



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: March 28, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar,
VIA: Marisa Stoller, City Clerk
FROM: Michael Miller, Assistant City Attorney
SUBJECT: AN ORDINANCE AMENDING THE PUEBLO MUNICIPAL CODE IN ACCORDANCE WITH COLORADO RULES OF CIVIL PROCEDURE RULE 106

SUMMARY:

This Ordinance updates the Pueblo Municipal Code to address the shift in Colorado Rules of Civil Procedure Rule 106 from thirty (30) days to twenty-eight (28) days.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

In August of 2020 and January of 2012, the Colorado Legislature adopted amendments to Colorado Rules of Civil Procedure Rule 106, limiting the Judicial Review of quasi-judicial decisions in civil matters in county courts. The 2012 amendment to this Rule adopted a 28-day limitation on appeals of quasi-judicial decisions unless local legislation expanded upon this timeframe via statute. This Ordinance updates the Pueblo Municipal Code in accordance with this change, limiting appeals of quasi-judicial decisions to 28 days.

FINANCIAL IMPLICATIONS:

There are no financial implications to the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance does not pass, the City's code provisions will not align with the Colorado Rules of Civil Procedure.

RECOMMENDATION:

Passage of the Ordinance

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PUEBLO MUNICIPAL
CODE IN ACCORDANCE WITH COLORADO RULES OF
CIVIL PROCEDURE RULE 106

WHEREAS, the State Legislature has limited the scope of Colorado Rules of Civil Procedure (C.R.C.P.) Rule 106 to civil matters; and

WHEREAS, said Rule provides a 28-day limitation on appeals of quasi-judicial decisions; and

WHEREAS, the Pueblo Municipal Code provides 30 days for the appeal of quasi-judicial decisions, where said timeline needs to be amended to align with C.R.C.P. Rule 106; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 1-7-14 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 1-7-14. - Judicial review and enforcement.

(a) Any party aggrieved by the decision of an administrative body in any quasi-judicial hearing, or the City itself, may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure, provided that the action is commenced not more than twenty-eight (28) [thirty (30)] days subsequent to the date of said decision or within such shorter time as may be required by the statute, Charter or ordinance under which such hearing was held. The person applying to the court for review shall be required to pay the cost of preparing a transcript of proceedings before the administrative body whenever such a transcript is requested by such person or when such a transcript is required to be furnished pursuant to court order.

...

SECTION 2.

Section 4-14-8 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 4-14-8. - Designation of Landmark or Historic District

...

(k) Any owner of a cultural resource designated by ordinance as a Landmark or within a Historic District may seek judicial review of such designation by the District Court, County of Pueblo, Colorado, in the manner provided in Rule 106(a)(4), C.R.C.P. A complaint seeking such review shall be filed in said District Court not later than **twenty-eight (28) [thirty (30)]** days after approval of the ordinance making such designation.

...

SECTION 3.

Section 4-14-17 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 4-14-17. - Review and appeals.

...

(b) Any Owner or other interested person adversely affected by a final decision of HPC, by a decision of HPC sustained by City Council or by a decision of HPC on redetermination as provided in Subsection (a) above, with respect to an application for a Certificate of Appropriateness, Demolition Permit or Certificate of Economic Hardship, may seek judicial review by the District Court, Pueblo County, Colorado, in the manner provided in Rule 106(a)(4), C.R.C.P. A complaint seeking such review shall be filed in said District Court not later than **twenty-eight (28) [thirty (30)]** days after the date of the final decision of HPC if a timely request for review by the City Council has not been filed with the City Clerk as provided in Subsection (a) above; or, if such request for review has been timely filed, not later than **twenty-eight (28) [thirty(30)]** days after the date City Council sustains the decision of HPC or the date of the decision of HPC on redetermination, whichever occurs first.

...

SECTION 4.

Section 9-2-6 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 9-2-6. - Revocation; suspension; appeal; penalties.

(a) In addition to any other penalty provided by law, any cabaret license may be suspended, revoked or denied renewal by the Board after a hearing, for violation by the licensee or his or her agent or employee of any provision of this Chapter or of the Colorado Beer Code, Colorado Liquor Code or Colorado Criminal Code if such violation arises out of the operation of the cabaret premises.

(b) The hearing referred to in Subsection (a) above shall be conducted as a quasi-judicial hearing under Chapter 7 of Title I of this Code. An affected licensee shall be given at least ten (10) days' notice of the hearing. Any such hearing may be

consolidated with a hearing conducted by the Board under authority granted by the Colorado Liquor Code or Colorado Beer Code.

(c) Judicial review of any final Board action may be had under Rule 106, C.R.C.P. provided that proceedings for such review are filed within twenty-eight (28) [thirty (30)] days thereafter.

(d) Any person who operates a cabaret in this City without a valid license therefor, or any person who violates any provision of Section 9-2-5 of this Code shall be punished as provided in Section 1-2-1 of this Code.

SECTION 5.

Section 11-3-9 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 11-3-9. - Appeal of Board decisions.

Actions taken by the Board are subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within twenty-eight (28) [thirty (30)] days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Board whenever such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Board pursuant to the Court order.

SECTION 6.

Section 11-10-205 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 11-10-205. - Appeal of Authority decisions.

Actions taken by the Authority are subject to review by the Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within twenty-eight (28) [thirty (30)] days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Authority whenever such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Authority pursuant to the Court order.

SECTION 7.

Section 14-10-3 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 14-10-3. - Procedures for disposition of unclaimed property.

...

(g) The decisions and determinations of the Director under this Section shall be final and conclusive unless judicial review has been taken pursuant to Rule 106 of the Colorado Rules of Civil Procedure within **twenty-eight (28)** [thirty (30)] days of the date of the decision or determination sought to be reviewed.

SECTION 8.

Section 17-5-36 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-5-36. - Appeals from the Zoning Board of Appeals.

Any person, firm, or corporation, or any Board, taxpayer, department, or bureau of the City aggrieved by any decision of the Zoning Board of Appeals may seek review by a court of record of such decision, in the manner provided by Rule 106 of the Colorado Rules of Civil Procedure. A petition for such review shall be filed within **twenty-eight (28)** [thirty (30)] days after final action of the Zoning Board of Appeals. It shall not be a condition precedent to judicial review that the Board reconsider its decision.

SECTION 9.

Section 17-5-37 of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-5-37. - Duties of Administrative Official, Zoning Board of Appeals, City Council and courts on matters of appeal.

(a) All questions of interpretation and enforcement shall be first presented to the Administrative Official. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decision of the Administrative Official. Recourse from the decisions of the Zoning Board of Appeals shall be to the courts as provided by Rule 106 of the Colorado Rules of Civil Procedure. All such review shall be filed within **twenty-eight (28)** [thirty (30)] days after final action of the Zoning Board of Appeals.

...

SECTION 10.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 11.

This Ordinance shall become effective thirty (30) days after final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

- Approved on _____.
- Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of _____, on _____
- Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk