



## NATIONAL LEAGUE OF CITIES

### NLC now accepting applications for leadership positions

The National League of Cities (NLC) recently opened the application portal for NLC members interested in serving as a board member or committee or constituency group leadership position.

Centennial Mayor Stephanie Piko, Loveland Councilor John Fogle, and CML Executive Director Kevin Bommer are

all serving on the NLC Board through 2023, so it is exceptionally unlikely that the NLC Nominating Committee would place any other Coloradans on the slate this November. However, those already involved with committees and councils may wish to consider applying for a leadership position — chair or vice chair.

For all others, applications for regular membership on committees and councils will open later in the year. CML will announce the opening of that application period at that time.

More information is available at <https://bit.ly/3BGHMwT>, or contact Kevin Bommer at [kbommer@cml.org](mailto:kbommer@cml.org).

### Conference on opioid abatement

An interactive 2-day conference will include presentations on best practices for addressing the opioid crisis, the nuts and bolts of opioid settlement funds, how to leverage state and national resources, and practical information about receiving funds. The conference works with the 19 Regional Opioid Abatement Councils to distribute opioid settlement funds for substance use disorder treatment, recovery, harm reduction, law enforcement and prevention/education programs. The conference will take place **Aug. 15 and 16** in Denver. To register, visit <https://bit.ly/3bCCok0>.

### CDLE explains paid leave laws

The Colorado Department of Labor and Employment recently updated Interpretive Notice & Formal Opinion (INFO) #6B, (<https://bit.ly/3vFCH4o>), which provides guidance about paid leave requirements under the Healthy Families and Workplaces Act and the Wage Protection Rules. Under the act, all employers must provide all employees with accrued leave and public health emergency leave. This INFO discusses who is covered by the act, when employers must provide paid leave, the rate of pay, policies on paid leave, employer requirements, and employee rights and remedies.

## Staff anniversary



Congratulations to CML Training and Marketing Specialist Makenna Sturgeon who celebrates her one-year anniversary this month!

# UPCOMING EVENTS



### ● WHAT IS KRATOM? — WEBINAR

**Aug. 23**

In this webinar, CML, CCI, American Kratom Association, and the Colorado Association of Local Public Health Officials will discuss Kratom. This substance gained extra attention when introduced in SB22-120 during the recent legislative session. Attendees will learn more about the substance, the legislation focused on it in 2022, and current municipal and county regulations. Register at <https://bit.ly/3BCGqDv>.

### ● FALL DISTRICT MEETINGS

**Beginning Sept. 6**

Visit [cml.org](http://cml.org) to RSVP for yours!

### ● CML + DCI DOWNTOWN NORTH METRO MOBILE TOUR

**Sept. 15**

This tour, hosted by the Colorado Municipal League and Downtown Colorado, Inc., will take participants to see some downtown revitalization projects in Boulder and Longmont. The tour will explain how Downtown Development Authorities and Urban Renewal Authorities help to bring these projects to life. More information at <https://bit.ly/3B8kHTB>.

### ● ANNUAL SEMINAR ON MUNICIPAL LAW

**Sept. 23 – 24**

CML's Annual Seminar on Municipal Law will take place at the Two Rivers Convention Center in Grand Junction. This seminar provides expert Colorado-specific information that is directly relevant to the daily practice of municipal attorneys in the state, as well as opportunities to network with peers. Register now at <https://bit.ly/3QsFPbG>.

### ● SMALL COMMUNITIES WORKSHOP

**Oct. 12**

The Small Communities Workshop, taking place Oct. 12 in Chaffee County, brings together insight from Colorado Counties Inc., CML, Colorado Department of Local Affairs, and the Special District Association of Colorado to discuss strategies for strengthening Colorado communities. During this day-long workshop, we will discuss prominent issues facing Colorado's small communities and highlight how some are approaching them. This will be a fantastic opportunity to hear how others are introducing innovative approaches to challenges and discuss those that are unique to your community. Stay tuned for more information!

### ● CML'S ANNUAL MAYORS' SUMMIT

**Oct. 20 – 21**

Save the date! At our annual Mayors' Summit, CML is bringing together mayors from across the state to discuss critical issues facing their communities and share new and unique ideas. This is a wonderful opportunity to network with colleagues, share your successes, and learn from others. Registration opens soon.

### ● EFFECTIVE GOVERNANCE WORKSHOP

**Dec. 1**

CML is excited to bring back our in-person Effective Governance Workshop! This one-day workshop will provide elected officials with important tools to be effective leaders. From open meetings to effectively engaging with the media, this workshop is an educational opportunity you will not want to miss. Registration opens soon.



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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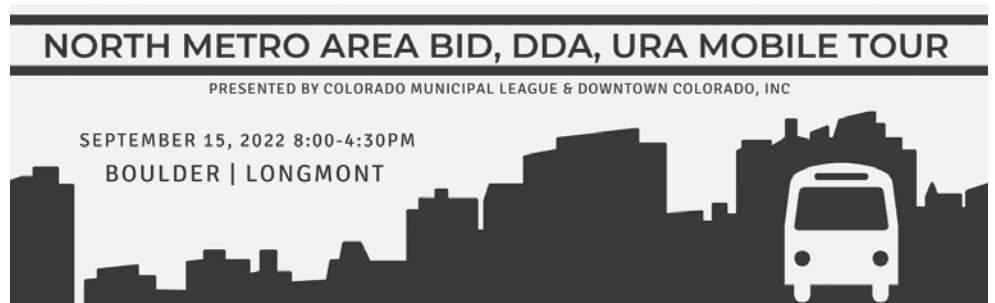
Get this newsletter by email. The *CML Newsletter* is available by email three days before it arrives in the mail! Sign up at [bit.ly/CMLNewsletter](http://bit.ly/CMLNewsletter).

# Mobile tour highlights financing tools for downtown development

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. Business Improvement Districts, Downtown Development Authorities (DDAs), and Urban Renewal Authorities (URAs) are some of the tools available to help municipalities implement the vision through public-private partnerships.

What are the differences between these tools, how are they formed, governed, and how do they work? Could this tool help with downtown development in your town?

Why sit in a conference room to learn, when you can hit the road and tour some projects?! Colorado Municipal League (CML) & Downtown Colorado, Inc. (DCI) are



pleased to announce our second annual financing mechanism mobile tour. We will visit projects and partner groups in Boulder and Longmont to encourage an interactive experience to showcase what these tools can do, how they work with others, and what their plan is for the future.

Join CML & DCI as we invite our member cities and towns to see some DDA projects

and talk to the officials and business owners involved.

The tour will take place Thursday, **Sept. 15**, 8:30 a.m.-4:30 p.m. The price for members is \$75, and the non-member price is \$100. Registration opens soon. Visit <https://bit.ly/3oYvIzE> for more information.

## Annual Seminar on Municipal Law

Registration is now open for CML's Annual Seminar on Municipal Law. The seminar will be held in Grand Junction at the Two Rivers Convention Center, **Sept. 23-24**. CLE credits have been applied for.

This seminar provides expert, Colorado-specific information that is directly relevant to the daily practice of municipal attorneys in the state. This year, topics include:

- Survey of local government law
- The first amendment for municipal attorneys
- Current issues in municipal taxation
- Affordable housing
- The color of law (Diversity, Equity & Inclusion session)
- Defense of municipal law enforcement in challenging times.

Don't miss this opportunity to hear about these issues from the experts and discuss them with your colleagues from across the state. Visit <https://bit.ly/3Qaxucr> to register



## Applicants sought for Energy Code Board

If you are interested in developing a model electric ready and solar ready code, and a model low energy and carbon code for adoption in Colorado by counties, municipalities, and state agencies, then the Colorado Energy Office has an opportunity for you. The Energy Office and the Department of Local Affairs have opened the application process for appointing members to the Energy Code Board established in House Bill 22-1362 (<https://bit.ly/3ddkZ1P0>).

The application will be open until 5 p.m. on **Aug. 19**. The board will be selected and seated on or before Oct. 1. For more information and to apply, visit <https://bit.ly/3P2v7rg>. If you are interested in any of the Department of Local Affairs assigned seats on the board, please contact (Mo) Maulid Miskell at [maulid.miskell@state.co.us](mailto:maulid.miskell@state.co.us) with questions or comments.

## GOCO to celebrate 30th anniversary

Great Outdoors Colorado (GOCO) will host a 30th anniversary celebration on **Sept. 1**. The event will begin at 5:30 p.m. at Denver Botanic Gardens with the official program at 6:15 p.m. Refreshments, hors d'oeuvres, and desserts will be offered along with

live music by Red Rock String Quartet. Governors from GOCO's history will be in attendance including Gov. Roy Romer, Gov. Bill Ritter, and Gov. Jared Polis. Capacity is limited. To register, visit <https://bit.ly/3zCQABu>.

## Board, commission appointments announced

Gov. Jared Polis recently announced appointments to the following boards and commissions. For details about the boards and commissions and the appointees, please visit <https://bit.ly/3P0JEn9>.

- Air Quality Enterprise Board
- Board of Assessment Appeals
- Board of Directors of Veterans Community Living Centers
- Cherry Creek Water Basin Authority
- Colorado Civil Rights Commission
- Colorado Commission for the Deaf, Hard of Hearing, and Deafblind
- Colorado Commission On Higher Education
- Colorado Health Benefits Exchange Board Of Directors
- Colorado Lottery Commission
- Concurrent Enrollment Advisory Board
- Council on Creative Industries
- Developmental Disabilities Council
- Fire Service Training And Certification Advisory Board
- Interbasin Compact Committee
- Third Judicial District Judicial Nominating Commission
- Supreme Court Judicial Nominating Commission
- Medical Services Board

- Pinnacle Assurance Board of Directors
- Private Occupational School Board
- Public Employees Retirement Benefit Plans (PERA)
- Public School Capital Construction Assistance Board
- State Board of Accountancy
- State Board Of Community Colleges and Occupational Education
- State Board Of The Great Outdoors Colorado Trust Fund
- State Board Of Licensure for Architects, Professional Engineers and Professional Land Surveyors
- State Board of Nursing
- State Board of Social Work Examiners
- State Board of Veterinary Medicine
- State Electrical Board
- State Housing Board
- State Interagency Coordinating Council
- State Plumbing Board
- Substance Abuse Trend and Response Task Force
- Venture Capital Authority
- Wine Industry Development Board

## Summit on recreation in Rockies Playground

The Rockies Playground Outdoor Industry Strategy Summit is presented by CU Boulder Office of Outdoor Recreation Economy and Vail Valley Partnership and will feature discussion of strategies to balance outdoor recreation and conservation of natural resources, ways to grow and sustain the outdoor industry in the Rockies Playground region, as well as panel and tabletop discussions on key topics facing the outdoor recreation industry. The summit will be held on **Aug. 22** in Eagle. Tickets are complimentary, but registration is required. Visit <https://bit.ly/3QQktpC> to register.



## An investment in the nation's bridges

The Bridge Investment Program, part of the Federal Infrastructure law, will provide \$12.5 billion over five years, with nearly \$2.4 billion available in Fiscal Year 2022 to help plan, replace, rehabilitate, protect, and preserve some of the nation's largest bridges. This investment will help ensure some of the nation's most important bridges remain operational, support local economies, strengthen our supply chains, improve safety, and create good-paying jobs across the country. The deadline to apply is **Sept. 8**. For application details, visit <https://bit.ly/3p0Pzyd>.

## Energy/Mineral Impact Assistance grants

The purpose of the Energy/Mineral Impact Assistance Fund Grant Program is to assist political subdivisions that are socially and/or economically impacted by the development, processing, or energy conversion of minerals and mineral fuels. The deadline for next round is **Sept. 1**. Visit <https://bit.ly/3d8vdAi> for more information and to apply.



# Wildfire prevention and forest health management grants

The Colorado Strategic Wildfire Action Program (COSWAP) within the Department of Natural Resources was launched to invest \$25 million in targeted wildfire risk mitigation and fund key mitigation projects. The program is designed to quickly move \$17.5 million state stimulus dollars to start on-the-ground work on fuels reduction projects and increase Colorado's capacity to conduct critical forest restoration and wildfire mitigation work that will increase community resilience and protect life, property, and infrastructure. The program has allocated funding through two grant programs.

## Workforce Development Grant

- 41 projects, 17 counties, 3,664 acres
- 3 wildfire mitigation workforce training

grants supporting over 150 people in receiving S130/S190, S212 and a prescribed fire training exchange.

## Landscape Resilience Investment

Eight projects spread throughout COSWAP's strategic focus areas have been selected for funding. Projects range from \$500,000-\$1,000,000 and will be matched by \$4 million in local, federal, or other state funding.

- **Larimer County:** Pole Hill/Waltonia, \$1,000,000
- **Boulder County:** Phase 1: St. Vrain Forest Health Partnership Project, \$1,000,000
- **Jefferson County:** Jefferson County Wildfire Safe, \$1,000,000

● **RMRI Upper Arkansas/Chaffee County:** Upper Arkansas Thrives - Landscape Level Resilience in Chaffee County, \$500,000

● **RMRI Southwest Colorado/Mancos Conservation District:** RMRI SW Colorado - Northwest Mancos Priority Zone, \$1,000,000

● **RMRI Upper Arkansas/Lake County:** Lake County CWPP Fuels Reduction Project, \$500,000

● **RMRI Upper South Platte/Jefferson Conservation District:** Upper South Platte Landscape Resilience, \$1,000,000

● **Colorado State Forest Service/Teller County:** Teller County Forest Health and Resilience Project (TCFHR), \$1,000,000

# 2022

## CML FALL DISTRICT MEETINGS

Join the CML staff for our annual Fall District Meetings. They provide a great opportunity to learn more about CML's legislative agenda and connect with other municipalities in your district.

### SEPTEMBER

- Tuesday, 9/6 — **Burlington** (District 5)
- Wednesday, 9/7 — **Brush** (District 1) & **Golden** (District 3)
- Wednesday, 9/14 — **Cañon City** (District 13) & **Meeker** (District 11)
- Thursday, 9/15 — **Rocky Ford** (District 6) & **Aspen** (District 12)
- Tuesday, 9/20 — **Monte Vista** (District 8)
- Wednesday, 9/21 — **La Veta** (Districts 7 & 14)
- Tuesday, 9/27 — **Ouray** (District 10)
- Wednesday, 9/28 — **Pagosa Springs** (District 9) & **Woodland Park** (District 4)
- Thursday, 9/29 — **Evans** (District 2)

# CML LEGAL CORNER



## A preview of upcoming Supreme Court term for local governments

*Lisa Soronen, State and Local Legal Center, Washington, D.C.*

The U.S. Supreme Court's 2022-23 term begins as always on the first Monday in October — this year October 3. The local government docket is thinner than usual — so far. The two biggest cases on the docket right now involve whether elections rules may be challenged in state court and whether affirmative action in college admission is unconstitutional. These cases, depending on how they are decided and reasoned, may have some impact on local governments. This article discusses two cases of significant interest to local governments, no matter how they are decided, involving defining wetlands under the Clean Water Act and First Amendment free speech.

*In Sackett v. EPA\** the U.S. Supreme Court will decide the proper test for determining when “wetlands” are “waters of the United States.”

The Clean Water Act (CWA) prohibits any person who lacks a permit from discharging pollutants, including rocks and sand, into “navigable waters,” defined as “waters of the United States.” CWA regulations define “waters of the United States” to include “wetlands” that are “adjacent” to traditional navigable waters and their tributaries.

*In Rapanos v. United States* (2006), Justice Scalia, writing for four Justices, stated that “waters of the United States” extends to “relatively permanent, standing or flowing bodies of water” and to wetlands with a “continuous surface connection” to such permanent waters.

For Justice Kennedy, writing alone, if wetlands have a “significant nexus” to navigable waters they are “waters of the United States.” According to the Ninth Circuit, while the Scalia plurality did not totally reject the concept of a “significant nexus,” it opined that only wetlands with

a “physical connection” to traditional navigable waters are “waters of the United States.”

In this case, the Sacketts purchased a “soggy residential lot” 300 feet from Idaho's Priest Lake. To the north, with a road in between, is a wetland that drains to a tributary that feeds into a creek that flows southwest of the Sacketts' property and empties into Priest Lake.

After obtaining permits from the county, the Sacketts began backfilling the property with sand and gravel to create a stable grade. The Environmental Protection Agency issued the Sacketts a “formal administrative compliance order” explaining they were violating the CWA.

The Sacketts argued before the Ninth Circuit that the Scalia opinion controls whether their property contains wetlands.

The Ninth Circuit disagreed. Per the Supreme Court in *Marks v. United States* (1977), if there aren't five votes to support one rationale of a Supreme Court case, the holding of the case is “the narrowest ground to which a majority of the Justices would assent if forced to choose in almost all cases.” According to the Ninth Circuit, the Kennedy concurrence supplied the controlling rule in *Rapanos* because, if forced to, the four dissenting Justices would have joined Kennedy's opinion rather than Scalia's.

*In 303 Creative v. Elenis\** the U.S. Supreme will decide whether applying a public-accommodation law to compel an artist to speak or stay silent violates the Free Speech Clause of the First Amendment.

Lorie Smith owns 303 Creative LLC where she designs websites. She wants to start creating wedding websites, but she doesn't want to create websites that celebrate same-sex marriages. And she wants to explain on her website that

doing so would compromise her Christian beliefs.

Colorado's Anti-Discrimination Act's (CADA) “accommodations clause” prohibits public accommodations from refusing to provide services based on sexual orientation. Numerous local governments in multiple states have adopted similar ordinances.

CADA's “communications clause” prohibits communicating that someone's patronage is unwelcome because of sexual orientation.

Over a lengthy dissent, the Tenth Circuit ruled CADA doesn't violate 303 Creative's First Amendment free speech rights.

According to the Tenth Circuit, CADA's “accommodations clause” compels speech and is a content-based restriction. The Tenth Circuit applied strict scrutiny to the “accommodations clause” and concluded it passed. According to the Tenth Circuit: “Colorado has a compelling interest in protecting both the dignity interests of members of marginalized groups and their material interests in accessing the commercial marketplace.” Likewise, the “accommodations clause” is narrowly tailored to Colorado's interest in ensuring “equal access to publicly available goods and services.”

It would be unusual if the Court didn't decide a number of First Amendment cases, a Fourth Amendment case or two, and a handful of cases involving police officers. Just because these topics aren't on the docket yet doesn't mean they won't be. The Court will continue to accept cases through January. Numerous cases involving local governments are likely to be added.

*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

### Colorado tourism rebounds after pandemic bust

The 2022 editions of two annual reports conducted each year for the Colorado Tourism Office offer evidence that the state's tourism industry is starting to bounce back following the COVID-19 pandemic, with travel spending increasing 41.8% between 2020 and 2021.

While the reports show that overall visitation to Colorado increased year-over-year, the recovery has been uneven, with leisure travel performing better than business, group, convention, and international travel. Similarly, the growth in travel spending has not been equal across the state: only half of Colorado's eight travel regions have seen a return to pre-pandemic levels of travel spending.

Dean Runyan's annual report describes the economic impact of travel to and through Colorado and each of its 64 counties. The Longwoods International Travel USA report measures the growth of Colorado's tourism industry and provides deep insights into how visitors spend their time in Colorado.

To view the full reports for Colorado Travel Impacts 2021 (Dean Runyan Associates) and Colorado Travel Year Report 2021 (Longwoods International), visit <https://bit.ly/3d3Dwxq>

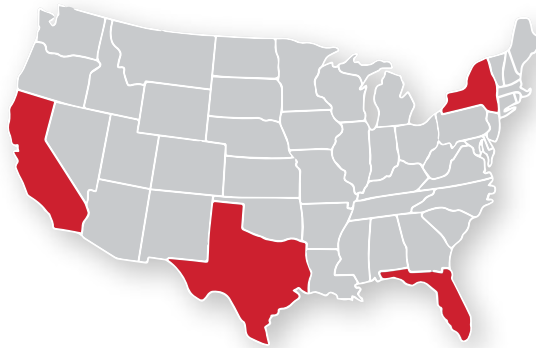


**84.2**

**MILLION VISITORS IN 2021**

Domestic travel to and within Colorado increased 13.6% over 2020. But that is still down 3.1% compared to 2019.

**Sources:** *The Economic Impact of travel in Colorado*, prepared by Dean Runyan; *Travel USA Visitor Profile, Colorado*, prepared by Longwoods International



#### TOP OUT-OF-STATE MARKETS FOR COLORADO VACATIONS

- California
- Texas
- Florida
- New York



**34%**

**INCREASE IN TRAVEL SPENDING OVER 2020**

Travel spending in Colorado in 2021 was \$21.9 billion, up from \$15.4 billion in 2020 but short of the high set in 2019 at \$24.2 billion.



**40.1%**

**INCREASE IN TAX REVENUE**

While state and local tax revenue in 2021 grew to a combined total of \$1.4 billion from \$1.0 billion in 2020 (an increase of 30.4% for state and 47.4% for local), neither have yet returned to their pre-pandemic totals. State taxes are down 3.4% and local taxes are down 4.3% from 2019.



**1,400**

**JOBS GAINED**

Direct travel-generated employment in 2021 grew to 161,000 from 147,000, a 10.1% increase in employment compared to 2020. Accommodations and Food Services accounted for 68% of the gain.

#### OVERNIGHT TRIPS IN 2021

- 81% of overnight travelers to Colorado are repeat visitors
- Average number of nights spent in Colorado: 3.4
- Average per person expenditures on domestic trips: \$469

#### PURPOSE OF OVERNIGHT TRIPS

- 57% Touring/recreation/special event
- 34% Visiting friends and relatives
- 5% Business
- 4% Business-leisure



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**Featured in this issue:**

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- Registration opens for CML's Annual Seminar on Municipal Law
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- Legal Corner: Supreme Court preview for local governments

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# NEWSLETTER

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