

CHAPTER 238

GOVERNMENT - LOCAL

SENATE BILL 08-117

BY SENATOR(S) Mitchell S., Groff, Harvey, Kopp, McElhany, Penry, Shaffer, Spence, Tochtrop, Tupa, Veiga, Ward, Wiens, Windels, and Gibbs;
also REPRESENTATIVE(S) McNulty, Buescher, Butcher, Frangas, Gardner B., Garza-Hicks, Kerr J., Labuda, Massey, Roberts, Rose, Summers, Kerr A., and Lundberg.

AN ACT

CONCERNING LOCAL GOVERNMENT TREATMENT OF SOLAR ENERGY DEVICE PERMITS.

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

SECTION 1. 30-28-113 (1), Colorado Revised Statutes, is amended to read:

30-28-113. Regulation of size and use - districts - 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 ~~which~~ THAT lie outside of cities and towns:

- (I) The location, height, bulk, and size of buildings and other structures;
- (II) The percentage of ~~lot which~~ 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.

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) (I) In order to accomplish such regulation, the board of county commissioners:

(A) May divide the territory of the county ~~which~~ 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 COUNTY MAY NOT CHARGE PERMIT FEES TO INSTALL AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM THAT, IN AGGREGATE, ARE IN EXCESS OF 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. THE GENERAL ASSEMBLY HEREBY FINDS THAT THERE IS A STATEWIDE NEED FOR CERTAINTY REGARDING THE FEES THAT CAN BE ASSESSED FOR PERMITTING AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM, AND THEREFORE DECLARES THAT THIS SUBPARAGRAPH (II) IS A MATTER OF STATEWIDE CONCERN. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 2. 31-15-602 (4), Colorado Revised Statutes, is amended to read:

31-15-602. Energy efficient building codes - legislative declaration - definitions - repeal. (4) (a) The energy code shall apply to any commercial or residential building in the municipality for which a building permit application is received subsequent to the adoption of the energy code.

(b) A MUNICIPALITY MAY NOT CHARGE PERMIT FEES TO INSTALL AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM THAT, IN AGGREGATE, ARE IN EXCESS OF THE LESSER OF THE MUNICIPALITY'S ACTUAL COSTS IN ISSUING THE PERMIT OR FIVE HUNDRED DOLLARS FOR A RESIDENTIAL APPLICATION OR ONE THOUSAND DOLLARS FOR A NONRESIDENTIAL APPLICATION. THE GENERAL ASSEMBLY HEREBY FINDS THAT THERE IS A STATEWIDE NEED FOR CERTAINTY REGARDING THE FEES THAT CAN BE ASSESSED FOR PERMITTING AN ACTIVE SOLAR ENERGY DEVICE OR SYSTEM, AND THEREFORE DECLARES THAT THIS PARAGRAPH (b) IS A MATTER OF STATEWIDE CONCERN. THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 3. Applicability. This act shall apply only to applications to install an active solar energy device that is not utility-scale occurring on or after the effective date of this act.

SECTION 4. 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: May 20, 2008