

AGENDA
LAKEWOOD CITY COUNCIL
STUDY SESSION
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
MAY 3, 2021
7:00 P.M.

To watch the Council meeting live, please use either one of the following links:

City of Lakewood Website: <https://www.Lakewood.org/CouncilVideos>

or

Lakewood Speaks: <https://lakewoodspeaks.org/>

Phone Number for Public Input: 1-346-248-7799

Webinar ID: 920 3950 5230

(press # after entering the webinar id then press # once more to join the meeting)

Press *9 to Request to Speak, you will be prompted when to speak.

Press *6 to Unmute

After speaking, you can hang up

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ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PRESENTATION – NOVEMBER BALLOT QUESTION OPTIONS

PUBLIC INPUT

ITEM 4 – REPORTS

ITEM 5 – ADJOURNMENT



STAFF MEMO

DATE OF STUDY SESSION: May 3, 2021 / AGENDA ITEM NO. 3

To: Mayor and City Council

From: Holly Björklund, Chief Financial Officer, 303-987-7601

Subject: **TABOR AND REVENUE OPPORTUNITIES FOR CONSIDERATION**

SUMMARY STATEMENT: Staff has identified options for the City Council to explore that would generate revenue and improve administrative operations. A presentation will be given to expand on these topics and spark discussion. The objective of the meeting will be to identify which options the City Council would like to explore further and which options the City Council would like staff to prepare for the November 2021 ballot.

BACKGROUND INFORMATION: The City continues to experience revenue declines as a result of the COVID-19 pandemic and changes in shopper habits. Due to TABOR, this will negatively affect the City's budget over the next 3+ years, as the City's growth in spending will be restricted based on the lower revenues of 2020. This is often referred to as the "Ratcheting Effect."

Staff has identified revenue generating options in two areas – marijuana and tobacco. While staff has prepared a presentation proposing a variety of possible tax increases for the City Council to consider, any final decision regarding tax changes intended to result in increased revenue to the City would need to go to the voters for approval in line with TABOR guidelines. An additional means for generating revenue through marijuana sales may be found through marijuana delivery. The authorization of marijuana delivery could be approved by either City Council or a citizen vote. Other City Council options, such as the expansion of licensing for marijuana and cigarettes, have been included to allow for a comprehensive discussion on these topics. Revenues gained from the expansion of licensing would be dependent upon the parameters established by City Council and would be evaluated for materiality per TABOR guidelines.

Another option that could be pursued is the modification or elimination of TABOR for the City of Lakewood. Currently, TABOR limits have been lifted through the year 2025, allowing the City to retain and spend revenue in excess of TABOR'S limitations for specified projects. This temporary time-out does not alleviate the effects of the aforementioned "Ratcheting Effect"

which results in long term negative impacts to the City's ability to continue projects when the costs of such projects continue to rise irrespective of whether the City's revenue is reduced. A full "de-brucing" ballot question accomplishes TABOR's purpose in providing for voter-retained consideration of whether to return those funds collected in excess of the TABOR limits or allow the City to use those funds to meet the costs of building and maintaining the City's infrastructure and other requirements of the City.

BUDGETARY IMPACTS: Revenue estimates vary by option identified, ranging from \$0.5M to \$8.0M.

STAFF RECOMMENDATIONS: Staff recommends City Council provide any specific questions in advance, so thoughtful answers may be researched and responded to suitably.

ALTERNATIVES: City Council could choose to pursue any or none of these items.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for items that come before the City Council.

NEXT STEPS: City Council to determine which options they would like to explore further for City Council action or the November 2021 ballot.

ATTACHMENTS: City Council Study Session May 3, 2021 PowerPoint

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenny Brown, City Attorney



Lakewood
Full of Possibilities

City Council Study Session May 3, 2021



- **August 2020** – Distributed white papers on taxation simplification and revenue opportunities
- **November 2020** – Voters approved recreational (“retail”) marijuana
- **December 2020** – City Council adopted the revised tax code with standardized definitions
- **February/March 2021** – City Council evaluated other options to further simplify taxation and align with other municipalities - *approved 3/22/2021*
 - Removal of certain exemptions (3)
 - Administrative changes



Revenue Review Progress

February - April 2021 - City Council identified following topics to discuss further for Citizen or Council action:

- **Marijuana**
 - Special tax
 - Excise tax on grow operations
 - Legalization of delivery
- **Cigarettes and like products**
 - Special tax
 - Licensing
- **TABOR**

Objective: Identify which options to explore further for the November 2021 ballot.



Marijuana Revenue Options

	Options	Authorizing Party	
		Citizens	City Council
1	Special Sales Tax	✓	
2	Licensing Fee		✓
3	Excise Tax on Grow Ops	✓	
4	Delivery (legalization)	✓	✓
5	Delivery Permit Fee		✓

Marijuana Revenue Options – Citizen Vote

	Current	Options for Citizen Vote
Special Tax Rate	<p>Medical/Retail – Base sales tax rate (3%)</p> <p>The State imposes a 15% special sales tax on retail MJ exempt from TABOR (90% State retained, 10% shareback to City).</p>	An additional tax rate on sales of marijuana (MJ).
Excise Tax on Grow Operations	<p>No Lakewood excise tax currently.</p> <p>The State imposes a 15% excise tax; no shareback to local jurisdictions.</p>	Lakewood excise tax on grow operations (transfer between cultivation and retail operations).
Delivery Legalization	<p>Not Authorized</p> <p>HB19-1234 allows for the creation of marijuana delivery permits for medical, recreational, and infused marijuana products.</p>	Allow delivery either by referendum (citizen vote) or by City Council authorization.

Marijuana Revenue Options – City Council Vote

	Current	Options for City Council Vote
Licensing Fee	<ul style="list-style-type: none"> • Application fees <ul style="list-style-type: none"> - Medical n/a - Retail \$2,000 - Cultivation \$500 • 2-year license fees <ul style="list-style-type: none"> - Medical \$2,500 - Retail \$2,000 - Cultivation \$500 • Ownership transfer fee <ul style="list-style-type: none"> - Medical \$1,000 	<p>City Council could modify licensing fees, as appropriate.</p> <p>City Council could license other MJ activities, such as:</p> <ul style="list-style-type: none"> • Infused product manufacturer • Retail transporter • Retail off-premise storage • QA Testing facility
Delivery Legalization	<p>Not Authorized</p> <p>HB19-1234 allows for the creation of marijuana delivery permits for medical, recreational, and infused marijuana products.</p>	<p>Allow delivery either by referendum (citizen vote) or by City Council authorization.</p>
Delivery Permit Fee	N/A	<p>City Council could establish a delivery permit fee for in-city and out-of-city retailers.</p>



Licensing – Medical

City	Application Fee	License Fee
	Medical	Medical
Lakewood	Not accepting new applications	\$2,500 biannual
Aurora		Unlawful
Boulder		\$2,075 license; \$3,560 annual
Commerce City		\$2,500 annual
Denver		\$3,000 annual
Englewood		\$2,000 annual
Edgewater		\$1,000 annual



Licensing - Retail

City	Application Fee	License Fee
	Recreational	Recreational
Lakewood	\$2,000	\$2,000 biannual
Aurora	\$2,500 application; \$15,000 operating fee	\$15,000 annual
Boulder	\$2,500 application; \$2,000 operating fee	\$2,475 license; \$3,560 annual
Commerce City	\$2,500 application; \$5,000 operating fee	\$2,500 annual
Denver		\$5,000 annual
Englewood	\$2,000	\$2,000 annual
Edgewater	\$500	\$1,000 annual



Licensing – Cultivation

City	Application Fee	Licensing Fee
	Cultivation	Cultivation
Lakewood	\$500	\$500
Aurora		
Boulder		
Commerce City	\$2,500 application; \$5,000 operating fee	\$2,500 annual
Denver		
Englewood	\$2,000	\$2,000 annual
Edgewater	\$500	\$1,000 annual

* Information is still being gathered for Aurora, Boulder, and Denver.

Comparative Tax Rates

City	Current Retail Marijuana Tax Rates	City Base Sales Tax rate	Special City Marijuana Sales Tax Rate	Total City Sales Tax	Total State, County and District Taxes	Total Combined Sales Tax Rate
Lakewood	Currently no special sales tax	3.00%	0.00%	3.00%	16.60%	19.60%
Aurora (Arapahoe)	5% special sales tax with authority up to 10% on total city sales tax rate 5% excise tax on cultivation	3.75%	5.00%	8.75%	16.35%	25.10%
Boulder	3.5% special sales tax 5% excise tax on cultivation	3.86%	3.50%	7.36%	17.09%	24.45%
Commerce City	7% special sales tax 5% excise tax on cultivation	4.50%	7.00%	11.50%	16.85%	28.35%
Denver	5.5% special sales tax with authority up to 15% 5% excise tax on cultivation	4.81%	5.50%	10.31%	16.10%	26.41%
Englewood	3.5% special sales tax with authority up to 5%	3.50%	3.50%	7.00%	16.35%	23.35%
Wheat Ridge & Edgewater	Currently no special sales tax	3.50%	0.00%	3.50%	16.60%	20.10%

Estimated Financial Impact – Retail Marijuana

- Annual retail marijuana sales in Lakewood are estimated to be \$17M* (4 Retail applications received)

Special City Marijuana Tax Rates	3% Lakewood Base Sales Tax Revenue	Special City Marijuana Tax Revenue	1.5% State Special Marijuana Tax Share Back Revenue	Total Retail Marijuana Tax Revenue
-	\$0.5M	\$0	\$0.3M	\$0.8M
3%	\$0.5M	\$0.5M	\$0.3M	\$1.3M
4%	\$0.5M	\$0.7M	\$0.3M	\$1.5M
5%	\$0.5M	\$0.9M	\$0.3M	\$1.6M
6%	\$0.5M	\$1.0M	\$0.3M	\$1.8M
7%	\$0.5M	\$1.2M	\$0.3M	\$2.0M

*\$17M revenue estimate based on the average retail sales in Aurora multiplied by 4 retail applications

**Medical marijuana generated \$507,000 in sales tax revenue in 2020.

Estimated Financial Impact – Retail Marijuana

- Annual retail marijuana sales in Lakewood are estimated to be \$43M* (10 Retail Locations maximum)

Special City Marijuana Tax Rates Options	3% Lakewood Base Sales Tax Revenue	Special City Marijuana Tax Revenue	1.5% State Special Marijuana Tax Share Back Revenue	Total Retail Marijuana Tax Revenue
-	\$1.3M	\$0	\$0.6M	\$1.9M
3%	\$1.3M	\$1.3M	\$0.6M	\$3.2M
4%	\$1.3M	\$1.7M	\$0.6M	\$3.6M
5%	\$1.3M	\$2.1M	\$0.6M	\$4.0M
6%	\$1.3M	\$2.6M	\$0.6M	\$4.5M
7%	\$1.3M	\$3.0M	\$0.6M	\$4.9M

*\$43M revenue estimate based on the average retail sales in Aurora multiplied by 10 eligible locations

** Medical marijuana generated \$507,000 in sales tax revenue in 2020.



Discussion on Marijuana Revenue Options

**Objective: Identify which options to explore further
for the November 2021 ballot.**

Cigarettes and Like Products – Tax Rate

	Current	Options for Citizen Vote
Tax Rate	<p>Cigarettes:</p> <ul style="list-style-type: none"> • State sales tax 4% • LW sales tax 3% • State excise tax (stamp) \$1.94/pack → apportionment to LW <p>Other tobacco products:</p> <ul style="list-style-type: none"> • Sales tax (combined) 7.5% • State excise tax 15%-30% of the Manufacturer’s List Price → no apportionment to LW 	<p>Citizens could vote on a special tax rate</p> <p><u>Option 1</u>: Cigarettes only</p> <p><u>Option 2</u>: Non-cigarette tobacco products (i.e. electronic smoking devices, vape pens, and any refill, cartridge or component of such product)</p> <p><u>Option 3</u>: All tobacco products</p>

* Revenue for these options depends on the rate decided upon.

Cigarettes and Like Products – Special Tax Examples

	Special Tax Rate
Aspen	<ul style="list-style-type: none"> • \$0.15 per cigarette • 40% sales tax on other tobacco, nicotine and delivery products
Boulder	<ul style="list-style-type: none"> • 40% sales tax on electronic smoking devices
Crested Butte	<ul style="list-style-type: none"> • \$0.15 per cigarette • 40% sales tax on other tobacco & nicotine products
Glenwood Springs	<ul style="list-style-type: none"> • \$0.20 per cigarette • 40% sales tax on other tobacco products

Estimated revenue:
 Cigarette tax (\$0.15 per cigarette) = >\$8M
 Special tax on other tobacco products (40%) = \$0.5M

Special Tax Rate Example - Cigarettes

	Prior to 4/21/2021	On or After 4/21/2021 (Exemption Removed)	Lakewood Special Tax Example ²
Retail Price/Pack ¹	\$6.76	\$6.76	\$6.76
Sales Tax			
State/Other Sales Tax (4.0%)	\$0.27	\$0.27	\$0.27
Lakewood Sales Tax (3.0%)	Exempt	\$0.20	\$0.20
Lakewood Special Sales Tax	N/A		\$3.00
Total Price/Pack	\$7.03	\$7.23	\$10.23

¹ Retail Price/Pack includes the State Excise Tax of \$1.94/pack.

² Lakewood special sales tax example assumes \$0.15/cigarette = \$3.00/pack. A special sales tax could be implemented as a percentage vs. per cigarette tax.

Cigarettes and Like Products - Licensing

	Current	Options for City Council Vote
Licensing	<p>License required for non-cigarette tobacco retailers:</p> <ul style="list-style-type: none"> • Application Fee \$100 • Annual License Fee \$300 	<p>“Tobacco Retailer License” - City Council could expand licensing to retailers of cigarettes and tobacco-related paraphernalia</p> <p>Other municipalities: Aurora, Boulder, Broomfield, Denver, Edgewater, and Golden</p>

* Revenue for these scenarios depends on the fee decided upon and number of new licenses.

Cigarettes and Like Products - Licensing

	Application Fee	Annual License Fee
Lakewood	\$100 (non-cigarette tobacco retailers only)	\$300
Aurora	\$50 "Tobacco License"	\$50
Boulder	\$370	\$280
Broomfield	N/A	\$300
Denver	\$250	\$500 (annual?)
Edgewater	\$25 "Tobacco Retailer License"	\$175
Golden	\$25	\$150

"Tobacco Retailer License" - City Council could expand licensing to retailers of cigarettes and tobacco-related paraphernalia

Revenue for these scenarios depends on the fee decided upon and number of new licenses.



Discussion on Cigarette Revenue Options

**Objective: Identify which options to explore further
for the November 2021 ballot.**



TABOR - Background

- **TABOR (Taxpayer Bill of Rights)**
 - Tax proposed changes go to the voter
 - Revenue collection cap and refunds
 - **Ratcheting down effect** – Base revenue is reset to lower levels in years that have lower revenue than the previous year
- **Lakewood TABOR limits lifted for 2017 - 2025**
 - Open space and parkland (1/3)
 - Police safety equipment or police agents (1/3)
 - Transportation / infrastructure improvements (1/3)

In 2020, it was estimated that it would take at a minimum through 2023 to recover from the ratcheting down effect driven by the pandemic.

TABOR

	Options for Citizen Vote	Financial Impact
Do nothing	N/A	Total Estimated: \$6.8M in 2021 \$4.3M in 2022 \$3.1M in 2023 Excess after 2025 – refunded to taxpayers
Base reset to 2019 level	Citizens to vote on modifying the City’s base for revenue/expenses at the 2019 level	Would continue to fund operations. Excess through 2025 – City’s TABOR fund Excess after 2025 – refunded to taxpayers
“Debruce”	Citizens to vote on the elimination of the revenue cap, allowing the City to retain and spend all collected revenue	Excess through 2025 – City’s TABOR fund Excess after 2025 – retained by City



Discussion on TABOR Options

Objective: Identify which options to explore further for the November 2021 ballot.



Recap of City Council's Recommendations