

Colorado Municipalities

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STATEHOUSE

Policy Committee
identifies priorities for
legislative session

CENTENNIAL

CML celebrates
100 years of service
to cities & towns

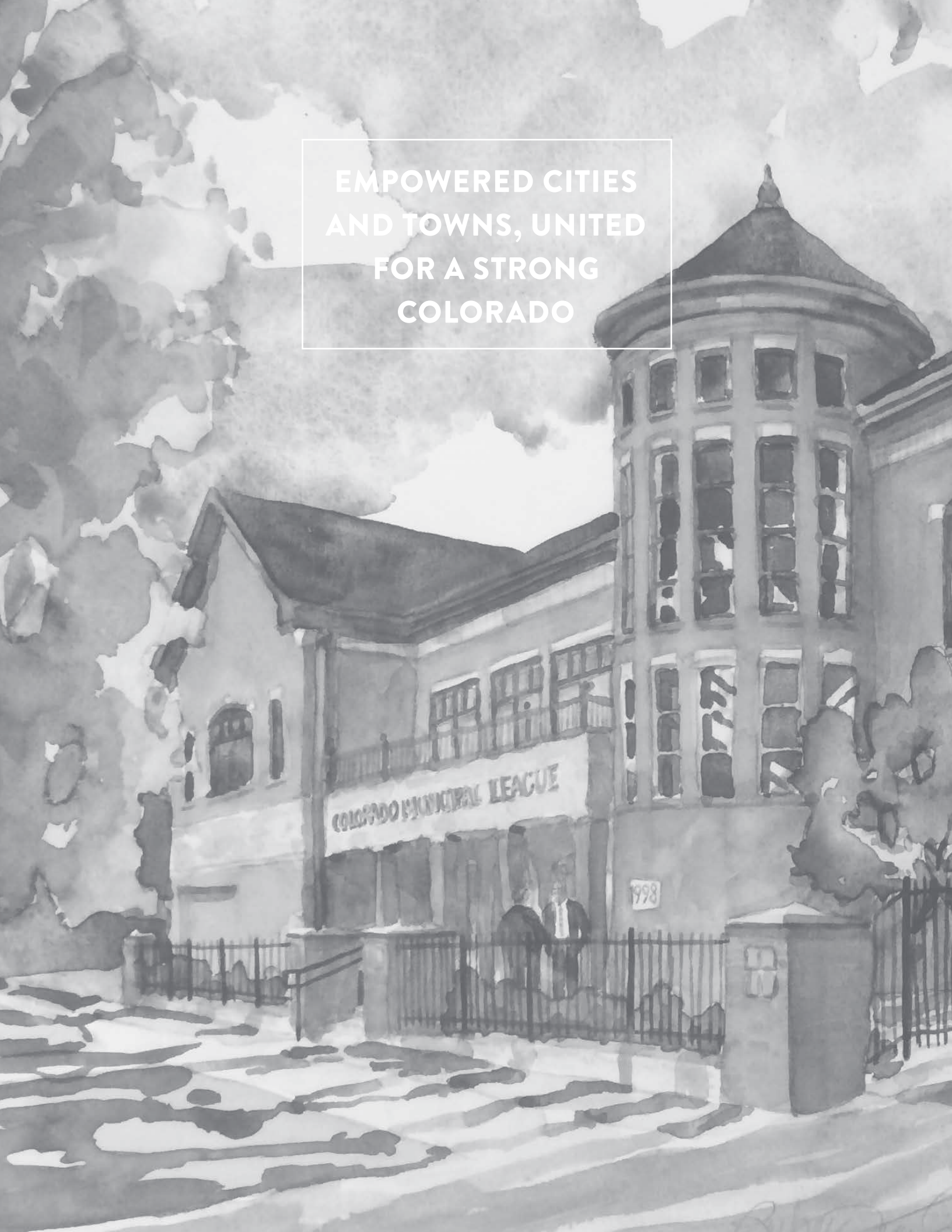
OVERCOME

Survey reveals
top challenges for
municipalities

LEGISLATIVE EDITION



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COLORADO**





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About CML

The Colorado Municipal League is a nonprofit association organized and operated by Colorado municipalities to provide support services to member cities and towns. The League has two main objectives: 1) to represent cities and towns collectively in matters before the state and federal government; and 2) to provide a wide range of information services to help municipal officials manage their governments.

MISSION

Colorado Municipalities is published to inform, educate, and advise appointed and elected municipal officials about new programs, services, trends, and information to help them perform their jobs and better serve their citizens and communities.

Letters to the editor

Have thoughts about an article that you read in *Colorado Municipalities*?

Want to share those thoughts with your colleagues across the state?

CML welcomes thought-provoking letters to the editor! Send comments to CML Meetings & Events Planner Karen Rosen at krosen@cml.org.

Advertise

Each issue of *Colorado Municipalities* reaches 5,000 municipal officials and decision makers. To reach those who lead Colorado cities and towns, contact CML Meetings & Events Planner Karen Rosen at krosen@cml.org

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Join CML

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ABOUT SOME OF OUR CONTRIBUTORS



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**Save
the date!**

The Colorado Municipal League
will host its 2023 Annual Conference
at the Gaylord Rockies Resort
in Aurora, Colorado, on June 25-28.
See you there!

CML
2023 ANNUAL
CONFERENCE
AURORA - COLORADO

Meet the experienced municipal officials now serving **AT THE STATE CAPITOL**

BY HEATHER STAUFFER, CML LEGISLATIVE ADVOCACY MANAGER

AND MOLLIE STEINEMANN, CML LEGISLATIVE & POLICY ADVOCATE



Rep. Junie Joseph

- Boulder City Councilmember
- Representative to House District 10
- Professional background: Attorney providing family law services



Rep. Don Wilson

- Former Mayor of Monument
- Representative to House District 20
- Professional background: Marine Corps veteran and community servant



Rep. William Lindstedt

- Former Broomfield City Councilmember
- Representative to House District 33
- Professional background: Public relations consultant



Rep. Jenny Wilford

- Former Northglenn City Councilmember/Mayor Pro Tem
- Representative to House District 34
- Professional background: Colorado Sierra Club



Rep. Rick Taggart

- Former Grand Junction City Councilmember/Mayor
- Representative to House District 55
- Professional background: Swiss Army Brands, Marmot, Timberland Company, and Colorado Mesa University



Rep. Matthew Martinez

- Former Monte Vista City Councilmember
- Representative to House District 62
- Professional background: Marine Corps veteran and public servant

Get involved

If you have a newly elected representative or senator, now is a great time to get to know them and familiarize them with your municipality's top goals and challenges. Member participation in the legislative process greatly benefits CML's advocacy work. Regular communication with your legislators is a vital aspect of municipal governance. You can find your legislator's name and contact information at <https://bit.ly/3BUENjL>.

Get to know your legislators

Lay the groundwork and get to know your legislators. Make an effort to meet informally with your legislators and get to know them on a first-name basis. They are readily accessible and want to know your views as a municipal official. Involve your legislators in community events, like a ribbon-cutting for a new facility. Have legislators in for a day at the municipal building. Nothing beats a good personal relationship between your municipality and your legislators.

Be prepared

When trying to influence the outcome of a vote with your legislators, be prepared with sufficient information to articulate your arguments, to respond to questions, and to be able to counter opposition. Wherever possible, quantify the impact of a proposed bill and explain how it will affect specific projects or activities in your city or town. This is the kind of information a legislator can use and appreciates having.

Always say thanks

Don't forget to say "thank you" to your legislators. When your legislators do support your efforts, a thank-you note or other special recognition is really appreciated and goes a long way to solidifying relations.

Keep the League informed

When you communicate with your legislator on legislation, please keep CML informed. Knowing about your advocacy helps us with our advocacy efforts.

CML's annual Legislative Workshop is an opportunity to discuss key municipal issues and learn how to influence the legislative process. Register now! <https://bit.ly/3hSvZEr>



CML
LEGISLATIVE
WORKSHOP

FEBRUARY 16, 2023



CML LEGISLATIVE PRIORITIES FOR 2023

BY THE CML LEGISLATIVE ADVOCACY TEAM

Prior to the start of each legislative session, CML begins its policy development process. This process guides our legislative priorities when the General Assembly meets in January. Below is an overview of CML's Policy Development Process as well as CML's legislative priorities as established at the time of this writing.

CML'S POLICY DEVELOPMENT PROCESS

The largest driver of CML's policy development is the CML Policy Committee, and all members are encouraged to take advantage of the opportunity to be represented. Each member municipality of CML is entitled to designate one representative and one alternate to the League's Policy Committee. (Cities over 100,000 population are entitled to designate two representatives and one

alternate.) In addition, CML Section chairs are automatically appointed as non-voting members of the Committee. The Chair of the Policy Committee is appointed by CML's current Board President.

The Policy Committee has significant policy development responsibilities. The committee is responsible for:

- Reviewing requests from member municipalities for CML-initiated legislation and recommending specific positions to the CML Board.

- Reviewing requests for policy positions from member municipalities and recommending specific positions to the CML Board.

- Reviewing known or potential legislative issues or bills, consideration of staff recommendations, and recommending specific positions to the CML Board.

- Reviewing the League's Annual Policy Statement that guides League positions on policy issues affecting municipalities and proposing revisions, if necessary. (Any recommended changes are voted on by CML members at the Annual Business Meeting that takes place as part of CML's Annual Conference.)

The CML Policy Committee met in October and December of 2022 and will meet again in February of 2023. Below are CML's specific legislative priorities, at the time of this writing, going into the 2023 Legislative Session.

KEY MUNICIPAL ISSUES

AFFORDABLE HOUSING

The availability and affordability of housing is of utmost concern to Colorado's municipalities. CML supports an adequate supply of diverse housing options, regardless of income level, and continued support from state and local governments, as well as private partnerships, for such an effort. CML is opposed to state preemption of local authority to adopt and enforce zoning and land use ordinances and any interference with home rule authority granted by Art. XX, S. 6 of the Colorado Constitution.

BROADBAND

Voters in over 120 municipalities and 40 counties have overwhelmingly voted to exempt themselves from the requirements of SB 05-152. CML supports legislation freeing up revenue to bring fast, reliable broadband to unserved and underserved areas of the state and opposes legislation adding additional requirements and burdens on local governments encumbering financing or permitting broadband deployment.

CAPACITY BUILDING

An increase in municipal workload, combined with staffing shortages, has impacted many municipalities' ability to successfully compete for state grant opportunities. CML supports the inclusion of direct technical and administrative assistance in existing or newly

created programs to assist municipalities in applying for state and federal grants.

CRIMINAL JUSTICE

CML supports collaborative relationships with the state on criminal justice issues but opposes unduly prescriptive mandates on police and court operations and procedures, as well as expansion of local taxpayer liability. CML also supports legislative efforts to mitigate and manage increased rates of vehicle theft in local communities.

ELECTIONS

CML is initiating legislation to clean up and update portions of Title 31 municipal election code as it relates to recall elections and procedures for filling vacancies on city or town councils. Municipal clerks should have clear direction on procedures for Title 31 recall elections, as well as procedures for filling vacancies in the event there are not enough members of the governing body for a quorum.

REGULATED SUBSTANCES

CML supports maximum local control of medical and recreational marijuana and other regulated substances. CML supports legislation and initiatives that ensure marijuana revenue is used to mitigate impacts, regardless of whether a municipality allows retail activity, delivery, or on-site consumption. CML will initiate or support legislation to advocate for a greater degree of local control of the operation of natural medicine facilities in their communities, which was a deficiency in Proposition 122.

MUNICIPAL COURTS

CML will initiate legislation to study the feasibility of data sharing between state and municipal courts, which would create efficiencies for municipal courts, as well as county and district courts statewide. CML also supports the extension of the First Appearance Grant Program, established in 2018, and supports expanding that program to allow municipalities to receive reimbursement for costs associated with HB 22-1067, which requires municipal courts to conduct a bond hearing for a person detained on a municipal offense within 48 hours.

OPEN RECORDS

CML opposes undue burdens placed upon municipal operations and unfunded mandates borne by taxpayers revenue that would provide preferential treatment to specific entities and overcomplicate

public records access. CML will oppose any requirement to provide itemized estimates and receipts for Colorado Open Records Act (CORA) requests and carving out CORA fee exemptions for members of the media or other entities or classes of records.

PUBLIC SAFETY

CML supports legislation to expand the use of automated vehicle identification systems in local communities unless that legislation contains prescriptive and burdensome requirements that would only deter the use of the systems by local governments.

SUSTAINABILITY

CML supports sustainability and sustainable solutions to meet the needs of the present population without compromising the ability of future generations to meet their needs. CML supports state and local partnerships to improve waste diversion and recycling programs across the state in a manner that respects local control.

TAX AUTHORITY

CML and 68 self-collecting municipalities support efforts to simplify collection efforts without impairing local control, including collection of remote sales taxes in a manner that complies with *South Dakota vs. Wayfair*. CML supports the state in their efforts to partner with the business community and supports municipalities that self-collect their sales and use taxes but opposes any efforts to undermine constitutional home rule authority to set tax policy and manage tax administration and audits. CML discourages state sales tax exemptions that negatively impact statutory municipalities.

TRANSPORTATION

CML supports legislation that would provide local governments with support in enforcing noise ordinance violations from commercial vehicles that fail to have mufflers installed. CML opposes "off-the-top" diversions from the Highway Users Tax Fund (HUTF).

WILDFIRE

CML supports legislation that aims to help municipalities recover from large-scale wildfires and prevent future wildfires through proactive fire mitigation efforts. CML will oppose legislation that does not allow municipalities the ability to identify and implement the most appropriate means of mitigation and fire prevention for their individual communities.



HOME RULE VS. LOCAL CONTROL

BY KEVIN BOMMER, CML EXECUTIVE DIRECTOR, AND ROBERT SHEESLEY, CML GENERAL COUNSEL

“Keep local control local, and home rule at home.”

This pithy phrase has long been used by the Colorado Municipal League in the Colorado State Capitol to convey that the government closest to the people governs the best. Only the powers of initiative and referendum get closer. It conveys something that most people agree on when asked which level of government they trust the most. Local control, for municipalities, is non-partisan and less susceptible to special interests. Local control says to the state that “we’ve got this,” when it comes to matters that the people of Colorado feel are best dealt with at the local level.

However, the terms are not interchangeable. Home rule is local control, but local control is not always home rule. The distinctions between the two are most evident when it comes to both enforceability and consistency.

It is common to hear officials at other levels of government proclaim their undying support of local control, but then turn around and propose or support a preemption of local control. Fairly, many issues require statewide resolution, but blanket preemptions or disregard for local impacts are fraught with problems.

Preempting the ability of local governments to solve problems as they see fit rejects local choice and expertise for the state’s view of an issue, even if the local government is the expert in an area. Laws that ignore local input are especially at risk of creating unfunded mandates and interfering with the ability to provide efficient municipal services.

Home rule, on the other hand, is a right granted by the people, rooted in the state constitution and shaped by decades of jurisprudence. The people of a home rule municipality have chosen to exercise that right. Those matters that are reserved as purely “local and municipal” matters may not be legally infringed upon by the state. Lawmakers often try to work around this protection by dressing legislation up with statements of state interests, including a declaration of “statewide concern,” or describing something as the murkier “mixed state and local concern.” In the end, the judicial branch is the ultimate decider of whether something is purely local and municipal, mixed state and local, or of statewide concern.

When a question of home rule authority comes before the

courts, a test created in 1990 by *City and County of Denver v. State of Colorado* established factors used to determine whether a matter is of local, statewide, or mixed concern. Local laws supersede state law in matters of local concern and can coexist with state laws even if there is a legitimate statewide interest. The decision affirmed local and municipal authority over personnel matters – in that case, local employee residency requirements. While not uniformly applicable, the Court created factors to balance interests of the state versus those of the municipality:

- the need for statewide uniformity of regulation
- the impact of municipal regulation on persons living outside the municipality
- whether a particular matter is traditionally governed by state or local government
- the necessity of cooperation among government units and local interests
- whether the Colorado Constitution commits a matter to state or local regulation.

When the state attempts to infringe home rule authority, the decision is ultimately out of the hands of the lawmakers who attempt to do it. A declaration of statewide or mixed concern does not control the outcome. The net result is that home rule authority, while more defined and predictable, is not static. Since *Denver v. State*, courts in Colorado had routinely used the factors above in rendering decisions, with results that have gone both ways.

By contrast, there is no such thing as predictability when it comes to matters of “local control,” other than the term predictably means different things to different people and often means different things to the same people. A phrase once uttered in the statehouse to a CML lobbyist went something like this: “I’m for local control, until I’m not.”

Things get even trickier, though, when local officials do not necessarily agree on whether something should be a local control matter with no state intervention at all. Those with strong passion for an issue that they believe should be solely handled by local government may be

HOME RULE BY THE NUMBERS

Municipal home rule in Colorado was adopted by state voters in 1902 and clarified and expanded by voters in 1912.

Today, there are 105 home rule municipalities

- 93% of the municipal population
- 70% of the state’s population

Colorado’s oldest home rule municipalities

- Denver – 1904
- Colorado Springs & Grand Junction – 1909
- Pueblo – 1911
- Durango & Delta – 1912

Most recent home rule municipalities

- Castle Pines – May 14, 2019
- Eagle – January 22, 2020
- Severance – September 7, 2021
- Monument – November 8, 2022

Who’s next

Town of Erie approved the formation of a home rule charter commission on November 8, 2022.

Voters in the City of Salida will decide whether to form a home rule charter commission this spring.

friends, neighbors, or colleagues with someone who thinks the exact opposite. There have even been recent examples of a high-ranking state official saying that something should be handled by local governments and prominent municipal officials saying that the same issue is a matter of statewide concern!

The truth is that there is no purity test for what is a matter of local control and what is not, mainly because it is not a legal term. It often becomes more of a political football and a wedge issue.

Because local control does not necessarily mean an “all or nothing” approach, it does allow for compromise and agreement, for encouraging and not mandating, so long as everyone agrees to put down the torches and pitchforks. For example, prior to the Colorado Indoor Clean Air Act (CICAA), some municipalities in Colorado enacted their own smoking laws applicable to restaurants and other indoor spaces. Many were similar but none were uniform. On the second attempt at passing CICAA, the Colorado Municipal League and municipalities agreed that a statewide standard made more sense, even though

the act preempted municipalities from being less stringent than the act itself. In the name of good public policy, it did not happen in this case.

The decision of whether something is or should be a local control matter may be as debatable as whether something is or should be a home rule matter. To anyone praying at the altar of local control, any preemption should be opposed. But, when a legislator hears “local control,” they should not think of reflexive opposition. “Local control” should be a major consideration and a valuable tool in evaluating any legislation because it is the best way to hear from the broadest swath of a lawmaker’s constituency. Local control should suggest to lawmakers that they will hear how a law will impact local government operations, how it will affect the communities their constituents live in and work for, how it will affect local revenues and taxes, and whether it will require a local government to reduce or stop providing services. Legislation that is responsive to these issues is more likely to be effective in achieving its goals and to be acceptable to the people.

TARGETED SOLUTIONS

Local control
of land planning
works in Colorado

BY MEGHAN MACKILLOP,
CML LEGISLATIVE & POLICY ADVOCATE,
AND ROBERT SHEESLEY,
CML GENERAL COUNSEL



IT is no secret that Colorado's housing costs have risen dramatically as the state's population has swelled. Many are quick to blame local regulations as a problem, suggesting that the Coloradans who both make the local laws and voice their opinions to officials are to blame. The picture is far more complicated and involves broad factors outside of government control, including a shifting real estate

market, land costs, infrastructure costs, developer profit margins, labor supply, and state and federal regulations. In fact, municipalities are ahead of the game in efforts to solve the housing crisis and now have an opportunity to use once-in-a-lifetime state and federal funding to further their work.

The unique circumstances of each jurisdiction requires local solutions. What may work in one community might not work in another. Worse yet, sweeping statewide solutions could harm current efforts to promote equitable housing, prevent gentrification, preserve limited municipal resources and infrastructure, or protect an area from environmental harm. Encouraging and promoting — not mandating — a variety of local solutions is the key to solving the housing problem in Colorado.

COLORADO'S BALANCE OF LAND USE POWERS RESPECTS LOCAL CONTROL

Land use regulation is an inherently local concept. Land exists entirely within a community's boundaries and is used primarily by people who live and work there. The development or protection of land involves complex considerations best evaluated by the local government that is closest to the land and to the people. How does the landowner want to use the property, and how is it currently used? How will this impact the adjacent landowners? Does the property have adequate connections to water and utilities? Are there adequate public safety services, schools, and recreational services? Is infrastructure sufficient to handle increased population or more intense uses? What is the capacity for the municipality's planning staff? What are the overall economic development goals of the community? Will existing residents be displaced? Would development of the land come at a cost to the protection of open space and conservation? The nature and scope of land use regulation should be left to those people who understand those complex local conditions and the collective goals of the community.

Colorado has long recognized the "broad authority of local governments to plan for and regulate the use of land in their respective jurisdictions."¹ State laws governing planning, zoning, and development "contain a pervasive legislative policy choice in favor of local land use decisionmaking."² This includes statutes contemplating local action on comprehensive plans, planning commissions, zoning, subdivisions, urban renewal, and regulation of "areas of state interest." In contrast, the General Assembly has focused direct state intervention in land use matters toward promoting voluntary regional cooperation³ and funding and technical support through the Department of Local Affairs.⁴

¹ C.R.S. § 29-101-92(1).

² *Town of Telluride v. Lot Thirty-Four Venture, LLC*, 3 P.3d 30, 43 (Colo. 2000) (Malarkey, J., dissenting).

³ C.R.S. § 30-28-105.

⁴ C.R.S. § 24-32-130 (Local Government Affordable Housing Development Incentives Grant Program); C.R.S. § 24-32-3204 (Office of Smart Growth).

About 90% of people who live in Colorado municipalities enjoy the constitutional privileges of home rule. The Colorado Supreme Court has expressly endorsed zoning as a local and municipal matter that home rule municipalities have a constitutional right to exercise. On several occasions, the Court has “categorized zoning as a local and municipal matter for purposes of” Art. XX, § 6 of the Colorado Constitution.⁵ The General Assembly has respected this authority by ensuring that statutes expressly exclude home rule municipalities or seek to avoid constitutional overreach.⁶ Occasionally, a local regulation affecting the land use has conflicted with state law on an issue tangentially related to land use, like when early local affordable housing efforts conflicted with the state’s prohibition on rent control⁷ or when a sex offender residency restriction, not a typical zoning ordinance, inhibited the state’s foster home system for juvenile offenders.⁸

COLLABORATION AND FUNDING HELP LOCAL GOVERNMENTS LEAD THE WAY

Every week, news reports show cities and towns investing in housing through new tax measures, existing revenue sources, and urban renewal projects. Within existing laws, properties are being rezoned, or annexed and zoned, to encourage multi-family and affordable developments. The

City of Commerce City has invested millions of dollars in an urban renewal project, in partnership with public and private entities, to bring 223 new affordable units to a mixed-use infill development.⁹ The Town of Basalt recently approved a downtown mixed-use project that included 65 apartment units, 17 of which will remain affordable.¹⁰ The City of Steamboat Springs is considering the annexation of a 536-acre property developed by the regional housing authority that will be entirely affordable and attainable.¹¹ The list goes on.

Comprehensive plan updates and zoning code revisions are also underway throughout Colorado, many eyeing reforms suited to local needs and capacity. The City of Fort Collins enacted development regulations to increase housing capacity, including permitting accessory dwelling units (ADUs) in all residential zones and allowing more multi-family buildings in previously single family zones if an affordability component is included.¹² The City of Canon City recently enacted a new development code to make its “land development processes more user-friendly and workable” and received an award for its 2021 comprehensive plan from the American Planning Association.¹³ The City of Greeley also passed new laws encourage “missing middle housing” by promoting multi-family units and ADUs and reducing minimum lot sizes.¹⁴ These are just a few examples of municipalities

making sound policy that fits their communities’ needs.

Just two years ago, the General Assembly freed municipalities from existing statewide restrictions that inhibited the development of affordable and attainable housing in Colorado. House Bill 21-1117 authorized local governments to regulate land development to promote the construction of affordable housing units, provided the local government enacts certain reforms. The menu of options from which local leaders can choose is similar to those proposed in a 2016 federal Housing Development Toolkit.¹⁵ The current federal administration’s Housing Supply Action Plan, released in May 2022, proposes rewarding jurisdictions with reformed land use policies in federal transportation and economic development grant processes.¹⁶

With the state already set for drastic improvements in housing supply, municipalities are ready and willing to make the changes needed to attack the housing crisis in Colorado. The passage of Proposition 123 and recent federal funding legislation now offer an opportunity for a historic investment in housing through collaboration and partnership. Local governments, as the experts in both land use and the needs and abilities of their communities, are best suited to implement those changes.

5 City of Colorado Springs v. Securcare Self Storage, Inc., 10 P.3d 244 (Colo. 2000),

6 For example, statutes regarding municipal planning commissions apply to home rule municipalities only “insofar as constitutionally permissible and except as limits are placed upon its application” by local law. C.R.S. § 31-23-226. The Local Government Land Use Control and Enabling Act, in setting out local authority, confirms that “the power and authority granted by this section does not limit any power or authority presently exercised or previously granted.” C.R.S. § 29-20-104(1). Where the General Assembly has attempted to curtail certain powers such as impact fees, the law largely codified existing constitutional standards. C.R.S. § 29-20-104.5; C.R.S. § 29-20-203.

7 Town of Telluride v. Lot Thirty-Four Venture, LLC, 3 P.3d 30 (Colo. 2000).

8 City of Northglenn v. Ibarra, 62 P.3d 151 (Colo. 2003)).

9 <https://bit.ly/3FKpqwE>

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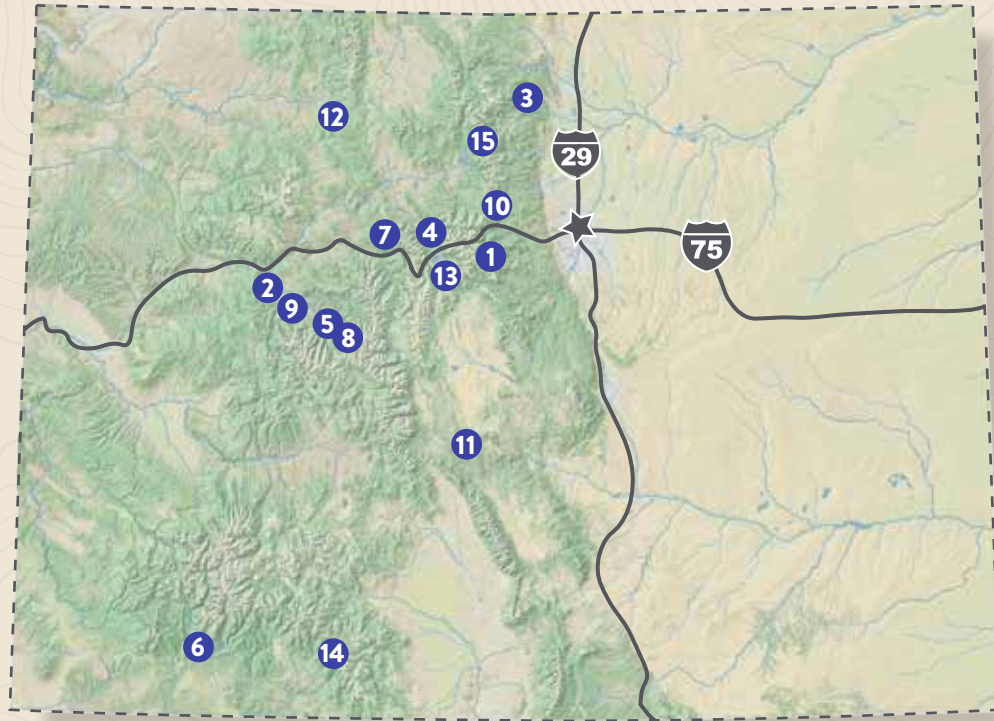
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RESEARCH CORNER



HOUSING ON THE BALLOT Continuing the trend from 2021, voters across Colorado weighed in on housing-related questions in 2022 elections. Municipalities received the go-ahead for lodging taxes, short-term rental taxes and fees, and expanding the allowed uses or retaining revenue of existing taxes.



LODGING TAX

- 1. GEORGETOWN** – to support the activities of business promotion and tourism, including housing and childcare for the tourism-related workforce
- 2. GLENWOOD SPRINGS** – for workforce housing projects, including associated infrastructure, and programs
- 3. ESTES PARK LOCAL MARKETING DISTRICT** – to support workforce housing and workforce childcare needs in the town
- 4. SILVERTHORNE** – to address visitor impacts in the areas of recreation, public safety, transportation, and housing

TAX REVENUE

- 5. SNOWMASS VILLAGE** – received authorization to expand the allowed uses of the revenues from the existing lodging tax and a portion of the revenues from the existing sales tax to include workforce housing purposes
- 6. DURANGO** – received 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
- 7. VAIL** – received authority to retain revenues from the 2021 sales tax, with the revenues to be used for housing initiatives and developments

SHORT-TERM RENTAL TAXES

- 8. ASPEN** – to fund affordable housing, infrastructure maintenance and environmental initiatives
- 9. CARBONDALE** – to fund affordable and attainable housing programs and projects
- 10. DILLON** – for community projects and services addressing visitor impacts
- 11. SALIDA** – an annual occupational license tax and a nightly occupational tax, both to fund affordable housing
- 12. STEAMBOAT SPRINGS** – to fund affordable and attainable housing projects and associated infrastructure improvements
- 13. FRISCO** – for affordable housing projects and programs

SHORT-TERM RENTAL FEE

- 14. PAGOSA SPRINGS** – voters approved a citizen-initiated amendment that would impose a short-term rental fee to be used for workforce housing

MARIJUANA TAX

- 15. GRAND LAKE** – voters approved a retail marijuana sales tax that includes a provision to dedicate half of the collected revenue to attainable housing

DEBT AUTHORITY

- 10. DILLON** – \$20 million for workforce housing projects



FEELING THE





SQUEEZE



SURVEY REVEALS TOP CHALLENGES FOR COLORADO MUNICIPALITIES

BY MELISSA MATA, CML MUNICIPAL RESEARCH ANALYST

AND MEGHAN MACKILLOP, CML LEGISLATIVE & POLICY ADVOCATE

For the first time in the 15-year history of the Colorado Municipal League's State of Our Cities and Towns survey, municipalities consider inflation to be the greatest cause of concern, followed closely by the tight labor market, affordable housing, unfunded street and road maintenance needs, and unfunded water and wastewater improvement needs. The 2023 State of Our Cities & Towns survey, administered from August to September 2022, inquired about the impacts of staffing shortages and inflation on municipal operations, as well as challenges related to housing supply and

affordability, water, and navigating the state and federal funding available to address these challenges.

As CML heads into the legislative session, this survey will provide our advocacy staff with information to highlight the incredible work our members are doing to address the range of challenges faced by municipalities across Colorado. Detailed data also allows advocacy staff to better articulate why it is imperative the legislature offer support, rather than mandates, so that municipalities may appropriately respond to local needs.

Select findings are included here. The full report will be released in the coming weeks.

TOP CHALLENGES

Most municipalities are experiencing negative impacts on their expenses due to recent inflation, which has drastically increased costs for capital projects and further complicated the recruitment and retention of employees, already made difficult by the lack of affordable and workforce housing.

In the previous 14 years of the survey, inflation had not once broken into the top five challenges listed. The other top challenges in 2023 – tight labor market, lack of affordable housing, unfunded street and road maintenance needs, and unfunded water and wastewater improvement needs, have all been listed as a top challenge in recent years.

STAFFING SHORTAGES

The State of Our Cities and Towns survey affirms what CML has been hearing from our members throughout 2022: staffing shortages have slowed, or even halted, certain daily operations, such as sanitation services, inspections, and other public works and utilities projects. These shortages are also placing an excessive burden on the remaining staff.

- 62% of municipalities are experiencing moderate to significant operational impacts due to staffing challenges.
- 80% are increasing wages to be more competitive in the job market.
- 65% increased wages outside of their normal budget cycle.

Some municipalities are also utilizing creative strategies to retain staff, including offering training opportunities, improving benefits, and even offering housing stipends or subsidized workforce housing.

FEDERAL FUNDING

The second most common challenge CML staff heard as we visited our members in the fall of 2022 was concern about navigating federal funding available through the federal Bipartisan Infrastructure Law (BIL).

In the survey, municipalities reported an interest in using these dollars for water, wastewater, and transportation projects, affordable housing, and broadband deployment, however almost half of municipalities (47%) reported that they have low or no confidence in applying for BIL funding. Concerns range from navigating funding opportunities to ongoing program-related compliance and reporting.

CONCERN WITH ABILITY TO EXECUTE ASPECTS OF BIL FUNDING

- Percentage of survey respondents reporting moderate or extreme concern:
- Ability to navigate funding opportunities — 52%
 - Ongoing program related compliance and reporting — 50%
 - Applying for BIL funding opportunities — 55%
 - Deployment of BIL funding — 42%
 - Identification of local projects that align with BIL funding — 47%

AFFORDABLE HOUSING

Colorado cities and towns recognize that they play a key role in promoting affordable housing. Over 40% of respondents, representing almost three-quarters (72%) of the municipal population covered by the survey, are promoting affordable housing through a range of measures including:

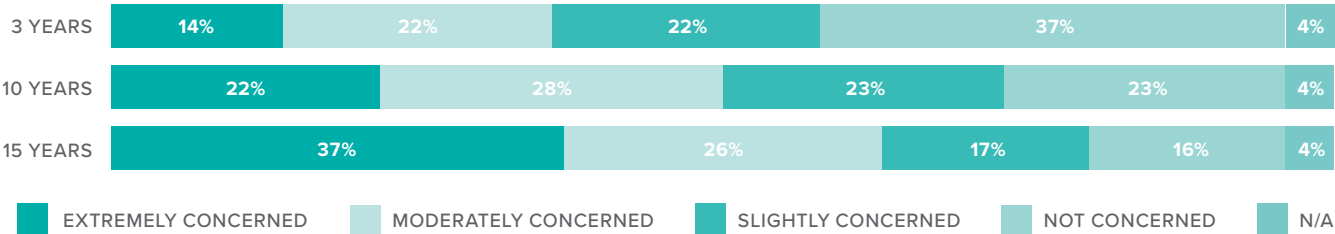
- permitting accessory dwelling units,
- allowing increased density,
- offering waivers for lot size and building height restrictions,
- reducing review fees, tap fees, and/or impact fees,
- using public land for affordable housing, and
- collaborating with counties, housing authorities, and other local governments on workforce housing, senior housing, and permanent housing for individuals experiencing homelessness.

In addition, in the past two years, over 20 municipalities have successfully passed tax and bond issues to fund affordable housing programs and projects. (See page 17.)

WATER

Municipalities are growing more concerned about meeting water needs. Colorado is in a decades-long drought, worsened by a warmer climate and drier winters. While 58% of municipalities are at least slightly concerned about meeting water needs in five years, nearly 75% are concerned about meeting needs in 10 years. This increases to 80% when looking 20 years into the future (See chart below). The coming years will continue to bring challenges for our cities and towns, and as Colorado continues to grow, municipalities will have to become more creative in how they address these problems. Cities and towns will continue to see strains from inflation and labor shortages amid increased demands on water and housing, and will need continued support from partners like CML, the state, and neighboring jurisdictions to thrive.

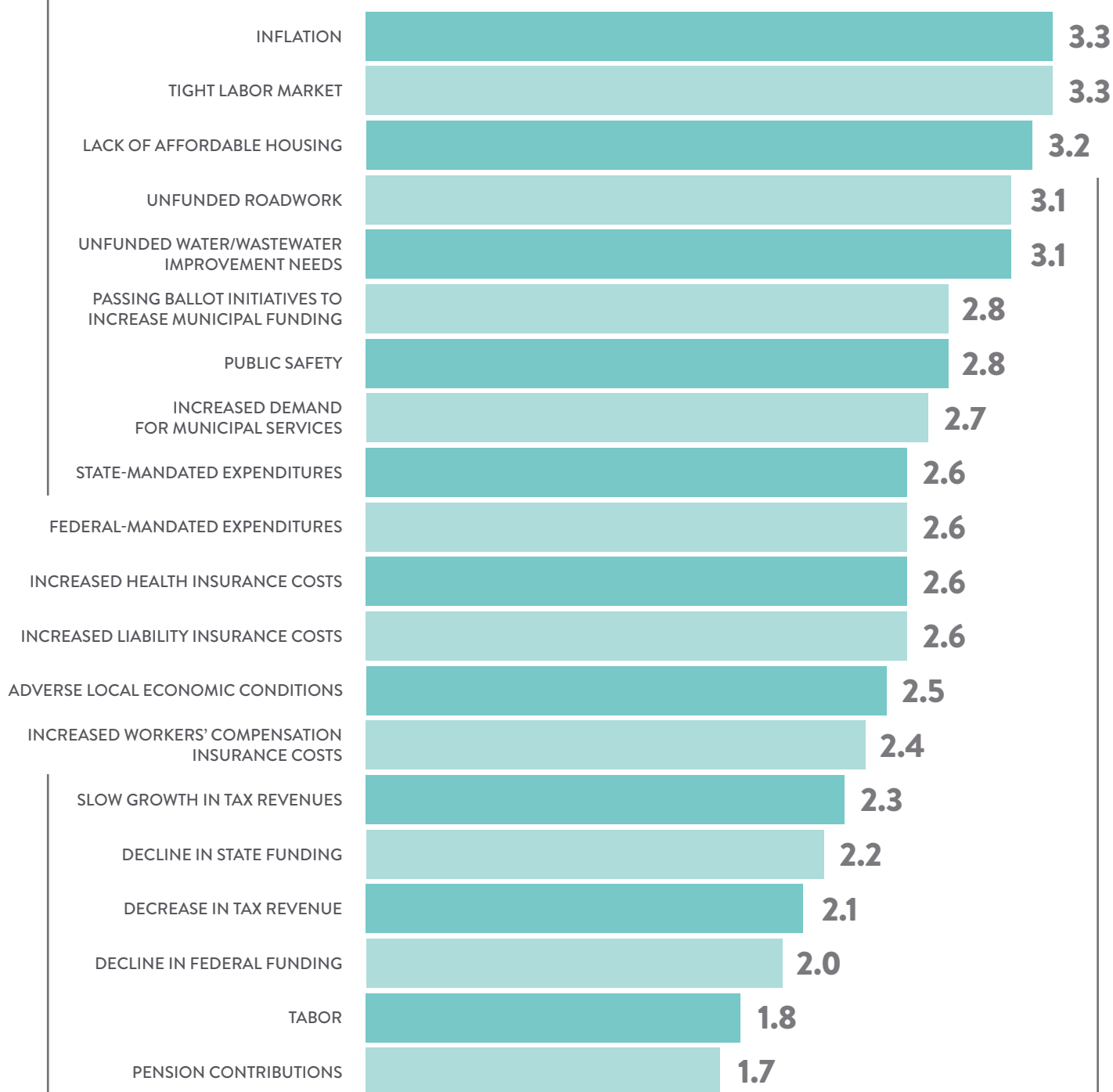
CONCERN ABOUT ABILITY TO MEET WATER NEEDS



TOP MUNICIPAL CHALLENGES

As reported in the survey, State of Our Cities and Towns 2023.

Items are ranked on a scale of 1-4, with 4 being the highest score.





COLORADO

OPEN

RECORDS

ACT



Improving access to public records through education and local policies

BY ROBERT SHEESLEY

CML GENERAL COUNSEL

Colorado's approach to providing access to public records is premised on the public's interest in seeing its government's records. The interest, however, competes with privacy interests of individuals, officials, and public employees and the interest of the public in certain aspects of government operation remaining protected from view to prevent individuals from seeking an unfair personal advantage. In its 50 years of existence, the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 to -206 ("CORA"), has evolved to a thorough law that looks to local policies to strike the right balance.

CORA is implemented through individual interactions between hundreds of state and local governmental entities and an untold number of requestors who have different levels of awareness of the law and reasons for making requests. Disagreements about CORA's processes and standards are certain to result and go through CORA's existing informal and formal

dispute resolution procedures. While blunt statutory changes might be a tempting solution for isolated disputes, over-legislating would sacrifice important public interests and could neither address every conceivable record or issue nor avoid unintended consequences like additional litigation.

A better solution is to rely on entity-specific policies that focus the interested parties — both governments and requestors — on education, training, and cooperation. CORA expressly permits the creation of local rules to protect records and prevent unnecessary interference with the regular duties of government. Colorado governments at all levels supplement CORA with reasonable and practical policies that guide their staff and requestors. Maintaining and properly implementing these policies is critical to avoiding undue administrative burdens and impacts on primary government services while respecting the intent of providing access to government records.

LOCAL POLICIES IMPLEMENT CORA IN GOOD FAITH

CORA establishes the right to view certain records and the timelines for responses, but the law largely leaves the actual procedure for requesting public records to the discretion of the government. Within CORA's framework, local policies address many of the complexities of public records access and common problems that can arise. Perhaps most importantly, such procedures can preserve staff capacity and curb abuses by persons seeking to profit personally from taxpayer-funded resources.

The goal of a good CORA policy is to fully implement the law's intent while minimizing the wastefulness caused by abusive, harassing, or otherwise improper CORA requests. For example, a CORA policy can clarify confusion about the law's timelines by establishing that requests received on holidays or after-hours are considered received on the next business day. Serial requests made on the same day may be grouped together for purposes of cost recovery through fees. Fee estimating standards and deposit requirements should be explicit to avoid misunderstandings. Other areas to address might include a process for abandonment of requests, control of records, copying records, use of third-party computer hardware, abusive or harassing requests, and evaluation of compound or repeat requests.

Local policies can further CORA's purpose by streamlining the process for submitting requests or conducting a dispute resolution process. Online request forms and electronic or credit card payment methods simplify potentially cumbersome parts of the process. Policies can include examples of appropriate, narrow requests and offer opportunities to focus requestors on the most direct path to a particular record. Overly broad or non-specific requests can be restricted.

**One-size-fits-all
legislation that further
complicates the process
or passes more of the
costs on to taxpayers is
not the answer.**

REDUCING COSTS FOR TAXPAYERS AND REQUESTORS

Taxpayers fund CORA. By law, if a request takes less than an hour, the requestor pays nothing and government funds the work of the response. If the response takes more than an hour, the government can recover up to the current statutory cap of \$33.58 per hour. If a government employee involved in the response makes more than \$33.58 per hour (or even less, considering benefits and overhead), the government subsidizes the cost of the response. Any efforts to reduce fees, expand exemptions, or increase the amount of "free" work will negatively impact state and local budgets and reduce revenue that is critical to providing services.

Research and retrieval work is not a trivial matter. In a short window of time, government staff must determine whether it has responsive public records and then identify whether the records or parts of records are subject to disclosure or not, including identifying whether any specific prohibitions on disclosure apply. That



work can involve the work of several government employees, including attorneys. The other work of the government is not being done while employees respond to requests.

A requestor can control the cost of a response by crafting an informed request with a limited scope, following up with additional requests as needed. Scattershot requests covering a broad range of topics, persons, and dates will likely result in many potentially responsive records, possibly not even providing the information desired. As the number of records increases, the time needed to research and retrieve records and the cost to taxpayers will also increase. Narrowly tailored, informed requests and cooperation with governments can eliminate or significantly reduce the costs to both the requestor and the government.

A sound local policy can help requestors to reduce their costs. Guidance should be included to help requestors form clearly defined requests. Staff should know how to help requestors refine requests. Policies may include fee reductions or waivers for some

classes of requestors, such as elected officials or academic research. Clear estimates of fees can help requestors understand the impact of a broad request and show the importance of refining requests.

CORA'S FUTURE LIES IN EDUCATION AND TRAINING

Municipalities are key players in ensuring that transparency continues to be a fundamental part of modern government in Colorado. One-size-fits-all legislation that further complicates the process or passes more of the costs on to taxpayers is not the answer. Improving local policies can help educate requestors, remove restrictions, and streamline the request and response process without increasing burdens on local governments, harming other important public interests, or impacting other government services.

CML's publication, *Open Meetings, Open Records*, is free to members and offers helpful guidance and sample policies. Find it in the CML Bookstore at www.cml.org.



TRAVELING AT THE SPEED OF CHOICE

THANKS TO HOME RULE, LAKEWOOD
WAS ABLE TO PARTNER WITH GOOGLE TO
PROVIDE LIGHTNING-FAST INTERNET

BY JACLYN TERWEY

CML LEGISLATIVE & POLICY ADVOCATE



Lakewood is proud to be the first city partnering with Google Fiber to build a fiber-to-the-home network in Colorado. In 2019, voters approved a city ballot question reestablishing the city's right to provide all telecommunications services, high-speed internet services, and cable television services.

"Everyone needs to be connected today whether it's for school or work, and I think adding Google Fiber in Lakewood is a great step in the right direction," said Mayor Adam Paul. "Internet connectivity is as important as having water and electricity, and we need to ensure we have robust systems in place to serve our residents and our businesses."

Google Fiber offers both 1 gig and 2 gig products currently, and recently announced they will be launching a 5 gig and 8 gig service in 2023. This offers multiple options to the citizens of Lakewood to choose the right service for their household at multiple different price points as well.

"Everyone deserves access to fast, reliable internet, and Google Fiber is working to connect folks in Lakewood to work, school, and each other by providing great internet and customer service," said Google's Southwest Region General Manager Sasha Petrovic. "We are looking forward to serving the people of Lakewood and plan to offer service as broadly as possible throughout the community."

As of the November 2022 election, 123 municipalities have voted in favor of the ability to provide these services to their residents. Opportunities are available, and many more are coming with the significant funding coming down from the federal government, for local governments to either provide or partner with an entity to provide broadband to their communities. Remote work and virtual school over the last two-plus years has shed light on the need for an increase in high-speed broadband infrastructure and service across the state.

Municipalities have opportunities like Lakewood to partner with established entities to provide services to their communities. They can also establish and operate their own direct-to-customer broadband utilities—Fort Collins has a model like this with Connexion.

With the funding coming from the federal government, all options are on the table for local governments, and there are requirements to ensure that no laws "may impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer" (BEAD Notice of Funding Opportunity, pg. 51).

The Colorado Municipal League is working diligently to ensure all municipalities have the options available—similar to Lakewood and Fort Collins—to access and utilize funding to create, enhance, or expand high-speed broadband service in their jurisdictions for the betterment of their communities.



CENTENNIAL

COLORADO MUNICIPAL LEAGUE CELEBRATES 100 YEARS

IN 1923, George Norlin, president of the University of Colorado, delivered the following opening address at what would be the first annual conference of the Colorado Municipal League. In it, he placed before the gathered municipal officials a goal that rings true still today ... one of citizens, joined in partnership, for the sake of the best life.

Every now and then I have occasion to realize that in some respects the Ancients were in advance of our own time. I now recall a sentence which sticks in my memory from reading a book of Aristotle, published more than two thousand years

ago. Speaking of the State – and he was thinking not of the great national units which are familiar to us, but of the City State of his day which was little more than a modern community – he defines it as a partnership of all its citizens not for the sake of mere living but for the sake of the best life. He meant, I take it, that the community is a partnership not for the sake of personal security, of police protection alone, but a partnership in the promotion of health, of intelligence, of morals, and of beauty.

That definition sets for us the goal toward which we are striving and from which we are still far removed...

Fortunately, we have wakened up on this subject and have made great progress in this regard during the last quarter century... We have advanced very appreciably in eliminating from our cities political administration and the spoils system in favor of a business administration and scientific management. And the best thing which has happened is the dawn of the conviction among us that the municipality can and should be a partnership in promoting the best and fullest life.

John M. Jackson, Pueblo council president and the first president of CML, followed Norlin and helped cement the

vision of CML going forward.

Municipal problems are not easy; on the other hand, they are often complex and knotty — and at times call for great resourcefulness.

Our particular mission here at this time is to discuss specific subjects in relation to our municipal governments, hoping thereby to benefit ourselves and our constituency. As officials, this is our first duty, but as citizens, we should not lose sight of the fact that the prosperity of our own city largely depends on the prosperity of every other city and that of the development of the wonderful resources of this great state.

In 2023, CML marks its 100th anniversary serving municipal governments throughout Colorado. As we celebrated our 100th conference this past June in Breckenridge, the words spoken at our first CML conference still ring true and have helped guide us the past 100 years.

The League has grown from a nucleus of 15 founding cities and towns to 270 member cities and towns. This is a remarkable feat given that membership is voluntary and subject to renewal each year by each city and town. The League's constitution in its first year provided for annual dues for each city or town, based on population, ranging from \$5 for towns under 1,000 population to \$40 for cities of over 50,000 population. It also provided for annual dues of \$2 for any commercial or civic club, library, other organization, or individual. While dues have increased in the past 100 years, CML's vision of empowered cities and towns, united for a strong Colorado remains strong and steadfast.

While Colorado municipalities have changed significantly over the last 100 years, the basic mission of CML as stated in its 1923 constitution had remained largely unchanged:

- To develop the League as an agency for the cooperation of Colorado cities and towns, in the improvement of municipal government and to that end to study the needs of the cities and towns and to promote the application of the best

methods in all branches of public service

- To secure the enactment of legislation which shall be beneficial to the cities and town of the state and the citizens thereof and to oppose legislation injurious thereto

- To hold conferences as which views and experiences may be exchanged by city and town officials.

Over the years, CML has been guided by the principles that local problems are best addressed at the local level and that citizens are best served by a strong and responsive municipal government. Colorado's strong legal basis and tradition of local control and home rule can be

The municipality can and should be a partnership in promoting the best and fullest life.

largely attributed to CML and the many dedicated municipal officials who have stood for these principles. Municipal officials, CML staff, and board members have and continue to work cooperatively to establish and preserve municipal authority, address issues locally and share municipal experiences and information. We salute the strong leaders whose shoulders we stand on today for their contributions and tireless work for Colorado municipalities.

CML's role the past 100 years has developed and expanded as cities and towns have grown and added services. Today, our services revolve around three key priorities: advocacy, information, and training.

ADVOCACY

CML watches out for municipal interests where it counts and serves as municipal government's eyes, ears, and voice when it comes to state and federal legislation and appellate court cases. The League monitors the daily events of the Colorado Legislature for proposals that would affect

municipalities and works to pass, defeat, or amend legislation in accordance with general municipal interests and membership direction. As appropriate, the staff plays a major role in writing legislation beneficial to Colorado municipalities. As elections approach, statewide ballot issues are analyzed, communicated, and advocated on behalf of municipalities. National legislation and the work of federal agencies are scrutinized for issues of significant municipal interest. CML represents the collective municipal view on issues of high priority. CML is an active member of the National League of Cities. The League participates as amicus curiae (friend of the court) in state and federal appellate court cases that involve issues important to municipalities.

INFORMATION

CML works to keep members informed and current on important issues. Each year, staffers respond to individual inquiries on hundreds of local government questions. CML periodicals and publications capture important technical and legal research.

TRAINING

CML provides opportunities for municipal officials to increase their knowledge and skill through workshops, webinars, and the annual conference. The sessions and meetings attract more than 1,500 participants from throughout Colorado every year.

This coming year, we are excited to look back and share stories highlighting key events, individuals, and legislative and legal achievements in CML's history. That includes celebrating later in the year the 25th anniversary of CML's home — the Ken Bueche Municipal League Building. Bueche was CML executive director from 1974 to 2005. The building is his legacy, and Colorado municipal leaders will be forever grateful.

Much has happened in CML's first 100 years. The Executive Board and staff of CML look forward to CML's service Colorado's cities and towns for the next 100 years.

HUGH MCKEAN | 1967-2023



IN MEMORIAM

BY KEVIN BOMMER, CML EXECUTIVE DIRECTOR

This edition of Colorado Municipalities is dedicated to our friend and colleague, Rep. Hugh McKean, who passed away Sunday, Oct. 30, 2022, in Loveland. He was 55. In the generally acrid partisan atmosphere of the Colorado State Capitol, one could always count on Hugh McKean for a sweet breeze of diplomacy and statesmanship.



Whether as the leader of the Colorado House Republicans or back in his days as a Loveland City Councilor, McKean brought a sense of humanity, humor, and calm to conversations and situations that desperately needed them. His laugh could break even the tensest situation.

Born in Philadelphia on Oct. 27, 1967, McKean grew up in Missouri. A graduate of Colorado State University, he worked as a residential contractor in Northern Colorado. In 2009, he was elected to the Loveland city council and was active with the Colorado Municipal League.

Beginning with his election in 2016, McKean served three terms as a state representative and was unopposed in his quest for a fourth term. He was selected by his colleagues as House minority leader starting in 2020. He led his caucus through tumultuous times and never wavered. He devoted himself to listening others, respecting differences of opinion, and always seeking to find compromise. He treated everyone as an equal, and he stood up for those who were not.

“Everyone on the advocacy team loved working with Rep. McKean,” said Heather Stauffer, CML’s legislative advocacy manager. “Not only was he a wonderful legislator committed to his community, but he was also an extremely kind and compassionate person. We’re all better for having known him, and he will be dearly missed by all of us.”

McKean is survived by his two children, Hanna Marie McKean, 23, of Fort Collins, and Aiden Thomas McKean, 21, and his mother, Janet McKean of Rolla, Missouri. Other survivors include his partner Amy Parks of Loveland and her children, sister Summer McKean-Kershner of Corvallis, Oregon, and brother Andrew McKean of Glasgow, Montana.

He was preceded in death by his daughter, Silje, and his father, Michael McKean.

The Colorado Municipal League and the family of municipalities thanks Hugh McKean for his dedication and service and for sharing him with all of us. We are all better for it.



COLORADO
MUNICIPAL
LEAGUE

UPCOMING WEBINARS

JANUARY 11

Psychedelics, Housing &
Wine: A Review of 2022's
Propositions 122, 123, and 125

JANUARY 18

Crisis Communications:
What to Do When the Never
Expected Happens — Marshal
Fire Lessons Learned

JANUARY 20

Legislative Update

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COLORADO MUNICIPALITIES

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