



FALL MUNICIPAL ELECTION PREVIEW



Voters across Colorado will weigh in on housing, taxes, marijuana

ON Nov. 8, voters in at least 80 cities and towns across Colorado will consider local questions and candidates as part of the general election. Nineteen municipalities will hold their regularly-scheduled candidate elections, while the remainder will hold special elections on initiated and referred ballot questions. More than 150 municipal ballot questions are being considered across the state. The Town of **Rico** will conduct its regular election on Nov. 1.

An abbreviated summary of questions is included here. For the full press release, please visit <https://bit.ly/3Ezbdy>.

HOUSING

Lodging taxes under consideration in **Georgetown, Glenwood Springs, and Grand Junction** specifically name housing as an approved expenditure. The **Estes Park** Local Marketing District also has a lodging tax under consideration to support workforce housing and workforce childcare needs.

Snowmass Village is requesting authorization to expand the allowed uses of revenues from the existing lodging tax and a portion of the existing sales tax to include workforce housing purposes.

Durango is requesting authority to retain revenues from the 2021 voter-approved lodging tax increase, with the excess

revenues to be used for affordable housing programs, transportation, and arts and cultural programs. **Vail** is also requesting authority to retain revenues from the 2021 sales tax, provided that the revenues are used for housing initiatives and developments.

Short-term rental taxes to fund affordable housing, among other uses, will be considered in **Aspen, Carbondale, Grand Junction, Salida, and Steamboat Springs**.

Denver's ballot will include an excise tax to be paid by landlords on each individual residential property for lease, with the revenues being used to fund tenant legal services.

CONTINUED ON PAGE 4

Staff anniversaries



Congratulations to CML Executive Director Kevin Bommer for 23 years with the League. We are also celebrating Municipal Research Analyst



Melissa Mata's fifth anniversary this month.

UPCOMING EVENTS



● WEBINAR: REDUCING EMISSIONS IN YOUR COMMUNITY October 27

This webinar will provide information on the Colorado Clean Diesel Program. Attendees will learn about the funding, eligibility requirements, application details, and some available technologies. Register at <https://bit.ly/3s9bHlp>.

● TAX INCREMENT FINANCING SUMMIT October 28

Join Downtown Colorado, Inc. in a dynamic discussion on using tax increment financing to support housing and workforce. Register at <https://bit.ly/3CocrOf>.

● WEBINAR: EMERGING BROADBAND TECHNOLOGY November 9

The webinar will explore new, affordable 5G technologies for emergency communications in rural and underserved communities. Register at <https://bit.ly/3VljfVI>.

● CML EFFECTIVE GOVERNANCE WORKSHOP December 1

One of CML's most popular trainings is back as a hybrid in-person or virtual workshop. During our Effective Governance Workshop, you'll learn about how to effectively govern as a municipal elected official with topics ranging from engaging with the media to open meetings. Register at <https://bit.ly/3ClID9S>.

Takeaways from CML's Water Law webinar

Colorado Municipal League and Water Education Colorado hosted a webinar Oct. 5 that focused on water law. The webinar set the foundation for newcomers to better understand the water law conversation, and it de-mystified some commonly used terminology that rules water dialogue.

Eric Potyondy of the Fort Collins City Attorney's Office and Susan Ryan of Holland and Hart provided examples of where water is commonly discussed (spoiler, it's everywhere), and why discussions surrounding it are important

to a municipality. They discussed what a Colorado water right is and how they are enforced, as well as key vocabulary that might come up in water conversations and the different types of rights.

CML's Water Law 101 webinar encouraged participants to pay closer attention the water law dialogue happening in their backyards and gave them a foundation to continue building on. If you're interested in watching, or re-watching, the Water Law 101 webinar, you can do so here: bit.ly/3Tdaefq.



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.

CML recognizes leaders leaving office

Several municipal leaders will be leaving office with the conclusion of their current term. Long-serving (8+ years) municipal leaders include:

- Town of Brookside Mayor David K. Boden
- City of Central Alderman Judy Laratta
- City of Cherry Hills Village Mayor Pro Tem Katy Brown and Councilmember Mike Gallagher
- Town of Gilcrest Trustees Steve Nothem and David Tapia
- Town of Lochbuie Mayor Pro Tem David Ott

- Town of Monument Trustee Kelly Elliott
- Town of Superior Mayor Clint Folsom
- Town of Williamsburg Mayor Jerry Farringer.

"It is an honor to work for municipal officials who dedicate their time to bettering their communities," said Kevin Bommer, CML executive director. "We are grateful for their commitment to their community and their support of CML."

If you or someone you know also deserves recognition, please email Melissa Mata, mmata@cml.org.

Broadband roadmap details 5-year plan to get Colorado connected

The Colorado Broadband Office within the Governor's Office of Information Technology has published the Colorado Broadband Roadmap, the state's five-year plan for investing millions of federal funding to expand fast, reliable, and affordable broadband across Colorado. Internet access opens the door to save Coloradans money, provide better healthcare, offer digital government services, strengthen our economy, connect with loved ones, and more.

The Broadband Office encourages feedback on the Broadband Roadmap and will continue to travel throughout the state talking

about affordability, accessibility, and digital literacy. The public will have an opportunity to submit feedback on the Roadmap from **Oct. 11-Nov. 22**. Find the Broadband Roadmap plus a video overview and public comment form at <https://bit.ly/3MtT5fa>.

In addition to accepting public comments, the Broadband Office's continuous stakeholder engagement includes bimonthly community and industry roundtables, regular updates for state agencies and elected officials, and visits with stakeholders in all 14 planning regions.

Executive Order D 2022-023 was signed by Gov. Jared Polis on June 2 and directs the the Colorado Broadband Office to develop a plan for accelerating broadband deployment in Colorado. The executive order and Colorado Broadband Roadmap support the largest investment in broadband ever made by the federal government.

Over the next five years, the country will invest more than \$100 billion in broadband nationwide; Colorado will likely receive \$400-700 million.

Elected officials sought for youth summit

Calling all youth commissions and elected officials! The City of Brighton is recruiting elected officials to participate in a roundtable conversation with young conference attendees. These discussions will take place at the Image Summit Youth Leadership Conference, taking place on **Nov. 2-3** in Brighton.

The conference is intended for Colorado youth ages 10-19 and focuses on leadership skills. This is a great opportunity to encourage the next generation to use its voice to impact communities at the municipal level. If you're interested in participating, please contact the City of Brighton's Manager of Youth Services Tawnya Russell at trussell@brightonco.gov.

Cannabis, social equity conference coming to Denver

The Colorado Cannabis Business Office, Colorado Marijuana Enforcement Division, and the Denver Department of Excise and Licenses will host a Cannabis Social Equity Opportunities Conference this fall. This conference is part of a partnership between the State of Colorado and Denver to support a more equitable cannabis industry.

Current and potential cannabis social equity license applicants looking to start or grow their marijuana business are encouraged to attend. The goal is to provide prospective licensees with resources, opportunities to network, and the information needed to succeed in this industry.

The conference will be 10 a.m.-2:30 p.m. **Nov. 5** at Commons on Champa, 1245 Champa St. in Denver. Attendance is free, but participants should register in advance.

The conference will feature three tracks, including breakout sessions and panels with industry experts. The focus on the tracks, subject to change, will be on marketing and branding, finance, and finding eligible and successful locations. There also will be the opportunity for one-on-one time with regulators.

More information on speakers and sessions will be announced in the coming weeks. Registration is open.

If you have questions or comments, email shannon.gray@state.co.us.

Nominations sought for EPA committee

The U.S. Environmental Protection Agency is soliciting nominations for its Local Government Advisory Committee, which advises the agency on critical environmental issues affecting local governments. The agency is also accepting nominations for the committee's Small Communities Advisory Subcommittee.

Members of the committees will provide advice and recommendations on a broad range of issues, including environmental justice, reducing greenhouse gas emissions, bolstering resilience to climate change, enhancing water and wastewater infrastructure, and supporting local governments in the assessment and remediation of PFAS chemicals.

Candidates must be current elected officials representing local, state, tribal, or territorial governments; officials working full-time for a government who have been appointed directly by an elected official will also be considered. The EPA values diversity, equity, and inclusion, and it encourages the nominations of individuals from diverse backgrounds, so the committees look like America and reflect the country's rich diversity. Members will be appointed for one- or two-year terms.

To be considered for 2023 appointments, nominations should be submitted by **Oct. 31**. Learn more about the nomination process at <https://bit.ly/3rPxeFJ>.

Get Outdoors Colorado Centennial Program

Get Outdoors Colorado is seeking high-value, once-in-a-generation visions and projects that will create lasting impacts on the Centennial State and future generations. Get Outdoors is eager to learn about opportunities in your community, including those that may be several years away.

Visit <https://bit.ly/3Ctkppv> to register for the Centennial Program information session **Nov. 17** from 1-2 p.m., where Get Outdoors staff will introduce the program and answer any questions.

CONTINUED FROM PAGE 1

Dillon is requesting authorization to increase debt up to \$20 million for workforce housing projects.

Grand Junction voters will decide whether to amend their city charter to increase the maximum authorized lease term for city property when the property is to be used for affordable housing projects.

Tax and bond issues

Sales tax questions will be on the ballot in **Cripple Creek, Dove Creek, Englewood, Fowler, Gunnison, Idaho Springs, La Junta, Milliken, Nederland, Sugar City, Superior, Wiggins, Windsor,** and **Yuma**.

Aspen is requesting an extension of their parks and open space tax. **Pueblo** is requesting an extension of their public safety sales tax.

Lodging taxes will be considered in **Centennial, Dillon, Hudson, Julesburg, Littleton, Lyons, Nederland,** and **Palisade**.

Property tax mill levy increases are on the ballot in **Denver, Fountain, Palmer Lake,** and **Williamsburg**.

Erie is requesting an extension of an existing property tax mill levy to be used for trails, parks, and open space.

Other tax issues

Boulder — a question to replace the existing utility occupation tax and climate action plan excise tax with a new climate tax, and a separate question authorizing debt to support the city meeting its climate goals

Central City — an occupation tax on table games and gaming devices

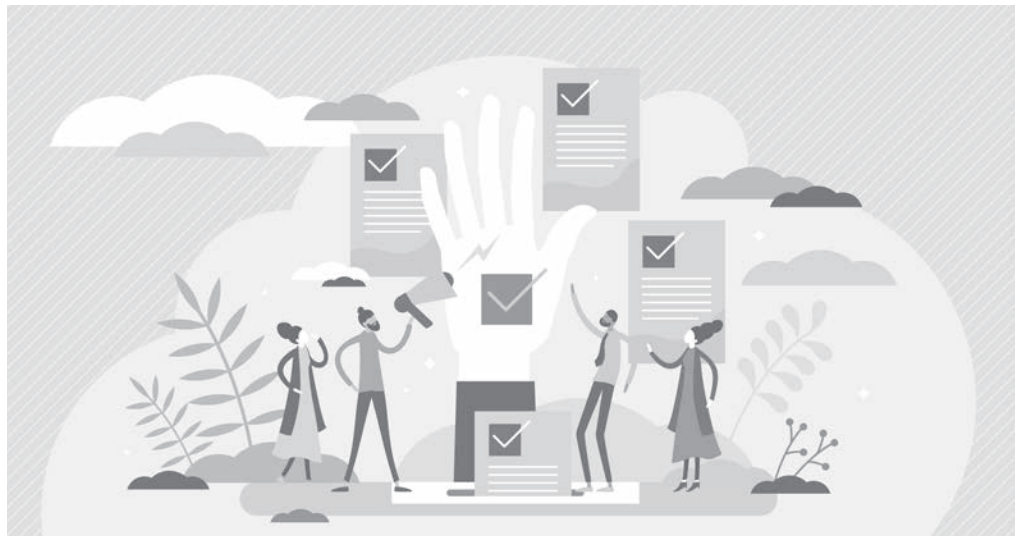
Severance — a use tax on motor vehicles to fund transportation infrastructure

Cherry Hills Village voters will decide whether to amend the city tax code to persons engaged in business in the city, including remote sellers, to collect sales tax.

Authority to increase debt is being requested by **Fort Lupton, Longmont,** and **Sterling**.

REVENUE RETENTION

The following municipalities will be requesting authority to retain and spend all revenues collected from previously approved taxes:



Denver — two questions, to retain revenues from and continue to impose the 2020 climate action sales tax and the 2020 homelessness resolution sales tax

Eagle — two questions, to retain revenues from the 2020 tobacco tax and the 2020 lodging tax

Hartman and **Milliken** are requesting authority to retain and spend all revenues collected from all sources in 2023 and each subsequent year.

Home Rule

In **Monument**, voters will consider the adoption of a proposed home rule charter.

Erie and **Lochbuie** voters will decide whether to form a home rule commission.

Delta's ballot will also include a vote on the creation of a charter commission, for the purpose of submitting amendments to their existing charter.

GOVERNANCE

In **Las Animas**, voters will decide in separate questions whether to make the city clerk and the city treasurer appointive rather than elected positions.

Iliff is asking voters to consider eliminating term limits for the mayor and trustees.

BROADBAND

Castle Pines, Lone Tree, and **Pueblo** are seeking approval to join the 119 municipalities that have opted out of Senate Bill 05-152.

MARIJUANA

Marijuana businesses are on the ballot in **Colorado Springs, Cripple Creek, Dove Creek, Grand Lake, Hotchkiss, Nunn,** and **Palmer Lake**.

Marijuana taxes are being considered in **Ault, Colorado Springs, Cripple Creek, Dove Creek, Fort Lupton, Grand Lake, Nederland, Nunn,** and **Sugar City**.

Lamar's ballot includes a citizen's initiative to amend the city charter to prohibit the licensing and operation of marijuana establishments, and to prohibit having more than one ounce of marijuana for personal use.

ELECTION CHANGES

Boulder, Fleming, LaSalle, Mt. Crested Butte, Timnath, and **Wiggins** are asking voters to move their regular elections to November of even-numbered years. **Fort Collins** and **Silt** voters will consider moving their election date to November of odd-numbered years.

The **Fort Collins** ballot also has a question to require ranked-choice voting for the offices of mayor and councilmember.

CHARTER AMENDMENTS

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

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Aurora — amending qualifications for elective office to replace the general prohibition against convicted felons holding elective office with a more specific prohibition concerning certain felonies

Boulder — clarifying sections related to candidates running for more than one office, candidacy by sitting councilmembers, filling council vacancies, and the swearing-in date of newly elected officials

Cañon City — four charter amendments regarding municipal court and municipal jail, open meetings, certain employment provisions, and accepting land to be used as parks or playgrounds

Cherry Hills Village — requiring voter approval to transfer most city trails or open space property

Craig — concerning the powers of the council

Dacono — amending language concerning the Public Works Department

Denver — modernizing election procedures

Englewood — eight proposed amendments, which would update language to be gender silent; update election language; revise redistricting language to comply with federal law; amend language related to the start of council terms; allow for more flexibility in council meetings; remove reference to the development and maintenance of an airport; adjust requirements regarding number of members on boards and commissions; and make changes to comply

with the Colorado Governmental Immunity Act

Fort Collins — amending the section regarding mayor and council compensation

Littleton — allowing for procurement policies to be set by ordinance

Longmont — two charter amendments, to remove outdated language and to make changes regarding prospective council vacancies created when a councilmember runs for another elected office

Parachute — two amendments, concerning terms of persons filling vacancies and concerning the appointment of the clerk, police chief, and finance director

Rico — amending rules concerning elections to facilitate the town's participation in coordinated elections

Rifle — concerning the granting of franchises

Severance — clarifying terms and term limits when filling a vacancy

Timnath — increasing the threshold of registered electors that would trigger an increase in the number of councilmembers and commence redistricting.

OTHER ISSUES

Avon, Eagle, Gypsum, Minturn, Red Cliff, and Vail — creating the Eagle Valley Transportation Authority and levying a sales tax to fund its operations

Boulder — a question repealing the library commission and associated tax if a separate initiative to create a library

district passes, and a citizen-initiated referendum regarding the annexation of a property known as CU South

Dacono — increasing mayor and council compensation

Denver — a citizen-initiated measure requiring certain individuals and businesses to offer recycling and/or organic material diversion, and a separate citizen-initiated question concerning an ordinance to create a sidewalk master plan, which would charge a fee to property owners and authorize bonds

Gilcrest — allowing chickens in residential districts in town

LaSalle and Las Animas — authorizing the publication of ordinances by title rather than in full

Littleton — a citizen-initiated referendum regarding a zoning ordinance, and three questions related to the creation and the funding of a downtown development authority

Lyons — expanding the permitted and conditional uses of the parks and open space zoning district to allow for arts and cultural and non-profit facilities

Mead — four questions related to the creation of and the funding of a general improvement district

Salida — conveying the Salida Community Center to Salida Senior Citizens, Inc., and a citizen-initiated referendum concerning the approval of a development plan.

NOTE

Berthoud's ballot will include a question that would authorize the town to annex property but the Board of Trustees withdrew the question and votes cast on the question are deemed invalid.

Not all ballots were available at the time of publication. Any questions not included in this press release will be included in the post-election summary. CML thanks the city, town, and county clerks who assisted CML staff in compiling this election information.

CML LEGAL CORNER



Understanding the Fair Campaign Practices Act

By Rachel Bender, CML associate counsel

During election season, questions about the Fair Campaign Practices Act are at their height. This state law governs campaign fundraising and expenditures and restricts the use of public funds in connection with election campaigns at both the local and state levels. FCPA restrictions on the use of public funds apply to all statutory municipalities and home rule municipalities that have not adopted provisions addressing campaign finance; applicability may vary for all other home rule municipalities. Accordingly, it is important for municipal officials to understand FCPA applicability, restrictions, and the complaint process.

THE FCPA AND PUBLIC FUNDS

Section 117 of the FCPA prohibits the use of public funds or supplies to support or oppose a proposed candidate or measure. In addition, a municipality cannot use or permit use of municipal facilities or equipment for a campaign, employees cannot use working hours to work on a campaign, and they cannot provide transportation to influence the outcome of any particular issue. The prohibition on the use of public funds includes campaign donations and contributions.

FCPA restrictions are implicated for:

- A statewide ballot issue that has been submitted for title setting under C.R.S. § 1-40-106(1), or that has had a title set;
- A local ballot issue that has been submitted for title setting under C.R.S. § 31-11-111, or has had a title set;
- A referred measure; and
- A measure for the recall of any officer that has been certified by the appropriate election official.

While not fully settled, municipalities that conduct multiple ordinance readings

or that have advance discussion of ballot measures should consider when FCPA restrictions might be implicated in the process.

Certain activities remain permissible under the FCPA. Municipalities can spend public money to compile and distribute factual summaries of ballot measures that include arguments for and against the measure; the summaries must be neutral and cannot express a certain position on the measure. It is advisable to seek legal review of any summaries prior to distribution. Municipal governing bodies can also adopt a resolution supporting or opposing an issue. The adoption of the resolution can be reported through regular, established channels such as a monthly newsletter or email.

Furthermore, municipal employees and officials can respond to unsolicited questions about ballot measures, can spend personal money or use personal time to campaign on particular measures, and elected officials can express a personal opinion on an issue in their official capacity. Finally, the FCPA allows certain employees with policy making responsibilities to spend no more than \$50 of public money on activities incidental to expressing their opinion on any ballot issue, but not on candidate campaigns.

CAMPAIGN FINANCE COMPLAINTS

Until 2019, all FCPA complaints were handled through the Secretary of State. In 2019, the Colorado General Assembly passed SB 19-232, requiring any complaint arising out of a municipal campaign finance matter to be filed exclusively with the clerk of the municipality in question, despite a provision in Article XXVIII of the Colorado Constitution that provides otherwise. In 2020, the Secretary of State adopted corresponding regulations.

These changes brought the biggest change for statutory municipalities and home rule municipalities without a campaign finance ordinance. This change in the law, however, prompted many municipalities around the state to pass ordinances to clearly lay out complaint procedures in their jurisdiction, even if they had no substantive restrictions. Without an ordinance setting forth the procedure for a campaign finance complaint, it is unclear what the process would be for any complaints arising out of that municipality or if the municipal clerk even has authority to handle a complaint.

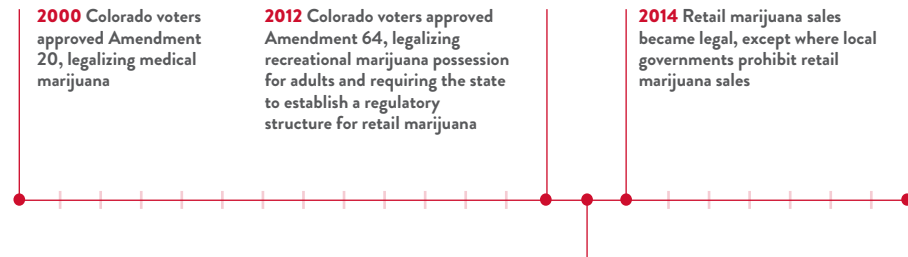
In adopting or amending campaign finance complaint procedures, municipalities have established clear processes and standards, including timelines for submitting a complaint, listing the information that must be contained in a complaint, identifying which municipal employees are involved in each step of the process, and laying out clear review, dismissal, and hearing procedures. Some have established penalties. Additionally, based on *Holland v. Williams*, 457 F. Supp. 3d 969 (D. Colo. 2018), a municipality that permits individuals to file complaints should implement some sort of screening system to filter out unjustified complaints. Finally, if a municipality provides for a process to cure violations, it should do so with great specificity including the time frames for a cure, the process for submitting information necessary to cure, and the process for determining whether all deficiencies have been cured. Although it is important to have clearly defined procedures, each municipality should ultimately tailor the process to best suit its own needs.

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

RESEARCH CORNER

Marijuana industry thrives in Colorado

TIMELINE



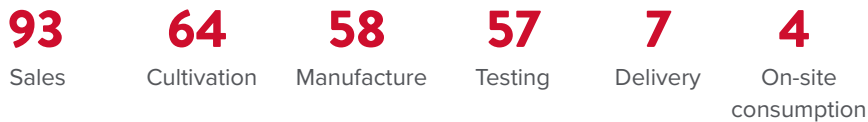
* EXPLORE

Take a look at CML's interactive map of municipal retail marijuana laws: <https://bit.ly/3S9TQeX>

SOCIAL EQUITY

In January, 2021, Colorado launched the Accelerator Program, allowing individuals who face barriers to entry in Colorado's retail marijuana industry to receive a marijuana business license in partnership with an approved existing marijuana business. In June, 2021, minority-owned marijuana businesses comprised **15.2%** of the industry. The state set a goal of raising that to **16.8%** in a year. By July, 2022, the state surpassed its goal, reaching **17.9%**.

CO. MUNICIPALITIES ALLOWING RETAIL MARIJUANA ...



WORKFORCE



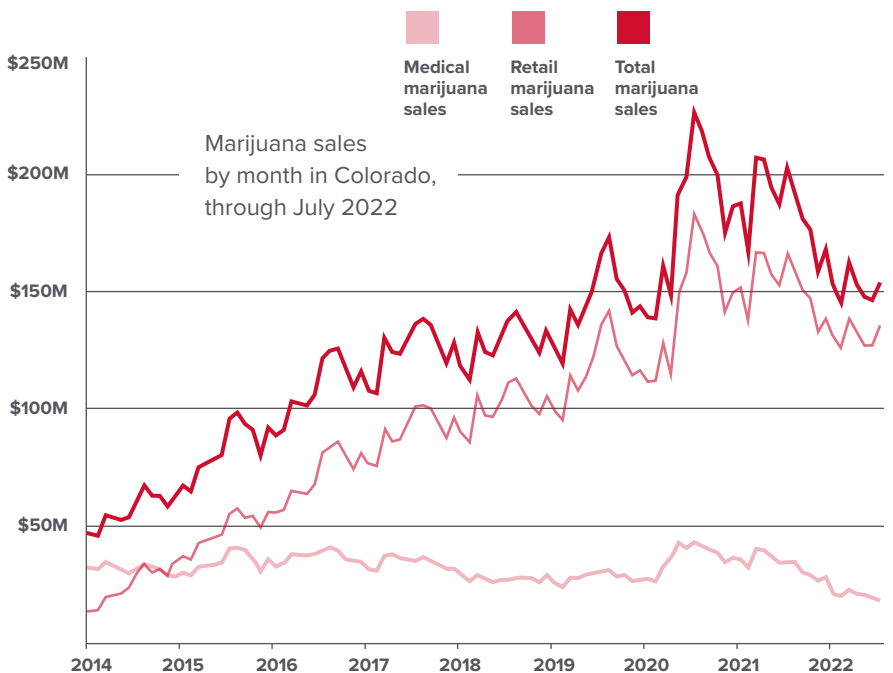
LICENSES

Since 2014, local governments have received **\$152 million** from the state retail marijuana sales tax. Here are marijuana licenses in Colorado by type, as of Oct. 1, 2022.

| | Medical | Retail |
|--------------------|---------|--------|
| Cultivation | 440 | 794 |
| Delivery | 14 | 45 |
| Hospitality | 0 | 9 |
| Operators | 7 | 13 |
| Manufacturing | 219 | 299 |
| Research | 1 | 0 |
| Stores | 401 | 665 |
| Testing facilities | 10 | 10 |
| Transporters | 13 | 35 |

Source: Colorado Department of Revenue, Specialized Business Group

SALES



Source: Colorado Department of Revenue, Taxation Division



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- Fall Municipal Election Preview
- Colorado publishes 5-year broadband roadmap
- Conference on cannabis and social equity to be held in Denver
- Research Corner: President pardons federal offenses of simple possession of marijuana
- Legal Corner: Understanding the Fair Campaign Practices Act

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