

C.R.S. 43-2-135

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 43. TRANSPORTATION
HIGHWAYS AND HIGHWAY SYSTEMS
ARTICLE 2.STATE, COUNTY, AND MUNICIPAL HIGHWAYS
PART 1. STATE, COUNTY, AND CITY HIGHWAYS SYSTEMS

C.R.S. 43-2-135 (2013)

43-2-135. Division of authority over streets

- (1) The jurisdiction, control, and duty of the state, cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system is as follows:
- (a) The city, city and county, and incorporated town shall exercise full responsibility for and control over any such street beyond and including the curbs and, if no curb is installed, beyond the traveled way, its contiguous shoulders, and appurtenances; except that the regulation and control of driveways shall be subject to the provisions of section 43-2-147.
 - (b) The department of transportation has authority to prohibit the suspension of signs, banners, or decorations above the portion of such streets between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway.
 - (c) The city, city and county, or incorporated town at its own expense shall maintain all underground facilities in such streets and has the right to construct such underground facilities as may be necessary in such streets.
 - (d) The city, city and county, or incorporated town has the right to grant the privilege to open the surface of any such street, but all damages occasioned thereby shall promptly be repaired either by the city, city and county, or incorporated town itself or at its direction.
 - (e) The city, city and county, or incorporated town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins.
 - (f) The department of transportation has the right to utilize all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of streets by the department of transportation, the cost of such facilities shall be borne by the state and municipality as may be mutually agreed upon between the department of transportation and the local governing body of the city, city and county, or incorporated town.
 - (g) Cities, cities and counties, and incorporated towns shall regulate and enforce all traffic and parking restrictions on streets which are state highways, but all regulations adopted after December 31, 1979, shall be approved in writing by the department of transportation before becoming effective on such streets; except that such regulations shall become effective on such streets sixty days after receipt for review by the department of transportation if not disapproved in writing by said department during that sixty-day period.
 - (h) The department of transportation shall erect, control, and maintain at state expense all route markers and directional signs, except street signs on those streets.
 - (i) The department of transportation shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices on state highways in cities, the city and county of Denver, the city and county of Broomfield, and incorporated towns. No local authority shall erect or maintain any stop sign or traffic control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department of transportation. For the purpose of this paragraph (i), striping, lane-marking, and channelization are considered

traffic control devices.

(j) Rights-of-way for such street shall be acquired by either the city, city and county, or incorporated town or by the state as is mutually agreed upon. Costs of acquiring such rights-of-way may be at the sole expense of the state or the city, city and county, or incorporated town, or both, as may be mutually agreed. Title to all rights-of-way so acquired shall vest in the city, city and county, or incorporated town, or the state, according to the agreement under which said rights-of-way were secured.

(k) The department of transportation is authorized to acquire rights-of-way by purchase, gift, or condemnation for any such streets, highways, and bridges. Any such condemnation proceeding shall be exercised in the manner provided by law for condemnation proceedings to acquire lands required for state highways. Nothing in this section shall be construed as abrogating the rights of home rule cities to acquire lands for state purposes in the manner set forth in the charter of said cities.

HISTORY: Source: L. 53: p. 526, § 35. CRS 53: § 120-13-35. C.R.S. 1963: § 120-13-35. L. 71: p. 202, § 10. L. 74: (1)(i) amended, p. 358, § 1, effective July 1. L. 79: (1)(g) amended, p. 1598, § 2, effective May 18. L. 80: (1)(a) amended, p. 798, § 66, effective June 5. L. 91: (1)(b), (1)(f) to (1)(i), and (1) (k) amended, p. 1105, § 147, effective July 1. L. 2001: (1)(i) amended, p. 273, § 27, effective November 15.

ANNOTATION

Municipal regulations relating to traffic and parking on highway-streets subject to approval by highway department. This section declares that cities, cities and counties, and incorporated towns shall regulate and enforce traffic and parking restrictions on all highway-streets within the municipal boundaries, but provides that all regulations shall be subject to approval of the department of highways before becoming effective. This section also purports to divide authority over streets which are part of the state highway system. It defines in detail the obligations of cities, cities and counties, and incorporated towns with respect to streets which are a part of the state highway system. *City County of Denver v. Pike*, 140 Colo. 17, 342 P.2d 688 (1959).

Where state has recognized right to regulate, no prior approval required. Where the right of a city to regulate speed on a freeway bisecting a city has been recognized by the state, allowing the city to post the highway and enforce its ordinances, it is not necessary for the city to obtain prior approval of its regulations before they could become effective. *City County of Denver v. Pike*, 140 Colo. 17, 342 P.2d 688 (1959).

This section authorizes resort to agreement concerning the acquisition of property; however, it is only an optional method and is permissible as a substitute for proceedings in condemnation. *Town of Greenwood Vill. v. District Court*, 138 Colo. 283, 332 P.2d 210 (1958).

Considering paragraphs (j) and (k) of subsection (1) together, paragraph (j) is permissive only and does not make consent of a town a prerequisite to condemnation of private property within its corporate limits, or to condemnation of public property already in use for street purposes, the fee title to which lies in a town. *Town of Greenwood Vill. v. District Court*, 138 Colo. 283, 332 P.2d 210 (1958).

The department of highways can lawfully condemn public or private property within a municipality for the purpose of continuing state highways into or through cities or towns. The principle is identical as far as acquisition of park lands by the state is concerned. *Welch v. City County of Denver*, 141 Colo. 587, 349 P.2d 352 (1960).

State not compelled to condemn where city and state have agreement. Where agreement was reached between the state and the city where the city granted the state the right to construct a highway on park land, the state was not compelled to institute condemnation proceedings. By enacting the ordinances authorizing the use of park lands for highway purposes, all was accomplished by agreement that would otherwise have had to be accomplished by condemnation proceedings. *Welch v. City County of Denver*, 141 Colo. 587, 349 P.2d 352 (1960).