SUPREME COURT, STATE OF COLORADO

Case Nos. 90SC0659, 90SC0670 & 90SC0693
CERTIORARI TO THE DISTRICT COURT OF EL PASO COUNTY 90 CR 0702 & 90 CR 1003

BRIEF OF AMICUS CURIAE OF THE CITY OF AURORA, COLORADO, AND THE COLORADO MUNICIPAL LEAGUE IN SUPPORT OF RESPONDENT

R.E.N., S.D.W. and C.B.H.,

Petitioners

v.

CITY OF COLORADO SPRINGS, COLORADO,

Respondent.

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TABLE OF CONTENTS

PAGE

TABLE OF AUTHORITIES. ii

INTRODUCTION. 1

STATEMENT OF THE ISSUES 1

STATEMENT OF THE CASE 1

STATEMENT OF FACTS. 2

SUMMARY OF ARGUMENT 2

INTERESTS OF AMICI 3

ARGUMENT. 4

A. THE HOME RULE AMENDMENT DOES NOT REQUIRE THAT THE PROSECUTION OF JUVENILES IN MUNICIPAL COURT WHEN A JAIL SENTENCE IS NOT A POSSIBLE PENALTY COMPLY WITH THE PROVISIONS OF THE COLORADO CHILDREN'S CODE . . 5

1. THERE IS NO CONFLICT BETWEEN A STATUTE AND AN ORDINANCE. 6

2. PROSECUTION OF JUVENILES IN MUNICIPAL COURT IS A MATTER OF LOCAL CONCERN. 8

B. WHETHER JUVENILES CAN BE PROSECUTED IN MUNICIPAL COURT WHEN JAIL IS NOT A PENALTY DOES NOT REQUIRE AN ANALYSIS OF ARTICLE XX, SECTION 6 OF THE COLORADO CONSTITUTION, BUT CAN BE DETERMINED BY THE LEGISLATIVE INTENT OF THE COLORADO CHILDREN'S CODE FOR ALL MUNICIPAL COURTS, WHETHER IN STATUTORY OR HOME RULE MUNICIPALITIES 15

C. APPLICATION OF THE STATE COURT PROCEDURES MANDATED FOR PROCEEDINGS BROUGHT UNDER THE CHILDREN'S CODE, TO THE PROSECUTION OF JUVENILES IN MUNICIPAL COURT, MAY RESULT IN THE UNNECESSARY REMOVAL OF AN UNPRECEDENTED NUMBER OF JUVENILE CASES FROM THE MUNICIPAL COURT SYSTEM, REQUIRING THAT THESE CASES BE PROSECUTED IN THE ALREADY OVERBURDENED STATE COURT SYSTEM 16

CONCLUSION. 18

APPENDIX A-FOOTNOTES. 20

CERTIFICATE OF SERVICE. 21

TABLE OF AUTHORITIES

CASES PAGE

Blackman v. County Court, 169 Colo. 345, 455 P.2d 885 (1969). .10

City of Aurora v. Martin, 181 Colo. 72, 507 P.2d 868 (1973) . . 6

City and County of Denver v. State of Colorado, 788 P.2d 764 (Colo. 1990). . . . . .8,13,14,15, Appendix A at 20

National Advertising Company v. Department of Highways, 751 P.2d 632 (Colo. 1986) . . . . . .Appendix A at 20

People v. Horan, 192 Colo. 144, 556 P.2d 1217 (1976) cert. denied 431 U.S. 966 S.Ct. 2922, 53 L.Ed.2d 1061 9

People v. Maynes, 193 Colo. 111, 662 P.2d 756 (1977). 7,16

Quintana v. Edgewater Municipal Court, 179 Colo. 90, 498 P.2d 931 (1972) 10

Ray v. City and County of Denver, 109 Colo. 74, 121 P.2d 886 (1942). 6

Schooley v. Cain, 142 Colo. 485, 351 P.2d 389 (1960). 11

Vela v. People, 174 Colo. 465, 484 P.2d 1204 (1971) 6

Wigent v. Shinsato, 43 Colo. App. 83, 601 P.2d 653 (1979) . . . 7

CONSTITUTIONS, STATUTES AND RULES

COLORADO CONSTITUTION

ARTICLE XX. 3,4

ARTICLE XX, SECTION 6 2,8,10,15

COLORADO REVISED STATUTES

13-10-101 9,15

13-10-103 7,9

13-10-104 9,15

13-10-113 7,15

19-1-103(17). 17

19-1-115. 7

19-2-102. 7,9,13,16

19-2-204. 7

31-1-101(2) 13

31-1-101(3) 13

31-15-101 15

COLORADO SESSION LAWS

SENATE BILL 144 (1987). 6,7

OTHER AUTHORITY

3A C.J.S. AMICUS CURIAE SECTION 6 1

3A C.J.S. AMICUS CURIAE SECTION 9 1

INTRODUCTION

Petitioners R.E.N., S.D.W. and C.B.H. were defendants in the trial court and will be referred to by name individually or collectively as "Defendants". Respondent, the City of Colorado Springs, Colorado, representing the State of Colorado, will be referred to as "Prosecution". The City of Aurora, Colorado has been granted leave to file a brief of amicus curiae and will be referred to as "Aurora". The Colorado Municipal League has filed its request for leave to join in this brief of amicus curiae and will be referred to as the" League". The purpose of this brief is to call the Court's attention to facts and circumstances that may otherwise escape consideration, 3A C.J.S. Amicus Curiae Section 6, and to elaborate upon questions of important general and public interest, supra Section 9.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

Whether the City of Colorado Springs' prosecution of juveniles for city ordinances, where no jail sentence may be imposed, and without affording the rights provided in the Colorado Children's Code, is a violation of the Home Rule Amendment.

STATEMENT OF THE CASE

Aurora and the League hereby incorporate the statements of the respective cases contained in the brief of the Prosecution.

STATEMENT OF THE FACTS

Aurora and the League hereby incorporate the statement of the facts contained in the brief of the Prosecution.

SUMMARY OF ARGUMENT

A. The Home Rule Amendment does not require that prosecution of juveniles in municipal court comply with the provisions contained within the Colorado Children's Code, when jail is not a potential penalty.

B. Prosecution of juveniles in municipal court, when jail is not a penalty, does not require an analysis of Article XX, Section 6 of the Colorado Constitution, but can be determined by the legislative intent of the Colorado Children's Code for all municipal courts, whether statutory or home rule municipalities.

C. Application of the state court procedures mandated for proceedings brought under the Children's Code, to the prosecution of juveniles in municipal court, may result in the unnecessary removal of an unprecedented number of juvenile cases from the municipal court system, requiring that these cases be prosecuted in the already overburdened state court system.

INTERESTS OF AMICI

Aurora, as a home rule municipality, has enacted ordinances involving most of the areas covered by state statutory misdemeanors and petty offenses, and prosecutes juveniles who have allegedly violated these ordinances. Due, in part, to a perceived scarcity of state judicial resources, Aurora has committed substantial police, prosecutorial, and judicial resources to the establishment and maintenance of a six-division municipal court system and has dedicated one such division to the prosecution of juvenile ordinance violators.

The League is a non-profit voluntary association of 247 municipalities located throughout the state of Colorado, including all 68 home rule municipalities, all municipalities greater than 2,000 in population, and the vast majority of those having a population of 2,000 or less. The League's membership represents 99.9 percent of the municipal population of Colorado.

The League represents its members on matters of significant concern to Colorado municipalities statewide. All Colorado municipalities, statutory as well as home rule, are required to have municipal courts. Therefore, the application of the Colorado Children's Code to juveniles prosecuted in municipal courts concerns all municipalities in Colorado.

The district court correctly found that a city's prosecution of juveniles in municipal court without affording the rights of the Children's Code does not violate Article XX of the Colorado

Constitution or the counterpart thereof. Petitioners are attempting to reverse that holding.

Protection of the rights and powers retained by the people in Article XX of the Colorado Constitution is important to the League, its members, and Aurora. In order for Petitioners to prevail, long standing judicial precedent construing Article XX of the Colorado Constitution would be negated. If municipal courts must comply with all of the requirements of the Children's Code, the costs of the operation of municipal courts would increase substantially, perhaps to the extent of shifting the prosecution into the state judicial system, and will significantly adversely impact the prosecution of juvenile ordinance violators in the Aurora Municipal Criminal Justice System, and in other Colorado cities and towns.

ARGUMENT

The issue before this Court is not whether a municipal court has jurisdiction over juveniles for the purpose of enforcing ordinance violations. All parties agree that such jurisdiction exists.

The issue before this Court is not whether the nature of the offenses of which the Defendants were charged are of such type and nature as they should not be before a municipal court. All parties agree that the offenses involved were appropriately before a municipal court.

The issue before this Court is not whether the protections of the Colorado Children's Code are required by the Colorado or United States Constitutions. All parties agree that the Children's Code contains statutory privileges which are not constitutionally required.

The issue before this Court is whether a municipal court may exercise its recognized jurisdiction over a juvenile, for an alleged non-traffic ordinance violation where no jail sentence may be imposed, only if it provides to that juvenile defendant certain privileges provided in the Colorado Children's Code.

The Defendants have asserted that in order for a municipal court to exercise its jurisdiction over juveniles, it must provide to the defendant <u>all</u> privileges afforded juveniles prosecuted under the terms of the Children's Code. The logical conclusion of this assertion is that if only one of these privileges are not provided by the municipal court, that court may not exercise its jurisdiction over the juvenile.

It is apparently conceded by all parties that, pursuant to the statute, the privileges listed within the Children's Code are not applicable to matters arising within municipal court. Rather, what the Defendants appear to assert, is that municipal courts must be required, as a result of the mixed state and local concern analysis, to provide these privileges to juveniles.

A. THE HOME RULE AMENDMENT DOES NOT REQUIRE THAT THE PROSECUTION OF JUVENILES IN MUNICIPAL COURT WHEN A JAIL

SENTENCE IS NOT A POSSIBLE PENALTY COMPLY WITH THE PROVISIONS OF THE COLORADO CHILDREN'S CODE.

In order for there to be a violation of the Home Rule Amendment, the Colorado Children's Code must be determined to be a matter of statewide or mixed concern and there must be a conflict between the Colorado Children's Code (Title 19 of the Colorado Revised Statutes) and ordinances of the City of Colorado Springs. Vela v. People, 174 Colo. 465, 484 P.2d 1204 (1971).

1. There is no conflict between a statute and an ordinance.

The test for determining if there is a conflict is "whether the ordinance authorizes what the statute forbids, or forbids what the statute has expressly authorized". City of Aurora v. Martin, 181 Colo. 72, 507 P.2d 868, 870 (1973); Vela v. People, 174 Colo. 465, 484 P.2d 1204 (1971); Ray v. City and County of Denver, 109 Colo. 74, 121 P.2d 886 (1942).

The Children's Code does not forbid prosecution of juveniles in municipal court when jail is not a possible penalty, and in fact, specifically provides for such prosecution. The Colorado Children's Code was repealed and re-enacted by the state legislature in 1987 by Senate Bill 144. SB 144, 56th General Assembly, First Regular Session, Chapter 138, Colorado Session Laws (1987) (hereafter SB 144). SB 144 was adopted after the Court of Appeals had decided that the Children's Code did not

control municipal violations for which jail was not a possible penalty. Wigent v. Shinsato, 43 Colo. App. 83, 601 P.2d 653 (1979). The decision of this Court in 1977 that the special procedures of the Children's Code do not apply to juveniles charged with offenses outside the ambit of the Children's Code was also made before the adoption of SB 144. People v. Maynes, 193 Colo. 111, 662 P.2d 756 (1977).

The legislature could have overruled these decisions in SB 144 or any other act if it intended different results. Instead, it adopted SB 144 repealing and re-enacting Title 19 and making conforming amendments to other titles, including Article 10 of Title 13 governing municipal courts. The only limitations placed on municipal courts with respect to juveniles in SB 144 involve juvenile incarceration. Section 13-10-103 and 113, C.R.S. The Children's Code excludes from the jurisdiction of juvenile court juveniles over the age of 10 who violate a municipal ordinance for which jail is not a possible penalty. Section 19-2-102(1)(a)(II), C.R.S.

Not only does the Children's Code permit prosecution of juveniles in municipal court, it permits such prosecution without any of the statutory privileges provided by the Children's Code, except for the protection of juvenile incarceration provided by Section 19-2-204 and 19-1-115, C.R.S. Therefore, there is no conflict between the Children's Code and ordinances of the City of Colorado Springs, which do not provide all of the privileges of the Children's Code.

2. Prosecution of juveniles in municipal court is a matter of local concern.

This Court most recently recognized the procedures for determining whether a matter is of statewide, local or mixed concern in City and County of Denver v. State of Colorado, 788 P.2d 764 (Colo. 1990) (hereafter Denver v. State).

In Denver v. State this Court set forth several factors that are useful to consider in determining whether a matter is of statewide or local concern, including whether the Colorado Constitution specifically commits a particular matter to state or local regulation, interests in uniformity of regulations, whether the matter is traditionally governed at the state or local level, extraterritorial impact of a local regulations, and the state and local interests. Denver v. State at 768. Applying these factors to this case, prosecution of juveniles in municipal court when jail is not a possible penalty, is a matter of local concern.

a. Colorado Constitution

The Colorado Constitution specifically grants home rule municipalities the right to define and regulate the jurisdiction, powers and duties of its municipal courts. Article XX, Section 6, Colorado Constitution.

People v. Horan, 192 Colo. 144, 556 P.2d 1217 (1976) cert. denied 431 U.S. 966 S.Ct. 2922, 53 L.Ed.2d 1061.

b. Uniformity of Regulations

The interest of the state in uniformity of regulations for prosecution of juveniles in municipal court are set forth in Article 10 of Title 13 and Title 19. Neither statute contains a declaration of statewide concern, except in Section 13-10-101, which relates solely to jury trials for petty offenses.

The only attempt by the legislature to preempt home rule powers in either statute is contained in Section 13-10-103; but see, Appendix A. That section purports to pre-empt local control only in the areas of incarceration of juveniles, the right to jury trial for petty offenses, rules of procedure adopted by the Supreme Court, and appellate procedure. Section 13-10-103, C.R.S. Therefore, the state legislature has exhibited no interest in additional uniformity of regulations for prosecution of juveniles in municipal court for ordinance violations, when there is no possibility of incarceration. In fact, the legislature has specifically delegated that power to and recognizes that such authority resides with the municipal court. Section 13-10-104; Section 19-2-102(1)(a)(II) C.R.S.

Additionally, all municipal courts in the state are subject to uniform procedural regulations through the Colorado Municipal Court Rules of Procedure, promulgated by this Court. The prosecution of all juveniles in municipal courts throughout the state are governed by these rules. Therefore, adequate statewide uniform regulations are provided.

c. Historical considerations

Historically, Colorado has maintained that municipal court are particularly adaptable to handling prosecution of misdemeanors and petty criminal offenses.

Article XX, Section 6 of the State Constitution, adopted in 1901, including a reservation of power to home rule municipalities to create municipal courts. The statutory provisions for municipal courts were first adopted in 1969 (now at Section 13-10-101 et seq. C.R.S.) This Court has recognized that municipal courts are a valid and necessary adjunct to the state court system and some offenses are best prosecuted in municipal court. Quintana v. Edgewater Municipal Court, 179 Colo. 90, 498 P.2d 931 (1972); Blackman v.

County Court, 169 Colo. 345, 455 P.2d 885 (1969); Schooley v. Cain, 142 Colo. 485, 351 P.2d 389 (1960).

d. Extraterritorial Impact

Extraterritorial impacts will occur only if this Court adopts the position asserted by the Defendants. All such impacts are negative.

In the event a municipality elects to refuse to provide the privileges demanded by the Defendants, the case must then be removed to the juvenile division of the district court if it is to be prosecuted. This may place such demands on the state judicial system (for reasons discussed below) to require a significant expansion of the juvenile system. The result of such expansion will be an additional tax burden placed upon the persons residing within and outside of the involved municipality, where there existed jurisdiction over the juvenile but such jurisdiction was not exercised due to its election not to provide the involved privileges. In essence, the financial burden of prosecuting what would otherwise constitute a municipal ordinance violation falls upon all taxpayers within the district.

e. State Interest

The state interest has been to allow municipal courts to prosecute juveniles when jail is not a possible penalty as described above. If these cases are not tried in municipal court, the following results probably occur:

1. The juvenile cases, tried in municipal court, would, of necessity, be brought into the already overburdened state court system; and

2. In all likelihood the majority of the juvenile cases historically tried in municipal court (curfew violations, shoplifting, liquor violations, trespassing, etc.) would slip through the system entirely and no prosecution in the municipal or state courts would occur. (The City of Arvada recently took steps to acquire municipal court jurisdiction over marijuana possession cases. The reason for this action flows from a perceived lack of attention by the state court system.)

f. Local Interest

The local interest is to uphold municipal laws. If juveniles can ignore the law, the probability of criminal activity increases. Many Colorado

municipalities have programs directed at the specific juvenile problems within their jurisdictions. These include DARE programs (Drug Abuse Resistance Education) taught by over 150 police officers to elementary school children in over 65 jurisdictions throughout the state; Criminal Justice classes taught to high school students by various police departments throughout the state; as well as juvenile diversion programs and other efforts by local governments to keep juveniles out of the criminal justice system. Most of those programs rely on the concept that there are negative consequences for illegal activities, and instill a sense of ownership with the students in fighting the war on drugs and crime in their community. If prosecution of juveniles is eliminated from municipal courts, resulting in only the most serious offenses by juveniles being prosecuted in state courts, these programs will be severely undermined. These factors are similar to the "sense of pride in their work" factors which this Court found so compelling in Denver v. State, at page 771.

The alternative argued by Defendants is to have all municipal courts provide a number of services contained in the Children's Code, including:

1. Right to have appointed counsel if indigent or if parents refuse to provide counsel;

2. Right to have a social study done for consideration of the court at disposition unless waived by the court after appropriate findings.

These are privileges not constitutionally required, and not statutorily required to be applied to juveniles prosecuted in municipal court by Title 19, Article 10 of Title 13, or the Colorado Municipal Court Rules. These privileges are not accorded juvenile defendants within the Aurora Municipal Court as well as the Colorado Springs Municipal Court or any other municipal court within the State of Colorado, as far as Aurora and the League are aware. In order for these privileges to be afforded juvenile offenders in municipal court, the municipalities may find it necessary to appropriate significant additional funds.

As discussed in Section C below, the practical effect of such decision would be to eliminate prosecution of juveniles from the municipal court. Prosecution of juveniles in municipal court, when jail is not a possible penalty, meets all of the tests set forth in Denver v. State for an issue to be of local concern. The state's interest is also promoted by municipal

courts continuing to prosecute juveniles for minor offenses. This is exemplified in both Article XX, Section 6 of the Colorado Constitution, the Colorado Children's Code and Section 10 of Title 13 of the Colorado Revised Statutes. Therefore, any state interests is insufficient to make the issue a matter of mixed or statewide concern. Denver v. State, at 767.

B. WHETHER JUVENILES CAN BE PROSECUTED IN MUNICIPAL COURT WHEN JAIL IS NOT A PENALTY DOES NOT REQUIRE AN ANALYSIS OF ARTICLE XX, SECTION 6 OF THE COLORADO CONSTITUTION, BUT CAN BE DETERMINED BY THE LEGISLATIVE INTENT OF THE COLORADO CHILDREN'S CODE FOR ALL MUNICIPAL COURTS, WHETHER IN STATUTORY OR HOME RULE MUNICIPALITIES.

Colorado statutory municipalities have the powers granted by any statute and such implied or incidental powers as are necessary to exercise such powers. Section 31-15-101, C.R.S. Colorado law requires every statutory and home rule city and town to create a municipal court to hear and try all alleged violations of ordinances. Section 13-10-104, Sections 31-1-101(2) and (13), C.R.S. The only restriction contained in Article 10, Title 13 for prosecution of juveniles is on incarceration of juveniles. Section 13-10-113(4) and (5). Traffic offenses and municipal ordinance violations for which jail is not a possible penalty are specifically excluded from the

ambit of the Children's Code. Section 19-2-102(1)(a), People v. Maynes, 193 Colo. 111, 562 P.2d 756 (1977).

Since there is specific statutory authority for municipal courts to prosecute juveniles, when jail is not a penalty, the Court can avoid the constitutional issue of a potential conflict with the Home Rule Amendment of the Colorado Constitution.

C. APPLICATION OF THE STATE COURT PROCEDURES MANDATED FOR PROCEEDINGS BROUGHT UNDER THE CHILDREN'S CODE, TO THE PROSECUTION OF JUVENILES IN MUNICIPAL COURT, MAY RESULT IN THE UNNECESSARY REMOVAL OF AN UNPRECEDENTED NUMBER OF JUVENILE CASES FROM THE MUNICIPAL COURT SYSTEM, REQUIRING THAT THESE CASES BE PROSECUTED IN THE ALREADY OVERBURDENED STATE COURT SYSTEM.

In order to understand the impact that removal of juvenile prosecution for municipal court may have on the state court system, Aurora would provide the Court with the following:

1. Aurora is the third most populous city in the State of Colorado; and

2. For calendar year 1990, there were 3,639 non-traffic juvenile filings in the Aurora Municipal Court; and

3. For the first quarter of calendar year 1991, there were 1,247 non-traffic juvenile filings in the Aurora Municipal Court (this is an average of over 20 cases per working day); and

4. Extrapolating the figures referred to in number 3 above, there will be 4,988 non-traffic juvenile filings for calendar year 1991.

Should the City Council of the City of Aurora, Colorado determine for policy, fiscal, or other reasons that they will not require the municipal court to provide to juvenile defendants all the privileges referenced in the Children's Code, each and every one of the above-referenced summonses must be filed in the state court or otherwise not be prosecuted.

For the purposes of juvenile proceedings, the juvenile court is that specific juvenile division located within the district court. C.R.S 19-1-103(17). As each municipality declines to provide these privileges to juvenile offenders all of the outstanding matters, traditionally heard in municipal court, devolve to the district court.

As these cases are transferred to the juvenile court, the defendants and their parents experience additional costs and travel. This becomes necessary since they must travel from the municipality wherein the alleged violation occurred to the location of the juvenile division of the district court.

In this time where local governments are budget sensitive, city councils will have to look closely in evaluating any determination as to the appropriation of additional funds. In this context, even where a city council desires to appropriate such additional funds, they may not be available. By way of example, the citizens of the City of Colorado Springs have just recently, through initiative election, enacted strict taxation and expenditure limitations. Within this context, it may become difficult for the City of Colorado Springs to exercise any "option" as a prerequisite to jurisdiction over juveniles.

Arguably, a municipality may elect to appropriate such funds as will be necessary to provide the privileges asserted by the Defendants. However, due to the fiscal condition of municipalities, the governing bodies must determine what direct benefit it would receive in providing such benefits and balance, against that benefit, the potential costs. There does exist a certain probability that municipalities, throughout the State of Colorado, will determine that such costs, if mandated, have been mandated by the State Legislature and that the state should pick up the costs rather than any municipality.

CONCLUSION

The position asserted by the Defendants in the above-captioned matter is unconstitutional, against public policy, and is not sound from either a legal basis or from a view point of judicial economy. For these reasons, Aurora and the League would

respectfully request this Court to specifically find and determine that municipal court prosecution of juveniles for violations of city ordinances, where no jail sentence may be imposed, and without affording the rights provided in the Colorado Children's Code is appropriate for statutory and home rule municipalities and is not a violation of the Home Rule Amendment.

Respectfully submitted this 12th day of April, 1991.

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APPENDIX A

A declaration of statewide concern in a statute is entitled to great weight but is not binding on this Court. Denver v. State; National Advertising Company v. Department of Highways, 751 P.2d 632, 635 (Colo. 1986). "If the constitutional provisions establishing the right of home rule municipalities to legislate as to their local affairs are to have any meaning, we must look beyond the mere declaration of state interest and determine whether in fact the interest is present." Denver v. State, at 768, footnote 6.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above BRIEF OF AMICUS CURIAE OF THE CITY OF AURORA, COLORADO, AND THE COLORADO MUNICIPAL LEAGUE IN SUPPORT OF RESPONDENT this 12 day of April, 1991 by depositing a true copy in the United States mail, with sufficient postage prepared and addressed as follows:

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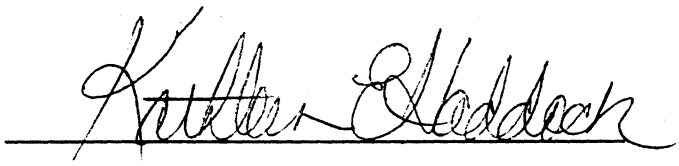

shall, in the act calling the convention, designate the day, hour and place of its meeting; fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the state of Colorado, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary; which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

Section 2. Amendments to constitution - how adopted. (1) Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and, if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals. The proposed amendment or amendments shall be published with the laws of that session of the general assembly. At the next general election for members of the general assembly, the said amendment or amendments shall be submitted to the registered electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution.

(2) If more than one amendment be submitted at any general election, each of said amendments shall be voted upon separately and votes thereon cast shall be separately counted the same as though but one amendment was submitted; but each general assembly shall have no power to propose amendments to more than six articles of this constitution.

As amended November 4, 1980 — Effective upon proclamation of the Governor, December 19, 1980. (See Laws 1979, p. 1674.)

ARTICLE XX

Home Rule Cities and Towns

Section 1. Incorporated. The municipal corporation known as the city of Denver and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver". By that name said corporation shall have perpetual succession, and shall own, possess, and hold all property, real and personal, theretofore owned, possessed, or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed, or held by the said county of Arapahoe, and shall assume, manage, and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities, and shall acquire all benefits and shall assume and pay all bonds, obligations, and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold, and enjoy or sell and dispose of, real and personal property; may receive bequests, gifts, and donations of all kinds of property, in fee simple, or in trust for public, charitable, or other purposes; and do all things and acts necessary to carry out the purposes of such gifts, bequests, and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust; shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct, and operate water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefore, for the use of said city and county and the inhabitants thereof, and any such systems, plants, or works or ways, or any contracts in relation or connection with either, that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The provisions of section 3 of article XIV of this constitution and the general annexation and consolidation statutes of the state relating to counties shall apply to the city and county of Denver. Any contiguous town, city, or territory hereafter annexed to or consolidated with the city and county of Denver, under any such laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of D
always constitute one judici
state.

(The preceding three
amended by the People, No
Effective upon proclamation
December 20, 1974.)

Any other provisions of t
the contrary notwithstanding:

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shall be initiated after the eff
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Section 2. Officers. Th
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The city and county of Denver shall alone always constitute one judicial district of the state.

(The preceding three paragraphs were amended by the People, November 5, 1974 - Effective upon proclamation of the Governor, December 20, 1974.)

Any other provisions of this constitution to the contrary notwithstanding:

No annexation or consolidation proceeding shall be initiated after the effective date of this amendment pursuant to the general annexation and consolidation statutes of the state of Colorado to annex lands to or consolidate lands with the city and county of Denver until such proposed annexation or consolidation is first approved by a majority vote of a six-member boundary control commission composed of one commissioner from each of the boards of county commissioners of Adams, Arapahoe, and Jefferson counties, respectively, and three elected officials of the city and county of Denver to be chosen by the mayor. The commissioners from each of the said counties shall be appointed by resolution of their respective boards.

No land located in any county other than Adams, Arapahoe, or Jefferson counties shall be annexed to or consolidated with the city and county of Denver unless such annexation or consolidation is approved by the unanimous vote of all the members of the board of county commissioners of the county in which such land is located.

Any territory attached to the city and county of Denver or the city of Lakewood or the city of Aurora during the period extending from April 1, 1974, to the effective date of this amendment, whether or not subject to judicial review, shall be detached therefrom on July 1, 1975, unless any such annexation is ratified by the boundary control commission on or before July 1, 1975.

Nothing in this amendment shall be construed as prohibiting the entry of any final judgment in any annexation judicial review proceeding pending on April 1, 1974, declaring any annexation by the city and county of Denver to be invalid.

The boundary control commission shall have the power at any time by four concurring votes to detach all or any portion of any territory validly annexed to the city and county of Denver during the period extending from March 1, 1973, to the effective date of this amendment.

All actions, including actions regarding procedural rules, shall be adopted by the commission by majority vote. Each commissioner shall have one vote, including the commissioner who acts as the chairman of the commission. All procedural rules adopted by the commission shall be filed with the secretary of state.

This amendment shall be self-executing.

(The preceding seven paragraphs were adopted November 5, 1974 - Effective upon proclamation of the Governor, December 20, 1974. (See Laws 1974, p. 457.))

Section 2. Officers. The officers of the city and county of Denver shall be such as by appointment or election may be provided for by the charter; and the jurisdiction, term of office, duties and qualifications of all such officers shall be such as in the charter may be provided; but the charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law, as far as applicable. If any officer of said city and county of Denver shall receive any compensation whatever, he or she shall receive the same as a stated salary, the amount of which shall be fixed by the charter, or, in the case of officers not in the classified civil service, by ordinance within limits fixed by the charter, and paid out of the treasury of the city and county of Denver in equal monthly payments; provided, however, no elected officer shall receive any increase or decrease in compensation under any ordinance passed during the term for which he was elected.

As amended November 7, 1950. (See Laws 1951, p. 232.)

Section 3. Transfer of government. Immediately upon the canvass of the vote showing the adoption of this amendment, it shall be the duty of the governor of the state to issue his proclamation accordingly, and thereupon the city of Denver, and all municipal corporations and that part of the county of Arapahoe within the boundaries of said city, shall merge into the city and county of Denver, and the terms of office of all officers of the city of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex officio surveyor and said chief of police shall be ex officio sheriff of the city and county of Denver; and the then clerk and ex officio recorder, treasurer, assessor and coroner of the county of Arapahoe, and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex officio attorney of the city and county of Denver. The foregoing officers shall hold the said offices as above specified only until their successors are duly elected and qualified as herein provided for; except that the then district judges, county judge and district attorney shall serve their full terms, respectively, for which elected. The police and firemen of the city of Denver, except the chief of police as such, shall continue severally as the police and firemen of the city and county of Denver until they are severally discharged under such civil service regulations as shall be provided by the charter; and every charter shall provide that the department of fire and police and the department of public utilities and works shall be under

such civil service regulations as in said charter shall be provided.

Added November 4, 1902. (See Laws 1901, p. 100.)

Section 4. First charter. (1) The charter and ordinances of the city of Denver as the same shall exist when this amendment takes effect, shall, for the time being only, and as far as applicable, be the charter and ordinances of the city and county of Denver; but the people of the city and county of Denver are hereby vested with and they shall always have the exclusive power in the making, altering, revising or amending their charter and, within ten days after the proclamation of the governor announcing the adoption of this amendment the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one taxpayers who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention to frame a charter for said city and county in harmony with this amendment. Immediately upon completion, the charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county who shall publish the same in full, with his official certification, in the official newspaper of said city and county, three times, and a week apart, the first publication being with the call for a special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter shall be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against) duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention shall be elected at a special election to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection) until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the organic law thereof, and supersede any existing charters and amendments thereof. The members of each of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election.

(2) Every ordinance for a special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid the officers and members thereof, allowing no compensation in case of non-attendance or tardy attendance, and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.

(3) All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses of elections for charter conventions and of charter votes shall be paid out of the treasury upon the order of the council.

(4) Any franchise relating to any street, alley, or public place of the said city and county shall be subject to the initiative and referendum powers reserved to the people under section 1 of article V of this constitution. Such referendum power shall be guaranteed notwithstanding a recital in an ordinance granting such franchise that such ordinance is necessary for the immediate preservation of the public peace, health, and safety. Not more than five percent of the registered electors of a home rule city shall be required to order such referendum. Nothing in this section shall preclude a home rule charter provision which requires a lesser number of registered electors to order such referendum or which requires a franchise to be voted on by the registered electors. If such a referendum is ordered to be submitted to the registered electors, the grantee of such franchise shall deposit with the treasurer the expense (to be determined by said treasurer) of such submission. The council shall have power to fix the rate of taxation on property each year for city and county purposes.

As amended November 4, 1986 — Effective upon proclamation of the Governor, December 17, 1986. (For the text of this amendment and the votes cast thereon, see Laws 1986, p. 1239 and Laws 1987, p. 1859.)

Section 5. New charters, amendments or measures. The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided;

It shall be competent for qualified electors in number not less than five percent of the next preceding gubernatorial vote in said city and county to petition the council for any measure, or charter amendment, or for a charter convention. The council shall submit the same to a vote of the qualified electors at the next general election not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten percent of the next preceding gubernatorial vote in said city and county, with a request for a spe-

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The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspapers, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters. Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which shall have been approved by majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against) officially certified by him, and the same shall go into effect from the date of such filing. He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment, measure or proposal for a charter convention. Each charter shall also provide for a reference upon proper petition therefor, of measures passed by the council to a vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may by petition request.

The signatures to petitions in this amendment mentioned need not all be on one paper. Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote. And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes.

The city council, or board of trustees, or other body in which the legislative powers of any home rule city or town may then be vested, on its own initiative, may submit any measure, charter amendment, or the question whether or not a charter convention shall be called, at any general or special state or municipal election held not less than 30 days after the effective date of the ordinance or resolution submitting such question to the voters.

As amended November 7, 1950. (See Laws 1951, p. 232.)

Section 6. Home rule for cities and towns. The people of each city or town of this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the state of Colorado or said city or town, are hereby vested with, and they shall always have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all its local and municipal matters.

Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.

Proposals for charter conventions shall be submitted by the city council or board of trustees, or other body in which the legislative powers of the city or town shall then be vested, at special elections, or at general, state or municipal elections, upon petition filed by qualified electors, all in reasonable conformity with section 5 of this article, and all proceedings thereon or thereafter shall be in reasonable conformity with sections 4 and 5 of this article.

From and after the certifying to and filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this article, such city or town, and the citizens thereof, shall have the powers set out in sections 1, 4 and 5 of this article, and all other powers necessary, requisite or proper for the government and administration of its local and municipal matters, including power to legislate upon, provide, regulate, conduct and control:

a. The creation and terms of municipal officers, agencies and employments; the definition, regulation and alteration of the powers, duties, qualifications and terms or tenure of all municipal officers, agents and employees;

b. The creation of police courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of police magistrates therefor;

c. The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof;

d. All matters pertaining to municipal elections in such city or town, and to electoral votes therein on measures submitted under the charter or ordinances thereof, including the calling or notice and the date of such election or vote, the registration of voters, nominations, nomination and election systems, judges and clerks of election, the form of ballots, balloting, challenging, canvassing, certifying the result, securing

the purity of elections, guarding against abuses of the elective franchise, and tending to make such elections or electoral votes non-partisan in character;

e. The issuance, refunding and liquidation of all kinds of municipal obligations, including bonds and other obligations of park, water and local improvement districts;

f. The consolidation and management of park or water districts in such cities or towns or within the jurisdiction thereof; but no such consolidation shall be effective until approved by the vote of a majority, in each district to be consolidated, of the qualified electors voting therein upon the question;

g. The assessment of property in such city or town for municipal taxation and the levy and collection of taxes thereon for municipal purposes and special assessments for local improvements; such assessments, levy and collection of taxes and special assessments to be made by municipal officials or by the county or state officials as may be provided by the charter;

h. The imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.

It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self-government in both local and municipal matters and the enumeration herein of certain powers shall not be construed to deny such cities and towns, and to the people thereof, any right or power essential or proper to the full exercise of such right.

The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except insofar as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.

All provisions of the charters of the city and county of Denver and the cities of Pueblo, Colorado Springs and Grand Junction, as heretofore certified to and filed with the secretary of state, and of the charter of any other city heretofore approved by a majority of those voting thereon and certified to and filed with the secretary of state, which provisions are not in conflict with this article, and all elections and electoral votes heretofore had under and pursuant thereto, are hereby ratified, affirmed and validated as of their date.

Any act in violation of the provisions of such charter or of any ordinance thereunder shall be criminal and punishable as such when so provided by any statute now or hereafter in force.

The provisions of this section 6 shall apply to the city and county of Denver.

This article shall be in all respects self-executing.

As amended November 5, 1912. (See Laws 1913, p. 669.)

Section 7. City and county of Denver single school district - consolidations. The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education consisting of such numbers, elected in such manner as the general school laws of the state shall provide, and until the first election under said laws of a full board of education which shall be had at the first election held after the adoption of this amendment, all the directors of school district No. 1, and the respective presidents of the school boards of school districts Nos. 2, 7, 17 and 21, at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said district by the general laws of the state. Except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said "District No. 1".

Upon the annexation of any contiguous municipality which shall include a school district or districts or any part of a district, said school district or districts or part shall be merged in said "District No. 1", which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts, and a proper proportion of those of partially included districts.

Provided, however, that the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part, by this amendment or by annexation, of said "District No. 1", shall be paid by said school district so owing the same by a special tax to be fixed and certified by the board of education to the council which shall levy the same upon the property within the boundaries of such district, respectively, as the same existed at the time such district becomes a part of said "District No. 1", and in case of partially included districts such tax shall be equitably apportioned upon the several parts thereof.

Added November 4, 1902. (See Laws 1901, p. 105.)

Section 8. Conflicting constitutional provisions declared inapplicable. Anything in the constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

Added November 4, 1902. (See Laws 1901, p. 106.)

Section 9. Procedure and requirements for adoption. (1) Notwithstanding any provision in sections 4, 5, and 6 of this article to the contrary, the registered electors of each city and

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county, city, and town of the state are hereby vested with the power to adopt, amend, and repeal a home rule charter.

(2) The general assembly shall provide by statute procedures under which the registered electors of any proposed or existing city and county, city, or town may adopt, amend, and repeal a municipal home rule charter. Action to initiate home rule shall be by petition, signed by not less than five percent of the registered electors of the proposed or existing city and county, city, or town, or by proper ordinance by the city council or board of trustees of a town, submitting the question of the adoption of a municipal home rule charter to the registered electors of the city and county, city, or town. No municipal home rule charter, amendment thereto, or repeal thereof, shall become effective until approved by a majority of the registered electors of such city and county, city, or town voting thereon. A new city or town may acquire home rule status at the time of its incorporation.

(3) The provisions of this article as they existed prior to the effective date of this section, as they relate to procedures for the initial adoption of home rule charters and for the amendment of existing home rule charters, shall continue to apply until superseded by statute.

(4) It is the purpose of this section to afford to the people of all cities, cities and counties, and towns the right to home rule regardless of population, period of incorporation, or other limitation, and for this purpose this section shall be self-executing. It is the further purpose of this section to facilitate adoption and amendment of home rule through such procedures as may hereafter be enacted by the general assembly.

Adopted November 3, 1970 — Effective January 1, 1972. (See Laws 1969, p. 1250); (1) and (2) as amended November 6, 1984 — Effective upon proclamation of the Governor, January 14, 1985. (For the text of this amendment and the votes cast thereon, see Laws 1984, p. 1146 and Laws 1985, p. 1791.)

ARTICLE XXI

Recall from Office

Section 1. State officers may be recalled. Every elective public officer of the state of Colorado may be recalled from office at any time by the registered electors entitled to vote for a successor of such incumbent through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and shall be in addition to and without excluding any other method of removal provided by law.

The procedure hereunder to effect the recall of an elective public officer shall be as follows:

A petition signed by registered electors entitled to vote for a successor of the incumbent sought to be recalled, equal in number to twenty-five percent of the entire vote cast at the last preceding election for all candidates for the position which the incumbent sought to be recalled occupies, demanding an election of the successor to the officer named in said petition, shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed; provided, if more than one person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the said petition shall be signed by registered electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office, at the last preceding general election; and such petition shall contain a general statement, in not more than two hundred words, of the ground or grounds on which such recall is sought, which statement is intended for the information of the registered electors, and the registered electors shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be open to review.

As amended November 6, 1984 — Effective upon proclamation of the Governor, January 14, 1985. (For the text of this amendment and the votes cast thereon, see Laws 1984, p. 1147 and Laws 1985, p. 1791.)

Section 2. Form of recall petition. Any recall petition may be circulated and signed in sections, provided each section shall contain a full and accurate copy of the title and text of the petition; and such recall petition shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed.

The signatures to such recall petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition, and his place of residence, giving his street number, if any, should he reside in a town or city. The person circulating such sheet must make and subscribe an oath on said sheet that the signatures thereon are genuine, and a false oath, willfully so made and subscribed by such person, shall be perjury and be punished as such. All petitions shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers, and such signers shall be deemed and held to be registered electors, unless a protest in writing under oath shall be filed in the office in which such petition has been filed, by some registered elector, within fifteen days after such petition is filed, setting forth specifically the grounds of such protest, whereupon the officer with whom such petition is filed shall forthwith mail a copy of such protest to the person or persons named in such petition as representing the signers thereof, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is mailed. All hearings shall be

utes prescribing special proceedings or, in the absence thereof, by the Colorado rules of civil procedure.

13-9-117. Juries. When required, juries may be selected and summoned as provided for courts of record in articles 70 to 73 of this title. With the permission of the district court, the probate court may use the panel of jurors summoned for the district court of the second judicial district.

13-9-118. Judgments. The judgments of the probate court shall be enforceable in the same manner as judgments of the district court and may be made liens upon real estate or other property in the manner provided by law for judgments of the district court.

13-9-119. Appeals. Appellate review of final judgments of the probate court shall be by the supreme court or by the court of appeals, as provided by law, and shall be conducted in the same manner as prescribed by the Colorado appellate rules for review by the court of appeals and the supreme court of final judgments of the district courts.

13-9-120. Fees. The fees charged by the probate court and the clerk thereof shall be those provided in article 32 of this title.

13-9-121. Funds. Funds for the operation of the probate court, including the salaries of the employees thereof, shall be provided in the same manner as funds are provided for the establishment and operation of the district courts for the second judicial district.

13-9-122. Supervision by supreme court. The supervisory powers of the supreme court established by article 3 of this title extend to the probate court.

MUNICIPAL COURTS

ARTICLE 10

Municipal Courts

13-10-101. Legislative declaration.
13-10-102. Definitions.
13-10-103. Applicability.
13-10-104. Municipal court created - jurisdiction.
13-10-105. Municipal judge - appointment - removal.
13-10-106. Qualifications of municipal judges.
13-10-107. Compensation of municipal judges.
13-10-108. Clerk of the municipal court.
13-10-109. Bond.
13-10-110. Court facilities and supplies.
13-10-111. Commencement of actions - process.
13-10-112. Powers and procedures.
13-10-113. Fines and penalties.
13-10-114. Trial by jury.
13-10-115. Fines and costs.
13-10-116. Appeals.
13-10-117. Time - docket fee - bond.
13-10-118. Notice - scope.
13-10-119. Certification to appellate court.
13-10-120. Bond - approval of sureties - forfeitures.
13-10-121. Conditions of bond - forfeiture - release.
13-10-122. Docket fee - dismissal.
13-10-123. Procedendo on dismissal.
13-10-124. Action on bond in name of municipality.
13-10-125. Judgment.

13-10-101. Legislative declaration. The general assembly finds that the right to a trial by jury for petty offenses, as defined in section 16-10-109, C.R.S., is of vital concern to all of the people of the state of Colorado and that the interests of the state as a whole are so great that the general assembly shall retain sole legislative jurisdiction over the matter, which is hereby declared to be of statewide concern.

13-10-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Municipal court" includes police courts and police magistrate courts created or existing under previous laws or under a municipal charter and ordinances.

(2) "Municipal judges" includes police magistrates as defined and used in previous laws.

(3) "Qualified municipal court of record" means a municipal court established by, and operating in conformity with, either local charter or ordinances containing provisions requiring the keeping of a verbatim record of the proceedings and evidence at trials by either electric devices or stenographic means, and requiring as a qualification for the office of judge of such court that he has been admitted to, and is currently licensed in, the practice of law in Colorado.

13-10-103. Applicability. This article shall apply to and govern the operation of municipal courts in the cities and towns of this state. Except for the provisions relating to the method of salary payment for municipal judges, the incarceration of children provided for in sections 19-2-204 and 19-2-1115, C.R.S., the right to a trial by jury for petty offenses provided for in section 16-10-109, C.R.S., rules of procedure promulgated by the supreme court, and appellate procedure, this article may be superseded by charter or ordinance enacted by a home rule city.

13-10-104. Municipal court created - jurisdiction. The municipal governing body of each city or town shall create a municipal court to hear and try all alleged violations of ordinance provisions of such city or town.

13-10-105. Municipal judge - appointment - removal. (1) (a) Unless otherwise provided in

municipality in which the court is located shall mean the municipality creating the municipal court, and any reference in this article to the county in which the municipal court is located shall mean the county in which the municipality creating the court is located.

13-10-111. Commencement of actions - process. (1) Any action or summons brought in any municipal court to recover any fine or enforce any penalty or forfeiture under any ordinance shall be filed in the corporate name of the municipality in which the court is located by and on behalf of the people of the state of Colorado.

(2) Any process issued from a municipal court runs in the corporate name of the municipality by and on behalf of the people of the state of Colorado. Processes from any municipal court shall be executed by any authorized law enforcement officer from the municipality in which the court is located.

(3) Any authorized law enforcement officer may execute within his jurisdiction any summons, process, writ, or warrant issued by a municipal court from another jurisdiction arising under the ordinances of such municipality for an offense which is criminal or quasi-criminal. For the purposes of this subsection (3), traffic offenses shall not be considered criminal or quasi-criminal offenses unless penalty points may be assessed under section 42-2-123 (5) (a) to (5) (dd), C.R.S. The issuing municipality shall be liable for and pay all costs, including costs of service or incarceration incurred in connection with such service or execution.

(4) The clerk of the municipal court shall issue a subpoena for the appearance of any witness in municipal court upon the request of either the prosecuting municipality or the defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts. Any person subpoenaed to appear as a witness in municipal court shall be paid a witness fee in the amount of five dollars.

(5) Upon the request of the municipal court, the prosecuting municipality, or the defendant, the clerk of the municipal court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense.

13-10-112. Powers and procedures. The municipal judge of any municipal court has all judicial powers relating to the operation of his court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado supreme court. The presiding municipal judge of any municipal court has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado supreme court.

13-10-113. Fines and penalties. (1) Any person convicted of violating a municipal ordinance may be incarcerated for a period not to exceed ninety days or fined an amount not to exceed three hundred dollars, or both.

(2) In sentencing or fining a violator, the municipal judge shall not exceed the sentence or fine limitations established by ordinance. Any other provision of the law to the contrary notwithstanding, the municipal judge may suspend the sentence or fine of any violator and place him on probation for a period not to exceed one year.

(3) The municipal judge is empowered in his discretion to assess costs against any defendant who, after trial, is found guilty of an ordinance violation. Such costs shall not exceed fifteen dollars for trial to the court and forty-five dollars for trial by jury.

(4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a juvenile detention facility operated or contracted by the department of institutions or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours.

(5) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of institutions or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to section 19-2-204, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of institutions.

(6) Whenever the judge in a municipal court of record imposes a fine for a nonviolent municipal ordinance or code offense, if the person who committed the offense is unable to pay the fine at the time of the court hearing or if he fails to pay any fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the municipal judge may compel collection of the fine in the manner provided in section 18-1-110, C.R.S. For purposes of this subsection (6), "nonviolent municipal ordinance or code offense" means a municipal ordinance or code offense which does not involve

the use or threat of physical force on or to a person in the commission of the offense.

(7) Notwithstanding subsection (1) of this section, the municipal judge of each municipality which implements an industrial wastewater pretreatment program pursuant to the federal act, as defined in section 25-8-103 (8), C.R.S., may provide such relief and impose such penalties as are required by such federal act and its implementing regulations for such programs.

13-10-114. Trial by jury. (1) In any action before municipal court in which the defendant is entitled to a jury trial by the constitution or the general laws of the state, such party shall have a jury upon request. The jury shall consist of three jurors unless, in the case of a trial for a petty offense, a greater number, not to exceed six, is requested by the defendant.

(2) In municipalities having less than five thousand population, juries may be summoned by the issuance of venire to a police officer or marshal. In municipalities having a population of five thousand or more, juries shall be selected from a jury list as is provided for courts of record.

(3) Jurors shall be paid the sum of six dollars per day for actual jury service and three dollars for each day of service on the jury panel alone; except that the governing body of a municipality may, by resolution or ordinance, set higher or lower fees for attending its municipal court.

(4) For the purposes of this section, a defendant waives his right to a jury trial under subsection (1) of this section unless, within ten days after arraignment or entry of a plea, he files with the court a written jury demand and at the same time tenders to the court a jury fee of twenty-five dollars, unless the fee is waived by the judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant having paid the jury fee files with the court at least ten days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded.

(5) At the time of arraignment for any petty offense in this state, the judge shall advise any defendant not represented by counsel of the defendant's right to trial by jury; of the requirement that the defendant, if he desires to invoke his right to trial by jury, demand such trial by jury in writing within ten days after arraignment or entry of a plea; of the number of jurors allowed by law; and of the requirement that the defendant, if he desires to invoke his right to trial by jury, tender to the court within ten days after arraignment or entry of a plea a jury fee of twenty-five dollars unless the fee is waived by the judge because of the indigence of the defendant.

13-10-115. Fines and costs. All fines and costs collected or received by the municipal court shall be reported and paid monthly, or at such other intervals as may be provided by an ordinance of the municipality, to the treasurer of the municipality and deposited in the general fund of the municipality.

13-10-116. Appeals. (1) Appeals may be taken by any defendant from any judgment of a municipal court which is not a qualified municipal court of record to the county court of the county in which such municipal court is located, and the cause shall be tried de novo in the appellate court.

(2) Appeals taken from judgments of a qualified municipal court of record shall be made to the district court of the county in which the qualified municipal court of record is located. The practice and procedure in such case shall be the same as provided by section 13-6-310 and applicable rules of procedure for the appeal of misdemeanor convictions from the county court to the district court, and the appeal procedures set forth in this article shall not apply to such case.

(3) No municipality shall have any right to appeal from any judgment of a municipal court, not of record, concerning a violation of any charter provision or ordinance, but this subsection (3) shall not be construed to prevent a municipality from maintaining any action to construe, interpret, or determine the validity of any ordinance or charter provision involved in such proceeding. Nothing in this subsection (3) shall be construed to prevent a municipality from appealing any question of law arising from a proceeding in a qualified municipal court of record.

(4) If, in any municipal court, a defendant is denied a jury trial to which he is entitled under section 13-10-114, he is entitled to a trial by jury under section 16-10-109, C.R.S., and to a trial de novo upon application therefor on appeal.

(5) Notwithstanding any provision of law to the contrary, if confinement of a child is ordered pursuant to a contempt conviction as set forth in section 13-10-113 (4), appeal shall be to the juvenile court for the county in which the municipal court is located. Such appeals shall be advanced on the juvenile court's docket to the earliest possible date. Procedures applicable to such appeals shall be in the same manner as provided in subsections (1) and (2) of this section for appeals to the county court.

13-10-117. Time - docket fee - bond. Appeals may be taken within ten days after entry of any judgment of a municipal court. No appeal shall be allowed until the appellant has paid to the clerk of the municipal court one dollar and fifty cents as a fee for preparing the transcript of record on appeal. If the municipal court is a court of record, the clerk of the municipal court is entitled to the same additional fees for preparing the record, or portions thereof designated, as is the clerk of the county court on the appeal of misdemeanors, but said fees shall be refunded to the defendant if the judgment is set aside on appeal. No stay of execution shall be granted until the appellant has executed an approved

TITLE 19

CHILDREN'S CODE

Art. 1. General Provisions, 19-1-101 to 19-1-122.
Art. 2. Delinquency, 19-2-101 to 19-2-1402.
Art. 3. Dependency and Neglect, 19-3-101 to 19-3-702.
Art. 3.5. Colorado Children's Trust Fund, 19-3.5-101 to 19-3.5-108.
Art. 4. Uniform Parentage Act, 19-4-101 to 19-4-129.
Art. 5. Relinquishment and Adoption, 19-5-101 to 19-5-304.
Art. 6. Support Proceedings, 19-6-101 to 19-6-106.

ARTICLE 1

General Provisions

19-1-101. Short title.
19-1-102. Legislative declaration.
19-1-103. Definitions.
19-1-104. Jurisdiction.
19-1-105. Right to counsel and jury trial.
19-1-106. Hearings - procedure - record.
19-1-107. Social study and other reports.
19-1-108. Commissioners - qualifications - duties.
19-1-109. Appeals.
19-1-110. Previous orders and decrees - force and effect.
19-1-111. Appointment of guardian ad litem.
19-1-112. Search warrants for the protection of children.
19-1-113. Emergency protection orders.
19-1-114. Order of protection.
19-1-115. Legal custody - guardianship - placement out of the home.
19-1-116. Funding - alternatives to placement out of the home.
19-1-117. Visitation rights of grandparents.
19-1-118. Court records - inspection.
19-1-119. Confidentiality of juvenile records - delinquency.
19-1-120. Confidentiality of records - dependency and neglect.
19-1-121. Confidentiality of records - "Uniform Parentage Act".
19-1-122. Confidentiality of records - relinquishments and adoptions.

19-1-101. Short title. This title shall be known and may be cited as the "Colorado Children's Code".

19-1-102. Legislative declaration. (1) The general assembly declares that the purposes of this title are:

(a) To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;

(b) To preserve and strengthen family ties whenever possible, including improvement of home environment;

(c) To remove a child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with all possible speed to a legal determination that will serve the best interests of the child; and

(d) To secure for any child removed from the custody of his parents the necessary care, guidance, and discipline to assist him in becoming a responsible and productive member of society.

(1.5) (a) The general assembly declares that it is in the best interests of the child who has been removed from his own home to have the following guarantees:

(I) To be placed in a secure and stable environment;

(II) To not be indiscriminately moved from foster home to foster home; and

(III) To have assurance of long-term permanency planning.

(b) This subsection (1.5) is repealed, effective July 1, 1992.

(1.7) The general assembly further declares that it is the intent of the general assembly to have the media and the courts refrain from causing undue hardship, discomfort, and distress to any juvenile victims of sexual assault, child abuse, incest, or any offenses listed in wrongs to children pursuant to part 4 of article 6 of title 18, C.R.S., by not disseminating or publishing the names of such victims.

(2) To carry out these purposes, the provisions of this title shall be liberally construed to serve the welfare of children and the best interests of society.

19-1-103. Definitions. As used in this title, unless the context otherwise requires:

(1) "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition in dependency and neglect are supported by the evidence.

(2) "Adjudicatory trial" means a trial to determine whether the allegations of a petition in delinquency are supported by the evidence.

(3) "Adult" means a person eighteen years of age or older; except that any person eighteen years of age or older who is under the continuing jurisdiction of the court, who is before the court for an alleged delinquent act committed prior to his eighteenth birthday, or concerning whom a petition has been filed for his adoption other than under this title shall be referred to as a juvenile.

(3.5) "Assessment instrument" means an objective tool used to collect pertinent information regarding a juvenile taken into temporary custody in order to determine the appropriate

level of security, supervision, and services pending adjudication.

(4) "Child" means a person under eighteen years of age.

(5) "Child care center" means a child care center licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of social services upon certification that no appropriate available space exists in a child care facility in this state and shall be licensed or approved as required by law in that state.

(6) "Child placement agency" means an agency licensed or approved pursuant to law. If such agency is located in another state, it shall be licensed or approved as required by law in that state.

(7) "Counsel" means an attorney-at-law who acts as a person's legal advisor or who represents a person in court.

(8) "Custodian" means a person who has been providing shelter, food, clothing, and other care for a child in the same fashion as a parent would, whether or not by order of court.

(9) "Deprivation of custody" means the transfer of legal custody by the court from a parent or a previous legal custodian to another person, agency, or institution.

(9.5) "Designated adoption" means an adoption in which:

(a) The birth parent or parents designate a specific applicant with whom they wish to place their child for purposes of adoption; and

(b) The anonymity requirements of section 19-1-122 are waived.

(10) "Detention" means the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.

(11) "Dispositional hearing" means a hearing to determine what order of disposition should be made concerning a child who is neglected or dependent. Such hearing may be part of the proceeding which includes the adjudicatory hearing, or it may be held at a time subsequent to the adjudicatory hearing.

(11.5) "Diversion" means a decision made by a person with authority or a delegate of that person which results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing individually designed services by a specific program. The goal of "diversion" is to prevent further involvement of the juvenile or child in the formal legal system. "Diversion" of a juvenile or child may take place either at the prefiling level as an alternative to the filing of a petition pursuant to section 19-2-304 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section 19-3-505 or a disposition as a part of sentencing pursuant to section 19-2-703. "Services", as used in this subsection (11.5), includes but is not limited to diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive recreational activities, general counseling and counseling during a crisis situation, and follow-up activities.

(12) "Family care home" means a family care home licensed and approved pursuant to article 6 of title 26, C.R.S. If such facility is located in another state, it shall be designated by the department of social services upon certification that no appropriate available space exists in a facility in this state and shall be licensed or approved as required by law in that state.

(13) "Group care facilities and homes" means places other than foster family care homes providing care for small groups of children which are licensed as provided in article 6 of title 26, C.R.S., or meet the requirements of section 27-10.5-109, C.R.S.

(14) "Guardian ad litem" means a person who is appointed by a court to act in the best interests of a person whom he is representing in proceedings under this title and who, if appointed to represent a person in a dependency and neglect proceeding under article 3 of this title, shall be an attorney-at-law licensed to practice in Colorado.

(15) "Guardianship of the person" means the duty and authority vested by court action to make major decisions affecting a child, including, but not limited to:

(a) The authority to consent to marriage, to enlistment in the armed forces, and to medical or surgical treatment;

(b) The authority to represent a child in legal actions and to make other decisions of substantial legal significance concerning the child;

(c) The authority to consent to the adoption of a child when the parent-child legal relationship has been terminated by judicial decree; and

(d) The rights and responsibilities of legal custody when legal custody has not been vested in another person, agency, or institution.

(15.5) "Identifying" means giving, sharing, or obtaining information.

(16) "Independent living" means a form of placement out of the home arranged and supervised by the county department of social services wherein the child is established in a living situation designed to promote and lead to his emancipation. "Independent living" shall only follow some other form of placement out of the home.

(17) "Juvenile court" or "court" means the juvenile court of the city and county of Denver or the juvenile division of the district court outside of the city and county of Denver.

(17.5) "Law enforcement officer" means a peace officer, as defined in section 18-1-901 (3) (l) (I), (3) (l) (II), and (3) (l) (III), C.R.S.

(18) (a) "Legal custody" means the right to the care, custody, and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for a child and, in an emergency, to authorize surgery or other extraordinary care. "Legal custody" may be taken from a parent only by court action.

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19-1-114. Order of protection. (1) The court may make an order of protection in assistance of, or as a condition of, any decree authorized by this title. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period by the parent, guardian, legal custodian, custodian, stepparent, spousal equivalent, or any other person who is party to a proceeding brought under this title.

(2) The order of protection may require any such person:

(a) To stay away from a child or his residence;

(b) To permit a parent to visit a child at stated periods;

(c) To abstain from offensive conduct against a child, his parent or parents, his guardian or legal custodian, or any other person to whom legal custody of a child has been given;

(d) To give proper attention to the care of the home;

(e) To cooperate in good faith with an agency:

(I) Which has been given legal custody of a child;

(II) Which is providing protective supervision of a child by court order; or

(III) To which the child has been referred by the court;

(f) To refrain from acts of commission or omission that tend to make a home an improper place for a child;

(g) To perform any legal obligation of support; or

(h) To pay for damages recoverable under the provisions of section 13-21-107, C.R.S.

(3) When such an order of protection is made applicable to a parent or guardian, it may specifically require his active participation in the rehabilitation process and may impose specific requirements upon such parent or guardian, subject to the penalty of contempt for failure to comply with such order without good cause, as provided in subsection (5) of this section.

(4) After notice and opportunity for a hearing is given to a person subject to an order of protection, the order may be terminated, modified, or extended for a specified period of time if the court finds that the best interests of the child and the public will be served thereby.

(5) A person failing to comply with an order of protection without good cause may be found in contempt of court.

19-1-115. Legal custody - guardianship - placement out of the home. (1) (a) Any individual, agency, or institution vested by the court with legal custody of a child shall have the rights and duties defined in section 19-1-103 (18).

(b) Any individual, agency, or institution vested by the court with the guardianship of the person of a child shall have the rights and duties defined in section 19-1-103 (15); except that no guardian of the person may consent to the adoption of a child unless that authority is expressly given him by the court.

(2) (a) If legal custody or guardianship of the person is vested in an agency or institution, the court shall transmit, with the court order, copies of the social study, any clinical reports, and other information concerning the care and treatment of the child.

(b) An individual, agency, or institution vested by the court with legal custody or guardianship of the person of a child shall give the court any information concerning the child which the court at any time may require.

(3) (a) Any agency vested by the court with legal custody of a child shall have the right, subject to the approval of the court, to determine where and with whom the child shall live, but this paragraph (a) shall not apply to placement of children committed to the department of institutions.

(b) No individual or agency vested by the court with legal custody of a child or with which a child is placed pursuant to section 19-3-701 shall remove the child from the state for more than thirty days without court approval.

(4) (a) A decree vesting legal custody of a child in an individual, institution, or agency or providing for placement of a child pursuant to section 19-2-701, 19-3-403, or 19-3-701 shall be for a determinate period. Such decree shall be reviewed by the court no later than three months after it is entered, except a decree vesting legal custody of a child with the department of institutions.

(b) The individual, institution, or agency vested with the legal custody of a child may petition the court for renewal of the decree. The court, after notice and hearing, may renew the decree for such additional determinate period as the court may determine if it finds such renewal to be in the best interest of the child and of the community. The findings of the court and the reasons therefor shall be entered with the order renewing or denying renewal of the decree.

(c) The court shall review any decree entered in accordance with this subsection (4) each six months after the initial review provided in paragraph (a) of this subsection (4) until the permanency planning hearing required in section 19-3-702 is completed.

(d) A decree vesting legal custody of a child or providing for placement of a child with an agency in which public moneys are expended shall be accompanied by an order of the court which obligates the parent of the child to pay a fee, based on the parent's ability to pay, to cover the costs of the guardian ad litem and of providing for residential care of the child. When custody of the child is given to the county department of social services, such fee for residential care shall be in accordance with the fee requirements as provided by rule of the department of social services, and such fee shall apply, to the extent unpaid, to the entire period of placement.

(5) No legal custodian or guardian of the person may be removed without his consent

until given notice and an opportunity to be heard by the court if he so requests.

19-1-116. Funding - alternatives to placement out of the home. (1) The state department of social services shall reimburse allowable expenses to county departments of social services for foster care. The state department's budget request for foster care shall be based upon the actual aggregate expenditure of federal, state, and local funds of all counties during the preceding twenty-four months on foster care. Special purpose funds, not to exceed five percent of the total appropriation for foster care, shall be retained by the department of social services for purposes of meeting emergencies and contingencies in individual counties. The amount thus reimbursed to each county shall represent the total expenditure by an individual county for foster care and for alternative services provided in conformance with the plan prepared and approved pursuant to paragraph (b) of subsection (2) and subsection (4) of this section.

(2) (a) The county commissioners in each county may appoint a placement alternatives commission consisting, where possible, of a physician or a licensed health professional, an attorney, representatives of a local law enforcement agency, representatives recommended by the court and probation department, representatives from the county department of social services, a local mental health clinic, and the public health department, a representative of a local school district specializing in special education, a representative of a local community centered board, representatives of a local residential child care facility and a private not for profit agency providing nonresidential services for children and families, a representative specializing in occupational training or employment programs, a foster parent, and one or more representatives of the lay community. At least fifty percent of the commission members shall represent the private sector. The county commissioners of two or more counties may jointly establish a district placement alternatives commission.

(b) The commission, if established, shall annually prepare a plan for the provision of or purchase of residential and nonresidential treatment programs or service for children who have been adjudicated a juvenile delinquent, or dependent or neglected, or who are subject to placement out of the home. The plan shall be prepared using all available sources of information in the community, including public hearings. The plan shall specify the nature of the expenditures to be made and shall identify the services which are intended to prevent or minimize placement out of the home and to what extent. The plan shall contain, whenever practicable, a vocational component to provide assistance to older children concerning a transition into the work force upon completion of school. Upon approval of the plan by the county commissioners, the commission shall submit the plan to the department of social services.

(c) The commission shall review, on an ongoing basis, the effectiveness of programs within its jurisdiction which are designed to prevent or reduce placement and shall report its findings to the county commissioners annually.

(d) Repealed, L. 90, p. 1015, § 4, effective July 1, 1990.

(e) Upon approval by the state board of social services of the plan submitted pursuant to paragraph (b) of this subsection (2), the department of social services shall reimburse county departments, as described in section 26-1-122, C.R.S., for eighty percent of the expenditures made in conformance with the plan.

(3) The department of social services shall report annually to the general assembly concerning the funds reimbursed to each county pursuant to this section, by line item, and each county's spending, by line item.

(4) The departments of institutions, social services, and education and the judicial department shall jointly develop guidelines for the content and submission of plans as described in paragraph (b) of subsection (2) of this section. Said guidelines shall include but not be limited to the information which is gathered by the commission, the general goals to be addressed by the plan, the form of the budget for expenditures which are to be made under the plan, the services which are to be provided which are intended to prevent or minimize placement out of the home and to what extent, and the method by which the plan may be amended during the year to meet the changing local conditions. Said guidelines shall then be submitted to the state board of social services, which shall promulgate rules for the submission of plans.

(5) Children currently residing in institutions whose condition would permit them to be discharged to less restrictive settings shall be so transferred at the earliest possible date. Moneys appropriated and available to the department of social services shall be allocated on a priority basis by the department to county departments for the purposes of providing care to children who are discharged from the institution in which they reside if such children then receive care that is less intensive, closer to the residence of the parents or family, or in a less restrictive setting.

(6) It is the intent of the general assembly that no state moneys appropriated for placements out of the home shall be used by county boards of social services for the development of new county-run programs or for the expansion of existing staff or programs, if such development or expansion duplicates services already provided in the community, including, but not limited to, day care programs, independent living programs, home based care, transitional care, alternative school programs, counseling programs, street academies, tutorial programs, and in-home treatment and counseling programs.

19-1-117. Visitation rights of grandparents. (1) Any grandparent of a child may, in the

nile is residing if a parent, guardian, or legal custodian cannot be located. If the officer taking the juvenile into custody is unable to make such notification, it may be made by any other law enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

(2) The juvenile shall then be released to the care of his parents or other responsible adult, unless his immediate welfare or the protection of the community requires that he be detained. The court may make reasonable orders as conditions of said release and may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released may be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court.

(3) (a) Except as provided in paragraph (b) of this subsection (3), a juvenile shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain basic identification information and to contact his parents, guardian, or legal custodian.

(b) If he is not released as provided in subsection (2) of this section, he shall be taken directly to the court or to the place of detention, a temporary holding facility, or a shelter designated by the court without unnecessary delay.

19-2-204. Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions. (1) A juvenile who must be taken from his home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) When a juvenile is placed in a detention facility, a temporary holding facility, or in a shelter facility designated by the court, the law enforcement official taking the juvenile into custody shall promptly so notify the court. He shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(3) (a) (I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility shall be entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he should be detained. The time in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown.

(II) The primary purpose of a detention hearing shall be to determine if a juvenile should be detained further and to define conditions under which he may be released, if his release is appropriate. A detention hearing shall not be considered a preliminary hearing.

(III) With respect to this section, the court may further detain the juvenile if the court is satisfied from the information provided that the juvenile is a danger to himself or the community. Information may be supplied to the court in the form of written or oral reports, sworn testimony, affidavits, or any other relevant information the court may wish to receive. Any information having probative value shall be received regardless of its admissibility under the rules of evidence.

(IV) At the conclusion of the hearing, the court shall enter one of the following orders:

(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;

(B) That the juvenile be placed in a shelter facility;

(C) That bail be set and that the juvenile be released upon the posting of that bail;

(D) That no bail be set and that the juvenile be detained without bail upon a finding that he is a danger to himself or the community.

(V) When the court orders further detention of the juvenile after a detention hearing, a petition alleging the juvenile to be a delinquent shall be filed without unnecessary delay, and the juvenile shall be held pending a hearing on the petition.

(b) (I) If it appears that any juvenile being held in detention or shelter may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., the court or detention personnel shall refer the juvenile to the nearest community centered board for an eligibility determination. If it appears that any juvenile being held in a detention or shelter facility pursuant to the provisions of this article may be mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health prescreening is requested, it shall be conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health prescreening shall not extend the time within which a detention hearing shall be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health prescreening shall be conducted prior to the hearing; except that the prescreening shall not extend the time within which a detention hearing shall be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to be mentally ill, as provided in section 27-10-105 or 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health

the same delinquent acts arising from the same criminal episode.

(4) Notwithstanding any other provision of this section to the contrary, the juvenile court may exercise jurisdiction over a juvenile who is under sixteen years of age and who has violated a traffic law or ordinance if his case is transferred to the juvenile court from the county court. Such a transfer shall be subject to approval by the juvenile court.

(4.5) Notwithstanding any other provision of this section to the contrary, the juvenile court may exercise jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, C.R.S., if the case is transferred to the juvenile court from the county court. Such a transfer shall be subject to the approval of the juvenile court.

(5) The juvenile court may retain jurisdiction over a juvenile until all orders have been fully complied with or the juvenile reaches the age of twenty-one years, whichever event occurs first.

(6) This section shall not be construed to confer any jurisdiction upon the court over a person for any offense committed after the person attains the age of eighteen years.

19-2-103. Venue. (1) Proceedings in cases brought under this article shall be commenced in the county in which the alleged violation of the law, ordinance, or court order took place. When the court in which the petition was filed is in a county other than where the juvenile resides, such court may transfer venue to the court of the county of the juvenile's residence after findings of fact but prior to adjudication and sentencing.

(2) In determining proper venue, the provisions of section 18-1-202, C.R.S., shall apply.

(3) A court transferring venue under this section shall transmit all documents and legal social records, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in such court.

19-2-104. Representation of petitioner. In all matters under this article, the petitioner shall be represented by the district attorney.

PART 2

CUSTODY, WARRANTS, AND EVIDENCE

19-2-201. Taking juvenile into custody. (1) A juvenile may be taken into temporary custody by a law enforcement officer without order of the court when there are reasonable grounds to believe that he has committed a delinquent act.

(2) A juvenile may be taken into temporary custody by a law enforcement officer executing a lawful warrant taking a juvenile into custody issued pursuant to section 19-2-202.

(3) A juvenile probation officer may take a juvenile into temporary custody:

(a) Under the circumstances stated in subsection (1) of this section; or

(b) If he has violated the conditions of probation and he is under the continuing jurisdiction of the juvenile court.

(4) A juvenile may be detained temporarily by an adult other than a law enforcement officer if the juvenile has committed or is committing a delinquent act in the presence of such adult. Any person detaining a juvenile shall notify, without unnecessary delay, a law enforcement officer, who shall assume custody of said juvenile.

(5) The taking of a juvenile into temporary custody under this section is not an arrest, nor does it constitute a police record.

19-2-202. Issuance of a lawful warrant taking a juvenile into custody. (1) A lawful warrant taking a juvenile into custody may be issued pursuant to this section by any judge of a court of record or by a juvenile commissioner upon receipt of an affidavit relating facts sufficient to establish probable cause to believe that a delinquent act has been committed and probable cause to believe that a particular juvenile committed that act. Upon receipt of such affidavit, the judge or commissioner shall issue a lawful warrant commanding any peace officer to take the juvenile named in the affidavit into custody and to take him without unnecessary delay before the nearest judge of the juvenile court or commissioner as provided in section 19-2-204 (4).

(2) Upon filing of a petition in the juvenile court, the district attorney may request a warrant to issue which authorizes the taking of a juvenile into temporary custody. If a warrant is requested, the petition must be accompanied by a verified affidavit relating facts sufficient to establish probable cause that the juvenile has committed the delinquent act set forth in the petition.

(3) A warrant for the arrest of a juvenile for violation of the conditions of probation may be issued by any judge of a court of record upon the report of a juvenile probation officer or upon the verified complaint of any person, establishing to the satisfaction of the judge probable cause to believe that a condition of probation has been violated and that the arrest of the juvenile is reasonably necessary. The warrant may be executed by any juvenile probation officer or by a peace officer authorized to execute warrants in the county in which the juvenile is found.

19-2-203. Duty of officer - notification - release or detention. (1) When a juvenile is taken into temporary custody, the officer shall notify a parent, guardian, or legal custodian without unnecessary delay and inform him that, if the juvenile is placed in detention or a temporary holding facility, all parties have a right to a prompt hearing to determine whether the juvenile is to be detained further. Such notification may be made to a person with whom the juve-

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nile is residing if a parent, guardian, or legal custodian cannot be located. If the officer taking the juvenile into custody is unable to make such notification, it may be made by any other law enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

(2) The juvenile shall then be released to the care of his parents or other responsible adult, unless his immediate welfare or the protection of the community requires that he be detained. The court may make reasonable orders as conditions of said release and may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released may be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court.

(3) (a) Except as provided in paragraph (b) of this subsection (3), a juvenile shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain basic identification information and to contact his parents, guardian, or legal custodian.

(b) If he is not released as provided in subsection (2) of this section, he shall be taken directly to the court or to the place of detention, a temporary holding facility, or a shelter designated by the court without unnecessary delay.

19-2-204. Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions. (1) A juvenile who must be taken from his home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) When a juvenile is placed in a detention facility, a temporary holding facility, or in a shelter facility designated by the court, the law enforcement official taking the juvenile into custody shall promptly so notify the court. He shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(3) (a) (I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility shall be entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he should be detained. The time in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown.

(II) The primary purpose of a detention hearing shall be to determine if a juvenile should be detained further and to define conditions under which he may be released, if his release is appropriate. A detention hearing shall not be considered a preliminary hearing.

(III) With respect to this section, the court may further detain the juvenile if the court is satisfied from the information provided that the juvenile is a danger to himself or the community. Information may be supplied to the court in the form of written or oral reports, sworn testimony, affidavits, or any other relevant information the court may wish to receive. Any information having probative value shall be received regardless of its admissibility under the rules of evidence.

(IV) At the conclusion of the hearing, the court shall enter one of the following orders:

(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;

(B) That the juvenile be placed in a shelter facility;

(C) That bail be set and that the juvenile be released upon the posting of that bail;

(D) That no bail be set and that the juvenile be detained without bail upon a finding that he is a danger to himself or the community.

(V) When the court orders further detention of the juvenile after a detention hearing, a petition alleging the juvenile to be a delinquent shall be filed without unnecessary delay, and the juvenile shall be held pending a hearing on the petition.

(b) (I) If it appears that any juvenile being held in detention or shelter may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., the court or detention personnel shall refer the juvenile to the nearest community centered board for an eligibility determination. If it appears that any juvenile being held in a detention or shelter facility pursuant to the provisions of this article may be mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health prescreening is requested, it shall be conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health prescreening shall not extend the time within which a detention hearing shall be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health prescreening shall be conducted prior to the hearing; except that the prescreening shall not extend the time within which a detention hearing shall be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to be mentally ill, as provided in section 27-10-105 or 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health

prescreening shall be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(III) When the mental health professional finds, as a result of the prescreening, that the juvenile may be mentally ill, the mental health professional shall recommend to the court that the child be evaluated pursuant to section 27-10-105 or 27-10-106, C.R.S., and the court shall proceed as provided in section 19-2-308.

(IV) Nothing in this paragraph (b) shall be construed to preclude the use of emergency procedures pursuant to section 27-10-105 (1), C.R.S.

(c) No juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section 19-2-201 as the result of an allegedly delinquent act which constitutes a felony shall be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's immediate welfare or the protection of the community requires that he be detained. No such juvenile shall thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile. No juvenile being held when the juvenile is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. Said juvenile shall be segregated from the adult offenders of the facility in which he is held.

(4) (a) No jail shall receive a juvenile for detention unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult. No juvenile under the age of fourteen and, except upon order of the court, no juvenile fourteen years of age or older shall be detained in a jail, lockup, or other place used for the confinement of adult offenders. The exception for detention in a jail shall be used by the court only if the juvenile is being held for criminal proceedings as an adult or if the court determines that the juvenile is an escape risk or is a threat to the safety of detention center personnel or other detainees. Any determination that the juvenile is an escape risk shall be set forth by the court in written findings.

(b) Except as provided in paragraph (c) of subsection (3) of this section, a juvenile fourteen years of age or older shall be detained in an area that is reasonably separated by sight and sound from, and is without haphazard or accidental contact with, adult offenders or persons charged with a crime.

(c) The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court which has jurisdiction of the juvenile's alleged offense when a juvenile who is or appears to be under eighteen years of age is received at the facility, except for a juvenile ordered by the court to be held for criminal proceedings as an adult.

(d) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. Such juvenile shall not be detained in a jail, lockup, or other place used for the confinement of adult offenders for longer than six hours, and in no case overnight, for processing only, after which the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of institutions. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(e) (I) The official in charge of a jail, lockup, or other facility for the confinement of adult offenders which receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang, as defined in subparagraph (II) of this paragraph (e), so as to prevent contact with other inmates at such jail, lockup, or other facility. The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population.

(II) For the purposes of this paragraph (e), unless the context otherwise requires, "gang" means a group of three or more individuals with a common interest, bond, or activity, characterized by criminal or delinquent conduct, engaged in either collectively or individually.

(5) A juvenile has the right to bail as limited by the provisions of this section.

(6) The court may also issue temporary orders for legal custody as provided in section 19-1-115.

(7) Any law enforcement officer, employee of the division in the department of institutions responsible for youth services, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

19-2-205. Bail. (1) Unless the district attorney consents, no juvenile charged or accused of having committed a delinquent act which constitutes a felony or a class 1 misdemeanor shall

TITLE 31

GOVERNMENT - MUNICIPAL

CORPORATE CLASS - ORGANIZATION AND TERRITORY

Art. 1. General Provisions and Classification, 31-1-101 to 31-1-207.
Art. 2. Formation and Reorganization, 31-2-101 to 31-2-407.
Art. 3. Discontinuance of Incorporation, 31-3-101 to 31-3-202.
Art. 4. Organizational Structure and Officers, 31-4-101 to 31-4-505.

MUNICIPAL ELECTION CODE

Art. 10. Municipal Election Code, 31-10-101 to 31-10-1540.

ANNEXATION - CONSOLIDATION - DISCONNECTION

Art. 12. Annexation - Consolidation - Disconnection, 31-12-101 to 31-12-707.

POWERS AND FUNCTIONS OF CITIES AND TOWNS

Art. 15. Exercise of Municipal Powers, 31-15-101 to 31-15-1004.
Art. 16. Ordinances - Penalties, 31-16-101 to 31-16-208.
Art. 20. Taxation and Finance, 31-20-101 to 31-20-407.
Art. 21. Bonds, 31-21-101 to 31-21-407.
Art. 23. Planning and Zoning, 31-23-101 to 31-23-313.
Art. 25. Public Improvements, 31-25-101 to 31-25-1228.
Art. 30. Fire - Police - Sanitation, 31-30-101 to 31-30-1019.
Art. 32. Utilities, 31-32-101 to 31-32-201.
Art. 35. Water and Sewage, 31-35-101 to 31-35-712.

CORPORATE CLASS - ORGANIZATION AND TERRITORY

ARTICLE 1

General Provisions and Classification

PART 1

GENERAL PROVISIONS

31-1-101. Definitions.
31-1-102. Application - legislative intent.

PART 2

CLASSIFICATION OF MUNICIPALITIES

31-1-201. Classification of municipalities.
31-1-202. Cities or towns retaining prior status.
31-1-203. Classification of statutory cities and towns.
31-1-204. Change of classification - towns - notice - effect on officeholders - options prior to reorganization - terms of office - election dates.
31-1-205. Organization after change.
31-1-206. Change in classification - cities - notice - effect on officeholders - terms of office - election dates.
31-1-207. Ordinances to reorganize - existing ordinances.

PART 1

GENERAL PROVISIONS

31-1-101. Definitions. As used in this title, except where specifically defined, unless the context otherwise requires:

(1) "Ad valorem tax" means only the general property tax levied annually on real or personal property listed with the county assessor.

(2) "City" means a municipal corporation having a population of more than two thousand incorporated pursuant to the provisions of part 1 or reorganized pursuant to the provisions of part 3 of article 2 of this title or pursuant to the provisions of any other general law on or after July 3, 1877, and a municipal corporation, regardless of population, organized as a city on December 31, 1980, and choosing not to reorganize as a town pursuant to part 2 of article 1 of this title, but does not include any city incorporated prior to July 3, 1877, which has chosen not to reorganize nor any city or city and county which has chosen to adopt a home rule charter pursuant to the provisions of article XX of the state constitution.

(3) "City clerk", "clerk", or "town clerk" means the clerk of the municipality who is the custodian of the official records of the municipality or any person delegated by the clerk to exercise any of his powers, duties, or functions.

(4) "Governing body" means the city council of a city organized pursuant to part 1 of article 4 of this title, the city council of a city organized pursuant to part 2 of article 4 of this title, the board of trustees of a town, or any other body, by whatever name known, given lawful authority to adopt ordinances for a specific municipality. For purposes of determining a quorum or the required number of votes for any matter, "governing body" includes the total number of seats on the governing body but does not include the seat held by a nonvoting city manager under section 31-4-214.

(5) "Mayor" means the mayor of the municipality; except that in a municipality having a city manager form of government, "mayor" means the presiding officer of the governing body of the municipality.

(6) "Municipality" means a city or town and, in addition, means a city or town incorpo-

rated prior to July 3, 1877, whether or not reorganized, and any city, town, or city and county which has chosen to adopt a home rule charter pursuant to the provisions of article XX of the state constitution.

(7) "Qualified elector" means a person who is qualified under the provisions of the "Colorado Municipal Election Code of 1965" to register to vote in elections of the municipality or who, with respect to a proposed city or town or the creation of an improvement district, is qualified to register to vote in the territory involved in the proposed incorporation or district.

(8) "Qualified taxpaying elector" means a qualified elector who, during the twelve months next preceding the election, has paid an ad valorem tax on property owned by him and situated within the municipality or within the territory involved in the proposed incorporation or improvement district.

(9) "Registered elector" means a qualified elector who has registered to vote in the manner required by law.

(10) "Regular election" means the election held in towns on the first Tuesday of April in each even-numbered year; the election held in cities on the Tuesday succeeding the first Monday of November in each odd-numbered year; and the regular election of officers, and any other regularly scheduled election at which all qualified electors of a municipality may participate, in any other municipality.

(11) "Special election" means any election called by the governing body of any municipality or initiated by petition to be held at a time other than the regular election for the purpose of submitting public questions or proposals to the registered electors of the municipality.

(12) "Street" means any street, avenue, boulevard, road, land, alley, viaduct, right-of-way, courtway, or other public thoroughfare or place of any nature open to the use of the municipality or of the public, whether the same was acquired in fee or by grant of dedication or easement or by adverse use.

(13) "Town" means a municipal corporation having a population of two thousand or less incorporated pursuant to the provisions of this part 1 or reorganized pursuant to the provisions of part 3 of article 2 of this title or pursuant to the provisions of any other general law on or after July 3, 1877, and a municipal corporation, regardless of population, organized as a town on December 31, 1980, and choosing not to reorganize as a city pursuant to part 2 of article 1 of this title, but does not include any town incorporated prior to July 3, 1877, which has chosen not to reorganize nor any town which has chosen to adopt a home rule charter pursuant to the provisions of article XX of the state constitution.

(14) "Ward" means a district, the boundaries of which have been established pursuant to section 31-2-104 or 31-4-104, from which a member of the governing body of the city or town is elected.

31-1-102. Application - legislative intent. (1) In the recodification of this title, certain provisions which previously applied or may have been interpreted to apply to limited categories of municipalities have been applied to all municipalities, whether statutory, home rule, or special territorial charter. Except for those provisions which expressly apply only to limited categories of municipalities, it is the intent of the general assembly that the provisions of this title shall apply to home rule municipalities except insofar as superseded by charter or ordinance passed pursuant to such charter and to all statutory cities and towns and shall be available to special territorial charter cities and towns unless in conflict with the charters thereof. The general assembly further declares that in the recodification of this title and in the use of the term "municipality" in this title there is no legislative intent to affect or modify the application of the provisions of this title with respect to preemption of home rule or special territorial charter powers, which preemption may or may not have existed on the effective date of this recodification (July 1, 1975). The use of the term "municipality" in future additions or amendments to this title shall not in and of itself create a presumption for or against preemption of home rule or special territorial charter powers.

(2) Where any power is granted in this title to a specific municipal official or group of officials, that power may be exercised within any home rule municipality by the officials, to the extent and in the manner, designated in the particular home rule charter or ordinance passed pursuant to such charter.

PART 2

CLASSIFICATION OF MUNICIPALITIES

31-1-201. Classification of municipalities. (1) With respect to the exercise of corporate and municipal powers, the municipalities of this state are divided into the following classifications:

(a) Cities or towns incorporated prior to July 3, 1877, which have retained such organization;

(b) Cities or towns organized pursuant to the provisions of article XX of the state constitution;

(c) Cities and towns organized pursuant to the provisions of this title or of any other general law on or after July 3, 1877, which have not chosen to adopt a home rule charter under the provisions of article XX of the state constitution.

31-1-202. Cities or towns retaining prior status. Every city or town incorporated prior to July 3, 1877, which chooses to retain such organization, in the enforcement of the powers or the exercise of the duties conferred by the special charter or general law under which the same is incorporated, shall proceed in all respects as provided by such special charter or general law and shall not be affected nor the powers or

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31-1-203. Classification and towns. (1) With respect certain municipal and c granted by the provisions of duties of certain municipal c this title, all municipal corp pursuant to the provisions o other general law on or after have not chosen to adopt a under the provisions of arti constitution, are divided intc

(2) Repealed, L. 81, p. June 5, 1981.

31-1-204. Change of clas notice - effect on officeholde reorganization - terms of off (1) The governor and secre six months after the returns c census have been filed in the tary of state, or within th returns of the enumeration c any town taken under and town ordinance or resoluti board of trustees of such tow the office of the secretary of which towns are entitled to governor shall cause a state prepared by the secretary o ment shall be published in sc lished at the state capital anc paper, if there is one, prir towns entitled to such chang copy of such statement shal the secretary of state to the n and to the next general assen

(2) Every such town m subsequent regular town sooner than ninety days af statement's receipt by the according to the new classi it by the election of officers thereto. No change of cla organization of the town in ance with this section, shal from office of any membe body of such town whose te expired.

(3) Notwithstanding the tions 31-4-105 and 31-4-1(election to reorganize to a part 1 of article 4 of this body of the town may adop viding for the continued clerk and treasurer by the such an ordinance is repe treasurer positions shall the until changed pursuant to se

(4) Notwithstanding the of article 4 of this title, pri reorganize, the governing b election under the provisior 4 of this title to determin should reorganize directly city manager form of gover

fied by the clerk of said district court, shall be proof of the disconnection of such land.

POWERS AND FUNCTIONS OF CITIES AND TOWNS

ARTICLE 15

Exercise of Municipal Powers

PART 1

VESTING OF CORPORATE POWERS

31-15-101. Municipalities bodies politic - powers.
31-15-102. Review without bond.
31-15-103. Making of ordinances.
31-15-104. Powers not exclusive.

PART 2

GENERAL ADMINISTRATIVE POWERS

31-15-201. Administrative powers.

PART 3

GENERAL FINANCIAL POWERS

31-15-301. Definitions.
31-15-302. Financial powers.

PART 4

POLICE REGULATIONS

31-15-401. General police powers.

PART 5

REGULATION OF BUSINESSES

31-15-501. Powers to regulate businesses.

PART 6

BUILDING AND FIRE REGULATIONS

31-15-601. Building and fire regulations - emission performance standards required.

PART 7

PUBLIC PROPERTY AND IMPROVEMENTS

31-15-701. Necessary buildings.
31-15-702. Streets and alleys.
31-15-703. Improvements - petition - construction.
31-15-704. Collection of assessments.
31-15-705. Construction of highway - petition - notice - election - tax.
31-15-706. Railroad track.
31-15-707. Municipal utilities.
31-15-708. Water and water systems.
31-15-709. Sewers and sewer systems.
31-15-710. Water pollution control.
31-15-711. Other public improvements.
31-15-712. Public improvements by contract - cities.
31-15-713. Power to sell public works - real property.
31-15-714. Oil and gas leases - unit agreements.
31-15-715. Legislative declaration concerning landfill gas.
31-15-716. Municipal authority relating to landfill gas.

PART 8

LONG-TERM RENTALS AND LEASEHOLDS

31-15-801. Agreements - ordinance - financing.
31-15-802. Tax exemption.
31-15-803. Enforceability.

PART 9

MISCELLANEOUS POWERS

31-15-901. Miscellaneous powers.
31-15-902. Deferred compensation plans.
31-15-903. Municipalities - new business facilities - expansion of existing business facilities - incentives - limitations.

PART 10

SOLID WASTE-TO-ENERGY INCINERATION SYSTEMS

31-15-1001. Legislative declaration.
31-15-1002. Definitions.
31-15-1003. Municipal authority relating to solid waste-to-energy incineration systems.
31-15-1004. Department of health rules.

PART 1

VESTING OF CORPORATE POWERS

31-15-101. Municipalities bodies politic - powers. (1) Municipalities:

(a) Shall be bodies politic and corporate, under such name as they are organized;

(b) May sue or be sued;

(c) May enter into contracts;

(d) May acquire, hold, lease, and dispose of property, both real and personal;

(e) May have a common seal which they may alter at their pleasure; and

(f) May accept the transfer of federal land for public purposes, including but not limited to municipal expansion and residential purposes.

(2) All such municipalities shall have the powers, authority, and privileges granted by this title and by any other law of this state together with such implied and incidental powers, authority, and privileges as may be reasonably necessary, proper, convenient, or useful to the exercise thereof. All such powers, authority, and privileges are subject to the restrictions and limitations provided for in this title and in any other law of this state.

31-15-102. Review without bond. In all actions, suits, and proceedings in any court in this state in which a municipality of this state is