



2024 Legislative Issue Form

To propose a CCI legislative issue, please complete this form.

Feel free to use more than one page and include any supplemental materials.

1.) Contact Information (of person bringing forth issue):

- a. **Name:** John Galusha
- b. **Title:** Commissioner
- c. **County:** Huerfano County
- d. **Phone Number:** 719.248.4541
- e. **E-Mail Address:** john@huerfano.us

2.) Issue/Problem to be addressed (What is the problem this legislation is seeking to solve?)

Code Enforcement is a significant issue in Huerfano County. Currently, Counties are required to file a civil case in County Court to enforce zoning violations and in certain instances are allowed to file a criminal citation into County Court. Further, Counties are limited to a maximum fine of \$100 per day for ongoing offenses after judgment has been rendered in County Court. These issues mean that Counties are stuck with overly hostile and time consuming processes to enforce zoning violations. The length of time to file a civil suit, particularly with the limited resources in rural counties, often leads to animosity from neighbors towards violators and the County. Further property owners in violation of local codes can string out enforcement for months without addressing issues that may present a danger to public health and safety and, because of the amount of cases before Courts across the state, are afforded time to switch property into the name of another entity.

3.) Background on this Issue/Problem (How did this come to be? Why are you seeking a legislative remedy?)

Huerfano County has struggled to clean up areas of the County where code violations, such as illegal marijuana grows, dilapidated properties, and illegal camping, have become common. Voluntary compliance rates are high across most of the County, but when we encounter difficult property owners the County Court route presents special challenges from delay tactics to transferring property ownership to another entity, which starts the process over. Most of these tactics are only possible because of the amount of time it takes to get a violation into County court.

In other states, localities have the option to levy fines administratively in what is effectively a quasi-judicial process. Having the option to do so in Colorado would help Counties develop a more efficient code enforcement system, closer to what municipalities currently have, and allow matters to be addressed in a timely manner. Saving staff time and lessening the burden on the Courts.

4.) Proposed Solution/Legislative Remedy to this issue.

Huerfano County proposes a bill that will (1) Allow Counties the option to create a Code Enforcement Board that can levy fines during quasi-judicial hearings; and (2) raise the maximum fine for an ongoing code enforcement violation to \$1000 per day from \$100 per day. The proposed legislation would allow a Code Enforcement Board to levy the \$1000 per day fine only for a violation involving the health or safety of the public or a third party. County Courts would be able to exercise their discretion more broadly.

5.) Have you explored a non-legislative solution to this problem?

Yes, Huerfano has historically worked closely with neighbors and property owners to assist with resolving code violations. While the majority are resolved voluntarily, more persistent or hostile violators require a stronger approach that is not available because of how the statute is written.

6.) Statutory Citation to be modified AND proposed/revised language (The Colorado Revised Statute is available for free at [this link](#), by selecting "Colorado Revised Statutes").

Current Code Enforcement rules are at C.R.S. 30-28-124 and 30-28-124.5

Draft language attached.

Please submit this completed form to Brittney Becerra at bbecerra@ccionline.org

By Friday, July 7.



7.) **Relationship of this issue to County Commissioner's roles and/or authorities.**

County Commissioners pass and are expected to enforce zoning codes. When persistent issues occur, County Commissioners receive the calls and complaints about the lack of enforcement. This solution will help County's resolve issues in a more straightforward manner.

8.) **Has this proposal been approved by the Board of County Commissioners?**

Yes

9.) **List any potential Proponents/Opponents & their perspective; indicate any groups/individuals with whom you have already discussed this issue.**

TBD

10.) **Have you visited with your legislator(s) about this proposal? What was their reaction? Are members of your delegation likely to sponsor, support, or oppose this proposal?**

Not yet, we expect to visit with them in the coming days.

11.) **Anticipated Fiscal Impact (to counties, state, other stakeholders, etc.).**

We expect that Counties that choose to create a code board will save money on legal fees and staff time dedicated to Code Enforcement and that the Courts will have fewer court dates dedicated to Code Enforcement.

12.) **Please list the local subject matter experts CCI staff can follow-up with for more information on this proposal.** Carl Young, Huerfano County Administrator and Lisa Powell-DeJong, Huerfano County Attorney

13.) **If your county is submitting multiple issue forms, please rank each issue.**

2 of 2

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Code Enforcement Boards Draft Language

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 the violation within ten days after the date of the notice. Should the violator fail to correct the violation within the ten-day period, 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 the charge to the violator. The summons and complaint shall require that the violator appear in county court, or before a code enforcement board established under this part 1, at a definite time and place stated therein to answer and defend the charge.

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 1 may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than five hundred dollars nor more than 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 ~~one hundred~~ one thousand dollars for each such day. 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.

30-28-1XX – Code Enforcement Board – establishment - powers

- (1) The board of county commissioners of any county which enacts zoning regulations under the authority of this part 1 may provide for a code enforcement board of three, five, or seven members and for the manner of the appointment of such members. Not more than half of the members of such board may at any time be members of the planning commission. The board of county commissioners shall fix per diem compensation and terms for the members of such code

enforcement board, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the code enforcement board may be removed for cause by the board of county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The board of county commissioners may appoint up to two alternate members of such board, and, in the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or any other cause, his or her place may be taken during such temporary disability by an alternate member designated for that purpose.

- (2) The board of county commissioners shall provide and specify in its zoning or other resolutions general rules to govern the organization, procedure, and jurisdiction of said code enforcement board, which rules shall not be inconsistent with the provisions of this part 1. The code enforcement board may adopt supplemental rules of procedure not inconsistent with this part 1 or such general rules.
- (3) Each enforcement board shall have the power to:
 - a. Adopt rules for the conduct of its hearings, which rules shall, at a minimum, ensure that each side has an equal opportunity to present evidence and argument in support of its case;
 - b. Compel the attendance of witnesses by application to the county court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings.
 - c. Subpoena evidence to its hearings in the same way as provided in paragraph (2) of this section, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance;
 - d. Take testimony under oath; and
 - e. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- (4) The county attorney shall either be counsel to an enforcement board or shall represent the county by presenting cases before the enforcement board but in no case shall the county attorney serve in both capacities.

30-28-1XX – Code Enforcement Board – meetings – appeals

- (1) Upon request of the code enforcement officer, or at such other times as may be necessary, the chairperson of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The board of county commissioners may provide or assign clerical and administrative personnel to assist the enforcement board in the proper performance of its duties.
- (2) Each case before an enforcement board shall be presented by the county attorney or by a code enforcement officer or other member of the administrative staff of the board of county commissioners.
- (3) An enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the

code enforcement officer and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

- (4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this article. The findings and conclusions shall be by motion approved by a majority of those members present and voting, except that at least four members of a seven-member enforcement board, three members of a five-member enforcement board, or two members of a three-member enforcement board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.
- (5) An enforcement board, upon notification by the code enforcement officer that an order of the enforcement board has not been complied with by the set time may order the violator to pay an administrative fine in an amount specified in this Code section.
- (6)
 - a. An administrative fine imposed pursuant to this Code section for a violation involving the health or safety of the public or a third party shall not exceed \$1,000.00 per day.
 - b. An administrative fine imposed pursuant to this Code section for a violation that is not a violation involving the health or safety of the public or a third party shall not exceed \$500.00 per day
 - c. In determining the amount of the fine, if any, the enforcement board shall consider the following factors:
 - i. The gravity of the violation;
 - ii. Any actions taken by the violator to correct the violation; and
 - iii. Any previous violations committed by the violator.
 - d. An enforcement board may reduce a fine imposed pursuant to this Code section.
- (7) A certified copy of an order imposing an administrative fine may be recorded in the public records of any county and thereafter shall constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator. Upon petition to the superior court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the filing of any such lien which remains unpaid, the enforcement board may request the county attorney to foreclose on the lien.
- (8) No lien imposed under this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to

foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

- (9) An aggrieved party, including the board of county commissioners, may appeal a final administrative order of an enforcement board to county court. Such an appeal shall be a hearing de novo. An appeal shall be filed within 30 days of the execution of the order to be appealed.