



COLORADO  
MUNICIPAL  
LEAGUE

# NEWSLETTER

Vol. 50, No. 23, November 15, 2024

## FALL MUNICIPAL ELECTION RESULTS

*By Rachel Woolworth, CML municipal research analyst*

Voters in at least 84 cities and towns across Colorado considered local candidates and/or ballot measures in municipal elections. Only 30 of these elections were regularly scheduled; 55 municipalities held special elections for constituents to vote on initiated and referred ballot measures. More than 120 municipal ballot issues and questions were considered across the state. At least seven municipalities canceled their regular elections.

The following results are unofficial and subject to change.

### TAX AND BOND ISSUES

Sales and use tax increases passed in:

- **Cañon City** — through 2050 to fund the construction and maintenance of a community recreation pool
- **Castle Rock** — for public safety, including additional police and fire personnel
- **Crook** — for health, safety, and welfare of residents
- **Denver** — for health and hospital authority services
- **Glenwood Springs** — through 2044 for repair and maintenance of streets and underground utilities, including water and sewer

- **Leadville** — for an aquatics center
- **Superior** — for capital projects, including streets, swimming pools, and parks and playgrounds, in conjunction with authorization for a \$20 million increase in debt

A sales and use tax increase to fund public safety in Mead was ahead by 12 votes at time of publication.

### Sales and use tax increases failed in:

- **Denver** — for affordable housing
- **Fort Lupton** — for law enforcement, including additional police personnel and equipment
- **Fowler** — for law enforcement, road and bridge, and the municipal golf course
- **Loveland** — for any municipal pur-

pose, including services and infrastructure

- **Olathe** — for law enforcement, transportation and road improvements, and maintenance of existing infrastructure
- **Palisade** — for capital infrastructure projects and emergency services
- **Parachute** — for streets, utilities, infrastructure, parks, and other public improvements
- **Poncha Springs** — for general government purposes
- **Severance** — for transportation facilities and infrastructure
- **Springfield** — for general government expenses

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# EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO

## CML STAFF ANNIVERSARIES



This month, CML is celebrating a trio of staff anniversaries. Executive Assistant Lara Larkin, left, and General Counsel Robert Sheesley, center, are celebrating their third anniversaries at CML, while Legislative & Policy Analyst Beverly Stables is celebrating her first anniversary at CML. Congratulations!

## CML EVENTS

### EFFECTIVE GOVERNANCE — ON THE ROAD

*Dec. 5, at the Sterling Public Library, 420 N. 5th St. Sterling, CO*

We are bringing CML's popular workshop on the road to our members in Northeast Colorado. This interactive workshop focuses on practical governance skills for elected officials and staff from staff/council relationships, ethics, liability, open meetings, media relations, civility, and more. Register at [tinyurl.com/45ttfj6a](http://tinyurl.com/45ttfj6a).

### POLICY COMMITTEE

*Dec. 6, in-person at CML and online*

The December meeting of the CML Policy Committee will be held in a hybrid format (in-person at CML and online via Zoom) starting at 9 a.m. Coffee and a continental breakfast will be available. You must be a committee member, alternate, or section chair to register for this meeting. On-site parking is available on a first-come, first-served basis. Register at [tinyurl.com/mptdf7bd](http://tinyurl.com/mptdf7bd).

### NEWLY ELECTED OFFICIALS WORKSHOP

*Dec. 12, in-person at CML and online*

Newly Elected? Now what? Congratulations on your new role in public service. CML is here to ensure you're well-prepared for your journey in municipal government as you transition from election candidate to elected official. Join us for dynamic, one-day interactive workshop that provides a comprehensive overview of municipal government, covering ethics, liability, open meetings, and your responsibilities as an elected official. Register at [cml.org](http://cml.org).

## CELEBRATE WITH CML

CML wants to hear about your community's success. Tell us about a grant you've won, a new water tank, or anything else you're excited about. Email CML Publication & Design Specialist Alex Miller, [amiller@cml.org](mailto:amiller@cml.org).



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LEAGUE **NEWSLETTER**

CML Newsletter (ISSN 7439903) is published biweekly by the Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207, for Colorado's municipal officials. (USPS 075-590) Periodical postage paid in Denver, Colorado.

**Editor: Denise White**  
**Designer: Alex Miller**  
**Circulation/mailling lists: Mark Vanderbrook**

POSTMASTER: Send address change form 3579 to Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207; (p) 303-831-6411 / 866-578-0936; (f) 303-860-8175.

Subscription to CML Newsletter is offered as a portion of member dues.

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## Colorado Wildlife Council seeks candidates to fill pair of vacancies

The Colorado Wildlife Council is seeking two new members. The council's mission is to educate all who enjoy Colorado about the benefits of wildlife, wildlife management, and wildlife-related recreation.

Colorado's wildlife and landscapes are balanced by conservation work funded primarily by hunting and fishing license fees. Council members, working closely with an advertising firm, help guide a multimedia educational campaign to promote these messages. Past successes include Hug a Hunter/Angler, This is the Wild Life, and most recently Science in the Wild.

The East Slope Hunter Representative must be a Colorado resident, purchase a big game hunting license on a regular basis in Colorado, and be nominated by an organized sportspersons group with regional or statewide memberships.

The Municipalities Representative must be a Colorado resident and represent mu-



nicipalities in rural areas, with economies that derive a substantial income from hunting and/or fishing.

Council members contribute their professional expertise on a volunteer basis. They are expected to attend approximately five in-person meetings (four hours each), six virtual meetings (two hours each), and a two-day planning retreat (five to six hours each day). All in-person meetings will have a virtual option for attendance. Additional responsibilities are to spend time reviewing meeting materials (one hour per month), participate in a sub-committee, provide input between meetings on the campaign, and represent the council and its mission at partner events and activities. These are

unpaid positions, but council members are reimbursed for travel expenses, and members who volunteer 48 or more hours are eligible for a free state park pass.

Please complete the online application by Nov. 15, [tinyurl.com/3fn5tfy7](https://tinyurl.com/3fn5tfy7).

The council was conceived and developed by a coalition of hunters, anglers, and conservationists working together with livestock and agriculture organizations and created by the Colorado legislature in 1998. By statute, its mission is to oversee the design of a comprehensive media-based public information program to educate the public about the benefits of wildlife, wildlife management, and wildlife-related recreational opportunities in Colorado, specifically hunting and fishing. The council's budget is appropriated through the Wildlife Management Public Education Fund. This fund is generated through a \$1.50 surcharge on every Colorado hunting and fishing license.

## Colorado Broadband Office unveils State & Local Dollars program

Over the past two years, the Colorado Broadband Office (CBO) has celebrated the historic amounts of federal funding Colorado received to build and improve broadband. While this money will get us close to the goal of connecting 99% of Coloradans, the office has developed a new state-funded grant program to connect the Coloradans that federal funding may not reach.

CBO is excited to announce a new program under the Advance Colorado Broadband Grant Program, called State & Local Dollars, or Advance-Local for short. The Advance-Local grant program will award money from a state-funding program called the High-Cost Support Mechanism (HCSM) Fund to middle mile, last mile, short-term, and digital equity projects.

Advance-Local will award about \$14 million from HCSM funding to Internet Service Providers (ISPs), nonprofits, cooperatives, electric companies, municipalities, ISP partnerships, and city-owned ISPs.

CBO will publish the Advance-Local Guidelines and related documents in November. At that time, we will invite you, our trusted stakeholders, to comment on any portion of the new grant program.

## Division of Local Government updates e-filing portal

The Division of Local Government (DLG) is rolling out a new e-filing portal to be used by all local government entities, requiring some current users to create new login credentials. While the look and feel of the portal will be different, the scope, purpose, and user base of this system will remain the same. The new portal should be available starting Nov. 13.

The new system will allow local government officials to have a single account login across DLG portals. These include grants portal, formulaic programs (Conservation Trust Fund, Firefighter Cardiac Benefit, Volunteer Firefighter Pension,

Direct Distribution) portal, Civil Asset Forfeiture Reporting, and the new e-filing portal.

This will enable local officials who represent multiple entities to have one login associated with multiple local governments. The new interface will be easier to use and will offer special district users a more streamlined experience when filing required information about directors.

The current system will be phased out when the new system is launched, and users will no longer be able to use the old system and login credentials.

### ACTION NEEDED

- Local government users with existing DLG accounts will need to use those credentials for the new e-filing portal.
- Local government representatives who have never used the DLG grants, formulaic programs portal, or civil asset forfeiture portal, will need to create a new account.

DLG will host several office hours to answer questions about this transition. How-to guides and videos will be posted on the DLG website, [tinyurl.com/bdcv9yjh](https://tinyurl.com/bdcv9yjh).

## FROM PAGE 1

- **Westminster** — for fire services, including personnel and facilities

### Sales and use tax extensions passed in:

- **Aspen** — 20-year extension for affordable housing and day care
- **Colorado Springs** — 10-year extension for road repairs and improvements
- **Fort Collins** — 20-year extension for street maintenance
- **Greeley** — extension of the city's sales tax on food, until repealed by voters or city council, to fund capital improvement projects
- **Longmont** — indefinite extension for open space purposes

### Lodging tax increases passed in:

- **Black Hawk** — for resort destination development opportunities
- **Keystone** — for capital infrastructure projects and public safety
- **Minturn** — short-term rental excise tax to fund community projects and services addressing visitor impacts
- **Montrose** — for streets, childcare, affordable housing, tourism promotion, and public transit
- **Mt. Crested Butte** — increasing existing short-term rental excise tax to fund community housing
- **Trinidad** — for community projects

A measure creating a lodging tax in **Hot Sulphur Springs** to fund projects and services addressing visitor impacts, as well as other municipal purposes, was ahead by 10 votes at time of publication.

### Lodging tax increases failed in:

- **Gypsum** — for roads, parks and recreation, special events, and other uses
- **Hudson** — for parks and recreational facilities and services
- **Kiowa** — for streets and capital improvements
- **Monument** — for lodging tax administration and parks
- **Yuma** — for general governmental purposes

## OTHER TAX ISSUES:

In **Aspen**, voters passed two measures

extending the city's real estate transfer tax through 2060 and recategorizing and lowering a tax on motor vehicles sold, registered, and used in the city as a use tax with the revenue to be used for maintenance of roads, bridges, and other transit related infrastructure.

**Avon** voters narrowly passed a measure establishing a use tax on construction materials for projects exceeding \$125,000 to fund community housing.

In **Hot Sulphur Springs**, voters rejected a use tax on construction materials to fund any municipal purpose.

**Woodland Park** voters rejected a measure to repeal a sales tax that helps fund the Woodland Park School District.

## REVENUE RETENTION AND DEBT

**Keystone** voters granted the town authority to retain and spend all revenue collected from all sources, including taxes and grants. In **Lakewood**, residents authorized the city to retain and spend all revenue collected from all sources to fund parks, recreation, and open space; public safety; and maintenance of streets, sidewalks, paths, and infrastructure. **Loveland** voters authorized the city's request to retain and spend all revenues collected for a 12-year period to fund police and fire, as well as construction and maintenance of streets and parks.

**Voters in the following municipalities approved measures seeking to increase municipal debt:**

- **Englewood** — up to \$41.5 million for improvements to parks and recreation facilities to be paid through an increase in property tax revenue up to \$4 million annually
- **Greeley** — up to \$65 million for transportation projects
- **Superior** — up to \$20 million for capital projects, including streets, swimming pools, and parks and playgrounds to be paid off, in part, by a sales and use tax increase

## ELECTION CHANGES

Voters in **De Beque**, **Fraser**, and **Oak Creek** passed measures authorizing their municipalities to move regular elections to November of even-numbered years. Wellington voters rejected a measure to change its regular election to November of even-numbered years.

## GOVERNANCE

In **Gilcrest**, voters rejected a measure to eliminate term limits for the town's elected officials.

## PUBLICATION REQUIREMENTS

To save money on publication costs, **Elizabeth** and **Fort Morgan** granted their municipal governments authorization to publish ordinances by title only in the newspaper, provided the ordinances are published in full on the municipalities' websites.

**Dacono**, **Fort Lupton**, and **La Salle** voters passed measures authorizing municipal governments to publish financial information relating to payment of bills, contracts awarded, and rebates allowed on municipal websites rather than newspapers.

## MARIJUANA

In two separate measures, **Alamosa** residents rejected authorizing medical marijuana sales and an associated 2% sales tax, as well as recreational marijuana sales and an associated 5% sales tax.

**Colorado Springs** voters passed a charter amendment prohibiting retail marijuana establishments within city limits, as well as a separate initiated ordinance that would limit, but not prohibit, the operation of retail marijuana establishments.

In **Erie**, voters passed a 5% excise tax on retail marijuana sales.

**Fort Lupton** voters clarified that the city should allow operation of a limited number of marijuana establishments within specific zoning districts. Residents also supported the city levying a 1.5% excise tax on unprocessed retail marijuana.

In **Littleton**, voters passed a measure increasing the city's special tax on retail marijuana sales by 4% to fund public safety and homelessness prevention.

**Loveland** residents approved medical and retail marijuana sales, as well as a 5% excise tax on retail marijuana sales.

**Mead** voters rejected a measure to authorize medical and retail marijuana sales in specific districts.

In **Sterling**, voters narrowly approved a 5% excise tax on retail and medical marijuana sales to fund marijuana administration and general purposes.

## CHARTER AMENDMENTS

- **Boulder** — approved three charter amendments conforming city council executive session procedures with state statute, clarifying criteria for board and commission members, and setting compensation for mayor and city council
- **Broomfield** — approved six amendments that adopt Title 1 of the Colorado Revised Statutes to govern elections and change terminology, limiting mayor and councilmembers to no more than three consecutive terms of office, permitting council to approve rezonings and other land use cases by resolution, providing for publication of ordinances online, updating language around the Personnel Merit System, and modernizing language regarding the city and county attorney, and rejected one amendment extending the mayoral term length from two to four years
- **Cherry Hills Village** — rejected a charter amendment relating to the management and protection of Quincy Farm, a competing citizen-initiated charter amendment, and related referred advisory question regarding property tax
- **Craig** — approved modifying local campaign finance limits to require a local post-election filing and to follow the Fair Campaign Practices Act
- **Dacono** — approved an amendment to allow penalties for municipal code violations to be set by ordinance, subject to limits for municipal violations in state statute, and narrowly rejected an amendment changing governance structure to a council-manager form of government
- **Denver** — approved five charter amendments adding the Agency of Human Rights and Community Partnerships as a cabinet department, removing a requirement that police officers and firefighters be United States citizens, establishing collective bargaining for non-supervisory city employees, allowing binding arbitration between the city and firefighters during an impasse in collective bargaining, and establishing non-discretionary adjustments to city council salaries
- **Englewood** — approved amendments to directly elect the city's mayor and remove an at-large council position, and establishing a supermajority requirement to fill a council vacancy by appointment

- **Fort Collins** — approved amendments modernizing charter language regarding elections, updating language regarding recall petitions and elections, and modernizing language regarding initiative and referendum processes
- **Greeley** — approved amendments allowing police sergeants to be included in collective bargaining and modernizing terms regarding finance operations
- **Loveland** — rejected amendments reducing to a majority of the number of city council votes required to appoint and remove a city manager and city attorney
- **Monument** — approved an amendment permitting the town manager to reside outside of town boundaries
- **Morrison** — approved amending processes around filling board vacancies
- **Mountain View** — approved an amendment adding language on the adoption of emergency ordinances and rejected an amendment changing governance structure to a council-manager form of government
- **Pueblo** — approved two charter amendments removing maximum penalty provisions from the city charter and permitting the city council to establish maximum penalties consistent with state statute and extending the timelines for recall petition review and elections, and rejected two amendments modernizing election provisions and modernizing terms and technology relating to emergency ordinances, vacancies, publication of ordinances and notices, city attorney residency requirements, compulsory retirement, and other matters referenced within its charter
- **Thornton** — approved requiring a special election to fill council vacancies for offices with more than one year remaining in the term
- **Westminster** — rejected an amendment creating a geographic ward system for elections
- **Wheat Ridge** — approved amendments modernizing language and clarifying ambiguities in the city's charter and conforming to changes in Colorado law, and establishing maximum height limits for Lutheran Legacy Campus

## OTHER ISSUES

**Aurora** voters agreed to a repeal of the city's restricted dog breed ban.

Voters in **Black Hawk** approved a cost sharing agreement with Gilpin County to help operate the Gilpin County Community Center.

A measure to increase mayor and councilmember compensation failed in **Dacono**.

In **Denver**, voters rejected an ordinance prohibiting the manufacture, distribution, display, sale, or trade of fur products. Voters also rejected an ordinance prohibiting slaughterhouses within city limits.

**Idaho Springs** voters approved a land swap for the purpose of aligning Virginia Canyon Mountain Park with Gilson Gulch.

**Lafayette** residents directed the city to establish a collective bargaining ordinance for police officers.

**Lyons** voters passed a measure to require a vote of citizens to annex certain properties of less than five acres.

In **Paonia**, voters authorized the town to continue a fund, paid via utility billing, for the construction and maintenance of sidewalks.

**Walsenburg** residents declined to establish a trash and recycling collection and disposal system.

## HOUSING

Voters in municipalities across the state supported funding for affordable housing through tax questions discussed previously. In addition, **Snowmass Village** voters approved construction of a new workforce housing project consisting of up to 79 units at a cost of up to \$86 million paid from tourism tax revenues, rental income, grants, and other contributions.

## UPCOMING ELECTIONS

**Superior** will hold a special election on Dec. 10 to ask voters to approve the home rule charter submitted by the charter commission.

*The Colorado Municipal League thanks the municipal clerks who assisted CML staff in compiling this election information.*





# CML LEGAL CORNER



## Holiday displays and the First Amendment

By Robert Sheesley, CML general counsel

As the days shorten, many municipalities look forward to brightening the evenings and celebrating the season through lights and displays. Holiday displays at city buildings, in public parks, and on streetlights may raise questions or disagreement about the potential unconstitutional involvement of government in religion.

Lawsuits from 40 years ago established that religious components of these displays can be as part of secular displays. This seems unlikely to change, despite a recent change of the underlying judicial precedent.

### THE ESTABLISHMENT CLAUSE

The First Amendment to the U.S. Constitution includes two parts about religion: the Establishment Clause (“Congress shall make no law respecting an establishment of religion”) and the Free Exercise Clause (“Congress shall make no law . . . or prohibiting the free exercise thereof”). Colorado’s “Preference Clause” is more specific but embodies “the same values of free exercise and governmental non-involvement.” *Americans United for Separation of Church and State Fund, Inc. v. State*, 648 P.2d 1072, 1081–82 (Colo. 1982).

For years, courts evaluated Establishment Clause cases involving public holiday displays under the U.S. Supreme Court’s test in *Lemon v. Kurtzman* (1971). That test required a secular (non-sectarian) legislative purpose, a primary effect that does not advance or inhibit religion, and no “excessive government entanglement with religion.” Colorado’s Supreme Court chose to follow the same test when interpreting the state’s Preference Clause.

### TREES, NATIVITY SCENES, AND MENORAHS

Using the *Lemon* test, Colorado’s Supreme Court and the U.S. Supreme Court devel-

oped an approach to affirming religious aspects of holiday displays that focused on the context of overall display and the nature of the individual component. Some symbols with a religious implication have developed a non-religious significance (like a tree). Holiday displays including more direct religious symbols were often found to have a constitutional secular purpose as part of a group of objects that celebrate the season or some other purpose, even if reasonable people could disagree or be offended by their inclusion.

In the 1980s, the City and County of Denver won cases in state and federal court challenging the nativity scene placed on the city hall steps as part of a display that included a Santa Clause, reindeer, and Santa’s workshop. Applying the *Lemon* test, the courts upheld the secular purpose of the display as promoting a feeling of good will, depicting a common belief in the historic origins of the holiday, and Denver’s reputation as “a city of lights.”

At the same time, in *Lynch v. Donnelly* (1984), the U.S. Supreme Court decided similarly in a case involving a holiday display with a nativity scene, a Christmas tree, carolers, Santa-related items, candy-striped poles, lights, and a “Seasons Greetings” banner. The display was in a private park in a shopping district, but a Rhode Island city owned the items. The Court found the celebration of a traditional holiday and depiction of its origins to be legitimate secular purposes.

The U.S. Supreme Court reached a different conclusion regarding a Pittsburgh display because the nativity scene included the words “Gloria in Excelsis Deo” (“Glory to God in the Highest”), suggesting government promotion of a particular religious belief. Although the Court viewed a menorah in the display as a religious symbol and ritual object celebrating a primarily religious holiday (Chanukah), it found that the menorah “conveyed a mes-

sage of pluralism and freedom of belief during the holiday season” in context of the overall display. *County of Allegheny v. ACLU Greater Pittsburgh Chapter* (1989).

The U.S. Supreme Court recently advised that the *Lemon* test had been abandoned for a framework focused on historical practices that seems unlikely to undermine these cases. In *Kennedy v. Bremerston School District* (2022), the Court perceived no risk that school employee’s private prayer on school property would be seen as a government endorsement of religion. The Colorado Supreme Court has not yet retreated from *Lemon*.

### PRIVATE DISPLAYS

A different question arises if a municipality allows private displays on public property. Government, when not speaking for itself, cannot exclude speech by private actors based on the religious viewpoint communicated without violating the Free Exercise clause. A municipal program that permits private holiday displays on public property must balance the line between the Establishment and Free Exercise clauses.

In *Shurtleff v. City of Boston* (2022), the U.S. Supreme Court held that a program allowing private flags on public property could not discriminate against a Christian flag. There was no establishment concern because the city only controlled scheduling and access to the flagpole, not the message. *Shurtleff* suggests that the level of the government’s involvement in selecting which message can be displayed on public property by private groups will determine whether the Establishment Clause is a concern.

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



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