

## CHAPTER 281

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**GOVERNMENT - COUNTY**


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**HOUSE BILL 03-1111**

BY REPRESENTATIVE(S) Harvey, Frangas, May M., and Weddig;  
also SENATOR(S) Evans, Hagedorn, and Phillips.

**AN ACT**

**CONCERNING THE AUTHORITY OF COUNTY GOVERNMENTS TO PROSECUTE VIOLATIONS OF THE COUNTY'S BUILDING CODE.**

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

**SECTION 1.** 30-28-209, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**30-28-209. Violation - injunction and other remedies.** (1) (a) IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT, OR ALTER 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, IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN TEN DAYS, OR BY BOTH SUCH FINE AND IMPRISONMENT. EACH DAY DURING WHICH SUCH ILLEGAL ERECTION, CONSTRUCTION, RECONSTRUCTION, OR ALTERATION CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE.

(b) (I) IT IS UNLAWFUL TO USE ANY BUILDING OR STRUCTURE IN VIOLATION OF ANY REGULATION IN, OR OF ANY PROVISION OF, THE AREA BUILDING CODE, OR ANY AMENDMENT THERETO, ENACTED OR ADOPTED BY ANY BOARD OF COUNTY COMMISSIONERS UNDER THE AUTHORITY OF THIS PART 2. ANY PERSON, FIRM, OR CORPORATION VIOLATING ANY SUCH REGULATION, PROVISION, OR AMENDMENT THEREOF IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, OR BY

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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.*

IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN TEN DAYS, OR BY BOTH SUCH FINE AND IMPRISONMENT. EACH DAY DURING WHICH SUCH ILLEGAL USE OF ANY BUILDING OR STRUCTURE CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE. NOTHING IN THIS SUBPARAGRAPH (I) SHALL BE CONSTRUED TO PROHIBIT 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.

(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 VIOLATION WITHIN THIRTY DAYS AFTER THE DATE OF SUCH NOTICE. WHERE THE VIOLATOR FAILS TO CORRECT THE VIOLATION WITHIN SUCH THIRTY-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 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.

(III) ONE COPY OF THE SUMMONS AND COMPLAINT SHALL BE SERVED UPON THE VIOLATOR BY THE SHERIFF OF THE COUNTY IN THE MANNER PROVIDED BY LAW FOR THE SERVICE OF A CRIMINAL SUMMONS. ONE COPY EACH SHALL BE RETAINED BY THE SHERIFF AND THE COUNTY BUILDING INSPECTOR, AND ONE COPY SHALL BE TRANSMITTED BY THE SHERIFF TO THE CLERK OF THE COUNTY COURT.

(c) IT IS THE RESPONSIBILITY OF THE COUNTY ATTORNEY TO ENFORCE THE PROVISIONS OF THIS SUBSECTION (1). WHERE THERE IS NO COUNTY ATTORNEY OR IN THE EVENT THAT 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.

(2) IN CASE 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 SUCH 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 SUCH UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, OR USE. WHERE THERE IS NO COUNTY ATTORNEY OR IN THE EVENT THAT 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 SUCH ENFORCEMENT DUTIES IN LIEU OF THE COUNTY ATTORNEY.

**SECTION 2. Effective date - applicability.** (1) This act shall take effect October 1, 2003.

(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 offenses committed on or after the applicable effective date of this act.

Approved: May 21, 2003