

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0804.01 Nicole Myers x4326

HOUSE BILL 26-1239

HOUSE SPONSORSHIP

Goldstein and Richardson,

SENATE SPONSORSHIP

Mullica,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO A COUNTY'S ENFORCEMENT
102 AUTHORITY IN CONNECTION WITH PROPERTY IN THE COUNTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill updates and modernizes county enforcement authority in connection with:

- Providing for and compelling the removal of rubbish, including trash, junk, and garbage, from property within the county;
- Providing for and compelling the removal of weeds and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- brush from property within the county;
- Providing for and compelling the removal or securing of any building or structure in the county, with specified exceptions, that, due to its condition, presents a substantial danger or hazard to the public health, safety, or welfare; and
- The unlawful erection, construction, reconstruction, alteration, or use of any building or structure in the county or the use of any land in the county in violation of a zoning resolution or ordinance adopted by the board of county commissioners.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-6-105, **amend** (1)
 3 introductory portion and (1)(f)(II); and **add** (1)(f)(II.5) as follows:

4 **13-6-105. Specific limits on civil jurisdiction.**

5 (1) The county court has no civil jurisdiction except THE
 6 JURISDICTION that IS specifically conferred upon it by law. In particular,
 7 ~~it~~ THE COUNTY COURT has no jurisdiction over the following matters:

8 (f) Original proceedings for the issuance of injunctions, except:

9 (II) As required to enforce restrictive covenants on residential
 10 property and to enforce section 6-1-702.5; **and**

11 (II.5) AS PROVIDED IN SECTIONS 30-15-401, 30-28-124, AND
 12 30-28-209; AND

13 **SECTION 2.** In Colorado Revised Statutes, 30-15-401, **amend**
 14 (1) introductory portion, (1)(a)(I), (1)(a)(I.5)(A), (1)(a)(I.5)(C), and
 15 (1)(q); and **add** (2)(d) as follows:

16 **30-15-401. General regulations - definitions.**

17 (1) In addition to ~~those~~ THE powers granted by sections 30-11-101
 18 and 30-11-107 and by parts 1, 2, and 3 of this article 15, the board of
 19 county commissioners may adopt ordinances for control or licensing of

1 ~~those~~ matters THAT ARE of purely local concern AND that are described in
2 the following enumerated powers:

3 (a) (I) (A) To provide for and compel the removal of rubbish,
4 including trash, junk, and garbage, from ~~lots and tracts of land~~ PROPERTY
5 within the county except ~~industrial tracts of ten or more acres and~~
6 agricultural land currently in agricultural use as the term agricultural land
7 is defined in section 39-1-102 (1.6), ~~C.R.S.~~, and from ~~the~~ ANY PUBLIC
8 RIGHT OF WAY BEHIND OR IN FRONT OF SUCH PROPERTY INCLUDING ANY
9 alleys ~~behind~~ and ~~from the~~ sidewalk areas, ~~in front of such property at~~
10 ~~such time~~, upon such notice, and in such manner as the board of county
11 commissioners may prescribe by ordinance, including removal performed
12 by the county upon notice to and failure of the property owner to remove
13 ~~such~~ THE rubbish, and to assess the reasonable cost ~~thereof~~ OF THE
14 REMOVAL OF THE RUBBISH, including ~~five~~ TEN percent for inspection and
15 other incidental costs in connection ~~therewith~~ WITH THE COST OF THE
16 COUNTY'S REMOVAL OF THE RUBBISH, upon the ~~lots and tracts~~ PROPERTY
17 from which ~~such~~ THE COUNTY HAS REMOVED THE rubbish. ~~has been~~
18 ~~removed~~ Ordinances passed by a board of county commissioners for the
19 removal of rubbish pursuant to this ~~sub-subparagraph (A)~~ shall
20 SUBSECTION (1)(a)(I)(A) MUST include provisions for applying for and
21 exercising an administrative entry and seizure warrant issued by a county
22 or district court ~~having~~ THAT HAS jurisdiction over the property from
23 which THE COUNTY WILL REMOVE THE rubbish. ~~shall be removed~~. Any
24 assessment pursuant to this ~~sub-subparagraph (A)~~ shall be SUBSECTION
25 (1)(a)(I)(A) IS a lien against ~~such lot or tract of land~~ THE PROPERTY until
26 paid and ~~shall have~~ HAS priority over all other liens except general taxes
27 and prior special assessments. In A case ~~such~~ WHEN THE assessment is not

1 paid within a reasonable time AS specified by ordinance, ~~it may be~~
2 ~~certified by~~ the clerk MAY CERTIFY THE NONPAYMENT to the county
3 treasurer, who shall collect the assessment, together with a ten percent
4 penalty for the cost of collection, in the same manner as other taxes are
5 collected. The laws of this state for assessment and collection of general
6 taxes, including the laws for the sale and redemption of property for
7 taxes, shall apply to the collection of assessments BY THE COUNTY
8 TREASURER pursuant to this ~~sub-subparagraph (A)~~ SUBSECTION
9 (1)(a)(I)(A).

10 (B) A county court or district court ~~having~~ THAT HAS jurisdiction
11 over property from which THE COUNTY WILL REMOVE rubbish ~~shall be~~
12 ~~removed~~ pursuant to the ordinances authorized by ~~sub-subparagraph (A)~~
13 ~~of this subparagraph (I)~~ SUBSECTION (1)(a)(I)(A) OF THIS SECTION shall
14 issue an administrative entry and seizure warrant for the COUNTY'S
15 removal of ~~such~~ THE rubbish. ~~Such~~ THE COURT SHALL ISSUE THE warrant
16 ~~shall be issued~~ upon A COUNTY'S presentation ~~by a county~~ TO THE COURT
17 of ordinance provisions ~~which~~ THAT meet the requirements of
18 ~~sub-subparagraph (A) of this subparagraph (I)~~ SUBSECTION (1)(a)(I)(A)
19 OF THIS SECTION and a sworn or affirmed affidavit stating the factual basis
20 for ~~such~~ THE warrant, evidence that the property owner has received
21 notice of the violation and has failed to remove the rubbish within a
22 reasonable prescribed period, ~~of time~~ a general description of the location
23 of the property ~~which~~ THAT is the subject of the warrant, a general list of
24 any rubbish to be removed from ~~such~~ THE property, and the proposed
25 disposal or temporary impoundment of ~~such~~ THE rubbish, whichever the
26 court deems appropriate. Within ~~ten~~ THIRTY days following the date of
27 THE COURT'S issuance of an administrative entry and seizure warrant

1 pursuant to ~~the provisions of this sub-subparagraph (B), such~~ SUBSECTION
2 (1)(a)(I)(B), THE EXECUTING AUTHORITY SHALL EXECUTE THE warrant
3 ~~shall be executed~~ in accordance with THE ISSUING COURT'S directions, ~~by~~
4 ~~the issuing court,~~ PROVIDE OR MAIL a copy of ~~such~~ THE issued warrant
5 ~~shall be provided or mailed~~ to the property owner, and SUBMIT TO THE
6 COURT proof of the execution of ~~such~~ THE warrant, including a written
7 inventory of any property impounded by the executing authority. ~~shall be~~
8 ~~submitted to the court by the executing authority.~~

9 (I.5) (A) To provide for and compel the removal of weeds and
10 brush from ~~lots and tracts of land~~ PROPERTY within the county except
11 agricultural land currently in agricultural use as the term agricultural land
12 is defined in section 39-1-102 (1.6), ~~C.R.S.~~, and from ~~the~~ ANY PUBLIC
13 RIGHT OF WAY BEHIND OR IN FRONT OF THE PROPERTY INCLUDING ANY
14 alleys ~~behind~~ and ~~from the~~ sidewalk areas, ~~in front of such property at~~
15 ~~such time,~~ upon such notice, and in such manner as the board of county
16 commissioners may prescribe by ordinance, including removal performed
17 by the county upon notice to and failure of the property owner to remove
18 ~~such~~ THE weeds and brush, and to assess the reasonable cost ~~thereof~~ OF
19 THE REMOVAL OF THE WEEDS AND BRUSH, including ten percent for
20 inspection and other incidental costs in connection ~~therewith~~ WITH THE
21 COUNTY'S REMOVAL OF WEEDS AND BRUSH, upon the property from which
22 ~~such~~ THE COUNTY HAS REMOVED weeds ~~have been removed~~ AND BRUSH.
23 Ordinances passed by a board of county commissioners for the removal
24 of weeds and brush pursuant to this ~~sub-subparagraph (A) shall~~
25 SUBSECTION (1)(a)(I.5)(A) MUST include provisions for applying for and
26 exercising an administrative entry and seizure warrant issued by a county
27 or district court ~~having~~ THAT HAS jurisdiction over the property from

1 which THE COUNTY WILL REMOVE weeds and brush. ~~shall be removed.~~
2 Any assessment ASSESSED BY THE COUNTY pursuant to this
3 ~~sub-subparagraph (A) shall be~~ SUBSECTION (1)(a)(I.5)(A) IS a lien against
4 ~~such~~ THE property until paid and ~~shall have~~ HAS priority based on its date
5 of recording. ~~A county shall not compel the removal of weeds and brush~~
6 ~~pursuant to this sub-subparagraph (A) upon any lot or tract of land within~~
7 ~~the county during such time that a mortgage or deed of trust secured by~~
8 ~~the lot or tract of land is being foreclosed upon~~

9 (C) A county court or district court ~~having~~ THAT HAS jurisdiction
10 over property from which THE COUNTY WILL REMOVE weeds and brush
11 ~~shall be removed~~ pursuant to the ordinances authorized by
12 ~~sub-subparagraph (A) of this subparagraph (I.5)~~ SUBSECTION
13 (1)(a)(I.5)(A) OF THIS SECTION shall issue an administrative entry and
14 seizure warrant for the COUNTY'S removal of ~~such~~ THE weeds and brush.
15 ~~Such~~ THE COURT SHALL ISSUE THE warrant ~~shall be issued~~ upon A
16 COUNTY'S presentation ~~by a county~~ TO THE COURT of ordinance provisions
17 ~~which~~ THAT meet the requirements of ~~sub-subparagraph (A) of this~~
18 ~~subparagraph (I.5)~~ SUBSECTION (1)(a)(I.5)(A) OF THIS SECTION and a
19 sworn or affirmed affidavit stating the factual basis for ~~such~~ THE warrant,
20 evidence that the property owner has received notice of the violation and
21 has failed to remove the weeds and brush within a reasonable prescribed
22 period, ~~of time~~ a general description of the location of the property ~~which~~
23 THAT is the subject of the warrant, and the proposed disposal of ~~such~~ THE
24 weeds and brush. Within ~~ten~~ THIRTY days following the date of THE
25 COURT'S issuance of an administrative entry and seizure warrant pursuant
26 to ~~the provisions of this sub-subparagraph (C) such~~ THIS SUBSECTION
27 (1)(a)(I.5)(C), THE EXECUTING AUTHORITY SHALL EXECUTE THE warrant

1 ~~shall be executed~~ in accordance with directions by the issuing court,
2 PROVIDE OR MAIL a copy of ~~such~~ THE issued warrant ~~shall be provided or~~
3 ~~mailed~~ to the property owner, and SUBMIT TO THE COURT proof of the
4 execution of ~~such~~ THE warrant. ~~shall be submitted to the court by the~~
5 ~~executing authority~~

6 (q) (I) To provide for and compel the removal OR SECURING of any
7 building or structure, except for a building or structure on affected land
8 subject to the "Colorado Mined Land Reclamation Act", as the term
9 "affected land" is defined in section 34-32-103 (1.5), ~~C.R.S.~~, or on lands
10 subject to the "Colorado Surface Coal Mining Reclamation Act", pursuant
11 to article 33 of title 34, ~~C.R.S.~~, the condition of which presents a
12 substantial danger or hazard to public health, safety, or welfare, or any
13 dilapidated building of whatever kind ~~which~~ THAT is unused by the
14 owner, or uninhabited because of deterioration or decay, which condition
15 constitutes a fire hazard, or subjects adjoining property to danger of
16 damage by storm, soil erosion, or rodent infestation, or ~~which~~ THAT
17 becomes a place frequented by trespassers and transients seeking a
18 temporary hideout or shelter, at such time, upon such notice, and in such
19 manner as the board of county commissioners may prescribe by
20 ordinance, including the removal OR SECURING performed by the county
21 upon notice to and failure of the property owner to remove ~~such~~ OR
22 SECURE THE building or structure, and to assess the whole cost of ~~such~~
23 THE removal OR SECURING, including incidental costs and a reasonable fee
24 for inspection ~~which fee~~ THAT shall not exceed ~~five~~ TEN percent of the
25 total amount due in connection ~~therewith~~ WITH THE REMOVAL OR
26 SECURING OF THE BUILDING OR STRUCTURE, upon the property from which
27 such building or structure has been removed OR SECURED. ORDINANCES

1 PASSED BY A BOARD OF COUNTY COMMISSIONERS FOR THE REMOVAL OR
2 SECURING OF ANY BUILDING OR STRUCTURE PURSUANT TO THIS
3 SUBSECTION (1)(q)(I) MUST INCLUDE PROVISIONS FOR THE COUNTY
4 APPLYING FOR AND EXERCISING AN ADMINISTRATIVE ENTRY AND SEIZURE
5 WARRANT ISSUED BY A COUNTY OR DISTRICT COURT THAT HAS
6 JURISDICTION OVER THE PROPERTY FROM WHICH THE BUILDING IS
7 REMOVED OR SECURED.

8 (II) Any assessment pursuant to this ~~paragraph (q)~~ shall be
9 SUBSECTION (1)(q) IS a lien against ~~such~~ THE property until paid. If ~~such~~
10 THE assessment is not paid within a reasonable time as specified by
11 ordinance, ~~it may be certified by~~ the clerk and recorder MAY CERTIFY THE
12 NONPAYMENT to the county treasurer, who shall collect the assessment,
13 together with a ten percent penalty for the cost of collection, in the same
14 manner as other taxes are collected.

15 (III) A COUNTY COURT OR DISTRICT COURT THAT HAS
16 JURISDICTION OVER PROPERTY FROM WHICH A BUILDING OR STRUCTURE IS
17 REMOVED OR SECURED PURSUANT TO THE ORDINANCES AUTHORIZED BY
18 SUBSECTION (1)(q)(I) OF THIS SECTION SHALL ISSUE AN ADMINISTRATIVE
19 ENTRY AND SEIZURE WARRANT FOR THE REMOVAL OR SECURING OF THE
20 BUILDING OR STRUCTURE. THE COURT SHALL ISSUE THE WARRANT UPON
21 A COUNTY'S PRESENTATION OF ORDINANCE PROVISIONS THAT MEET THE
22 REQUIREMENTS OF THIS SUBSECTION (1)(q)(III) AND A SWORN OR
23 AFFIRMED AFFIDAVIT STATING THE FACTUAL BASIS FOR THE WARRANT,
24 EVIDENCE THAT THE PROPERTY OWNER HAS RECEIVED NOTICE OF THE
25 VIOLATION AND HAS FAILED TO REMOVE OR SECURE THE BUILDING OR
26 STRUCTURE WITHIN A REASONABLE PRESCRIBED TIME, A GENERAL
27 DESCRIPTION OF THE LOCATION OF THE PROPERTY THAT IS THE SUBJECT OF

1 THE WARRANT, A GENERAL DESCRIPTION OF THE BUILDING OR STRUCTURE
2 TO BE REMOVED FROM PROPERTY OR SECURED, AND THE PROPOSED
3 DISPOSAL OR TEMPORARY IMPOUNDMENT OF REMNANTS OF THE BUILDING
4 OR STRUCTURE, WHICHEVER THE COURT DEEMS APPROPRIATE. WITHIN
5 THIRTY DAYS FOLLOWING THE DATE OF THE COURT'S ISSUANCE OF AN
6 ADMINISTRATIVE ENTRY AND SEIZURE WARRANT PURSUANT TO THIS
7 SUBSECTION (1)(q)(III), THE EXECUTING AUTHORITY SHALL EXECUTE THE
8 WARRANT IN ACCORDANCE WITH DIRECTIONS BY THE ISSUING COURT,
9 PROVIDE OR MAIL A COPY OF SUCH ISSUED WARRANT TO THE PROPERTY
10 OWNER, AND SUBMIT TO THE COURT PROOF OF THE EXECUTION OF THE
11 WARRANT, INCLUDING A WRITTEN INVENTORY OF ANY PROPERTY
12 IMPOUNDED BY THE EXECUTING AUTHORITY.

13 (2) (d) IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW,
14 A COUNTY MAY ENFORCE ORDINANCES ENACTED PURSUANT TO
15 SUBSECTIONS (1)(a)(I), (1)(a)(I.5), (1)(a)(V)(A), AND (1)(q) OF THIS
16 SECTION AS FOLLOWS:

17 (I) TO PROCEED WITH AN ACTION PURSUANT TO SUBSECTION
18 (2)(d)(II) OF THIS SECTION, THE COUNTY SHALL PROVIDE WRITTEN NOTICE
19 TO THE PROPERTY OWNER OF THE VIOLATION AND THE TIME IN WHICH THE
20 VIOLATION MUST BE REMEDIED. THE WRITTEN NOTICE MUST DESCRIBE ANY
21 POTENTIAL ENFORCEMENT AUTHORITY OF THE COUNTY, INCLUDING ANY
22 POSSIBLE LIENS DUE TO ABATEMENT COSTS.

23 (II) IF, AFTER THE COUNTY HAS GIVEN WRITTEN NOTICE TO THE
24 PROPERTY OWNER AS DESCRIBED IN SUBSECTION (2)(d)(I) OF THIS SECTION,
25 THE PROPERTY OWNER FAILS TO ABATE THE VIOLATIONS DESCRIBED IN THE
26 NOTICE, THE PROPERTY OWNER VIOLATING THE COUNTY ORDINANCE
27 SHALL, AT THE REQUEST OF THE COUNTY, BE SUBJECT TO THE IMPOSITION

1 OF, BY ORDER OF THE COUNTY OR DISTRICT COURT, A CIVIL PENALTY OF
2 NOT LESS THAN ONE HUNDRED DOLLARS OR MORE THAN THREE THOUSAND
3 DOLLARS PER DAY OF THE VIOLATION. THE CIVIL PENALTY MUST BE IN
4 ACCORDANCE WITH THE COUNTY ORDINANCE INCLUDING ANY GRADUATED
5 PENALTY SCHEDULE AUTHORIZING INCREASED PENALTIES FOR REPEAT
6 OFFENSES BY THE SAME INDIVIDUAL. EACH DAY THAT A VIOLATION
7 OCCURS IS DEEMED A SEPARATE OFFENSE AND THE PENALTY CONTINUES
8 UNTIL THE VIOLATION IS REMEDIED. UNTIL PAID, ANY CIVIL PENALTY
9 ORDERED BY THE COUNTY OR DISTRICT COURT AND ASSESSED PURSUANT
10 TO THIS SUBSECTION (2)(d)(II) IS, AS OF RECORDING, A LIEN AGAINST THE
11 PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO EXIST. IN CASE
12 THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, THE COUNTY
13 ATTORNEY MAY CERTIFY THE LACK OF PAYMENT TO THE COUNTY
14 TREASURER, WHO SHALL COLLECT THE ASSESSMENT, TOGETHER WITH A
15 TEN PERCENT PENALTY FOR THE COST OF COLLECTION, IN THE SAME
16 MANNER AS OTHER TAXES ARE COLLECTED. THE LAWS OF THIS STATE FOR
17 ASSESSMENT AND COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS
18 FOR THE SALE AND REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE
19 COLLECTION OF ASSESSMENTS PURSUANT TO THIS SUBSECTION (2)(d)(II).
20 ANY LIEN PLACED AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION
21 (2)(d)(II) MUST BE RECORDED WITH THE CLERK AND RECORDER OF THE
22 COUNTY IN WHICH THE PROPERTY IS LOCATED.

23 (III) IN ADDITION TO THE CIVIL PENALTIES ORDERED BY A COURT
24 PURSUANT TO SUBSECTION (2)(d)(II) OF THIS SECTION, THE COUNTY
25 ATTORNEY MAY BRING AN ACTION IN THE COUNTY COURT OR DISTRICT
26 COURT THAT HAS JURISDICTION OVER THE PROPERTY FOR AN ORDER
27 ENJOINING THE VIOLATION, ORDERING THE VIOLATION'S RESTRAINT,

1 REMOVAL, TERMINATION, OR ABATEMENT BY THE PROPERTY OWNER, AND
2 AUTHORIZING ABATEMENT BY THE COUNTY OR ITS AGENT. IN BRINGING
3 THAT ACTION, THE COUNTY ATTORNEY SHALL FILE A VERIFIED COMPLAINT.
4 THE COURT SHALL REVIEW THE VERIFIED COMPLAINT AND SCHEDULE A
5 HEARING ON THE REQUEST FOR AN ABATEMENT ORDER, INJUNCTION, OR
6 OTHER APPROPRIATE REMEDY AND DIRECT THE ISSUANCE OF A SUMMONS
7 STATING THE TIME, DATE, AND PLACE OF THE PRELIMINARY HEARING,
8 WHICH THE COURT SHALL SCHEDULE NO LATER THAN THIRTY DAYS AFTER
9 THE COUNTY ATTORNEY FILES THE COMPLAINT. THE COUNTY ATTORNEY
10 MUST SERVE THE SUMMONS AND COMPLAINT ON THE PROPERTY OWNER IN
11 ACCORDANCE WITH APPLICABLE RULES OF CIVIL PROCEDURE AT LEAST TEN
12 DAYS PRIOR TO THE HEARING. IF THE COUNTY'S REASONABLE EFFORTS TO
13 PERSONALLY SERVE THE SUMMONS AND COMPLAINT ARE UNSUCCESSFUL,
14 THE COUNTY MAY POST THE SUMMONS AND COMPLAINT ON THE PROPERTY
15 AND MAIL THE SUMMONS AND COMPLAINT, CERTIFIED MAIL AND RETURN
16 RECEIPT REQUESTED, TO THE PROPERTY OWNER'S ADDRESS IN THE
17 RECORDS OF THE COUNTY ASSESSOR AS A MEANS OF PROVIDING
18 ALTERNATIVE SERVICE. IF THE COUNTY PROVIDES ALTERNATIVE SERVICE,
19 THE COUNTY MUST PROVIDE THE ALTERNATIVE SERVICE AT LEAST TEN
20 DAYS PRIOR TO THE PRELIMINARY HEARING. AT THE TIME, DATE, AND
21 PLACE STATED IN THE SUMMONS, THE COURT SHALL REVIEW AND
22 CONSIDER THE REQUEST FOR RELIEF PROVIDED FOR IN THIS SUBSECTION
23 (2)(d)(III), ANY STATEMENT OF THE COUNTY IN SUPPORT OF THE RELIEF
24 PROVIDED FOR IN THIS SUBSECTION (2)(d)(III), AND ANY STATEMENT AND
25 EVIDENCE PRESENTED BY THE PROPERTY OWNER, IF PRESENT. ON THE
26 DATE AND AT THE TIME SET FOR THE HEARING, IF THE PROPERTY OWNER
27 FAILS TO APPEAR, AND IF THE COUNTY PROVES THAT PROPER SERVICE WAS

1 MADE ON THE PROPERTY OWNER, THE COURT MAY GRANT THE RELIEF AS
2 REQUESTED BY THE COUNTY. A PROPERTY OWNER'S FAILURE TO APPEAR
3 ON ANY DATE SET FOR A PRELIMINARY HEARING HELD PURSUANT TO THIS
4 SUBSECTION (2)(d)(III) IS GROUNDS FOR THE COURT TO ENTER A DEFAULT
5 JUDGMENT THEREON AGAINST A NONAPPEARING PROPERTY OWNER. FOR
6 GOOD CAUSE SHOWN, AND PRIOR TO ENFORCEMENT, THE COURT MAY SET
7 ASIDE AN ENTRY OF DEFAULT AND THE JUDGMENT ENTERED THEREON.

8 (IV) IF THE COUNTY ABATES THE VIOLATION PURSUANT TO AN
9 ORDER OF A COURT, THE ACTUAL COSTS OF ABATEMENT, PLUS TEN
10 PERCENT OF THE ABATEMENT COSTS FOR INSPECTION AND OTHER
11 INCIDENTAL COSTS OF ABATEMENT ARE A LIEN AGAINST THE PROPERTY
12 UNTIL PAID AND HAVE PRIORITY OVER ALL OTHER LIENS EXCEPT GENERAL
13 TAXES AND PRIOR SPECIAL ASSESSMENTS. IF THE ASSESSMENT IS NOT PAID
14 WITHIN THIRTY DAYS, THE COUNTY ATTORNEY OR COUNTY CLERK MAY
15 CERTIFY THE NONPAYMENT TO THE COUNTY TREASURER, WHO SHALL
16 COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT PENALTY FOR
17 THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER TAXES ARE
18 COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND COLLECTION
19 OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND REDEMPTION
20 OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF ASSESSMENTS
21 PURSUANT THIS SUBSECTION (2)(d)(IV).

22 **SECTION 3.** In Colorado Revised Statutes, 30-15-402, **amend**
23 (1) as follows:

24 **30-15-402. Violations - penalty - surcharges - victim and**
25 **witness assistance - brain injury trust fund.**

26 (1) EXCEPT FOR A TRAFFIC OFFENSE, any person who violates any
27 county ordinance adopted BY THE BOARD OF COUNTY COMMISSIONERS

1 pursuant to this part 4 commits a civil infraction ~~or, in the case of traffic~~
2 ~~offenses, commits a traffic infraction,~~ and, upon conviction thereof OF
3 THAT INFRACTION, shall be punished by a fine of not more than ~~one~~ THREE
4 thousand dollars for each separate violation. IN THE CASE OF A TRAFFIC
5 OFFENSE, THE PERSON THAT COMMITS A TRAFFIC INFRACTION, UPON
6 CONVICTION OF THAT INFRACTION, SHALL BE PUNISHED BY A FINE IN
7 ACCORDANCE WITH APPLICABLE COUNTY OR STATE LAW. If authorized by
8 the county ordinance, AN ARRESTING LAW ENFORCEMENT OFFICER MAY
9 FOLLOW the penalty assessment procedure provided in section 16-2-201
10 ~~may be followed by any arresting law enforcement officer~~ for any such
11 violation. As part of ~~said~~ THE county ordinance authorizing the penalty
12 assessment procedure FOR A VIOLATION OF A COUNTY ORDINANCE
13 ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS PURSUANT TO THIS
14 PART 4, the board of county commissioners may adopt a graduated fine
15 schedule for ~~such~~ THE violations. ~~Such~~ THE graduated fine schedule may
16 provide for increased penalty assessments for repeat offenses by the same
17 individual. In the case of county traffic ordinance violations, the
18 provisions of sections 42-4-1701 and 42-4-1703, and sections 42-4-1708
19 to 42-4-1718 ~~shall~~ apply; except that the fine or penalty for a violation
20 charged and the surcharge thereon if authorized by county ordinance ~~shall~~
21 ~~be~~ IS paid to the county.

22 **SECTION 4.** In Colorado Revised Statutes, **amend** 30-28-124 as
23 follows:

24 **30-28-124. Penalties and enforcement.**

25 (1) (a) It is unlawful to erect, construct, reconstruct, ~~or~~ alter, OR
26 USE any building or structure OR USE ANY LAND in violation of any
27 regulation in, or of any provisions of, any zoning resolution OR

1 ORDINANCE, or any amendment thereof, enacted or adopted by the board
2 of county commissioners under the authority of this part 1. Any person,
3 firm, or corporation ~~violating~~ THAT VIOLATES any such regulation,
4 provision, or amendment thereof, or any provision of this part 1 ~~commits~~
5 ~~a civil infraction~~ SHALL, AT THE REQUEST OF THE COUNTY, BE SUBJECT TO
6 THE IMPOSITION, BY ORDER OF THE COUNTY OR DISTRICT COURT, OF A
7 CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED DOLLARS OR MORE THAN
8 THREE THOUSAND DOLLARS. Each day ~~during which such illegal erection,~~
9 ~~construction, reconstruction, or alteration continues shall be~~ THAT A
10 VIOLATION OCCURS IS deemed a separate offense AND THE CIVIL PENALTY
11 CONTINUES TO ACCRUE UNTIL THE VIOLATION IS REMEDIED.

12 (b) (I) ~~It is unlawful to use any building, structure, or land in~~
13 ~~violation of any regulation in, or of any provision of, any zoning~~
14 ~~resolution, or any amendment thereto, enacted or adopted by any board~~
15 ~~of county commissioners under the authority of this part 1. Any person,~~
16 ~~firm, or corporation violating any such regulation, provision, or~~
17 ~~amendment commits a civil infraction. Each day during which such~~
18 ~~illegal use of any building, structure, or land continues shall be deemed~~
19 ~~a separate offense.~~

20 (II) ~~Whenever~~ TO PURSUE A VIOLATION PURSUANT TO THIS
21 SUBSECTION (1)(b)(II), a county zoning official authorized pursuant to
22 section 30-28-114 ~~has personal knowledge of~~ WHO HAS, AFTER
23 INVESTIGATION, PERSONALLY OBTAINED RELIABLE INFORMATION AND
24 REASONABLE BELIEF OF any violation of this ~~paragraph (b), he or she~~
25 SUBSECTION (1)(b)(II) shall give written notice to the violator to correct
26 the violation within ten days after the date of the notice. ~~Should~~ IF the
27 violator ~~fail~~ FAILS to correct the violation within the ten-day period, ~~the~~

1 ANY DESIGNATED COUNTY zoning official may ISSUE, OR request that the
2 sheriff of the county OR THE COUNTY ATTORNEY issue, a summons and
3 complaint to the violator stating the nature of the violation with sufficient
4 particularity to give notice of the charge to the violator. The summons and
5 complaint ~~shall~~ MUST require that the violator appear in county OR
6 DISTRICT court at a definite time and place stated ~~therein~~ IN THE SUMMONS
7 AND COMPLAINT to answer and defend the charge.

8 (III) ~~One copy of said summons and complaint shall be served~~
9 ~~upon the violator by the sheriff of the county in the manner provided by~~
10 ~~law for the service of a criminal summons. One copy each shall be~~
11 ~~retained by the sheriff and the county zoning official, and one copy shall~~
12 ~~be transmitted by the sheriff to the clerk of the county court.~~

13 (IV) THE COLORADO RULES OF CIVIL PROCEDURE APPLY TO
14 DISTRICT COURT PROCEEDINGS AND THE COLORADO COUNTY COURT RULES
15 OF CIVIL PROCEDURE APPLY TO COUNTY COURT PROCEEDINGS.

16 (c) It is the responsibility of the county attorney to enforce the
17 provisions of this subsection (1); ~~In the event that~~ EXCEPT THAT IF there
18 is ~~no~~ NOT A county attorney or ~~in the event that~~ IF the board of county
19 commissioners deems it appropriate, the board of county commissioners
20 may appoint the district attorney of the judicial district to perform ~~such~~
21 THE enforcement duties in lieu of the county attorney.

22 (d) (I) THE COURT MUST BASE THE DETERMINATION OF THE
23 APPROPRIATE CIVIL PENALTY FOR A VIOLATION OF A COUNTY ZONING
24 ORDINANCE OR RESOLUTION, OR AMENDMENT THERETO, ON THE
25 FOLLOWING FACTORS:

26 (A) THE IMPACT OF THE VIOLATION ON PUBLIC HEALTH, SAFETY,
27 AND WELFARE;

- 1 (B) THE IMPACT OF THE VIOLATION ON NEIGHBORING PROPERTIES;
- 2 (C) THE VIOLATOR'S WILLINGNESS AND ABILITY TO COMPLY WITH
- 3 THE APPLICABLE LAWS;
- 4 (D) WHETHER MULTIPLE VIOLATIONS EXIST ON THE PROPERTY;
- 5 (E) PRIOR VIOLATIONS BY THE VIOLATOR ON THE PROPERTY; AND
- 6 (F) ANY OTHER RELEVANT FACTORS DETERMINED BY THE COURT.

7 (II) AS PART OF A COUNTY ZONING ORDINANCE OR RESOLUTION, OR
8 AMENDMENT THERETO, THE BOARD OF COUNTY COMMISSIONERS MAY
9 ADOPT A GRADUATED PENALTY SCHEDULE FOR ANY VIOLATION OF THE
10 ORDINANCE OR RESOLUTION, OR AMENDMENT THERETO. THE GRADUATED
11 PENALTY SCHEDULE MAY PROVIDE FOR INCREASED CIVIL PENALTY
12 ASSESSMENTS FOR REPEAT VIOLATIONS BY THE SAME INDIVIDUAL. IF THE
13 COUNTY HAS NOT ADOPTED A PENALTY SCHEDULE, THE COURT SHALL
14 EXERCISE ITS DISCRETION TO DETERMINE THE AMOUNT OF THE CIVIL
15 PENALTY.

16 (e) IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE
17 THAT A VIOLATION OF ANY REGULATION OR PROVISION OF A ZONING
18 ORDINANCE OR RESOLUTION, OR AMENDMENT THERETO, AS ENACTED AND
19 ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS, HAS OCCURRED,
20 THE COURT SHALL ORDER THE VIOLATOR TO PAY A CIVIL PENALTY IN AN
21 AMOUNT ALLOWED PURSUANT TO THIS SUBSECTION (1). THE PENALTY IS
22 PAYABLE IMMEDIATELY BY THE VIOLATOR TO THE COUNTY AS
23 DESIGNATED IN THE ZONING ORDINANCE OR RESOLUTION, OR AMENDMENT
24 THERETO.

25 (f) UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COURT AND
26 ASSESSED PURSUANT TO THIS SUBSECTION (1) IS, AS OF RECORDING, A LIEN
27 AGAINST THE PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO

1 EXIST. IF THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, THE COUNTY
2 ATTORNEY MAY CERTIFY THE NONPAYMENT TO THE COUNTY TREASURER,
3 WHO SHALL COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT
4 PENALTY FOR THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER
5 TAXES ARE COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND
6 COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND
7 REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF
8 ASSESSMENTS PURSUANT TO THIS SUBSECTION (1). ANY LIEN PLACED
9 AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION (1) MUST BE
10 RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE
11 PROPERTY IS LOCATED.

12 (2) (a) ~~In case~~ IF any building or structure is or is proposed to be
13 erected, constructed, reconstructed, altered, or used, or any land is or is
14 proposed to be used, in violation of any regulation or provision of any
15 zoning ORDINANCE OR resolution, or amendment thereto, enacted or
16 adopted by any board of county commissioners under the authority
17 granted by this part 1, the county attorney of the county in which ~~such~~
18 THE building, structure, or land is situated, in addition to other remedies
19 provided by law, may institute an injunction, mandamus, abatement, or
20 other appropriate action ~~or proceeding~~ IN COUNTY OR DISTRICT COURT to
21 prevent, enjoin, abate, or remove ~~such~~ THE unlawful erection,
22 construction, reconstruction, alteration, or use. ~~In the event that~~ IF there
23 is ~~no~~ NOT A county attorney or ~~in the event~~ IF that the board of county
24 commissioners deems it appropriate, the board of county commissioners
25 may appoint the district attorney of the judicial district to perform ~~such~~
26 THE enforcement duties in lieu of the county attorney.

27 (b) IN ADDITION TO THE CIVIL PENALTIES ALLOWED PURSUANT TO

1 SUBSECTION (1) OF THIS SECTION, THE COUNTY ATTORNEY MAY BRING AN
2 ACTION IN THE COUNTY COURT OR DISTRICT COURT THAT HAS
3 JURISDICTION OVER THE PROPERTY FOR AN ORDER ENJOINING THE
4 VIOLATION, ORDERING THE VIOLATION'S RESTRAINT, REMOVAL,
5 TERMINATION, OR ABATEMENT BY THE PROPERTY OWNER, AND
6 AUTHORIZING ABATEMENT BY THE COUNTY OR ITS AGENT OR TO ENJOIN
7 THE PROPOSED USE OF THE LAND. IN BRINGING THAT ACTION, THE COUNTY
8 ATTORNEY SHALL FILE A VERIFIED COMPLAINT. THE COURT SHALL REVIEW
9 THE VERIFIED COMPLAINT AND SCHEDULE A HEARING ON THE REQUEST FOR
10 AN ABATEMENT ORDER, INJUNCTION, OR OTHER APPROPRIATE REMEDY
11 PROVIDED FOR PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION AND
12 DIRECT THE ISSUANCE OF A SUMMONS STATING THE TIME, DATE, AND
13 PLACE OF THE PRELIMINARY HEARING, WHICH THE COURT SHALL
14 SCHEDULE NO LATER THAN THIRTY DAYS AFTER THE COUNTY ATTORNEY
15 FILES THE COMPLAINT. THE COUNTY SHALL SERVE THE SUMMONS AND
16 COMPLAINT ON THE PROPERTY OWNER IN ACCORDANCE WITH THE
17 APPLICABLE RULES OF CIVIL PROCEDURE AT LEAST TEN DAYS PRIOR TO THE
18 PRELIMINARY HEARING. IF THE COUNTY'S REASONABLE EFFORTS TO
19 PERSONALLY SERVE THE SUMMONS AND COMPLAINT ARE UNSUCCESSFUL,
20 THE COUNTY MAY POST THE SUMMONS AND COMPLAINT ON THE PROPERTY
21 AND MAIL THE SUMMONS AND COMPLAINT, CERTIFIED MAIL, RETURN
22 RECEIPT REQUESTED, TO THE PROPERTY OWNER'S ADDRESS IN THE
23 RECORDS OF THE COUNTY ASSESSOR AS AN ALTERNATIVE MEANS OF
24 PROVIDING SERVICE. IF THE COUNTY ATTORNEY PROVIDES ALTERNATIVE
25 SERVICE, THE COUNTY MUST PROVIDE THE ALTERNATIVE SERVICE AT
26 LEAST TEN DAYS PRIOR TO THE PRELIMINARY HEARING. AT THE TIME,
27 DATE, AND PLACE STATED IN THE SUMMONS, THE COURT SHALL REVIEW

1 AND CONSIDER THE REQUEST FOR AN ABATEMENT ORDER, INJUNCTION, OR
2 OTHER APPROPRIATE REMEDY PROVIDED FOR PURSUANT TO SUBSECTION
3 (2)(a) OF THIS SECTION, ANY STATEMENT AND EVIDENCE PRESENTED BY
4 THE COUNTY IN SUPPORT THEREOF, AND ANY STATEMENT AND EVIDENCE
5 PRESENTED BY THE PROPERTY OWNER, IF PRESENT. ON THE DATE AND AT
6 THE TIME SET FOR THE HEARING, IF THE PROPERTY OWNER FAILS TO
7 APPEAR, AND IF THE COUNTY PROVES THAT PROPER SERVICE WAS MADE ON
8 THE PROPERTY OWNER, THE COURT MAY GRANT THE RELIEF AS REQUESTED
9 BY THE COUNTY. A PROPERTY OWNER'S FAILURE TO APPEAR ON ANY DATE
10 SET FOR A PRELIMINARY HEARING HELD PURSUANT TO THIS SUBSECTION
11 (2)(b) IS GROUNDS FOR THE COURT TO ENTER A DEFAULT AND JUDGMENT
12 THEREON AGAINST A NONAPPEARING PROPERTY OWNER. FOR GOOD CAUSE
13 SHOWN, AND PRIOR TO ENFORCEMENT, THE COURT MAY SET ASIDE AN
14 ENTRY OF DEFAULT AND THE JUDGMENT ENTERED THEREON.

15 (c) IF THE COUNTY ABATES THE VIOLATION PURSUANT TO AN
16 ORDER OF A COURT, THE ACTUAL COSTS OF ABATEMENT, PLUS TEN
17 PERCENT OF THE ABATEMENT COSTS FOR INSPECTION AND OTHER
18 INCIDENTAL COSTS OF ABATEMENT, IS A LIEN AGAINST THE PROPERTY
19 UNTIL PAID AND HAS PRIORITY OVER ALL OTHER LIENS EXCEPT GENERAL
20 TAXES AND PRIOR SPECIAL ASSESSMENTS. IF THE ASSESSMENT IS NOT PAID
21 WITHIN A REASONABLE TIME SPECIFIED BY THE ZONING RESOLUTION, THE
22 COUNTY ATTORNEY OR COUNTY CLERK MAY CERTIFY THE NONPAYMENT
23 TO THE COUNTY TREASURER, WHO SHALL COLLECT THE ASSESSMENT,
24 TOGETHER WITH A TEN PERCENT PENALTY FOR THE COST OF COLLECTION,
25 IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED. THE LAWS OF
26 THIS STATE FOR ASSESSMENT AND COLLECTION OF GENERAL TAXES,
27 INCLUDING THE LAWS FOR THE SALE AND REDEMPTION OF PROPERTY FOR

1 TAXES, APPLY TO THE COLLECTION OF ASSESSMENTS PURSUANT TO THIS
2 SUBSECTION (2)(c) OF THIS SECTION.

3 (3) (a) IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT,
4 ALTER, OR USE ANY BUILDING OR STRUCTURE OR USE ANY LAND IN
5 VIOLATION OF ANY REGULATION IN, OR OF ANY PROVISIONS OF, ANY
6 ZONING ORDINANCE OR RESOLUTION, OR ANY AMENDMENT THEREOF,
7 ENACTED OR ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS UNDER
8 THE AUTHORITY OF THIS PART 1. ANY PERSON, FIRM, OR CORPORATION
9 THAT VIOLATES ANY SUCH REGULATION, PROVISION, OR AMENDMENT
10 THEREOF, OR ANY PROVISION OF THIS PART 1 COMMITS A CIVIL
11 INFRACTION, AND UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A
12 FINE OF UP TO THREE THOUSAND DOLLARS FOR EACH SEPARATE
13 VIOLATION, ACCORDING TO THE FINE SCHEDULE ADOPTED BY THE BOARD
14 OF COUNTY COMMISSIONERS. THE FINE SCHEDULE MAY INCLUDE
15 GRADUATED FINES AND MAY PROVIDE INCREASED CIVIL PENALTIES FOR
16 REPEAT OFFENSES BY THE SAME INDIVIDUALS. EACH DAY DURING WHICH
17 SUCH ILLEGAL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION,
18 OR USE OCCURS IS DEEMED A SEPARATE OFFENSE.

19 (b) (I) TO PURSUE A VIOLATION PURSUANT TO THIS SUBSECTION
20 (3), A COUNTY ZONING OFFICIAL AUTHORIZED PURSUANT TO SECTION
21 30-28-114 WHO, AFTER INVESTIGATION, HAS PERSONALLY OBTAINED
22 RELIABLE INFORMATION AND REASONABLE BELIEF OF ANY VIOLATION OF
23 SUBSECTION (3)(a) OF THIS SECTION, SHALL GIVE WRITTEN NOTICE TO THE
24 VIOLATOR TO CORRECT THE VIOLATION WITHIN TEN DAYS AFTER THE DATE
25 OF THE NOTICE. IF THE VIOLATOR FAILS TO CORRECT THE VIOLATION
26 WITHIN THE TEN-DAY PERIOD, ANY DESIGNATED ZONING PERSONNEL MAY
27 ISSUE, OR REQUEST THAT THE SHERIFF ISSUE A SUMMONS AND COMPLAINT

1 TO THE VIOLATOR, STATING THE NATURE OF THE VIOLATION WITH
2 SUFFICIENT PARTICULARITY TO GIVE NOTICE OF THE CHARGE TO THE
3 VIOLATOR. THE SUMMONS AND COMPLAINT MUST REQUIRE THAT THE
4 VIOLATOR APPEAR IN COUNTY COURT AT A DEFINITE TIME AND PLACE
5 STATED IN THE SUMMONS AND COMPLAINT TO ANSWER AND DEFEND THE
6 CHARGE.

7 (II) DESIGNATED ZONING PERSONNEL OR THE SHERIFF SHALL
8 SERVE ONE COPY OF A SUMMONS AND COMPLAINT ISSUED PURSUANT TO
9 SUBSECTION (3)(b)(I) OF THIS SECTION. THE DESIGNATED ZONING
10 PERSONNEL OR THE SHERIFF MAY PERSONALLY SERVE THE SUMMONS AND
11 COMPLAINT ON THE VIOLATOR AS SET FORTH IN THE COUNTY COURT RULES
12 OF CIVIL PROCEDURE. IF THE DESIGNATED ZONING PERSONNEL OR THE
13 SHERIFF'S REASONABLE EFFORTS TO PERSONALLY SERVE THE SUMMONS
14 AND COMPLAINT ON THE PROPERTY OWNER ARE UNSUCCESSFUL, THE
15 COUNTY MAY POST THE SUMMONS AND COMPLAINT ON THE PROPERTY AND
16 MAIL THE SUMMONS AND COMPLAINT TO THE PROPERTY OWNER'S ADDRESS
17 LISTED IN THE RECORDS OF THE COUNTY ASSESSOR. SERVICE IS COMPLETE
18 UPON MAILING THE SUMMONS AND COMPLAINT. THE OFFICE SERVING THE
19 SUMMONS AND COMPLAINT SHALL RETAIN ONE COPY OF EACH AND SHALL
20 TRANSMIT ONE COPY OF EACH TO THE CLERK OF THE COUNTY COURT.

21 (c) IT IS THE RESPONSIBILITY OF THE COUNTY ATTORNEY TO
22 ENFORCE THE PROVISIONS OF THIS SUBSECTION (3); EXCEPT THAT IF THERE
23 IS NOT A COUNTY ATTORNEY OR IF THE BOARD OF COUNTY
24 COMMISSIONERS DEEMS IT APPROPRIATE, THE BOARD OF COUNTY
25 COMMISSIONERS MAY APPOINT THE DISTRICT ATTORNEY OF THE JUDICIAL
26 DISTRICT TO PERFORM THE ENFORCEMENT DUTIES IN LIEU OF THE COUNTY
27 ATTORNEY.

1 (d) IF THERE IS A CONFLICT BETWEEN THIS SUBSECTION (3) AND
2 THE RULES OF CIVIL INFRACTIONS, THIS SUBSECTION (3) CONTROLS.

3 (4) THE COUNTY ATTORNEY HAS THE DISCRETION TO DETERMINE
4 WHETHER TO PURSUE THE REMEDIES SET FORTH IN SUBSECTIONS (1), (2),
5 OR (3) OF THIS SECTION, OR ANY COMBINATION THEREOF, OR ANY OTHER
6 REMEDIES AVAILABLE AT LAW OR IN EQUITY. NONE OF THESE REMEDIES
7 ARE INTENDED TO BE MUTUALLY EXCLUSIVE.

8 **SECTION 5.** In Colorado Revised Statutes, **amend** 30-28-209 as
9 follows:

10 **30-28-209. Penalties and enforcement.**

11 (1) (a) It is unlawful to erect, construct, reconstruct, or alter any
12 building or structure OR USE ANY BUILDING OR STRUCTURE in a manner
13 that results in a violation of any regulation in, or of any provisions of, the
14 area building code, or any amendment thereof, enacted or adopted by the
15 board of county commissioners under the authority of this part 2. Any
16 person, firm, or corporation violating any such regulation, provision, or
17 amendment thereof, or any provision of this part 2, ~~commits a civil~~
18 ~~infraction~~ SHALL, UPON REQUEST BY THE COUNTY, BE SUBJECT TO THE
19 IMPOSITION, BY ORDER OF THE COUNTY COURT OR THE DISTRICT COURT,
20 OF A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED DOLLARS OR MORE
21 THAN THREE THOUSAND DOLLARS. Each day during which such illegal
22 erection, construction, reconstruction, or alteration continues ~~shall be~~ IS
23 deemed a separate offense AND THE CIVIL PENALTY CONTINUES TO
24 ACCRUE UNTIL THE VIOLATION IS REMEDIED. NOTHING IN THIS SUBSECTION
25 (1)(a) PROHIBITS THE USE OF ANY BUILDING OR STRUCTURE IN VIOLATION
26 OF AN OTHERWISE APPLICABLE BUILDING CODE WHERE THE USE COMPLIES
27 WITH ANY BUILDING CODE THAT WAS IN EFFECT AT THE TIME THE

1 BUILDING OR STRUCTURE WAS ERECTED, CONSTRUCTED, RECONSTRUCTED,
2 OR ALTERED.

3 (b) (I) ~~It is unlawful to use any building or structure in violation~~
4 ~~of any regulation in, or of any provision of, the area building code, or any~~
5 ~~amendment thereto, enacted or adopted by any board of county~~
6 ~~commissioners under the authority of this part 2. Any person, firm, or~~
7 ~~corporation violating any such regulation, provision, or amendment~~
8 ~~thereof commits a civil infraction. Each day during which such illegal use~~
9 ~~of any building or structure continues shall be deemed a separate offense.~~
10 ~~Nothing in this subsection (1)(b)(I) prohibits the use of any building or~~
11 ~~structure in violation of an otherwise applicable building code where the~~
12 ~~use complies with any building code that was in effect at the time the~~
13 ~~building or structure was erected, constructed, reconstructed, or altered.~~

14 (II) ~~Whenever~~ TO PURSUE A VIOLATION PURSUANT TO THIS
15 SUBSECTION (1)(b)(II), a county building inspector authorized pursuant to
16 sections 30-28-114 and 30-28-205, or any inspector employed by an
17 intergovernmental entity created in accordance with the requirements of
18 part 2 of article 1 of title 29, C.R.S., who exercises the functions of a
19 county building inspector, WHO has, ~~personal knowledge~~ AFTER
20 INVESTIGATION, PERSONALLY OBTAINED RELIABLE INFORMATION AND
21 REASONABLE BELIEF of any violation of ~~the requirements of subparagraph~~
22 ~~(I) of this paragraph (b), he or she~~ THIS SUBSECTION (1)(b)(II), shall give
23 written notice to the violator to correct the violation within ten days after
24 the date of the notice. ~~Where~~ IF the violator fails to correct the violation
25 within the ten-day period, the county building inspector may ISSUE, OR
26 request that the sheriff of the county OR THE COUNTY ATTORNEY issue, a
27 summons and complaint to the violator stating the nature of the violation

1 with sufficient particularity to give notice of the charge to the violator.
2 The summons and complaint ~~shall~~ MUST require that the violator appear
3 in county OR DISTRICT court at a definite time and place stated therein to
4 answer and defend the charge.

5 (III) ~~One copy of the summons and complaint shall be served~~
6 ~~upon the violator by the sheriff of the county in the manner provided by~~
7 ~~law for the service of a criminal summons. One copy each shall be~~
8 ~~retained by the sheriff and the county building inspector, and one copy~~
9 ~~shall be transmitted by the sheriff to the clerk of the county court.~~

10 (IV) THE COLORADO RULES OF CIVIL PROCEDURE APPLY TO
11 DISTRICT COURT PROCEEDINGS AND THE COLORADO COUNTY COURT RULES
12 OF CIVIL PROCEDURE APPLY TO COUNTY COURT PROCEEDINGS.

13 (c) It is the responsibility of the county attorney to enforce the
14 provisions of this subsection (1); ~~Where~~ EXCEPT THAT IF there is ~~no~~ NOT
15 A county attorney or ~~in the event that~~ IF the board of county
16 commissioners deems it appropriate, the board may appoint the district
17 attorney of the judicial district in which the building or structure is
18 located to perform such enforcement duties in lieu of the county attorney.

19 (d) (I) THE COURT MUST BASE THE DETERMINATION OF THE
20 APPROPRIATE CIVIL PENALTY FOR A VIOLATION OF A COUNTY BUILDING
21 CODE, OR AMENDMENT THERETO, ON THE FOLLOWING FACTORS:

22 (A) THE IMPACT OF THE VIOLATION ON PUBLIC HEALTH, SAFETY,
23 AND WELFARE;

24 (B) THE IMPACT OF THE VIOLATION ON NEIGHBORING PROPERTIES;

25 (C) THE VIOLATOR'S WILLINGNESS AND ABILITY TO COMPLY WITH
26 THE APPLICABLE LAWS;

27 (D) WHETHER MULTIPLE VIOLATIONS EXIST ON THE PROPERTY;

1 (E) PRIOR VIOLATIONS BY THE VIOLATOR ON THE PROPERTY; AND

2 (F) ANY OTHER RELEVANT FACTORS DETERMINED BY THE COURT.

3 (II) AS PART OF THE COUNTY BUILDING CODE, OR AMENDMENT
4 THERETO, THE BOARD OF COUNTY COMMISSIONERS MAY ADOPT A
5 GRADUATED PENALTY SCHEDULE FOR ANY VIOLATIONS OF THE CODE, OR
6 AMENDMENT THERETO. THE GRADUATED PENALTY SCHEDULE MAY
7 PROVIDE FOR INCREASED CIVIL PENALTIES FOR REPEAT VIOLATIONS BY THE
8 SAME INDIVIDUAL. IF THE COUNTY HAS NOT ADOPTED A PENALTY
9 SCHEDULE, THE COURT SHALL EXERCISE ITS DISCRETION TO DETERMINE
10 THE AMOUNT OF THE CIVIL PENALTY.

11 (e) IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE
12 THAT A VIOLATION OF THE BUILDING CODE, OR AMENDMENT THERETO, AS
13 ENACTED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS, HAS
14 OCCURRED, THE COURT SHALL ORDER THE VIOLATOR TO PAY A CIVIL
15 PENALTY IN AN AMOUNT ALLOWED PURSUANT TO THIS SUBSECTION (1).
16 THE PENALTY IS PAYABLE IMMEDIATELY BY THE VIOLATOR TO THE
17 COUNTY AS DESIGNATED IN THE BUILDING CODE ORDINANCE OR
18 RESOLUTION, OR AMENDMENT THERETO.

19 (f) UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COURT AND
20 ASSESSED PURSUANT TO THIS SUBSECTION (1) IS, AS OF RECORDING, A LIEN
21 AGAINST THE PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO
22 EXIST. IF THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, THE COUNTY
23 ATTORNEY MAY CERTIFY THE NONPAYMENT TO THE COUNTY TREASURER,
24 WHO SHALL COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT
25 PENALTY FOR THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER
26 TAXES ARE COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND
27 COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND

1 REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF
2 ASSESSMENTS PURSUANT TO THIS SUBSECTION (1). ANY LIEN PLACED
3 AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION (1) MUST BE
4 RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE
5 PROPERTY IS LOCATED.

6 (2) (a) ~~In case~~ IF any building or structure is, or is proposed to be,
7 erected, constructed, reconstructed, altered, or used in violation of any
8 regulation or provision of the area building code, or amendment thereto,
9 enacted or adopted by any board of county commissioners under the
10 authority granted by this part 2, the county attorney of the county in which
11 ~~such~~ THE building, structure, or land is situated, in addition to other
12 remedies provided by law, may institute an injunction, mandamus,
13 abatement, or other appropriate action or proceeding to prevent, enjoin,
14 abate, or remove ~~such~~ THE unlawful erection, construction,
15 reconstruction, alteration, or use. ~~Where~~ IF there is ~~no~~ NOT A county
16 attorney or ~~in the event that~~ IF the board deems it appropriate, the board
17 may appoint the district attorney of the judicial district in which the
18 building or structure is located to perform ~~such~~ THE enforcement duties
19 in lieu of the county attorney.

20 (b) THE COUNTY ATTORNEY MAY BRING AN ACTION IN THE
21 COUNTY COURT OR DISTRICT COURT THAT HAS JURISDICTION OVER THE
22 PROPERTY FOR AN ORDER ENJOINING THE VIOLATION, ORDERING THE
23 VIOLATION'S RESTRAINT, REMOVAL, TERMINATION, OR ABATEMENT BY THE
24 PROPERTY OWNER, AND AUTHORIZING ABATEMENT BY THE COUNTY OR ITS
25 AGENT. IN BRINGING THAT ACTION, THE COUNTY ATTORNEY SHALL FILE A
26 VERIFIED COMPLAINT. THE COURT SHALL REVIEW THE VERIFIED
27 COMPLAINT AND SCHEDULE A HEARING ON THE REQUEST FOR AN

1 ABATEMENT ORDER OR INJUNCTION, OR OTHER APPROPRIATE REMEDY
2 PROVIDED FOR PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION AND
3 DIRECT THE ISSUANCE OF A SUMMONS STATING THE TIME, DATE, AND
4 PLACE OF THE PRELIMINARY HEARING, WHICH THE COURT SHALL
5 SCHEDULE NO LATER THAN THIRTY DAYS AFTER THE COUNTY ATTORNEY
6 FILES THE COMPLAINT. THE COUNTY SHALL SERVE THE SUMMONS AND
7 COMPLAINT ON THE PROPERTY OWNER IN ACCORDANCE WITH THE
8 APPLICABLE RULES OF CIVIL PROCEDURE AT LEAST TEN DAYS PRIOR TO THE
9 PRELIMINARY HEARING. IF THE COUNTY'S REASONABLE EFFORTS TO
10 PERSONALLY SERVE THE SUMMONS AND COMPLAINT ARE UNSUCCESSFUL,
11 THE COUNTY MAY POST THE SUMMONS AND COMPLAINT ON THE PROPERTY
12 AND MAIL THE SUMMONS AND COMPLAINT, CERTIFIED MAIL AND RETURN
13 RECEIPT REQUESTED, TO THE PROPERTY OWNER'S ADDRESS IN THE
14 RECORDS OF THE COUNTY ASSESSOR AS AN ALTERNATIVE MEANS OF
15 PROVIDING SERVICE. IF THE COUNTY PROVIDES ALTERNATE SERVICE, THE
16 COUNTY MUST PROVIDE THE ALTERNATIVE SERVICE AT LEAST TEN DAYS
17 PRIOR TO THE PRELIMINARY HEARING. AT THE TIME, DATE, AND PLACE
18 STATED IN THE SUMMONS, THE COURT SHALL REVIEW AND CONSIDER THE
19 REQUEST FOR AN ABATEMENT ORDER, INJUNCTION, OR OTHER
20 APPROPRIATE REMEDY PROVIDED FOR PURSUANT TO SUBSECTION (2)(a) OF
21 THIS SECTION, ANY STATEMENT AND EVIDENCE PRESENTED BY THE
22 COUNTY IN SUPPORT THEREOF, AND ANY STATEMENT AND EVIDENCE
23 PRESENTED BY THE PROPERTY OWNER, IF PRESENT. ON THE DATE AND AT
24 THE TIME SET FOR THE HEARING, IF THE PROPERTY OWNER FAILS TO
25 APPEAR, AND IF THE COUNTY PROVES THAT PROPER SERVICE WAS MADE ON
26 THE PROPERTY OWNER, THE COURT MAY GRANT THE ORDER AS REQUESTED
27 BY THE COUNTY. A PROPERTY OWNER'S FAILURE TO APPEAR ON ANY DATE

1 SET FOR A PRELIMINARY HEARING HELD PURSUANT TO THIS SUBSECTION
2 (2)(b) IS GROUNDS FOR THE COURT TO ENTER A DEFAULT AND JUDGMENT
3 THEREON AGAINST A NONAPPEARING PROPERTY OWNER. FOR GOOD CAUSE
4 SHOWN, AND PRIOR TO ENFORCEMENT, THE COURT MAY SET ASIDE AN
5 ENTRY OF DEFAULT AND THE JUDGMENT ENTERED THEREON.

6 (c) IF THE COUNTY ABATES THE VIOLATION PURSUANT TO AN
7 ORDER OF A COURT, THE ACTUAL COSTS OF ABATEMENT, PLUS TEN
8 PERCENT OF THE ABATEMENT COSTS FOR INSPECTION AND OTHER
9 INCIDENTAL COSTS OF ABATEMENT, IS A LIEN AGAINST THE PROPERTY
10 UNTIL PAID AND HAS PRIORITY OVER ALL OTHER LIENS EXCEPT GENERAL
11 TAXES AND PRIOR SPECIAL ASSESSMENTS. IF THE ASSESSMENT IS NOT PAID
12 WITHIN A REASONABLE TIME SPECIFIED BY THE RESOLUTION OR
13 ORDINANCE OPTING THE BUILDING CODE, THE COUNTY ATTORNEY MAY
14 CERTIFY THE NONPAYMENT TO THE COUNTY TREASURER, WHO SHALL
15 COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT PENALTY FOR
16 THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER TAXES ARE
17 COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND COLLECTION
18 OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND REDEMPTION
19 OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF ASSESSMENTS
20 PURSUANT TO THIS SUBSECTION (2)(c).

21 (3) (a) IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT,
22 ALTER, OR USE ANY BUILDING OR STRUCTURE IN A MANNER THAT RESULTS
23 IN A VIOLATION OF ANY REGULATION IN, OR OF ANY PROVISIONS OF, THE
24 AREA BUILDING CODE, OR ANY AMENDMENT THEREOF, ENACTED OR
25 ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS UNDER THE
26 AUTHORITY OF THIS PART 2. ANY PERSON, FIRM, OR CORPORATION
27 VIOLATING ANY SUCH REGULATION, PROVISION, OR AMENDMENT THEREOF,

1 OR ANY PROVISION OF THIS PART 2, COMMITS A CIVIL INFRACTION, AND
2 UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF UP TO
3 THREE THOUSAND DOLLARS FOR EACH SEPARATE VIOLATION, ACCORDING
4 TO THE FINE SCHEDULE ADOPTED BY THE BOARD OF COUNTY
5 COMMISSIONERS. THE FINE SCHEDULE MAY INCLUDE GRADUATED FINES
6 AND MAY PROVIDE INCREASED CIVIL PENALTIES FOR REPEAT OFFENSES BY
7 THE SAME INDIVIDUALS. EACH DAY DURING WHICH SUCH ILLEGAL
8 ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, OR USE
9 OCCURS IS DEEMED A SEPARATE OFFENSE AND THE CIVIL PENALTY
10 CONTINUES TO ACCRUE UNTIL THE VIOLATION IS REMEDIED. NOTHING IN
11 THIS SUBSECTION (3)(a) PROHIBITS THE USE OF ANY BUILDING OR
12 STRUCTURE IN VIOLATION OF AN OTHERWISE APPLICABLE BUILDING CODE
13 WHERE THE USE COMPLIES WITH ANY BUILDING CODE THAT WAS IN EFFECT
14 AT THE TIME THE BUILDING OR STRUCTURE WAS ERECTED, CONSTRUCTED,
15 RECONSTRUCTED, OR ALTERED.

16 (b) (I) TO PURSUE A VIOLATION PURSUANT TO THIS SUBSECTION
17 (3), A COUNTY BUILDING INSPECTOR AUTHORIZED PURSUANT TO SECTIONS
18 30-28-114 AND 30-28-205, OR ANY INSPECTOR EMPLOYED BY AN
19 INTERGOVERNMENTAL ENTITY CREATED IN ACCORDANCE WITH THE
20 REQUIREMENTS OF PART 2 OF ARTICLE 1 OF TITLE 29, WHO EXERCISES THE
21 FUNCTIONS OF A COUNTY BUILDING INSPECTOR, AND WHO, AFTER
22 INVESTIGATION, HAS PERSONALLY OBTAINED RELIABLE INFORMATION AND
23 REASONABLE BELIEF OF ANY VIOLATION OF SUBSECTION (3)(a) OF THIS
24 SECTION, SHALL GIVE WRITTEN NOTICE TO THE VIOLATOR TO CORRECT THE
25 VIOLATION WITHIN TEN DAYS AFTER THE DATE OF THE NOTICE. IF THE
26 VIOLATOR FAILS TO CORRECT THE VIOLATION WITHIN THE TEN-DAY
27 PERIOD, THE AUTHORIZED COUNTY BUILDING INSPECTOR MAY ISSUE, OR

1 REQUEST THAT THE SHERIFF ISSUE A SUMMONS AND COMPLAINT TO THE
2 VIOLATOR, STATING THE NATURE OF THE VIOLATION WITH SUFFICIENT
3 PARTICULARITY TO GIVE NOTICE OF THE CHARGE TO THE VIOLATOR. THE
4 SUMMONS AND COMPLAINT MUST REQUIRE THAT THE VIOLATOR APPEAR
5 IN COUNTY COURT AT A DEFINITE TIME AND PLACE STATED THEREIN TO
6 ANSWER AND DEFEND THE CHARGE.

7 (II) AN AUTHORIZED BUILDING INSPECTOR OR THE SHERIFF SHALL
8 SERVE ONE COPY OF A SUMMONS AND COMPLAINT ISSUED PURSUANT TO
9 SUBSECTION (3)(b)(I) OF THIS SECTION ON THE VIOLATOR. AN AUTHORIZED
10 BUILDING INSPECTOR OR THE SHERIFF MAY PERSONALLY SERVE THE
11 SUMMONS AND COMPLAINT ON THE VIOLATOR AS SET FORTH IN THE
12 COUNTY COURT RULES OF CIVIL PROCEDURE. IF AN AUTHORIZED BUILDING
13 INSPECTOR OR SHERIFF'S REASONABLE EFFORTS TO PERSONALLY SERVE
14 THE SUMMONS AND COMPLAINT ON THE PROPERTY OWNER ARE
15 UNSUCCESSFUL, THE COUNTY MAY POST THE SUMMONS AND COMPLAINT
16 ON THE PROPERTY AND MAIL THE SUMMONS AND COMPLAINT TO THE
17 PROPERTY OWNER'S ADDRESS LISTED IN THE RECORDS OF THE COUNTY
18 ASSESSOR. SERVICE IS COMPLETE UPON MAILING THE SUMMONS AND
19 COMPLAINT. THE OFFICE SERVING THE SUMMONS AND THE COMPLAINT
20 SHALL RETAIN ONE COPY OF EACH AND SHALL TRANSMIT ONE COPY EACH
21 TO THE CLERK OF THE COUNTY COURT.

22 (c) IT IS THE RESPONSIBILITY OF THE COUNTY ATTORNEY TO
23 ENFORCE THE PROVISIONS OF THIS SUBSECTION (3); EXCEPT THAT IF THERE
24 IS NOT A COUNTY ATTORNEY OR IF THE BOARD OF COUNTY
25 COMMISSIONERS DEEMS IT APPROPRIATE, THE BOARD OF COUNTY
26 COMMISSIONERS MAY APPOINT THE DISTRICT ATTORNEY OF THE JUDICIAL
27 DISTRICT TO PERFORM THE ENFORCEMENT DUTIES IN LIEU OF THE COUNTY

1 ATTORNEY.

2 (d) IF THERE IS A CONFLICT BETWEEN THIS SUBSECTION (3) AND
3 THE RULES OF CIVIL INFRACTIONS, THIS SUBSECTION (3) CONTROLS.

4 (4) THE COUNTY ATTORNEY HAS THE DISCRETION TO DETERMINE
5 WHETHER TO PURSUE THE REMEDIES SET FORTH IN SUBSECTIONS (1), (2),
6 OR (3) OF THIS SECTION, OR ANY COMBINATION THEREOF, OR ANY OTHER
7 REMEDIES AVAILABLE AT LAW OR IN EQUITY. NONE OF THESE REMEDIES
8 ARE INTENDED TO BE MUTUALLY EXCLUSIVE.

9 **SECTION 6.** In Colorado Revised Statutes, 30-35-201, **amend**
10 the introductory portion and (44) as follows:

11 **30-35-201. Powers of governing bodies.**

12 The governing body of a home rule county ~~shall exercise such~~
13 EXERCISES THE duties and authority and ~~shall have~~ HAS all the powers and
14 responsibilities as provided by law for governing bodies of counties not
15 adopting a home rule charter and ~~shall also have~~ ALSO HAS all of the
16 following powers that have been included in the county's home rule
17 charter or in any amendment thereto, pursuant to the provisions of section
18 30-35-103 (1):

19 **(Ordinance Power)**

20 (44) **Power and penalties.** To pass all ordinances and rules and
21 make all regulations proper or necessary to carry into effect the powers
22 granted to home rule counties, with ~~such~~ fines and penalties ~~as~~ THAT the
23 governing body ~~shall deem~~ DEEMS proper, but no fine or penalty shall
24 exceed ~~three hundred dollars~~ THE MAXIMUM FINE OR PENALTY
25 ESTABLISHED UNDER STATE LAW and no imprisonment shall exceed ninety
26 days for one offense;

27 **SECTION 7.** In Colorado Revised Statutes, **amend** 35-4-114 as

1 follows:

2 **35-4-114. Penalties.**

3 (1) (a) Except for sections 35-4-107 and 35-4-110.5, any person
4 who violates any of the provisions of this article 4 commits a civil
5 infraction. The commissioner or a board of county commissioners may
6 refer such cases to the district attorney of the county in which ~~such~~ THE
7 violation is alleged to have occurred for such action as may be deemed
8 necessary. The conviction of a violation of any of the provisions of this
9 article 4 ~~shall be~~ IS cause for revocation of any certificate, permit, or
10 appointment issued under this article 4.

11 (b) THE SHERIFF OR COUNTY ATTORNEY, AT THE REQUEST OF THE
12 BOARD OF COUNTY COMMISSIONERS, MAY ISSUE A SUMMONS OR
13 COMPLAINT TO THE VIOLATOR, STATING THE NATURE OF THE VIOLATION
14 WITH SUFFICIENT PARTICULARITY TO GIVE NOTICE OF THE CHARGE TO THE
15 VIOLATOR. THE SUMMONS AND COMPLAINT MUST REQUIRE THAT THE
16 VIOLATOR APPEAR IN COUNTY COURT AT A DEFINITE TIME AND PLACE
17 STATED IN THE SUMMONS TO ANSWER AND DEFEND THE CHARGE.

18 (c) IF THERE IS NOT A COUNTY ATTORNEY OR IF THE BOARD OF
19 COUNTY COMMISSIONERS DEEMS IT APPROPRIATE, THE BOARD OF COUNTY
20 COMMISSIONERS MAY APPOINT THE DISTRICT ATTORNEY OF THE JUDICIAL
21 DISTRICT TO PERFORM THE ENFORCEMENT DUTIES IN LIEU OF THE COUNTY
22 ATTORNEY.

23 (d) IF THERE IS A CONFLICT BETWEEN THIS SUBSECTION (1) AND
24 THE RULES OF CIVIL INFRACTIONS, THIS SUBSECTION (1) CONTROLS.

25 (2) (a) IN ADDITION TO THE ENFORCEMENT AUTHORITY IN
26 SUBSECTION (1) OF THIS SECTION, ANY PERSON WHO VIOLATES THIS
27 ARTICLE 4, EXCEPT FOR SECTIONS 35-4-107 AND 35-4-110.5, SHALL, UPON

1 REQUEST BY THE COUNTY, BE SUBJECT TO THE IMPOSITION, BY ORDER OF
2 THE COUNTY OR DISTRICT COURT, OF CIVIL PENALTY OF NOT LESS THAN
3 ONE HUNDRED DOLLARS OR MORE THAN THREE THOUSAND DOLLARS.
4 EACH DAY THE VIOLATION OCCURS IS DEEMED A SEPARATE OFFENSE AND
5 THE CIVIL PENALTY CONTINUES TO ACCRUE UNTIL THE VIOLATION IS
6 REMEDIED. THE COLORADO RULES OF CIVIL PROCEDURE APPLY TO
7 DISTRICT COURT PROCEEDINGS AND THE COLORADO COUNTY COURT RULES
8 OF CIVIL PROCEDURE APPLY TO COUNTY COURT PROCEEDINGS.

9 (b) IF THE COURT FINDS, BY A PREPONDERANCE OF THE EVIDENCE,
10 THAT A VIOLATION HAS OCCURRED, THE COURT SHALL ORDER THE
11 VIOLATOR TO PAY A CIVIL PENALTY IN AN AMOUNT ALLOWED PURSUANT
12 TO THIS SUBSECTION (2). THE PENALTY SHALL BE PAYABLE IMMEDIATELY
13 BY THE VIOLATOR TO THE COUNTY TREASURER.

14 (c) IN DETERMINING THE APPROPRIATE FINE FOR THE VIOLATION,
15 THE COURT MAY CONSIDER THE FOLLOWING FACTORS:

16 (I) THE IMPACT OF THE VIOLATION ON PUBLIC HEALTH, SAFETY,
17 AND WELFARE;

18 (II) THE IMPACT OF THE VIOLATION ON NEIGHBORING PROPERTIES;

19 (III) THE PROPERTY OWNER'S WILLINGNESS AND ABILITY TO
20 COMPLY WITH THE APPLICABLE LAWS;

21 (IV) WHETHER MULTIPLE VIOLATIONS EXIST ON THE PROPERTY;
22 AND

23 (V) PRIOR VIOLATIONS BY THE PROPERTY OWNER ON THE SUBJECT
24 PROPERTY.

25 (d) UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COURT AND
26 ASSESSED UNDER THIS SUBSECTION (2) IS, AS OF RECORDING, A LIEN
27 AGAINST THE PROPERTY ON WHICH THE VIOLATION HAS BEEN FOUND TO

1 EXIST. IF THE ASSESSMENT IS NOT PAID WITHIN THIRTY DAYS, THE COUNTY
2 ATTORNEY MAY CERTIFY THE NONPAYMENT TO THE COUNTY TREASURER,
3 WHO SHALL COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT
4 PENALTY FOR THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER
5 TAXES ARE COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND
6 COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND
7 REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF
8 ASSESSMENTS PURSUANT TO THIS SUBSECTION (2). ANY LIEN PLACED
9 AGAINST THE PROPERTY PURSUANT TO THIS SUBSECTION (2) SHALL BE
10 RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE
11 PROPERTY IS LOCATED.

12 **SECTION 8.** In Colorado Revised Statutes, **repeal and reenact,**
13 **with amendments,** 35-5.5-118.5 as follows:

14 **35-5.5-118.5. Local enforcement - civil infraction - civil**
15 **penalty - injunction - definitions.**

16 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES, "VIOLATION" MEANS A VIOLATION OF THIS ARTICLE 5.5, ANY
18 RULE ADOPTED PURSUANT TO THIS ARTICLE 5.5, OR ANY COUNTY
19 ORDINANCE, RESOLUTION, RULE, OR OTHER REGULATION IMPLEMENTING
20 THIS ARTICLE 5.5.

21 (2) (a) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE
22 COMMISSIONER PURSUANT TO SECTION 35-5.5-118, A PERSON WHO
23 VIOLATES THIS ARTICLE 5.5, ANY RULE ADOPTED PURSUANT TO THIS
24 ARTICLE 5.5, OR ANY COUNTY ORDINANCE, RESOLUTION, RULE, OR OTHER
25 REGULATION IMPLEMENTING THIS ARTICLE 5.5 COMMITS A CIVIL
26 INFRACTION. THE COUNTY ATTORNEY FOR THE COUNTY WHERE THE
27 VIOLATION OCCURS SHALL ENFORCE CIVIL INFRACTIONS PURSUANT TO THIS

1 SUBSECTION (2)(a) BY PROSECUTION. IF THERE IS A CONFLICT BETWEEN
2 THIS SECTION AND THE COLORADO RULES OF CIVIL INFRACTIONS, THIS
3 SECTION CONTROLS. EACH DAY THAT A VIOLATION OCCURS IS A SEPARATE
4 OFFENSE.

5 (b) AS USED IN THIS SUBSECTION (2), "PERSON" DOES NOT INCLUDE
6 A STATE AGENCY.

7 (3) (a) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE
8 COMMISSIONER PURSUANT TO SECTION 35-5.5-118 AND THE COUNTY
9 ATTORNEY PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, A DISTRICT
10 COURT OR COUNTY COURT, UPON A FINDING BY A PREPONDERANCE OF THE
11 EVIDENCE THAT A VIOLATION OCCURRED OR IS OCCURRING, SHALL ORDER
12 THE VIOLATOR TO PAY A CIVIL PENALTY OF NO LESS THAN ONE HUNDRED
13 DOLLARS AND NO MORE THAN THREE THOUSAND DOLLARS. EACH DAY
14 DURING WHICH A VIOLATION OCCURS IS DEEMED A SEPARATE OFFENSE.
15 THE COLORADO RULES OF CIVIL PROCEDURE APPLY TO DISTRICT COURT
16 PROCEEDINGS AND THE COLORADO COUNTY COURT RULES OF CIVIL
17 PROCEDURE APPLY TO COUNTY COURT PROCEEDINGS.

18 (b) (I) IN DETERMINING THE APPROPRIATE FINE FOR THE
19 VIOLATION, THE COURT MAY CONSIDER THE FOLLOWING FACTORS:

20 (A) THE IMPACT OF THE VIOLATION ON PUBLIC HEALTH, SAFETY,
21 AND WELFARE;

22 (B) THE IMPACT OF THE VIOLATION ON NEIGHBORING PROPERTIES;

23 (C) THE PROPERTY OWNER'S WILLINGNESS AND ABILITY TO
24 COMPLY WITH THE APPLICABLE LAWS;

25 (D) WHETHER MULTIPLE VIOLATIONS EXIST ON THE PROPERTY;
26 AND

27 (E) PRIOR VIOLATIONS BY THE PROPERTY OWNER ON THE SUBJECT

1 PROPERTY.

2 (II) UNTIL PAID, ANY CIVIL PENALTY ORDERED BY THE COURT AND
3 ASSESSED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION IS, AS OF
4 RECORDING, A LIEN AGAINST THE PROPERTY ON WHICH THE VIOLATION
5 HAS BEEN FOUND TO EXIST. IF THE ASSESSMENT IS NOT PAID WITHIN
6 THIRTY DAYS, THE COUNTY ATTORNEY MAY CERTIFY THE NONPAYMENT
7 TO THE COUNTY TREASURER, WHO SHALL COLLECT THE ASSESSMENT,
8 TOGETHER WITH A TEN PERCENT PENALTY FOR THE COST OF COLLECTION,
9 IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED. THE LAWS OF
10 THIS STATE FOR ASSESSMENT AND COLLECTION OF GENERAL TAXES,
11 INCLUDING THE LAWS FOR THE SALE AND REDEMPTION OF PROPERTY FOR
12 TAXES, APPLY TO THE COLLECTION OF ASSESSMENTS PURSUANT TO THIS
13 SUBSECTION (3). ANY LIEN PLACED AGAINST THE PROPERTY PURSUANT TO
14 THIS SECTION SHALL BE RECORDED WITH THE CLERK AND RECORDER OF
15 THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

16 (4) THE COUNTY ATTORNEY MAY BRING AN ACTION IN THE
17 COUNTY COURT OR DISTRICT COURT THAT HAS JURISDICTION OVER THE
18 PROPERTY FOR AN ORDER ENJOINING THE VIOLATION, ORDERING THE
19 VIOLATION'S RESTRAINT, REMOVAL, TERMINATION, OR ABATEMENT BY THE
20 PROPERTY OWNER, AND AUTHORIZING ABATEMENT BY THE COUNTY OR ITS
21 AGENT. IN BRINGING THAT ACTION, THE COUNTY ATTORNEY SHALL FILE A
22 VERIFIED COMPLAINT. THE COURT SHALL REVIEW THE VERIFIED
23 COMPLAINT AND SCHEDULE A HEARING ON THE REQUEST FOR AN
24 ABATEMENT ORDER, INJUNCTION, OR OTHER APPROPRIATE REMEDY AND
25 DIRECT THE ISSUANCE OF A SUMMONS STATING THE TIME, DATE, AND
26 PLACE OF THE HEARING, WHICH THE COURT SHALL SCHEDULE NO LATER
27 THAN THIRTY DAYS AFTER THE COUNTY ATTORNEY FILES THE COMPLAINT.

1 THE COUNTY SHALL SERVE THE SUMMONS AND COMPLAINT ON THE
2 PROPERTY OWNER IN ACCORDANCE WITH APPLICABLE RULES OF CIVIL
3 PROCEDURE AT LEAST TEN DAYS PRIOR TO THE PRELIMINARY HEARING. IF
4 THE COUNTY'S REASONABLE EFFORTS TO PERSONALLY SERVE THE
5 SUMMONS AND COMPLAINT ARE UNSUCCESSFUL, THE COUNTY MAY POST
6 THE SUMMONS AND COMPLAINT ON THE PROPERTY AND MAIL THE
7 SUMMONS AND COMPLAINT, CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
8 TO THE PROPERTY OWNER'S ADDRESS IN THE RECORDS OF THE COUNTY
9 ASSESSOR AS AN ALTERNATIVE MEANS OF PROVIDING SERVICE. IF THE
10 COUNTY PROVIDES ALTERNATIVE SERVICE, THE COUNTY MUST PROVIDE
11 THE ALTERNATIVE SERVICE AT LEAST TEN DAYS PRIOR TO THE
12 PRELIMINARY HEARING. AT THE TIME, DATE, AND PLACE STATED IN THE
13 SUMMONS, THE COURT SHALL REVIEW AND CONSIDER THE REQUEST FOR AN
14 ABATEMENT ORDER, ANY STATEMENT OF THE COUNTY IN SUPPORT
15 THEREOF, AND ANY STATEMENT AND EVIDENCE PRESENTED BY THE
16 PROPERTY OWNER, IF PRESENT. ON THE DATE AND AT THE TIME SET FOR
17 THE HEARING, IF THE PROPERTY OWNER FAILS TO APPEAR, AND IF THE
18 COUNTY PROVES THAT PROPER SERVICE WAS MADE ON THE PROPERTY
19 OWNER, THE COURT MAY GRANT THE ORDER AS REQUESTED BY THE
20 COUNTY. A PROPERTY OWNER'S FAILURE TO APPEAR ON ANY DATE SET FOR
21 A PRELIMINARY HEARING IS GROUNDS FOR THE COURT TO ENTER A
22 DEFAULT AND JUDGMENT THEREON AGAINST A NONAPPEARING PROPERTY
23 OWNER. FOR GOOD CAUSE SHOWN, AND PRIOR TO ENFORCEMENT, THE
24 COURT MAY SET ASIDE AN ENTRY OF DEFAULT AND THE JUDGMENT
25 ENTERED THEREON.

26 (5) IT IS THE RESPONSIBILITY OF THE COUNTY ATTORNEY TO
27 ENFORCE THE PROVISIONS OF THIS SECTION; EXCEPT THAT IF THERE IS NOT

1 A COUNTY ATTORNEY OR IF THE BOARD OF COUNTY COMMISSIONERS
2 DEEMS IT APPROPRIATE, THE BOARD OF COUNTY COMMISSIONERS MAY
3 APPOINT THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT TO PERFORM
4 THE ENFORCEMENT DUTIES PURSUANT TO SUBSECTIONS (2) AND (3) OF
5 THIS SECTION, IN LIEU OF THE COUNTY ATTORNEY.

6 (6) EXCEPT FOR ANY SURCHARGES OR COURT COSTS COLLECTED
7 BY A COURT, ANY FINES OR PENALTIES SHALL BE PAID TO THE COUNTY
8 TREASURER.

9 (7) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, IT IS
10 WITHIN THE DISCRETION OF A COUNTY ATTORNEY OR DISTRICT ATTORNEY,
11 AS APPLICABLE, TO DETERMINE WHETHER TO PURSUE AN ENFORCEMENT
12 ACTION PURSUANT TO THIS SECTION OR TO PURSUE ANOTHER REMEDY
13 AVAILABLE UNDER THE LAW.

14 **SECTION 9.** In Colorado Revised Statutes, **repeal** 30-28-124.5
15 and 30-28-210.

16 **SECTION 10. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2026 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.