

## CHAPTER 73

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**GOVERNMENT - COUNTY**


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## SENATE BILL 06-074

BY SENATOR(S) Shaffer, Tochtrop, and Tupa;  
also REPRESENTATIVE(S) Berens, and Sullivan.

**AN ACT****CONCERNING THE ENFORCEMENT OF COUNTY CODE REQUIREMENTS PERTAINING TO LAND USE.**

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

**SECTION 1.** 30-28-124 (1) (b) (II), Colorado Revised Statutes, is amended to read:

**30-28-124. Penalties.** (1) (b) (II) Whenever a county zoning official authorized pursuant to section 30-28-114 has personal knowledge of any violation of this paragraph (b), he OR SHE shall give written notice to the violator to correct ~~such~~ THE violation within ~~thirty~~ TEN days after the date of ~~such~~ THE notice. Should the violator fail to correct the violation within ~~such thirty-day~~ THE TEN-DAY period, ~~such~~ THE zoning official may request that the sheriff of the county issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of ~~said~~ THE charge to the violator. The summons and complaint shall require that the violator appear in county court at a definite time and place stated therein to answer and defend the charge.

**SECTION 2.** 30-28-124.5 (1), (2) (b), (2) (d), (3), and (4), Colorado Revised Statutes, are amended to read:

**30-28-124.5. County court actions for civil penalties for zoning violations.**

(1) It is unlawful to erect, construct, reconstruct, alter, or use any building, structure, or land in violation of any regulation in, or of any provisions of, any zoning resolution or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. In addition to any penalties imposed pursuant to section 30-28-124, any person, firm, or corporation violating any such regulation, provision, or amendment thereof or any provision of this part

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

1 may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than ~~two hundred fifty~~ FIVE HUNDRED dollars nor more than ~~five hundred~~ ONE THOUSAND dollars. It is within the discretion of the county attorney to determine whether to pursue the civil penalties set forth in this section, the remedies set forth in section 30-28-124, or both. Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall, in accordance with the subsequent provisions of this section, be the subject of a continuing penalty in an amount not to exceed ~~fifty~~ ONE HUNDRED dollars for each such day. ~~In no event shall civil penalties imposed pursuant to this section constitute a lien against the real property.~~ UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COUNTY COURT AND ASSESSED UNDER THIS SUBSECTION (1) SHALL, AS OF RECORDING, BE A LIEN AGAINST THE PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO EXIST. IN CASE THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, IT MAY BE CERTIFIED BY THE COUNTY ATTORNEY 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 (1). ANY LIEN PLACED AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION (1) SHALL BE RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(2) (b) A county zoning official designated by resolution of the board of county commissioners shall, upon personal information and belief that a violation of any regulation or provision of any zoning resolution enacted under the authority of this part 1 has occurred, give written notice to the violator to correct ~~such~~ THE violation within ~~thirty~~ TEN days after the date of ~~such~~ THE notice. If the violator fails to correct the violation within ~~such thirty-day~~ THE TEN-DAY period or within any extension period granted by the zoning official, the zoning official, ~~may request that~~ the sheriff of the county, or the county attorney MAY issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of ~~such~~ THE charge to the violator.

(d) If the county court finds, by a preponderance of the evidence, that a violation of any regulation or provision of a zoning 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 subsection (1) of this section. ~~Such~~ THE penalty shall be payable immediately by the violator to the county treasurer. In the event that the alleged violation has been cured or otherwise removed AND THE VIOLATOR HAS NOTIFIED THE COUNTY ZONING OFFICIAL OF THE CURE OR REMOVAL at least five BUSINESS days prior to the appearance date in the summons, then the county attorney shall so inform the court and request that the action be dismissed without fine or appearance of the defendant.

(3) Upon the filing with the court of a receipt issued by the county treasurer showing payment in full of a civil penalty assessed pursuant to this section and upon the filing of an affidavit of the county zoning official that the violation has been cured, removed, or corrected, the court shall dismiss the action and issue a satisfaction in full of the judgment so entered. THE COURT MAY ALSO DISMISS THE ACTION UPON A MOTION OF THE COUNTY ATTORNEY INDICATING THAT THE MATTER

HAS BEEN OTHERWISE RESOLVED.

(4) If a receipt showing full payment of the civil penalty or the affidavit OR THE MOTION BY THE COUNTY ATTORNEY required by subsection (3) of this section is not filed, the action shall continue and the court shall retain jurisdiction to impose an additional penalty against the violator in the amount specified in subsection (1) of this section. ~~Such~~ THE additional penalty shall be imposed by the court upon motion filed by the county and proof that the violation has not been cured, removed, or corrected. Thereafter, the action shall continue until the filing with the court of a receipt issued by the county treasurer showing payment in full of the civil penalty and any additional penalties so assessed and the filing of an affidavit of the county zoning official that the violation has been cured, removed, or corrected, OR UNTIL A MOTION BY THE COUNTY ATTORNEY TO DISMISS THE ACTION IS GRANTED BY THE COURT.

**SECTION 3.** 30-28-205 (1), Colorado Revised Statutes, is amended to read:

**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 ~~such~~ 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 ~~said~~ THE county building inspector. After the adoption of ~~such~~ 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 ~~such~~ THE county building inspector. The county building inspector shall not issue any permit unless the plans for ~~such~~ THE proposed erection, construction, reconstruction, alteration, or remodeling fully conform to the regulations and restrictions in ~~said~~ THE building code.

**SECTION 4.** 30-28-209 (1) (b) (II), Colorado Revised Statutes, is amended to read:

**30-28-209. Violation - injunction and other remedies.** (1) (b) (II) Whenever 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, C.R.S., who exercises the functions of a county building inspector, has personal knowledge of any violation of the requirements of subparagraph (I) of this paragraph (b), he or she shall give written notice to the violator to correct ~~such~~ THE violation within ~~thirty~~ TEN days after the date of ~~such~~ THE notice. Where the violator fails to correct the violation within ~~such thirty-day~~ THE TEN-DAY period, the county building inspector may request that the sheriff of the county issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of ~~said~~ THE charge to the violator. The summons and complaint shall require that the violator appear in county court at a definite time and place stated therein to answer and defend the charge.

**SECTION 5.** 30-28-210 (1), (2) (b), (2) (d), (3), and (4), Colorado Revised

Statutes, are amended to read:

**30-28-210. County court actions for civil penalties for building violations.**

(1) It is unlawful to erect, construct, reconstruct, alter, maintain, or use any building, structure, or land in violation of this part 2 or any provisions of the area building code. In addition to any penalties imposed pursuant to section 30-28-209, any person, firm, or corporation violating any ~~such~~ provision of this part 2 or any provision of the area building code may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than ~~two hundred fifty~~ FIVE HUNDRED dollars nor more than ~~five hundred~~ ONE THOUSAND dollars. It is within the discretion of the county attorney to determine whether to pursue the civil penalties set forth in this section, the remedies set forth in section 30-28-209, or both. Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall in accordance with the subsequent provisions of this section, be the subject of a continuing penalty in an amount not to exceed ~~fifty~~ ONE HUNDRED dollars for each such day. ~~In no event shall civil penalties imposed pursuant to this section constitute a lien against the real property.~~ UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COUNTY COURT AND ASSESSED UNDER THIS SUBSECTION (1) SHALL, AS OF RECORDING, BE A LIEN AGAINST THE PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO EXIST. IN CASE THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, IT MAY BE CERTIFIED BY THE COUNTY ATTORNEY 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 (1). ANY LIEN PLACED AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION (1) SHALL BE RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(2) (b) A building inspector designated by resolution of the board of county commissioners shall, upon personal information and belief that a violation of this part 2 or of any provision of the area building code has occurred, give written notice to the violator to correct ~~such~~ THE violation within ~~thirty~~ TEN days after the date of ~~such~~ THE notice. If the violator fails to correct the violation within ~~such thirty-day~~ THE TEN-DAY period or within any extension period granted by the building inspector, the building inspector, ~~may request that~~ the sheriff of the county, or the county attorney MAY issue a summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of ~~such~~ THE charge to the violator.

(d) If the county court finds, by a preponderance of the evidence, that a violation of this part 2 or of any provision of the area building code has occurred, the court shall order the violator to pay a civil penalty in an amount allowed pursuant to subsection (1) of this section. ~~Such~~ THE penalty shall be payable immediately by the violator to the county treasurer. In the event that the alleged violation has been cured or otherwise removed AND THE VIOLATOR HAS NOTIFIED THE BUILDING INSPECTOR OF THE CURE OR REMOVAL at least five BUSINESS days prior to the appearance date in the summons, then the county attorney shall so inform the court and request that the action be dismissed without fine or appearance of the defendant.

(3) Upon the filing with the court of a receipt issued by the county treasurer showing payment in full of a civil penalty assessed pursuant to this section and upon the filing of an affidavit of the county building inspector that the violation has been cured, removed, or corrected, the court shall dismiss the action and issue a satisfaction in full of the judgment so entered. THE COURT MAY ALSO DISMISS THE ACTION UPON A MOTION OF THE COUNTY ATTORNEY INDICATING THAT THE MATTER HAS BEEN OTHERWISE RESOLVED.

(4) If a receipt showing full payment of the civil penalty or the affidavit OR THE MOTION BY THE COUNTY ATTORNEY required by subsection (3) of this section is not filed, the action shall continue and the court shall retain jurisdiction to impose an additional penalty against the violator in the amount specified in subsection (1) of this section. ~~Such~~ THE additional penalty shall be imposed by the court upon motion filed by the county and proof that the violation has not been cured, removed, or corrected. Thereafter, the action shall continue until the filing with the court of a receipt issued by the county treasurer showing payment in full of the civil penalty and any additional penalties so assessed and the filing of an affidavit of the county building inspector that the violation has been cured, removed, or corrected, OR UNTIL A MOTION BY THE COUNTY ATTORNEY TO DISMISS THE ACTION IS GRANTED BY THE COURT.

**SECTION 6.** 13-17-102 (8), Colorado Revised Statutes, is amended to read:

**13-17-102. Attorney fees - definitions.** (8) The provisions of this section shall not apply to traffic offenses, matters brought under the provisions of the "Colorado Children's Code", title 19, C.R.S., or related juvenile matters, or matters involving violations of ~~municipal~~ LOCAL GOVERNMENT ordinances AND RESOLUTIONS. FOR PURPOSES OF THIS SUBSECTION (8), "LOCAL GOVERNMENT" SHALL MEAN A COUNTY, HOME RULE COUNTY, HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

**SECTION 7. Effective date - applicability.** This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 31, 2006