

CHAPTER 28

GOVERNMENT - COUNTY

HOUSE BILL 08-1065

BY REPRESENTATIVE(S) May M., Garza-Hicks, Kerr J., and Liston;
also SENATOR(S) Tochtrop.

AN ACT

CONCERNING THE AUTHORITY OF A COUNTY TO ENFORCE COUNTY ORDINANCES WITHIN THE BOUNDARY OF THE COUNTY.

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

SECTION 1. 25-12-104, Colorado Revised Statutes, is amended to read:

25-12-104. Action to abate. Whenever there is reason to believe that a nuisance exists, as defined in section 25-12-103, any COUNTY OR resident of the state may maintain an action in equity in the district court of the judicial district in which the alleged nuisance exists to abate and prevent such nuisance and to perpetually enjoin the person conducting or maintaining the same and the owner, lessee, or agent of the building or place in or upon which such nuisance exists from directly or indirectly maintaining or permitting such nuisance. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COUNTY SHALL NOT MAINTAIN AN ACTION PURSUANT TO THIS SECTION IF THE ALLEGED NUISANCE INVOLVES A MINING OPERATION OR THE DEVELOPMENT, EXTRACTION, OR TRANSPORTATION OF CONSTRUCTION MATERIALS, AS THOSE TERMS ARE DEFINED IN SECTION 34-32.5-103, C.R.S., A COMMERCIAL ACTIVITY, THE COMMERCIAL USE OF PROPERTY, AVALANCHE CONTROL ACTIVITIES, A FARMING OR RANCHING ACTIVITY, AN ACTIVITY OF A UTILITY, OR A MINING OR OIL AND GAS OPERATION. When proceedings by injunction are instituted, such proceedings shall be conducted under the Colorado rules of civil procedure. The court may stay the effect of any order issued under this section for such time as is reasonably necessary for the defendant to come into compliance with the provisions of this article.

SECTION 2. 30-11-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

30-11-101. Powers of counties. (2) COUNTIES HAVE THE AUTHORITY TO ADOPT AND ENFORCE ORDINANCES AND RESOLUTIONS REGARDING HEALTH, SAFETY, AND WELFARE ISSUES AS OTHERWISE PRESCRIBED BY LAW. IN ADDITION TO ANY OTHER ENFORCEMENT OR COLLECTION METHOD AUTHORIZED BY LAW, IF A COUNTY PASSES AN ORDINANCE OR RESOLUTION OF WHICH A VIOLATION WOULD BE A CLASS 2 PETTY OFFENSE, THE COUNTY MAY ELECT TO APPLY THE PENALTY ASSESSMENT PROCEDURE SET FORTH IN SECTION 16-2-201, C.R.S., AND MAY ADOPT A GRADUATED FINE SCHEDULE FOR MULTIPLE OFFENSES. IF A SPECIFIED OFFENSE WOULD BE AN UNCLASSIFIED MISDEMEANOR, A COUNTY MAY ELECT TO DOWNGRADE THE OFFENSE TO A CLASS 2 PETTY OFFENSE AND APPLY THE PENALTY ASSESSMENT PROCEDURE UNDER CIRCUMSTANCES DEEMED APPROPRIATE AND PRESCRIBED BY THE COUNTY IN AN ORDINANCE OR RESOLUTION.

SECTION 3. 30-15-401 (2) (a), Colorado Revised Statutes, is amended to read:

30-15-401. General regulations. (2) (a) (I) ~~Such~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE ORDINANCES DESCRIBED IN SUBSECTION (1) OF THIS SECTION shall apply throughout the unincorporated area of the county including public and state lands and to any incorporated town or city ~~which~~ THAT elects by ordinance or resolution to have the provisions thereof apply.

(II) THE BOARD OF COUNTY COMMISSIONERS MAY DESIGNATE, BY RESOLUTION, AREAS IN THE UNINCORPORATED TERRITORY OF THE COUNTY EXCLUSIVELY WITHIN WHICH AN ORDINANCE ADOPTED PURSUANT TO THIS SECTION SHALL APPLY. THE BOARD SHALL SET FORTH A RATIONAL BASIS FOR THE DESIGNATION AND HOLD A PUBLIC HEARING PRIOR TO MAKING THE DESIGNATION AT WHICH ANY INTERESTED PERSON SHALL HAVE AN OPPORTUNITY TO BE HEARD.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-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, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 17, 2008