

CHAPTER 194

GOVERNMENT - MUNICIPAL

HOUSE BILL 04-1155

BY REPRESENTATIVE(S) Williams T., Carroll, Decker, Hall, Hoppe, McFadyen, Rippey, Stafford, Young, Spradley, and Schultheis;
also SENATOR(S) Taylor, Arnold, Chlouber, Entz, Hillman, and Isgar.

AN ACT

CONCERNING A LIMITATION ON THE AUTHORITY OF A MUNICIPALITY TO REGULATE THAT PORTION OF NEWLY ANNEXED LAND USED AS A RIGHT-OF-WAY BY AGRICULTURAL USERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 31-12-115, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-12-115. Zoning of land while annexation is under way - zoning of newly annexed land - subdivision of land while annexation is under way - regulatory impairments affecting newly annexed land used for agricultural purposes - notice - definitions. (6) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHENEVER A MUNICIPALITY ANNEXES AN AREA THAT CONTAINS ANY PORTION OF A PUBLIC TRANSPORTATION RIGHT-OF-WAY, A CUSTOMARY OR REGULAR USE OF WHICH INVOLVES THE MOVEMENT OF ANY AGRICULTURAL VEHICLES AND EQUIPMENT, FOR THE PERIOD DURING WHICH LAND USE WITHIN THE ANNEXED AREA IS DEVOTED TO AGRICULTURAL USE AND REGARDLESS OF WHETHER THE ANNEXED AREA HAS BEEN ZONED FOR AGRICULTURAL USES, THE MUNICIPALITY SHALL NOT ADOPT OR ENFORCE ANY ORDINANCE OR REGULATION AFFECTING THE RIGHT-OF-WAY, WHETHER ARISING IN CONNECTION WITH ZONING, REZONING, THE REGULATION OF TRAFFIC, OR OTHERWISE, SO AS TO RESTRICT SUCH CUSTOMARY OR REGULAR USE OF THE RIGHT-OF-WAY THAT IS IN EXISTENCE AS OF THE TIME OF THE ANNEXATION. NOTHING IN THIS SUBSECTION (6) SHALL BE CONSTRUED AS IN ANY WAY RESTRICTING THE MUNICIPALITY FROM ADOPTING OR ENFORCING TRAFFIC REGULATIONS THAT ARE EITHER CONSISTENT WITH THE CUSTOMARY OR REGULAR USE OF THE RIGHT-OF-WAY OR ARE NECESSARY FOR THE SAFETY OF VEHICULAR AND PEDESTRIAN TRAFFIC USING THE RIGHT-OF-WAY.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) IN ADDITION TO ANY OTHER APPLICABLE NOTICE REQUIREMENTS PROVIDED BY LAW, NOT LESS THAN THIRTY DAYS PRIOR TO FINAL ADOPTION OF AN ORDINANCE OR REGULATION AFFECTING THE RIGHT-OF-WAY IN AN ANNEXED AREA THAT IS DEVOTED TO AGRICULTURAL USE AND REGARDLESS OF WHETHER THE ANNEXED AREA HAS BEEN ZONED FOR AGRICULTURAL USES, THE MUNICIPALITY SHALL SEND NOTICE OF THE PROPOSED ORDINANCE OR REGULATION TO THE FOLLOWING PERSONS BY MEANS OF THE FOLLOWING METHODS:

(I) TO ANY PERSON WHO OWNS PROPERTY IN THE ANNEXED AREA THAT IS CONTIGUOUS TO THE RIGHT-OF-WAY, BY CERTIFIED MAIL; AND

(II) TO SUCH PERSONS AS APPEAR ON A LIST MAINTAINED BY THE MUNICIPALITY OF INTERESTED PERSONS WHO ARE TO RECEIVE SUCH NOTICE BY FIRST-CLASS MAIL. THE NAME OF ANY SUCH PERSON SHALL REMAIN ON THE LIST UNTIL SUCH TIME AS THE PERSON REQUESTS REMOVAL OF THE PERSON'S NAME FROM THE LIST.

(c) FOR PURPOSES OF THIS SUBSECTION (6), "AGRICULTURAL VEHICLES AND EQUIPMENT" MEANS ANY VEHICLE OR EQUIPMENT THAT IS DESIGNED, ADAPTED, OR USED FOR AGRICULTURAL PURPOSES.

SECTION 2. Effective date - applicability. (1) This act shall take effect September 1, 2004.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to annexation proceedings commenced on or after the applicable effective date of this act.

Approved: April 23, 2004