

CHAPTER 1

COLORADO MUNICIPAL COURTS

SECTION

1.1 Jurisdiction

Jurisdiction has been defined as "the right or power to administer justice and to apply laws, the exercise or extent of such right or power, (and) power or authority in general". Collins English Dictionary- Complete & Unabridged 2012 Digital Edition. "The jurisdiction of a court is in a broad sense its power to hear and determine controversies, and, in a more restricted sense, its power to adjudicate a particular case." 21 C.J.S. 16. Jurisdiction of a Colorado municipal court comes first from the State in terms of its creation and basic operational structure. Secondly, such a court is created and given its authority by the city or town in which it sits, but necessarily in conformity with State law. Though not often raised directly, jurisdiction is a necessary consideration in every matter brought to a judge.

A. Sources of Power and Authority

The primary sources of power and authority of a municipal court in Colorado are found in the Constitutions of the United States and Colorado, and the Colorado statutes, Supreme Court rules and applicable case decisions, the city charter (or other organic document) of the municipality in which the court sits and the municipality's ordinances.

Grants and limitations of power to a Colorado municipal court can be found in the following sources:

1. United States Constitution
Amendments I through X and XIV;
2. Colorado Constitution
Art. 11, §§ 1-30 (Bill of Rights);
Art. III, Distribution (Separation) of Powers;
Art. VI, § 1, acknowledges authority under
Art. XX to create municipal courts;
Art. XIV, §§ 13 and 14, authorizes statutes to create and classify
cities and towns; and
Art. XX, §§ 1, 6, and 10, authorizes creation of municipal courts for
home rule cities and towns.
3. Colorado Revised Statutes (C.R.S.)
13-10-101, *et seq.* Enabling legislation for municipal courts, especially
those not in a home rule city or not a court-of record;
13-10-103. Applicability, governs the operation of municipal courts,
except as superseded by charter or ordinance. Exceptions to a
municipality's authority to supersede are listed in 1.2 below;

13-10-104. Municipal courts created, jurisdiction - creation required and

13-10-112. Powers and procedures;
31-1-101, *et seq.* Authorizes creation and directs the organization and governance of cities;
31-4-208, Directs the City Council to appoint a municipal judge; removal only "for cause" pursuant to C.R.S.
13-10-105(2) (this apparently can be superseded under C.R.S. 13-10-103);
31-15-101 through 1004, Powers and Functions of Cities and Towns;
31-16-101, *et seq.*, Ordinances and penalties;
31-16-111, One-year limitation of suits including prosecutions for ordinance violations; and
42-4-110, Delineates state and local authority in traffic matters.

4. Colorado Municipal Court Rules of Procedure (C.M.C.R.)

5. Colorado Rules of Criminal Procedure (Crim. P.) Rules 37 and 57.

6. Colorado Appellate Rules (C.A.P.). Rule

B. Jurisdiction

Colorado municipal courts have original, special, exclusive, limited and concurrent jurisdiction in relation to other courts within the State.

1. A municipal court has *original jurisdiction* because it is a trial court and cases are originally filed there.
2. The term *special jurisdiction* applies to a municipal court because it hears only cases involving violations of the municipality's ordinances and charter and, if a home rule city, such other matters determined by ordinance or charter and consistent with state law.
3. A municipal court has *exclusive jurisdiction* because its cases may not be originally heard by another court (for example, the municipal court of another city or town or state courts). See *Town of Frisco v. Baum*, 90 P.3d 845 (Colo. 2004). There the Colorado Supreme Court held: "The constitution specifically grants municipalities the authority to define municipal court jurisdiction and limits the jurisdiction of district courts insofar as the municipal court may exercise its jurisdiction. When a municipality exercises jurisdiction to address local and municipal matters in its municipal court, the district court will consequently be denied original jurisdiction over those matters. 'With respect to purely local and municipal matters, the charter may be, and doubtless is, the paramount law....' *Williams*, 38 Colo. At 506, 88 P. at 466. Moreover, "[i]n purely local and municipal matters, home rule

cities may exercise exclusive jurisdiction by passing ordinances which supersede state statutes." *Vela v. People*, 174 Colo. 465, 466, 484 P.2d 1204, 1205 (1971). Thus, due to the constitution's specific grant of authority to the municipalities to define the jurisdiction of their courts, the effect on the district courts is not prohibited.

4. A municipal court has **limited jurisdiction** because it is prohibited from hearing more serious criminal matters (felonies) and matters deemed by the General Assembly to be of statewide concern (drug and alcohol-related driving offenses and offenses related to driver's licenses). See Colo. Const., Art. XX, § 6 and annotations. See also Art. VI, § 1 and § 9(1) and annotations.
5. In a practical sense, a municipal court may be thought of as having **concurrent jurisdiction** with the county court in matters of both local and statewide concern (domestic violence, many traffic violations, compulsive motor vehicle insurance violations and many other non-felony offenses); however, in a strict sense, jurisdiction is not concurrent because such cases are based upon different bodies of substantive law in each court. See C.R.S. 42-4-110 and annotations. Regarding matters of mixed concern or joint concern, a municipality, and thus a municipal court, does not have superseding authority; it has a supplemental authority so long as not in conflict with state law—that is, whether an ordinance authorizes what the state forbids, or forbids what the state expressly authorizes. *City of Aurora v. Martin*, 181 Colo. 72, 507 P.2d 868 (1973); *R.E.N. v. City of Colorado Springs*, 823 P.2d 1359 (Colo. 1992). See also *Vick v. People*, 166 Colo. 565, 445 P.2d 220 (1968), *cert. den.*, 394 U.S. 945, 89 S.Ct. 1273, 22 L.Ed.2d 477 (1969).

C. Application of Jurisdiction

As applied, jurisdiction looks at the kinds of issues presented, such as territory, parties who are affected and affected others, real property effects, timing and the actual presentation of issues to the court. Types of jurisdiction include subject matter, territorial, in rem, personal and particular jurisdiction.

1. Subject-matter jurisdiction ". . . is the power to hear and determine cases of the general class to which the proceedings in question belong." 21 C.J.S. 18. The statutory definition of municipal court jurisdiction is "... to hear and try all alleged violations of ordinance provision of such city or town." C.R.S. 13-10-104. Subject-matter jurisdiction is so fundamental that a lack of it requires that a case be dismissed at any time the lack of such jurisdiction is successfully raised or determined—even upon the Court's own motion, if necessary. The ordinances must comply with the Federal and State

constitutions and ordinance violations must occur within the territorial boundaries of the municipality (see below). Cases must be filed within the statute of limitations. C.R.S. 31-16-111. Matters must be tried within speedy trial limits. C.M.C.R. 248.

2. Territorial jurisdiction may be considered almost a part of subject-matter jurisdiction. In most cases, territorial jurisdiction is obvious-the allegedly illegal conduct occurred either within or without the boundaries of the municipality. The issue can be less obvious and need more consideration if the municipality owns real property outside its limits (for example, Denver Mountain parks in Jefferson County}, the violation occurred at or near the boundary or the municipality or the violation was initiated outside the boundary of the municipality but caused a direct injury inside, or *vice versa*. Municipal real property owned outside of the municipality's boundary is rare. In dealing with such property and violations on such property, a judge should refer to specific charter and/or ordinance provisions. Other types of boundary problems can occur more frequently. The analysis is usually similar to boundary line problems in the State courts. Factors can include (1} specifically what act or conduct prohibited, (2) how that act is related to location and to the specific location of the alleged offense, (3} general or specific intent element of the violation, (4) whether the alleged violation is a continuing and position-changing violation (for example, speeding) or one instantaneous in time and unique in location (for example, failure to stop at a stop sign), and (5} when and where is the violation completed (for example, a U-turn}. "Venue" is not the same as territorial jurisdiction. Venue concerns the place where a trial must be held unless changed pursuant to law, not whether the court has the authority to determine the matter at trial. Venue for a Colorado municipal court may be within the municipality or within reasonable proximity to the municipality. C.R.S. 13-10-110. There are no provisions in the law to change venue from a municipal court to a remote site. If the fairness and impartiality of the judge is sufficiently put in issue, recusal will be in order. If a fair and impartial jury cannot be had, a second trial on appeal in the county court (from a municipal court not of record} or in the district court (from a court of record} may be the solution.
3. In rem jurisdiction is the power to make orders concerning property. These issues arise in cases involving zoning (for example, junk cars, trash in yards, weeds), building code, fire code, automobile impoundment, animal control and contraband.
4. Personal jurisdiction is the power of a court to bring before it the person to be judged and/or affected by the court's decision. It is also the power of the court to render a judgment binding upon such person.

Obviously, personal jurisdiction must be established for issuing warrants, retaining a defendant in custody, going forward with a case and sentencing.

5. Particular jurisdiction is the power to adjudicate a particular case, issue or type of case. Compliance with procedural requirements is necessary to give a municipal court particular jurisdiction.

1.2 General Powers

General requirements and regulations governing municipal courts are set forth in C.R.S. 13-10-101, *et seq.* Judges in a statutory city are bound by all of the provisions contained within Title 13, Article 10 of the Statutes. C.R.S. 13-10-103 and *People of the City of Thornton v. Horan*, 192 Colo. 144, 556 P.2d 1217 (1976), *cert. den.*, 431 U.S. 966, 97 S.Ct. 2922, 53 L.Ed.2d 1061 (1977). A home rule city, on the other hand, may supersede the provisions of Article 10, except for the following:

- The method of salary payment for municipal judges
- The incarceration of children provided for in sections 19-2-402 and 19-2-508, C.R.S.
- The appearance of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense as required by section 13-10-111, 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 and appellate procedure promulgated by the Colorado Supreme Court
- Apparently, a home rule city may not contravene the provisions of Article 10 with regard to appeals from municipal courts. C.R.S. 13-10-103.

Municipal judges have all of the judicial power they need to operate their courts. C.R.S. 13-10-112 says, "(1) 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 Colorado supreme court. The presiding municipal judge any municipal court has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado supreme court. (2) The judicial powers of any municipal judge shall include the power to enforce subpoenas issued by any board, commission, hearing officer, or other body or officer of the municipality authored by law or ordinance to issue subpoenas."

Included among the powers of the court are inherent powers to run the court and its proceedings, including the contempt power. "One such [inherent] power, implied by the need to maintain the order and decorum indispensable to judicial proceedings, in the contempt power." See, *Thrap v. People*, 192 Colo. 341, 558 P.2d 576 (1977) at page 577. Along with the powers come the responsibilities to use the powers

judiciously. "Like other inherent judicial powers, this power [of contempt] must be exercised with patience and self-restraint." *Thrap, supra*.

The judge must not be a "legal legend in his own mind" and imply inherent powers to himself he does not have; he must act within the court's jurisdiction and authority. The municipal court may not act outside these boundaries; the court may not make an order that is beyond the court's authority. See, *City of Englewood v. Parkinson*, 703 P.2d 626 (Colo. App. 1985). (A municipal court does not have the authority to issue a Writ of Mandamus against its City Council.) Similarly, a court may not exercise its contempt power to punish a person for failing to obey an invalid or void order of the court. *Thrap, supra*.; see also, the cases cited at pp. 578-9 of the opinion.

1.3 Procedures

The Colorado Supreme Court has adopted the Colorado Municipal Court Rules of Procedure that govern the operations, proceedings and conduct all municipal courts within the State of Colorado. C.R.S. 13-10-103 and 13-10-112; C.M.C.R. 201. The Municipal Court Rules "... are intended to provide for the just determination of all municipal charter and ordinance violations. They shall be construed to secure simplicity in procedure, fairness and administration and the elimination of unjustifiable expense and delay." C.M.C.R. 202. *City of Englewood v. Municipal Court*, 687 P.2d 521 (Colo. App. 1984).

If no procedure is specifically presented by the Municipal Court Rules, the court can look for guidance to the Colorado Rules of Criminal Procedure. *Bachicha v. Municipal Court*, 581 P.2d 746 (Colo. App. 1978). "As their parallel purposes and numbering system indicate, the Colorado Rules of Criminal Procedure and the Colorado Municipal Court Rules of Procedure are *in pari materia*. See, Crim. P. 2; C.M.C.R. 202 and C.M.C.R. 206(a)(6) [Ed. Note: the last rule no longer exists]. Being *in pari materia*, they should be reconciled if possible. See, *People v. Cornelison*, 559 P.2d 1102 (Colo. 1977). See also, *People ex rel. Farina v. District Court*, 184 Colo. 406, 521 P.2d 778 (1974).

Further, the Rules of Criminal Procedure must be strictly construed in favor of the accused. See, *People v. Cornelison, supra*; *People v. Linger*, 566 P.2d 1367 (Colo. App. 1977)." And, "If no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these Rules of Criminal Procedure or with any directive of the Supreme Court regarding the conduct of formal judicial proceedings in the criminal courts, and shall look to the Rule of Civil Procedure and to the applicable."