



## League able to quickly fill vacant senior team positions

By Kevin Bommer, CML executive director



### General counsel

Robert Sheesley, currently the city attorney in Commerce City, will start as CML's general counsel in mid-November. Sheesley is well known in the Colorado municipal legal community and will be the same excellent resource to city and town attorneys that David Broadwell, current general counsel, has been since he came on board in May 2019.

The position is critical to CML members in the court of legal opinion, as well as the court of political opinion. Sheesley will assist the legislative advocacy team and will field inquiries from Colorado municipal attorneys. He will also staff the CML Amicus Committee and file friend of the court briefs in support of municipal interests.

Broadwell will support Sheesley through the transition, and the League will soon begin a search to fill the recently vacated associate counsel position. The announcement will remain open until Sheesley starts, so that he will be able to start reviewing applications and fill the position as soon as possible. Sheesley will supervise the associate counsel and the law clerk positions.



### Engagement and communications manager

Jennifer Stone comes to CML from the Denver Museum of Nature & Science and has a strong background in communications, member service, and event marketing. She will start on Oct. 29. The engagement and communications manager was created in 2019 to give greater focus to the League's internal and

external interactions with members and associate members while focusing on CML's communications strategies and methods. Stone will also partner with the legislative advocacy and legal teams to promote the value of local government, develop a curriculum for CML training programs for municipal officials throughout the state, and clearly message changes and developments in the Colorado municipal landscape.

Stone will supervise three positions: the municipal research analyst, the training and marketing specialist, and the publication and design specialist. Among other things, she will dive right into the planning process already underway for CML's 100th Annual Conference in Breckenridge, June 21-24, 2022.

## Police chief appointed to International Association of Chiefs of Police's Board of Directors

Castle Rock Police Chief Jack Cauley has been appointed to the International Association of Chiefs of Police's Board of Directors for midsize agencies with 100-249 sworn officers. With Chief Cauley's appointment to IACP, both Town of Castle Rock police and fire chiefs currently serve in executive leadership roles on international boards for their professions.

"It's extremely rare that the police chief and the fire chief of a community serve in influential positions on international boards of their professions," said Town Manager David Corliss. "The Town is very fortunate to have such well-respected leaders as part of

our organization. Both chiefs are recognized as outstanding leaders both here at home and across the nation, and we can also say internationally."

Established in 1893, IACP has more than 31,000 members in 165 countries. Its mission is to advance the policing profession through advocacy, research, outreach, and education – with the ultimate goal of shaping the future of the policing profession while supporting and developing current and future leaders. For more information about IACP, visit [theiacp.org](http://theiacp.org). "I am honored to represent such an outstanding group of leaders," said Chief Cauley. "Our profession is changing

rapidly, and I look forward to working on behalf of police officers and our communities to advance the policing profession and the services we provide."

Since 2013, Castle Rock Fire and Rescue Chief Norris Croom III has served on the Board of Directors of the International Association of Fire Chiefs representing Emergency Medical Services. The IAFC is a worldwide network of more than 12,000 fire chiefs and emergency responders, terrorism response, hazardous materials spills, natural disasters, search and rescue, and public safety policy.

## Videos requested for "Colorado has a water plan" campaign

"Colorado Has a Water Plan" is a campaign launched by the For the Love of Colorado Coalition, which includes CML and other stakeholders, designed to re-engage

Colorado water stakeholders, raise awareness, and inspire continued action and investment in the water plan. The coalition is requesting videos from stakeholders which

will be used for the organic social media aspect of the campaign.

*Continued on page 2*

## OIT launches website accessibility guide

Following the passage of HB21-1110 ([bit.ly/2YXFDLU](https://bit.ly/2YXFDLU)), which requires state and local governments to meet specific website accessibility standards by July 1, 2024, the Colorado Office of Information Technology (OIT) has launched its new guide to accessible web services. The guide can be accessed on OIT's website [bit.ly/3aMjJ11](https://bit.ly/3aMjJ11). The website also includes an explanation of what is required by HB21-1110, information on how to begin with accessibility compliance, links to free website evaluation tools, and an accessibility how-to guide. We encourage all municipalities to sign up for the OIT State of Colorado Accessibility Newsletter to stay informed at [bit.ly/3DUdXXL](https://bit.ly/3DUdXXL). If you have any questions, please contact Heather Stauffer at [hstauffer@cml.org](mailto:hstauffer@cml.org).

## CML Election webinar: The Election Calendar

CML's Election Webinar series is back! We're excited to provide clerks with essential information concerning elections, beginning **Nov. 18**. CML will host Karen Goldman, MMC, on a webinar focused on the election calendar, polling place, and mail ballots. You can register for the Election Calendar Webinar at [bit.ly/3FUKKOh](https://bit.ly/3FUKKOh).



### COLORADO MUNICIPAL LEAGUE NEWSLETTER

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Get this newsletter by email. The CML Newsletter is available by email three days before it arrives in the mail! Sign up at [bit.ly/CMLNewsletter](https://bit.ly/CMLNewsletter).

## Continued from page 1...Videos requested for "Colorado has a water plan" campaign

If you're interested in participating in the media campaign, they are requesting a short, 60 second selfie-style personal video expressing your perspective on why investing

in the implementation of Colorado's Water Plan is important to our state's future. For more details and instructions please contact Heather Stauffer at [hstauffer@cml.org](mailto:hstauffer@cml.org).

## Colorado Department of Local Affairs supplies \$168 million in rental assistance, \$79.5 million for affordable housing

The Colorado Department of Local Affairs (DOLA) Division of Housing (DOH) as of September has paid over \$168 million in pandemic-related emergency rental assistance, and this summer issued a \$50 million notice of funding available for the acquisition of land and buildings for affordable housing, in addition to approving \$29.5 million in developments and rehabilitation. "Our mission to keep Coloradans safely and stably housed through the pandemic is an enormous undertaking, and we strive to become more efficient in our processes every single day", said Housing Director Alison George. "However, our efforts don't slow down when COVID does. There are still plenty of people in need and there are resources that can help."

DOH has significantly increased the speed of emergency rental assistance payments ([bit.ly/3ju3jOl](https://bit.ly/3ju3jOl)) by using *Bill.com* to pay out around \$6 million per week, which dwarfs payments previously made for entire months. The division has also administered substantial aid through its partnerships with localities, completing all disbursement of rental assistance funds for Aurora, and more than two-thirds for Colorado Springs.

July through September, the Colorado State Housing Board (SHB) ([bit.ly/2O5aiCf](https://bit.ly/2O5aiCf)) in DOH approved \$29.5 million in various development and rehabilitation projects for affordable housing for Coloradans with incomes between 30 and 80% of their area median incomes (AMI) across the state. The DOH Office of Housing Finance and Sustainability (OHFS) and Office of Homeless Initiatives (OHI) are requesting applications totaling up to \$50 million in funding for the acquisition of land or use of existing properties suitable for providing non-congregate shelters, supportive housing, and affordable housing. Some of the funds are available for tenancy support services or to shelter households that are at risk of, or who may already be experiencing homelessness. "The Division of Housing has worked hard to build systems and procedures to assist those who are at risk for housing instability," George added. "With this wide variety of resources, we hope to give every Coloradan the chance to stay housed through the pandemic and beyond." The DOH partners with local communities to create housing opportunities for Coloradans who face the greatest challenges to accessing affordable, safe, and secure homes. Learn more at [bit.ly/3n1SYeP](https://bit.ly/3n1SYeP).

## 2021 State Demography Office Annual Demography Summit registration now open

The 2021 State Demography Summit will be held virtually on Friday, Nov. 5, beginning at 8:30 a.m. Registration for this year's Summit will be free. This one-day conference offers attendees the opportunity to learn about the most current population and economic conditions and forecasts for the state and its regions and what is driving these changes.

- Plenary sessions will cover the newest SDO estimates and forecasts, how they are produced, and discuss implications for planning, policy, business, and public services.

- Initial Census 2020 data was released in August – what does it mean for Colorado, how have we changed, and what will be in future data releases.
- Census experts will discuss the use of Census data tools to assist small businesses in planning for future growth.

Learn more and pre-register at [bit.ly/3aMeezp](https://bit.ly/3aMeezp). Attendance is limited to the first 500 people who register.

# Fall municipal election preview

On Nov. 2, voters in 88 cities and towns across Colorado will consider local questions and candidates as part of the coordinated election. Fifty-six municipalities will hold their regularly-scheduled candidate elections, while the remainder will hold special elections on initiated and referred ballot questions. Over 125 municipal ballot questions are being considered across the state. Ballot questions being considered by voters include:

## Housing

Several municipalities have housing-related questions on the ballot:

- Avon – excise tax on the leasing of short-term rental units to fund community housing
- Basalt – \$18 million in debt authority to fund affordable housing, infrastructure improvements, and green projects, to be paid for with the extension of previously approved property taxes
- Crested Butte – \$8.985 million in debt authority, to be paid for with an increase of the excise tax on vacation rentals; and a separate question for \$24 million in debt authority, to be paid for with two taxes: a sales and use tax and a Community Housing tax on undeveloped residential land and on residential units that are not a primary residence and are not being rented for residential purposes for at least six consecutive months per year
- Lafayette – sales tax to be used for mental health and human services, which may include rent assistance, as well as assistance with food, utilities, childcare, and medical care, mental health care and resources, and support for victims of domestic violence
- Leadville – accommodations tax on the leasing of short-term rental units and short-term commercial public accommodations for the purpose of funding affordable and community housing programs
- Ouray – excise tax on the leasing of short-term rentals to fund housing programs, as well as to fund debt for the water and wastewater treatment plants
- Vail – sales tax to fund housing initiatives, developments and programs

Telluride has three housing-related questions on the ballot:

- Lodging tax to manage the effects of tourism on the community, including the acquisition of property for and construction of affordable or employee housing, as well as transportation improvements and wastewater treatment facility improvements

- An increase to the business license fees for short-term rental units and the imposition of a cap on the number of licenses equal to the number that have been issued as of Nov. 2, 2021
- An initiative to cap the number of short-term rental business licenses available for non-primary residences to 400

Boulder voters will consider an initiative to increase the number of people allowed to reside in housing units.

Denver's ballot will include a referendum on an ordinance concerning the number of unrelated adults who can live in a household, which would strike down an increase in permitted housing residency by unrelated adults in Denver should the referendum pass. The ordinance also concerns residential care facilities and community corrections facilities.

## Tax and bond issues

Sales tax questions will be on the ballot in:

- Castle Rock – for open space and trails
- Colorado Springs – for trails, open space, and parks
- Deer Trail – for the provision of town services
- Gunnison – for streets and capital projects
- Idaho Springs – for water and wastewater capital improvement projects
- Lafayette – for public safety services
- Las Animas – for recreational improvements
- Littleton – for capital improvement projects
- Lone Tree – for city services
- Mead – for street improvements
- Monument – for police services
- Ramah – for municipal operations
- Superior – for transportation improvements
- Yuma – for general expenses

Sales tax extensions are being requested by:

- Boulder – for capital improvement projects
- Greeley – for street and pedestrian safety improvements

Denver's ballot will contain an initiative to reduce the total sales and use tax levied in Denver and require that if at any election, a tax is passed that exceeds the new rate of 4.5%, the city must adjust the existing tax to reduce the total rate to comply with the 4.5% cap.

Eckley has a use tax on the ballot for community infrastructure and maintenance. Lodging taxes will be on the ballot in Castle Rock, Golden, and Rico.

Black Hawk has two occupational taxes on the ballot: one on live stadium games, and the other on self-service betting devices for sports event betting.

Castle Rock voters will consider levying a new

housing construction tax to fund police, fire protection, and emergency medical services.

Several municipalities are requesting authority to expand the use of existing taxes:

- Evans – to use revenues from the sales tax on domestic food to finance the costs of a city police station
- Haxtun – to use revenues from the tax dedicated to the community center for street improvements
- Walsenburg – to use revenues from a street improvements tax to include other expenses related to streets and storm drainage projects
- Wellington – to use revenues from a streets tax for parks, trails, and open space

Aspen voters are being asked to expand the uses allowed for the Wheeler Opera House real estate transfer tax and remove the current limitation on the grant of funds for the purpose of supporting cultural, visual, and performing arts. The question requires approval by at least 60% of voters to pass.

Three property tax questions are on the ballot:

- Glenwood Springs – for the municipal airport
- Rico – for the public works fund
- Williamsburg – for road and flood drainage improvements

Calhan voters will decide whether to join the Pikes Peak Rural Transportation Authority and to approve an associated sales and use tax increase for the authority.

Debt authority is also being requested by:

- Boulder – \$110 million to fund capital improvement projects, to be paid for by the separately approved extension of the Community, Culture, Resilience and Safety sales and use tax
- Eagle – \$27 million for development projects to be undertaken by the Eagle Downtown Development Authority
- Englewood – \$70 million to finance objectives in any Englewood Downtown Development Authority plan of development
- Glenwood Springs – \$8 million for capital projects related to the municipal airport
- Haxtun – \$1.5 million for street improvements
- Julesburg - \$2.5 million for a public pool, to be paid for by a sales tax increase
- Louisville – \$51.4 million for transportation improvements, to be paid for by a property tax increase
- Westminster – \$15 million for parks and open space projects, to be paid for by the extension of an existing Parks, Open Space, and Trails sales and use tax, and a second question to authorize \$25 million for public safety, to be

## Continued from page 3...Fall municipal election preview

paid for with an increase to the Public Safety sales tax

Denver has several debt questions on the ballot:

- \$104 million for repairs and improvements to the Denver facilities system
- \$38.6 million for repairs and improvements to the Denver housing and sheltering system
- \$190 million for repairs and improvements to the National Western Campus facilities system
- \$54 million for repairs and improvements to the Denver parks and recreation system
- \$63 million for repairs and improvements to the Denver transportation and mobility system

### Gallagher Amendment adjustments

Norwood is requesting authority to adjust its mill levy rate annually as needed to offset revenue reductions caused by state-imposed changes to the percentage used to determine assessed valuation of property as well as the authority to collect, retain, and spend all revenues.

### Revenue retention

Williamsburg is requesting authority to collect, retain, and spend all revenues as allowed by voter approval under the Taxpayer's Bill of Rights (TABOR). Several other municipalities are also requesting this authority, but for specific purposes:

- Castle Rock – for police, fire protection, emergency medical services, and roads
- Colorado Springs – to create a wildfire mitigation and prevention program
- Monument – for road construction and maintenance
- Pueblo – for road repairs and improvements

Historically, municipalities have passed a majority of the TABOR-related questions that have been asked, with a 61% approval rate for tax questions, 70% approval rate for debt questions, and 87% approval rate for revenue retention questions since voter approval was first required in 1993.

### Governance

Westminster's ballot will have a question concerning the establishment of a commission to explore providing for the election of some or all council members by ward, rather than at-large.

In Monument, voters will decide if the town should initiate the process to become a home rule municipality.

Two recalls are on the ballot in Avon.

Log Lane Village and Mt. Crested Butte voters will consider eliminating term limits for their elected officials.

### Broadband

Milliken and Windsor are seeking approval to join the 116 municipalities already exempted by local voters from the statutory restriction on providing broadband or telecommunications services that also prohibits most uses of municipal funding for infrastructure to improve local broadband or telecommunications services.

### Marijuana

Marijuana businesses are on the ballot in:

- Golden – retail stores, contingent on the approval of a marijuana tax in a separate question
- Lamar – medical and retail stores, cultivation, manufacturing, and testing, contingent on the approval of marijuana taxes in a separate question
- Mead – medical and retail businesses
- Wellington – medical and retail stores, with a separate tax question on the ballot
- Westminster – marijuana businesses, contingent on the approval of a marijuana tax in a separate question

Marijuana taxes are also being considered in De Beque, Fort Lupton, Idaho Springs, Lakewood, Las Animas, and Yuma.

A Denver initiative would increase the marijuana sales tax to fund pandemic research. The question being considered in Brighton will authorize both marijuana business and a marijuana sales tax should it pass. In Wray, voters will consider allowing marijuana manufacturing facilities and authorizing an excise tax in a combined question.

### Publication requirements

Greenwood Village is requesting an amendment to the charter to delete the reference to a legal newspaper with regard to publication requirements and instead establish publication requirements by ordinance.

### Election changes

Broomfield voters will consider amending their code to provide that the mayor and all council members be elected using a ranked voting method.

Elizabeth is asking voters to move their regulation elections to November of even-numbered years, and Denver is requesting a move to April of odd-numbered years.

### Charter amendments

Several charter amendments are on the ballot in home rule municipalities around the state:

- Delta – one amendment regarding contracts, and a second amendment regarding borrowing provisions

- Denver – allowing the citizen oversight board to appoint the independent monitor with the consent of city council, providing the office of the monitor with independent legal counsel, and establishing the employment status of employees
- Fort Morgan – removing a requirement for council approval of certain contracts
- Greeley – two amendments, one requiring outside analysis and voter approval for purchase, lease, or use of the city's water supply, and one requiring outside analysis and voter approval prior to selling or leasing excess water or infrastructure
- Lafayette – an amendment to update archaic language, and an amendment to shorten the residency qualification for city councilors to one year
- Lafayette and Westminster – updating the charter to be gender neutral
- Telluride – non-substantive changes to the election code and meetings sections, and a second question to move petition regulations to the municipal code
- Westminster – an amendment regarding background checks, to be in compliance with state and federal policy, and a second amendment updating the election code to be in compliance with state and federal law

Arvada charter amendments up for approval include increasing the number of days to fill a council vacancy, increasing the amount of time permitted to gather signatures on a referendum petition, increasing the amount of time permitted to gather signatures on an initiative petition, and deleting language that prohibits an employee of another municipality from holding public office in Arvada.

Boulder has three charter amendments on the ballot: regarding council compensation, regarding meetings of council, and regarding the number of signatures required for initiative, referendum, and recall petitions.

### Other issues

Other issues to be decided include:

- Aspen – exchange of public property for a conservation easement
- Boulder – an initiative to prohibit the sale and manufacture for sale of certain fur products and an initiative to require an election approving the annexation agreement for land known as CU South
- Cherry Hills Village – organization of general improvement district, with the authorization of debt and levy of property tax
- Denver – an initiative to require the city to enforce unauthorized camping and allow up to four authorized camping locations on public

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property, and two initiatives concerning development on land protected by a conservation easement

- Lyons – permitting the construction of a solar generation and battery storage facility on town property
- Wiggins – sale of public property

CML thanks the city, town, and county clerks who assisted CML staff in compiling this election data.

## Recognition



CML recognizes Steamboat Springs council president pro tem and CML Executive Board President Kathi Meyer and Brush



Mayor and CML Executive Board Member Rick Bain. Meyer will

leave office next month after serving two terms on city council and two terms on the planning commission. Bain served on the Brush council for the past eight years. CML also recognizes Northglenn Councilmember and former Mayor Joyce Downing who will be leaving office at the conclusion of her current term after serving the city for 27 years. Downing also served on the CML Board from 1993-1994 and 1996-2000.

Also leaving office are Brush Mayor Pro Tem Daniel Scalise, Crested Butte Mayor Jim Schmidt, and Englewood Mayor Linda Olson, who have each served their communities as council members and on boards and commissions for at least 20 years.

Other long-serving municipal leaders include Broomfield Councilmembers Elizabeth Law-Evans and Sharon Tessier, Centennial Councilmember Kathy Turley, Federal Heights Mayor Pro Tem Harold Thomas, Idaho Springs Mayor Michael Hillman and Councilmember Bob Bowland, Lakewood Councilmembers Karen Harrison and Ramey Johnson, Limon Trustee Jason Parmer, Louisville Councilmember Jeff Lipton, Ouray Councilmember R. Glenn Boyd, Pueblo Councilmember Ed Brown, Rocky Ford Councilmember Daryl Grasmick,

Telluride Mayor Pro Tem Todd Brown, Vail Mayor Dave Chapin and Mayor Pro Tem Jenn Bruno, Wheat Ridge Councilmember Zachary Urban, and Williamsburg Mayor Forrest Borre.

CML also recognizes former Oak Creek Mayor Pro Tem Chuck Wisecup who served on his town board for 15 years before resigning due to a move in August 2021.

“People who step up to run for municipal elected office don’t do it for glory or the pay. They do it because they care about their municipalities and want to see them thrive,” said Kevin Bommer, CML executive director. “It’s an honor for us at CML to work for them, and we thank them all for their service to their communities and support of the League over the years.”

**SAVE  
THE  
DATE**



### The Master of Public Administration (MPA) program at Adams State University is now accepting applications for a new cohort of students beginning in January 2022.

The focus of the program is on developing practical skills, and most of the courses are taught by instructors who are working in the public and non-profit sectors. The program usually takes less than two years to complete. The application is simple to complete and does not require the GRE or any standardized test. You can find out more about the MPA at Adam State at [bit.ly/3DO5WTX](http://bit.ly/3DO5WTX). If you have questions about the program or the admissions process, please send them to [mpa@adams.edu](mailto:mpa@adams.edu).

### 2021 Virtual Pollinator Summit Promoting Pollinators through Collaborative Conservation | Thursday, Nov. 4 | 8:30 a.m. to 4:30 p.m. | Cost: \$30 general admission, \$15 for students

Each year the summit brings together nationally and regionally recognized pollinator experts to discuss strategies for protecting and managing pollinators in Colorado. The summit is designed for organizations, agencies, businesses, professionals, educators, growers, land managers, researchers, and volunteers actively working to conserve and protect pollinators and their habitats.

For more information, contact the Colorado Pollinator Summit Team at [ColoradoPollinatorNetwork@gmail.com](mailto:ColoradoPollinatorNetwork@gmail.com).

### Westside Metro Mobile Tour | Nov. 3 | 8 a.m. - 4:30 p.m. | Arvada, Lakewood, Golden, + Wheat Ridge

Many Colorado communities are curious about districts and authorities that can focus on redevelopment, reuse, and place management in the downtown or commercial areas of your community. Register for the event here [bit.ly/3xzkhA8](http://bit.ly/3xzkhA8).

### Southern Colorado (SOCO) Tax Increment Finance Summit | Oct. 29 | 8 a.m. - 4:30 p.m.

Downtown Colorado, Inc. (DCI) is pleased to convene delegates from communities across Colorado for DCI's fifth annual Southern Colorado Tax Increment Finance (TIF) Summit to discuss how to use TIF to attract investment to drive the vision set by their community. In 2021, DCI presents a TIF Housing Summit, a dynamic networking and problem-solving event to move redevelopment from planning to action. Register for the event here: [bit.ly/3AOfuQ0](http://bit.ly/3AOfuQ0).

### CML now accepting 2022 Conference Session Applications!

The CML annual conference is the premier meeting for municipal officials in Colorado. Please complete this form, [bit.ly/3BQ7ook](http://bit.ly/3BQ7ook) by Friday, Oct. 29, 2021. Sessions will be determined through a conference planning process that will take place later this year. CML will notify individuals whose proposals are selected in December 2021. Questions? Contact CML Meetings and Events Planner Karen Rosen at [krosen@cml.org](mailto:krosen@cml.org).

# CML LEGAL CORNER



## Proselytizing, political speech, and public places



By Megan Decker, CML Law Clerk

Defining the contours of the First Amendment and freedom of speech has been the work of courts and the legislative branch since the Bill of Rights was ratified in 1791. Traditionally, speech that occurs in a “traditional public forum” like a sidewalk or a park is protected by the First Amendment. However, distinguishing public forums from places that are merely open to the public can be tricky. Two current storylines illustrate the differences between the two: proselytizing at Red Rocks Amphitheater and petitioning outside local grocery stores.

### Proselytizing at Red Rocks Amphitheater

The latest test of the First Amendment in Colorado concerned a Christian evangelist and Red Rocks Amphitheater. The amphitheater is located in a Denver mountain park and is operated and managed by Denver’s Division of Arts and Venues, which by policy prohibits public forum activities at its portfolio of entertainment facilities. The facilities are reserved “for the exclusive use of tenants and their invitees” and are not considered public forums.

Joseph Maldonado, a resident of Denver and a devout Christian who regularly evangelizes by handing out literature with a Christian message, was evangelizing at Red Rocks before and during a ticketed concert on the sidewalks abutting the Top Circle Lot, and the Upper North Lot. He was asked to leave by police officers, and instead of risking a trespassing ticket,

he brought an action to federal court asking a judge to declare whether the Top Circle Lot, Upper North Lot (specifically the areas adjacent to the lot through which pedestrian traffic flow, including the beginning of the westward paths), and the staircase between the

two are traditional public forums where Denver cannot reasonably prohibit First Amendment activities.

The judge ruled the Top Circle Lot and staircase between the two parking lots are not public forum spaces in the traditional sense, but the Upper North Lot was a location where Denver could not reasonably prohibit public forum activities including proselytizing. The staircase is a nonpublic forum because it is solely used to provide access to the Top Circle Lot and the Amphitheater, two nonpublic forums. Denver’s purpose in restricting First Amendment activity in this area is reasonable because activities such as leafletting or proselytizing may cause obstructions to pedestrian traffic as well as dangerous stumbles and falls.

The Top Circle Lot is also considered a nonpublic area because it is closed to all but individuals with tickets for events and is exclusively for permitting ingress and egress to the Amphitheater for ticket-holding guests. The Upper North Lot, on the other hand, is open to the public and remains open to pedestrians and other patrons of the park, even during ticketed events. Additionally, the Upper North Lot does not include any signage, fences, or other indications that visitors entering the lot have entered a special space reserved for a ticketed event.

### Petitioning outside local grocery stores

Another source of friction in recent years has been generated by petition circulators

who insist on stationing themselves outside the doors of grocery stores and other retail establishments without the consent of the property owner.

Local grocery stores mirror public places such as Red Rocks Park in many ways: they are open to the public during set times of the day (and sometimes night – midnight trips to the market for snacks), anyone (who has dressed appropriately) is welcome to come in and does not need to present a ticket or a membership identification, and people may reasonably stay for as long as they would like. However, the local grocery store, retail shops such as malls, and apparel stores are legally able to prohibit public forum activities on their premises.

The reason for this is that although they are open to the public, they are privately owned. There is an invitation to all the public to come into the store and do business but there is not an open-ended invitation to the public to use the store for any and all purposes. As privately owned entities, the owners have the right to exclude parties from their property. Additionally, the First Amendment protects citizens’ rights of free speech from infringement by their government, not infringement from their local retail shop.

The Colorado Supreme Court has made an exception to this rule in areas where the government has a highly visible presence such as a shopping mall that houses the neighborhood police station and armed forces recruiting office, or where public financing was involved in building the commercial development. These factors effectively cause the property to function as a traditional public forum space where First Amendment speech and activity must be accommodated.

*This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorney*

## Research Corner: NLC Fiscal Conditions

National League of Cities (NLC) recently released the City Fiscal Conditions 2021 report, which provides insight into the impact of the COVID-19 pandemic and proactive federal policy on city finances. This year's analysis of survey and fiscal data from 444 cities finds that on balance, cities ended fiscal year (FY) 2020 with the first instance of revenue loss since the Great Recession, and budgeted further decline for FY 2021.

Steep declines in sales and income tax revenues were among the major causes of revenue loss in the sector. Although significant, these losses pale in comparison to what could have been without federal intervention. The report's findings show that federal assistance has been instrumental in helping cities recover from the pandemic and contributing to a more positive economic outlook.

One important note: For most of the cities in the study, their fiscal years end June 30, which means that the funds from the federal CARES act arrived at least in part to support their FY 2020 budgets. In Colorado, municipalities' fiscal years end December 31, by which time all of the CARES Act funding would have been included in their FY 2020 budgets. Additionally, at the time of FY 2021 budgeting (for many June 2020), direct relief via ARPA was not in sight, indicating that the FY 2021 budgeted revenues will likely prove conservative.

Key findings are below. View the full report at [bit.ly/3vkKkvC](http://bit.ly/3vkKkvC).

### Ability to meet needs

Financing officers reporting being better able to meet financial needs as compared to prior year

**FY2021 - 65% | FY2020 - 22% | FY2019 - 76%**

Factors having the most significant positive impact on municipal FY2021 budgets

**Amount of federal aid to city – 81%**

**Value of city tax base – 70%**

**Health of local economy – 39%**

**Amount of state aid to city – 33%**

**Population – 16%**

Factors having the most significant negative impact on municipal FY2021 budgets

**Infrastructure needs – 49%**

**Public safety needs – 39%**

**Prices, inflation, costs – 38%**

**Health of local economy – 35%**

**Employee wages and salaries – 32%**

### Revenue and spending trends

In the aggregate, municipalities kept spending relatively flat in response to the pandemic and a corresponding reduction in revenues. This year's survey, however, revealed a large variation among respondents. In prior years of the survey, most respondents' revenue changes were within +/- two percentage points of the average. From FY 2019 to FY 2020, however, **65%** of cities fell outside of this range, with some cities losing **15%** or more of their revenue in FY 2020, and others seeing an increase of **10%** or more.

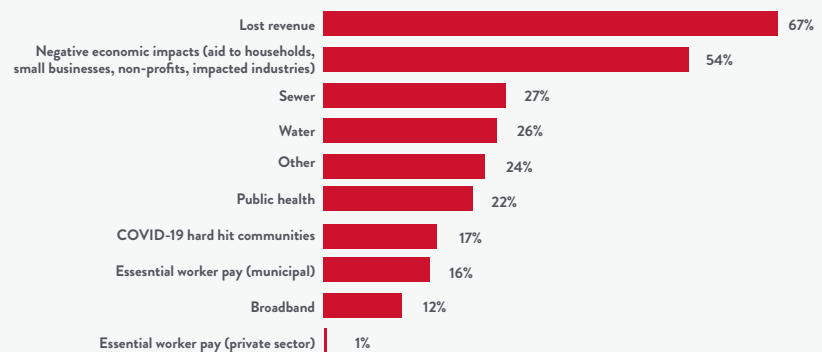


Source: NLC analysis of data from the City Fiscal Conditions survey and annual financial reports.

### American Rescue Plan Act (ARPA)

Most municipalities are choosing to use ARPA funds to replace lost revenue, and **25%** of municipalities anticipate using over **60%** of ARPA funding to do so. A majority of municipalities also plan to use this funding to address negative economic impacts to their community.

### What are your city's top three spending priorities for the ARPA local relief fund?



Source: City Fiscal conditions 2021 Survey



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- Colorado Department of Local Affairs supplies \$168 million in rental assistance, \$79.5 million for affordable housing
- Fall municipal election preview
- Legal corner: Proselytizing, political speech, and public places
- Research corner: NLC Fiscal Conditions

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