutions, ordinances, or regulations required by subsection (1) of this section may provide for the delegation by a board of county commissioners to one or more county administrative officials the authority to:

(I) Approve or deny final plats, amendments to final plats, and correction plats insofar as the findings required by section 30-28-133 (6) have previously been made by either the board of county commissioners of the county or by one or more county administrative officials to whom the matter has been delegated in connection with the preliminary plan with which the final plat complies;

(II) Approve subdivision improvement agreements and other agreements required in connection with a final plat, an amendment to a final plat, or correction plat;

(III) Review and approve the data, surveys, analyses, studies, plans, and designs submitted in connection with a final plat, amendment to a final plat, or correction plat; and

(IV) Review and approve any subdivision exemption as authorized by section 30-28-101 (10)(d).

(b) Any delegation of authority made pursuant to subsection (1.5)(a) of this section shall not include:

(I) The approval of any agreement for the expenditure of public funds; or

(II) The waiver or restriction of any appeal process provided by county resolution, ordinance, or regulation.

(c) Any delegation of authority made pursuant to subsection (1.5)(a) of this section must include procedures for public notice and the submission of written comments prior to the administrative approval or denial of a final plat or amendment to a final plat and for the appeal to a board of county commissioners of the county of such administrative approval or denial.

(2) Nothing in this section shall be construed to preclude a county from taking any action permitted by law with respect to the plat, plan, or agreement based on the consideration of the rights and privileges of the owners of subsurface mineral interests and their lessees pursuant to section 30-28-133 (10).

(3) During the administrative review of any plat, plan, or agreement, the county shall make every effort to apprise the applicant of any deficiency or nonconformity in the plat, plan, or agreement prior to any required public hearing. A technical dispute between a licensed or registered professional of the applicant and the county may be referred, at the applicant's request, to a qualified employee in the appropriate state department for a recommendation to facilitate a resolution of the dispute.

(4) The county planning commission or board of county commissioners may request redesign of all or any portion of a plat or plan submitted for approval, but any such request shall be based on specific, objective criteria. If the applicant redesigns the plat or plan in accordance with the request, no further redesign shall be required unless necessary to comply with a duly adopted county resolution, ordinance, or regulation.

(5) Any required public hearing on any plat, plan, or agreement shall be conducted expeditiously and concluded when all those present and wishing to testify have done so. No public hearing shall continue for more than forty days from the date of commencement without the written consent of the applicant. Any continuation of a public hearing shall be to a date certain.

(6) Unless withdrawn by the applicant, any plat, plan, or agreement that has been neither approved, conditionally approved, nor denied within a time certain mutually agreed to by the county and the applicant at the time of filing shall be deemed approved under sections 30-28-127, 30-28-133, 30-28-133.1, or 30-28-137. Such time period may be extended by the county to receive a recommendation from any agency to which a plat or plan was referred pursuant to section 30-28-136, but such extension shall not exceed thirty days unless the agency has notified the county that it will require additional time to complete its recommendation.

(7) Any requirement set forth in this section may be waived in writing by the applicant.

Source: L. 96: Entire section added, p. 1837, § 1, effective June 5. **L. 2019:** (1.5) added, (HB 19-1274), ch. 399, p. 3539, § 1, effective September 1.

ANNOTATION

A county may deny an application based upon failure to comply with requirements of an adopted resolution, ordinance, or regulation. Such decision will be upheld if competent evidence in the record supports the denial. County Comm'rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

30-28-134. Telecommunications research facilities of the United States - inclusions in planning and zoning.

Any zoning plan, modification thereof, or variance therefrom adopted or granted under this part 1 on or after April 23, 1969, shall comply with the requirements of part 6 of article 11 of this title.

Source: L. 69: p. 238, § 2. **C.R.S. 1963:** § 106-2-35.

30-28-135. Safety glazing materials.

The board of county commissioners of each county in this state shall adopt standards governing the use of safety glazing materials for hazardous locations in the unincorporated areas of the county. No building permit shall be issued for the construction, reconstruction, or alteration of any structure in the unincorporated area of such county unless such construction, reconstruction, or alteration conforms to the standards adopted pursuant to this section. The county building inspector shall inspect all places to determine whether such places are in compliance with the standards for the use of safety glazing materials.

Source: L. 71: p. 885, § 2. **C.R.S. 1963:** § 106-2-36. **L. 86:** Entire section amended, p. 501, § 122, effective July 1.

30-28-136. Referral and review requirements.

(1) Upon receipt of a complete preliminary plan submission, the board of county commissioners or its authorized representative shall distribute copies of prints of the plan as follows:

(a) To the appropriate school districts;

(b) To each county or municipality within a two-mile radius of any portion of the proposed subdivision;

(c) To any utility, local improvement and service district, or ditch company, when applicable;

(d) To the Colorado state forest service, when applicable;

(e) To the appropriate planning commission;

(f) To the local conservation district board within the county for explicit review and recommendations regarding soil suitability, floodwater problems, and watershed protection. Such referral shall be made even though all or part of a proposed subdivision is not located within the boundaries of a conservation district.

(g) When applicable, to the county or district public health agency or the state department of public health and environment for its review of the on-lot sewage disposal reports, for review of the adequacy of existing or proposed sewage treatment works to handle the estimated effluent, and for a report on the water quality of the proposed water supply to serve the subdivision. The department of public health and environment or county or district public health agency to which the plan is referred may require the subdivider to submit additional engineering or geological reports or data and to conduct a study of the economic feasibility of a sewage treatment works prior to making its recommendations. No plan shall receive the approval of the board of county commissioners unless the department of public health and environment or county or district public health agency to which the plan is referred has made a favorable recommendation regarding the proposed method of sewage disposal.

(h) (I) To the state engineer for an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary or proposed to be used to supply the proposed subdivision and adequacy of proposed water supply to meet requirements of the proposed subdivision. If the state engineer finds such injury or finds inadequacy, he shall express such finding in an opinion in writing to the board of county commissioners, stating the reason for his finding, including, but not limited to, the amount of additional or exchange water that may be required to prevent such injury. In the event the subdivision is approved notwithstanding the state engineer's opinion, the subdivider shall furnish to all potential purchasers a copy of the state engineer's opinion prior to the sale or a synopsis of the opinion; except that the subdivider need not supply the potential purchaser with a copy of such opinion or synopsis if, in the opinion of

the board of county commissioners, the subdivider has corrected the injury or inadequacy set forth in the state engineer's finding.

(II) A municipality or quasi-municipality, upon receiving the preliminary plan designating said municipality or quasi-municipality as the source of water for a proposed subdivision, shall file, with the board of county commissioners and the state engineer, a statement documenting the amount of water which can be supplied by said municipality or quasi-municipality to proposed subdivisions without causing injury to existing water rights. The state engineer shall file, with said board of county commissioners, written comments on the report. If, in the judgment of the state engineer, the report is insufficient to issue an opinion, the state engineer shall notify the board of county commissioners to this effect, indicating the deficiencies.

(i) To the Colorado geological survey for an evaluation of those geologic factors that would have a significant impact on the proposed use of the land; except that, upon written request from the board of county commissioners or the board's authorized representative, the Colorado geological survey may exempt any preliminary plan from this referral and review requirement.

(2) The agencies named in this section shall make recommendations within twenty-one days after the mailing by the county or its authorized representative of such plans unless a necessary extension of not more than thirty days has been consented to by the subdivider and the board of county commissioners of the county in which the subdivision area is located. The failure of any agency to respond within twenty-one days or within the period of an extension shall, for the purpose of the hearing on the plan, be deemed an approval of such plan; except that, where such plan involves twenty or more dwelling units, a school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures.

(3) The provisions of this part 1 shall not modify the duties or enlarge the authority of the state engineer or the division engineers nor divest the water courts of jurisdiction over actions concerning water right determinations and administration; neither shall any opinion of the state engineer submitted under subsection (1)(h) of this section nor any finding by a board of county commissioners concerning subdivision water supply matters create any presumption concerning injury or noninjury to water rights; and neither the state engineer's opinion nor the finding of the board of county commissioners may be used as evidence in any administrative proceeding or in any judicial proceeding concerning water right determinations or administration.

(4) Repealed.

Source: L. 72: p. 504, § 8. **C.R.S. 1963:** § 106-2-37. **L. 73:** pp. 781, 1087, 1088, §§ 2, 1, 1. **L. 75:** (1)(h) R&RE, p. 1002, § 1, effective July 18. **L. 77:** (2) amended, p. 1453, § 3, effective May 24. **L. 92:** (2) amended, p. 966, § 7, effective June 1. **L. 94:** (1)(g) amended, p. 2801, § 561, effective July 1. **L. 2002:** (1)(f) amended, p. 518, § 14, effective July 1. **L. 2005:** (4) repealed, p.

667, § 1, effective June 1. **L. 2010:** (1)(g) amended, (HB 10-1422), ch. 419, p. 2119, § 167, effective August 11. **L. 2012:** (1)(i) amended, (HB 12-1282), ch. 178, p. 641, § 1, effective August 8.

Cross references: For duties of the state geologist upon receipt of copies of prints of the plans, see § 23-41-205.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974). For article, "Property Tax Incentives for Implementing Soil Conservation Programs Under Constitutional Taxing Limitations", see 59 Den. L.J. 485 (1982).

Zoning and subdivision regulations are separate and distinct legislation and serve different purposes. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

A subdivider must first meet zoning regulations and then additionally must comply with state and county subdivision regulations. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

This section is designed to allow a planning commission to make a decision on a preliminary plat without waiting indefinitely for agencies' reports. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

Authority to act on reports implicit. If a planning department or a board of county commissioners has no authority to consider and act on reports required by this section, particularly where they indicate a hazard to the public, then the general purpose to be served by enacting the regulations would be vitiated. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

There was no error or violation of petitioner's due process right in a board's consideration of late agency reports. Shoptaugh v. Bd. of County Comm'rs, 37 Colo. App. 39, 543 P.2d 524 (1975).

A subdivision proposal may be denied based upon a finding of a lack of available schools to serve the residents of the proposed new development. County Comm'rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

Board of county commissioners did not abuse its discretion when it did not resubmit plans for a subdivision to certain agencies for additional comment and review before granting final approval. Once the board has satisfied the requirements of the statute by submitting the proposed plans for comment, a decision whether or not to require additional comments is within the sound discretion of

that board. Save Park County v. Bd. of County Comm'rs, 990 P.2d 35 (Colo. 1999).

Board of county commissioners acted within its discretion when, 11 years after a subdivision plan was proposed, it did not seek supplemental information from all agencies, but instead sought any supplemental information it found necessary to reach an informed decision. Save Park County v. Bd. of County Comm'rs, 990 P.2d 35 (Colo. 1999).

30-28-137. Guarantee of public improvements.

(1) No final plat shall be recorded until the subdivider has submitted and the board of county commissioners has approved one or a combination of the following:

(a) A subdivision improvements agreement agreeing to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of said board, to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or

(b) Other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final plat documents which, in the judgment of said board, will make reasonable provision for completion of said improvements in accordance with design and time specifications.

(2) As improvements are completed, the subdivider may apply to the board of county commissioners for a release of part or all of the collateral deposited with said board. Upon inspection and approval, the board shall release said collateral. If the board determines that any of such improvements are not constructed in substantial compliance with specifications, it shall furnish the subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the board of county commissioners determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the board of county commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvement in accordance with the specifications.

(3) The board of county commissioners or any purchaser of any lot, lots, tract, or tracts of land subject to a plat restriction which is the security portion of a subdivision improvements agreement shall have the authority to bring an action in any district court to compel the enforcement of any subdivision improvements agreement on the sale, conveyance, or transfer of any such lot, lots, tract, or tracts of land or of any other provision of this part 1. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of title of any lot, lots, tract, or tracts of land contrary to the provisions of any such restriction set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the

issuance of a building permit by any county where so required or otherwise prior to commencement of construction on any such lot, lots, tract, or tracts of land.

(4) In addition to any other remedy set forth in this part 1, the board of county commissioners, or any purchaser of any lot, lots, tract, or tracts of land in a recorded plat, shall have the authority to bring an action for injunctive relief to enforce any plat restriction, plat note, plat map, or provision of a subdivision improvements agreement and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a subdivision improvements agreement. Nothing in this part 1 shall require the board of county commissioners to bring any action referred to in this subsection (4).

Source: L. 72: p. 506, § 8. **C.R.S. 1963:** § 106-2-38. **L. 75:** (3) added, p. 988, § 3, effective July 14. **L. 92:** (4) added, p. 967, § 10, effective June 1.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L.J. 467 (1974).

Standing to assert a claim against a board of county commissioners. Under subsection (4), a purchaser of a lot has standing to assert a claim against a board for the alleged breach of a subdivision improvements agreement. Langlois v. Bd. of County Comm'rs, 78 P.3d 1154 (Colo. App. 2003).

Applied in Colo. Nat'l Bank v. Bd. of County Comm'rs, 634 P.2d 32 (Colo. 1981).

30-28-138. Referral to municipality.

Notwithstanding any provision of law to the contrary, the board of county commissioners shall refer any proposed land use decision that involves a business or agricultural activity identified in section 31-15-501 (1)(a) and (1)(d), C.R.S., to the governing body of a municipality for review and comment if such business or agricultural activity lies wholly or partially within one mile of the corporate limits of the municipality.

Source: L. 99: Entire section added, p. 63, § 2, effective July 1.

30-28-139. Merger of lots - notice - hearing - assessment of merged parcels.

(1) Notwithstanding any other provision of law, where a county ordinance, regulation, or resolution provides for the merger of two or more parcels of land for the purpose of eliminating interior lot lines, obsolete subdivisions, or otherwise, the ordinance, regulation, or resolution shall provide that:

(a) Prior to the completion of the merger, the county shall send notice of the county's intent to complete the merger to each owner of the affected parcels by certified mail. The notice shall also specify that each such owner may request a hearing on the proposed merger pursuant to paragraph (b) of this subsection (1), and shall specify action to be taken by such owner to request such hearing, including, without limitation, the requirement that said owner shall request the hearing within one hundred twenty days of the date the notice required by this paragraph (a) is received by said owner.

(b) (I) Prior to the completion of the merger, where each owner of an affected parcel has timely requested a hearing on the proposed merger satisfying the requirements of paragraph (a) of this subsection (1), a public hearing on said merger shall be held before the board of county commissioners of said county. The hearing shall be conducted for the purpose of allowing the board to discuss with the owner of each affected parcel its reasons for proceeding with the merger and to give each owner the opportunity to submit any basis provided under law for challenging the merger. In such case, notice of the time, place, and manner of the hearing shall be provided to each owner of the affected parcels and also published in a newspaper of general circulation in the county in a manner sufficient to notify the public of the time, place, and nature of said hearing.

(II) Where the owner of each affected parcel fails to timely request a hearing on the proposed merger satisfying the requirements of paragraph (a) of this subsection (1), no such hearing is required, and the affected parcels shall be merged in accordance with the requirements of this subsection (1).

(c) In order to give the owner of the parcels the opportunity to take whatever remedial action is allowed under law, the hearing authorized by paragraph (b) of this subsection (1) shall take place no sooner than ninety days following the date of the notice required by paragraph (a) of this subsection (1).

(2) No merger of parcels that is the subject of a hearing pursuant to subsection (1) of this section shall be effective unless:

(a) The owner of the parcels has given his, her, or its consent to the merger of said parcels; and

(b) The merger has been approved by a majority of the board of county commissioners.

(3) Upon completion of any merger of parcels in accordance with the requirements of this section, the county shall:

(a) For purposes of the levying and collection of the tax on real and personal property, assess the merged parcels as one parcel of real property; and

(b) File of record a notice of merger in the office of the clerk and recorder of deeds for the county in which the merged parcels of real property are located, and such notice shall constitute prima facie evidence that all of the requirements of subsection (1) of this section have been satisfied.

(4) Notwithstanding any other provision of this section, the requirements of subsections (1) and (2) of this section shall not apply to any merger of parcels of land that is requested in writing by each owner of an affected parcel.

(5) Nothing in this section shall be construed to abrogate or otherwise diminish or expand any rights a landowner may have under article 68 of title 24, C.R.S., pertaining to vested property rights.

Source: L. 2003: Entire section added, p. 967, § 1, effective October 1.

Editor's note: Section 2 of chapter 132, Session Laws of Colorado 2003, provides that provisions of this section addressing the requirements of notice and hearing only apply to mergers that take effect on or after October 1, 2003, and that provisions of this section addressing the assessment of merged parcels as one parcel of real property for purposes of the levying and collection of the tax on real and personal property apply to mergers that take effect prior to, on, and after October 1, 2003, but shall not be construed to require a reassessment of property for property tax years commencing prior to January 1, 2003.

30-28-140. Parking and electric vehicle charging stations - legislative declaration.

(1) (a) The general assembly finds that:

(I) Colorado has adopted economy-wide greenhouse gas emission goals of, at minimum, a twenty-six percent reduction by 2025, a fifty percent reduction by 2030, and a ninety percent reduction by 2050;

(II) The governor's "Colorado Greenhouse Gas Pollution Reduction Roadmap", released on January 14, 2021, identifies transportation as a leading source of greenhouse gas pollution and

identifies vehicle electrification as a key strategy for reducing greenhouse gas pollution from the transportation sector;

(III) Motor vehicle pollution, including greenhouse gas emissions, does not stay within the geographic boundaries of the local government where it is emitted;

(IV) According to the United States department of energy, an electric vehicle produces an average of less than one-fourth of the emissions over its lifetime than the average emissions of a motor vehicle powered by an internal combustion engine;

(V) Sales of electric vehicles currently account for more than ten percent of all new vehicle sales in Colorado, and this market share is projected to increase to more than eighty percent by 2032;

(VI) Buildings constructed today will need to accommodate higher numbers of electric vehicles within the lifetime of these buildings;

(VII) People may forgo purchasing or driving an electric vehicle because they are concerned about the availability of charging stations;

(VIII) Local government provisions that set minimum requirements for parking may create a disincentive to install charging stations if a parking space served by a charging station is not counted toward meeting the minimum parking requirement; and

(IX) Fewer charging stations act as a disincentive to purchase or drive an electric vehicle.

(b) The general assembly declares that minimum parking requirements, to the degree that they lower the number of charging stations available to electric vehicle drivers, decrease electric vehicle use, which causes more pollutants to be emitted into the environment and lowers the air quality of other local government jurisdictions and Colorado as a whole. Therefore, minimum parking requirements are a matter of mixed local and statewide concern to the degree that they lower the number of charging stations available to electric vehicle drivers.

(2) For the purposes of any minimum parking requirement imposed by a board of county commissioners:

(a) Any parking space served by an electric vehicle charging station or any parking space used to site electric vehicle charging equipment must be counted as at least one standard automobile parking space; and

(b) Any van-accessible parking space that is designed to accommodate a person in a wheelchair, is served by an electric vehicle charging station, and is not designated as parking reserved for a person with a disability under section 42-4-1208 must be counted as at least two standard automobile parking spaces.

(3) This section does not lower the protections provided for people with disabilities, including the number of parking spaces for people that are mobility impaired, than the protections provided by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and parts 6 and 8 of article 34 of title 24.

Source: L. 2023: Entire section added, (HB 23-1233), ch. 245, p. 1321, § 6, effective May 23.

Cross references: For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of Colorado 2023.

30-28-141. Equestrian map and signs.

(1) A county may publish a map showing the location of and character of existing or proposed equestrian infrastructure. The map may be published on the county's website. The map must include:

(a) Equestrian venues, including fairgrounds, equestrian parks, public arenas, and riding schools;

(b) Equestrian trail infrastructure, including trails, designated trailer parking, and access points to trails;

(c) Equestrian-designated road crossings; and

(d) Equestrian zones, as defined in section 30-28-106 (9)(a)(II).

(2) A county may post road signs bearing the universal equestrian sign symbol and the words "wide and slow" on roads determined to be equestrian zones in accordance with section 30-28-106 (9)(a)(II).

Source: L. 2025: Entire section added, (SB 25-149), ch. 266, p. 1375, § 5, effective August 6.

Cross references: For the legislative declaration in SB 25-149, see section 1 of chapter 266, Session Laws of Colorado 2025.

PART 2

BUILDING CODES

30-28-201. Commissioners may adopt - emission performance standards required - reporting.

(1) A board of county commissioners is authorized to adopt ordinances and a building code consistent with the uniform building code, 1988 edition, as promulgated by the international conference of building officials and as revised from time to time, in all or part of the county, and not embraced within the limits of any incorporated city or town. Buildings or structures used for the sole purpose of providing shelter for agricultural implements, farm products, livestock, or poultry may be excepted. The requirements shall be uniform for each class of dwelling, building, or structure. The board of county commissioners may employ qualified technical experts to assist in the preparation of the text of such ordinances and the area building code.

(2) By the date established in section 25-7-407, C.R.S., every board of county commissioners of a county which has enacted a building code, and thereafter every board of county commissioners of a county which enacts a building code, shall enact a building code provision to regulate the construction and installation of fireplaces in order to minimize emission levels. Such building code provision shall contain standards which shall be the same as or stricter than the approved emission performance standards for fireplaces established by the air quality control commission in the department of public health and environment pursuant to section 25-7-407, C.R.S.

(3) Every board of county commissioners, when adopting or updating any building code, shall adopt and enforce a building energy code that meets or exceeds the standards in one of the three most recent versions of the international energy conservation code pursuant to section 30-28-211.

(4) By January 1, 2020, every board of county commissioners of a county which has enacted a building code and an energy code shall report the current version of their county's building and energy codes to the Colorado energy office. Thereafter, every board of county commissioners is encouraged to report any change in their county's building and energy code to the Colorado energy office within a month of changing their county's building and energy codes.

Source: L. 45: p. 242, § 1. **L. 47:** p. 364, § 1. **CSA:** C. 45B, § 1. **CRS 53:** § 36-15-1. **C.R.S. 1963:** § 36-15-1. **L. 73:** p. 472, § 1. **L. 84:** Entire section amended, p. 782, § 2, effective April 12. **L. 87:** (2) amended, p. 1144, § 8, effective June 16. **L. 90:** (1) amended, p. 1450, § 5, effective July 1. **L. 94:** (2) amended, p. 2801, § 562, effective July 1. **L. 2005:** (2) amended, p. 773, § 56, effective June 1. **L. 2007:** (3) added, p. 695, § 1, effective July 1. **L. 2019:** (3) amended and (4) added, (HB 19-1260), ch. 357, p. 3284, § 1, effective August 2.

ANNOTATION

Law reviews. For article, "Synthetic Fuels — Policy and Regulation", see 51 U. Colo. L. Rev. 465 (1980). For article, "Making Up Your Own Rules for Resolving Residential Construction Defect Disputes", see 52 Colo. Law 36 (May 2023).

Code inapplicable to water project. A county's building code, adopted pursuant to this article, does not pertain to the construction of diversion boxes, conduits, check dams, bypasses, flumes, or similar appurtenances of a water project which merely passes through the county's land. City & County of Denver v. Bergland, 517 F. Supp. 155 (D. Colo. 1981), aff'd in part, rev'd in part on other grounds, 695 F.2d 465 (10th Cir. 1982).

30-28-202. Designation of zoned area - hearing.

(1) The county planning commission of any county, upon request from the board of county commissioners of the county, may designate part or all of the county for the adoption of a building code. The county planning commission shall certify a copy of the building code to the board of county commissioners of the county. After receiving the certification of said building code from the county planning commission and before the adoption of any building code, the board of county commissioners shall hold a public hearing on the proposed text. The time and place of the hearing shall be designated in a notice to be given by publication once weekly for four consecutive weeks in a newspaper of general circulation in the county. Such notice shall state the place at which the text of the proposed building code may be inspected and the description of the areas to be covered by the code. No substantial change in or departure from the proposed text so certified by the county planning commission shall be made unless such change or departure is first submitted to the certifying county planning commission for its approval, disapproval, or suggestions.

(2) The county planning commission shall have thirty days from such submission within which to send its report to the board of county commissioners. The opinion of the county planning commission shall be advisory only, and, upon receipt thereof, the board of county commissioners may accept, reject, or amend the proposed change or departure. After a public hearing has been held thereon, the board of county commissioners, by resolution, may adopt a building code for all or part of the county.

Source: L. 47: p. 365, § 1. **CSA:** C. 45B, § 2. **CRS 53:** § 36-15-2. **C.R.S. 1963:** § 36-15-2. **L. 73:** p. 472, § 2.

Cross references: For clarification of terms and requirements for notice by publication, see part 1 of article 70 of title 24.

30-28-203. Purpose of codes.

The provisions of any building code shall be made with a reasonable consideration of, and in accordance with, the public health, safety, morals, and general welfare and the safety, protection, and sanitation of such dwellings, buildings, and structures.

Source: L. 45: p. 244, § 3. **L. 47:** p. 365, § 1. **CSA:** C. 45B, § 3. **CRS 53:** § 36-15-3. **C.R.S. 1963:** § 36-15-3. **L. 73:** p. 473, § 3.

ANNOTATION

Applied in City & County of Denver v. Bergland, 517 F. Supp. 155 (D. Colo. 1981).

30-28-204. Amendment of building code.

(1) The board of county commissioners from time to time by resolution may alter and amend any county building code after public hearing, notice of which hearing shall be given by at least one publication in a newspaper of general circulation in the county at least fourteen days prior to said hearing. In no case shall the area covered by the building code be extended or changed unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. Unless the county planning commission acts within thirty days, approval shall be assumed. The opinion of the county planning commission shall be advisory only and not binding upon the board of county commissioners.

(2) When a board of county commissioners or a regional building department operating through an intergovernmental agreement with a board of county commissioners adopts or substantially amends any county building code, or updates an already adopted building code with a succeeding version of the international building code, the board or regional building department shall ensure that the building code meets or exceeds the accessibility standards adopted in one of the two most recent versions of the international building code, as adopted by the International Code Council or a successor organization. Adoption of the energy-efficient building codes in accordance with section 30-28-211 does not constitute a substantial amendment or update to the building codes for purposes of this subsection (2). The accessibility standards adopted by a board of county commissioners or regional building department in

accordance with this subsection (2) cannot provide less protection than what is required by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.

(3) The requirements for ensuring accessibility standards in accordance with subsection (2) of this section do not apply to one- and two-family dwellings and townhomes that comply with the International Residential Code, as adopted by the International Code Council or a successor organization, or that comply with a local building code whose accessibility standards are equivalent to the accessibility standards in the International Residential Code.

Source: L. 45: p. 244, § 4. **L. 47:** p. 366, § 1. **CSA:** C. 45B, § 4. **CRS 53:** § 36-15-4. **C.R.S. 1963:** § 36-15-4. **L. 92:** Entire section amended, p. 966, § 8, effective June 1. **L. 2025:** Entire section amended, (HB 25-1030), ch. 8, p. 18, § 2, effective January 1, 2026.

Cross references: For the legislative declaration in HB 25-1030, see section 1 of chapter 8, Session Laws of Colorado 2025.

30-28-205. County building inspector - permit required - appeal.

(1) The county building inspector, as authorized in section 30-28-114, may be authorized by the board of county commissioners to administer and enforce the building code adopted pursuant to this part 2; and the board of county commissioners shall fix a reasonable schedule of fees for the issuance of building permits by the county building inspector. After the adoption of the building code, it shall be unlawful to erect, construct, reconstruct, alter, or remodel any structure, dwelling, or building in the designated area, except buildings or structures used for the sole purpose of providing shelter for agricultural implements, farm products, livestock, or poultry without first obtaining a building permit from the county building inspector. The county building inspector shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration, or remodeling fully conform to the regulations and restrictions in the building code.

(2) No permit fee provided for pursuant to the provisions of subsection (1) of this section shall be charged unless an inspection is actually made by such inspector who is fully qualified to perform the required type of inspection.

(3) The county building inspector shall not issue any permit unless the plans and specifications for such proposed erection, construction, reconstruction, alteration, or remodeling conform to the regulations and restrictions in said building code. All such proposed erection, construction, reconstruction, alteration, or remodeling shall bear the seal of an architect or engineer licensed by the state of Colorado, unless the preparation of plans and specification is

exempted by section 12-120-403. Such plans and specifications prepared by architectural or engineering subdisciplines shall be so designated and shall bear the seal and signature of the architect or engineer for that subdiscipline.

Source: L. 45: p. 244, § 5. **L. 47:** p. 366, § 1. **CSA:** C. 45B, § 5. **CRS 53:** § 36-15-5. **C.R.S. 1963:** § 36-15-5. **L. 73:** p. 473, § 4. **L. 86:** (3) added, p. 610, § 11, effective July 1. **L. 2006:** (1) amended, p. 235, § 3, effective July 1; (3) amended, p. 762, § 23, effective July 1. **L. 2019:** (3) amended, (HB 19-1172), ch. 136, p. 1719, § 215, effective October 1.

ANNOTATION

General assembly did not intend in § 30-28-114 and subsection (1) of this section to limit schedule of fees for county building permits to direct costs of operating building department. Indirect costs, including, for example, services furnished by county manager, county attorney's office, the assessor's office, and various other divisions of county government may be calculated in determining overall costs required to operate that department for purposes of imposing fees for building department services. Fees generated must generally approximate the overall costs of operating the building department to prevent the fees from constituting an unlawful tax in violation of the state constitutional provision mandating uniform property taxation. Bainbridge, Inc. v. Bd. of County Comm'rs, 964 P.2d 575 (Colo. App. 1998).

On remand, trial court correctly concluded that general governmental expenses relating to growth management are recoverable from builders under subsection (1) of this section and § 30-28-114 through permit fees charged as indirect costs. Evidence demonstrated that growth has driven the costs of the county's building department. The evidence also supports the finding that the fees charged by the building department were approximately required to offset the direct and indirect costs of operating the department. Mathematical exactitude is not required. Thus, it was permissible for part of the growth costs to be allocated to the building department as indirect costs. Bainbridge, Inc. v. Bd. of County Comm'rs, 53 P.3d 646 (Colo. App. 2001).

30-28-206. Board of review - qualifications - powers.

(1) The board of county commissioners of any county which enacts a building code under the authority of this part 2 may provide for a board of review of three or five members and for the manner of appointment of such members. Members of the board shall be experienced in

building construction. The board of county commissioners may fix per diem compensation and terms for the members of such boards of review, which terms shall be of such length and so arranged that the terms of at least one member will expire each year. Any member of the board of review may be removed for cause by the board of county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The board of county commissioners shall provide and specify in its building code or other resolution general rules to govern the organization, procedure, and jurisdiction of said board of review, which rules shall not be inconsistent with the provisions of this part 2, and the board of review may adopt supplemental rules of procedure not inconsistent with this part 2 or such general rules.

(2) Any building code adopted by the board of county commissioners may provide that the board of review, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the building code, may make special exceptions to the terms of the building code in harmony with their general purpose and intent. The board of county commissioners also may authorize the board of review to formulate suggested amendments to the building code for the consideration of the board of county commissioners. In addition, the board of review may adopt substantive rules and regulations based on the provisions of the building code adopted by the board of county commissioners. In no case, however, shall these rules become effective unless a public hearing thereon has been conducted by the board of review. Notice of the hearing, stating its time and place and where the text of the proposed substantive rules and regulations may be inspected, shall be given in the same manner as provided in the initial adoption of the code.

Source: L. 45: p. 244, § 6. **L. 47:** p. 366, § 1. **CSA:** C. 45B, § 6. **CRS 53:** § 36-15-6. **C.R.S. 1963:** § 36-15-6.

30-28-207. Board of review - meetings - appeals.

(1) Meetings of the board of review shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board of review shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(2) Appeals to the board of review may be taken by any person aggrieved by his inability to obtain a building permit or by any officer, department, board, or bureau of the county affected by the grant or refusal of a building permit. Any person, officer, department, board, or bureau may

appeal to the board of review from the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the building code. The time within which such appeal shall be made, and the form or other procedure relating thereto, shall be as specified in the general rules provided by the board of county commissioners to govern the procedure of such board of review or in the supplemental rules of procedure adopted by such board.

Source: L. 45: p. 244, § 6. **L. 47:** p. 366, § 1. **CSA:** C. 45B, § 6. **CRS 53:** § 36-15-7. **C.R.S. 1963:** § 36-15-7.

30-28-208. Copies of code available - evidence.

Upon the adoption of such area building code, the board of county commissioners shall file certified copies thereof in its office, which copies shall be accessible to the public at a cost not to exceed that of printing the same. The board of county commissioners shall also file a notice with the county clerk and recorder setting forth a description of the area subject to the building code. Copies of the code printed by authority of the board of county commissioners shall be prima facie evidence of the original text in all courts and tribunals of this state.

Source: L. 45: p. 244, § 6. **L. 47:** p. 368, § 1. **CSA:** C. 45B, § 7. **CRS 53:** § 36-15-8. **C.R.S. 1963:** § 36-15-8.

30-28-209. Penalties and enforcement.

(1) (a) It is unlawful to erect, construct, reconstruct, or alter any building or structure or use any building or structure in a manner that results in a violation of any regulation in, or of any provisions of, the area building code, or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 2. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof, or any provision of this part 2, shall, upon request by the county, be subject to the imposition, by order of the county court or the district court, of a civil penalty of not less than one hundred dollars or more than two thousand six hundred fifty dollars. Each day during which such illegal erection, construction, reconstruction, or alteration continues is deemed a separate offense and the civil penalty continues to accrue until the violation is remedied. Nothing in this subsection (1)(a) prohibits the use of any building or structure in violation of an otherwise applicable building code where the use complies with any building code that was in effect at the time the building or structure was erected, constructed, reconstructed, or altered.

(b) (I) (Deleted by amendment, L. 2026.)

(II) To pursue a violation pursuant to this subsection (1)(b)(II), a county building inspector authorized pursuant to sections 30-28-114 and 30-28-205, or any inspector employed by an intergovernmental entity created in accordance with the requirements of part 2 of article 1 of title 29, who exercises the functions of a county building inspector who has personal knowledge of any violation of the requirements of this subsection (1)(b)(II) based on competent evidence acquired during a reasonable investigation shall give written notice to the violator to correct the violation within ten days after the date of the notice. If the violator fails to correct the violation within the ten-day period, the county building inspector may issue, or request that the sheriff of the county or the county attorney issue, a summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. The summons and complaint must require that the violator appear in county or district court at a definite time and place stated therein to answer and defend the charge.

(III) (Deleted by amendment, L. 2026.)

(IV) The Colorado rules of civil procedure apply to district court proceedings and the Colorado county court rules of civil procedure apply to county court proceedings.

(c) It is the responsibility of the county attorney to enforce the provisions of this subsection (1); except that if there is not a county attorney or if the board of county commissioners deems it appropriate, the board may appoint the district attorney of the judicial district in which the building or structure is located to perform such enforcement duties in lieu of the county attorney.

(d) The minimum civil penalty that the court may impose for a violation of a county building code or amendment thereto is one hundred dollars per violation, and the maximum civil penalty is two thousand six hundred fifty dollars per violation. The presumptive maximum penalty for a first violation is five hundred dollars. The presumptive maximum penalty for a second violation is one thousand dollars. The presumptive maximum penalty for a third or subsequent violation is two thousand six hundred fifty dollars. The court must specify the basis for the civil penalty on the record. In cases where sufficient aggravating factors are present, the court may impose a penalty that is higher than the presumptive maximum. The court must base the determination of the appropriate civil penalty for a violation of a county building code, or amendment thereto, on the following factors:

(I) The impact of the violation on public health, safety, and welfare;

(II) The impact of the violation on neighboring properties;

(III) The violator's willingness to comply with or demonstrated disregard for the applicable laws;

(IV) The violator's ability to comply with the applicable laws;

(V) Whether the violation is the use of the property for activities prohibited in the property's zone district;

(VI) Whether multiple violations exist on the property;

(VII) Prior violations by the violator on the property; and

(VIII) Any other relevant factors determined by the court.

(e) If the court finds by a preponderance of the evidence that a violation of the building code, or amendment thereto, as enacted and adopted by the board of county commissioners, has occurred, the court shall order the violator to pay a civil penalty in an amount allowed pursuant to this subsection (1). The penalty is payable immediately by the violator to the county as designated in the building code ordinance or resolution, or amendment thereto.

(f) Until paid, any civil penalty ordered by the court and assessed pursuant to this subsection (1) is, as of recording, a lien against the property on which the violation has been found to exist. If the assessment is not paid within thirty days, the clerk and recorder or county attorney may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant to this subsection (1). Any lien placed against the property pursuant to this subsection (1) must be recorded with the clerk and recorder of the county in which the property is located.

(g) For purposes of this subsection (1), "person" does not include a state agency.

(2) (a) If any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, or used in violation of any regulation or provision of the area building code, or amendment thereto, enacted or adopted by any board of county commissioners under the authority granted by this part 2, the county attorney of the county in which the building, structure, or land is situated, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, or use. If there is not a county attorney or if the board deems it appropriate, the board may appoint the district attorney of the judicial district in which the building or structure is located to perform the enforcement duties in lieu of the county attorney.

(b) The county attorney may bring an action in the county court or district court that has jurisdiction over the property for an order enjoining the violation; ordering the violation's restraint, removal, termination, or abatement by the property owner; and authorizing abatement by the county or its agent. In bringing that action, the county attorney shall file a verified complaint. The court shall review the verified complaint and schedule a hearing on the request for an abatement order or injunction, or other appropriate remedy provided for pursuant to

subsection (2)(a) of this section and direct the issuance of a summons stating the time, date, and place of the preliminary hearing, which the court shall schedule no later than thirty days after the county attorney files the complaint. The county shall serve the summons and complaint on the property owner in accordance with the applicable rules of civil procedure at least ten days prior to the preliminary hearing. If the county's reasonable efforts to personally serve the summons and complaint are unsuccessful, the county may post the summons and complaint on the property and mail the summons and complaint, certified mail and return receipt requested, to the property owner's address in the records of the county assessor as an alternative means of providing service. If the county provides alternate service, the county must provide the alternative service at least ten days prior to the preliminary hearing. At the time, date, and place stated in the summons, the court shall review and consider the request for an abatement order, injunction, or other appropriate remedy provided for pursuant to subsection (2)(a) of this section, any statement and evidence presented by the county in support thereof, and any statement and evidence presented by the property owner, if present. On the date and at the time set for the hearing, if the property owner fails to appear, and if the county proves that proper service was made on the property owner, the court may grant the order as requested by the county. A property owner's failure to appear on any date set for a preliminary hearing held pursuant to this subsection (2)(b) is grounds for the court to enter a default and judgment thereon against a nonappearing property owner. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.

(c) If the county abates the violation pursuant to an order of a court, the actual costs of abatement, plus ten percent of the abatement costs for inspection and other incidental costs of abatement, is a lien against the property until paid and has priority over all other liens except general taxes and prior special assessments. If the assessment is not paid within a reasonable time specified by the resolution or ordinance adopting the building code, the clerk and recorder or county attorney may certify the nonpayment to the county treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, apply to the collection of assessments pursuant to this subsection (2)(c).

(3) (a) It is unlawful to erect, construct, reconstruct, alter, or use any building or structure in a manner that results in a violation of any regulation in, or of any provisions of, the area building code, or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 2. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof, or any provision of this part 2, commits a civil infraction, and upon conviction thereof, shall be punished by a fine of up to one thousand dollars for each separate violation, according to the fine schedule adopted by the board of county commissioners. The fine schedule may include graduated fines and may provide increased civil penalties for repeat offenses by the same individuals. Each day during which such illegal erection,

construction, reconstruction, alteration, or use occurs is deemed a separate offense and the civil penalty continues to accrue until the violation is remedied. Nothing in this subsection (3)(a) prohibits the use of any building or structure in violation of an otherwise applicable building code where the use complies with any building code that was in effect at the time the building or structure was erected, constructed, reconstructed, or altered.

(b) (I) To pursue a violation pursuant to this subsection (3), a county building inspector authorized pursuant to sections 30-28-114 and 30-28-205, or any inspector employed by an intergovernmental entity created in accordance with the requirements of part 2 of article 1 of title 29, who exercises the functions of a county building inspector who has personal knowledge of any violation of the requirements of subsection (3)(a) of this section based on competent evidence acquired during a reasonable investigation shall give written notice to the violator to correct the violation within ten days after the date of the notice. If the violator fails to correct the violation within the ten-day period, the authorized county building inspector may issue, or request that the sheriff issue, a summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. The summons and complaint must require that the violator appear in county court at a definite time and place stated therein to answer and defend the charge.

(II) An authorized building inspector or the sheriff shall serve one copy of a summons and complaint issued pursuant to subsection (3)(b)(I) of this section on the violator. An authorized building inspector or the sheriff may personally serve the summons and complaint on the violator as set forth in the county court rules of civil procedure. If an authorized building inspector or sheriff's reasonable efforts to personally serve the summons and complaint on the property owner are unsuccessful, the county may post the summons and complaint on the property and mail the summons and complaint to the property owner's address listed in the records of the county assessor. Service is complete upon mailing the summons and complaint. The office serving the summons and the complaint shall retain one copy of each and shall transmit one copy each to the clerk of the county court.

(c) It is the responsibility of the county attorney to enforce the provisions of this subsection (3); except that if there is not a county attorney or if the board of county commissioners deems it appropriate, the board of county commissioners may appoint the district attorney of the judicial district to perform the enforcement duties in lieu of the county attorney.

(d) If there is a conflict between this subsection (3) and the rules of civil infractions, this subsection (3) controls.

(e) For purposes of this subsection (3), "person" does not include a state agency.

(4) The county attorney has the discretion to determine whether to pursue the remedies set forth in subsections (1), (2), or (3) of this section, or any combination thereof, or any other

remedies available at law or in equity. None of these remedies are intended to be mutually exclusive.

Source: L. 45: p. 245, § 7. **L. 47:** p. 368, § 1. **CSA:** C. 45B, § 8. **CRS 53:** § 36-15-9. **C.R.S. 1963:** § 36-15-9. **L. 2003:** Entire section R&RE, p. 1836, § 1, effective October 1. **L. 2006:** (1)(b)(II) amended, p. 235, § 4, effective July 1. **L. 2021:** (1)(a) and (1)(b)(I) amended, (SB 21-271), ch. 462, p. 3250, § 510, effective March 1, 2022. **L. 2026:** Entire section amended, (HB 26-1239), ch. 207, p. 1186, § 5, effective August 12.

ANNOTATION

No additional civil remedies exist under this section absent a clear legislative intent to allow such a remedy for breach of the obligations imposed on a county by the area building code. Bd. of County Comm'rs v. Moreland, 764 P.2d 812 (Colo. 1988) (decided prior to 2003 repeal and reenactment).

30-28-210. County court actions for civil penalties for building violations. (Repealed)

Source: L. 98: Entire section added, p. 340, § 2, effective July 1. **L. 2006:** (1), (2)(b), (2)(d), (3), and (4) amended, p. 235, § 5, effective July 1. **L. 2026:** Entire section repealed, (HB 26-1239), ch. 207, p. 1196, § 9, effective August 12.

30-28-211. Energy efficient building codes - legislative declaration - definitions.

(1) The general assembly hereby finds and declares that there is statewide interest in requiring an effective energy efficient building code for the following reasons:

(a) Excessive energy consumption creates effects beyond the boundaries of the local government within which the energy is consumed because the production of power occurs in centralized locations.

(b) Air pollutant emissions from energy consumption affect the health of the citizens throughout Colorado.

(c) The strain on the grid from peak electric power demands is not confined to jurisdictional boundaries.

(d) There is statewide interest in the reliability of the electrical grid and an adequate supply of heating oil and natural gas.

(e) Controlling energy costs for residents and businesses furthers a statewide interest in a strong economy and reducing the total cost of housing in Colorado.

(f) More recent energy codes are more effective at ensuring building durability and structural integrity and protecting public health and safety through better:

(I) Moisture management to prevent mold, mildew, and rot;

(II) Airflow management; and

(III) Protection during severe weather.

(g) More recent energy codes incorporate newer building technologies, techniques, and materials and offer more options for builders.

(h) Businesses and residents in low-income communities and rural areas of the state deserve at least the same durability, health and safety, and energy cost savings from energy efficient buildings as those in wealthier, urban, and suburban areas of the state.

(i) Highly energy efficient homes and buildings can reduce energy use and help consumers save money on energy bills.

(j) Highly energy efficient and low-carbon new homes and buildings are critical for meeting the greenhouse gas pollution reduction targets established in section 25-7-102 (2)(g).

(2) As used in this section, unless the context otherwise requires:

(a) "Building code" means regulations related to energy performance, electrical systems, mechanical systems, plumbing systems, or other elements of residential or commercial buildings.

(a.5) "Colorado plumbing code" has the meaning set forth in section 12-155-103 (1.4).

(a.8) "Elevator and escalator code" means the rules adopted in accordance with section 9-5.5-112.

(b) "Energy code" means a subset of building codes related to the total energy performance and carbon emissions of residential and commercial buildings.

(b.5) "International energy conservation code" means the energy code published by the international code council or a successor organization.

(b.8) "National electrical code" has the meaning set forth in section 12-115-103 (8).

(c) "Office" means the Colorado energy office created in section 24-38.5-101, C.R.S.

(3) Every board of county commissioners that has adopted and enforced one or more building codes, or that adopts and enforces one or more building codes after July 1, 2022, shall adopt and enforce an energy code that applies to the construction of, and major renovations and additions to, all commercial and residential buildings as required by the energy code in the county to which the building code applies.

(3.5) (a) A board of county commissioners that has adopted and enforced one or more building codes, and that updates one or more building codes on or after July 1, 2023, and before July 1, 2026, shall adopt and enforce an energy code that achieves equivalent or better energy performance than the 2021 international energy conservation code and the model electric ready and solar ready code language developed for adoption by the energy code board pursuant to section 24-38.5-401 (5) at the same time other building codes are updated.

(b) A board of county commissioners that has adopted and enforced one or more building codes, and that updates one or more building codes on or after July 1, 2026, shall adopt and begin enforcing an energy code that achieves equivalent or better energy and carbon emissions performance than the model low energy and carbon code developed for adoption by the energy code board pursuant to section 24-38.5-401 (6) at the same time other building codes are updated.

(c) (I) Notwithstanding subsections (3.5)(a) and (3.5)(b) of this section, a board of county commissioners representing a rural county is required to adopt and enforce an energy code that achieves equivalent or better energy performance than one of the last three most recent editions of the international energy conservation code rather than either an energy code that achieves equivalent or better energy performance than the 2021 international energy conservation code and the model electric ready and solar ready code language identified for adoption by the energy code board pursuant to section 24-38.5-401 (5) or an energy code that achieves equivalent or better energy and carbon emissions performance than the model low energy and carbon code identified for adoption by the energy code board pursuant to section 24-38.5-401 (6) if, while the grant program established pursuant to section 24-38.5-403 is accepting applications, the board of county commissioners applies for and is not awarded a grant that significantly assists in energy code adoption and enforcement training.

(II) As used in this subsection (3.5)(c), a rural county means a county with a population of less than thirty thousand people, as determined pursuant to the most recently published population estimates from the state demographer appointed by the executive director of the department of local affairs.

(d) When adopting or updating a building code prior to July 1, 2023, a board of county commissioners shall adopt and enforce an energy code that achieves equivalent or better energy performance than one of the three most recent editions of the international energy conservation code.

(e) Notwithstanding the timing requirement of subsection (3.5)(a) of this section, a board of county commissioners may comply with subsection (3.5)(a) of this section when the board adopts one or more building codes other than the national electrical code, the elevator and escalator code, and the Colorado plumbing code or by June 30, 2026, whichever is earlier, if:

(I) The board of county commissioners adopts or updates:

(A) The national electrical code by reference when adopted or updated by the state electrical board;

(B) The elevator and escalator code by reference when adopted or updated by the director of the division of oil and public safety within the department of labor and employment; or

(C) The Colorado plumbing code by reference when adopted or updated by the state plumbing board; and

(II) The adoption or update of the national electrical code, the elevator and escalator code, or the Colorado plumbing code occurs on a timing cycle different from the scheduled adoption or update of one or more building codes other than the national electrical code, the elevator and escalator code, or the Colorado plumbing code.

(f) Notwithstanding the timing requirement of subsection (3.5)(b) of this section, a board of county commissioners may comply with subsection (3.5)(b) of this section when the board adopts one or more building codes other than the national electrical code, the elevator and escalator code, and the Colorado plumbing code or by June 30, 2030, whichever is earlier, if:

(I) The board of county commissioners adopts or updates:

(A) The national electrical code by reference when adopted or updated by the state electrical board;

(B) The elevator and escalator code by reference when adopted or updated by the director of the division of oil and public safety within the department of labor and employment; or

(C) The Colorado plumbing code by reference when adopted or updated by the state plumbing board; and

(II) The adoption or update of the national electrical code, the elevator and escalator code, or the Colorado plumbing code occurs on a timing cycle different from the scheduled adoption or update of one or more building codes other than the national electrical code, the elevator and escalator code, or the Colorado plumbing code.

(g) Notwithstanding the requirements set forth in subsections (3.5)(a) and (3.5)(b) of this section, a board of county commissioners is not required to adopt and enforce an energy code that meets the requirements of subsections (3.5)(a) and (3.5)(b) of this section solely as a result of adopting the wildfire resiliency code.

(4) Repealed.

(5) The following buildings are exempt from subsections (3) and (3.5) of this section:

(a) Any building that is otherwise exempt from the provisions of the building code adopted by the board of county commissioners of the county in which the building is located and buildings that do not contain a conditioned space;

(b) Any building that does not use either electricity or fossil fuels for comfort heating. A building will be presumed to be heated by electricity even in the absence of equipment used for electric comfort heating if the building is provided with electrical service in excess of one hundred amps, unless the code enforcement official of the county determines that the electrical service is necessary for a purpose other than for providing electric comfort heating.

(c) Historic buildings that are listed on the national register of historic places or Colorado state register of historic properties and buildings that have been designated as historically significant or that have been deemed eligible for designation by a local governing body that is authorized to make such designations; and

(d) Any building that is exempt pursuant to the energy code.

(6) Notwithstanding any other provision of this section, the board of county commissioners of a county that is required to adopt or update an energy code may make any amendments to the energy code that the board deems appropriate for local conditions, so long as the amendments do not decrease the effectiveness or energy efficiency of the energy code.

(7) (a) The office shall ensure that information explaining the requirements of the energy code and describing acceptable methods of compliance is available to builders, designers, engineers, and architects.

(b) The office shall provide boards of county commissioners with technical assistance concerning the implementation and enforcement of the energy code.

(8) Nothing in this section restricts the ability of an investor-owned utility with approval from the public utilities commission to:

(a) Provide incentives or other energy efficiency program services to help the board of county commissioners of any county or builders comply with the requirements of this section; or

(b) Earn shareholder incentives and claim credits towards its regulatory requirements for energy or greenhouse gas emission savings achieved as a result of incentives provided by the utility to help the board of county commissioners of any county or builders comply with the requirements of this section.

(9) A utility not subject to regulation by the public utilities commission may provide incentives or other energy efficiency program services as they so choose to assist the board of

county commissioners of any county or any builders in complying with the requirements of this section.

(10) (a) A utility may count mass-based emissions reductions associated with the requirements of this section towards compliance with its requirements under section 25-7-105 (1)(e)(X.7) or (1)(e)(X.8), section 40-3.2-108 (3)(b), or any similar greenhouse gas emissions reduction program or set of requirements.

(b) A utility subject to regulation by the public utilities commission shall not count energy savings or greenhouse gas emissions reductions achieved through the requirements of this section for the purpose of calculating a shareholder incentive established pursuant to sections 40-3.2-103 (2)(d) and 40-3.2-104 (5) if the utility has not provided a financial investment for code adoption as documented in a plan approved by the commission.

Source: L. 2007: Entire section added, p. 695, § 2, effective July 1. **L. 2008:** (2)(b) and (2)(c) amended, p. 72, § 10, effective March 18. **L. 2012:** (2)(b) and (2)(c) amended, (HB 12-1315), ch. 224, p. 974, § 36, effective July 1. **L. 2019:** (1)(e), (2)(b), (3), IP(5), and (6) amended and (1)(f), (1)(g), and (1)(h) added, (HB 19-1260), ch. 357, p. 3284, § 2, effective August 2. **L. 2022:** (1)(i), (1)(j), (2)(b.5), (3.5), (8), (9), and (10) added, (2)(b), (3), and IP(5) amended, and (4) repealed, (HB 22-1362), ch. 301, p. 2183, § 7, effective June 2. **L. 2023:** (2)(a.5), (2)(a.8), (2)(b.8), (3.5)(e), and (3.5)(f) added, (HB 23-1233), ch. 245, p. 1324, § 10, effective May 23. **L. 2025:** (3.5)(g) added, (HB 25-1269), ch. 216, p. 978, § 1, effective May 20; (2)(a.5) amended, (HB 25-1306), ch. 204, p. 926, § 4, effective August 6.

Cross references: For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of Colorado 2023.

30-28-212. Charging station restriction rules prohibited - accessible charging stations - definitions.

(1) Notwithstanding any authority granted to a board of county commissioners by this part 2, the board shall not adopt an ordinance or a resolution prohibiting the installation of or utilization of electric vehicle charging stations unless the ordinance or resolution is narrowly drafted to address a bona fide safety concern. The board shall not restrict parking based on a vehicle being a plug-in hybrid vehicle or plug-in electric vehicle.

(2) A county official shall not prohibit the installation of or utilization of an electric vehicle charging station, or restrict parking based on a vehicle being a plug-in hybrid vehicle or plug-in electric vehicle, unless expressly authorized by ordinance or resolution.

(3) Any ordinance or resolution promulgated by the board of county commissioners that prohibits the installation of or utilization of electric vehicle charging stations, or that restricts parking based on a vehicle being a plug-in hybrid vehicle or plug-in electric vehicle, is subject to judicial review in the district court with jurisdiction over the county.

(4) (a) For an electric vehicle charging station constructed or replaced on or after January 1, 2026, no fewer than five percent or one vehicle charging space should incorporate the standards from the access board until applicable regulations are issued by the federal department of justice or the federal department of transportation.

(b) As used in this subsection (4):

(I) "Access board" means the United States access board.

(II) "Electric vehicle charger" means a device with one or more charging ports and connectors for charging electric vehicles.

(III) "Electric vehicle charging station" or "charging station" means a common location with one or more electric vehicle chargers.

(IV) "Replaced" means substantially modified or substituted with another unit, as indicated by a change in the serial number, electric vehicle supply equipment ID, or EVSE ID, or model name.

(V) "Vehicle charging space" means a space to park an electric vehicle for charging.

Source: L. 2023: Entire section added, (HB 23-1233), ch. 245, p. 1324, § 8, effective May 23. **L. 2024:** (4) added, (HB 24-1161), ch. 322, p. 2148, § 3, effective June 3.

Cross references: For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of Colorado 2023.

30-28-213. Electric motor vehicle charging systems - county permitting procedures - permit application - approval process - definitions.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Administrative review process" means a process:

(I) In which an EV charger permit is approved, approved with conditions, or denied by administrative staff of a county permitting agency based solely on the application's compliance with objective standards set forth in county zoning laws or other county laws; and

(II) That does not require a public hearing, a recommendation, or a decision by an elected or appointed public body or hearing officer except as provided in subsection (4)(d) of this section.

(b) "Colorado energy office" means the Colorado energy office created in section 24-38.5-101.

(c) (I) "County permitting agency" means the entity or entities for a county that are responsible for issuing an EV charger permit for the construction of an electric motor vehicle charging system.

(II) "County permitting agency" may include:

(A) A county building department or agency;

(B) A county planning department or agency; or

(C) A county public works or road and bridge department or agency.

(d) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(e) "Electric motor vehicle charging system" or "charging system" has the meaning set forth in section 38-12-601 (6)(a).

(f) "EV charger permit" means the final approval of an application for installation of an electric motor vehicle charging system that a county may require to authorize an applicant to commence construction of the charging system and a permit application for an electrical permit established under article 115 of title 12 and issued by the state electrical board.

(g) "Objective standard" means a standard that:

(I) Is uniformly verifiable and ascertainable by reference to an available external or uniform benchmark or criterion by the applicant and county permitting agency staff prior to the applicant's filing of an EV charger permit application; and

(II) Does not require county permitting agency staff to make a subjective determination concerning an EV charger permit application.

(2) (a) On or before December 31, 2025, the board of county commissioners of a county with a population of twenty thousand or more according to the 2020 federal census shall do one of the following:

(I) Adopt an ordinance or resolution to incorporate the same standards and permitting process or less restrictive standards and permitting process as the standards and permitting process described in the EV charger permitting model code developed by the Colorado energy office pursuant to subsection (3) of this section;

(II) (A) Adopt an ordinance or resolution that establishes objective standards and an administrative review process to be used by the county permitting agency during the county's review of applications for EV charger permits in accordance with subsections (4) and (5) of this section.

(B) An ordinance or resolution adopted by the county pursuant to this subsection (2)(a)(II) shall be developed in consultation with the local fire department or fire district, any electric utilities serving the county, and other relevant stakeholders, as determined by the county.

(III) Adopt an ordinance or resolution that establishes that the county does not intend to adopt an ordinance or resolution in accordance with subsection (2)(a)(I) or (2)(a)(II) of this section and that the county permitting agency will continue to utilize the county's existing permitting review process for EV charger permit applications.

(b) On or before March 1, 2026, a county that is subject to the requirements of subsection (2)(a) of this section shall submit a report to the Colorado energy office describing the county's compliance with subsection (2)(a) of this section.

(c) On or before January 31, 2027, a county subject to the requirements of subsection (2)(a) of this section shall submit a report to the Colorado energy office regarding each application for an EV charger permit that was received by the county permitting agency between December 31, 2025, and December 1, 2026. The report must include:

(I) The final determination made by the county permitting agency for each EV charger permit application; and

(II) For each EV charger permit application submitted to the county permitting agency, the duration between the date that the EV charger permit application was deemed complete by the county permitting agency and the date that the county permitting agency made a final determination on the EV charger permit application.

(d) If the board of county commissioners of a county adopts the EV charger permitting model code pursuant to subsection (2)(a)(I) of this section or adopts an ordinance or resolution in accordance with subsection (2)(a)(III) of this section, the requirements of subsections (4) and (5) of this section do not apply to the county.

(3) (a) On or before March 31, 2025, the Colorado energy office shall publish an EV charger permitting model code that contains guidelines for the adoption of EV charger permit standards and permitting processes for counties.

(b) The EV charger permitting model code developed by the Colorado energy office pursuant to subsection (3)(a) of this section must be developed in consultation with counties, representatives from disproportionately impacted communities, public electric utilities, and other relevant stakeholders, as determined by the Colorado energy office.

(c) The EV charger permitting model code developed by the Colorado energy office in accordance with this subsection (3) shall only apply to a county's land use and zoning permitting processes and shall not contravene:

(I) State electrical permitting requirements or procedures;

(II) County electrical permitting requirements or procedures;

(III) State electrical inspection requirements;

(IV) County electrical inspection requirements; or

(V) National electric code requirements or regulations related to electric motor vehicle charging systems.

(d) The EV charger permitting model code developed by the Colorado energy office in accordance with this subsection (3) shall not contain required timelines that a county permitting agency must comply with for the review, approval, or denial of EV charger permit applications.

(4) (a) A county permitting agency shall approve, conditionally approve, or deny an application for an EV charger permit using the county's administrative review process to determine if the proposed electric motor vehicle charging system is in compliance with the county's objective standards.

(b) A county permitting agency shall not deny or place conditions on an EV charger permit application unless the denial or conditions are for the purpose of reasonably protecting public health or safety.

(c) If a county permitting agency denies an application for an EV charger permit, the county permitting agency shall make written findings that the proposed electric motor vehicle charging system would violate the county's objective standards or would not be reasonably protective of public health or safety and send those written findings to the applicant within three business days after the date the county permitting agency denies the application.

(d) An applicant for an EV charger permit that is denied a permit or has conditions placed on the approval of an EV charger permit by a county permitting agency may appeal the county permitting agency's decision to the board of county commissioners of the county.

(e) The requirements of this subsection (4) do not apply to counties that adopt the EV charger permitting model code pursuant to subsection (2)(a)(I) of this section or adopt an ordinance or resolution in accordance with subsection (2)(a)(III) of this section.

(5) (a) The county permitting agency must make available to prospective applicants for EV charger permits a checklist of all requirements that must be included in an application for an EV charger permit.

(b) A county permitting agency shall review an application for an EV charger permit to confirm that the application sufficiently meets the requirements of the checklist described in subsection (5)(a) of this section.

(c) A county permitting agency shall consider an application for an EV charger permit that satisfies the requirements of the checklist described in subsection (5)(a) of this section a complete application.

(d) If an applicant for an EV charger permit submits an application that does not meet all the requirements of the checklist described in subsection (5)(a) of this section, the county permitting agency shall, within three business days after the date the county permitting agency determines the application is not sufficient, send a written notice to the applicant that details all of the deficiencies with the application and any additional information required for the application to be considered complete.

(e) The requirements of this subsection (5) do not apply to counties that adopt the EV charger permitting model code pursuant to subsection (2)(a)(I) of this section or adopt an ordinance or resolution in accordance with subsection (2)(a)(III) of this section.

(6) (a) The Colorado energy office shall provide technical assistance to counties to assist a county in complying with the requirements of this section, including providing:

(I) Support for the development and adoption of county codes; and

(II) Materials and support for training county permitting agency staff with interpreting and applying EV charger permit standards and processes.

(b) The Colorado energy office shall use money in the electric vehicle grant fund, created in section 24-38.5-103, to provide technical assistance to counties in accordance with this subsection (6).

(c) The Colorado energy office shall prioritize providing technical assistance to counties that have a significant number of disproportionately impacted communities.

(7) Regardless of the ordinance or resolution adopted by a board of county commissioners in accordance with subsection (2)(a) of this section, a county permitting agency shall, within three business days after the date the county permitting agency makes the determination to approve, conditionally approve, or deny an application, send notice to an applicant for an EV charger permit that states the county permitting agency's determination on the applicant's EV charger permit application.

Source: L. 2024: Entire section added, (HB 24-1173), ch. 215, p. 1312, § 2, effective August 7.

Cross references: For the legislative declaration in HB 24-1173, see section 1 of chapter 215, Session Laws of Colorado 2024.

PART 3

ESTABLISHMENT OF SUBDIVISION EXEMPTION PLATS FOR THE PURPOSE OF CORRECTING LEGAL DESCRIPTIONS

30-28-301. Legislative declaration.

(1) The general assembly hereby finds and declares that, in certain areas of the state, property has been conveyed as irregular parcels or as parcels platted prior to establishment of current subdivision regulations. Situations exist where the physical layout of lots conveyed in this manner are not in dispute, but the legal descriptions of these lots contain inaccuracies such that conflicts exist in the written record locating property boundaries. These conflicts in the legal descriptions jeopardize the ability of property owners to utilize and to convey their property. These conflicts often affect a number of properties such that the most efficient means of correcting them is to create a subdivision exemption plat for the area which can be used as a uniform basis for legal descriptions. The inability of property owners to resolve conflicts in legal descriptions is contrary to the public welfare and interferes with efficient and economic development and utilization of land.

(2) It is the purpose of this part 3 to provide for the preparation of subdivision exemption plats for unplatted areas or for areas platted prior to current subdivision regulations which can be used as a uniform basis for legal descriptions of such areas.

Source: L. 88: Entire part added, p. 1117, § 1, effective April 20.

30-28-302. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Irregular, divided area" means an area containing parcels of less than thirty-five acres which are either irregular parcels or parcels which were platted prior to June 1, 1972.

(2) "Irregular parcel" means a parcel of land which is not uniquely defined on a subdivision plat but which is described by any of the following methods:

(a) An aliquot part of a section;

(b) A metes and bounds description;

(c) A book and page or reception number reference;

(d) Any so-called "assessor's tract";

(e) A description which calls only for the owner's or adjoiner's name.

(3) "Land division study area" means an area of land which qualifies as an irregular, divided area as defined in subsection (1) of this section, and which has been designated by the board of county commissioners for the purpose of preparing a plan for platting in accordance with the provisions of section 30-28-304.

(4) "Land surveyor" means a person registered or licensed pursuant to part 3 of article 120 of title 12.

(5) "Parcel" means a contiguous area of land, except for intervening easements and rights-of-way with a continuous boundary defined either by the methods specified in subsection (2) of this section, when the description of the parcel has been recorded in the office of the county clerk and recorder or by reference to a recorded subdivision plat.

(6) "Property owner" or "owner" means the person or persons who hold title to a parcel of land as shown on the property tax assessment roll in the office of the county assessor.

(7) "Subdivision exemption plat" or "exemption plat" means a subdivision plat which depicts a division of land or the creation of an interest in property for which the board of county commissioners has granted an exemption from subdivision regulations pursuant to section 30-28-101 (10)(d) and which is suitable for recording pursuant to section 38-51-105, C.R.S.

(8) "Subdivision plat" means a map of a platted subdivision recorded for the purpose of creating land parcels which can be identified uniquely by reference to such map.

Source: L. 88: Entire part added, p. 1118, § 1, effective April 20. **L. 94:** (7) amended, p. 1509, § 43, effective July 1. **L. 2019:** (4) amended, (HB 19-1172), ch. 136, p. 1719, § 216, effective October 1.

30-28-303. Creation of land division study area.

(1) Upon petition of the property owners who represent not less than ten percent of the land in an irregular, divided area, the board of county commissioners may create a land division study area.

(2) At any regular meeting of the board of county commissioners, the board may designate an area of land as a land division study area if:

(a) The notice and comment provisions of subsection (3) of this section have been complied with; and

(b) The board finds that the area proposed for inclusion in the study qualifies as an irregular, divided area.

(3) Prior to designating an area of land as a land division study area, the board of county commissioners shall publish its intent to consider such designation thirty days prior to the meeting in a newspaper of general circulation in the county. Such notice shall include the time and place of the hearing and an invitation to the public to comment on the proposed designation.

Source: L. 88: Entire part added, p. 1118, § 1, effective April 20.

30-28-304. Preparation and adoption of plan for platting notice - withdraw from plan - requirements for adoption.

(1) (a) The board of county commissioners shall have prepared a plan for platting the land division study area.

(b) The plan shall include the estimated cost for preparing a subdivision exemption plat and the estimated amount which must be assessed against each property included in the plan in order to repay the cost of the exemption plat. Costs associated with the following activities shall be eligible for inclusion in the cost estimate:

(I) Surveying and engineering;

(II) Drafting;

(III) Computerized mapping;

(IV) Aerial photography;

(V) Monumentation;

(VI) Title research and documentation;

(VII) Preparation of deeds;

(VIII) Court costs; and

(IX) Project administration.

(c) In addition to the costs set forth in subparagraphs (I) to (IX) of paragraph (b) of this subsection (1), the estimated cost may include a contingency amount of up to fifteen percent of the total costs set forth in such subparagraphs.

(2) (a) The board of county commissioners shall conduct a public hearing to consider adoption of the plan for platting described in subsection (1) of this section and to allow owners of property in the land division study area an opportunity to register either their agreement or objection to having their property included in any subdivision exemption plat for the land division study area.

(b) Notice of the time and place of the hearing shall be given at least thirty days prior to the hearing by publication in a newspaper of general circulation in the county and by certified mail to owners of property included in the land division study area. In addition to the time and place of the hearing, the notice shall include at a minimum the following information:

(I) A map showing the properties included in the land division study area, including the approximate location of parcel boundaries;

(II) The purpose for which the study area was created;

(III) The process by which a subdivision exemption plat for the land division study area can be prepared;

(IV) The cost estimates for preparation of a subdivision exemption plat, with conspicuous notification that such costs would be assessed against the properties included in the exemption plat;

(V) The opportunity for the property owner to object to this property being included in any subdivision exemption plat for the land division study area; and

(VI) A copy of the plan for platting prepared pursuant to subsection (1) of this section.

(3) (a) Any property owner may elect to withdraw from the plan for platting described in subsection (1) of this section by submitting a written request by certified mail to the county clerk and recorder prior to the date of the hearing or by appearing at the hearing and informing the board of county commissioners of his decision to withdraw from the plan.

(b) The board of county commissioners shall exclude properties of owners who request withdrawal pursuant to paragraph (a) of this subsection (3) from any plan adopted for platting the land division study area.

(c) The board of county commissioners shall not adopt a plan for platting if the withdrawal of property owners from participation would result in an increase in the amount of the assessment against the remaining properties from that amount which was stated in the plan, unless written consent is obtained from all owners who elect to participate in the plan for platting.

(4) Prior to adoption of any plan for platting a land division study area:

(a) The board of county commissioners shall obtain written consent from each property owner who elects to participate in the plan. Consent on the part of a property owner to participate in the plan shall constitute consent to the following:

(I) Preparation of a subdivision exemption plat for his property;

(II) Temporary conveyance of title to his property to the district court as provided in section 30-28-307;

(III) Payment of the assessment against his property for the cost of preparing the subdivision exemption plat;

(b) Each property owner participating in the plan shall provide evidence of title insurance or other evidence of title which is acceptable to the board of county commissioners for the property which shall be included in the plan for platting. The board of county commissioners shall have the authority to evaluate evidence of title and to exclude properties where title has not been proven to the board's satisfaction.

(5) The board of county commissioners shall adopt the plan for platting by resolution by a majority vote of the full membership of the board.

Source: L. 88: Entire part added, p. 1119, § 1, effective April 20.

30-28-305. Preparation of subdivision exemption plat.

(1) The board of county commissioners shall have a subdivision exemption plat prepared for those properties in the land division study area for which the owners have:

(a) Not elected to withdraw from the plan as provided in section 30-28-304 (3);

(b) Given written consent to participate in the plan for platting and have supplied adequate evidence of title as required by section 30-28-304 (4).

(2) The exemption plat shall be prepared by a professional land surveyor, and shall assign a lot number to each of the properties included in the exemption plat.

Source: L. 88: Entire part added, p. 1121, § 1, effective April 20.

30-28-306. Preparation of deeds.

The board of county commissioners shall have deeds prepared for each of the properties included in the subdivision exemption plat, using the exemption plat as the basis for the legal description of such properties. Deeds prepared under the provisions of this section shall constitute a legal means for the conveyance of property only upon recordation of the subdivision exemption plat in the office of the county clerk and recorder.

Source: L. 88: Entire part added, p. 1121, § 1, effective April 20.

30-28-307. Conveyance of title to district court.

(1) Upon completion of the preparation of the subdivision exemption plat and of the deeds for the parcels included in the exemption plat, each property owner participating in the subdivision exemption plat shall convey the existing title to his property to the district court having jurisdiction over the property which is to be platted.

(2) The district court shall hold each title in escrow and shall act as the property owner for all properties conveyed in this manner for purposes of executing the owner's certificate for consent to the subdivision of the properties as indicated in the subdivision exemption plat.

Source: L. 88: Entire part added, p. 1121, § 1, effective April 20.

30-28-308. Recordation of subdivision exemption plat.

Upon execution of the owner's certificate by the district court, the board of county commissioners shall have the subdivision exemption plat recorded in the office of the county clerk and recorder.

Source: L. 88: Entire part added, p. 1121, § 1, effective April 20.

30-28-309. Reconveyance of title to property owners.

(1) Upon recordation of the subdivision exemption plat by the county clerk and recorder, the district court shall reconvey the titles held by the court pursuant to section 30-28-307 to the property owners who conveyed title to their properties to the district court. The district court

shall convey title by means of the deeds which were prepared in accordance with section 30-28-306.

(2) (a) A failure to record the subdivision exemption plat and to reconvey title from the district court to the participating property owners within five working days from the date title is conveyed to the district court shall void the original conveyance to the district court.

(b) Voiding of the original conveyance shall not preclude subsequent attempts to convey property to the district court for the purposes stated in this part 3, and the limitation on the length of time the district court may hold title to properties so conveyed shall apply to any subsequent conveyance attempts.

Source: L. 88: Entire part added, p. 1121, § 1, effective April 20.

30-28-310. Assessment of costs.

(1) (a) The board of county commissioners shall have the authority to assess all eligible costs incurred in preparing the subdivision exemption plat against the properties included in the exemption plat. The maximum amount of such assessment shall be the maximum cost estimate which was included in the plan for platting. The board of county commissioners may establish a schedule of not more than ten years for repayment of the assessment.

(b) The assessment shall become part of the property taxes owed for the affected properties, and the board of county commissioners shall have power to collect delinquent assessments in the same manner that delinquent property taxes are collected. The amount assessed against each of the affected properties shall be proportionate to the benefit received.

(2) The district court shall have the authority to charge for the costs incurred in administering sections 30-28-307 and 30-28-309. Such costs shall be paid by the county at the time these duties are performed, and the county shall be reimbursed for such costs by adding a proportionate amount of such costs to the property owners' assessments which are levied in accordance with subsection (1) of this section.

Source: L. 88: Entire part added, p. 1122, § 1, effective April 20.

30-28-311. Cancellation of process.

(1) After adoption of the plan for platting as set forth in section 30-28-304, the board of county commissioners shall cancel the procedures set forth in this part 3 for the creation of a subdivision exemption plat upon:

(a) Written request from at least seventy-five percent of the participating property owners; or

(b) Refusal on the part of one or more property owners to convey title as required by section 30-28-307.

(2) The board of county commissioners shall have the authority to assess costs as provided in section 30-28-310 against the properties included in the adopted plan for work completed prior to cancellation of the process.

Source: L. 88: Entire part added, p. 1122, § 1, effective April 20.

30-28-312. Limitation on liability.

Property owners and any persons representing themselves as property owners who convey property to the district court under the provisions of this part 3 shall bear full responsibility for the condition of the title they hold to the property and for any subsequent litigation regarding defective title. Administration by the board of county commissioners and the district court of the procedures set forth in this part 3 shall not confer liability upon them or anyone in their employ for any litigation regarding defective title of any property which is included in a subdivision exemption plat prepared pursuant to this part 3.

Source: L. 88: Entire part added, p. 1122, § 1, effective April 20.

30-28-313. Severability.

If any section, clause, provision, or portion of this part 3 shall be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this part 3 shall not be affected.

Source: L. 88: Entire part added, p. 1122, § 1, effective April 20.

PART 4

CLUSTER DEVELOPMENT

30-28-401. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) It is in the public interest to encourage clustering of residential dwellings on tracts of land that are exempt from subdivision regulation by county government pursuant to section 30-28-101 (10)(c)(X), thereby providing a means of preserving common open space, of reducing the extension of roads and utilities to serve the residential development, and of allowing landowners to implement smart growth on land that is exempt from subdivision regulations.

(b) Landowners should have the option to consider cluster development when subdividing land into parcels in a manner that constitutes an alternative to the traditional thirty-five acre interests described in section 30-28-101 (10)(c)(I).

(c) A process should be available for the development of parcels of land for residential purposes that will authorize the use of clustering, water augmentation, density bonuses, not to exceed two units for each thirty-five acre increment, or other incentives, and the transfer of development rights and fulfill the goals of the county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.

Source: L. 96: Entire part added, p. 1880, § 2, effective June 6.

30-28-402. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Rural land use process" means a planning process duly enacted and adopted by a county which is designed to offer a land use option for single family residential purposes that differs from traditional thirty-five acre divisions of land, as described in section 30-28-101 (10)(c)(I).

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6.

30-28-403. Cluster development.

(1) A cluster development is any division of land that creates parcels containing less than thirty-five acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least two-thirds of the total area of the tract or tracts is reserved for the preservation of open space. No rural land use process as authorized by this section shall approve a cluster development that would exceed one residential unit for each seventeen and one-half acre increment.

(2) As a condition of approving a cluster development, a rural land use process shall require that the cluster development plan to set aside land to preserve open space or to protect wildlife habitat or critical areas not permit development of such land for at least forty years from the date the plan is approved.

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6. **L. 2001:** (1) amended, p. 157, § 1, effective August 8.

30-28-404. Water - sewage - roadways - notification to state engineer.

(1) In an effort to preserve open space and water resources, a cluster development may obtain only one well permit for each single-family residential lot pursuant to sections 37-90-105 and 37-92-602, C.R.S., subject to the provisions of subsection (2) of this section.

(2) Except in areas of the state where unappropriated water is available for withdrawal and the vested water rights of others will not be materially injured and except inside designated groundwater basins, a water court-approved plan for augmentation shall be required and shall accompany any county-approved rural land use plan when the water usage in the cluster development would exceed an annual withdrawal rate of one acre-foot for each thirty-five acres within the cluster development. Nothing in this section shall be construed to preclude the use of treated domestic water provided by any public or private entity.

(3) No later than ten days after approval of a cluster development pursuant to a county's rural land use process, the board of county commissioners shall notify the state engineer of such approval and shall provide the state engineer a copy of the approved rural land use plan that includes the cluster development.

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6.

APPORTIONMENT OF FEDERAL MONEYS

ARTICLE 29

Apportionment of Federal Moneys from Public Lands

30-29-101. Receipts from national forests - legislative intent.
30-29-102. Receipts from flood control projects.

30-29-101. Receipts from national forests - legislative intent.

(1) All moneys received by the state treasurer from the federal government under provisions of the act of congress of May 23, 1908, as amended, 16 U.S.C. sec. 500, relating to receipts from national forests, referred to in this section as "national forest payments", shall be credited to a clearing account.

(2) The state treasurer shall pay over the national forest payments within thirty days after receipt of the payments to the treasurers of the several counties of the state in which national forests are located, on the basis of the acreage of national forest land located in each county and in accordance with information provided by the appropriate agency of the federal government as to source and amount.

(3) (a) The boards of county commissioners of the counties receiving the payments specified in subsection (2) of this section shall allocate a minimum of twenty-five percent to the county road and bridge fund and a minimum of twenty-five percent to the public schools in the county; except that the county may allocate less than twenty-five percent of the national forest payments to the county road and bridge fund in order to maximize the receipt by the county of federal payments in lieu of taxes pursuant to 31 U.S.C. sec. 6901 et seq., referred to in this section as "PILT". The allocation of the remaining fifty percent of the national forest payments shall be determined pursuant to the provisions of paragraph (b) of this subsection (3).

(b) (I) A total of three representatives from the school districts in the county and three members of the board of county commissioners, or their designees, shall meet and shall negotiate the remaining percentage allocation of the national forest payments to either the public schools in the county or the county road and bridge fund. In determining the allocation of the national forest payments, the parties shall seek to maximize the total amount of federal funds that may be received by the county and the public schools in the county.

(II) Unallocated national forest payments shall remain unspent until such time as the parties agree upon the allocation of the national forest payments between the county road and bridge fund and the public schools in the county.

(c) If there is more than one school district in the county, the amount allocated to each district shall be in the proportion that its pupil enrollment during the preceding school year bears to the aggregate pupil enrollment in all districts in the county during said preceding school year.

(4) Notwithstanding the minimum percentage allocations to the public schools in the county and the county road and bridge fund set forth in paragraph (a) of subsection (3) of this section, in any federal fiscal year in which the national forest payments received by the state from the federal government are less than six million dollars, the parties specified in paragraph (b) of subsection (3) of this section shall allocate one hundred percent of the national forest payments to either the public schools in the county or the county road and bridge fund pursuant to the provisions of paragraph (b) of subsection (3) of this section.

(5) Repealed.

Source: L. 73: R&RE, p. 1141, § 2. **C.R.S. 1963:** § 112-9-1. **L. 90:** (3) amended, p. 1847, § 44, effective May 31. **L. 2009:** Entire section amended, (HB 09-1250), ch. 240, p. 1091, § 1, effective August 5. **L. 2010:** (3)(a) amended and (5) added, (SB 10-209), ch. 411, p. 2029, § 1, effective June 10.

Editor's note: Subsection (5)(c) provided for the repeal of subsection (5), effective July 1, 2011. (See L. 2010, p. 2029.)

30-29-102. Receipts from flood control projects.

(1) All moneys received by the state treasurer from the federal government under provisions of Public Law 526, 79th Congress, Second Session, approved July 24, 1946, relating to flood control projects, shall be credited to a clearing account.

(2) As soon as practicable after receipt of the moneys specified in subsection (1) of this section, the state treasurer shall pay over said moneys to the treasurers of the several counties of the state in which flood control projects are located, in accordance with information provided by the appropriate federal agency as to location and amount.

(3) The boards of county commissioners of the counties receiving the payments specified in subsection (2) of this section shall allocate twenty-five percent thereof to the county road and bridge fund and seventy-five percent thereof to the public schools of the county. If there is more than one school district in the county, the amount allocated to each district shall be in the proportion which its pupil enrollment during the preceding school year bears to the aggregate pupil enrollment in all districts in the county during said preceding school year.

Source: L. 73: R&RE, p. 1141, § 2. **C.R.S. 1963:** § 112-9-2. **L. 90:** (3) amended, p. 1848, § 45, effective May 31.

FLOOD CONTROL

ARTICLE 30

Control of Streamflow

30-30-101. Definitions.
30-30-102. Authority to remove obstructions in streams.
30-30-103. Contracts and agreements.
30-30-104. Adoption of plan.
30-30-105. Colorado water conservation board - grants to counties.

30-30-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Channel" means that area of a stream where water normally flows between banks and not that area beyond where vegetation exists.

(2) "Obstruction" means sandbars formed by the natural flow of a stream, temporary structures, planks, snags, and debris in and along the existing channel which cause a flood hazard.

Source: L. 74: Entire article added, p. 230, § 1, effective May 14.

30-30-102. Authority to remove obstructions in streams.

(1) The board of county commissioners of each county shall have authority within its respective county, for flood control purposes only, to remove or cause to be removed any obstruction to the channel of any natural stream which causes a flood hazard, and for such purpose only the board of county commissioners shall have a right of access to any such natural stream, which access shall be accomplished through existing gates and lanes, if possible. Such authority includes the right to modify existing diversion or storage facilities at no expense to the

diverter of a water right, but it shall in no way alter or diminish the quality or quantity of water entitled to be received under any vested water right.

(2) Except in case of imminent flood danger, such right of access shall be exercised only as follows:

(a) Upon five days' notice to the landowner and to the owner of any other property or leasehold interest in the area to be inspected, including public utilities, the board of county commissioners shall have a right of access to any natural stream for the purpose of inspecting it and determining if there are obstructions to its channel which create a flood hazard.

(b) If the board of county commissioners determines that there are obstructions on the property owner's property which in its opinion create a flood hazard, it shall give him written notice of those conditions. Thereafter the board of county commissioners shall negotiate with the owner to reach agreement as to the existence of such conditions and as to the procedures necessary for the elimination thereof. If such agreement is reached, the owner, if he requests, shall be given a reasonable time within which to eliminate such conditions himself, and such agreement may provide for compensation to the owner for such work.

(c) If the board of county commissioners and the owner cannot reach such agreement, then, unless the owner consents to access by the board of county commissioners, the board of county commissioners shall have access only through the institution of proceedings in the district court for a mandatory order compelling the owner to permit access for the purposes specified in subsection (1) of this section. In such court proceedings, it shall be appropriate for the court to consider the necessity for and the reasonableness of the request of the board of county commissioners for access and to award to the owner such payment, if any, as may be proper to compensate him for damages to his property resulting from the flood control work on his property as authorized by the board of county commissioners.

(d) Whenever such action occurs within the boundaries of a municipality, the board of county commissioners shall consult with the governing body of that municipality.

(3) Prior to the initiation of any flood control work under this article, the board of county commissioners shall give the division of parks and wildlife written notice, specifying the conditions which in its opinion create a flood hazard and the location of such. This subsection (3) shall not apply in the case of imminent flood danger.

Source: L. 74: Entire article added, p. 230, § 1, effective May 14.

30-30-103. Contracts and agreements.

The board of county commissioners of a county may enter into contracts and agreements with adjoining counties, the state of Colorado or any agency or political subdivision thereof, or the United States or any agency or political subdivision thereof for the purpose of implementing or carrying out the purposes of this article.

Source: L. 74: Entire article added, p. 231, § 1, effective May 14.

30-30-104. Adoption of plan.

A board of county commissioners may by resolution adopt a plan to carry out the purposes of this article.

Source: L. 74: Entire article added, p. 231, § 1, effective May 14.

30-30-105. Colorado water conservation board - grants to counties.

The Colorado water conservation board may make grants to counties, out of moneys appropriated by the general assembly or other funds available for such purpose, to assist them in removing streamflow obstructions in accordance with section 30-30-102, C.R.S. Grants under this section shall be made upon application by the county therefor and on the basis of the urgency of the flood control problem in the county and the county's financial need.

Source: L. 74: Entire article added, p. 231, § 1, effective May 14.

COUNTY REVITALIZATION

ARTICLE 31

County Revitalization

30-31-101. Short title.
30-31-102. Legislative declaration.
30-31-103. Definitions.
30-31-104. County revitalization authority.
30-31-105. Powers of an authority.

30-31-106. Acquisition of private property by eminent domain by authority for subsequent transfer to private party - restrictions - exceptions - right of civil action - damages - definitions.

30-31-107. Condemnation actions by authorities - effect of other provisions.

30-31-108. Disposal of property in county revitalization area.

30-31-109. Approval of county revitalization plans by local governing body - renewable energy reinvestment areas - definitions.

30-31-110. Disaster areas.

30-31-111. Issuance of bonds by an authority.

30-31-112. Property of an authority exempt from taxes and from levy and sale by virtue of an execution.

30-31-113. Title of purchaser, lessee, or transferee.

30-31-114. Cooperation by public bodies with county revitalization authorities.

30-31-115. Designation - transfer - abolishment.

30-31-116. Regional tourism projects.

30-31-116.5. Transit investment areas - definition.

30-31-117. Cumulative powers.

30-31-118. Inclusion of incorporated territory in a county revitalization area.

30-31-101. Short title.

The short title of this article 31 is the "County Revitalization Law".

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2638, § 1, effective August 7.

30-31-102. Legislative declaration.

(1) The general assembly finds and declares that:

(a) There exist in counties of the state unincorporated areas that would benefit from revitalization and economic investment that will not occur without additional funding;

(b) The existence of these areas impair successful development and redevelopment within counties and harms the welfare of county residents in ways that harm the surrounding communities, and the revitalization of these areas is a matter of public policy and statewide concern in order that the state and its counties not continue to be underutilized and placed in a condition that harms the welfare of these areas;

(c) Certain revitalization areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this article 31, since the prevailing conditions in county revitalization areas may make the reclamation of the area by conservation or rehabilitation impracticable;

(d) Potential revitalization areas, or portions thereof, through the means provided in this article 31, may be susceptible of conservation or rehabilitation in such a manner that the conditions numerated in this section may be improved or remedied;

(e) Revitalization areas may be conserved and rehabilitated through appropriate public action, as authorized or contemplated in this article 31, and the cooperation and voluntary action of the owners and tenants of property in revitalization areas;

(f) The powers conferred by this article 31 are for public uses and purposes for which public money may be expended and the police power exercised; and

(g) The necessity in the public interest for the provisions enacted in this article 31 is declared as a matter of legislative determination.

(2) The general assembly further finds and declares that:

(a) County revitalization areas created for the purposes described in subsections (1)(a) and (1)(b) of this section must not include agricultural land except in connection with the limited circumstances described in this article 31; and

(b) The inclusion of agricultural land within county revitalization areas is a matter of statewide concern.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2638, § 1, effective August 7.

30-31-103. Definitions.

As used in this article 31, unless the context otherwise requires:

(1) "Agricultural land" means any parcel of land or any contiguous parcels of land that, regardless of the uses for which the land has been zoned, the county assessor has classified as agricultural land for purposes of the levying and collection of property tax pursuant to sections

39-1-102 (1.6)(a) and 39-1-103 (5)(a), at any time during the five-year period before either the date of adoption of a county revitalization plan or any modification of a county revitalization plan.

(2) "Bonds" means any bonds, including refunding bonds, notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations issued as authorized by this article 31.

(3) "Brownfield site" means real property and the development, expansion, redevelopment, or reuse of real property that is complicated by the presence of a substantial amount of one or more hazardous substances, pollutants, or contaminants, as designated by the United States environmental protection agency.

(4) "Business concern" has the same meaning as "business", as defined in section 24-56-102 (1).

(5) "County revitalization area" means a revitalization area that the governing body designates as appropriate for the county revitalization project.

(6) "County revitalization authority" or "authority" means a corporate body organized pursuant to this article 31.

(7) "County revitalization plan" means a plan for the county revitalization project that:

(a) Conforms to a general or master plan for the physical development of the county as a whole;

(b) Indicates land acquisition, development, redevelopment, rehabilitation, and additional land and capital improvements;

(c) Includes zoning and planning changes, if any, land uses, maximum densities, and building requirements; and

(d) Defines the plan's relationship to defined local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(8) "County revitalization project" means undertakings and activities that take advantage of revitalization areas in accordance with the county revitalization plan. Such undertakings and activities may include:

(a) Acquisition of a revitalization area or any portion thereof;

(b) Demolition and removal of buildings and improvements;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements;

(d) Disposition of any property acquired or held by the authority as a part of the county revitalization project for county revitalization areas. Disposition includes sale, initial leasing, or temporary retention by the authority at the fair value of the property for use in accordance with the county revitalization plan.

(e) Carrying out plans for a program through voluntary action and the regulatory process for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with the county revitalization plan; and

(f) Acquisition of any property necessary to achieve the objectives of the county revitalization plan.

(9) "Displaced person" has the same meaning as set forth in section 24-56-102 (2), and also includes any individual, family, or business concern displaced by an authority acquiring real property through the exercise of eminent domain.

(9.5) "Eligible project" has the meaning set forth in section 29-20-501 (6).

(10) "Governing body" means the board of county commissioners of the county within which an authority is established or proposed to be established.

(11) "Obligee" means any bondholder, agent, trustee for any bondholder, lessor demising to an authority property used in connection with the county revitalization project of the authority, assignee of such lessor's interest or any part thereof, or the federal government when it is a party to any contract or agreement with an authority.

(12) "Public body" means the state of Colorado and any county, quasi-municipal corporation, board, commission, authority, political subdivision, or public corporate body of the state.

(13) "Real property" means lands, lands under water, structures, easements, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(13.5) "Renewable energy reinvestment area" has the meaning set forth in section 29-20-501 (14).

(14) "Revitalization area" means an area that, upon the implementation of the county revitalization plan, substantially promotes the sound growth of the county, improves economic and social conditions, and furthers the health, safety, and well-being of the public by the actualization of one of the following opportunity factors:

(a) Investment in critical infrastructure, including water, sanitary sewer and storm water systems and management, electricity, and other public utilities to achieve desired levels of residential density and employment growth;

(b) Improvement of mobility and increased access to transportation corridors and multimodal transportation options;

(c) Development of affordable housing proximate to enhanced transportation hubs and corridors;

(d) Development of economic opportunities for job creation and growth in entrepreneurship and successful location of existing businesses;

(e) Expansion of access to healthy food systems, community medical services, public parks, or public education opportunities;

(f) Improvement of circulation patterns and enhancement of safe and reliable public transportation systems;

(g) Remediation of contaminated soils or water;

(h) Clearance, abatement, or rehabilitation of structurally unsound, deteriorating, or otherwise unsafe structures; or

(i) Redevelopment of former landfills, floodplains, or other areas challenged by topography that, in their present condition, pose a threat to public health and safety.

(15) "Urban-level development" means an area in which there is a predominance of either permanent structures or above-ground or at-grade infrastructure.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2639, § 1, effective August 7. **L. 2026:** (9.5) and (13.5) added, (HB 26-1268), ch. 160, p. 959, § 6, effective August 12.

30-31-104. County revitalization authority.

(1) (a) Any twenty-five registered electors of a county may file a petition with the governing body or its designee, or the governing body may adopt a resolution, setting forth that there is a need for a county revitalization authority in the county.

(b) (I) Upon the filing of a petition or the adoption of a resolution described in subsection (1)(a) of this section, a county shall give notice of the time, place, and purpose of a public hearing where the governing body will determine the need for the county revitalization authority in the county. This notice must also include a general description of the land that would be part of the county revitalization area. The county must give this notice to every municipality within three miles of the proposed authority at least thirty days before the hearing.

(II) A county shall provide the notice described in this subsection (1)(b) at its own expense by publishing the notice at least thirty days preceding the day on which the hearing is to be held

in a newspaper having a general circulation in the county or, if there is no such newspaper, by posting the notice in at least three public places within the county at least thirty days preceding the day on which the hearing is to be held.

(III) At the hearing held pursuant to the notice described in this subsection (1)(b), the governing body shall grant a full opportunity to be heard to all county residents, taxpayers, municipalities within three miles of the proposed authority, and other interested persons.

(c) After the hearing held pursuant to the notice described in subsection (1)(b) of this section, the governing body shall adopt a resolution finding a need for and creating the county revitalization authority if the governing body:

(I) Determines that there are one or more revitalization areas in the county outside of existing urban renewal authorities;

(II) Determines that the acquisition, clearance, rehabilitation, conservation, development, redevelopment, or any combination thereof of such revitalization areas is necessary and in the interest of the public health, safety, or welfare of the county residents; and

(III) Declares it to be in the public interest that the county revitalization authority be created and exercises the powers provided in this article 31.

(d) (I) If the governing body adopts a resolution in accordance with subsection (1)(c) of this section, the governing body shall appoint authority commissioners as provided in subsection (2) of this section.

(II) If the governing body, after a hearing held pursuant to subsection (1)(b) of this section, determines that it cannot make the determinations and declaration enumerated in subsection (1)(c) of this section, it shall adopt a resolution denying the petition filed pursuant to subsection (1)(a) of this section. Only beginning six months after the denial of such a petition may registered electors file subsequent petitions with the governing body or its designee, setting forth that there is a need for the county revitalization authority in the county.

(2) (a) (I) An authority consists of no fewer than three and no more than eight authority commissioners.

(II) (A) If at least one taxing entity has joined the authority pursuant to subsection (6) of this section, one authority commissioner must be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the county revitalization authority area that have joined the county revitalization authority.

(B) If no special district appoints an authority commissioner, then the special district appointment remains vacant until the applicable appointing authority makes the appointment pursuant to this subsection (2)(a).

(III) If the governing body appoints an even number of authority commissioners, the governing body shall designate an authority commissioner as the authority commissioner who casts the deciding vote in the case of an otherwise tie vote.

(b) (I) Authority commissioner terms are for four years; except that the governing body shall assign terms of four years or fewer for the initial authority commissioners so that authority commissioners serve for staggered terms.

(II) The governing body shall fill authority commissioner vacancies, other than those that occur due to the expiration of terms, for the remaining unexpired term; except that a vacancy of the special district-appointed seat must be filled by agreement of the affected special districts.

(III) An authority commissioner holds office until the governing body appoints the authority commissioner's qualified successor.

(c) (I) The governing body shall designate the chairperson for the first year of the authority. When the office of the first chairperson of the authority becomes vacant and annually thereafter, the authority shall select a chairperson and vice-chairperson from among its members.

(II) An authority may employ a secretary, an executive director, technical experts, and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, and compensation.

(III) An authority may call upon the county attorney and employ its own counsel and legal staff for legal services.

(IV) An authority may delegate powers and duties to one or more of its agents or employees as it deems proper.

(d) The governing body shall file with the county clerk and recorder a certificate of the appointment or reappointment of any authority commissioner, and the certificate is conclusive evidence of the due and proper appointment of the authority commissioner.

(e) An authority commissioner receives no compensation for services rendered, but is entitled to reimbursement for necessary expenses, including traveling expenses, incurred in the discharge of the duties described in this article 31.

(f) A majority of the authority commissioners constitutes a quorum.

(3) (a) (I) Upon appointment as an authority commissioner, an authority commissioner shall file a certificate with the division of local government in the department of local affairs setting forth that the governing body, after the hearing required by subsection (1)(b) of this section, made the findings and declaration required in subsection (1)(c) of this section and appointed the authority commissioner.

(II) Upon an authority commissioner filing such a certificate, the authority commissioner and any successor constitutes the county revitalization authority, which is a body corporate and politic.

(b) In any suit, action, or proceeding involving the validity or enforcement of any bond, contract, mortgage, trust indenture, or other agreement of the authority, the authority must be conclusively deemed to have been established in accordance with the provisions of this article 31 upon proof of the filing of the certificate described in this subsection (3). A copy of the certificate, duly certified by the director of the division of local government in the department of local affairs, is admissible in evidence in any such suit, action, or proceeding.

(4) (a) (I) Neither any authority commissioner, authority officer, or employee of an authority nor any immediate family member of any such authority commissioner, officer, or employee may acquire any interest, direct or indirect, in any county revitalization project or in any property included or planned to be included in any county revitalization project.

(II) An authority commissioner shall not have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any county revitalization project.

(b) (I) (A) If an authority commissioner, authority officer, or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in the county revitalization project, the authority commissioner shall immediately disclose the interest in writing to the authority. The disclosure must be entered upon the minutes of the authority.

(B) Upon a disclosure made pursuant to subsection (4)(b)(I)(A) of this section, the authority commissioner, officer, or other employee shall not participate in any action by the authority affecting the carrying out of the county revitalization project planning or the undertaking of the project, unless the authority determines that, notwithstanding the personal interest, the participation of the authority commissioner, officer, or employee would not be contrary to the public interest.

(II) Acquisition or retention of any interest described in subsection (4)(b)(I)(A) of this section without a determination by the authority that the interest is not contrary to the public interest or willful failure to disclose any such interest constitutes misconduct in office.

(5) (a) The governing body may remove an authority commissioner for inefficiency or neglect of duty or misconduct in office only after the authority commissioner has been given a copy of the charges that the governing body made against the authority commissioner and the authority commissioner has had an opportunity to be heard in person or through counsel before the governing body.

(b) If any authority commissioner is removed, the governing body shall file a record of the proceedings, together with the charges made against the authority commissioner and any related findings, in the office of the county clerk and recorder.

(6) (a) Any taxing entity, other than a school district or the county, that levies taxes in an area that would fall under the county revitalization plan proposed by the authority may file a petition with the authority requesting to join the authority.

(b) Within thirty days of receiving the notice described in subsection (6)(a) of this section, the authority shall hold a public hearing to determine whether the taxing entity that filed a petition should be included in the authority.

(c) The incremental property tax revenue of a taxing entity that either does not file a petition in accordance with subsection (6)(a) of this section or that the authority decides not to include in the authority during a hearing held in accordance with subsection (6)(b) of this section shall not be allocated under the county revitalization plan proposed by the authority.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2642, § 1, effective August 7.

30-31-105. Powers of an authority.

(1) An authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this article 31, including the power to:

(a) Sue and to be sued;

(b) Adopt and alter a seal;

(c) Have perpetual succession;

(d) Make, and from time to time amend and repeal, bylaws, orders, rules, and regulations to effectuate the provisions of this article 31;

(e) Undertake county revitalization projects;

(f) Make and execute any and all contracts and other instruments which it may deem necessary or convenient to the exercise of its powers under this article 31, including contracts for advances, loans, grants, and contributions from the federal government or any other source;

(g) Arrange for the furnishing or repair by any person or public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities for or in connection with a project of the authority;

(h) Dedicate property acquired or held by the authority for public works, improvements, facilities, utilities, and other purposes;

(i) Agree, in connection with any of the authority's contracts, to any conditions that the authority deems reasonable and appropriate under this article 31, including conditions attached to federal financial assistance, and to include in any contract made or let in connection with any project of the authority provisions to fulfill such conditions as it may deem reasonable and appropriate;

(j) Arrange with the county or other relevant public body to plan, replan, zone, or rezone any part of the area of the county or other public body in connection with any project proposed or being undertaken by the authority under this article 31;

(k) Enter, with the consent of the owner, any building or property in order to make surveys or appraisals and to obtain an order for this purpose from a court of competent jurisdiction if entry is denied or resisted;

(l) Acquire any property by purchase, lease, option, gift, grant, bequest, devise, or otherwise to acquire any interest in property by condemnation, including a fee simple absolute title, in the manner provided by the laws of the state for the exercise of the power of eminent domain by any other public body. Property already devoted to a public use may be acquired in a like manner; except that no property belonging to the federal government or to a public body may be acquired without its consent. Any acquisition of any interest in property by condemnation by an authority must be approved as part of the county revitalization plan or the substantial modification of the county revitalization plan, as provided in section 30-31-109, must be approved by a majority vote of the governing body in which the property is located, and must satisfy the requirements of section 30-31-106.

(m) Hold, improve, clear, or prepare for redevelopment any property acquired by condemnation by an authority;

(n) Mortgage, pledge, hypothecate, or otherwise encumber or dispose of its property;

(o) Insure any property or operations of the authority against any risks or hazards; except that no provision of any other law with respect to the planning or undertaking of projects or the acquisition, clearance, or disposition of property by public bodies may restrict an authority from exercising powers under this article 31 with respect to a project of the authority unless the general assembly so states;

(p) (I) Invest any of the authority's money not required for immediate disbursement in property or in securities in which public bodies may legally invest money subject to their control pursuant to part 6 of article 75 of title 24, and to redeem such bonds as the authority has issued at the redemption price established therein or to purchase such bonds at less than redemption price. All such bonds issued by and then redeemed or purchased by an authority are canceled.

(II) Deposit any money not required for immediate disbursement in any depository authorized in section 24-75-603. For the purpose of making such deposits, the authority may appoint, by written resolution, one or more persons to act as custodians of the money of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the authority requires.

(III) Borrow money and apply for and accept advances, loans, grants, and contributions from the federal government or any other source for any of the purposes of this article 31 and to give such security as the federal government or other lender may require;

(IV) Make appropriations and expenditures of its funds; and

(V) Set up, establish, and maintain general, separate, or special funds and bank accounts or other accounts as it deems necessary to carry out the purposes of this article 31;

(q) Make and submit, or resubmit to the governing body for appropriate action, the authority's proposed plans and modifications to those plans as necessary for the carrying out of the purposes of this article 31. Such plans must include:

(I) A roadmap to assist the county in its preparation of a workable program for utilizing appropriate private and public resources to take advantage of revitalization areas, to encourage needed county revitalization, to provide for the redevelopment of revitalization areas, or to undertake such activities as may be suitably employed to achieve the objectives of such a workable program, which may include provisions for:

(A) The rehabilitation or conservation of revitalization areas or portions of those areas by replanning, removing congestion, providing public improvements, and encouraging the rehabilitation and repair of deteriorated or deteriorating structures; and

(B) The clearance and redevelopment of revitalization areas or portions of those areas;

(II) County revitalization plans;

(III) Plans for the relocation of those individuals, families, and business concerns situated in the county revitalization area which will be displaced by the county revitalization project. These relocation plans may include data setting forth a feasible method for the temporary relocation of such individuals, families, and business concerns and showing that there will be provided, in the county revitalization area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of such individuals, families, and business concerns, decent, safe, and sanitary dwellings and commercial spaces equal in number to and available to such individuals, families, and business concerns and reasonably accessible to their places of employment or business.

(IV) Plans for undertaking a program of voluntary repair and rehabilitation of buildings and improvements;

(V) Plans for the enforcement of state and local laws, codes, and regulations relating to:

(A) The use of land;

(B) The use and occupancy of buildings;

(C) Building improvements; and

(D) The repair, rehabilitation, demolition, or removal of buildings and improvements; and

(VI) Financing plans, maps, plats, appraisals, title searches, surveys, studies, and other preliminary plans and work pertinent to any proposed plans or modifications;

(r) Make reasonable relocation payments to or with respect to individuals, families, and business concerns situated in the county revitalization area that will be displaced as provided in subsection (1)(q)(III) of this section for moving expenses and actual direct losses of property including, for business concerns, goodwill and lost profits that are reasonably related to relocation of the business, resulting from their displacement for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(s) Develop, test, and report methods and techniques for taking advantage of the revitalization areas within the county and carry out demonstrations and other activities for taking advantage of the revitalization areas; and

(t) Rent or provide by other means, including accepting the use of suitable quarters furnished by the relevant county or any other public body, suitable quarters for the use of the authority and equip such quarters with furniture, furnishings, equipment, records, and supplies as the authority deems necessary to enable it to exercise its powers under this article 31.

(2) No authority has power to levy or assess ad valorem taxes, personal property taxes, or any other form of taxes including special assessments against any property.

(3) No municipality is required to provide services within the boundaries of the county revitalization area or to provide or expand infrastructure or facilities to serve a county revitalization project; except that the authority or county and a municipality may enter into an intergovernmental agreement regarding the provision of services within the boundaries of the county revitalization area or to provide or expand infrastructure or facilities to service a county revitalization project.

(4) Nothing in this article 31 shall be construed to affect the authority of a municipality to regulate and plan for the use of land or affect any agreement between a municipality and a landowner or public body relating to the use or development of land.

(5) Pursuant to section 30-31-109 (13)(a)(II), an authority may distribute tax increment revenue to finance costs incurred to carry out one or more eligible projects sited in a renewable energy reinvestment area.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2646, § 1, effective August 7. **L. 2026:** (5) added, (HB 26-1268), ch. 160, p. 959, § 7, effective August 12.

30-31-106. Acquisition of private property by eminent domain by authority for subsequent transfer to private party - restrictions - exceptions - right of civil action - damages - definitions.

(1) (a) Except as provided in this subsection (1) or subsection (2) of this section, private property acquired by eminent domain by an authority pursuant to section 30-31-105 (1)(l) shall not later be transferred to a private party unless:

(I) The owner of the property consents in writing to acquisition of the property by eminent domain by the authority;

(II) The authority determines that the property is no longer necessary for the purpose for which the authority originally acquired the property, and the authority first offers to sell the property to the owner from which the authority acquired the property, if the owner can be located, at a price not more than that paid by the authority, and the owner of the property declines the authority's offer;

(III) The property acquired by the authority is abandoned; or

(IV) The owner of the property requests or pleads in an eminent domain action that the authority acquiring the property also acquire property that is not essential to the purpose of the authority's acquisition on the basis that acquiring less property would leave the owner of the property holding an uneconomic remnant.

(b) Notwithstanding any other provision of this section, a transfer that satisfies the requirements of this subsection (1) is not subject to the provisions of subsection (2), (3), or (4) of this section.

(2) (a) If a proposed transfer of private property acquired by an authority by eminent domain does not satisfy one of the requirements specified in subsection (1)(a) of this section, such property may later be transferred to a private party only after the following conditions are satisfied:

(I) The governing body makes a determination that the property is located in a revitalization area and that the county revitalization project for which the property was being acquired will

commence no later than seven years from the date the governing body made the revitalization area determination. For purposes of this subsection (2)(a)(I), the governing body's determination of whether a particular area or property is a revitalization area must be based upon information that is reasonably current when the governing body makes the determination.

(II) Not later than the commencement of the negotiation of an agreement for the redevelopment or rehabilitation of property acquired or to be acquired by eminent domain, the authority provides notice and invites proposals for redevelopment or rehabilitation from all property owners, residents, and owners of business concerns located on the property acquired or to be acquired by eminent domain in the county revitalization area by mailing notice to their last known address of record. The authority may, at the same time, invite proposals for redevelopment or rehabilitation from owners of business concerns, other interested persons who may not be property owners, or residents within the county revitalization area and may provide public notice thereof by publication in a newspaper having a general circulation within the county in which the authority has been established.

(III) In the case of a set of parcels to be acquired by the authority in connection with the county revitalization project, at least one of which parcels is owned by an owner refusing or rejecting an agreement for the acquisition of the entire set of parcels, the authority makes a determination that the redevelopment or rehabilitation of the remaining parcels is not viable under the county revitalization plan without the parcel at issue.

(b) (I) Any owner of property located within the county revitalization area may challenge the determination of a revitalization area made by the governing body pursuant to subsection (2)(a)(I) of this section by filing, not later than thirty days after the determination, a civil action in district court pursuant to C.R.C.P. 106 (a)(4) for judicial review of the exercise of discretion on the part of the governing body in making the determination. Any such action must be governed in accordance with the procedures and other requirements specified in C.R.C.P. 106 (a)(4); except that the governing body has the burden of proving that, in making its revitalization area determination, it neither exceeded its jurisdiction nor abused its discretion.

(II) If the owner is the prevailing party on a challenge brought pursuant to this subsection (2)(b), an authority seeking to acquire property by eminent domain in accordance with the requirements of this subsection (2) shall reimburse the owner of the property for reasonable attorney fees incurred by the owner in connection with the acquisition.

(c) Notwithstanding any other provision of law, any determination made by the governing body pursuant to subsection (2)(a) of this section is a legislative determination and not a quasi-judicial determination.

(d) Notwithstanding any other provision of this article 31, an authority's eminent domain authority shall not exceed that of the county where the authority is located.

(3) (a) (I) Any authority that exercises the power of eminent domain to transfer acquired property to another private party as authorized in accordance with the requirements of this section shall adopt relocation assistance and land acquisition policies to benefit displaced persons that are consistent with those set forth in article 56 of title 24 to the extent applicable to the facts of each specific property and at the time of the relocation of the owner or the occupant. An authority shall provide compensation or other forms of assistance to any displaced person in accordance with the adopted policies.

(II) In the case of a business concern displaced by the acquisition of property by eminent domain, the authority shall make a business interruption payment to the business concern not to exceed the lesser of ten thousand dollars or one-fourth of the average annual taxable income shown on the three most recent federal income tax returns of the business concern.

(b) In any case where the acquisition of property by eminent domain by an authority displaces individuals, families, or business concerns, the authority shall make reasonable efforts to relocate those individuals, families, or business concerns within the county revitalization area. This relocation must be consistent with the uses provided in the county revitalization plan or in areas within reasonable proximity to, or comparable to, the original location of such individuals, families, or business concerns.

(4) As used in this section, unless the context otherwise requires, "private property" or "property" means, as applied to real property, only a fee ownership interest.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2650, § 1, effective August 7.

30-31-107. Condemnation actions by authorities - effect of other provisions.

Notwithstanding any other provision of law, any condemnation action commenced by an authority must satisfy the requirements of section 38-1-101. To the extent that there is any conflict between this article 31 and section 38-1-101, section 38-1-101 controls.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2652, § 1, effective August 7.

30-31-108. Disposal of property in county revitalization area.

(1) (a) An authority may sell, lease, or otherwise transfer real property or any interest therein acquired by the authority as part of the county revitalization project for residential, recreational, commercial, industrial, or other uses, or for public use in accordance with the county

revitalization plan, subject to such covenants, conditions, and restrictions, including covenants running with the land and the incorporation by reference of the provisions of the county revitalization plan or any part thereof as the authority deems to be in the public interest or necessary to carry out the purposes of this article 31.

(b) The purchasers, lessees, transferees, and their successors and assignees described in this subsection (1) are obligated to devote the real property described in this subsection (1) only to the land uses, designs, building requirements, timing, or procedures specified in the county revitalization plan and may be obligated to comply with other requirements that the authority determines are in the public interest, including the obligation to begin any improvements on such real property that are required by the county revitalization plan within a reasonable time.

(c) (I) The real property or interest described in subsection (1)(a) of this section must be sold, leased, or otherwise transferred at not less than its fair value as determined by the authority for uses in accordance with the county revitalization plan.

(II) In determining the fair value of real property for uses in accordance with the county revitalization plan, an authority shall take into account:

(A) The uses provided in the county revitalization plan;

(B) The restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee; and

(C) The objectives of the county revitalization plan in relation to taking advantage of revitalization areas.

(d) (I) Real property acquired by an authority which, in accordance with the provisions of the county revitalization plan, is to be transferred must be transferred as rapidly as feasible in the public interest consistent with the county revitalization plan.

(II) Any contract for the transfer of real property described in this section and the county revitalization plan, or any part of the contract or plan as the authority may determine, may be recorded in the land records of the county in such manner as to afford actual or constructive notice.

(2) (a) An authority shall only dispose of real property in the county revitalization area to private persons under such reasonable competitive bidding procedures as the authority prescribes or as provided in this subsection (2).

(b) (I) An authority, by public notice by publication once each week for two consecutive weeks in a newspaper having a general circulation in the county, before the execution of any contract to sell, lease, or otherwise transfer real property, and before the delivery of any instrument of conveyance pursuant to this section, may invite proposals from and make available

all pertinent information to any person interested in undertaking the redevelopment or rehabilitation of the county revitalization area or any part thereof.

(II) Notice given in accordance with this subsection (2)(b) must identify the relevant portion of the area and must state that such further information as is available may be obtained at the office designated in the notice.

(c) An authority shall consider all redevelopment or rehabilitation proposals received in accordance with subsection (2)(b) of this section and the financial and legal ability of the persons making the proposals to carry them out and may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by the authority in the county revitalization area.

(d) An authority may accept such proposals as it deems to be in the public interest and in furtherance of the purposes of this article 31.

(e) An authority shall file a notification of intention to accept a proposal with the governing body not less than fifteen days before any such acceptance. Thereafter, the authority may execute the proposal in accordance with the provisions of subsection (1) of this section and deliver deeds, leases, and other instruments and take all steps necessary to effectuate the proposal.

(3) An authority may temporarily operate and maintain real property acquired in the county revitalization area pending the disposition of the property for redevelopment without regard to the provisions of subsection (1) of this section for such uses and purposes as it deems desirable even if those uses and purposes are not in conformity with the county revitalization plan.

(4) Notwithstanding subsection (1) of this section, an authority may set aside, dedicate, and devote project real property to public uses in accordance with the county revitalization plan or set aside, dedicate, and transfer real property to the county or to any other appropriate public body for public uses in accordance with the county revitalization plan with or without compensation for such property, with or without regard to the fair value of such property as determined in subsection (1) of this section, and upon or subject to such terms, conditions, covenants, restrictions, or limitations as the authority deems to be in the public interest and as are consistent with the purposes and objectives and the other applicable provisions of this article 31.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2652, § 1, effective August 7.

30-31-109. Approval of county revitalization plans by local governing body - renewable energy reinvestment areas - definitions.

(1) (a) An authority may not undertake the county revitalization project for the county revitalization area unless, based on evidence presented at a public hearing, the governing body

has determined by resolution that the area is a revitalization area and has designated the area as appropriate for a county revitalization project.

(b) (I) Notwithstanding any other provision of this article 31, within thirty days of commissioning a study to determine whether an area is a revitalization area in accordance with the requirements of subsection (1)(a) of this section, the authority shall provide notice to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record and to any municipality within three miles of the proposed area. The notice must state that the authority is commencing a study necessary for making a determination as to whether the area in which the owner owns property is a revitalization area. Within seven days of making such determination, the authority or the county, as applicable, shall also provide notice of the determination to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record.

(II) As used in this subsection (1)(b), "private property" means, as applied to real property, only a fee ownership interest.

(c) (I) The boundaries of an area that the governing body determines to be a revitalization area must be drawn as narrowly as the governing body determines feasible to accomplish the planning and development objectives of the proposed county revitalization plan. The governing body shall not approve the county revitalization plan until a general plan for the county has been prepared. In making the determination as to whether a particular area is a revitalization area pursuant to the provisions of this article 31, any particular condition found to be present may satisfy as many of the factors referenced in section 30-31-103 (14) as are applicable to the condition.

(II) Notwithstanding any other provision of this article 31, no county revitalization area may contain any agricultural land unless:

(A) The agricultural land is a brownfield site;

(B) Not less than one-half of the county revitalization area as a whole consists of parcels of land containing urban-level development that, at the time of the designation of such area, the governing body determines to be a revitalization area in accordance with the requirements of subsection (1)(a) of this section, and not less than two-thirds of the perimeter of the county revitalization area as a whole is contiguous with urban-level development as determined at the time of the designation of such area;

(C) The agricultural land is an enclave within the territorial boundaries of the county and the entire perimeter of the enclave has been contiguous with urban-level development for a period of not less than three years as determined at the time of the designation of the area; or

(D) Each public body that levies an ad valorem property tax on the agricultural land agrees in writing to the inclusion of the agricultural land within the county revitalization area.

(III) Notwithstanding any other provision of this article 31, the county revitalization authority must not overlap with an urban renewal authority, and the boundaries of the county revitalization area must not overlap with a municipality, except where the property is subsequently annexed into the municipality or pursuant to section 30-31-118.

(IV) A county revitalization plan or a substantial modification to an existing county revitalization plan may include one or more eligible projects located within a renewable energy reinvestment area regardless of whether the renewable energy reinvestment area is located within or is contiguous to the boundaries of the county revitalization area.

(d) (I) A county revitalization plan that is approved or substantially modified must include a legal description of the county revitalization area, including the legal description of any agricultural land proposed for inclusion within the county revitalization area pursuant to subsection (1)(c)(II) of this section.

(II) A county revitalization plan or a substantial modification to an existing county revitalization plan approved pursuant to this section must include:

(A) A map depicting the boundaries of any renewable energy reinvestment area included in the county revitalization plan or substantial modification; and

(B) A description of the eligible projects and eligible project costs to be financed or reimbursed with tax increment revenue within each renewable energy reinvestment area included in the county revitalization plan or substantial modification.

(2) (a) Prior to approving a county revitalization plan, a governing body shall submit the plan to the county planning commission for review and recommendations as to the plan's conformity with the general plan for the development of the county as a whole. The county planning commission shall also review and provide recommendations as to the plan's interaction with applicable municipal plans for the development of unincorporated territory if the county revitalization plan includes property that is included within a municipal plan adopted pursuant to section 31-12-105 (1)(e)(I) or section 31-23-212.

(b) The planning commission shall submit its written recommendations to the governing body within thirty days after receipt of the plan.

(c) Upon receipt of the recommendations of the planning commission or, if no recommendations are received within thirty days, without such recommendations, a governing body may proceed with the hearing on the proposed county revitalization plan required by subsection (5) of this section.

(3) (a) At least thirty days prior to the hearing described in subsection (5)(a) of this section on a county revitalization plan or a substantial modification to a county revitalization plan, the county or the authority shall submit a county revitalization impact report along with the county revitalization plan or modification to a county revitalization plan to every municipality within one mile of the county revitalization area. The county revitalization impact report must include, at a minimum, the following information concerning the impact of such a county revitalization plan:

(I) An estimate of the impact of the county revitalization project on municipal services and infrastructure;

(II) An estimate of the cost and extent of additional municipal infrastructure and services that are anticipated to be needed to serve development within the proposed county revitalization area, and the benefit of improvements within the county revitalization area to existing municipal infrastructure;

(III) A statement setting forth the method under which the authority or the county will finance, or that agreements are in place to finance, any additional municipal infrastructure and services to serve development in the county revitalization area for the duration of the county revitalization project; and

(IV) Any other estimated impacts of the county revitalization project.

(b) The inadvertent failure of a county or an authority to submit a county revitalization plan, substantial modification to a county revitalization plan, or a county revitalization impact report, as applicable, to a municipality in accordance with the requirements of subsection (3)(a) of this section neither creates a cause of action in favor of any party nor invalidates any county revitalization plan or substantial modification to a county revitalization plan.

(c) Notwithstanding any other provision of this section, a city and county is not required to submit an urban renewal impact report satisfying the requirements of subsection (3)(a) of this section.

(4) Upon request of the county or the authority, each municipality that is entitled to receive a copy of a county revitalization plan or a substantial modification to a county revitalization plan shall provide available municipal data and projections to the county or the authority to assist in preparing a county revitalization impact report pursuant to subsection (3) of this section.

(5) (a) A governing body shall hold a public hearing on the county revitalization plan or a substantial modification of an approved county revitalization plan no less than thirty days after giving public notice of the hearing.

(b) The notice for the public hearing must:

(I) Be published by the governing body in a newspaper having a general circulation in the county;

(II) Describe the time, date, place, and purpose of the hearing;

(III) Generally identify the county revitalization area covered by the plan;

(IV) Outline the general scope of the county revitalization project under consideration; and

(V) Be provided by the county to every municipality within three miles of the authority.

(c) If an authority intends to acquire private property by eminent domain within the county revitalization area that is to be subsequently transferred to a private party in accordance with the requirements of section 30-31-106 (2), the governing body, before commencing the acquisition of the property, shall hold a public hearing on the use of eminent domain as a means to acquire the property. The governing body shall only hold this hearing after written notice of the time, date, place, and purpose of the hearing has been provided to each owner of property, as property is defined in section 30-31-106 (4), that is within the county revitalization area at least thirty days before the date of the hearing. In order to authorize the use of eminent domain as a means to acquire property, a governing body shall base its authorization decision on a finding of revitalization area conditions without regard to the economic performance of the property to be acquired.

(d) At the hearing held pursuant to the notice described in this subsection (5), the governing body shall grant a full opportunity to be heard to all municipalities within three miles of the authority.

(6) Following the hearing described in subsection (5) of this section, the governing body may approve the county revitalization plan if the governing body finds that:

(a) A feasible method exists for the relocation of individuals and families who will be displaced by the county revitalization project in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families;

(b) A feasible method exists for the relocation of business concerns that will be displaced by the county revitalization project in the county revitalization area or in other areas that are not generally less desirable with respect to public utilities and public and commercial facilities;

(c) The governing body has taken reasonable efforts to provide written notice of the public hearing prescribed by subsection (5) of this section to all property owners, residents, and owners of business concerns in the proposed county revitalization area at their last-known address of record at least thirty days before such hearing. The notice must contain the same information as required for the notice described in subsection (5) of this section.

(d) No more than one hundred twenty days have passed since the commencement of the first public hearing of the county revitalization plan pursuant to subsection (5) of this section;

(e) If the county revitalization plan contains property that was included in a previously submitted county revitalization plan that the governing body failed to approve pursuant to this section, at least twenty-four months have passed since the commencement of the prior public hearing concerning such property held pursuant to subsection (5) of this section, unless substantial changes have occurred since the commencement of the hearing that resulted in a determination that such property constituted a revitalization area pursuant to section 30-31-103 (14);

(f) The county revitalization plan conforms to the general plan of the county as a whole and considers applicable municipal plans for the development of unincorporated territory, if the county revitalization plan includes property that is included within a municipal plan adopted pursuant to section 31-12-105 (1)(e)(I) or section 31-23-212;

(g) The county revitalization plan will afford maximum opportunity, consistent with the sound needs of the county as a whole, for the rehabilitation or redevelopment of the county revitalization area by private enterprise;

(h) The authority or the county will adequately finance, or that agreements are in place to finance, any additional county and municipal infrastructure and services required to serve development within the county revitalization area for the period in which all or any portion of the property taxes described in subsection (13)(a)(II) of this section and levied by the county are paid to the authority;

(i) The adoption of the plan will not create an undue burden on any municipality that provides municipal services or that owns, controls, or maintains any infrastructure or facilities that are impacted by the adoption of the plan, excluding any burden that has not been addressed pursuant to subsection (6)(h) of this section; and

(j) No property is included in the county revitalization plan that is subject to a pending annexation agreement or for which annexation proceedings have been commenced within the past three years.

(7) In addition to the findings otherwise required of the governing body pursuant to subsection (6) of this section, if the county revitalization plan seeks the acquisition of private property by eminent domain for subsequent transfer to a private party pursuant to section 30-31-106 (2), the governing body may approve the county revitalization plan where it finds, in connection with a hearing satisfying the requirements of subsection (5) of this section, that the county revitalization plan has met the requirements of section 30-31-106 (2) and that the principal public purpose for adopting the county revitalization plan is to facilitate redevelopment in order to take advantage of revitalization areas.

(8) If the county revitalization area consists of an area of open land which, under the county revitalization plan, is to be developed for residential uses, the governing body must first have determined that:

(a) A shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the county;

(b) The need for housing accommodations has been or will be increased as a result of taking advantage of revitalization areas;

(c) The opportunity factors in the county revitalization area and the shortage of attainable housing create a risk to the public health and safety; and

(d) The acquisition of the area for residential uses is an integral part of and essential to the program of the county.

(9) If the county revitalization area consists of an area of open land which, under the county revitalization plan, is to be developed for nonresidential uses, the local governing body must first have determined that:

(a) Such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives; and

(b) The contemplated acquisition of the area may require the exercise of governmental action, as provided in this article 31, because of being in a revitalization area.

(10) (a) The county revitalization plan may be modified at any time; but, if the county revitalization plan is modified after the lease or sale by the authority of real property in the county revitalization project area, the modification is subject to such rights at law or in equity as a lessee or purchaser or the purchaser's successor in interest may be entitled to assert. If the modification to a county revitalization plan will substantially change provisions of the county revitalization plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the county revitalization project, the scope or method of financing, design, building requirements, timing, or procedure, as previously approved, or where the modification will substantially clarify a plan that, when approved, was lacking in specificity as to the county revitalization project or financing, then the modification is a substantial modification to the county revitalization plan and subject to all of the requirements of this section.

(b) Any proposed county revitalization plan modification must be submitted to the governing body for approval.

(c) Not less than thirty days before approving any modification of the county revitalization plan, the governing body or authority shall provide a detailed written description of the proposed

modification to each taxing entity that levies taxes on property located within the county revitalization area and to each municipality within three miles of the county revitalization area along with a notice of the date and time of the meeting at which the governing body will consider the modification.

(d) If the county revitalization plan is modified after the lease or sale by the authority of real property in the county revitalization project area, that modification is subject to such rights at law or in equity as a lessee or purchaser or their successor in interest may be entitled to assert.

(e) The county revitalization plan modification is substantial and subject to all of the requirements of this section if the modification will substantially:

(I) Change provisions of the county revitalization plan regarding the following as previously approved:

(A) Land area;

(B) Land use;

(C) Authorization to collect incremental tax revenue;

(D) The extent of the use of tax increment financing;

(E) The scope or nature of the county revitalization project;

(F) The scope or method of financing;

(G) Design;

(H) Building requirements; or

(I) Timing or procedure; or

(II) Clarify a plan that, when approved, was lacking in specificity as to the county revitalization project or financing.

(f) Any taxing entity that levies taxes on property located within the county revitalization area and any municipality with territory within three miles of the county revitalization area may file an action in a state district court exercising jurisdiction over the county in which the county revitalization area is located for an order determining, under a de novo standard of review, whether the modification is a substantial modification. If requested by the taxing entity or municipality, the court shall enjoin any action by the authority pursuant to the modification until the court has determined whether the modification is a substantial modification and, if the court makes such a determination, the court shall further enjoin any action by the authority pursuant to the modification until the authority complies with subsection (8) of this section.

(11) (a) No action may be brought to enjoin any activity of the authority pursuant to the county revitalization plan, including the issuance of bonds, the incurrence of other financial

obligations, or the pledge of revenue, unless the action is commenced within forty-five days after the date on which the authority provided notice of its intention regarding the undertaking or activity.

(b) (I) The notice required by subsection (11)(a) of this section must:

(A) Describe the undertaking or activity proposed by the authority and specify that any action to enjoin the undertaking or activity must be brought within forty-five days from the date of the notice; and

(B) Be published in a newspaper of general circulation in the county.

(II) On or before the date of publication of the notice of intention required by subsection (11)(a) of this section, the authority shall also mail a copy of the notice to each taxing entity that levies taxes on property within the county revitalization area and to each municipality within three miles of the county revitalization area.

(12) Upon the approval by the governing body of the county revitalization plan or a substantial modification to the county revitalization plan, the provisions of that plan are controlling with respect to the land area, land use, design, building requirements, timing, or procedure applicable to the property covered by that plan, except to the extent inconsistent with the laws of a municipality following annexation of such property.

(13) (a) Notwithstanding any law to the contrary, any county revitalization plan, as originally approved or as later modified pursuant to this article 31, may contain a provision that the property taxes of specifically designated public bodies that have joined the authority pursuant to section 30-31-104 (6), if any, levied after the effective date of the approval of such county revitalization plan upon taxable property in the county revitalization area each year or that county sales taxes collected within said area, or both such taxes, by or for the benefit of the designated public body must be divided for a period not to exceed thirty years after the effective date of adoption of such a provision, as follows:

(I) That portion of the taxes produced by the levy at the rate fixed each year by or for each such public body upon the valuation for assessment of taxable property in the county revitalization area last certified before the effective date of approval of the county revitalization plan or, as to an area later added to the county revitalization area, the effective date of the modification of the plan, or that portion of county sales taxes collected within the boundaries of said county revitalization area in the twelve-month period ending on the last day of the month before the effective date of approval of said plan, or both such portions, must be paid into the funds of each such public body as are all other taxes collected by or for the public body.

(II) That portion of the property taxes or all or any portion of the sales taxes, or both, in excess of the amount of property taxes or sales taxes paid into the funds of each such public body in accordance with the requirements of subsection (13)(a)(I) of this section must be allocated to

and, when collected, paid into a special fund of the authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the authority for financing or refinancing, in whole or in part, the county revitalization project, to make payments under an agreement executed pursuant to this section, or for any other purposes authorized by this article 31. Any excess county sales tax or property tax collections not allocated pursuant to this subsection (13)(a)(II) must be paid into the funds of the county or other taxing entity, as applicable. Unless and until the total valuation for assessment of the taxable property in the county revitalization area exceeds the base valuation for assessment of the taxable property in the county revitalization area, as provided in subsection (13)(a)(I) of this section, all of the taxes levied upon the taxable property in such county revitalization area must be paid into the funds of the respective public bodies. Unless and until the total county sales tax collections in the county revitalization area exceed the base year county sales tax collections in such county revitalization area, as provided in subsection (13)(a)(I) of this section, all such sales tax collections must be paid into the funds of the county. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property or the total county sales tax collections, or both, in the county revitalization area must be paid into the funds of the respective public bodies, and all money remaining in the special fund established pursuant to this subsection (13)(a)(II) that has not previously been rebated and that originated as property tax increment generated based on the mill levy of a taxing entity, other than the county, within the boundaries of the county revitalization area must be repaid to each taxing entity based on the pro rata share of the prior year's property tax increment attributable to each taxing entity's current mill levy in which property taxes were divided pursuant to this subsection (13). Any money remaining in the special fund not generated by property tax increment is excluded from any such repayment requirement. Notwithstanding any other provision of law, any additional revenues resulting because the voters have authorized the municipality, county, or special district to retain and spend said revenues pursuant to section 20 (7)(d) of article X of the state constitution subsequent to the creation of the special fund pursuant to this subsection (13)(a)(II) or as a result of an increase in the property tax mill levy approved by the voters of the municipality, county, or special district subsequent to the creation of the special fund, to the extent the total mill levy of the municipality, county, or special district exceeds the respective mill levy in effect at the time of approval or substantial modification of the county revitalization plan, must not be pledged by an authority for the payment of any bonds of, any loans or advances to, or any indebtedness incurred by the authority without the consent of the relevant municipality, county, or special district. To the extent the authority has received the notification specified in this subsection (13)(a)(II), such additional revenues must then be promptly repaid by the authority to the county or other taxing entity. The authority must be notified of the amount of additional revenues and the calculations used in computing the amount by the applicable county or other taxing entity before making repayment and, in any event, not later than February 1 of each fiscal year following the year in which a voter-approved revenue

increase has taken effect. The authority and county or any other taxing entity may negotiate for the purpose of entering into an agreement on the issues of the amount of repayment, the mechanics of how repayment of the additional revenues will be accomplished, a method for resolving disputes regarding the amount of repayment, and whether the county or taxing entity will waive the repayment requirement, singularly or in combination, and may enter into an intergovernmental agreement regarding any of these issues.

(III) In calculating and making payments as described in subsection (13)(a)(II) of this section, the county treasurer may offset the authority's pro rata portion of any property taxes that are paid to the authority under the terms of subsection (13)(a)(II) of this section and that are subsequently refunded to the taxpayer against any subsequent payments due to the authority for the county revitalization project. The authority shall make adequate provision for the return of overpayments in the event that there are not sufficient property taxes due to the authority to offset the authority's pro rata portion of the refunds. The provisions of this subsection (13)(a)(III) do not apply to a city and county.

(IV) No property within a revitalization area pursuant to which any bonds of, loans or advances to, or indebtedness incurred by an authority pursuant to subsection (13)(a)(II) of this section are outstanding may be included within an urban renewal area or any other property tax increment area unless the authority enters into an agreement that provides for either the assumption or the defeasance of all such bonds, loans, advances, or indebtedness.

(V) A county revitalization plan shall not be affected by the annexation of any property in the county revitalization area.

(b) The portion of taxes described in subsection (13)(a)(II) of this section may be irrevocably pledged by the authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, and indebtedness. This irrevocable pledge does not extend to any taxes that are placed in a reserve fund to be returned to the county for refunds of overpayments by taxpayers; except that this limitation on the extension of the irrevocable pledge does not apply to a city and county.

(c) As used in this subsection (13), "taxes" includes, without limitation, all levies authorized to be made on an ad valorem basis upon real and personal property or county sales taxes; but nothing in this subsection (13) requires any public body to levy taxes.

(d) If the county revitalization area includes single- and multi-family residences, a school district which includes all or any part of the county revitalization area must be permitted to participate in an advisory capacity with respect to the inclusion in the county revitalization plan of the provision provided for by this subsection (13).

(e) If there is a general reassessment of taxable property valuations in any county including all or part of the county revitalization area subject to division of valuation for assessment under subsection (13)(a) of this section or a change in the sales tax rate levied in any county including

all or part of the county revitalization area subject to division of sales taxes under subsection (13)(a) of this section, the portions of valuations for assessment or sales taxes under subsections (13)(a)(I) and (13)(a)(II) of this section must be proportionately adjusted in accordance with the reassessment or change.

(f) Notwithstanding the thirty-year period of limitation set forth in subsection (13)(a) of this section, any county revitalization plan, as originally approved or as later modified pursuant to this article 31, may contain a provision that the county sales taxes collected in the county revitalization area each year or the county portion of taxes levied upon taxable property within the area, or both such taxes, may be allocated as described in this subsection (13) for a period in excess of thirty years after the effective date of the adoption of the provision if the existing bonds are in default or about to go into default; except that the taxes may not be allocated after all bonds of the authority issued pursuant to such plan including loans, advances, and indebtedness, if any, and interest thereon, and any premiums due in connection therewith have been repaid.

(g) Notwithstanding any other provision of this section, if one or more of the conditions specified in subsection (1)(c)(II) of this section have been satisfied so that agricultural land is included within the county revitalization area, the county assessor shall value the agricultural land at its fair market value in making the calculation of the taxes to be paid to the public bodies pursuant to subsection (13)(a)(I) of this section solely for the purpose of determining the tax increment available pursuant to subsection (13)(a)(II) of this section. Nothing in this section affects the actual or required classification of agricultural land for property tax purposes, and nothing in this section affects the taxes actually to be paid to the public bodies pursuant to subsection (13)(a)(I) of this section, which must continue to be based on the agricultural classification of such land unless and until it has been reclassified in the normal course of the assessment process.

(h) The manner and methods by which the requirements of this subsection (13) are to be implemented by county assessors must be contained in such manuals, appraisal procedures, and instructions, as applicable, that the property tax administrator is authorized to prepare and publish pursuant to section 39-2-109 (1)(e).

(i) Within the twelve-month period before the effective date of the approval or modification of the county revitalization plan requiring the allocation of money to the authority pursuant to subsection (13)(a) of this section, the municipality, county, or special district is entitled to the reimbursement of any money that the municipality, county, or special district pays to, contributes to, or invests in the authority for the project. The reimbursement must be paid from the special fund of the authority established pursuant to subsection (13)(a) of this section.

(j) (I) A renewable energy reinvestment area included in a county revitalization plan pursuant to this section shall be deemed part of the county revitalization area for all purposes set forth in this article 31.

(II) A county revitalization authority may use tax increment revenue generated from any portion of the county revitalization area approved pursuant to this section to finance or reimburse costs incurred to carry out eligible projects within the county revitalization area, including within a renewable energy reinvestment area included in the county revitalization area.

(14) (a) Notwithstanding any other provision of law, the governing body may provide in the county revitalization plan that the valuation attributable to the extraction of mineral resources located within the county revitalization area is not subject to the division that is otherwise required by subsection (13)(a) of this section. In such circumstances, the taxes levied on the valuation must be distributed to the taxing entities as if the county revitalization plan was not in effect.

(b) As used in this subsection (14):

(I) "Mineral resources" has the same meaning as specified in section 36-1-100.3 (3).

(II) "Valuation attributable to the extraction of mineral resources" includes:

(A) The value of oil and gas leaseholds and land and subsurface oil and gas well equipment that is valued for assessment purposes as real property under sections 39-7-102 and 39-7-103; and

(B) Surface oil and gas well equipment and submersible pumps and sucker rods that are located on oil and gas leaseholds and land and that are valued for assessment purposes as personal property under section 39-7-103.

(15) The county in which the county revitalization authority has been established shall timely notify the assessor when:

(a) The county revitalization plan or a substantial modification of the plan has been approved that contains the provisions referenced in subsection (13)(a) of this section or a substantial modification of the plan adds land to the plan, which plan contains the provisions referenced in subsection (13)(a) of this section;

(b) Any outstanding obligation incurred by the authority pursuant to the provisions of subsection (13) of this section has been paid off; and

(c) The purposes of the authority have otherwise been achieved.

(16) (a) Not later than thirty days after the county has provided the county assessor the notice required by subsection (15)(a) of this section, the county assessor may provide written notice to the county if the assessor believes that agricultural land has been improperly included in the county revitalization area in violation of subsection (1)(c)(II) of this section.

(b) If the notice described in subsection (15)(a) of this section is not delivered within the required thirty-day period, the inclusion of the land in the county revitalization area as described

in the county revitalization plan is incontestable in any suit or proceeding notwithstanding the presence of any cause.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2654, § 1, effective August 7. **L. 2026:** (1)(c)(IV) and (13)(j) added and (1)(d) amended, (HB 26-1268), ch. 160, p. 959, § 8, effective August 12.

30-31-110. Disaster areas.

(1) Notwithstanding any other provisions of this article 31, when the governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe for which the governor has certified the need for disaster assistance pursuant to the "Federal Disaster Relief Act", Pub. L. 81-875, as amended, or any other relevant federal law, the governing body may deem such an area to be a revitalization area.

(2) The authority may prepare and submit to the governing body a proposed county revitalization plan and proposed county revitalization project for an area deemed a revitalization area pursuant to subsection (1) of this section or for any portion thereof, and the governing body may, by resolution, approve such a proposed county revitalization plan and county revitalization project with or without modifications without regard to the provisions of this article 31 requiring a general or master plan for the physical development of the county as a whole, review by the planning commission, or a public hearing.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2667, § 1, effective August 7.

30-31-111. Issuance of bonds by an authority.

(1) An authority has power to issue bonds of the authority from time to time in its discretion to finance its activities or operations pursuant to this article 31, including the repayment with interest of any advances or loans of funds made to the authority by the federal government or other source for any surveys or plans made or to be made by the authority in exercising its powers pursuant to this article 31 and also has power to issue refunding or other bonds of the authority in its discretion for the payment, retirement, renewal, or extension of any bonds previously issued pursuant to this section and to provide for the replacement of lost, destroyed, or mutilated bonds previously issued pursuant to this section.

(2) (a) Bonds issued pursuant to this section may be general obligation bonds of the authority the payment of which, as to principal and interest and premiums, if any, the full faith, credit, and assets, acquired and to be acquired, of the authority are irrevocably pledged.

(b) Bonds issued pursuant to this section may be special obligations of the authority which, as to principal and interest and premiums, if any, are payable solely from and secured only by a pledge of any income, proceeds, revenues, or funds of the authority derived or to be derived by it from or held or to be held by it in connection with its undertaking of any project of the authority, including money to be paid to an authority pursuant to section 30-31-109 (13) and including any grants or contributions of money made or to be made by it with respect to any such project and any money derived or to be derived by it from or held or to be held by it in connection with its sale, lease, rental, transfer, retention, management, rehabilitation, clearance, development, redevelopment, preparation for development or redevelopment, or its operation or other utilization or disposition of any real or personal property acquired or to be acquired by it or held or to be held by it for any of the purposes of this article 31 and including any loans, grants, or contributions of funds made or to be made to it by the federal government in aid of any project of the authority or in aid of any of its other activities or operations.

(c) Bonds issued pursuant to this section may be special obligations of the authority that, as to principal and interest and premiums, if any, are payable solely from and secured only by a pledge of any loans, grants, or contributions of money made or to be made to it by the federal government or other source in aid of any project of the authority or in aid of any of its other activities or operations.

(d) Bonds issued pursuant to this section may be contingent special obligations of the authority which, as to principal and interest and premiums, if any, are payable solely from any money available or becoming available to the authority for its undertaking of the project involved in the particular activities or operations with respect to which the contingent special obligations are issued but payable only if money is or becomes available as provided in this subsection (2).

(3) Notwithstanding any other provisions of this section, any bonds issued pursuant to this section, other than the contingent special obligations covered by subsection (2)(d) of this section, may be additionally secured as to the payment of the principal and interest and premiums, if any, by a mortgage of any county revitalization project, or any part thereof, title to which is then or thereafter in the authority or of any other real or personal property or interests therein then owned or thereafter acquired by the authority.

(4) Notwithstanding any other provisions of this section, general obligation bonds issued pursuant to this section may be additionally secured as to payment of the principal and interest and premiums, if any, as provided in either subsection (2)(b) or subsection (2)(c) of this section, with or without being also additionally secured as to payment of the principal, interest, and

premiums, if any, by a mortgage as provided in subsection (3) of this section or a trust agreement as provided in subsection (5) of this section.

(5) Notwithstanding any other provision of this section, any bonds pursuant to this section may be additionally secured as to the payment of the principal, interest, and premiums, if any, by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state of Colorado.

(6) Bonds issued pursuant to this section do not constitute an indebtedness of the state of Colorado or of any county, municipality, or public body of the state of Colorado other than the county revitalization authority issuing such bonds and are not subject to the provisions of any other law or of the charter of any county relating to the authorization, issuance, or sale of bonds.

(7) Bonds issued pursuant to this section are issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, are exempt from all taxes.

(8) (a) Bonds issued pursuant to this section must be authorized by a resolution of the authority and may be issued in one or more series and must bear such date, be payable upon demand or mature at such time, bear interest at such rate, be in such denomination, be in such form, either coupon or registered or otherwise, carry such conversion or registration privileges, have such rank or priority, be executed in the name of the authority in such manner, be payable in such medium of payment, be payable at such place, be subject to such callability provisions or terms of redemption, with or without premiums, be secured in such manner, be of such description, contain or be subject to such covenants, provisions, terms, conditions, and agreements including provisions concerning events of default, and have such other characteristics as may be provided by the resolution or by the trust agreement, indenture, or mortgage, if any, issued pursuant to the resolution.

(b) The seal, or a facsimile thereof, of the authority must be affixed, imprinted, engraved, or otherwise reproduced upon each of its bonds issued pursuant to this section.

(c) Bonds issued pursuant to this section must be executed in the name of the authority by the manual, or facsimile signatures of such of its officials as may be designated in the said resolution or trust agreement, indenture, or mortgage; except that at least one signature on each such bond must be a manual signature.

(d) Coupons, if any, attached to bonds issued pursuant to this section must bear the facsimile signature of an official of the authority designated pursuant to this subsection (8).

(e) A resolution or trust agreement, indenture, or mortgage may provide for the authentication of the pertinent bonds by the trustee.

(9) Bonds issued pursuant to this section may be sold by the authority in such manner and for such price as the authority may determine, at par, below par, or above par, at private sale or at

public sale after notice published before sale in a newspaper having general circulation in the county or in another medium of publication that the authority may deem appropriate.

(10) Bonds issued pursuant to this section may be exchanged by the authority for other bonds issued by it pursuant to this section.

(11) Bonds issued pursuant to this section may be sold by an authority to the federal government if the authority sells less than all of the authorized principal amount of the bonds to the federal government, the authority may sell the balance or any portion of the balance at private sale at par, below par, or above par, at an interest cost to the authority not to exceed the interest cost to the authority of the portion of the bonds sold by the authority to the federal government.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2667, § 1, effective August 7.

30-31-112. Property of an authority exempt from taxes and from levy and sale by virtue of an execution.

(1) (a) All property of an authority, including all money owned or held by it for any of the purposes of this article 31, is exempt from both the levy of property taxes and sale by virtue of an execution, and no such execution or other judicial process may issue against the property of an authority nor may a judgment against the authority be a charge or lien upon such property.

(b) This subsection (1) does not apply to or limit either:

(I) The right of obligees to foreclose or otherwise enforce any mortgage, deed of trust, trust agreement, indenture, or other encumbrance of the authority; or

(II) The right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority pursuant to this article 31 on its rents, income, proceeds, revenues, loans, grants, contributions, and other money and assets derived or arising from any project of the authority or from any of its operations or activities pursuant to this article 31.

(2) All property of an authority acquired or held by it for any of the purposes of this article 31, including all money of an authority acquired or held by it for any of these purposes, is public property used for essential public and governmental purposes, and both the property and the authority are exempt from all taxes of the state of Colorado or any other public body; except that this tax exemption for any property ends when the authority sells, leases, or otherwise disposes of the particular property to a purchaser, lessee, or other alienee that is not a public body entitled to tax exemption with respect to the particular property.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2670, § 1, effective August 7.

30-31-113. Title of purchaser, lessee, or transferee.

Any instrument executed by an authority and purporting to convey any right, title, or interest of the authority in any property pursuant to this article 31 is conclusively presumed to have been made and executed in compliance with the provisions of this article 31 insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2670, § 1, effective August 7.

30-31-114. Cooperation by public bodies with county revitalization authorities.

(1) Any public body, within its powers, purposes, and functions and for the purpose of aiding an authority in or in connection with the planning or undertaking pursuant to this article 31 of any plans, projects, programs, works, operations, or activities of an authority whose area of operation is situated in whole or in part within the area in which the public body is authorized to act, upon terms as the public body shall determine, may:

(a) Sell, convey, or lease any of the public body's property or grant easements, licenses, or other rights or privileges therein to the authority;

(b) Incur the entire expense of any public improvements made by the public body in exercising the powers mentioned in this section;

(c) Do everything necessary to aid or cooperate with the authority in or in connection with the planning or undertaking of any plans, projects, programs, works, operations, or activities;

(d) Enter into agreements with the authority respecting action to be taken pursuant to any of the powers set forth in this article 31, including agreements respecting the planning or undertaking of any plans, projects, programs, works, operations, or activities which the public body is otherwise empowered to undertake;

(e) Cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, garbage disposal, sewer, sewage, sewerage, or drainage facilities, or any other public works, improvements, facilities, or utilities which the public body is otherwise empowered to undertake, to be furnished within the area in which the public body is authorized to act;

(f) Furnish, dedicate, accept dedication of, open, close, vacate, install, construct, reconstruct, pave, repave, repair, rehabilitate, improve, grade, regrade, plan, or replan public streets, roads,

roadways, parkways, alleys, sidewalks, and other public ways or places within the area in which the public body is authorized to act to the extent that the items or matters are, under any other law, otherwise within the jurisdiction of the public body;

(g) Plan or replan and zone or rezone any part of the area under the jurisdiction of the public body or make exceptions from its building regulations;

(h) Cause administrative or other services to be furnished to the authority; or

(i) Designate any portion of the sales tax revenue it receives to the authority.

(2) If at any time title to or possession of the whole or any portion of any project of the authority under this article 31 is held by any governmental agency or public body, other than the authority, which is authorized by law to engage in the undertaking, carrying out, or administration of any project, including any agency or instrumentality of the United States, the provisions of the agreements referred to in subsection (1)(d) of this section inure to the benefit of and may be enforced by the governmental agency or public body.

(3) Any public body referred to in subsection (1) of this section may, in addition to its authority pursuant to any other law to issue its bonds for any purposes, issue and sell its bonds for any of the purposes of the public body stated in this section.

(4) For the advancement of the public interest and for the purpose of aiding and cooperating in the planning, acquisition, demolition, rehabilitation, construction, or relocation, or otherwise assisting the operation or activities of the county revitalization project located wholly or partly within the area in which it is authorized to act, a public body may enter into agreements ,which may extend over any period notwithstanding any provision of law to the contrary, with an authority respecting action taken or to be taken pursuant to any of the powers granted by this article 31.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2670, § 1, effective August 7.

30-31-115. Designation - transfer - abolishment.

(1) Notwithstanding any other provision of this article 31, the governing body may designate itself as the authority when originally establishing an authority. A transfer of an existing authority to the governing body may be accomplished only by majority vote at a regular election.

(2) When the governing body designates itself as the authority or transfers an existing authority to the governing body pursuant to subsection (1) of this section, the governing body shall appoint the authority commissioners in accordance with section 30-31-104 (2).

(3) The governing body of the county may, by resolution, provide for the abolishment of the county revitalization authority so long as adequate arrangements have been made for payment of any outstanding indebtedness and other obligations of the authority. Any such abolishment is effective upon a date set forth in the ordinance and this date must not be later than six months after the effective date of the ordinance.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2672, § 1, effective August 7.

30-31-116. Regional tourism projects.

(1) A county revitalization authority that is designated as a financing entity pursuant to part 3 of article 46 of title 24, has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of part 3 of article 46 of title 24, including the power to receive state sales tax increment revenue generated within an approved regional tourism zone, as defined in section 24-46-303 (11), and to disburse and otherwise utilize such revenue for all lawful purposes, including financing eligible costs and the design, construction, maintenance, and operation of eligible improvements, as such terms are defined in section 24-46-303 or otherwise incorporated into the commission's conditions of approval.

(2) Notwithstanding section 30-31-109 (8), authorization to receive state sales tax increment revenue pursuant to part 3 of article 46 of title 24, is a material modification to the plan, and corresponding changes to the plan may be made by the governing body of the authority to incorporate the use of state sales tax increment revenue without the requirement of submission to or approval by the governing body of the county that has established the authority.

(3) Any county revitalization authority that receives state sales tax increment revenue, whether pursuant to designation as a financing entity pursuant to part 3 of article 46 of title 24, or pursuant to a contract entered into with any such financing entity, shall not use the state sales tax increment revenue to acquire property through the exercise of eminent domain.

(4) Nothing in this section eliminates the requirements for the authorization of a new county revitalization authority pursuant to this article 31.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2672, § 1, effective August 7.

30-31-116.5. Transit investment areas - definition.

(1) A county revitalization authority that is designated as a financing entity pursuant to part 4 of article 46 of title 24 has all the powers necessary or convenient to carry out part 4 of article 46 of title 24, including the power to receive state sales tax increment revenue generated within an approved transit investment area, as defined in section 24-46-402 (20), and to disburse and otherwise use the revenue for all lawful purposes, including financing eligible costs and the design, construction, maintenance, and operation of eligible improvements, as such terms are defined in section 24-46-402 or otherwise incorporated into the Colorado economic development commission's conditions of approval.

(2) Notwithstanding section 30-31-109 (8), authorization to receive state sales tax increment revenue pursuant to part 4 of article 46 of title 24 is not a substantial modification to the plan, and corresponding changes to the plan may be made by the governing body of the authority to incorporate the use of state sales tax increment revenue without the requirement of submission to or approval by the governing body of the county that has established the authority.

(3) A county revitalization authority that receives state sales tax increment revenue, whether pursuant to designation as a financing entity pursuant to part 4 of article 46 of title 24, or pursuant to a contract entered into with any such financing entity, shall not use the state sales tax increment revenue to acquire property through the exercise of eminent domain.

(4) Nothing in this section obviates or overrides the requirements for the authorization of a new county revitalization authority pursuant to this article 31.

(5) As used in this section, unless the context otherwise requires, "state sales tax increment revenue" has the meaning set forth in section 24-46-402 (17).

Source: L. 2026: Entire section added, (HB 26-1065), ch. 157, p. 920, § 6, effective May 27.

Cross references: For the legislative declaration in HB 26-1065, see section 1 of chapter 157, Session Laws of Colorado 2026.

30-31-117. Cumulative powers.

The powers conferred by this article 31 are in addition and supplemental to the powers conferred by any other law.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2673, § 1, effective August 7.

30-31-118. Inclusion of incorporated territory in a county revitalization area.

(1) Notwithstanding any other provision of this article 31, a county revitalization plan, county revitalization project, or county revitalization area may include incorporated territory that is within the boundaries of a municipality and contiguous to a portion of an urban renewal area located outside of the municipality's boundaries. No such territory shall be included in the plan, project, or area without the consent of the governing body of the municipality exercising jurisdiction over the incorporated territory proposed for inclusion and the consent of each owner of, and each holder of a recorded mortgage or deed of trust encumbering, real property within the incorporated area proposed for inclusion.

(2) In addition to the procedures for approval of a proposed county revitalization plan by the county pursuant to section 30-31-109, incorporated territory must only be included in the county revitalization plan, project, or area upon the approval of the governing body of the municipality:

(a) Making a determination that the area proposed for inclusion in the county revitalization plan is a revitalization area and designating the area as appropriate for a county revitalization project in the manner provided in section 30-31-109 (1);

(b) Referring the county revitalization plan to the planning commission of the municipality for a determination as to the conformity of the county revitalization plan with the general plan for development for the municipality in the manner provided in section 30-31-109 (2);

(c) Conducting a public hearing and making findings and a determination to approve inclusion of the incorporated territory in the county revitalization plan, project, or area in the manner provided in section 30-31-109 (5)(a), (5)(b)(I) through (5)(b)(IV), (5)(c), (5)(d), (6), (8), and (9);

(d) Making an additional finding that each owner of, and each holder of a recorded mortgage or deed of trust encumbering, real property in the incorporated territory proposed for inclusion in the county revitalization plan, project, or area consents to the inclusion; and

(e) Determining whether the incorporated territory must be included in any provision for the division of taxes in the county revitalization area as authorized by section 30-31-109 (13), and, if so determined, notifying the county assessor of such inclusion as required by section 30-31-109 (15).

(4) Any county revitalization plan approved in accordance with this section may be modified as provided in section 30-31-109 (10); except that a modification must be approved by the governing body of the municipality, the county, and the authority.

(5) An authority, a county, and a municipality may, consistent with the requirements of this section, enter into an intergovernmental agreement to further effectuate the purposes of this section and to provide for the inclusion of incorporated territory in a county revitalization area.

(6) This section does not apply to the inclusion of territory in a county revitalization area as a result of annexation.

Source: L. 2024: Entire article added, (HB 24-1172), ch. 387, p. 2673, § 1, effective August 7.

HOME RULE

ARTICLE 35

Home Rule Counties

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PART 1

GENERAL PROVISIONS

30-35-101. Short title.

This article shall be known and may be cited as the "Colorado County Home Rule Powers Act".

Source: L. 81: Entire article added, p. 1461, § 1, effective June 8.

30-35-102. Legislative declaration.

The general assembly declares that, in order to better meet and resolve problems of growth and urbanization and to promote the health, safety, security, and general welfare of the people, county government should be strengthened and provided more flexibility in its powers; therefore, this article is enacted with the intent to implement the provisions of section 16 of article XIV of the state constitution to provide home rule powers for the counties of this state and shall be liberally construed to effect such intent.

Source: L. 81: Entire article added, p. 1461, § 1, effective June 8.

30-35-103. Home rule counties - general powers.

(1) Any county which adopts, has adopted, or proposes to adopt a county home rule charter to establish the organization and structure of county government, pursuant to the provisions of part 5 of article 11 of this title, may provide in such charter, or amendment thereto for the adoption of all or certain of the home rule powers authorized pursuant to the provisions of this article. In addition to powers authorized in this article, a home rule county, and its officers and employees, shall have all the powers of any county not adopting a home rule charter, except as otherwise provided in this article or in the charter or in the state constitution.

(2) None of the home rule powers granted in this article shall be exercised by a home rule county within the corporate limits of any municipality or territory annexed thereto, nor shall any fee, tax, assessment, or levy of any kind be imposed within such municipality for the exercise of any of the county home rule powers which are not authorized for nonhome rule counties, unless consent thereto is first given by the governing body of such municipality. Nothing contained in this article shall affect the power, otherwise granted by law, of a home rule county to own, operate, and maintain real and personal property within the corporate limits of any municipality.

(3) Notwithstanding any other provision in this part 1, none of the powers authorized in this article shall be applied to any municipal property, functions, services, or facilities, whether provided or located within or outside municipal boundaries, as the boundaries may from time to time exist, unless consent thereto is first given by the governing body of the municipality. This part 1 shall not be construed as limiting the authority of any municipality nor as expanding the authority of any county with respect to any municipality or any municipal property, functions, services, or facilities.

(4) A home rule county shall provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers as are required by law for counties not having home rule powers. A home rule county may provide all permissive functions, services, and facilities and may exercise all permissive powers granted in this article and by other law applicable to counties not having home rule powers, except as otherwise provided in this article or in the charter or in the state constitution.

(5) A home rule county shall be a body politic and corporate, under such name and style as prescribed by law, and may sue and be sued, contract or be contracted with, acquire and hold real and personal property, have a common seal which it may change and alter at pleasure, and have such other privileges as are incident to corporations of like character or degree, not inconsistent with its charter or the laws of this state.

Source: L. 81: Entire article added, p. 1461, § 1, effective June 8.

PART 2

GENERAL POWERS

30-35-201. Powers of governing bodies.

The governing body of a home rule county exercises the duties and authority and has all the powers and responsibilities as provided by law for governing bodies of counties not adopting a home rule charter and also has all of the following powers that have been included in the county's home rule charter or in any amendment thereto, pursuant to the provisions of section 30-35-103 (1):

(Administrative Powers)

(1) **Finances.** To control the finances and property of the corporation;

(2) **Appropriations.** To appropriate moneys for corporate purposes only, and provide for payment of debts and expenses of the corporation;

(3) **Public entertainment.** To appropriate moneys in an amount not exceeding six-tenths of one mill on the valuation for assessment for the purpose of giving public concerts and entertainments by such corporation;

(4) **Advertising.** To appropriate moneys for the purpose of advertising the business, social, and educational advantages, the natural resources, and the scenic attractions of the corporation;

(5) **Taxes.** To levy and collect taxes for general and special purposes on real and personal property, as provided by statute;

(6) **Indebtedness.**

(a) To contract an indebtedness on behalf of the county and upon the credit thereof, by borrowing money or issuing the bonds of the county, for any public purpose of the county, including, but not limited to, the supplying of water and sewer facilities service, the purchase of land, and the purchase, construction, extension, and improvement of public roads, streets, buildings, facilities, and equipment, and for the purpose of supplying a temporary deficiency in the revenue for defraying the current expenses of the county;

(b) The total amount of indebtedness for all purposes shall not at any time exceed three percent of the valuation for assessment of the county as determined by the county assessor, except such debt as may be incurred in supplying water, and no loan for any purpose shall be made unless it is by ordinance, which shall be irrepealable until the indebtedness therein provided for is fully paid or discharged, specifying the purposes to which the funds to be raised shall be applied, and providing for the levying of a tax which, together with such other revenues, assets, or funds as may be pledged, shall be sufficient to pay the annual interest on, and extinguish the principal of, said debt within the time limited for the debt to run, which, excepting such debt as may be incurred in supplying water, shall not be more than thirty years; except that said tax when collected shall only be applied for the purposes in said ordinance specified, until the indebtedness is paid and discharged; but no debt shall be created unless the question of incurring the same is submitted, at a regular or special election of the county, to the registered electors thereof and a majority of the registered electors voting upon the question vote in favor of creating such debt.

(c) No statutory provisions of any other law limiting or fixing tax rates shall limit the provisions of this subsection (6).

(d) Bonds issued under this subsection (6) may mature serially during a period of not more than thirty years from the date thereof, in which event the amounts of such annual maturities shall be fixed by the governing body; except that bonds issued to supply water may mature over a longer period. If the governing body so determines, said bonds may be redeemable prior to

maturity with or without payment of a premium, not exceeding three percent of the principal thereof. In any event said bonds shall be subject to call commencing not later than fifteen years from the date thereof. The right to redeem all or part of said bonds prior to their maturity, and the order of any such redemption, shall be reserved in the ordinance authorizing the issuance of bonds and shall be set forth on the face of said bonds.

(e) The ordinance or resolution submitting the question of contracting an indebtedness shall contain a statement of the maximum net effective interest rate at which said indebtedness may be incurred. For the purposes of this article:

(I) "Net effective interest rate" of a proposed issue of bonds shall be defined as the net interest cost of said issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities.

(II) "Net interest cost" of a proposed issue of bonds shall be defined as the total amount of interest to accrue on said bonds from their date to their respective maturities, plus the amount of any discount below par or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net effective interest rate and net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(f) (I) The governing body, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may submit, at another regular or special election, either the question of issuing the bonds, or any portion thereof, at a higher maximum net effective interest rate than the maximum interest rate or maximum net effective interest rate approved at the original election or the question of issuing the bonds, or any portion thereof, to mature over a longer period of time than the maximum period of maturity approved at the original election, or the governing body may submit both such questions.

(II) An election held pursuant to this paragraph (f) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question or questions permitted under this paragraph (f).

(III) At an election held pursuant to this paragraph (f), if the changes submitted are not approved, such result shall not impair the authority of the governing body at a later time to issue the bonds originally approved within the limitations established at the first election.

(7) **Officers and employees.** To provide by ordinance for the powers, duties, appointment, term of office, removal, and compensation of all officers and employees of the county not otherwise provided for by the state constitution or by statute or by charter and to provide for a retirement plan for such officers and employees;

(8) **Supplies.** To provide by ordinance that all the paper, printing, stationery, fuel, and other supplies needed for the use of the county shall be furnished by contract let to the lowest responsible bidder;

(9) **Charges on land.** To prescribe, by general ordinance, the mode in which the charges on the respective owners of lots or lands, and on the lots or lands, shall be assessed and determined for the purposes so authorized by law. Any such charge, when assessed, shall be payable by the owners at the time of the assessment, personally, and also be a lien upon lots or parcels of land from the time of the assessment. Such charge may be collected and such lien enforced by a proceeding in law or in equity, either in the name of such corporation or of any person to whom it shall have directed payment to be made. In any such proceedings where pleadings are required, it shall be sufficient to declare generally for work and labor done and materials furnished on the particular street, alley, or highway, for sewerage, or for water used. Proceedings may be instituted against all the owners, or any of them, to enforce the lien against all the lots or parcels of land, or each lot or parcel, or any number of them embraced in any one assessment; but the judgment or decree shall be for each separately for the amount properly chargeable to each. Any proceedings may be severed in the discretion of the court for the purpose of trial, review, or appeal.

(10) **Vacancies.** To fill any vacancy occurring by death, removal, or resignation of any member of the governing body or other elective county officer by the appointment of a successor, and such appointee shall hold his office only until the next election, when the vacancy shall be filled by election as in other cases;

(11) **Grants of rights-of-way.** To grant, by ordinance and upon such terms and conditions as may be prescribed therein, rights-of-way through, over, across, and under roads, streets, and alleys;

(Public Works and Services)

(12) **Buildings.** To construct and maintain public buildings;

(12.5) **Energy conservation measures.** To enter into installment purchase contracts or shared-savings contracts or otherwise incur indebtedness under section 29-12.5-103, C.R.S., to finance energy conservation and energy saving measures and enter into contracts for an analysis and recommendations pertaining to such measures under section 29-12.5-102, C.R.S.

(13) **Streets and public grounds.**

(a) To plan, establish, open, alter, widen, extend, grade, pave, or otherwise improve roads, streets, alleys, avenues, sidewalks, parks, and public grounds, and vacate the same, and to direct and regulate the landscaping within the rights-of-way of such roads, streets, and, avenues and on

public grounds; to regulate the use of the same; to prevent and remove encroachments or obstructions upon the same; to provide for the lighting of the same; and to provide for the maintenance of the same;

(b) To regulate the openings therein for the laying-out of gas or water mains and pipes and the building and repairing of sewers, tunnels, and drains or for any other purpose;

(c) To regulate the use of sidewalks along the streets and alleys, and all structures thereunder, and to require the owner or occupant of any premises to keep the sidewalks free from snow and other obstructions;

(d) To regulate and prevent the throwing or depositing of ashes, garbage, or any offensive matter in, and to prevent any injury to, any road, street, avenue, alley, or public ground;

(e) To provide for and regulate crosswalks, curbs, and gutters;

(f) To regulate and prevent the use of roads, streets, sidewalks, and public grounds for the erection of signs, signposts, awnings, awning posts, and utility poles and for the posting of handbills and advertisements; to regulate and prohibit the exhibition or carrying of banners, placards, advertisements, or handbills upon the streets or public grounds or upon the sidewalks; and to regulate and prevent the flying of flags, banners, or signs across the streets or from houses or other structures;

(g) To regulate the numbering of houses and lots and to name and change the name of any road, street, avenue, alley, or other public place;

(14) **Bridges and tunnels.** To construct and maintain bridges, viaducts, and tunnels and to regulate the use thereof;

(15) **Sewers and water mains.** To construct and maintain culverts, drains, sewers, water mains, septic tanks, and cesspools and to regulate their use and to assess, either in whole or in part, the cost of the construction of sewers, water mains, and drains upon the lots or lands adjacent to and opposite the improvements in proportion to the frontage of such lots or lands abutting upon the road, street, or alley wherein such sewer, water main, or drain is to be laid. The benefit to the public generally, if any, shall be determined by ordinance and shall be assessed against the county, and the balance may be assessed against the lots or lands and the owners thereof, according to the frontage.

(16) **Lease or purchase of canals.** To purchase or lease any canal or ditch already constructed, or which may hereafter be constructed, and all the rights, privileges, and franchises of any person or corporation owning the same or having any interest or right therein, and to hold and operate the same in the same manner as the persons or corporations from whom the same may be purchased or leased might otherwise do, if such purchase or lease is made for the purpose of supplying, by said ditch or canal, water for the use of the people of the county and if a

majority of the registered electors of the county voting at any regular election held for the election of county officers vote in favor of said purchase;

(17) **Obligations - repair - management.** In making a purchase or lease pursuant to subsection (16) of this section, to assume all obligations and other duties which by law devolve upon the owner of such ditch or canal from whom the same may be purchased or leased by virtue of subsection (16) of this section and to repair, improve or enlarge said canal or ditch or any flume, dam, or gate connected therewith and, for such objects, to levy and collect taxes in the same manner as other taxes are levied and collected by law. The management of such ditch or canal shall be under the control of the governing body of a home rule county.

(18) **Counties may purchase water rights.** To purchase water and water rights for the purpose of supplying counties and the inhabitants thereof with water. When deemed necessary and proper, the governing body of a county may purchase and hold the lands with which said water right is connected, whether the same is within or beyond the corporate limits thereof.

(19) **May divert waters - sell lands.** To divert the waters acquired by purchase, to the amount and extent theretofore lawfully appropriated, for the use of the county and the inhabitants thereof and to sell such lands whenever the governing body of a county may deem such course advisable;

(20) **Ratification of prior rights purchased.** To exercise the right to hold and retain water rights, or such lands and water rights as may have been purchased prior to June 8, 1981, by any county in this state for the purpose of providing water for the use thereof or for the use of its inhabitants, such right hereby being given and ratified and confirmed to the county; and also to exercise the right to divert the water belonging to such rights for the use of the county and the inhabitants thereof; and to sell and dispose of such lands so purchased separate and apart from the water rights as provided in subsection (19) of this section;

(21) **Water pollution control.**

(a) To cooperate with and report to the water quality control commission and the department of public health and environment concerning any instances of water pollution, but this paragraph (a) shall not be construed to affect any activity conducted in compliance with any valid permit, license, or other authority granted or issued by any agency of the state or federal government;

(b) To apply for and to accept grants or loans or any other aid from the federal or state government or any agent or instrumentality thereof or any private agency;

(c) To construct, reconstruct, lease, improve, better, and extend sewerage facilities and sewage treatment works wholly within or wholly without the county or partially within and partially without the county;

(d) To issue its general obligation bonds or other general obligations for the purpose set forth in, and within the limitations prescribed by, subsection (6) of this section and to issue its revenue bonds or obligations for such purpose in accordance with law;

(e) To provide that such bonds or obligations or any part thereof may be sold to the state of Colorado or the United States of America or any agency or instrumentality of either at private sale and without advertisement;

(f) To cooperate with other local public bodies and with state and federal agencies by contract for the joint construction and financing of sewerage facilities and sewage treatment works and the maintenance and operation thereof;

(g) To enter into joint operating agreements with industrial enterprises and accept gifts or contributions from such industrial enterprises for the construction, reconstruction, improvement, and extension of sewerage facilities and sewage treatment works. When determined by its governing body to be in the public interest and necessary for the protection of the public health, the county is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the county of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the county of amounts at least sufficient, in the determination of such governing body, to compensate the county for the cost of providing, including the payment of the principal and any interest charges, and of operating and maintaining the sewerage facilities serving such industrial establishment.

(22) **Firehouses, equipment, and firefighters.** To erect firehouses, and provide fire equipment for the extinguishment of fires and to provide for the use and management of the same; to determine the powers and duties of the members of the fire department in taking charge of property to the extent necessary to bring under control and extinguish any fire and to preserve and protect property not destroyed by fire; and to restrain persons from interfering with the discharge of the duties of the members of the fire department in connection with the fighting of any fire;

(23) **Hospitals and places of relief.**

(a) To erect, establish, and maintain public hospitals, medical dispensaries, and other health facilities;

(b) The limitations on borrowing and incurring indebtedness set forth in section 25-3-304 (2), C.R.S., shall not apply to county hospitals established in home rule counties, as that term is defined in part 5 of article 11 of this title. The board of public hospital trustees in such home rule counties shall have the power to borrow money and enter into long term leases even where such indebtedness may not be repaid for more than one year and such indebtedness shall not require the approval of the board of county commissioners of such county unless such power to approve

such indebtedness is specifically reserved to the board of county commissioners in the county home rule charter. The home rule county shall incur no liability as a result of the actions to incur indebtedness by such board of public hospital trustees.

(24) **Cemeteries.** To establish and regulate cemeteries within or without the corporation and acquire lands therefor, by purchase or otherwise, and to cause cemeteries to be removed;

(25) **Franchise and charges for utilities.** When the right to build and operate such water or cable television systems is granted to private individuals or incorporated companies by the county, to make such grant to inure for a term of not more than twenty-five years and to authorize such individuals or company to charge and collect from each person supplied by them with water or such water or cable television charges as may be agreed upon between said person or corporation so building said works and the county; and to enter into a contract with the individual or company constructing said works to supply the county with water for fire purposes and for such other purposes as may be necessary for the health and safety thereof and to pay therefor such sums as may be agreed upon between said contracting parties;

(26) **Assessments for utility charges.** To assess from time to time, when constructing such water or cable television systems, in such manner as they shall deem equitable upon each tenement or other place supplied with such service, such charges as may be agreed upon by the governing body. At the regular time for levying taxes in each year, said county is hereby empowered to levy and cause to be collected, in addition to the other taxes authorized to be levied, a special tax on taxable property in the county. Such tax, with charges hereby authorized, shall be sufficient to pay the expenses of operating and maintaining such systems. If the right to build, maintain, and operate such systems is granted to private individuals or incorporated companies by the county, and the county shall contract with said individuals or companies for the supplying of such services for any purpose, the county shall levy each year and cause to be collected a special tax as provided for above, sufficient to pay off such charges so agreed to be paid to said individuals or company constructing said systems, but the said special tax shall not exceed the sum of three mills on the dollar for any one year.

(27) **Water facilities and taxes.** To construct public wells, cisterns, and reservoirs in the roads, streets, and other public and private places within the county, or beyond the limits thereof, and to provide proper pumps and conduits or ditches, for the purpose of supplying such county with water; and to levy an equitable and just tax or charge upon all consumers of water for the purpose of defraying the expense of such improvements;

(28) **Supply water to outside consumers.** To supply water from their water systems to consumers outside of the county and to collect therefor such charges, upon such conditions and upon such limitations as the county may impose by ordinance;

(29) **Parks - recreational facilities - conservation easements.**

(a) To acquire, establish, and maintain such lands, or interests in land, within the county as in the judgment of the governing body may be necessary, suitable, or proper for boulevards, parkways, avenues, driveways, and roadways or for park or recreational purposes for the preservation or conservation of sites, scenes, open space, and vistas of scientific, historic, aesthetic, or other public interest.

(b) "Interests in land", as used in subsections (29) to (39) of this section, means and includes any and all rights and interests in land less than the full fee interest, including, but not limited to, future interests, easements, covenants, and contractual rights. Every such interest in land held pursuant to this subsection (29), when recorded, shall be deemed to run with the land to which it pertains for the benefit of the county holding such interest and may be protected and enforced by a county in any court of general jurisdiction by any proceeding known at law or in equity.

(c) Any county may unite with any other similarly authorized political subdivision of this state in acquiring, establishing, and maintaining any property which a county is authorized to acquire, establish, or maintain pursuant to this subsection (29).

(30) **Lands or interests in land acquired.** With respect to lands, or interests in land, for any of the purposes mentioned in subsection (29) of this section, to acquire, either by gift, devise, or purchase, but no land shall be purchased for such purpose until the governing body shall adopt an ordinance authorizing such acquisition and stating the location and legal description of the lands to be acquired and, in case of purchase, the price to be paid and the manner of payment or unless the proposal to acquire such lands shall be submitted upon petition pursuant to subsection (33) of this section and approved by the electors of the county. Lands or interests in land given or devised to a county for the purposes mentioned shall be accepted or refused by ordinance passed by the governing body of the county.

(31) **Management - licenses - franchises.** Exclusively, to manage and control all parks, pleasure grounds, boulevards, parkways, avenues, driveways, and roads as mentioned in subsection (29) of this section and, exclusively, to lay out, regulate, and improve the same, to prohibit certain or heavy traffic therein and thereon, to grant or refuse licenses to vend goods on the roads, streets, or sidewalks within three hundred feet of any park entrance and on the streets and sidewalks adjoining parks, and to establish and maintain necessary rules and regulations for the proper supervision and government thereof. The county shall have such additional powers relating thereto as may be prescribed by ordinance, and the governing body shall provide, by ordinance, for the enforcement of such rules and orders.

(32) **Bequests for park purposes.** Upon such trusts or conditions as may be approved by the county real or personal property may be granted, bequeathed, devised, or conveyed to the county for the purpose of the improvement or ornamentation of any park, pleasure ground, boulevard, parkway, avenue, driveway, or road or for the establishment or maintenance in parks or pleasure grounds of museums, zoological or other gardens, collections of natural history,

observatories, libraries, monuments, or works of art. All such property or the rents, issues, and profits thereof shall be subject to the exclusive management and control of the county.

(33) **Acquisition and bonds submitted to electors.**

(a) For any of the purposes named in subsection (29) of this section within the county limits, to acquire, by purchase, gift, devise, or exchange, lands, or interests in land, which may be necessary, suitable, or proper. No lands or interests in land shall be so acquired by purchase unless the governing body has adopted an ordinance in accordance with the provisions of subsection (30) of this section. No indebtedness shall be created nor shall any bonds be issued for acquiring such lands or interests in land, unless the question of incurring such debt and issuing such bonds shall have been submitted at a regular election to a vote of those persons qualified to vote on authorization of other bonded indebtedness and approved as required by subsection (6) of this section.

(b) The governing body, upon petition of the registered electors of the county, equal in number to ten percent of the total number of such electors voting at the last regular election of the county, shall submit at the next regular election either or both of the questions of acquisition or of incurring bonded indebtedness by separate ordinance. In the ordinance submitting the question of the acquisition of such lands or interests in land, the governing body shall state the location of the land or interests in land proposed to be acquired, describing the same by legal subdivisions, wherever practicable, and the consideration to be given for the purchase and the manner of payment; and, in the ordinance submitting the question of incurring indebtedness, the governing body shall state the maximum net effective interest rate at which the bonds may be issued. If the only question to be submitted is the acquisition of such properties, the question may be submitted at a regular or special election. If the acquisition or incurring of indebtedness or both have been approved as required by subsection (6) of this section, the governing body shall acquire such lands or interests in land, incur said indebtedness, or both, pursuant to said authorization.

(34) **Park fund - certified vouchers.** To provide for a park fund which shall consist of moneys levied, collected, and appropriated therefor and coming into the fund by donation or otherwise. All moneys collected and credited to the park fund shall be used for the maintenance and improvement of parks, parkways, boulevards, avenues, driveways, and roads and shall be expended by the county as in their judgment the needs of such property shall require. The same shall be drawn upon the proper officers of the county, upon vouchers properly authenticated.

(35) **Maximum tax levy - moneys credited.**

(a) As a part of the annual levies authorized by law, to annually levy, assess, and collect upon each dollar of taxable property within the county not more than one and one-half mills for the purposes of said park fund, the proceeds of which shall be collected in the same manner as other county taxes and shall be appropriated to the park fund.

(b) All moneys collected or received or levied or appropriated by the county for park purposes shall be deposited in the county treasury to the credit of the park fund. Any portion thereof remaining unexpended at the end of any fiscal year or at any other time shall not in any event revert into the general fund nor be subject to appropriation for general purposes.

(36) **Acquisition of park land by assessment and bond sale.** In addition to the powers conferred to acquire lands for parks and parkways by the sale of the general bonds of the county, to acquire boulevards, parkways, avenues, driveways, and roads, in the manner provided in subsection (37) of this section, the same to be paid for by special assessments upon all the other real estate, except avenues, boulevards, streets, and roads, in the county or partly out of the proceeds of the sale of the general bonds of the county and partly by such assessments as the same may be determined by ordinance.

(37) **Acquisition by condemnation.** For the purpose of acquiring lands for boulevards, parkways, avenues, driveways, and roads, to select and, by a suitable proceeding in the name of the county and without the passage of any ordinance, to condemn real property, to purchase any real property so selected for one or more boulevards, parkways, avenues, driveways, or roads, and to select routes and streets for the purpose of establishing and maintaining a system of connecting boulevards and pleasure ways or parkways therein. All such condemnation proceedings shall be in accordance with the general laws of the state, so far as the same are applicable, but the benefit to other lands shall be ascertained and assessed.

(38) **Park bonds.** To pay for the parks and pleasure grounds, boulevards, parkways, avenues, driveways, and roads established by any county, or such part thereof, as may be determined by the county, in park bonds of the county of a date and form prescribed by the county, bearing the name of the county, and payable to bearer at such times and in a sufficient period of years to cover the period of payments provided for, with interest annually at a rate or rates such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, as may be determined by the governing body. The bonds shall be signed by the executive officer, countersigned by the county clerk and recorder, and bearing the seal of the county endorsed thereon, the interest to be evidenced by suitable coupons attested by a facsimile of the signature of the county clerk and recorder.

(39) **Control of park grounds.** In all cases where any home rule county has acquired lands for parks, parkways, boulevards, or roads, to have full police power and jurisdiction and full power and authority in the management, control, improvement, and maintenance of and over any and all such lands so acquired; to have power and authority to provide by ordinance for the regulation and control of its lands so acquired and to prevent the commission of any and all acts which are or may be declared unlawful and to prosecute and punish the violation of any ordinances in its county courts. A county shall have like power and jurisdiction to regulate and prevent the erection, construction, and maintenance, within three hundred feet of any such park, parkway, boulevard, or road, of any advertisement or of any billboard or other structure for

advertisements, and the county shall also have like power and jurisdiction over the use of any public roads, boulevards, or parkways within such parks and running over or through or between such lands and any public roads, boulevards, or parkways between any such parks or pleasure ground and its county boundaries.

(Building and Zoning Regulations)

(40) **Planning and zoning.** To exercise the powers of planning and zoning pursuant to the provisions of article 28 of this title;

(Condemnation Powers)

(41) **Streets and sewers.** To extend, by condemnation or otherwise, any road, street, alley, or highway, over or across, or to construct any sewer under or through any railroad track, right-of-way, or land of any railroad company, within the county jurisdiction, but, where no compensation is made to such railroad company, the county shall restore such railroad track, right-of-way, or land to its former condition or in a sufficient manner not to have impaired its usefulness;

(42) **Public transportation - rights-of-way.** To grant the use of, or right to lay down, any railroad track in any road or street of the county to any public transportation company;

(43) **Utilities.** To condemn and appropriate so much private property as shall be necessary for the construction and operation of sewers in such manner as may be prescribed by law;

(Ordinance Power)

(44) **Power and penalties.** To pass all ordinances and rules and make all regulations proper or necessary to carry into effect the powers granted to home rule counties, with fines and penalties that the governing body deems proper, but no fine or penalty shall exceed the maximum fine or penalty established under state law and no imprisonment shall exceed ninety days for one offense;

(45) **Enforcement.** To enact and provide for the enforcement of all county ordinances necessary to protect life, health, and property; to prevent and remove nuisances defined by statute and upon complaint to the district attorney; to preserve the general welfare, order, and security of the county and its inhabitants;

(46) **Parking - facilities.** To provide, by ordinance, for the construction, maintenance, and operation of public parking facilities, buildings, stations, or lots by the county and to pay for the cost thereof by general tax levy or otherwise or by the issuance of bonds of the county, which bonds may be retired by revenues assessed and collected as rentals, fees, or charges from the operation of such facilities or from parking meter rentals or charges.

Source: L. 81: Entire article added, p. 1462, § 1, effective June 8. **L. 91:** (12.5) added, p. 733, § 5, effective May 1. **L. 94:** (21)(a) amended, p. 2801, § 563, effective July 1. **L. 2026:** IP and (44) amended, (HB 26-1239), ch. 207, p. 1191, § 6, effective August 12.

30-35-202. Power to sell public works - sell or lease property.

(1) The governing body shall have the following additional powers:

(a) To sell and dispose of public utilities, public buildings, real property used or held for park purposes, or by other real property used or held for any governmental purposes. Before any such sale of a park or recreation facility shall be made, the question of said sale and the terms and consideration thereof shall be submitted at a regular election and approved in the manner provided for authorization of bonded indebtedness by section 30-35-201 (6);

(b) By ordinance, to sell and dispose of any other real property owned by the county upon such terms and conditions as such governing body may determine at a regular or special meeting;

(c) To lease any real property, together with any facilities thereon, owned by the county when deemed by the governing body to be in the best interest of the county. Any lease for a period of more than one year shall be by ordinance. Any lease for one year or less than one year shall be by resolution or ordinance.

(d) Notwithstanding subsections (1)(a) and (1)(b) of this section, to sell and dispose of, by ordinance, any public building or real property owned by a county that is held for government purposes, other than park purposes, if the sale and disposition of the public building or real property is for the purpose of providing property to be used for the development of affordable housing or housing identified in a housing needs assessment conducted pursuant to section 24-32-3703 or 24-32-3704. The governing body shall determine the terms and conditions of the sale and disposition at a regular or special meeting.

(2) All leases and deeds of conveyance executed and acknowledged by the proper officers of the county and purporting to have been made pursuant to the provisions of this section shall be deemed prima facie evidence of due compliance with all the requirements hereof.

Source: L. 81: Entire article added, p. 1472, § 1, effective June 8. **L. 2026:** (1)(d) added, (SB 26-001), ch. 7, p. 20, § 1, effective August 12.

PART 3

ORDINANCES - PENALTIES

30-35-301. Duty to make and publish ordinances.

A county adopting any of the home rule powers under this article shall make and publish, from time to time, ordinances, not inconsistent with the laws of the state, for carrying into effect or discharging the powers and duties conferred by this article and as seems necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such county and the inhabitants thereof. Such ordinances may be in addition to those authorized by section 30-15-401, and the provisions of sections 30-15-402 to 30-15-411 shall also apply to such ordinances.

Source: L. 81: Entire article added, p. 1473, § 1, effective June 8.

PART 4

ORDINANCE CODES ADOPTED BY REFERENCE

30-35-401. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Adopting county" means any home rule county adopting an ordinance pursuant to the provisions of this part 4.

(2) "Code" means any published compilation of statutes, ordinances, rules, regulations, or standards adopted by the federal government or the state of Colorado, or by an agency of either of them, or by any municipality or county within the state of Colorado. It includes any codification or compilation of existing ordinances of the adopting county. The operation of this article as to published compilations of any organization or institution shall be limited to building codes, which may embrace any of the following subjects: The construction, alteration, repair, removal, demolition, equipment, use and occupancy, location, and maintenance of buildings or other structures, whether erected before, on, or after June 8, 1981.

(3) "County clerk" means the county clerk and recorder or equivalent officer.

(4) "Governing body" means the governing body of a home rule county.

(5) "Primary code" means any code which is directly adopted by reference in whole or in part by any ordinance passed pursuant to this part 4.

(6) "Published" means issued in printed, lithographed, multigraphed, mimeographed, or similar form.

(7) "Secondary code" means any code which is incorporated by reference, directly or indirectly, in whole or in part, in any primary code or in any secondary code.

Source: L. 81: Entire article added, p. 1473, § 1, effective June 8.

30-35-402. Adoption by reference - title.

If all the procedures and requirements of this part 4 are complied with, any home rule county is authorized to enact any ordinance which adopts any code by reference, in whole or in part; and such primary code, thus adopted, may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. However, every primary code and every secondary code which is incorporated in any such adopting ordinance shall be specified in the title of the ordinance.

Source: L. 81: Entire article added, p. 1474, § 1, effective June 8.

30-35-403. Notice - hearing.

After the first reading of the adopting ordinance and of the code to be adopted thereby, and of any secondary codes therein adopted by reference, the governing body shall schedule a public hearing thereon. Notice of the hearing shall be published twice in a newspaper of general circulation in the adopting county, once at least fifteen days preceding the hearing and once at least eight days preceding it. If there is no such newspaper, the notice shall be posted in the same manner as provided for the posting of a proposed ordinance. The notice shall state the time and place of the hearing. It shall also state that copies of the primary code and also copies of the secondary codes, if any, being considered for adoption are on file with the county clerk and recorder and are open to public inspection. The notice shall also contain a description which the governing body deems sufficient to give notice to interested persons of the purpose of the code and of any secondary code incorporated therein by reference, the subject matter of each such code, the name and address of the agency by which each has been promulgated, or, if a

municipality or county, the corporate name of such municipality or county which has enacted such code, and the date of publication of such code or codes, and in the case of a code of any municipality or county the notice shall contain specific reference to code or codes of a given municipality or county as they existed and were effective at a given date.

Source: L. 81: Entire article added, p. 1474, § 1, effective June 8.

30-35-404. Adopting ordinance - adoption of penalty clauses by reference prohibited.

After the hearing, the governing body may amend, adopt, or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances; but nothing in this article shall be deemed to permit the adoption by reference of any penalty clauses which may appear in any code which is adopted by reference. Any such penalty clauses may be enacted only if set forth in full in the adopting ordinance. All changes or additions to any code made by the governing body shall be published in the manner which is required for ordinances.

Source: L. 81: Entire article added, p. 1474, § 1, effective June 8.

30-35-405. Publication of ordinance.

Nothing contained in this part 4 shall be deemed to relieve any home rule county from the requirement of publishing in full the ordinance which adopts any such code, and all provisions applicable to such publication shall be fully carried out. The adopting ordinance shall contain the same description of the primary adopted code and of each secondary code incorporated therein by reference, as required in the notice of hearing in section 30-35-403.

Source: L. 81: Entire article added, p. 1474, § 1, effective June 8.

30-35-406. Filing of public record - sale of copies.

Not less than three copies of each primary code adopted by reference, and of each secondary code pertaining thereto, all certified to be true copies by the county executive officer and the county clerk, shall be filed in the office of the county clerk at least fifteen days preceding the hearing and shall be kept there for public inspection while the ordinance is in force. After the adoption of the code by reference, one of the copies of the primary code and of each secondary

code may be kept in the office of the chief enforcement officer instead of in the office of the county clerk. Following the adoption of any code, the county clerk shall at all times maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price.

Source: L. 81: Entire article added, p. 1474, § 1, effective June 8.

30-35-407. Amendments.

If at any time any code which any home rule county has previously adopted by reference is amended by the agency or municipality or county which originally promulgated, adopted, or enacted it, then the governing body may adopt such amendment by reference through the same procedure as required for the adoption of the original code; or an ordinance may be enacted in the regular manner, setting forth the entire text of such amendment.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

30-35-408. Use as evidence.

Copies of such codes in published form, duly certified by the county clerk and executive officer of the home rule county, shall be received without further proof as prima facie evidence of the provisions of such codes or public records in all courts and administrative tribunals of this state.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

PART 5

ACTIONS BY OR AGAINST HOME RULE COUNTIES

30-35-501. Review without bond.

In all actions, suits, and proceedings in any court in this state in which a county of this state shall be a party, such county may take an appeal or writ of certiorari, as provided by law or rule of court, without giving bond.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

PART 6

BONDS - FUNDING - FLOATING DEBT

30-35-601. Funding bonds - determination of indebtedness.

The governing body of a home rule county may issue negotiable coupon bonds, to be denominated funding bonds, for the purpose of funding any of the legal floating indebtedness of the county, whether such indebtedness is existing on or is created on or after June 8, 1981. The specific indebtedness to be funded and the amount of such funding bonds to be issued under the provisions of this part 6 shall first be determined by the governing body and a certificate of such determination shall be made and entered in and upon the records of the county prior to the issuance of said funding bonds. Nothing in this part 6 shall be construed to repeal or amend any law limiting the indebtedness of the county.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

30-35-602. Floating indebtedness defined.

The term "floating indebtedness", as used in this article, includes all obligations of the county to pay money, of whatever kind or character, except indebtedness evidenced by the outstanding, negotiable interest-bearing bonds of the county.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

30-35-603. Bond election - judgments.

(1) Whenever the governing body deems it expedient to issue funding bonds under the provisions of this article, it shall direct, by ordinance, that the question be submitted, at a regular election, in the manner provided for authorization of other bonded indebtedness in section 30-35-201 (6). At any election held under the provisions of this part 6, the question of authorizing the funding of all or any part of the floating indebtedness of the county may be submitted as one question of determination, irrespective of the form or date of such indebtedness. The election

shall be conducted as nearly as may be in conformity with the provisions of the general election laws. The election notice shall specify, in addition to the time and places for holding said election, the qualifications for persons to vote on such question, the amount of the indebtedness to be funded, and the amount of funding bonds proposed to be issued at the rate of interest they shall bear. At such election, the ballots or voting machine tabs shall contain the words "For the Funding Bonds" and "Against the Funding Bonds".

(2) No election shall be necessary to authorize the governing body of a home rule county to issue bonds for the purpose of funding indebtedness in the form of a valid subsisting judgment against the county.

Source: L. 81: Entire article added, p. 1475, § 1, effective June 8.

30-35-604. Ordinance - form and maturity of bonds.

(1) If the governing body determines to issue funding bonds for the purpose of paying and discharging any valid and subsisting judgment against the county or if, upon canvassing the vote cast at any election held under the provisions of this part 6, it is determined by the governing body that a majority of the legal votes cast upon the question submitted are in favor of funding, the governing body shall make such determination a part of the official records of the county, and the governing body shall immediately thereafter adopt an ordinance, which shall not be subject to the referendum provisions of any law, providing for the issue of said funding bonds in accordance with the provisions of this article. Such ordinance shall fix the date of said funding bonds; shall designate the denominations thereof, the rate of interest, the maturity date which shall not be more than twenty-five years from the date of said funding bonds, and the place of payment, within or without the state of Colorado, of both principal and interest; and shall prescribe the form of said funding bonds.

(2) Such funding bonds shall be negotiable in form, shall recite the title of the act under which they are issued, shall be executed in the name of the county and signed by the executive officer, countersigned by the treasurer, and attested by the county clerk and recorder and shall have the seal of the county affixed thereto. The interest accruing on such funding bonds shall be evidenced by interest coupons thereto attached, bearing the engraved facsimile signature of the treasurer of the county. When so executed such coupons shall be the binding obligations of the county, according to their import. In the adoption of said ordinance providing for the issue of such funding bonds, the governing body shall make the principal of the debt payable in substantially equal annual installments during the period, not exceeding twenty-five years, within which the debt is to be discharged. The date of the maturity of the first installment of the debt shall be not more than five years from the date of said funding bonds.

Source: L. 81: Entire article added, p. 1476, § 1, effective June 8.

30-35-605. Disposition of bonds.

All such funding bonds may be exchanged, dollar for dollar, in satisfaction of the indebtedness to be funded, or they may be sold at not less than their par value, as directed by the governing body, and the proceeds thereof shall be applied only to the purpose for which such funding bonds were issued.

Source: L. 81: Entire article added, p. 1476, § 1, effective June 8.

30-35-606. Taxes for interest and redemption.

The interest accruing on such funding bonds issued pursuant to the provisions of this part 6 prior to the time when tax levies are available therefor shall be paid out of the general revenues of the county. For the purpose of reimbursing such general revenues and for the payment of subsequently accruing interest, the governing body issuing such funding bonds, or the proper tax assessing and collecting officers upon whom shall devolve the duty of levying and collecting county taxes, shall levy annually a sufficient tax upon all of the taxable property in the county fully to discharge such interest. For the ultimate redemption of such funding bonds, they shall levy annually such a tax upon all the taxable property in the county as will create a fund sufficient to discharge each annual installment of such funding bonds at the maturity thereof, which fund shall be called the redemption fund. All taxes for interest on and for the redemption of such bonds shall be paid in cash only and shall be kept by the county treasurer as a special fund to be used only in payment of the interest upon and for the redemption of such bonds. Such tax shall be levied and collected as other county taxes are levied and collected. The tax provisions for the ultimate redemption of such bonds shall be set forth in the ordinance authorizing their issue and shall set forth the years in which such taxes shall be levied for the creation of said redemption fund.

Source: L. 81: Entire article added, p. 1477, § 1, effective June 8.

30-35-607. Ordinance irrepealable.

Any ordinance authorizing an issue of funding bonds under the provisions of this part 6 and providing for the levy of taxes for the payment of the interest upon the principal of such funding bonds shall not be altered or repealed until the indebtedness thereby authorized has been fully paid.

Source: L. 81: Entire article added, p. 1477, § 1, effective June 8.

PART 7

BONDS - REFUNDING BONDED DEBT

30-35-701. Refunding bonds - amount.

The governing body of a home rule county may issue negotiable coupon bonds, to be denominated refunding bonds, for the purpose of refunding any of the bonded indebtedness of the county whether due or not, or which has or may become payable at the option of the county or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness is existing on or is created on or after June 8, 1981. The amount of such refunding bonds to be issued under the provisions of this part 7 shall first be determined by the governing body, and a certificate of such determination shall be made and entered in and upon the records of the county prior to the issuance of said refunding bonds.

Source: L. 81: Entire article added, p. 1477, § 1, effective June 8.

30-35-702. Vote of electors - when not required.

Whenever such governing body deems it expedient to issue refunding bonds under the provisions of this part 7 and the net interest cost and the net effective interest rate of the proposed issue of refunding bonds does not exceed the net interest cost and net effective interest rate of the issue of bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing such refunding bonds to a vote of the qualified electors of the county. The issuance of bonds under this part 7 for the purpose of refunding bonds which were originally issued to supply water to the county shall not require approval of such electors.

Source: L. 81: Entire article added, p. 1477, § 1, effective June 8.

30-35-703. Vote of electors - when required - procedures.

(1) Whenever such governing body deems it expedient to issue refunding bonds under the provisions of this part 7 and either the net interest cost or the net effective interest rate of the proposed issue of refunding bonds exceeds the net interest cost or the net effective interest rate, respectively, of the issue of bonds to be refunded, the governing body, by ordinance or resolution, shall submit the question of issuing said refunding bonds at a special election called and held for that purpose or at a regular election of county officers; but bonds issued under this part 7 for the purpose of refunding bonds which were originally issued to supply water to the county shall not require such approval of the electors. An election held under this section shall be held in the manner provided for the authorization of an original bonded indebtedness in section 30-35-201 (6).

(2) At any election held under the provisions of this part 7, the question of authorizing the refunding of all or any part of the then outstanding bonded indebtedness of the county may be submitted as one question for determination, whether such bonds are of the same or of different issues.

(3) The election shall be conducted as nearly as may be in conformity with the provisions of the general election laws.

(4) The election notice shall specify, in addition to the time and places for holding said election, the qualifications for persons to vote on such question, the amount and date of the bonds to be refunded, the amount of refunding bonds proposed to be issued, and the maximum net effective rate of interest at which they may be issued.

(5) At such election the ballots or voting machine tabs shall contain the words "For the Refunding Bonds" and "Against the Refunding Bonds".

Source: L. 81: Entire article added, p. 1478, § 1, effective June 8.

30-35-704. Ordinance for bond issue - bonds.

(1) If the governing body determines to issue refunding bonds without an election by meeting the requirements set forth in sections 30-35-701 to 30-35-703, or if, upon canvassing the vote cast at any election held under the provisions of this part 7, it is determined by the governing body that a majority of the legal votes cast upon the question submitted are in favor of refunding, the governing body shall make such determination a part of the official records of the

county and shall immediately thereafter adopt an ordinance providing for the issuance of said refunding bonds in accordance with the provisions of this part 7.

(2) Such ordinance shall fix the date of said refunding bonds, shall designate the denominations thereof, shall designate the maximum net effective interest rate, the rate or rates of interest of individual bonds, the maturity dates, and the place or alternate places of payment within or without the state of Colorado, of both principal and interest, and shall prescribe the form of said refunding bonds.

(3) Such refunding bonds shall be negotiable in form, shall recite the title of the ordinance under which they are issued, and shall be executed in the name of the county and signed by the executive officer, countersigned by the treasurer, with the seal of the county affixed thereto, and attested by the county clerk and recorder. The interest accruing on such refunding bonds shall be evidenced by interest coupons thereto attached, bearing the engraved facsimile signature of the treasurer of the county. When so executed, such coupons shall be the binding obligations of the county, according to their import.

(4) In the adoption of said ordinance providing for the issuance of said refunding bonds, the governing body shall make the principal of the debt payable in annual or semiannual installments commencing not later than five years after the date of such bonds and maturing during a period not exceeding thirty-five years from the date thereof. The amounts of such maturities shall be fixed by the governing body. The right to redeem all or any part of said issue of bonds prior to the respective maturities thereof and the order of any such redemption may be reserved in said ordinance, and, if so reserved, shall be set forth on the face of said bonds.

(5) Outstanding bonds, which are secured by a pledge of specific special funds or revenues of the county in addition to the general ad valorem tax revenues of said county, may be refunded under the provisions of this part 7, and substantial compliance with the provisions of this article shall be deemed and taken to be sufficient to legally authorize such refunding and the issuance of refunding bonds for such purpose, without further actions being taken by the county. Such a pledge of specific special funds or revenues need not be made to additionally secure the refunding bonds so issued, but such funds or revenues may be so pledged if it is deemed advisable by the governing body of the county.

Source: L. 81: Entire article added, p. 1478, § 1, effective June 8.

30-35-705. Exchange - sale - proceeds - amounts.

Such refunding bonds may be exchanged dollar for dollar for the bonds to be refunded, or they may be sold at, above, or below their par value at a price or prices such that the net effective interest rate of the issue of refunding bonds does not exceed the maximum net effective interest

rate authorized. Such refunding bonds shall be in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the governing body, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same as or less than the principal amount of the bonds to be refunded, if due, adequate, and sufficient provision has been made for the payment, or redemption, and retirement of said bonds to be refunded and the payment of the interest accruing and having accrued thereon in accordance with this article.

Source: L. 81: Entire article added, p. 1479, § 1, effective June 8.

30-35-706. Tax for payment of refunding bonds.

The interest accruing on such refunding bonds issued pursuant to the provisions of this part 7 prior to the time when the proceeds of tax levies are available therefor shall be paid out of the general revenues or any other revenues of the county available therefor. For the purpose of reimbursing such general revenues or other revenues and for the payment of subsequently accruing interest, the governing body shall levy annually a sufficient tax upon all the taxable property in the county fully to discharge such interest. For the ultimate payment or redemption of such refunding bonds there shall be certified and levied annually such a tax upon all the taxable property in such county as will create a fund sufficient to pay or redeem and discharge such refunding bonds at or prior to their respective maturities; but in the event the bonds to be redeemed and the interest thereon accruing would have been paid from taxes levied upon only part of the taxable property in the county, the taxes levied for payment or redemption of the refunding bonds, and the interest accruing thereon, shall be levied in the same manner and upon only the same taxable property as would have been levied for payment of the bonds to be refunded if no refunding of said bonds had been made and accomplished. As collected, all taxes levied for payment of interest on and for the payment or redemption of the principal of such bonds shall be kept by the treasurer of the county in a special fund, to be used only in the payment of the interest upon and for the payment or redemption of the principal of such bonds. Such tax shall be levied and collected in the same manner as other county taxes are levied and collected. The ordinance authorizing the issuance of said bonds shall set forth the years in which such taxes shall be levied for the creation of said fund.

Source: L. 81: Entire article added, p. 1479, § 1, effective June 8.

30-35-707. Ordinance not to be altered.

Any ordinance authorizing an issue of refunding bonds under the provisions of this part 7 and providing for the levy of taxes for the payment of the interest upon and the principal of such refunding bonds shall not be altered or repealed until the indebtedness thereby authorized shall have been fully paid.

Source: L. 81: Entire article added, p. 1480, § 1, effective June 8.

30-35-708. Combined issues - procedures.

Any such refunding bonds may be issued to refund one or more issues of outstanding bonds of a county; but no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property upon which tax levies are being made for payment of each such outstanding issue of bonds is identical to the taxable property on which such levies are being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds. In the event that two or more issues of outstanding bonds of a county are to be refunded by the issuance of a single issue of refunding bonds, as provided in this section, the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds to a vote of the registered electors of the county.

Source: L. 81: Entire article added, p. 1480, § 1, effective June 8.

30-35-709. Application of refunding bond proceeds - procedures - limitations.

(1) The proceeds derived from the issuance of any refunding bonds under the provisions of this part 7 shall either be immediately applied to the payment, or redemption, and retirement of the bonds to be refunded and the cost and expense incident to such procedures, or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the costs and expenses incident to such proceedings and for no other purpose or purposes whatsoever until the bonds being refunded have been paid in full and discharged, and all accrued interest thereon has also been paid in full, upon which occurrences

the escrow shall terminate, and any funds remaining therein shall be returned to the county and may be used to pay other bonds of the county.

(2) The costs and expenses incident to the refunding of outstanding bonded indebtedness, the issuance of refunding bonds, and the establishment and maintenance of escrow accounts, pursuant to the provisions of this part 7, may be paid from any moneys or funds of the county which are legally available therefor. Any moneys or funds of the county legally available therefor may be placed in any escrow account established under the provisions of this article and may be used and expended for the purposes specified in the escrow agreement if such procedure is deemed by the governing body to be in the best interests of the county.

(3) Any escrowed funds, pending such use, may be invested or, if necessary, reinvested only in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such times as to ensure the prompt payment of the bonds refunded under the provisions of this article and the interest accruing thereon.

(4) Escrowed funds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times shall be sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom. The computations made in determining such sufficiency shall be verified by a certified public accountant.

(5) For the purpose of implementing the provisions of this part 7, the governing body of any county shall have the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within this state which is a member of the federal deposit insurance corporation under protective covenants and agreements whereby such accounts shall be fully secured by direct obligations of the United States, or shall be invested in such direct obligations only, in such amounts as will be sufficient and maturing at such times so as to ensure the prompt payment of the bonds refunded, and the interest accruing thereon, under the provisions of this part 7.

(6) In no event shall the aggregate amount of bonded indebtedness of any county exceed the maximum allowable amount as determined pursuant to the provisions of the state constitution, statutes, and charter applicable to such county. In determining and computing such aggregate amount of bonded indebtedness of any home rule county, bonds which have been refunded, as provided in this part 7, either by immediate payment, or redemption and retirement, or by the placement of the proceeds of refunding bonds in escrow shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying, or redeeming, and retiring such bonds, or from and after the date on which the proceeds of said refunding bonds are placed in such an escrow.

(7) The issuance of refunding bonds by any home rule county for the purposes and in the manner authorized by this article, or under the provisions of any other enabling law, shall never be interpreted or taken to be the creation of an indebtedness which would require the approval of the qualified electors of the county, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by this part 7 or such other law under which said refunding bonds are sought to be issued or have been issued.

(8) No bonds may be refunded under the provisions of this part 7 unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years from the date of issuance of the refunding bonds, and provisions shall be made for paying, or redeeming, and discharging all of the bonds refunded within said period of time.

Source: L. 81: Entire article added, p. 1480, § 1, effective June 8. **L. 89:** (3) amended, p. 1114, § 24, effective July 1.

30-35-710. Registration of refunding bonds.

Whenever any home rule county issues refunding bonds under the provisions of this part 7, the governing body shall direct that the county clerk and recorder, as a part of said county clerk and recorder's duties, register said bonds in a book to be kept by him for that purpose, and when so registered, the legality thereof shall not be open to contest by the county or by any other person or corporation in behalf of the county for any reason whatever. It is the duty of the county clerk and recorder to register said bonds, noting the principal amount, the date of issuance and maturity, and rate or rates of interest of said bonds.

Source: L. 81: Entire article added, p. 1482, § 1, effective June 8.

30-35-711. Redemption of refunding bonds prior to maturity - procedures.

(1) In the event that any bonds of a home rule county, either bonds issued for refunding purposes or bonds issued for other purposes as set forth in section 30-35-201 (6), have been or are made redeemable prior to their respective maturities and the governing body determines that all or any part of such bonds should be called for redemption, according to their terms, it is the duty of the county clerk and recorder, as soon as the governing body has authorized the redemption, to cause notice to be given of such action.

(2) Such notice shall be given by publication at least one time in a newspaper customarily used by said county for legal notices at least thirty days prior to the date on which said bonds are to be redeemed and paid. Such notice shall contain the place or places and date on which said bonds shall be redeemed and paid, shall describe the bonds by their legal designation, date, number, and amount, and shall state that after the date so fixed for redemption and payment the interest on said bonds shall cease.

(3) After the date so fixed for redemption and payment, the bonds so called for redemption and payment shall cease to draw interest.

Source: L. 81: Entire article added, p. 1482, § 1, effective June 8.

30-35-712. "Net interest cost" - "net effective interest rate".

For the purposes of this part 7, the terms "net interest cost" and "net effective interest rate" have the meanings set forth in section 30-35-201 (6).

Source: L. 81: Entire article added, p. 1482, § 1, effective June 8.

PART 8

BONDS - TO PAY MATURED SPECIAL ASSESSMENT

30-35-801. Power to issue bonds - purpose.

Subject to the provisions of this part 8, any home rule county shall have power and authority to issue its negotiable coupon bonds for the purpose of paying any special assessment bonds or obligations which it has issued or may issue, together with interest thereon, when it appears that there is not, or will not be, sufficient money for the payment of the same at maturity in the particular fund out of which payment should be made.

Source: L. 81: Entire article added, p. 1482, § 1, effective June 8.

30-35-802. Question submitted.

No bonds shall be issued under this part 8 until the question of issuing the same has been submitted, at a regular election of a home rule county, to a vote of those persons qualified to vote on authorization of other bonded indebtedness and approved as required by section 30-35-201 (6).

Source: L. 81: Entire article added, p. 1483, § 1, effective June 8.

30-35-803. Ordinance - taxes - interest - disposition.

The issuance of any bonds voted on in accordance with this part 8 shall be authorized by an ordinance, which shall be irrepealable until the bonds therein provided for shall have been fully paid or discharged, specifying the purpose to which the funds to be raised shall be applied and providing for the levy of a tax sufficient to pay the annual interest and extinguish the principal of such bonds within fifteen but not less than ten years from the creation thereof. Such tax, when collected, shall be applied only to the purpose specified in such ordinance until such bonds shall be paid or discharged. Such bonds shall bear interest at a rate or rates and shall be exchanged or sold at a price or prices so that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized. Interest shall be paid semiannually and shall be payable at such place, be in such denominations, and be executed by such officers as may be prescribed in such ordinance. Such bonds may be exchanged for outstanding matured and overdue special assessment bonds or obligations and interest thereon or they may be sold and the proceeds thereof used for the purpose specified in this part 8.

Source: L. 81: Entire article added, p. 1483, § 1, effective June 8.

30-35-804. Construction - disposition of delinquent assessment.

Nothing in this part 8 shall be construed to release or discharge any special assessment which is now, or may become, a lien on or against any property. Any home rule county issuing bonds under this part 8 shall be subrogated to the rights of the holders or owners of the outstanding special assessment bonds or obligations paid. If, after the issuance of bonds authorized by this part 8, the delinquent or defaulted special assessments, or any part thereof, are collected and the special assessment bonds or obligations payable out of the particular special assessment fund have been redeemed by means of bonds issued under this part 8, the amounts so collected shall

be used to pay the principal of and the interest on the bonds authorized and the tax levies therefor shall be reduced in a like manner.

Source: L. 81: Entire article added, p. 1483, § 1, effective June 8.

PART 9

SPECIAL TAXING DISTRICTS

30-35-901. Special taxing districts authorized.

In accordance with the provisions of section 18 of article XIV of the state constitution, the governing body of a home rule county may establish special taxing districts within the county to facilitate the furnishing of services and the collection of ad valorem taxes or charges for such services, or both such taxes and charges.

Source: L. 81: Entire article added, p. 1483, § 1, effective June 8.

30-35-902. Definitions.

As used in this part 9, unless the context otherwise requires:

(1) "Registered elector" or "elector" means an individual who resides within a home rule county and is registered and otherwise qualified to vote in county elections in such county.

(2) "Special taxing district" or "district" means a geographic area within a home rule county designated and delineated by the governing body of a home rule county to facilitate the furnishing of services and improvements and the collection of ad valorem taxes or charges for such services, or both such taxes and charges; however, such collection of taxes or charges, or both, shall not be in addition to or in lieu of any taxes or charges, or both, specifically provided for and limited by any statute for the same purpose, including, but not limited to, taxes for law enforcement authorities, roads and bridges, and the like.

Source: L. 81: Entire article added, p. 1483, § 1, effective June 8.

30-35-903. Use of districts.

(1) Such special taxing districts shall be used when a service or level of service which a county is authorized to provide is to be provided in substantially less than the entire area included within the county and where resulting ad valorem taxes or charges may vary from those imposed in other areas within the county.

(2) As long as the service is provided to the included territory, a special taxing district may include, subject to the limitations of section 30-35-103 (2), any territory within a county. The included territory need not be contiguous if the noncontiguous territory is essential to the provision of such services or improvements, and the same territory may lie within more than one special taxing district so long as there is no duplication of services or improvements.

(3) No tract or parcel of real estate used for manufacturing, mining, railroad, agricultural, or industrial purposes, together with the buildings, improvements, machinery, or equipment or other personal property thereon, for which no direct benefit is provided by the services or improvements of the special taxing district, shall be included therein without the written consent of the owner thereof. If, contrary to the provisions of this subsection (3), any such tract, parcel, or other property thereon is included in any special taxing district, the owner thereof, upon petition to the governing body of the home rule county, shall be entitled to have the same excluded from the special taxing district free and clear of any contract, obligation, lien, or charge to which it might have been liable as a part of the special taxing district.

Source: L. 81: Entire article added, p. 1484, § 1, effective June 8.

30-35-904. Formation of districts.

(1) Special taxing districts may be established pursuant to the provisions of this section.

(2) (a) The governing body of a home rule county may by resolution propose the formation of such district which resolution shall designate the proposed boundaries thereof, specify the proposed service or services, and set forth the methods of financing proposed for such district.

(b) The governing body shall present the proposal at a public hearing to be held within sixty days after introduction of such resolution, with notice thereof to be published not less than fifteen days before the date set for hearing.

(c) At such hearing any registered elector of the county may be heard on the proposal, including questions of inclusion in or exclusion from the district, and all such objections shall be determined by the governing body on the basis of the public interest, taking into consideration the needs of the people and the availability of the service to the territory which is the subject of any such objection.

(d) The governing body may continue the hearing as necessary and may, after the conclusion thereof, enact the proposed resolution, with or without amendments, or may reject the proposed resolution.

(e) Decisions of the governing body concerning the formation of a special taxing district are not subject to review unless action is instituted by a registered elector to review such proceedings within forty-five days after passage of the resolution. Any such review shall extend only to the question of whether the governing body exceeded its jurisdiction or abused its discretion. If the court so finds, it shall remand the matter to the governing body for further proceedings, consistent with such findings.

(3) (a) A petition, signed by at least eight percent of the registered electors in the proposed district, shall be sufficient to require the governing body of a home rule county to pass a resolution creating the proposed special taxing district.

(b) At the top of each page of the petition must be printed, in plain red letters no smaller than the impression of ten-point, bold-faced type, the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than his own, or to knowingly sign his name more than once for the same measure, or to sign such petition when not a registered elector.

DO NOT SIGN THIS PETITION UNLESS

YOU ARE A REGISTERED ELECTOR

TO BE A REGISTERED ELECTOR, YOU MUST BE:

1. At least eighteen years of age.

2. A citizen of the United States.

3. A resident of the state of Colorado for at least twenty-two days.

4. A resident of the precinct in which you live.

5. Registered to vote in the county.

Do not sign this petition unless you have read or had read to you the proposal in its entirety and understand its meaning.

(c) The petition shall only be signed by registered electors of the proposed district with their own signatures, after which shall be written their residence addresses, including street and number, if any, city or town, and the date of signing.

(d) To each petition there shall be attached an affidavit of the person who circulated the petition, which shall state the person's address, that he or she is a resident of the state, a citizen of the United States, and at least eighteen years of age, that each signature thereon was affixed in his or her presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best of his or her knowledge and belief each of the persons signing the petition was at the time of signing a registered elector of the proposed district, and that he or she has not or will not in the future pay any money or thing of value to any signer for the purpose of inducing the signer to affix his or her signature to the petition.

(e) The petition shall contain all the information required by subsection (2)(a) of this section.

(f) The petition shall be on pages eight and one-half inches wide by fourteen inches long with a margin of two inches at the top for binding. The signature sheets shall have ruled lines and be numbered consecutively.

(4) No restraining order or temporary injunction pending final judgment of the district court and enjoining the formation of, the inclusion or exclusion of territory in, or the operation of the special taxing district may be issued. Any final judgment which has the effect of enjoining the formation of, the inclusion or exclusion of territory in, or the operation of a special taxing district shall automatically be stayed upon the filing of any appeal of such decision, and no application for supersedeas shall be necessary. Such stay shall continue in full force and effect pending final disposition of the proceedings.

(5) Changes in the boundaries or major changes in the basic or essential nature of services or financing of a special taxing district may be initiated by resolution of the governing body or by petition signed by five percent of the registered electors of the district, and such proposals shall be considered in the same manner as provided in this section for proposals for the original formation of a district.

(6) Upon adoption of a resolution forming a district, the governing body of the home rule county shall function as the governing board of such district.

Source: L. 81: Entire article added, p. 1484, § 1, effective June 8. **L. 82:** (3)(b) amended, p. 626, § 33, effective April 2. **L. 2007:** (3)(d) amended, p. 1984, § 40, effective August 3. **L. 2016:** (3)(b) amended, (SB 16-142), ch. 173, p. 590, § 75, effective May 18.

30-35-905. Powers of board.

When acting as the governing board of a special taxing district, the governing body of a home rule county shall have all the powers otherwise provided in this article.

Source: L. 81: Entire article added, p. 1486, § 1, effective June 8.

30-35-906. Exclusion.

Real property excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of such exclusion.

Source: L. 81: Entire article added, p. 1486, § 1, effective June 8.