

COMPARISON OF THE POWERS OF HOME RULE COUNTIES AND STATUTORY COUNTIES

This comparison chart is updated from one created by Colorado Counties, Inc, in 1991. We endeavored to include information current to May 2008. This is not a complete statement of the law governing the powers of home rule or statutory counties in Colorado. The Colorado Constitution and the Colorado Revised Statutes along with interpretive judicial precedents are the comprehensive source of such law.

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<u>SUBJECT</u>	<u>HOME RULE COUNTY</u>	<u>STATUTORY COUNTY</u>
<u>Constitutional Provisions</u>		
Incur Debt	Authority to incur debt without vote of the people (Article XI). Power limited by TABOR (Article X, Sec. 20)	Vote of people required to incur debt (Article XI)
Compensation, term of office, filling vacancies and qualifications for county office	Procedure set by home rule charter (Article XIV)	Set by law (Article XIV) ()
General Powers	<p>County residents are vested with the power to adopt a home rule charter, adoption procedures are delineated in statute.</p> <p>"A home rule county shall provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers as may be required by statute."</p> <p>"A home rule county shall be empowered to provide such permissive functions, services, and facilities and to exercise such permissive powers as may be authorized by statute . . . (unless] prohibited or limited by charter or constitution." (Article XIV)</p>	

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<u>SUBJECT</u>	<u>HOME RULE COUNTY</u>	<u>STATUTORY COUNTY</u>
<u>Statutory Provisions</u>		
General Powers	Home rule counties shall provide all mandatory county functions and may also provide statutory county services, unless otherwise prohibited or limited by the county charter or the state constitution (Section 30-11-511)	Each county shall be a body corporate and politic and shall be empowered to: sue and be sued; purchase and hold real and personal property for county use; acquire lands sold for taxes; sell, convey, exchange, or lease any real or personal property; make all contracts (but such contracts shall not exceed one year); develop, maintain, and operate mass transportation systems; construct, install, operate, and maintain street lighting and assess costs of such lighting to adjacent landowners; contract with the Department of Corrections to house state prisoners; exercise other powers as may be conferred by law; dispose of abandoned personal property acquired by an elected county official or county employee in performing official duties; any county located in whole or in part within the boundaries of the regional transportation district, may provide transit services in cooperation with and pursuant to consultation with the board of directors of the district; coordinate, pursuant to, the "National Environmental Policy Act of 1969", with the United States secretary of the interior and the United States secretary of agriculture to develop land management plans that address hazardous fuel removal and other forest management practices, water development and conservation measures, watershed protection, the protection of air quality, public utilities protection, and private property protection on federal lands within such county's jurisdiction. (Section 30-11-101(1)) Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law. (30-11-101(2))
	All home rule administrative powers are pursuant to Section 30-35.201, unless otherwise noted	
<u>Administrative Powers</u>		
Finances	To control finances and property	To examine and settle all county accounts (Section 30-11-107(1)(b))
Appropriations	To appropriate moneys and provide for payment of debts and expenses	Granted exclusive power to adopt the annual budget for the operation of county government (Section 30-11107(2)(a))

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Public Entertainment	To appropriate up to .6 mills for public concerts and entertainment	None.
Advertising/Marketing	To appropriate moneys for advertising the business, social, and educational advantages, natural resources, and scenic attractions of the county	Lodging tax to promote tourism upon voter approval (Section 30-11107.5); to appropriate moneys to secure proper representation in exhibits and expositions (Section 30-11-115); to appropriate moneys from the county general fund for the purpose of advertising or marketing the county (Section 30-11-116)
Taxes	To levy and collect taxes for general and special purposes on real and personal property as provided by statute; limited to aggregate 5.5%, unless home rule charter sets a lower limit (Section 29-1-301)	To apportion and levy taxes as provided by law (Section 30-11107(1)(d)); limited to aggregate 5.5% (Section 29-1-301)
Indebtedness	To borrow money or issue bonds for any public purpose, including defraying a deficiency in revenues of the county on a temporary basis; total debt limited to 3% of valuation and 30 years, except for supplying water, appears to require approval of the voters	Indebtedness allowed on approval of the voters; bonds may be issued for a broad list of reasons enumerated in statute. (Section 30-26-301 and 30-26-302)
Officers and Employees	To provide by ordinance all duties, salaries, retirement, etc., unless limited by the Constitution, other statute, or home rule charter	Various sections authorize commissioners to create county positions, such as county manager, administrative assistant to the board, county attorney, or any office required
Supplies	An ordinance may require that supplies shall be by contract with low bidder	May advertise for bids for supplies (Section 30-11-109); must purchase supplies from Colorado companies if net cost is the same (Section 3011-110); cannot contract for more than one year (Section 30-11-111)
Charges on Land	May assess a charge on land of individual landowner for streets, alleys, sewers, or water	To expend moneys or make assessments for the construction and maintenance of curbs, gutters, sidewalks, and related structures, except that the county shall cost share (Section 30-11-107(1)(y)); cost of public improvements to be assessed based upon benefits (Section 30-20-604)
Vacancies	To fill vacancies in elected county offices until the next election	To fill vacancies in elected county offices by appointment according to the state Constitution (Section 3011-117)

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Grants of Rights-of-way	To grant rights-of-way by ordinance through, over, across, or under roads, streets, or alleys	To make orders concerning property belonging to the county as it deems expedient (Section 30-11-101(1)(a))
Public Works and Services Buildings	To construct and maintain public buildings	Each county shall provide and maintain a suitable courthouse, a sufficient jail, and other county buildings (Section 30-11-104); to build and keep in repair county buildings (Section 30-11-107(1)(c)) May acquire land or buildings for these purposes by eminent domain in the manner authorized for cities and towns (Section 30-11104); may also enter into lease-purchase agreements (Section 30-11104.1), which building would be tax exempt if used for government purposes (Section 30-11-104.2) To build, maintain, and insure county buildings or find other office space (Section 30-11-104) To acquire, construct, maintain, or improve any public project within or without the county; public project is defined to include lands, buildings, structures, works, machinery, equipment, or facilities for public purposes (Section 30-20-302)
Energy Conservation	To finance and study energy conservation measures: may enter into installment purchase contracts or incur indebtedness without voter approval	To finance and study energy conservation and saving measures; may enter into installment purchase or shared savings Contracts or incur debt without voter approval (Section 30-11-107(1)(dd)) Any county may offer an incentive, in the form of a county property tax or sales tax credit or rebate, to a residential or commercial property owner who installs a renewable energy fixture on his or her residential or commercial property. (Section 30-11-107.3)

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<u>SUBJECT</u>	<u>HOME RULE COUNTY</u>	<u>STATUTORY COUNTY</u>
Streets and Public Grounds	<p>To plan and construct roads, streets, and alleys, including landscaping, encroachment lighting, and maintenance</p> <p>To regulate access to public utilities (gas and water mains, etc.)</p> <p>To regulate use of sidewalks and the responsibilities of adjacent landowners; trash disposal on such public facilities; curbs and gutters; signs, advertisements, and banners; the number of houses and lots and to name or change the name of streets or other public places</p>	<p>To construct and maintain street lighting (Section 30-11-101(1)(g)); to construct and maintain curbs and gutters (Section 30-11-107 (1)(y))</p> <p>To levy a sales tax upon electorate approval in counties over 100,000 population for any improvements. (Section 30-20-604.5); may form an improvement district through petition or resolution (if no protest to the resolution) to finance any public improvement, including roads, streets, alleys, drainage, lighting, fire protection (Section 30-20-503) May impose sales tax or assessments on the property benefited.(section 30-20-601)</p> <p>To lay out, alter, or discontinue any road and to perform such other duties respecting roads as may be required by law (Section 30-11107(1)(h))</p> <p>May require removal or rubbish, trash, other debris, snow from sidewalks by adjacent landowners: (Section 30-15-401)</p> <p>May require connection to utilities before paving in a district. (Section 30-20-624)</p>
Bridges and Tunnels	<p>To construct, maintain, and regulate bridges, viaducts, and tunnels</p>	<p>All bridges crossing any public highway shall be maintained by the county (Section 37-84-108)</p> <p>To lay out, alter, or discontinue any road and to perform such other duties respecting roads as may be required by law (Section 30-11- 107(1)(h))</p>

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Sewers and Water Mains	To construct, maintain, regulate, and assess for sewers and water mains; may assess based upon the benefit to the public generally (to be assessed against the county) and the benefit to the adjacent land (to be assessed against the landowner)	To construct, improve, maintain, and assess appropriate landowners for drainage structures and facilities, except that there are limits when a drainage district exists (Section 30-11-107.5(1)(u), (w), and (a)) To acquire, construct, maintain, or improve any public project within or without the county; public project is defined to include lands, buildings, structures, works, machinery, equipment, or facilities for public purposes (including water facilities), health, education, or the conservation of natural resources; may use anticipation warrants (Section 30-20-301 et seq.) Any county, without an election, may construct, reconstruct, improve, extend, operate, and maintain water or sewerage facilities (including canals); may accept gifts or otherwise acquire lands for this purpose; may prescribe and collect rates, fees, tolls, and charges from consumers of service; may bond for these purposes by action of the board of county commissioners (Section 30-20-401 et seq.)
Lease or Purchase of Canals	To purchase, lease, and operate canals or ditches; must first be approved at an election; management of such canal or ditch would be under the county governing body	To acquire, construct, maintain or improve any public project within or without the county; public project is defined to include lands, buildings, structures, works, machinery, equipment, or facilities for public purposes (including water facilities), health, education, or the conservation of natural resources; may use anticipation warrants (Section 30-20-301 et seq.) Any county, without an election, may construct, reconstruct, improve, extend, operate, and maintain water or sewerage facilities (including canals); may accept gifts or otherwise acquire lands and rights in land for this purpose; may prescribe and collect rates, fees, tolls, and charges from consumers of service; may bond for these purposes by action of the board of county commissioners (Section 30-20-401 et seq.)

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<u>SUBJECT</u>	<u>HOME RULE COUNTY</u>	<u>STATUTORY COUNTY</u>
Purchase or Sell Water Rights	To purchase water and water rights to supply inhabitants with water; may also purchase and hold lands on which such rights are located whether or not within the county. To acquire, construct, maintain, or improve any public project within limits; divert the water and sell the land; supply and charge for water to outside consumers	To acquire, construct, maintain, or improve any public project within or without the county; public project is defined to include lands, buildings, structures, (including water facilities), health, education, or the conservation of natural resources; may use anticipation warrants (Section 30-20-301 et seq.) Any county, without an election, may construct, reconstruct, improve, extend, operate, and maintain water or sewerage facilities (including canals); may accept gifts or otherwise acquire lands and rights in land for this purpose; may prescribe and collect rates, fees, tolls, and charges from consumers of service; may bond for these purposes by action of the board of county commissioners (Section 30-20-401 et seq.)
Water Pollution Control	To report pollution to the Health Department or the Water Quality Control Commission, but not to supersede valid permit from state; accept grants or aid from federal or state government or industry; construct, lease, or improve sewage treatment works within or without the county; issue general obligation or revenue bonds for these purposes; work with federal government, state, or industry for joint construction and maintenance of sewage treatment plants	Powers deal specifically with sewerage
Fire Protection	May build firehouses and provide fire equipment; determine powers and duties of fire department (and its employees)	May form an improvement district through petition to finance any public improvement, including fire protection (Section 30-20-503) Sheriff to act as fire warden for prairie and forest fires (Section 30-10-512) May prepare, adopt, and implement a county fire management plan. 9Section 30-11-124)

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Hospitals	May build and maintain public hospitals and other health facilities; the board of public hospital trustees may incur debt for such purposes without the approval of the county commissioners unless the home rule charter specifically reserves such power to the commissioners; the county shall not incur liability or indebtedness by such means	The board of county commissioners may create a hospital board which may levy taxes, purchase, build, and maintain hospitals; debt limited to one year's revenue (Section 25-3-301 et seq.)
Cemeteries	To establish, remove, and regulate cemeteries	Board of county commissioners shall create cemetery districts upon petition of property owners; may acquire property, sell burial plots; may levy tax up to 2 mills (Section 30-20-801 et seq.)
Franchise and Charges for Utilities	To grant franchises for water or cable tv for term of up to 25 years and to authorize charges and collections; may assess a tax of up to 3 mills on the dollar for any one year	
Water Facilities	To construct public wells, cisterns, and reservoirs to supply county water and to levy a tax or charge on all consumers to defray expenses	To acquire, construct, maintain, or improve any public project within or without the county; public project is defined to include lands, buildings, structures, works, machinery, equipment, or facilities for public purposes (including water facilities), health, education, or the conservation of natural resources; may use anticipation warrants (Section 30-20-301 et seq.) Any county without an election may construct, reconstruct, improve, and extend, operate, and maintain water or sewerage facilities (including canals); may accept gifts or otherwise acquire lands and rights in land for this purpose; may prescribe and collect rates, fees, tolls, and charges from consumers of service; may bond for these purposes by action of the board of county commissioners (Section 30-20-401 et seq.)

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Parks	To establish, maintain, and control land for parks and other recreational purposes; to purchase land for these purposes, the governing body must first adopt an ordinance or it must be approved at an election; to control traffic, billboards, and vendors, adopt other rules and regulations and enforce such rules, and other powers as noted in the ordinance; to accept bequests or conveyances of land for parks purposes; to incur debt for parks purposes (some provisions must be approved by the electorate); to create a park fund and to annually levy no more than 1.5 mills for such fund (which cannot revert to the general fund)	To establish by ordinance fees, permits, licenses, and passes to provide the funds for recreational facility development (Section 30-15-401) Any county may acquire, sell, own, exchange, regulate, control, and operate public recreational facilities, parks, etc. (Section 30-15-401); any county may create recreation districts and levy taxes up to 1 mill (Section 30-20-701 et seq.)
<u>Building and Zoning Regulations</u>	Planning and Zoning	To exercise powers of planning and zoning in Article 28 of Title 30
<u>Condemnation Powers</u>	Streets and Sewers	Powers pursuant to Article 28 of Title 30; "The County Planning Act"; "Local Government Land Use and Control Enabling Act of 1974" C.R.S. § 29-20-101 et seq.
		Board of county commissioners may condemn land for county roads (Section 43-2e-112); boards of county commissioners, with approval of majority of adjacent property holders, may grant right-of-way for construction, maintenance, and operation of any electric railroad over, along, or across right-of-way (Section 40-24-102); to condemn land or rights in land to construct or improves sewerage facilities (Section 30-20-402)

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<u>Ordinance Powers</u>		
Power and Penalties	To pass all ordinances as may be necessary to effect the powers granted to home rule counties.	Section 30-15-401 creates ordinance powers to control or license certain matters of purely local concern. This statute is amended with regularity. Any person who violates any county ordinance commits a class 2 petty offense or, in the case of traffic offenses, commits a traffic infraction, and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for each separate violation. As part of a penalty assessment procedure, the board of county commissioners may adopt a graduated fine schedule for such violations. (Section 30-15-402)
Enforcement	To enforce all county ordinances; to preserve general welfare of county residents	[See above]
Parking	To provide by ordinance for parking facilities; may retire bonds with parking fees	
Sell Public Works	May sell county property, except the sale of a park or recreational facility must first be approved at an election; may lease county property	To make such orders concerning the property belonging to the county as it deems expedient (Section 30-11- 107(1)(a))
Special Taxing Districts	The governing body may establish special taxing districts to facilitate the furnishing of services and the collection of ad valorem taxes or charges to pay for those services (Section 30-35-901 et seq.)	Several articles exists to allow counties to create special taxing districts, including: solid waste disposal sites and facilities; disposal; public projects; sewer and water systems; county public improvement; local improvement; recreation; cemetery; and road improvement, sewage, and water sales tax
<u>Other</u>		
Initiative and referendum	Electors of Counties have the rights of initiative on a county-wide basis in certain limited contexts (Section 29-2-104)(30-11-508 provides for the proposal by initiative of county-wide sales tax ordinances.)	No general authority to adopt measures by initiative or referendum.