



COLORADO
MUNICIPAL
LEAGUE

NEWSLETTER

Vol. 50, No. 14, July 12, 2024

COLORADO MUNICIPAL LEAGUE ANNUAL REPORT

By Rachel Woolworth, CML municipal research analyst

Colorado Municipal League recently released its 2023-2024 Annual Report chronicling the organization’s work throughout the last year. The report specifically focuses on the 2023 calendar year and the 2024 legislative session.

CML focused on its core functions of advocacy, information, and training to support its 271 member municipalities throughout 2023.

The League’s advocacy team worked hard to represent municipal interests throughout another busy legislative session. Approximately 82% of CML-supported bills passed and 75% of CML-opposed bills died or were amended to remove opposition.

CML successfully initiated Senate Bill 24-174, State Support for Affordable Housing, during this year’s session. The bill uses state support to focus local government planning efforts around affordable housing while providing flexibility to develop community-based growth strategies.

The League’s legal team prepared three amicus curiae briefs in support of member municipalities, led 22 Continuing Legal Education sessions, and provided support to municipal attorneys throughout the state.

CML published three books, including “Bob’s Rules of Order,” “Election Book,” and “Laws Enacted Affecting Local Governments,” four *Colorado Municipalities*



magazines, and dozens of editions of the CML newsletter, Statehouse Report, and Municipal Law Update.

Marketing and engagement efforts included reenergizing the League’s social media presence, improving the website, and sending more than 150 emails to members about legislative happenings, CML events, and more.

More than 1,200 municipal staff members and elected officials participated in CML trainings (not including the Annual Conference) while many more attended spring and fall district meetings. And nearly 1,300 individuals enjoyed more than 50 educational sessions at the 2023 Annual Conference in Aurora.

The Lessons on Local Government curriculum, a collaboration with the Special District Association of Colorado, saw various revisions and additions. Eighty-one individuals received MUNiversity diplomas.

Lastly, CML launched the 2023-2024 president’s initiative “Civility Starts Here.” Under former CML Executive Board President Jessica Sandgren’s guidance, CML created a variety of tools to better equip municipal leaders with the tools needed to engage in respectful, productive dialogue in the office, at public meetings, and beyond.

To read the full report, visit tinyurl.com/yc2u4xzm.

EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO

STAFF ANNIVERSARY



This month, CML celebrates the staff anniversary of Legislative Advocacy Manager Heather Stauffer. She has been with CML for five years. Congratulations, Heather!

TELL CML HOW TO BETTER SERVE YOU

CML needs your input! Participate in our 2024 Member Survey by July 19 to provide feedback on our services. Members were sent an invitation to participate in the survey from ETC Institute over email earlier this month. Your feedback is essential to the League.

MUNICIPAL LAW UPDATES

MAX CORA FEE INCREASED

Effective July 1, 2024, the maximum research and retrieval fee under the Colorado Open Records Act is increased to \$41.37 per hour. The General Assembly's Legislative Council adjusts the maximum fee every five years, pursuant to C.R.S. § 24-72-205(6). Municipalities must modify local fee policies before charging this fee. More information is available at <https://bit.ly/3xeWPY6>.

ATTORNEYS ASSOCIATION SELECTS NEW OFFICERS

The Metro City Attorneys Association elected new officers at its business meeting held during CML's Annual Conference. Rachel Allen, Client Group Manager for the Aurora City Attorney's Office, was elected president and Chris Price, a partner at Widner Juran LLP, was elected vice-president. Jason Meyers, town attorney for the Town of Frederick, will continue to serve as treasurer.



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CELEBRATE WITH CML

CML wants to hear about your community's successes. Tell us about a grant you've won, water tank that's finally finished, or anything else you're excited about! Email CML Publication & Design Specialist Alex Miller, amiller@cml.org.



July surprise found in recently enacted plumbing board legislation

By Kevin Bommer, CML executive director

In October 2023, the Department of Regulatory Agencies (DORA) conducted a sunset review of the State Plumbing Board and made specific recommendations to be included in legislation introduced in the 2024 legislative session. The bill that was introduced was HB24-1344, "Sunset Plumbing Board." The stated purpose of the bill in the bill's title was the "continuation of the state plumbing board" and the implementation of "recommendations in the 2023 sunset report" by DORA.

As introduced, the bill remained true to the bill title. However, an amendment added on March 21 by the House Committee on Business Affairs & Labor went unnoticed by those following the legislation and has now created havoc. According to a statement from DORA, "inspection, testing, and repair

of backflow prevention devices did not [previously] require a licensed plumber, allowing the Plumbing Board's regulations and [the Colorado Department of Public Health and Environment's] (CDPHE) drinking water regulations to coexist. CDPHE requires certified cross-connection control technicians for this work, not licensed plumbers." This new requirement approved by the House without any stakeholder engagement by proponents creates an immediate and significant impact and will be impossible to implement in most parts of the state where there are few licensed plumbers that perform. It will also likely increase the costs associated for performing the tasks.

At the very least, the uncertainty and disruption will cause significant delays in backflow installation, removal, testing, and repair work. While there is also a question of whether it would stand up

to a legal challenge on the grounds the amendment was outside what was clearly expressed in the bill title, there is an opportunity for more immediate corrective action.

A July 10 emergency meeting of the State Plumbing Board will be held to consider the "extent backflow devices subject to CDPHE regulations are exempt from these changes to the Plumbing Practice Act," and the League will monitor and report on the outcome of the meeting. In the meantime, DORA suggests the current business processes remain unchanged, which suggests no enforcement of this provision of HB24-1344 will occur in the near future. Finally, the League will take up the issue of supporting legislation to remedy to this impact in the 2025 legislative session through the policy development process.

CML trainings and workshops

Explore CML's upcoming trainings and workshops. Visit cml.org for the full calendar and registration details.

EFFECTIVE GOVERNANCE

- In-person options at locations across Colorado in August and September
- In-person in Denver this October
- On demand modules coming soon

CIVILITY TRAINING

- Virtual workshop in August and September

ANNUAL SEMINAR ON MUNICIPAL LAW

- Sept. 20-21 in Colorado Springs

MAYORS' SUMMIT

- January 2025

AND MORE

- Keep an eye out for upcoming webinars on a variety of topics.

Mayors Leadership Academy

Leading a city comes with unique challenges — and solutions. In partnership with Colorado Municipal League and the Metro Mayors Caucus, Civic Results is launching its first Mayors Leadership Academy, beginning Aug. 8. This in-person program, held in varying locations around the metro Denver area and the

state of Colorado, will offer full-day sessions monthly from August to March that are focused on building skills, networks, and relationships. Registration closes July 31. For more information, please email info@civicresults.org or visit tinyurl.com/mtya984b.

Metro Area BID DDA URA Mobile Tour

Many Colorado communities are curious about districts and authorities that can focus on redevelopment, reuse, and place management in downtown and commercial areas. Why sit in a conference room to learn, when you can hit the road and tour some Business Improvement District, Downtown Development Authority, and Urban Renewal Authority projects?

Colorado Municipal League and Downtown Colorado, Inc. are pleased to announce our fifth annual financing mechanism mobile tour. Register today by visiting tinyurl.com/34mdvnzj.



What is Community Violence Intervention?

INNOVATIVE APPROACHES TO REDUCE VIOLENCE IN CITIES

By Emanuel Boo Milton,
National League of Cities

Violence is a significant issue for many cities. While it remains a problem across the country, city leaders are looking to solve it, finding hope in new strategies and approaches. Community violence intervention (CVI) is an approach that uses evidence-informed strategies to reduce violence through tailored community-centered initiatives, as defined by the U.S. Department of Justice Office of Justice Programs. CVI strategies are usually implemented in communities that experience a higher frequency of violence and are designed to support those who are most likely to be impacted by violence.

CVI is gaining traction with millions of dollars invested into cities from the federal government, philanthropy, and city budgets to support this promising approach. In the following interviews, city government leaders connected to the National League of Cities share their thoughts on CVI and how their cities have embraced and implemented this approach to violence reduction.

JODIE ESQUIBEL

Deputy director of Community Safety,
City of Albuquerque, New Mexico

NLC: What is a benefit of cities engaging in CVI work?

Esquibel: The benefit of CVI work is putting the community at the center by establishing relationships and supporting those at the highest risk of being victims or becoming part of the gun violence cycles in the city.

NLC: What is one strategy that your city is implementing that you are proud of?

Esquibel: Strategy components encompass a public health approach to intervene in the cycles of violence in ABQ by addressing the social determinants of health and disparities that underlie and drive the increase of gun crime.

Custom notifications are delivered by peer support workers with lived experience sharing a credible message of non-violence, pathways to various social services, peer support, and an “honorable exit” from committing future acts of violence.

More information about the excellent work of the City of Albuquerque can be found by visiting cabq.gov/acs.

WILFORD PINKNEY JR.

Director, Office of Violence Prevention,
City of St. Louis, Missouri

NLC: What is a benefit of cities engaging in CVI work?

Pinkney: There are many benefits for cities engaging in CVI work. Since 2020, numerous cities, including St. Louis, have established offices dedicated to this initiative. CVI strategies and engagement are crucial for connecting community resources to those who need them most. They address the roots of violence in a holistic way that government and law enforcement cannot address alone.

NLC: What is one strategy that your city is implementing that you are proud of?

Pinkney: Violence holds victims, families, friends, and neighbors hostage. It tears communities apart and prevents them from coming together. I am most proud of our efforts to engage and rebuild these connections by earning the community’s trust. A key aspect of this work is meeting people where they are. We’ve achieved this through monthly events called Kick-backs, where we create safe spaces in communities affected by violence to raise awareness about violence prevention and intervention resources.

Additionally, our Crisis Response Unit (CRU) and Community Crisis Response Team (C3RT) play a crucial role in crisis intervention. These teams meet individuals in their moments of crisis, providing immediate care to ensure they are safe. Once stable, we continue supporting them by connecting them

to vital resources for their recovery and well-being.

We also engage communities through our Show Me Peace program. Show Me Peace involves credible messengers cultivating meaningful personal relationships to de-escalate or mediate conflicts. They encourage everyone to commit to reducing violence. This program has seen communities embrace collaboration, hope, and unity, repairing the divisions that have torn them apart. By addressing violence with community-focused strategies, we are changing the narrative of St. Louis and reclaiming our communities in partnership with those most affected.

More information about the excellent work of the City of St. Louis can be found by visiting stlouis-mo.gov/ovp.

ADDITIONAL PUBLIC SAFETY RESOURCES

If your city is looking to explore Community Violence Intervention or would like to enhance the work you are currently doing, check out the resources below:

Reimagining Public Safety

tinyurl.com/2k9r4ptn

Lessons Learned through Collaborative Community Safety Initiatives

<https://tinyurl.com/yc4r3rp2>

To connect with the National League of Cities’ Justice Initiatives Team and other cities doing the work to address violence in their communities, email justiceinitiatives@nlc.org.

Mastering Masking: A free virtual CLE on CDL plea negotiations

Join CML on Thursday, July 18, from noon to 1:30 p.m. for a free virtual CLE, Mastering Masking, presented by the National District Attorneys Association's (NDAA) National Traffic Law Center.

This informative session will delve into the legal and ethical consequences of plea negotiations involving commercial driver's licenses. Attendees will be able to identify various disqualifying offenses and sanctions unique to commercial driver's licenses and appreciate how the enforcement of these regulations result in reducing injuries/deaths by keeping unsafe commercial motor vehicle drivers

off the roads. Our expert speakers, Jim Camp and Bella Truong, bring decades of experience in traffic law. Camp is a senior attorney with NDAA and nationally recognized authority traffic safety. Truong is a staff attorney with NDAA, specializing in Federal Motor Carrier Safety Administration. This CLE is ideal for municipal attorneys, judges, court administrators, law enforcement, and prosecutors.

Register at tinyurl.com/5h5k5xkp for the CLE, which has been accredited. Registered attendees will receive a Zoom one week prior to the event.

Executive certificate in affordable housing

Lack of affordable housing supply has culminated in a housing crisis. As communities scramble to tackle this problem, the demand for skilled professionals in the affordable housing sector is growing. To meet this need, the University of Denver offers an Executive Certificate in Affordable Housing. The program features in-depth training from interdisciplinary experts, and it provides participants with a pathway to learn the complexities of affordable housing development.

More information is available by visiting du.edu/affordable-housing.

DOLA awards more than \$40 million to build affordable housing

The Department of Local Affairs (DOLA), through the Division of Housing's State Housing Board, awarded \$38.95 million to support 388 rental units and more than \$2.05 million for 26 homeownership units statewide, in an effort to make housing more affordable for Coloradans.

AFFORDABLE RENTAL AWARDS

Village at Homewood Point: Phase II \$5M — Adding 83 rental units

The Colorado Springs Housing Authority was awarded \$5 million in a Transformational Affordable Housing Loan Fund (THLF) loan for the construction of the second phase of the Village at Homewood Point Apartments, adding 83 new, affordable apartments for independent seniors, located adjacent to the existing first phase. The project will feature 50 one-bedroom, one-bathroom apartments and 33 two-bedroom, one-bathroom apartments at a mix of 40%, 50% and 60% Area Median Incomes (AMI).

Rifle Apartments

\$8M — Adding 60 rental units

Evergreen Redevelopment was awarded a Transformational Affordable Housing Loan Fund loan of up to \$5 million and a cash flow loan of up to \$3 million for the construction of Rifle Apartments. Rifle Apartments is a 60-unit construction project in downtown Rifle. Rifle Apartments will serve households from 30% to 80% AMI.

Trails at Pagosa

\$4.75M — Adding 50 rental units

CO Trails Pagosa 2023 was awarded a \$4.75 million Transformational Housing Loan Fund loan to construct The Trails at Pagosa Springs, a 50-unit, new development, on 3.5 acres, in a master planned community. The project is located in Pagosa Springs in Archuleta County and will provide one, two, and three-bedroom units for households ranging from 30% to 80% AMI with an average affordability of 60% AMI.

Eagle Villas Apartments

\$18.2M — Adding 120 rental units

Eagle County Housing and Development Authority was awarded \$13.2 million from the 2024 Statewide Balance of Private Activity Bonds, \$5 million for the acquisition/preservation of Eagle Villas, an expiring 120-unit low-income housing tax credit (LIHTC) community located in the Town of Eagle. Ulysses Development Group LLC was also awarded a loan of \$5 million for this project. Eagle Villas represents 52% of the town's tax-credit financed stock. The property serves families earning between 45%-60% AMI.

The Ascent at Hover Crossing

\$3M — Adding 75 rental units

Longmont Housing Authority was awarded a Transformational Housing Loan Fund loan of \$3 million to assist with

new construction of The Ascent at Hover Crossing. This 75-unit apartment complex will be in north central Longmont.

AFFORDABLE HOMEOWNERSHIP AWARDS

Forest Creek Cabins

\$1.01M — Adding 7 homeownership units

Chaffee Housing Trust was awarded \$628,750 in Transformational Housing Loan Fund funds and \$385,000 in a Prop 123 grant for the acquisition of Forest Creek Cabins in Buena Vista. On the west side of Buena Vista, the Forest Creek Cabins are currently affordable rental housing units being converted to homeownership, as a result of the owner's commitment to provide for the community's needs.

Pikeview Affordable Housing Project

\$1.045M — Adding 19 homeownership units

Upper Arkansas Area Council of Governments (UAACOG) was awarded a Prop 123 grant of \$1.045 million to assist with new construction of the Pikeview Affordable Housing Project in Fremont County. Pikeview will target households at or below 100% AMI, with an average AMI of 84.1%. The unit mix includes 13 three-bedroom units and 6 four-bedroom units serving families. The project will have 19 total lots and homes, four owned by Pikeview Development Corp. and 15 that are being acquired from HR Properties.

RESEARCH CORNER

MUNICIPALITIES RATED FOR WILDFIRE RISK

Data visualization by **RACHEL WOOLWORTH**, CML municipal research analyst, and **ALEX MILLER**, CML publication & design specialist

According to *wildfirerisk.org*, Colorado faces a “high” risk of wildfire — higher than 72% of states across the country. The website, which is operated by the U.S. Forest Service, Headwaters Economics, and Pyrologix, offers a wide range of wildfire risk data searchable by municipality, county, tribal area, and state.

STATE WILDFIRE RISK

Colorado’s overall wildfire risk rating is based on the following factors rated individually for the state:



Risk to Homes

HIGH

The relative risk to a house for every location on the landscape, whether a house exists there or not



Wildfire Likelihood

HIGH

The probability of wildfire burning in any given year



Vulnerable Populations

HIGH

People who may be disproportionately impacted because of social and economic factors



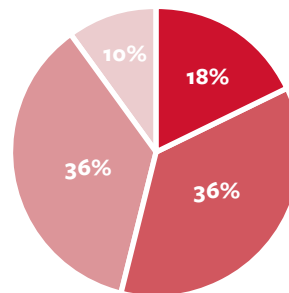
Risk Reduction Zones

MEDIUM

The relative exposure of homes to wildfires and areas where mitigation may be most effective

RISK LEVEL FOR MUNICIPALITIES

According to *wildfirerisk.org*, the majority of Colorado’s cities and towns are faced with “high” or “medium” wildfire risk. Green Mountain Falls, Jamestown, Manitou Springs, Palmer Lake, Woodland Park, and Ward received the highest municipal wildfire risk ratings in the state.



Level of wildfire risk for Colorado’s municipalities

- Very High
- High
- Medium
- Low

Municipalities can reduce wildfire risk through smart land use planning, policies requiring or incentivizing use of wildfire-resistant building and landscaping materials, hazardous fuels management, information campaigns to reduce ignitions from campfires, and more. Visit wildfirerisk.org to learn more about wildfire risk reduction.

CML LEGAL CORNER



Camping bans following *City of Grants Pass v. Johnson*

By Robert Sheesley, CML general counsel

Municipalities now have clear direction that urban camping bans do not violate constitutional prohibitions on cruel and unusual punishment. In *City of Grants Pass v. Johnson*, the United States Supreme Court recognized that civil and criminal penalties for camping in public places are a necessary tool for local governments to address the effects of the homelessness crisis.

THE MARTIN RULE

Since 2018, municipalities within the federal Ninth Circuit (mostly west of the Rocky Mountains) have contended with a judicially created rule that they could not prohibit camping or sleeping in public places unless “adequate shelter” was available for all unhoused people. That standard, expressed first in *Martin v. City of Boise* and expanded in *Grants Pass*, was premised in the theory that prohibiting sleep in public places by persons who were involuntary homeless was equivalent to prohibiting the condition of being homeless.

Martin had two major outcomes. First, Ninth Circuit courts were placed in the position of evaluating whether a municipality provided “adequate shelter” for the involuntarily homeless. Courts found shelter to be inadequate because it prohibited smoking or animals, had a religious affiliation, or lacked certain amenities (including medical care and security). Shelter adequacy and the enforcement of restrictions had to be balanced with the point-in-time count of homeless individuals.

Second, municipalities everywhere had to contend with a *de facto* limitation on camping restrictions even though *Martin*’s holding had not been adopted in their federal circuit. Several Colorado municipalities faced litigation and others restricted local policies as they considered the possibility that they had to provide shelter for an indeterminate number of people. In metropolitan areas, the shelter requirement could effectively

prohibit camping bans by municipalities that lacked resources to provide significant shelter opportunities.

GRANTS PASS

When the Supreme Court finally addressed the Ninth Circuit’s rule, the justices agreed with the complexity of the homelessness crisis but diverged sharply as to the purpose of camping bans and their constitutionality under the Eighth Amendment.

For context, the city prohibited sleeping on public sidewalks and streets, camping on public property (e.g., setting up a campsite with bedding materials or a fire or stove to create a temporary living place), and camping or parking overnight in public parks. The city’s “light-touch approach” began with outreach and support before proceeding to a civil fine. Repeat offenses would temporarily ban a person from camping and jail would only be possible for violating that ban.

Justice Gorsuch, writing for the majority, conceived of a responsible use of authority by local governments that was unaffected by the Eighth Amendment. The Court viewed that amendment as affecting only what happens after a conviction and not limiting which actions are subject to criminal penalties or how criminal laws are enforced. Other constitutional protections of due process, equal protection, prohibition on unreasonable search and seizure, and judicial standards would guarantee the rights of homeless individuals.

As to purpose, Justice Gorsuch saw camping bans as one of many tools to protect public property, to ensure the public’s right to enjoy public spaces, to encourage people to use services, and to address health and safety risks. The majority opinion noted the investments by local governments in providing housing and treatment services and a common preference for outreach services and civil enforcement before enforcing criminal prohibitions.

The dissent, however, viewed camping bans solely as criminalizing homelessness because the prohibited conduct defined the status of being homeless. Much of the dissent rested on comments made by council members indicating the purpose of the ordinances was to remove homeless people from the city. Moreover, the laws were applied only to homeless persons.

The majority opinion and dissent both outline several other challenges that local efforts to regulate urban camping or clean encampments may face, including state regulation (as in Oregon); the Eighth Amendment’s prohibition of excessive fines; due process standards under the Fifth and Fourteenth Amendments relating to selective prosecution, the right to travel, and vague laws; and the Fourth Amendment’s prohibition against unreasonable search and seizure).

GOING FORWARD WITH CAUTION

The Supreme Court preserved the flexibility that local governments need to address the linked challenges of homelessness and the effects of urban camping. The Court recognized that local officials, not the judiciary, are best suited to this role and would be appropriately confined by the Constitution.

Municipalities must continue to rise to these challenges through the thoughtful and responsible enactment and enforcement of local ordinances. Approaches that seek to simply criminalize homelessness or exclude people from a community are likely to draw attention and face greater scrutiny. Narrow, generally applicable ordinances with a proper purpose in conjunction with reasonable, equitable enforcement can prevent the same harms without violating individual liberties.

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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