

AGENDA
LAKEWOOD CITY COUNCIL
STUDY SESSION
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
APRIL 19, 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: 972 9436 2602

(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 – LAC CIVIC AWARENESS COMMITTEE – SAFE DRIVING AWARENESS

PUBLIC INPUT

ITEM 4 – PRESENTATION – LAC CIVIC AD-HOC DIVERSITY COMMITTEE PRESENTATION

PUBLIC INPUT

ITEM 5 – PRESENTATION – LAC CIVIC AWARENESS COMMITTEE – COVID IMPACTS ON SMALL BUSINESSES

PUBLIC INPUT

ITEM 6 – PRESENTATION – FUTURE METROPOLITAN DISTRICTS CONTINUED

PUBLIC INPUT

ITEM 7 – REPORTS

ITEM 8 – ADJOURNMENT

STAFF MEMO

DATE OF COUNCIL MEETING: APRIL 19, 2021 / AGENDA ITEM NO. 4

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **LAKEWOOD ADVISORY COMMISSION – SAFE DRIVING AWARENESS**

SUMMARY STATEMENT: The Civic Awareness Committee of the Lakewood Advisory Commission worked as a group to provide the City Council a report for safe driving awareness. Civic Awareness Committee Member/LAC Chair Peggy Ralph and Civic Awareness Committee Member Heide Barthel recorded the presentation, now posted on Lakewood Speaks, so that Council can watch the video before the meeting. Ms. Ralph and Ms. Barthel will attend the meeting to field any questions that City Council has.

BACKGROUND INFORMATION: In 2020, City Council gave an assignment to LAC, asking them to research ways Lakewood can raise awareness of unsafe driving habits throughout the city, leading to the recent alarming increase in traffic-related/pedestrian fatalities on Lakewood streets and roadways.

BUDGETARY IMPACTS: The proposal itself has no budgetary impacts. If City Council approves the recommendations, there could be budgetary impacts for some areas of implementation.

RECOMMENDATIONS: The Civic Awareness Committee of the Lakewood Advisory Commission has determined that due to the extent of the problem of unsafe driving and the fact that there is no “quick fix” to the issues, it is the recommendation of the committee for the City to implement a long term (5-10 years) educational and awareness program, utilizing all available media sources to deal with the issue and hopefully have a positive effect on the problem. The committee also recommends that the City’s leadership take an active role to develop and support a unified approach to carry out driver and pedestrian safety improvements on an ongoing basis.

ALTERNATIVES: No alternatives are being proposed at this time.

PUBLIC OUTREACH: This item was promoted via the regular communication channels for an item coming before City Council.

NEXT STEPS: If City Council approves LAC recommendations, the next steps will be for staff to research costs and implementation strategies.

ATTACHMENTS: Civic Awareness Committee Report
CDOT Statistics
PowerPoint Presentation
Proposal Pros and Cons PowerPoint Presentation

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

Lakewood Advisory Commission

Unsafe Driving Awareness Proposal

Civic Awareness Committee

December 4, 2019

ASSIGNMENT- Research ways Lakewood can raise awareness of unsafe driving habits throughout the city that have led to the recent alarming increase in traffic related/pedestrian fatalities on Lakewood streets and roadways.

BACKGROUND:

While attending various Ward meetings during the past year throughout the City it was obvious to members of the committee that residents are concerned and alarmed by the driving habits of motorists on Lakewood's streets and thoroughfares. Concerns included speeding, running of red lights and people distracted by texting or taking part in phone calls while driving, just to name a few. It was also obvious to many that there had been a recent uptick in fatal crashes as well as pedestrian fatalities.

According to Lakewood Police Department statistics, unsafe driving habits exhibited by Lakewood motorists have led to:

- 9 fatalities in 2017 (3 pedestrian)
- 17 fatalities in 2018 (8 pedestrian)
- 25 fatalities in 2019 (9 pedestrian)

SUMMARY OF RESEARCH AND KEY FINDINGS:

The committee conducted extensive research over several months to develop countermeasures that are being suggested and implemented around the United States and in other parts of the world. Sources included programs being used not only in Lakewood and other parts of Colorado (CDOT), but also in other states, as well as at the federal level by the Department of Transportation (DOT).

As you are aware, unsafe driving practices are not unique to Lakewood, to Colorado, to the United States and to the rest of the world.

Solutions and strategies to improve Lakewood's current situation as well as those in other locales need to be addressed in three different areas:

Engineering- Countermeasures implemented by the Traffic Engineering and Safety Department including but not limited to improved design of traffic lanes, additional traffic lights, speed bumps, reduced speed limits, additional signage and other traffic "calming" measures

Enforcement- Ongoing and increased focus by the Lakewood Police Department and other law enforcement agencies in enforcing existing traffic regulations

Education- Implementation of a long term public awareness program to address the many issues that Lakewood is experiencing such as but not limited to speeding, red light running, distracted driving, driving under the influence (alcohol and legal/illegal drugs) and pedestrian safety just to name a few.

RECOMMENDATIONS:

Due to the extent of the problem and the fact that there is no “quick fix” to the issues, it is the recommendation of the committee for the City to implement a long term (5-10 years) educational and awareness program, utilizing all available media sources to deal with the issue and hopefully have a positive effect on the problem.

In our discussions with our liaisons in the Traffic Engineering and Safety Department as well as the Lakewood Police Department, they were not aware of any such program ever having been used in Lakewood in the past.

The committee also recommends that the City’s leadership take an active role to develop and support a unified approach to carry out driver and pedestrian safety improvements on an ongoing basis.

The included appendices are broken down into 4 key areas of focus as suggestions for messages to be communicated in the awareness program:

- Impaired Driving (Drugs/Alcohol)
- Pedestrian and Crosswalk Safety
- Distracted and Drowsy Driving
- Speeding and Aggressive Driving.

Each appendix provides basic information regarding the extent of the problem as well as suggestions of countermeasures to consider for implementation in the aforementioned areas of Engineering, Enforcement and Education.

In addition, the committee feels that in order for a long term safe driving awareness program to resonate with the general public on an ongoing basis, it would be beneficial to have a character or mascot to accompany the current message in order to reestablish a connection to the focus of the program.

It is also felt that a mascot would add some fun and connection for the children of the adults doing the driving and allow additional types of communication devices (e.g. stickers, magnets, index cards etc.) to further the message.

APPENDICES:

- Appendix A- Impaired Driving (Drugs/Alcohol)
- Appendix B- Pedestrian and Crosswalk Safety
- Appendix C- Distracted and Drowsy Driving
- Appendix D- Speeding and Aggressive driving
- Appendix E- SINA

SPECIAL THANKS:

The committee would like to specifically thank:

Matt Duncan- P.E, PTOE Traffic Operations and Safety Manager City of Lakewood, Co.Brian Lovejoy- Traffic Team 2, Recruiting Team, Patrol Division Lakewood Police Department

for their support throughout the project providing timely communication including (but not limited to) statistics, current city projects and focus, and updates. Without their assistance this proposal would not have been possible.

Appendix A

Impaired Driving (Drugs/Alcohol)

Issue Definition – Impaired driving occurs when a driver is under the influence of substances that have been proven to affect cognitive regions of the brain so as to interfere with clear thinking, reasoning and decision making. These mind altering substances also interfere with the brain’s ability to function and can lead to a slow reaction time in making appropriate decisions. These substances can include alcohol (which has legal impairment limits), marijuana, cocaine, LSD, meth, medications, and other substances or a combination of substance usage, such as alcohol with smoking marijuana or being on prescribed medications.

Impaired Driving Overview - Every day, 29 people in the United States die in motor vehicle crashes that involve an alcohol-impaired driver. This constitutes one death every fifty minutes. The annual cost of alcohol-related crashes totals more than \$44 billion. (NHTSA) In 2016, 10,497 people died in alcohol-impaired driving crashes, accounting for 28% of all traffic-related deaths in the United States. (NHTSA)

In 2016, more than one million drivers were arrested for driving under the influence of alcohol or narcotics. That’s one percent of the 111 million self-reported episodes of alcohol-impaired driving among U.S. adults each year. (NHTSA) Drugs other than alcohol (legal and illegal) are involved in about 16% of motor vehicle crashes. (NHTSA) Marijuana use is increasing and 13% of nighttime, weekend drivers have marijuana in their system.

Lakewood Trend –

In 2016 Lakewood had 235 DUI related crashes; 213 in 2017, 209 in 2018

In 2016 there were 626 people charged with DUI offenses, 562 in 2017, 541 in 2018

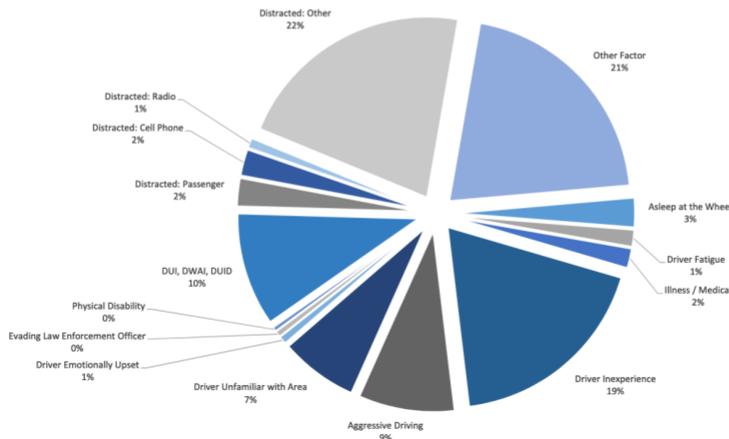
In 2016 there were 71 crashes involving drugs, 72 in 2017, 82 in 2018

Numbers for 2019 are not yet available (2/24/20)

2005-2017 Colorado Crashes by Human Contributing Factor

Year	No Apparent	Asleep at the Wheel	Driver Fatigue	Illness / Medical	Driver Inexperience	Aggressive Driving	Driver Unfamiliar with Area	Driver Emotionally Upset	Evading Law Enforcement Officer	Physical Disability	DUI, DWAI, DUID	Distracted: Passenger	Distracted: Cell Phone	Distracted: Radio	Distracted: Other	Other Factor	Not Reported	Total Crashes
2005	78,831	1,686	667	567	7,963	-	2,872	590	441	374	-	782	-	-	17,253	-	12,820	124,846
2006	70,514	1,580	720	773	9,111	1,559	3,245	541	343	307	2,664	1,181	491	231	14,148	3,566	6,254	117,228
2007	61,701	1,371	763	877	10,471	4,016	4,107	368	295	241	6,437	1,544	1,188	466	9,229	8,825	-	111,899
2008	29,033	1,273	662	924	9,702	4,026	3,663	347	238	207	6,706	1,499	1,158	457	9,309	9,068	26,476	104,748
2009	29,708	1,131	638	922	9,441	3,975	3,417	318	259	174	5,940	1,450	1,154	463	8,952	9,592	24,083	101,627
2010	29,916	1,132	672	942	8,900	4,168	3,451	296	187	190	5,586	1,333	1,069	477	9,265	9,850	21,576	99,010
2011	37,985	1,177	643	909	9,407	4,492	3,287	297	196	199	5,735	1,308	1,194	526	9,670	10,836	13,133	100,994
2012	44,613	1,325	687	917	9,176	4,748	3,373	306	207	163	5,913	1,345	1,270	567	9,844	11,650	4,728	100,832
2013	39,833	1,253	854	950	9,687	5,036	3,754	310	242	185	5,775	1,290	1,310	538	10,677	13,750	12,161	107,605
2014	41,995	1,396	875	989	10,517	5,695	3,768	332	220	176	5,936	1,293	1,403	548	11,285	15,397	13,644	115,469
2015	42,396	1,453	933	920	10,708	6,493	3,907	339	282	182	6,219	1,255	1,753	585	11,835	16,081	15,382	120,723
2016	44,555	1,439	1,058	1,001	10,350	6,863	3,883	413	361	168	5,718	1,317	1,851	558	11,792	16,503	13,319	121,149
2017	56,092	1,479	1,041	1,043	9,414	6,536	3,938	367	306	172	5,587	1,251	1,952	585	11,354	15,024	3,232	119,373
Total	607,172	17,695	10,213	11,734	124,847	57,607	46,665	4,824	3,577	2,738	68,216	16,848	15,793	6,001	144,613	140,142	92,534	1,445,503

2005-2017 Colorado Crashes by Human Contributing Factor
(other than "No Apparent")



Colorado Department of Transportation
Traffic and Safety Engineering Branch
Crash Data Intelligence Unit

Solutions (Enforcement)

- Possible Lakewood hand held cell phone ban ordinance
- Enact, publicize and enforce stricter laws related to impaired driving
- Higher fines for driving impaired even for first offense
- Mandatory breath alcohol ignition interlock devices, based on severity of impairment, even for first time offenders
- Increased sobriety checkpoints (possibly publicized) at/during time period and physical location trouble areas
- A program to provide breathalyzers to offenders for self testing
- Increase patrols and enforcement near impaired crash locations (Boulder Vision Zero Action Plan)
- Much stronger penalties for repeat offenders to include possible monitoring (especially for those whose license has been revoked)
- Lower BAC limit for Repeat Offenders

- Fewer plea bargaining agreements in court
- Stricter penalties for BAC levels above what is considered the standard impaired driving level (The higher the BAC the higher the fine)
- Address issue of unlicensed drivers (lack of exposure to Colorado Drivers Handbook)
- Utilize red light cameras
- Public service messages/partnerships with local movie theaters
- Radio spots on popular radio programs ((adult and youth)
- Unmanned police cars as deterrent (must be moved regularly)
- Increase use of hand held cell phone bans in school zones

Solutions (Education)

- Communications and outreach: inform the public of the dangers of impaired driving and establish positive social norms that make driving while impaired unacceptable
- Educate city and government leaders, the business community and starting at the high school level on a culture of safety and the dangers of risky behaviors (Denver Vision Zero)
- Develop political will on the part of politicians to be spokespersons on social media and other outlets with public awareness campaigns
- Educate the public on the health risks associated with consuming alcohol and legal/illegal mind altering substances
- Increased communication and outreach regarding open container, BAC test refusal penalties
- Co-promote CDOT alcohol and marijuana awareness social media campaign (Vision Zero Boulder Action Plan 2019-21)
- Increased communication and outreach regarding available drug and alcohol treatment options
- Increased communication and outreach regarding drug impaired driving (marijuana) laws
- Increased communication and outreach regarding Colorado's laws on driving while being on medications
- Presentations at HOA/Neighborhood Associations
- Utilize selected excerpts from the Colorado Driver Handbook
- Lakewood Police Department agent presentations at Ward meetings
- Develop a new Lakewood Safe Driving Facebook page utilizing program name and mascot
- Accident re-enactments (e.g. Green Mountain High School) and videos
- Utilize existing Lakewood Facebook pages and websites to broaden messages
- Utilize other media outlets (e.g. Twitter, NextDoor, Lakewood Together, Lakewood Sentinel etc.)
- Dashboard camera video footage of bad actors in action (PD onboard cameras?)
- Create a series of public service/training videos to be available on Channel 8 and other Lakewood media (utilizing Chief McCaskey, Matt Duncan (traffic), safety dept. etc)
- Mandatory driver training (nothing in Jeffco schools)
- Increase use of hand held cell phone bans in school zones
- Consider having Lakewood become a VisionZero city
- Utilize electronic reader boards throughout the City (banks, churches, retailers etc.) to further broadcast and share messages
- Create posters with character/mascot displaying current program message that can be shared with schools, libraries, local businesses (and others) to be displayed in communication areas.

Solutions (Engineering)

- Center and side line rumble strips
- Utilize red light cameras
- Different colored crosswalks
- Mandatory breath alcohol ignition interlock devices based on severity of impairment, even for first time offenders (Vision Zero Safe Systems, nationwide)
- Consider having Lakewood become a VisionZero city which creates a culture of safety eliminating risky behaviors (Denver Vision Zero plan)
- Develop and cross promote alternative transportation options, especially around establishments that serve alcohol

References

Vision Zero <https://www.denvergov.org/content/denvergov/en/vision-zero.html>
<https://bouldercolorado.gov/transportation/vision-zero>
www.geotab.com/blog/vision-zero

UK Think <https://www.think.gov.uk>

NHTSA Countermeasures

https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_countermeasures-that-work-a-highway-safety-countermeasures-guide-.pdf

AZ DOT <http://www.azbikeped.org/downloads/ADOT-Pedestrian-Safety-Action-Plan.pdf>

OK Highway Safety Plan

https://ohso.ok.gov/Websites/ohso/images/Publications/OK%202019%20HSP_FULL.pdf

WHO Pedestrian Safety

https://apps.who.int/iris/bitstream/handle/10665/79753/9789241505352_eng.pdf;jsessionid=475A095D378E5E5D62C48A58E6A5A9D6?sequence=1

Distracted Driving focus area (presentations to schools, business, church w/o cost)

<https://www.enddd.org/>

USA Today- Deaths from running red lights hits 10-year High (AAA)

<https://www.usatoday.com/story/money/2019/08/29/traffic-deaths-red-light-running-aaa-study/2122242001>

Eaze Cannabis Study- <https://www.businesswire.com/news/home/20190717005194/en/>

Traffic Crashes - Persons Involved						
Person Type	2013	2014	2015	2016	2017	2018
Drivers	7979	8079	8624	8955	8439	8523
Injured Passengers	135	139	144	181	110	164
Passengers	1674	1576	1711	1537	1453	1494
Pedestrians	121	122	102	115	111	103
Total Crashes	5142	5233	5703	5877	5515	5293

Traffic Crashes - Driver Used Alcohol/Drugs						
Involved Substance	2013	2014	2015	2016	2017	2018
Alcohol	249	247	235	246	225	224
Drugs	65	86	61	71	71	82
DUI	247	253	223	256	229	218

Traffic Crashes - Unit Types						
Unit Type	2013	2014	2015	2016	2017	2018
Motor Vehicle	9490	9662	10495	10865	10218	10110
Pedestrian	120	122	100	114	106	101
Bicycle	76	76	63	60	66	72
Unknown	47	40	60	93	77	125
Wildlife	13	13	4	8	13	5
Train	0	0	0	0	1	0

Traffic Crashes - Contributing Factors						
Factor	2013	2014	2015	2016	2017	2018
No Apparent Contributing Factor	4692	4662	5175	5265	5096	5039
Other Factor	867	888	890	907	834	1059
Distracted / Other I.E. Food, Objects, Pet	659	711	718	795	674	633
Driver Inexperience	464	459	529	510	495	463
DUI, DWAI, DUID	235	238	214	235	213	209
Aggressive Driving	146	143	165	198	192	178
Driver Unfamiliar with Area	131	161	214	191	167	133
Distracted / Cell Phone	45	44	79	79	76	93
Distracted / Passenger	55	60	61	53	44	49
Illness / Medial	30	33	41	36	44	45
Driver Fatigue	24	29	36	31	34	34
Distracted / Radio	27	21	31	24	25	28
Asleep At The Wheel	25	13	25	24	21	26
Driver Emotionally Upset	21	11	25	28	15	21
Physical Disability	14	11	12	9	16	10
Evading Law Enforcement Officer	10	4	8	16	10	12

Source: Lakewood Police Department



Lakewood Traffic Engineering Division
DiExSys™ Roadway Safety Systems
Detailed Summary of Crashes Report

04/17/2019

Job #: 20190417065001

Location: Accident History for All Locations **From:01/01/2017 To:12/31/2017**

Severity

PDO:	3022	
INJ:	849	1080 :Injured
FAT:	8	9 :Killed
Total:	3879	

Number of Vehicles

One Vehicle:	399
Two Vehicles:	3062
Three or More:	418
Unknown:	0
Total:	3879

Location

On Road:	3483
Off Road Left:	182
Off Road Right:	191
Off Road at Tee:	7
Off in Median:	16
Unknown:	0
Total:	3879

Lighting Conditions

Daylight:	2787
Dawn or Dusk:	177
Dark - Lighted:	743
Dark - Unlighted:	155
Unknown:	17
Total:	3879

Weather Conditions

None:	3428
Rain:	178
Snow/Sleet/Hail:	180
Fog:	5
Dust:	0
Wind:	8
Unknown:	80
Total:	3879

Crash Rates

PDO:	N/A *	* MVMT
INJ:	N/A *	** 100 MVMT
FAT:	N/A **	
Total:	N/A *	

Crash Type

Overturning:	45	Bridge Abutment:	0
Other Non Collision:	10	Column/Pier:	0
Pedestrians:	78	Culvert/Headwall:	3
Broadside:	527	Embankment:	17
Head On:	26	Curb:	46
Rear End:	1645	Delineator Post:	6
Sideswipe (Same):	476	Fence:	31
Sideswipe (Opposite):	36	Tree:	26
Approach Turn:	321	Large Boulders or Rocks:	3
Overtaking Turn:	43	Barricade:	3
Parked Motor Vehicle:	222	Wall/Building:	8
Railway Vehicle:	1	Crash Cushion:	0
Bicycle:	57	Mailbox:	6
Motorized Bicycle:	0	Other Fixed Object:	20
Domestic Animal:	4	Total Fixed Objects:	331
Wild Animal:	12	Rocks in Roadway:	0
Light/Utility Pole:	37	Vehicle Cargo/Debris:	21
Traffic Signal Pole:	11	Road Maintenance Equipment:	0
Sign:	50	Involving Other Object:	24
Bridge Rail:	5	Total Other Objects:	45
Guard Rail:	15	Unknown:	0
Cable Rail:	9	Total:	3879
Concrete Barrier:	35		

Mainline/Ramps/Frontage Roads

Mainline:	3700	Frontage/Ramp Intersections
Crossroad (A):	10	M: 4 N: 24 O: 38 P: 1
Ramps		
B: 33 F: 10 J: 0		Left Frontage Rd (L): 12
C: 12 G: 2 K: 0		Rt Frontage Rd (R): 4
D: 18 H: 3 T: 0		HOV Lanes (V): 0
E: 6 I: 2		Unknown: 0
		Total: 3879

Road Description

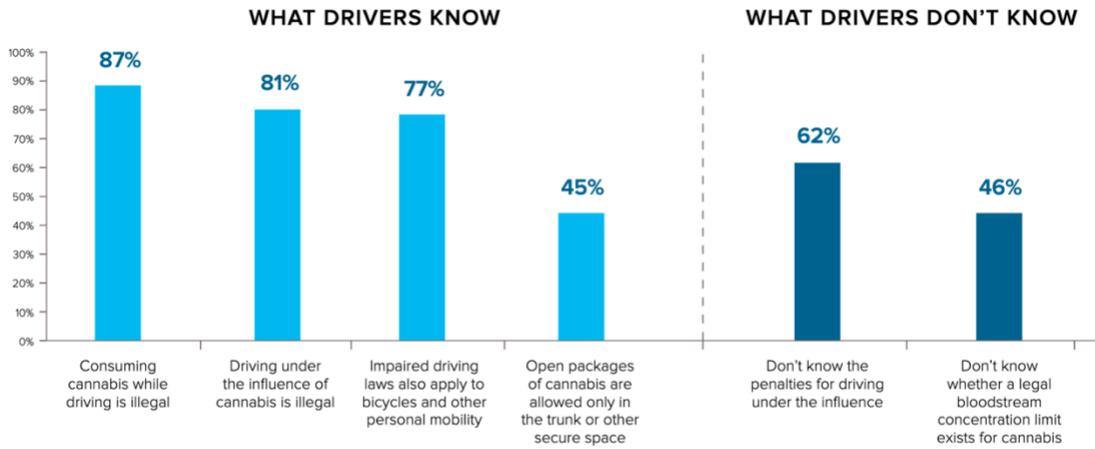
At Intersection:	1456
At Driveway Access:	236
Intersection Related:	759
Non Intersection:	1328
In Alley:	5
Roundabout:	7
Ramp:	86
Parking Lot:	2
Unknown:	0
Total:	3879

Road Conditions

Dry:	3338
Wet:	287
Muddy:	2
Snowy:	66
Icy:	143
Slushy:	21
Foreign Material:	2
With Road Treatment:	0
Dry w/lcy Road Treatment:	8
Wet w/lcy Road Treatment:	4
Snowy w/lcy Road Treatment:	2
Icy w/lcy Road Treatment:	4
Slushy w/lcy Road Treatment:	0
Unknown:	2
Total:	3879

Any intentional or inadvertent release of this data or any data derived from its use shall not constitute a waiver of privilege pursuant to 23 USC 409.

Source: Lakewood Traffic Engineering Division

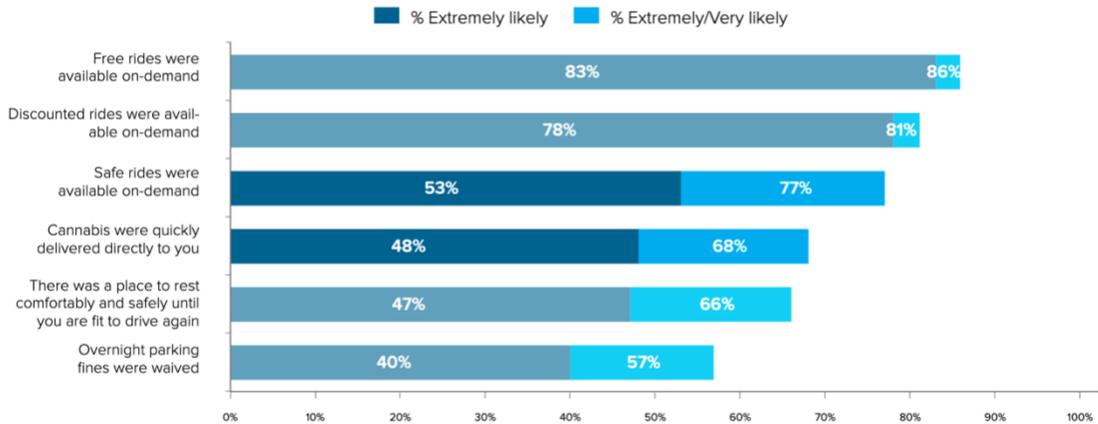


Q. Are the following statements true or false?

Q. To the best of your knowledge, what are the penalties for driving under the influence of cannabis?

Q. As far as you know, what is the legal limit for THC in the bloodstream when operating a vehicle?

STRATEGIES TO REDUCE IMPAIRED DRIVING



Q. How likely would you be to avoid driving under the influence if...

Source: Eaze Cannabis Study

Lakewood DUI Arrests

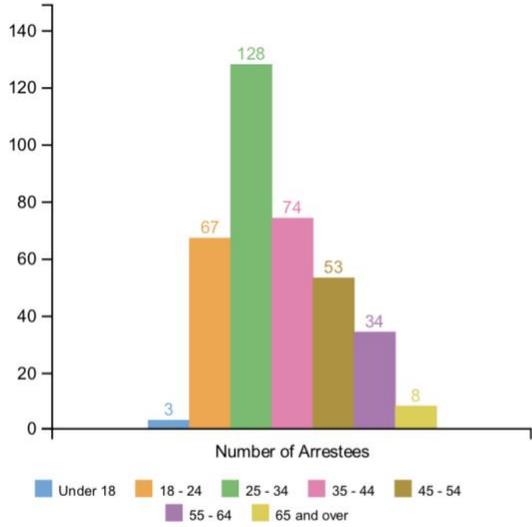
DUI

Driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic.

Cases: 367

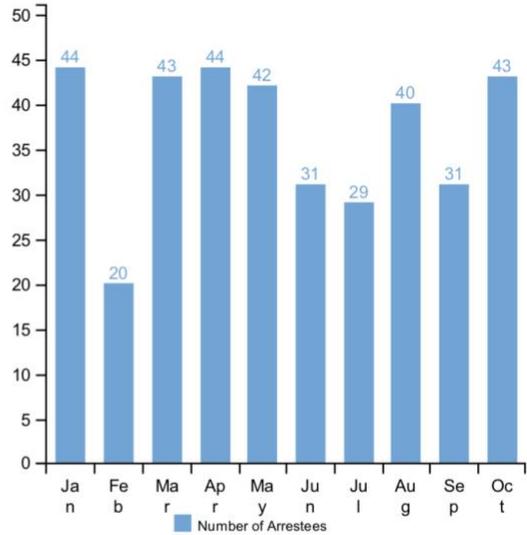
ARRESTEE AGE

DUI



ARRESTS BY MONTH

DUI



2018

Source: Lakewood Police Department



MARIJUANA AND DRIVING IN COLORADO

STAY SAFE AND KNOW THE LAW BEFORE GETTING BEHIND THE WHEEL

THE BASICS

- Do not drive after consuming marijuana.
- Wait until you're home – it's illegal to use marijuana anywhere in public, including your vehicle.
- Consuming any amount of marijuana before driving will put you at risk for DUI, costing you more than \$10,000, in addition to jail time.

MARIJUANA IN VEHICLES

- Colorado's open container law makes it illegal to possess marijuana in the passenger area of a vehicle if it's in an open container, a container with a broken seal, or if there is evidence of consumption, just like alcohol.
- Avoid the risk of breaking the law and store marijuana in your trunk on the way home.
- Impaired drivers traveling with children present in the vehicle can be charged with child abuse.

FOR MORE INFORMATION, VISIT DRIVEHIGHDUI.COM.

ENFORCEMENT

- Impaired driving arrests are based on observed impairment by law enforcement, many of which go through training to become Drug Recognition Experts to detect impairment from a variety of substances.
- If your ability to operate a motor vehicle is affected to the slightest degree by alcohol and/or drugs, you can be arrested.
- After an arrest, a blood test will determine the amount of active THC in a person's blood.
- If the blood contains 5 nanograms or more of THC, that person is over the legal limit.

PROSECUTION AND PENALTIES

- Refusing a blood test automatically results in the loss of your license for one year. Other potential penalties include installation of an ignition interlock device in addition to substance education and therapy.
- Even without a blood test, officer-observed impairment alone can serve as evidence.

STAY SAFE

FOR MORE INFORMATION, VISIT DRIVEHIGHDUI.COM.



COLORADO
Department of
Transportation



MOVING TOWARDS
ZERO
DEATHS



Examples of electronic messaging boards that could be utilized to communicate the safety awareness program's current message:



Appendix B

Pedestrian and Crosswalk Safety

Crash Trends - Nationally, pedestrian fatalities have dropped gradually over the past 20 years, from an average of about 5,600 per year from 1991-1995, to an average of about 4,850 annually from 2011-2015. The number of pedestrians killed in 2017 (5,977) was 1.7% lower than the number killed in 2016. Unfortunately, there was a more than 3% increase in the number of pedestrians killed in traffic crashes in 2018, totaling 6,283 deaths (NHTSA).

About 100 children in the United States are killed every year while walking to or from school; another 25,000 children are injured as a result of school zone accidents. One in five children killed in traffic crashes are pedestrians. (Denver Health)

According to [Injury Facts](#), in 2017, more than 16% of all traffic deaths were pedestrians. Every age group is vulnerable, though 10- to 14-year-olds and 50- to 69-year-olds have 20% or more pedestrian deaths as a percentage of all traffic fatalities.

These numbers are the most recent available. Statistics such as these typically run two years behind current year.

Crash Factors – A large body of research in the past several decades has established numerous factors associated with pedestrian crashes. Pedestrian and driver pre-crash actions and behaviors (such as distraction, driver speed, and alcohol use, and vehicle type and design) all contribute to pedestrian crashes. Several studies have provided evidence of the role of the transportation environment in pedestrian safety and summarized best practices in engineering and design for pedestrian safety.

Driver speed – Driving speed is a key risk factor in severe pedestrian crashes. Research suggests that the estimated fatality risk curves based on driver impact speeds, ranging from 8% at 50 km/h (31 mph) and reaching 50% at 75 km/h (about 47 mph).

[Distracted walking](#) incidents are on the rise, and everyone with a cell phone is at risk. We are losing focus on our surroundings and putting our safety at risk. The solution: [Stop using phones while walking](#), and not just in crosswalks and intersections. Over half of distracted walking injuries occur in our own homes, proving that we need to stay aware of our surroundings whether indoors and out. (NSC)

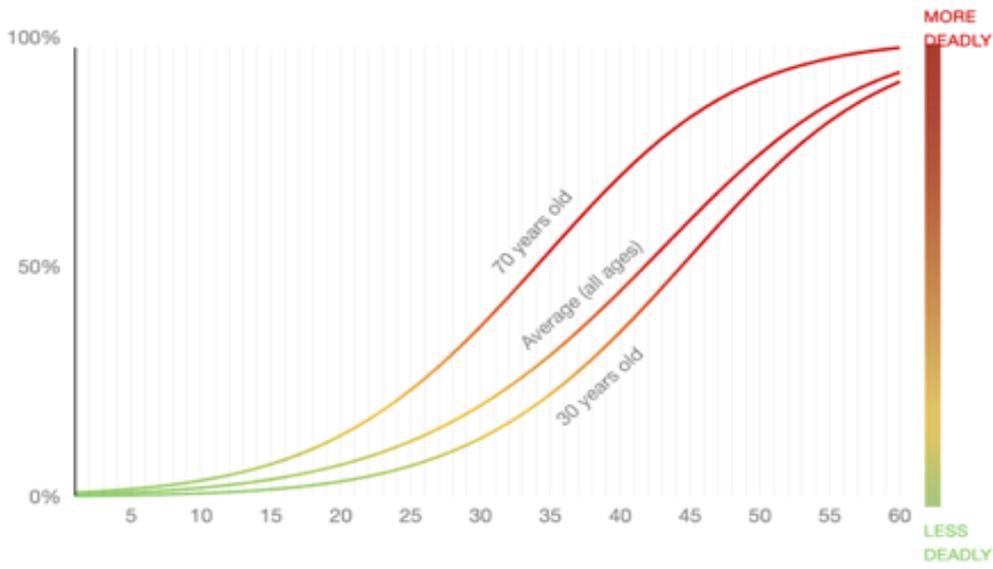
Lakewood Trend- According to Lakewood Police Department statistics, unsafe driving habits exhibited by Lakewood motorists have led to:

9 fatalities in 2017 (3 pedestrian)
17 fatalities in 2018 (8 pedestrian) and as of 11/10/19 there have been
25 fatalities in 2019 (9 pedestrian)

In Lakewood, roughly 50 % of pedestrian accidents and fatalities are the fault of the pedestrian. For that reason we feel that part of the awareness program dealing with pedestrian safety should include information on how pedestrians can do more to keep themselves safe.

The Chance of Being Killed by a Car Going

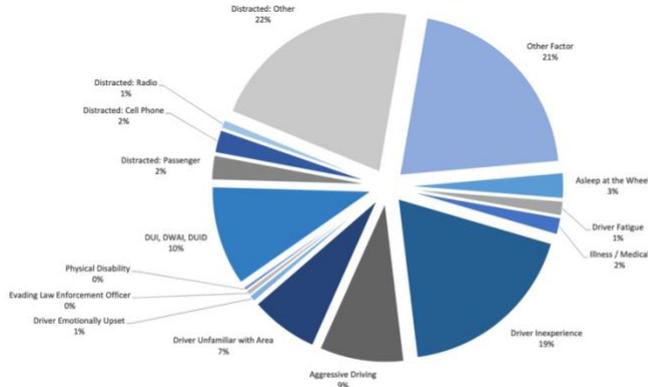
Roll over the curved lines to see the risk at any speed



2005-2017 Colorado Crashes by Human Contributing Factor

Year	No Apparent	Asleep at the Wheel	Driver Fatigue	Illness / Medical	Driver Inexperience	Aggressive Driving	Driver Unfamiliar with Area	Driver Emotionally Upset	Evading Law Enforcement Officer	Physical Disability	DUI, DWAI, DUID	Distracted: Passenger	Distracted: Cell Phone	Distracted: Radio	Distracted: Other	Other Factor	Not Reported	Total Crashes
2005	78,831	1,686	667	567	7,963	-	2,872	590	441	374	-	782	-	-	17,253	-	12,820	124,846
2006	70,514	1,580	720	773	9,111	1,559	3,245	541	343	307	2,664	1,181	491	231	14,148	3,566	6,254	117,228
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2011	37,985	1,177	643	909	9,407	4,492	3,287	297	196	199	5,735	1,308	1,194	526	9,670	10,836	13,133	100,994
2012	44,613	1,325	687	917	9,176	4,748	3,373	306	207	163	5,913	1,345	1,270	567	9,844	11,650	4,728	100,832
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2005-2017 Colorado Crashes by Human Contributing Factor (other than "No Apparent")



Colorado Department of Transportation
Traffic and Safety Engineering Branch
Crash Data Intelligence Unit

2/27/2019

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Solutions (Enforcement)

- Possible Lakewood hand held cell phone ban ordinance
- Increase use of hand held cell phone bans in school zones
- Increase efforts to reduce speed
- Increasing enforcement of pedestrian-friendly laws addressing behaviors of both pedestrians and motorists
- Mandatory training (such as remedial online if available) for offenders cited for pedestrian related offenses
- Use plainclothes officers to act as pedestrians crossing the street, typically with one or two uniformed officers observing for violations and another giving warnings or writing citations for problem areas
- Address issue of unlicensed drivers (lack of exposure to Colorado Drivers Handbook)
- Utilize red light cameras
- Unmanned police cars as deterrent (must be moved regularly)

Solutions (Education)

- Increase efforts to reduce speed
- Increasing the conspicuity of pedestrians and/or encouraging walking in areas of enhanced lighting for road crossing
- Reducing distracted walking or driving behaviors (cell phones, headphones, etc.). See the chapter on distracted and drowsy driving for countermeasures targeting drivers
- Publicize utilization of PedSafe App
<https://www.youtube.com/watch?v=wSVguTxz94A&feature=youtu.be>
- Educating motorists and pedestrians on required safety behaviors related to specific laws to enhance safe interaction between motorists and pedestrians on the roadway (e.g. crosswalk laws)
<https://m.youtube.com/watch?feature=share&v=5BpkzrUZdBQ>
- Tailoring countermeasures to diverse populations, including groups such as recent immigrants who may not be familiar with U.S. traffic laws, the U.S. traffic environment, may not speak or read English, or may not be literate in their native language
- Select countermeasures to address particular problems identified within communities or common to a high risk group within a community, such as middle aged or older adults, the homeless, or children of varying ages
- Education in schools specific to elementary age children in areas of safe routes to schools, school bus safety, distractions and safe street crossing
- Presentations at HOA/Neighborhood Associations (Lakewood PD)
- Utilize selected excerpts from the Colorado Driver Handbook
- Lakewood Police Department agent presentations at Ward meetings
- Crossing guards for schools
- Public service messages/partnerships with local movie theaters
- Education covering what to do when traffic lights are not working (power outage)
- Radio spots on popular radio programs (adult and youth)
- New Lakewood Safe Driving Facebook page utilizing program name and mascot
- Accident re-enactments (e.g. Green Mountain High School) and videos
- Utilize existing Lakewood Facebook pages and websites to broaden messages
- Utilize other media outlets (e.g. Twitter, NextDoor, Lakewood Together, Lakewood Sentinel etc.)
- Dashboard camera video footage of bad actors in action (PD onboard cameras?)
- Create a series of public service/training videos to be available on Channel 8 and other Lakewood media (utilizing Chief McCaskey, Matt Duncan (traffic), Safety Department etc)
- PedSafe app
<https://www.youtube.com/watch?v=wSVguTxz94A&feature=youtu.be>
- Mandatory driver training (nothing in Jeffco schools)
- Increase use of hand held cell phone bans in school zones
- Consider having Lakewood become a VisionZero city
- Utilize electronic reader boards throughout the city (banks, churches, retailers etc.) to further broadcast and share messages
- Create posters with character/mascot displaying current program message that can be shared with schools, libraries, local businesses (and others) to be displayed in communication areas.

Solutions (Engineering)

- Increase efforts to reduce speed
- “Crosswalk Ahead” signage possibly with flashing lights
- “High Pedestrian Traffic Ahead” signage
- Increased and better lighting (LED) at crosswalks
- Utilize red light cameras
- Crossing guards for schools
- Consider having Lakewood become a VisionZero city

References

Vision Zero <https://walkdenver.org/vision-zero>
<https://bouldercolorado.gov/transportation/vision-zero>

UK Think <https://www.think.gov.uk>

NHTSA Countermeasures

https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_countermeasures-that-work-a-highway-safety-countermeasures-guide-.pdf

AZ DOT <http://www.azbikeped.org/downloads/ADOT-Pedestrian-Safety-Action-Plan.pdf>

OK Highway Safety Plan

http://ohso.ok.gov/Websites/ohso/images/Publications/OK%202019%20HSP_FULL.pdf

WHO Pedestrian Safety

https://apps.who.int/iris/bitstream/handle/10665/79753/9789241505352_eng.pdf;jsessionid=475A095D378E5E5D62C48A58E6A5A9D6?sequence=1

Distracted Driving focus area (presentations to schools, business, church w/o cost)

<https://www.enddd.org/>

Lakewood Halloween Sting-

<https://kdvr.com/2013/10/30/lakewood-police-stage-sting-operations-to-improve-crosswalk-safety-on-halloween/>

Unsafe at Many Speeds <https://www.propublica.org/article/unsafe-at-many-speeds>

AAA Impact Speed-

<https://aaaafoundation.org/impact-speed-pedestrians-risk-severe-injury-death/>

High Tech Solutions- <https://www.progressive.com/lifelines/on-the-road/auto-distracted-driving-solutions/>

Photo Radar Portland, Or.- <https://www.portlandoregon.gov/police/article/649328>

Photo Radar Tigard, Or.- https://tigard-or.gov/police/photo_traffic_enforcement.php

Lakewood Crosswalk Training Video

<https://m.youtube.com/watch?feature=share&v=5BpkzrUZdBQ>

PedSafe App <https://www.youtube.com/watch?v=wSVguTxz94A&feature=youtu.be>

National Safety Council

https://www.nsc.org/home-safety/safety-topics/distracted-walking?utm_campaign=Home+Safety&utm_source=adwords&utm_term=pedestrian%20safety&utm_medium=ppc&hsa_cam=625636546&hsa_ad=251393597994&hsa_net=adwords&hsa_acc=3965156914&hsa_grp=57802831611&hsa_tgt=kwd-326476738052&hsa_ver=3&hsa_src=g&hsa_kw=pedestrian%20safety&hsa_mt=b&gclid=Cj0KCQiAtrnuBRDXARIsABiN-7Be_WJPFdj8tVxjDTBywHJ-1ZDeSwDrwmaU00OuIXM44gko5d3QoJ0aAsm4EALw_wcB

National Safety Council

<https://www.nsc.org/home-safety/seasonal-safety/back-to-school/drivers>

National Safety Council

<https://www.nhtsa.gov/pedestrian-safety/stepping-out-older-adult-be-healthy-walk-safely>

Safety.com

<https://www.safety.com/distracted-walking-a-major-pedestrian-safety-concern>

Safe Walking Tips

We all know that winters in the Washington, DC area can coat our sidewalks with everything from sleet and ice to snow and whatever you call that nasty gray slush churned up by cars and plows. We also know that area pedestrians need to get where they're going regardless of the conditions. So whether you're walking for exercise or to reach your destination, here are a few winter walking tips to heed.



Consider the conditions
when planning your route. Walk where trees offer some shelter from the wind. In nasty weather, try a shopping mall, where you can walk—and window shop—without abandoning your walking regimen.



Wear bright or reflective clothing
and stay visible. With fewer daylight hours and cloudy conditions, it's important to put on a high-visibility outer layer.



Cover your head and other parts to stay warm.
Dress in layers, and don't forget the mittens or gloves and hat — you lose 35 percent of your body heat through your head!



Share the way.
Be mindful of cyclists, runners, and other trail users. Walk on the right, and listen for bells and audible warnings. Watch for icy spots!



Pay extra attention to your feet.
Wear warm socks with room for toe wiggling. Lace up walking shoes with plenty of traction for those occasional icy patches.



Walk with friends
or in places where there are other walkers, especially in the early morning and evening hours on shorter winter days and when weather conditions are unfavorable.



Be safe and be seen.
Follow basic safety rules, like looking both ways before you cross a street, crossing at marked crosswalks, and walking to the right on trails and paths. Assume drivers can't see you and proceed with caution.



Start slowly
and take it easy. Muscles warm up as you go. Adjust your pace for the weather conditions to decrease your chances of straining a muscle or taking a fall.



Brought to you by WalkArlington and goDCgo.

Don't let the cold force you into hibernation. As long as you check the conditions, dress for the weather, and trust in the kindness of strangers/neighbors (with shovels), you can walk safely to all your destinations and keep up your walking routine all winter long!

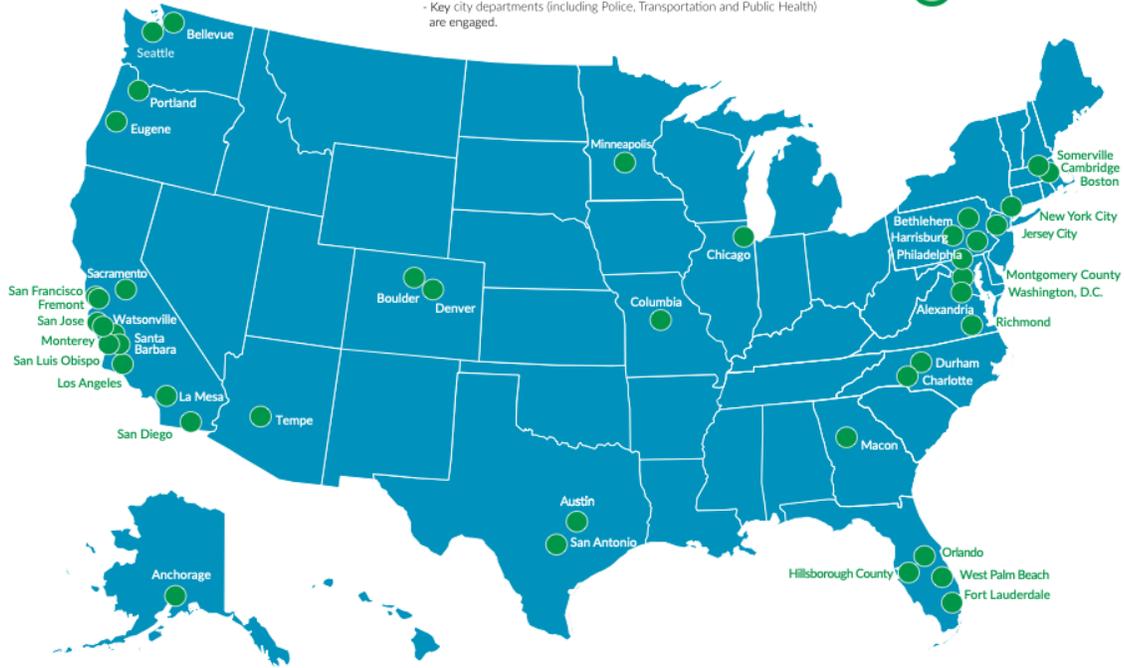
Examples of additional “Your Speed” signs:



Vision Zero Cities

A Vision Zero City meets the following minimum standards:

- Sets clear goal of eliminating traffic fatalities and severe injuries
- Mayor has publicly, officially committed to Vision Zero
- Vision Zero plan or strategy is in place, or Mayor has committed to doing so in clear time frame
- Key city departments (including Police, Transportation and Public Health) are engaged.



Traffic Crashes - Persons Involved						
Person Type	2013	2014	2015	2016	2017	2018
Drivers	7979	8079	8624	8955	8439	8523
Injured Passengers	135	139	144	181	110	164
Passengers	1674	1576	1711	1537	1453	1494
Pedestrians	121	122	102	115	111	103
Total Crashes	5142	5233	5703	5877	5515	5293

Traffic Crashes - Driver Used Alcohol/Drugs						
Involved Substance	2013	2014	2015	2016	2017	2018
Alcohol	249	247	235	246	225	224
Drugs	65	86	61	71	71	82
DUI	247	253	223	256	229	218

Traffic Crashes - Unit Types						
Unit Type	2013	2014	2015	2016	2017	2018
Motor Vehicle	9490	9662	10495	10865	10218	10110
Pedestrian	120	122	100	114	106	101
Bicycle	76	76	63	60	66	72
Unknown	47	40	60	93	77	125
Wildlife	13	13	4	8	13	5
Train	0	0	0	0	1	0

Traffic Crashes - Contributing Factors						
Factor	2013	2014	2015	2016	2017	2018
No Apparent Contributing Factor	4692	4662	5175	5265	5096	5039
Other Factor	867	888	890	907	834	1059
Distracted / Other I.E. Food, Objects, Pet	659	711	718	795	674	633
Driver Inexperience	464	459	529	510	495	463
DUI, DWAI, DUID	235	238	214	235	213	209
Aggressive Driving	146	143	165	198	192	178
Driver Unfamiliar with Area	131	161	214	191	167	133
Distracted / Cell Phone	45	44	79	79	76	93
Distracted / Passenger	55	60	61	53	44	49
Illness / Medial	30	33	41	36	44	45
Driver Fatigue	24	29	36	31	34	34
Distracted / Radio	27	21	31	24	25	28
Asleep At The Wheel	25	13	25	24	21	26
Driver Emotionally Upset	21	11	25	28	15	21
Physical Disability	14	11	12	9	16	10
Evading Law Enforcement Officer	10	4	8	16	10	12

Source: Lakewood Police Department



Lakewood Traffic Engineering Division
DiExSys™ Roadway Safety Systems
Detailed Summary of Crashes Report

04/17/2019

Job #: 20190417065001

Location: Accident History for All Locations **From:01/01/2017 To:12/31/2017**

Severity PDO: 3022 INJ: 849 1080 :Injured FAT: 8 9 :Killed Total: 3879		Crash Type Overturning: 45 Other Non Collision: 10 Pedestrians: 78 Broadside: 527 Head On: 26 Rear End: 1645 Sideswipe (Same): 476 Sideswipe (Opposite): 36 Approach Turn: 321 Overtaking Turn: 43 Parked Motor Vehicle: 222 Railway Vehicle: 1 Bicycle: 57 Motorized Bicycle: 0 Domestic Animal: 4 Wild Animal: 12 Light/Utility Pole: 37 Traffic Signal Pole: 11 Sign: 50 Bridge Rail: 5 Guard Rail: 15 Cable Rail: 9 Concrete Barrier: 35 Bridge Abutment: 0 Column/Pier: 0 Culvert/Headwall: 3 Embankment: 17 Curb: 46 Delineator Post: 6 Fence: 31 Tree: 26 Large Boulders or Rocks: 3 Barricade: 3 Wall/Building: 8 Crash Cushion: 0 Mailbox: 6 Other Fixed Object: 20 Total Fixed Objects: 331 Rocks in Roadway: 0 Vehicle Cargo/Debris: 21 Road Maintenance Equipment: 0 Involving Other Object: 24 Total Other Objects: 45 Unknown: 0 Total: 3879	
Number of Vehicles One Vehicle: 399 Two Vehicles: 3062 Three or More: 418 Unknown: 0 Total: 3879		Mainline/Ramps/Frontage Roads Mainline: 3700 Crossroad (A): 10 Ramps B: 33 F: 10 J: 0 C: 12 G: 2 K: 0 D: 18 H: 3 T: 0 E: 6 I: 2 Frontage/Ramp Intersections M: 4 N: 24 O: 38 P: 1 Left Frontage Rd (L): 12 Rt Frontage Rd (R): 4 HOV Lanes (V): 0 Unknown: 0 Total: 3879	
Location On Road: 3483 Off Road Left: 182 Off Road Right: 191 Off Road at Tee: 7 Off in Median: 16 Unknown: 0 Total: 3879		Road Description At Intersection: 1456 At Driveway Access: 236 Intersection Related: 759 Non Intersection: 1328 In Alley: 5 Roundabout: 7 Ramp: 86 Parking Lot: 2 Unknown: 0 Total: 3879	
Lighting Conditions Daylight: 2787 Dawn or Dusk: 177 Dark - Lighted: 743 Dark - Unlighted: 155 Unknown: 17 Total: 3879		Road Conditions Dry: 3338 Wet: 287 Muddy: 2 Snowy: 66 Icy: 143 Slushy: 21 Foreign Material: 2 With Road Treatment: 0 Dry w/lcy Road Treatment: 8 Wet w/lcy Road Treatment: 4 Snowy w/lcy Road Treatment: 2 Icy w/lcy Road Treatment: 4 Slushy w/lcy Road Treatment: 0 Unknown: 2 Total: 3879	
Weather Conditions None: 3428 Rain: 178 Snow/Sleet/Hail: 180 Fog: 5 Dust: 0 Wind: 8 Unknown: 80 Total: 3879		Crash Rates PDO: N/A * * MVMT INJ: N/A * ** 100 MVMT FAT: N/A ** Total: N/A *	

Source: Lakewood Traffic Engineering Division

Examples of electronic messaging boards that could be utilized to communicate the safety awareness program's current message:



Appendix C

Distracted and Drowsy Driving

Issue definition - Distraction occurs when a driver's attention is diverted away from driving to some other activity. A distraction can be produced by something a driver sees, hears, some physical task not directly related to driving, such as eating or operating the car radio, or mental/physical activities such as holding a cell phone to pick up/make calls, text, or having conversations.

The Distracted Driving Problem - It is clear that the public perceives driver distraction to be a serious traffic safety issue. In 2013, AAA Foundation surveyed 3,103 U.S. residents and found that 9 in 10 (88%) say distracted driving is a "somewhat" or "much bigger" problem today compared to three years ago, and 89% believe drivers talking on cell phones are a "somewhat" or "very serious" threat to their personal safety (AAA Foundation, 2013). In 2015, AAA Foundation repeated this survey with 2,442 U.S. residents and found that almost the same number proportion or percentage (85%) say distracted driving is a "somewhat" or "much bigger" problem today compared to three years ago, and 86% believe drivers talking on cell phones are a "somewhat" or "very serious" threat to their personal safety (AAA Foundation, 2016). Similarly, in 2012 NHTSA conducted 6,016 telephone interviews and asked respondents how safe they would feel in a variety of situations in which they are passengers in vehicles operated by drivers who are engaged in other activities while driving. NHTSA found that about two-thirds (66%) would feel "somewhat" or "very" unsafe if the driver was to "talk on a cell phone while holding the phone" and almost all (95%) would feel "somewhat" or "very" unsafe if the driver was to "read emails or text messages" or "send text messages or emails (Schroeder, Meyers, & Kostyniuk, 2013).

Although people are concerned about distracted driving, they frequently admit to engaging in such behaviors behind the wheel. In the 2013 AAA Foundation survey, two-thirds (67%) of respondents admitted to talking on the phone while driving during the past 30 days (AAA Foundation, 2013). A third (35%) admitted to reading text messages while driving, and a fourth (26%) had sent text messages. The AAA Foundation conducted another survey in 2015 and found that more than two-thirds (69.9%) of respondents admitted to talking on the phone while driving during the past 30 days (AAA Foundation, 2016). Two in five drivers (42.3%) admitted to reading text messages while driving in the past 30 days, and nearly one-third (31.5%) had sent text messages. These findings show that the problem has worsened since the 2013 survey. The AAA Foundation summarized their findings by observing that a substantial number of drivers have a "Do as I say, not as I do" attitude with regard to distracted driving –they view these behaviors as dangerous, but engage in them nevertheless. The 2012

NHTSA survey also asked about a variety of behaviors related to distracted driving (Schroeder, Meyers, & Kostyniuk, 2013). Among the behaviors that drivers reported doing at least sometimes:

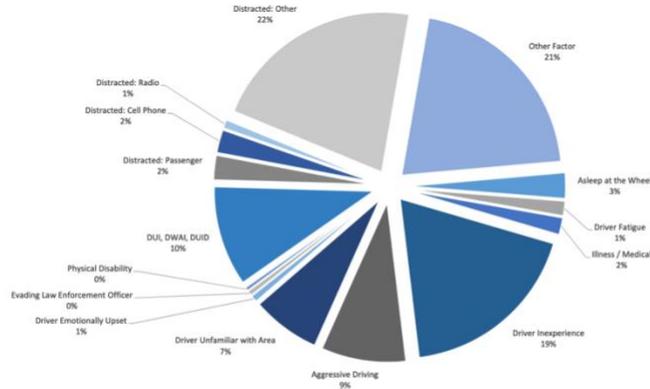
- 80% talking to other passengers
- 68% adjusting the car radio
- 47% eating or drinking
- 40% making or accepting phone calls
- 36% interacting with children in the back seat
- 35% using a navigational system
- 25% changing CDs, DVDs, or tapes
- 20% using a smartphone for driving directions
- 14% reading e-mail or text messages
- 10% sending text messages or email
- 9% personal grooming

The Drowsy Driving Problem - Drowsy driving shares some characteristics with distracted driving in that drivers are slower or less responsive to driving events potentially increasing the risk for crashes. In addition, drowsy driving is another behavior that almost everyone acknowledges is potentially dangerous, but in which many drivers still engage. However, an important difference between these behaviors is that drivers may not realize they are drowsy until it's too late (i.e., because of medicines they are taking or a particular health issue). In contrast to deliberately engaging in distracting actions, where drivers know they are acting in an unsafe manner. Several studies across the past two decades have estimated the percentage of the population who has fallen asleep at the wheel through self-reporting. A 2010 survey of 2,000 U.S. residents found that 41% of drivers reported falling asleep or nodding off while driving (AAA Foundation, 2010). Four percent of drivers reported falling asleep while driving in the past month, while 11% had done so within the past year. A similar, more recent study found that nearly all drivers (97%) believe it is unacceptable to drive while excessively drowsy, yet 32% admitted driving while tired and having trouble keeping their eyes open (AAA Foundation, 2016). A Centers for Disease Control and Prevention survey of over 90,000 U.S. residents found that 4% reported having fallen asleep while driving at least once in the past 30 days (Wheaton, Chapman, Presley-Cantrell, Croft, & Roehler, 2014). NHTSA surveyed 4,010 drivers in spring 2002 and found 11% reported that they had nodded off while driving during the past year (Royal, 2003). Of those who nodded off, 66% said they had six or fewer hours of sleep the previous night.

2005-2017 Colorado Crashes by Human Contributing Factor

Year	No Apparent	Asleep at the Wheel	Driver Fatigue	Illness / Medical	Driver Inexperience	Aggressive Driving	Driver Unfamiliar with Area	Driver Emotionally Upset	Evading Law Enforcement Officer	Physical Disability	DUI, DWAI, DUID	Distracted: Passenger	Distracted: Cell Phone	Distracted: Radio	Distracted: Other	Other Factor	Not Reported	Total Crashes
2005	78,831	1,686	667	567	7,963	-	2,872	590	441	374	-	782	-	-	17,253	-	12,820	124,846
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2005-2017 Colorado Crashes by Human Contributing Factor (other than "No Apparent")



Colorado Department of Transportation
Traffic and Safety Engineering Branch
Crash Data Intelligence Unit

2/27/2019

1 of 1

Solutions (Enforcement)

- Possible Lakewood handheld cell phone ban ordinance --Implement a Lakewood ban on handheld cell phones (currently Colorado law applies to under 18 years of age only)
- Cell free zones (bans of cell phone use) near schools and in school zones
- Address issue of unlicensed drivers (lack of exposure to Colorado Drivers Handbook)
- Utilize red light cameras
- Photo van
- Higher fines for those caught driving using cell phones, especially in school zones
- Unmanned police cars as deterrent (must be moved regularly)
- Project for school(s) to position students at a specific intersection(s), or in school zones, to track and list (getting plate numbers) of those they observe using their cell phones while driving over a specific period of time. Post results on a pre-determined media source (this project was done with Canadian students)
- Cameras at all high crash intersections (would go for all 4 areas of focus)

Solutions (Education)

- Employer based training for shift workers, law enforcement, first responders, medical staffer
- More education when applying for a new driver's license
- Presentations at HOA/Neighborhood Associations
- Utilize selected excerpts from the Colorado Driver Handbook Lakewood Police Department agent presentations at Ward meetings
- Public service messages/partnerships with local movie theaters
- Education covering what to do when traffic lights are not working (power outage)
- Radio spots on popular radio programs (adult and youth)
- New Lakewood Safe Driving Facebook page utilizing program name and mascot
- Accident re-enactments (e.g. Green Mountain High School) and videos
- Utilize existing Lakewood Facebook pages and websites to broaden messages
- Utilize other media outlets (e.g. Twitter, NextDoor, Lakewood Together, Lakewood Sentinel etc.)
- Dashboard camera video footage of bad actors in action (PD onboard cameras)
- Create a series of public service/training videos to be available on Channel 8 and other Lakewood media (utilizing Chief McCaskey, Matt Duncan (traffic), safety dept. etc)
- Message - "Get your head out of your apps"
- PedSafe app (<https://youtu.be/wSVguTxz94A>)
- Mandatory driver training (nothing in Jeffco schools)
- Mandatory driver training refresher course for those who have more than ___ tickets (infringements) for distracted or drowsy driving
- EndDD.org for distracted driving (address business, employee commitments; for companies that have employees sign safe driving policy, have a family safe driving agreement. Great for insurance purposes.
- Consider having Lakewood become a VisionZero city
- Utilize electronic reader boards throughout the city (banks, churches, retailers etc.) to further broadcast and share messages
- Reach out to other cities for success stories; publish, circulate in social media
- Create posters with character/mascot displaying current program message that can be shared with schools, libraries, local businesses (and others) to be displayed in communication areas.

Solutions (Engineering)

- Center line and shoulder rumble strips
- Wider more visible edge lines
- Additional and better lighting (LED)
- Design streets for the speeds you want – good design, lane widths, intersections, medians, traffic signals, keeping in mind street function and who the users are
- “Traffic signal about to change” sign indicators (high risk/high speed intersections)
- Speed bumps
- Utilize red light cameras
- Photo Radar
- Speed camera lottery (<https://www.youtube.com/watch?v=iynzHWwJXaA>)
- Larger speed limit signs
- Additional permanently mounted and movable digital readout “Your Speed Is” signs
- Address lighting issues at intersections and dark areas on street where pedestrians might cross
- Consider having Lakewood become a VisionZero city
- Traffic Calming Measures as outlined in ITE Institute of Transportation Engineers Fact Sheets, a community of transportation professionals May 2018 update
- Pursue funding for traffic safety improvements (especially around enforcement), possibly partnering with surrounding communities along our borders

References

Vision Zero

<https://bouldercolorado.gov/transportation/vision-zero>

UK Think <https://www.think.gov.uk>

NHTSA Countermeasures

https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_countermeasures-that-work-a-highway-safety-countermeasures-guide-.pdf

AZ DOT <http://www.azbikeped.org/downloads/ADOT-Pedestrian-Safety-Action-Plan.pdf>

OK Highway Safety Plan

http://ohso.ok.gov/Websites/ohso/images/Publications/OK%202019%20HSP_FULL.pdf

WHO Pedestrian Safety

https://apps.who.int/iris/bitstream/handle/10665/79753/9789241505352_eng.pdf;jsessionid=475A095D378E5E5D62C48A58E6A5A9D6?sequence=1

Distracted Driving focus area (presentations to schools, business, church w/o cost)

<https://www.enddd.org/>

Life Lanes (from Progressive)

<https://www.progressive.com/lifelanes/on-the-road/auto-distracted-driving-solutions/>

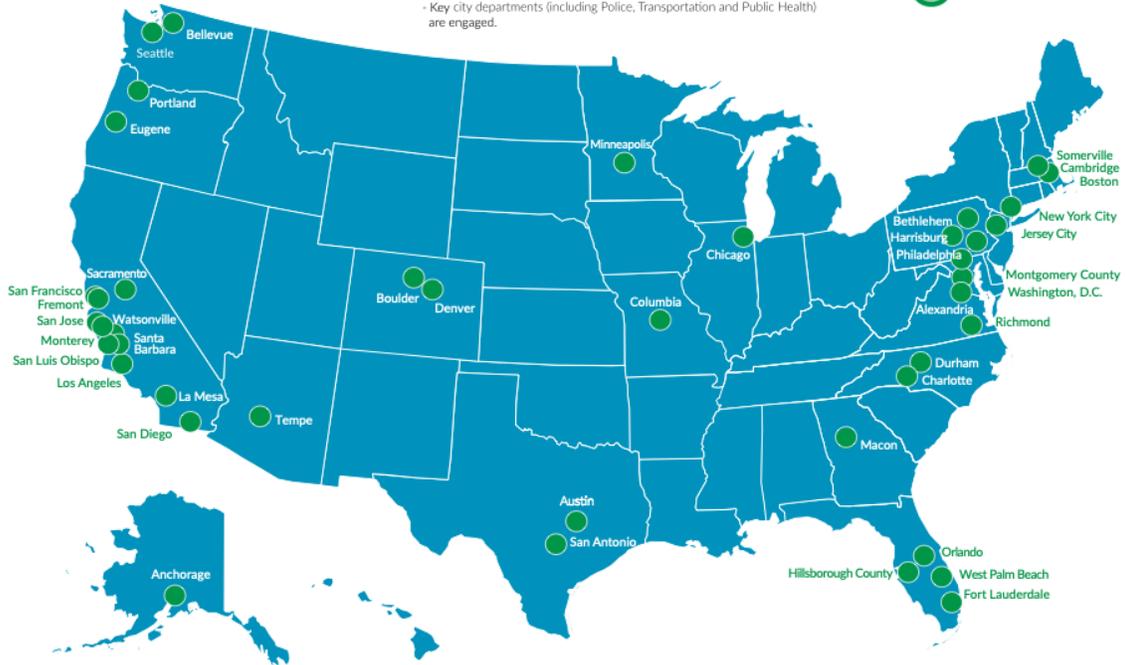
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<https://www.usatoday.com/story/money/2019/08/29/traffic-deaths-red-light-running-aaa-study/2122242001/>

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Vision Zero Cities

A Vision Zero City meets the following minimum standards:

- Sets clear goal of eliminating traffic fatalities and severe injuries
- Mayor has publicly, officially committed to Vision Zero
- Vision Zero plan or strategy is in place, or Mayor has committed to doing so in clear time frame
- Key city departments (including Police, Transportation and Public Health) are engaged.



Traffic Crashes - Persons Involved						
Person Type	2013	2014	2015	2016	2017	2018
Drivers	7979	8079	8624	8955	8439	8523
Injured Passengers	135	139	144	181	110	164
Passengers	1674	1576	1711	1537	1453	1494
Pedestrians	121	122	102	115	111	103
Total Crashes	5142	5233	5703	5877	5515	5293

Traffic Crashes - Driver Used Alcohol/Drugs						
Involved Substance	2013	2014	2015	2016	2017	2018
Alcohol	249	247	235	246	225	224
Drugs	65	86	61	71	71	82
DUI	247	253	223	256	229	218

Traffic Crashes - Unit Types						
Unit Type	2013	2014	2015	2016	2017	2018
Motor Vehicle	9490	9662	10495	10865	10218	10110
Pedestrian	120	122	100	114	106	101
Bicycle	76	76	63	60	66	72
Unknown	47	40	60	93	77	125
Wildlife	13	13	4	8	13	5
Train	0	0	0	0	1	0

Traffic Crashes - Contributing Factors						
Factor	2013	2014	2015	2016	2017	2018
No Apparent Contributing Factor	4692	4662	5175	5265	5096	5039
Other Factor	867	888	890	907	834	1059
Distracted / Other I.E. Food, Objects, Pet	659	711	718	795	674	633
Driver Inexperience	464	459	529	510	495	463
DUI, DWAI, DUID	235	238	214	235	213	209
Aggressive Driving	146	143	165	198	192	178
Driver Unfamiliar with Area	131	161	214	191	167	133
Distracted / Cell Phone	45	44	79	79	76	93
Distracted / Passenger	55	60	61	53	44	49
Illness / Medial	30	33	41	36	44	45
Driver Fatigue	24	29	36	31	34	34
Distracted / Radio	27	21	31	24	25	28
Asleep At The Wheel	25	13	25	24	21	26
Driver Emotionally Upset	21	11	25	28	15	21
Physical Disability	14	11	12	9	16	10
Evading Law Enforcement Officer	10	4	8	16	10	12

Source: Lakewood Police Department



Lakewood Traffic Engineering Division
DiExSys™ Roadway Safety Systems
Detailed Summary of Crashes Report

04/17/2019

Job #: 20190417065001

Location: Accident History for All Locations **From:** 01/01/2017 **To:** 12/31/2017

Severity PDO: 3022 INJ: 849 1080 :Injured FAT: 8 9 :Killed Total: 3879		Crash Type Overturning: 45 Other Non Collision: 10 Pedestrians: 78 Broadside: 527 Head On: 26 Rear End: 1645 Sideswipe (Same): 476 Sideswipe (Opposite): 36 Approach Turn: 321 Overtaking Turn: 43 Parked Motor Vehicle: 222 Railway Vehicle: 1 Bicycle: 57 Motorized Bicycle: 0 Domestic Animal: 4 Wild Animal: 12 Light/Utility Pole: 37 Traffic Signal Pole: 11 Sign: 50 Bridge Rail: 5 Guard Rail: 15 Cable Rail: 9 Concrete Barrier: 35		Bridge Abutment: 0 Column/Pier: 0 Culvert/Headwall: 3 Embankment: 17 Curb: 46 Delineator Post: 6 Fence: 31 Tree: 26 Large Boulders or Rocks: 3 Barricade: 3 Wall/Building: 8 Crash Cushion: 0 Mailbox: 6 Other Fixed Object: 20 Total Fixed Objects: 331 Rocks in Roadway: 0 Vehicle Cargo/Debris: 21 Road Maintenance Equipment: 0 Involving Other Object: 24 Total Other Objects: 45 Unknown: 0 Total: 3879	
Number of Vehicles One Vehicle: 399 Two Vehicles: 3062 Three or More: 418 Unknown: 0 Total: 3879		Mainline/Ramps/Frontage Roads Mainline: 3700 Crossroad (A): 10			
Location On Road: 3483 Off Road Left: 182 Off Road Right: 191 Off Road at Tee: 7 Off in Median: 16 Unknown: 0 Total: 3879		Frontage/Ramp Intersections M: 4 N: 24 O: 38 P: 1			
Lighting Conditions Daylight: 2787 Dawn or Dusk: 177 Dark - Lighted: 743 Dark - Unlighted: 155 Unknown: 17 Total: 3879		Ramps B: 33 F: 10 J: 0 C: 12 G: 2 K: 0 D: 18 H: 3 T: 0 E: 6 I: 2		Left Frontage Rd (L): 12 Rt Frontage Rd (R): 4 HOV Lanes (V): 0 Unknown: 0 Total: 3879	
Weather Conditions None: 3428 Rain: 178 Snow/Sleet/Hail: 180 Fog: 5 Dust: 0 Wind: 8 Unknown: 80 Total: 3879		Road Description At Intersection: 1456 At Driveway Access: 236 Intersection Related: 759 Non Intersection: 1328 In Alley: 5 Roundabout: 7 Ramp: 86 Parking Lot: 2 Unknown: 0 Total: 3879		Road Conditions Dry: 3338 Wet: 287 Muddy: 2 Snowy: 66 Icy: 143 Slushy: 21 Foreign Material: 2 With Road Treatment: 0 Dry w/lcy Road Treatment: 8 Wet w/lcy Road Treatment: 4 Snowy w/lcy Road Treatment: 2 Icy w/lcy Road Treatment: 4 Slushy w/lcy Road Treatment: 0 Unknown: 2 Total: 3879	
Crash Rates PDO: N/A * * MVMT INJ: N/A * ** 100 MVMT FAT: N/A ** Total: N/A *					

Source: Lakewood Traffic Engineering Division

Examples of electronic messaging boards that could be utilized to communicate the safety awareness program's current message:



Appendix D

Speeding and Aggressive Driving

Issue definition –NHTSA defines a crash to be speeding related if any driver involved in the crash is charged with a speeding-related offense, or if a police officer indicates that racing, driving too fast for conditions, or exceeding the posted speed limit was a contributing factor in the crash. Aggressive driving is defined by the [National Highway Traffic Safety Administration](#) as the behavior of an individual who "commits a combination of moving traffic offences so as to endanger other persons or property." Actions that would fall under the category of aggressive driving, include: Following improperly/[tailgating](#); improper or erratic lane changing; illegal driving on a road shoulder, in a ditch, or on a [sidewalk](#) or median; passing where prohibited; operating the vehicle in an erratic, [reckless](#), careless, or negligent manner or suddenly changing speeds without changing lanes; failure to yield [right of way](#); failure to obey [traffic signs](#), [traffic control devices](#), or traffic officers; failure to observe safety zone traffic laws; failure to observe warnings or instructions on vehicle displaying them; failure to signal; [driving](#) too fast for conditions; [racing](#); making an improper turn.

The Speeding Driver Problem - Speeding-related fatalities have generally reflected nearly one-third of all fatalities, with a general downward trend between 2006-2015. Speeding is a contributing factor for 27% of fatalities in motor vehicle traffic crashes in U.S. (NCSA, 2017), a percentage that decreased from 32% since 2006.

In 2015 younger drivers, particularly young males, continued to be the most likely to be identified as speeding in fatal crashes. Thirty-two percent (32%) of male drivers aged 15 to 20 and 21 to 24 involved in fatal crashes were speeding. Other risk factors associated with speeding in 2015 included driver alcohol use, lack of seat belt usage, driver not being properly licensed, nighttime hours, and wet and icy road surfaces at the time of the crash. In addition, motorcycle riders were overrepresented in fatal crashes involving speeding (33%) compared to passenger car drivers (19%) and light truck drivers (15%) (NCSA, 2017).

Characteristics and problem size: Aggressive and risky driving behaviors- NHTSA has estimated that two-thirds of traffic fatalities involve behaviors commonly associated with aggressive driving such as speeding, red-light running, and improper lane changes (NHTSA, 2001). Similarly, the AAA Foundation for Traffic Safety estimated that 56% of fatal crashes involved one or more driver actions typically associated with aggressive driving, the most common being excessive speed (AAA Foundation for Traffic Safety, 2009). Aggressive driving also negatively impacts the environment as it burns 37% more fuel and produces more toxic fumes.

Lakewood Trend-

According to Lakewood Police Department statistics, unsafe driving habits exhibited by Lakewood motorists have led to:

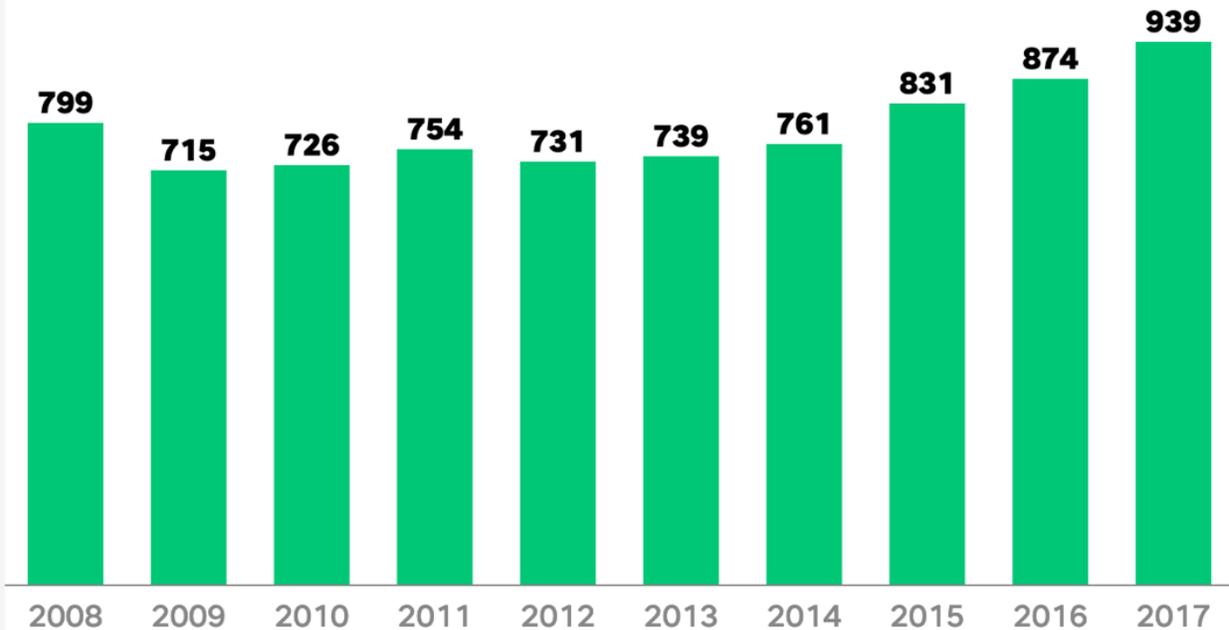
9 fatalities in 2017 (3 pedestrian)

17 fatalities in 2018 (8 pedestrian)

25 fatalities in 2019 (9 pedestrian) as of 12/31/19

Red-light running is killing more Americans

The number of deaths due to red-light running increased 31% from a low of 715 in 2009 to 939 in 2017.



SOURCE AAA Foundation for Traffic Safety

Solutions (Enforcement)

- Possible Lakewood handheld cell phone ban ordinance
- Higher fines (as a deterrent) for speeders, running red lights, pedestrians and cyclists
- Increased enforcement activity in locations with demonstrable speeding/crash issues
- Automated enforcement (Red light cameras, radar cameras etc.) There are municipalities that use speed cameras to “reward” those who obey speed limits by recognizing those who comply with a financial reward that is funded by the fines collected from those who offend.
Speed camera lottery (<https://www.youtube.com/watch?v=jynzHWwJXaA>)
- Address issue of unlicensed drivers (lack of exposure to Colorado Drivers Handbook)
- Additional permanently mounted and movable digital readout “Your Speed Is” signs
- Unmanned police cars as deterrent (must be moved regularly)
- Increase bans on use of handheld cell phones in school zones
- Offer option to young teen drivers and their parents to install an in-vehicle video monitoring system to monitor young drivers’ driving habits
- Mandate in-vehicle video monitoring system for drivers who have unsafe driving records

Solutions (Education)

- Highly publicized and visible enforcement of infractions, possibly by Lakewood PD on their Facebook page with photo (not of individual) and specific examples of speeders/red light runners etc.
- Possible partnerships with local businesses/employers on educational opportunities with their employees
- Possible partnerships and collaboration with HOAs, neighborhood associations, to hold discussions within regularly held meetings (possibly with Lakewood PD agents present)
- Increased communication campaigns utilizing crash statistics, photos and possibly personal stories/videos of people affected by the aftermath of crashes
- Speed camera lottery
- Photo Radar
- Utilize selected excerpts from the Colorado Driver Handbook as an educational tool
- Lakewood Police Department agent presentations at Ward meetings
- Additional permanently mounted and movable digital readout “Your Speed Is” signs
- Larger speed limit signs
- Public service messages/partnerships with local movie theaters
- Education covering what to do when traffic lights are not working (power outage)
- Radio spots on popular radio programs (adult and youth)
- New Lakewood Safe Driving Facebook page utilizing program name and mascot
- Accident re-enactments (e.g. Green Mountain High School) and videos
- Utilize existing Lakewood Facebook pages and websites to broaden messages
- Utilize other media outlets (e.g. Twitter, NextDoor, Lakewood Together, Lakewood Sentinel etc.)
- Educate parents and teens (young drivers) on in-vehicle video monitoring systems and encouraging parents to have conversations with their young drivers about driver safety; possibly partner with schools
- Dashboard camera video footage of bad actors in action (PD onboard cameras)
- Create a series of public service/training videos to be available on Channel 8 and other Lakewood media (utilizing Chief McCaskey, Matt Duncan (traffic), safety dept. etc.)
- PedSafe app (<https://youtu.be/wSVguTxz94A>)
- Mandatory driver training (nothing in Jeffco schools)
- Mandatory driver training for repeat offenders
- Consider having Lakewood become a VisionZero city
- Utilize electronic reader boards throughout the city (banks, churches, retailers etc.) to further broadcast and share messages
- Create posters with character/mascot displaying current program message that can be shared with schools, libraries, local businesses (and others) to be displayed in communication areas.

Solutions (Engineering)

- “Traffic signal about to change” sign indicators (high risk/high speed intersections)
- Speed bumps
- Utilize red light cameras
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- Speed camera lottery (<https://www.youtube.com/watch?v=iynzHWwJXaA>)
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- Address lighting issues at intersections and dark areas on street where pedestrians might cross
- Traffic Calming Measures as outlined in ITE Institute of Transportation Engineers Fact Sheets, a community of transportation professionals May 2018 update
- Consider having Lakewood become a VisionZero city
- Pursue funding for traffic safety improvements (especially around enforcement), possibly partnering with surrounding communities along our borders

Injury Crashes						
Change in avg. speed	Baseline average operating speed in mph					
	30	40	50	60	70	80
-5	0.57	0.66	0.71	0.75	0.78	0.81
-4	0.64	0.72	0.77	0.8	0.83	0.85
-3	0.73	0.79	0.83	0.85	0.87	0.88
-2	0.81	0.86	0.88	0.9	0.91	0.92
-1	0.9	0.93	0.94	0.95	0.96	0.96
0	1	1	1	1	1	1
1	1.1	1.07	1.06	1.05	1.04	1.04
2	1.2	1.15	1.12	1.1	1.09	1.08
3	1.31	1.22	1.18	1.15	1.13	1.12
4	1.43	1.3	1.24	1.2	1.18	1.16
5	1.54	1.38	1.3	1.26	1.22	1.2

Fatal Crashes						
-5	0.22	0.36	0.48	0.58	0.67	0.75
-4	0.36	0.48	0.58	0.66	0.73	0.8
-3	0.51	0.61	0.68	0.74	0.8	0.85
-2	0.66	0.73	0.79	0.83	0.86	0.9
-1	0.83	0.86	0.89	0.91	0.93	0.95
0	1	1	1	1	1	1
1	1.18	1.14	1.11	1.09	1.07	1.05
2	1.38	1.28	1.22	1.18	1.14	1.1
3	1.59	1.43	1.34	1.27	1.21	1.16
4	1.81	1.59	1.46	1.36	1.28	1.21
5	2.04	1.75	1.58	1.46	1.36	1.27

NOTE: Although data used to develop these CMFs are international, the results apply to North American conditions.

*This table can be used to estimate expected changes in injury and fatal crashes (if no Crash Modification Factors are available) for treatments reducing average travel speeds of a road by the amounts listed.

Source: Reproduced from AASHTO (2010), p. 3-57; Table 3E-2. Crash Modification Factors for Changes in Average Operating Speed from Highway Safety Manual.

References

Research Denver “Slow the Funk Down” program

<https://www.walkdenver.org/vision-zero/>

VisionZero <https://walkdenver.org/vision-zero>

<https://bouldercolorado.gov/transportation/vision-zero>

UK Think <https://www.think.gov.uk>

NHTSA Countermeasures

https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_countermeasures-that-work-a-highway-safety-countermeasures-guide-.pdf

AZ DOT <http://www.azbikeped.org/downloads/ADOT-Pedestrian-Safety-Action-Plan.pdf>

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Distracted Driving focus area (presentations to schools, business, church w/o cost)

<https://www.enddd.org/>

Lakewood Halloween Sting-

<https://kdvr.com/2013/10/30/lakewood-police-stage-sting-operations-to-improve-crosswalk-safety-on-halloween/>

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AAA Impact Speed- <https://aaaafoundation.org/impact-speed-pedestrians-risk-severe-injury-death/>

ITE, Institute of Transportation Engineers

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Aggressive driving: https://en.wikipedia.org/wiki/Aggressive_driving

High Tech Solutions- <https://www.progressive.com/lifelanes/on-the-road/auto-distracted-driving-solutions/>

Photo Radar Portland, Or.- <https://www.portlandoregon.gov/police/article/649328>

Photo Radar Tigard, Or.- https://tigard-or.gov/police/photo_traffic_enforcement.php

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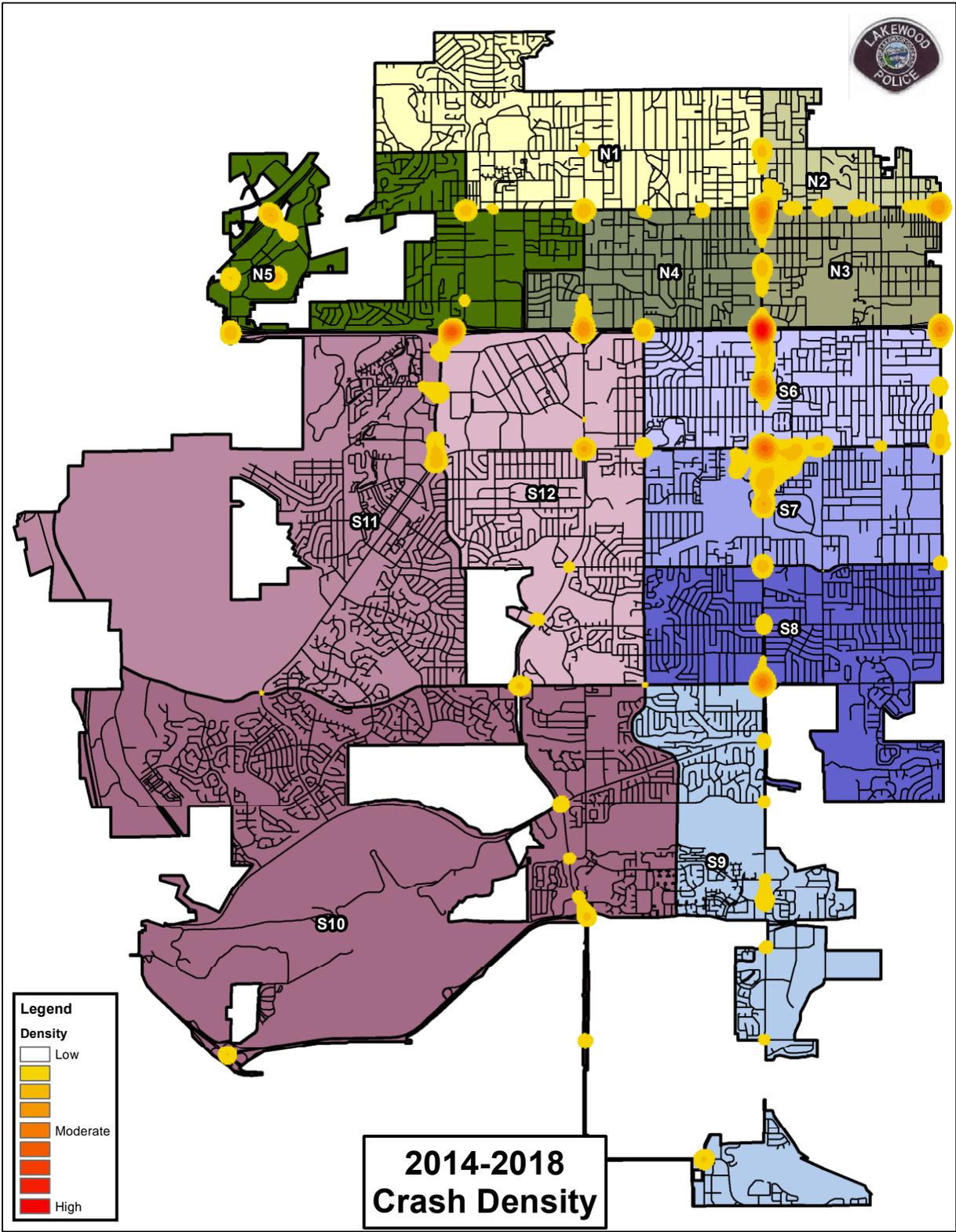
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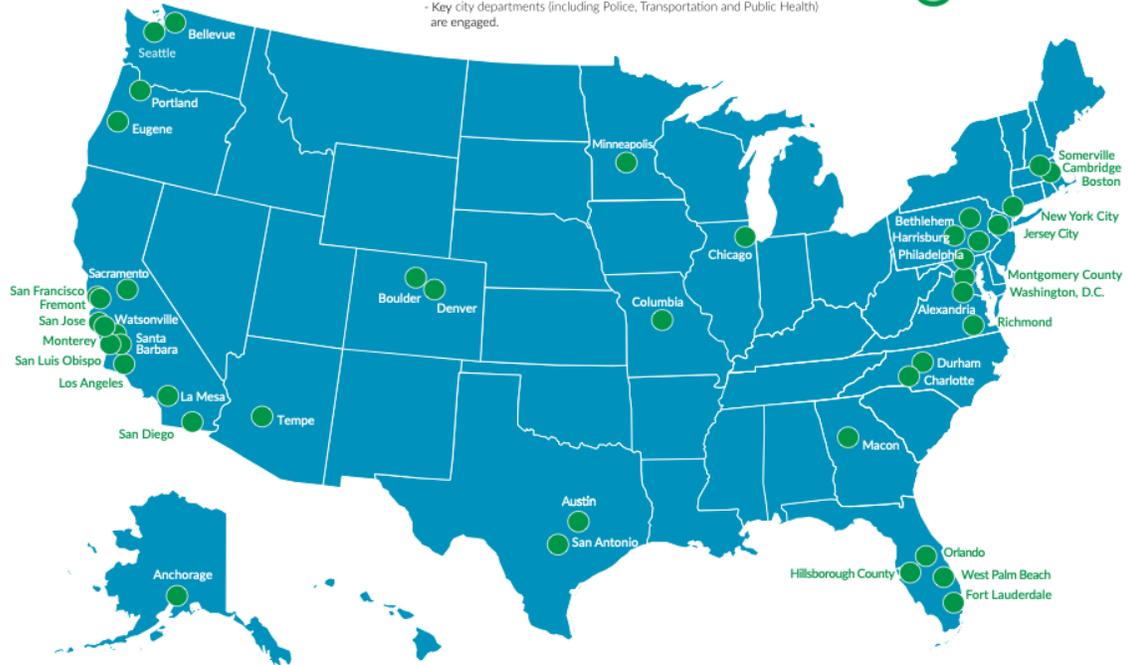
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Source: Lakewood Police Department



Lakewood Traffic Engineering Division
DiExSys™ Roadway Safety Systems
Detailed Summary of Crashes Report

04/17/2019

Job #: 20190417065001

Location: Accident History for All Locations **From:**01/01/2017 **To:**12/31/2017

Severity

PDO:	3022	
INJ:	849	1080 :Injured
FAT:	8	9 :Killed
Total:	3879	

Number of Vehicles

One Vehicle:	399
Two Vehicles:	3062
Three or More:	418
Unknown:	0
Total:	3879

Location

On Road:	3483
Off Road Left:	182
Off Road Right:	191
Off Road at Tee:	7
Off in Median:	16
Unknown:	0
Total:	3879

Lighting Conditions

Daylight:	2787
Dawn or Dusk:	177
Dark - Lighted:	743
Dark - Unlighted:	155
Unknown:	17
Total:	3879

Weather Conditions

None:	3428
Rain:	178
Snow/Sleet/Hail:	180
Fog:	5
Dust:	0
Wind:	8
Unknown:	80
Total:	3879

Crash Rates

PDO:	N/A *	* MVMT
INJ:	N/A *	** 100 MVMT
FAT:	N/A **	
Total:	N/A *	

Crash Type

Overturning:	45	Bridge Abutment:	0
Other Non Collision:	10	Column/Pier:	0
Pedestrians:	78	Culvert/Headwall:	3
Broadside:	527	Embankment:	17
Head On:	26	Curb:	46
Rear End:	1645	Delineator Post:	6
Sideswipe (Same):	476	Fence:	31
Sideswipe (Opposite):	36	Tree:	26
Approach Turn:	321	Large Boulders or Rocks:	3
Overtaking Turn:	43	Barricade:	3
Parked Motor Vehicle:	222	Wall/Building:	8
Railway Vehicle:	1	Crash Cushion:	0
Bicycle:	57	Mailbox:	6
Motorized Bicycle:	0	Other Fixed Object:	20
Domestic Animal:	4	Total Fixed Objects:	331
Wild Animal:	12	Rocks in Roadway:	0
Light/Utility Pole:	37	Vehicle Cargo/Debris:	21
Traffic Signal Pole:	11	Road Maintenance Equipment:	0
Sign:	50	Involving Other Object:	24
Bridge Rail:	5	Total Other Objects:	45
Guard Rail:	15	Unknown:	0
Cable Rail:	9	Total:	3879
Concrete Barrier:	35		

Mainline/Ramps/Frontage Roads

Mainline:	3700	Frontage/Ramp Intersections	
Crossroad (A):	10	M:	4 N: 24 O: 38 P: 1
Ramps			
B:	33 F: 10 J: 0	Left Frontage Rd (L):	12
C:	12 G: 2 K: 0	Rt Frontage Rd (R):	4
D:	18 H: 3 T: 0	HOV Lanes (V):	0
E:	6 I: 2	Unknown:	0
Total:	3879		

Road Description

At Intersection:	1456
At Driveway Access:	236
Intersection Related:	759
Non Intersection:	1328
In Alley:	5
Roundabout:	7
Ramp:	86
Parking Lot:	2
Unknown:	0
Total:	3879

Road Conditions

Dry:	3338
Wet:	287
Muddy:	2
Snowy:	66
Icy:	143
Slushy:	21
Foreign Material:	2
With Road Treatment:	0
Dry w/Icy Road Treatment:	8
Wet w/Icy Road Treatment:	4
Snowy w/Icy Road Treatment:	2
Icy w/Icy Road Treatment:	4
Slushy w/Icy Road Treatment:	0
Unknown:	2
Total:	3879

Source: Lakewood Traffic Engineering Division

Examples of electronic messaging boards that could be utilized to communicate the safety awareness program's current message:



Vermont speed radar tells drivers if they're naughty or nice



Seasonal approach utilized in Vermont to add some humor to a serious issue.

Vermont speed radar tells drivers if they're naughty or nice



<https://www.wcax.com/content/news/Vermont-speed-radar-tells-drivers-if-theyre-naughty-or-nice-566354421.html?fbclid=IwAR2r55kcGTZxfqMzLemI3Z0tE-HM-C0YIqou3XxrusMHIsutmYv8ynJ0XeU>

Appendix E

The committee feels that in order for a long term safe driving awareness program to resonate with the general public on an ongoing basis, it would be beneficial to have a character or mascot to accompany the current message in order to reestablish a connection to the focus of the program.

It is also felt that a mascot would add some fun and connection for the children of the adults doing the driving and allow additional types of communication devices (e.g. stickers, magnets, posters, index cards etc.) to further the message.

SINA

“Safety Is No Accident”





Safety Is No Accident



Lakewood Advisory Commission
Unsafe Driving Awareness Proposal
Civic Awareness Committee

Updates

DUI arrests in 2017- 488	Narcotics violations in 2017- 921
DUI arrests in 2018 – 460	Narcotics violations in 2018- 1,092
DUI arrests in 2019- 407	Narcotics violations in 2019- 1,001
DUI arrests in 2020- 378	Narcotics violations in 2020- 691

Lakewood Advisory Commission Unsafe Driving Awareness Proposal Civic Awareness Committee

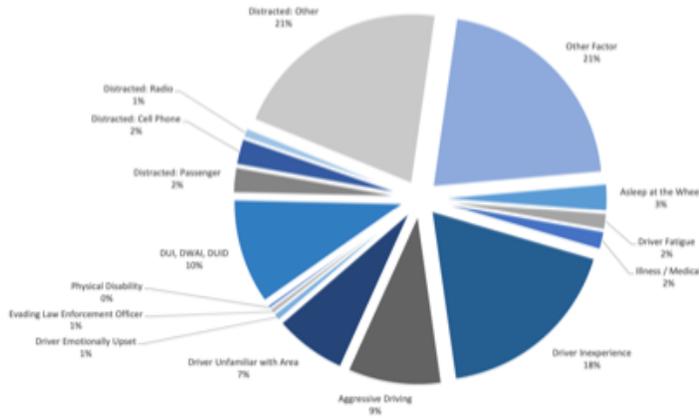
Updates



2005-2019 Colorado Crashes by Human Contributing Factor

Year	No Apparent	Asleep at the Wheel	Driver Fatigue	Illness / Medical	Driver Inexperience	Aggressive Driving	Driver Unfamiliar with Area	Driver Emotionally Upset	Evading Law Enforcement Officer	Physical Disability	DUI, DWAI, DUID	Distracted: Passenger	Distracted: Cell Phone	Distracted: Radio	Distracted: Other	Other Factor	Not Reported	Total Crashes
2005	78,831	1,686	467	567	7,963	-	2,872	590	441	374	-	782	-	-	17,253	-	12,820	124,846
2006	70,514	1,580	720	773	9,111	1,559	3,245	541	343	307	2,664	1,181	491	231	14,148	3,566	6,254	117,228
2007	61,701	1,371	763	877	10,471	4,016	4,107	368	295	241	6,437	1,544	1,188	466	9,229	8,825	-	111,899
2008	29,033	1,273	462	924	9,702	4,026	3,663	347	238	207	6,706	1,499	1,158	457	9,309	9,068	26,476	104,748
2009	29,708	1,131	638	922	9,441	3,975	3,417	318	259	174	5,940	1,450	1,154	463	8,952	9,592	24,093	101,627
2010	29,916	1,132	472	942	8,900	4,168	3,451	296	187	190	5,586	1,333	1,069	477	9,265	9,850	21,576	99,010
2011	37,985	1,177	443	909	9,407	4,492	3,287	297	196	199	5,735	1,308	1,194	526	9,670	10,836	13,133	100,994
2012	44,613	1,325	487	917	9,176	4,748	3,373	306	207	163	5,913	1,345	1,270	567	9,844	11,650	4,728	100,832
2013	39,833	1,253	854	950	9,687	5,036	3,754	310	242	185	5,775	1,290	1,310	538	10,677	13,750	12,161	107,605
2014	41,995	1,396	875	989	10,517	5,695	3,768	332	220	176	5,936	1,293	1,403	548	11,285	15,397	13,644	115,469
2015	42,396	1,453	933	920	10,708	6,493	3,907	339	282	182	6,219	1,255	1,753	585	11,835	16,081	15,382	120,723
2016	44,555	1,439	1,058	1,001	10,350	6,863	3,883	413	361	168	5,718	1,317	1,851	558	11,792	16,503	13,319	121,149
2017	56,092	1,479	1,041	1,043	9,414	6,536	3,938	367	306	172	5,587	1,251	1,952	585	11,354	15,024	3,232	119,373
2018	57,903	1,568	1,053	1,054	9,922	6,721	4,112	379	324	179	6,081	1,317	1,981	547	11,440	14,856	2,485	121,922
2019	58,088	1,542	1,102	1,049	10,359	6,896	4,239	407	310	136	6,073	1,285	1,996	472	11,393	15,051	1,250	121,648
Total	723,163	20,805	12,368	13,837	145,128	71,224	55,016	5,610	4,211	3,053	80,370	19,450	19,770	7,020	167,446	170,049	92,534	1,689,073

**2005-2019 Colorado Crashes by Human Contributing Factor
(other than "No Apparent")**



Colorado Department of Transportation
Traffic and Safety Engineering Branch
Crash Data Intelligence Unit



Lakewood

Lakewood Advisory Commission
Civic Awareness Committee
Safe Driving Awareness Proposal

March 2020

ASSIGNMENT:

Research ways Lakewood can raise awareness of unsafe driving habits throughout the city that have led to the recent alarming increase in traffic related/pedestrian fatalities on Lakewood streets and roadways.

BACKGROUND:

While attending various Ward meetings during the past couple years throughout the city it was obvious to members of the committee that citizens are concerned and alarmed by the driving habits of motorists on Lakewood's streets and thoroughfares. Concerns included speeding, running of red lights and people distracted by texting or taking part in phone calls while driving just to name a few. It was also obvious to many that there had been a recent uptick in fatal crashes as well as pedestrian fatalities.

We discovered there are 4 areas of focus in our research

Appendix A - Impaired Driving (Drugs and Alcohol)

Appendix B - Pedestrian and Crosswalk Safety

Appendix C - Distracted and Drowsy Driving

Appendix D - Speeding and Aggressive Driving

Solutions

(Already utilized by Traffic Engineering and Lakewood PD)

Solutions and strategies to improve Lakewood's current situation as well as those in other locales need to be addressed in three different areas:

Engineering- Countermeasures implemented by the Traffic Engineering and Safety Department including but not limited to improved design of traffic lanes, additional traffic lights, speed bumps, reduced speed limits, additional signage and other traffic “calming” measures

Enforcement- Ongoing and increased focus by the Lakewood Police Department and other law enforcement agencies in enforcing existing traffic regulations

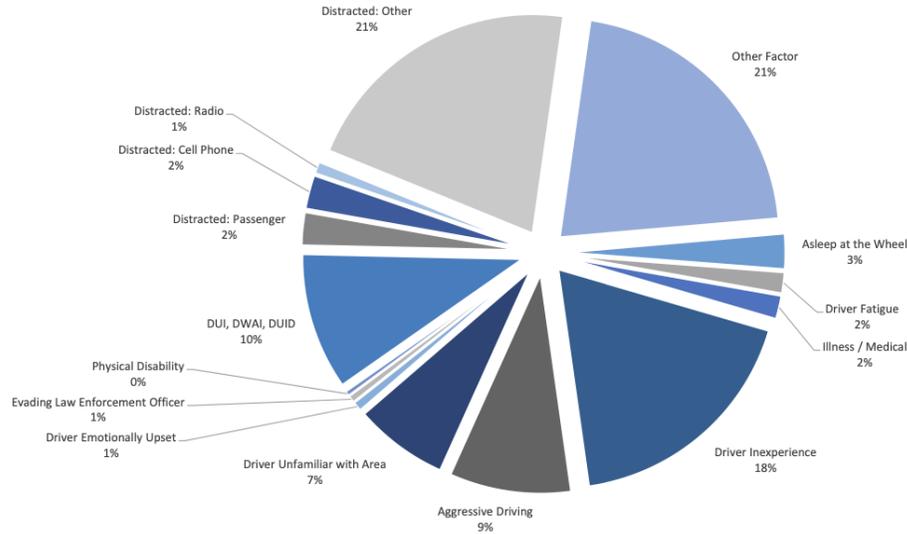
Education- Implementation of a long-term public awareness program to address the many issues that Lakewood is experiencing such as but not limited to speeding, red light running, distracted driving, driving under the influence (alcohol and legal/illegal drugs) and pedestrian safety just to name a few.



2005-2019 Colorado Crashes by Human Contributing Factor

Year	No Apparent	Asleep at the Wheel	Driver Fatigue	Illness / Medical	Driver Inexperience	Aggressive Driving	Driver Unfamiliar with Area	Driver Emotionally Upset	Evading Law Enforcement Officer	Physical Disability	DUI, DWAI, DUID	Distracted: Passenger	Distracted: Cell Phone	Distracted: Radio	Distracted: Other	Other Factor	Not Reported	Total Crashes
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2005-2019 Colorado Crashes by Human Contributing Factor (other than "No Apparent")



Summary of Findings

- ▶ During the calendar year 2019 Lakewood experienced 20 fatal collisions resulting in 25 deaths
- ▶ Both of these numbers set new records for the City of Lakewood, surpassing the previous high set in 2018 when there were 17 fatal accidents resulting in 17 deaths
- ▶ This equates to a 17% increase in crashes and a 41% increase in deaths.

(Source: Lakewood PD)

Special Thanks To:

The committee would like to specifically thank:

Matt Duncan- P.E, PTOE Traffic Operations and Safety Manager City of Lakewood, Co.

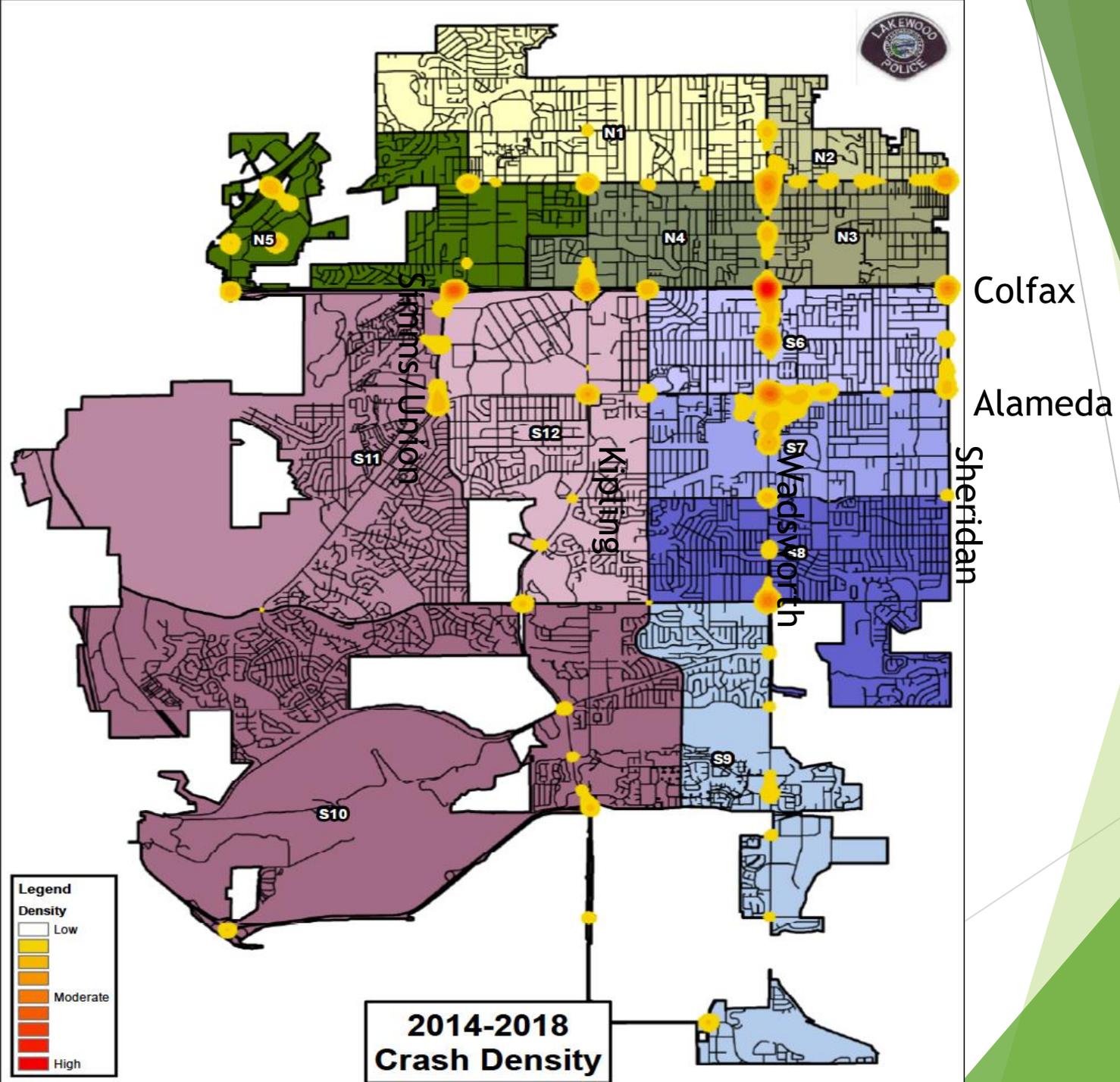
Brian Lovejoy- Traffic Team 2, Recruiting Team, Patrol Division Lakewood Police Department

for their support throughout the project providing timely communication including (but not limited to) statistics, current city projects and focus, and updates. Without their assistance this proposal would not have been possible.

Outside the Box

- ▶ Possible Lakewood specific handheld cell phone ban
- ▶ “Red Light” cameras
- ▶ Incentive programs to reward compliant drivers
- ▶ Lower BAC (Blood Alcohol Content) limits for repeat offenders
- ▶ Lakewood “Safe Driving” Facebook page
- ▶ Public service messages by key Lakewood officials
(The Mayor, Chief McCaskey on Channel 8 and website/Facebook)

Lakewood accident map



Recommendation

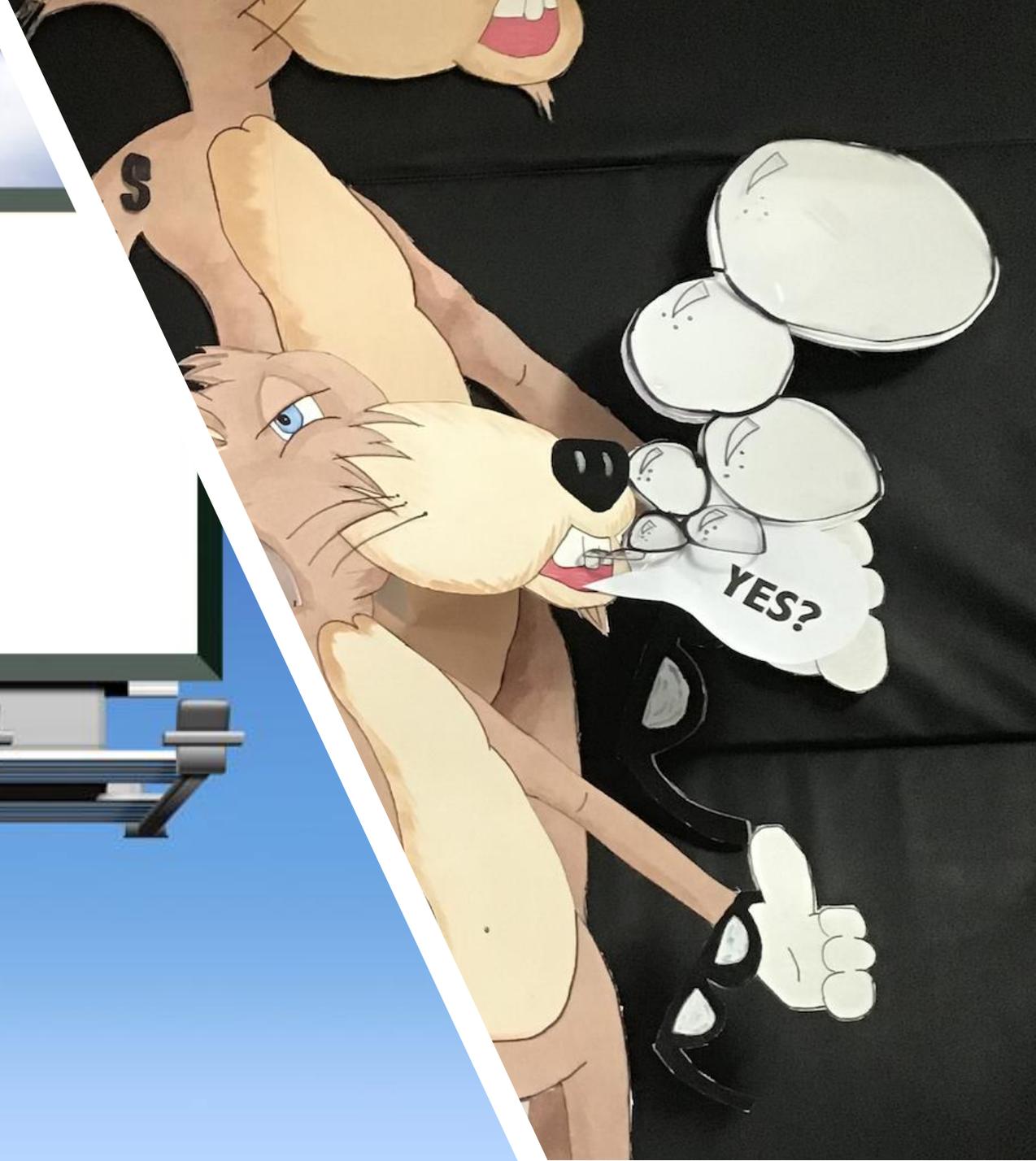
In addition, the committee feels that for a long-term safe driving awareness program to resonate with the general public on an ongoing basis, it would be beneficial to have a character or mascot to accompany the current message in order to reestablish a connection to the focus of the program.

It is also felt that a mascot would add some fun and connection for the children of the adults doing the driving and allow additional types of communication devices (e.g., stickers, magnets, posters etc.) to further the message.





Safety Is No Accident





LIFE LANES



High-tech solutions to end distracted driving

VISION 4400



LAKWOOD POLICE DEPARTMENT



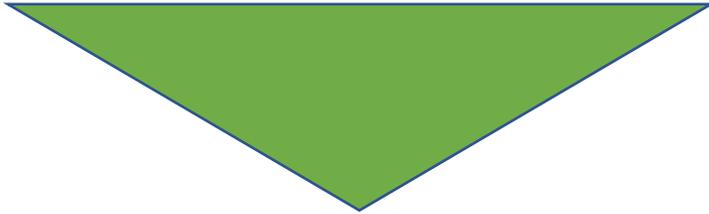
Countermeasures That Work:



Team Members

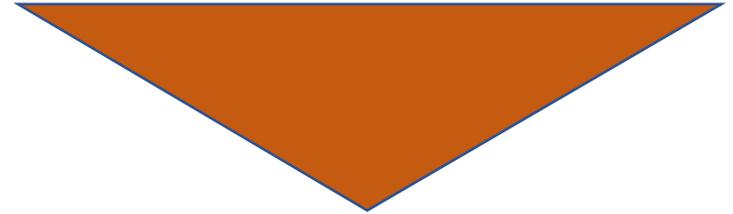
- ▶ Heide Barthel
- ▶ Peggy Ralph
- ▶ James Bunch
- ▶ Rick Ash

The Pros and Cons of roundabouts vs traffic lights



Pros

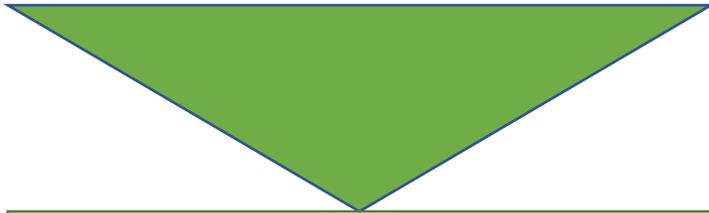
- Cheap to build
- Flexible/ extendable
- Scalable to suit any junction size
- Mutable- add signals, bypass lanes, extra incoming roads
- Easy and safe for drivers to use
- Aids navigation of complex junctions
- Allows more cars to cross at a time
- No traffic lights



Cons

- No suitable for busy city grids
- Annoys drivers on country roads
- Takes up more space
- Uses more materials to make

The Pros and Cons of a 4-way intersection



Pros

- Easier for pedestrians to cross the street
- Space efficient



Cons

- More crashes
- Requires traffic lights
- Slower than a Roundabout

The Pros and Cons of a Bike Lanes

Pros

- Safety improvement for bikers
- Will encourage using bikes more often
- Dedicated bike lanes may enable you to commute to work by bike
- You have to worry less about injuries
- Makes the use of cars less attractive
- Bikers may interfere less with pedestrians
- Bike lanes may allow you to drive faster
- Good for tourists who want to explore the city
- Better air quality
- Less particle pollution
- Less smog
- May slow down global warming
- Good for our environment

Cons

- Less space for cars
- Increasing imprudence of bikers
- The attention of car drivers may also decrease
- Car drivers may get annoyed
- More traffic jams
- Longer commuting times for cars
- May be unnecessary in some regions
- Only minority of people uses bicycles
- Lawsuits to prevent bike lanes
- Extent subject to the discretion of policy makers
- Plenty of planning required
- Bike lanes can be costly
- May also be used by motorbikes
- Improper design may do more harm than good

STAFF MEMO

DATE OF COUNCIL MEETING: APRIL 19, 2021 / AGENDA ITEM NO. 5

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **LAKWOOD ADVISORY COMMISSION – DIVERSITY COMMITTEE PRESENTATION**

SUMMARY STATEMENT: The Ad-Hoc Diversity Committee of the Lakewood Advisory Commission (LAC) worked as a group to provide the City Council a report on the LAC diversity. Diversity Committee Member/LAC Vice President Casey Hensley recorded the presentation, now posted on Lakewood Speaks, so that Council can watch the video before the meeting. Ms. Hensley will attend the meeting to field any questions that City Council has.

BACKGROUND INFORMATION: In 2019, the LAC formed the Ad-Hoc Diversity Committee to explore diversity within the LAC and present recommendations on increasing diversity if the need is found.

BUDGETARY IMPACTS: The proposal itself has no budgetary impacts. If City Council approves the recommendations, there could be budgetary impacts for some areas of implementation.

RECOMMENDATIONS: The Ad-Hoc Diversity Committee of the Lakewood Advisory Commission proposes the following recommendations for increasing diversity among LAC membership:

1. Target LAC recruitment in Ward 2.
2. Target those that rent or otherwise do not own their own housing.
3. Reach out to in-city non-traditional schools.
4. Identify impediments to LAC participation by parents.
5. Seek advice and input from diversity focused organizations and groups in the Lakewood area.
6. Implementation of an equity lens to be utilized when making LAC decisions.
7. Make the LAC Ad-Hoc Diversity Committee permanent.

ALTERNATIVES: No alternatives are being proposed at this time.

PUBLIC OUTREACH: This item was promoted via the regular communication channels for an item coming before City Council.

NEXT STEPS: If City Council approves LAC recommendations, next steps will be (1) for staff to prepare a Resolution making the Diversity Committee permanent; and (2) for staff to research costs and implementation strategies.

ATTACHMENTS: PowerPoint Presentation

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



Lakewood
Full of Possibilities

LAC Diversity Committee

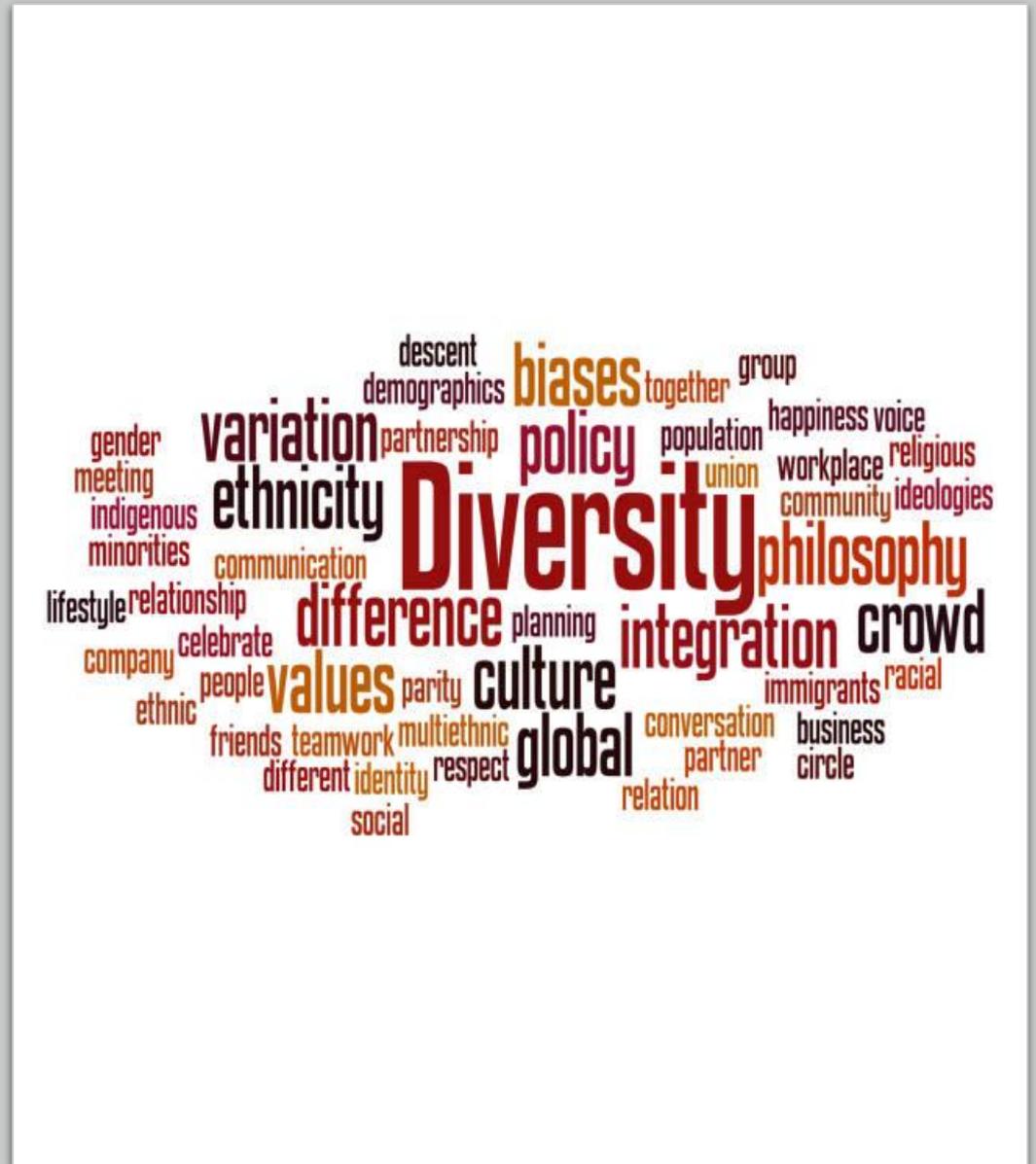
Update: Internal Survey Results and Findings

Objective: to identify underrepresented groups within the LAC and provide recommendations.



Our Working Definition of Diversity

A successful community in which individuals of different race, ethnicity, religious beliefs, political beliefs, socioeconomic status, language, geographical origin, gender and/or sexual orientation, and persons with disabilities bring their different knowledge, wisdom, background, experience, and interest for the benefit of the whole community.

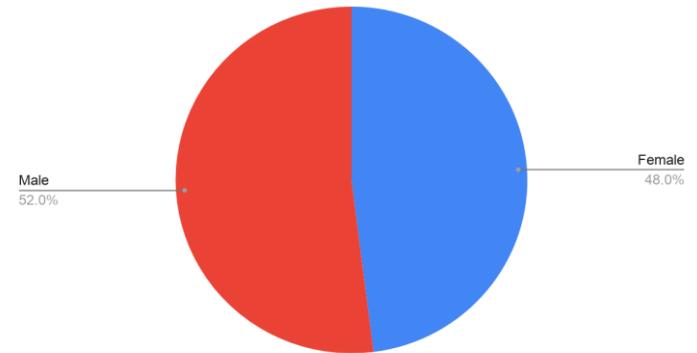




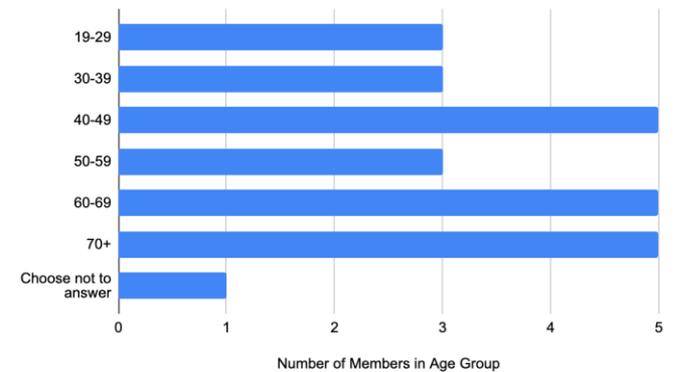
Areas of Progress & Strength

- Relatively equal gender representation
- Adequate cross-section of age representation, though none under the age of 18.

Gender Identity



Age





Significant Finding 1: Ward Representation

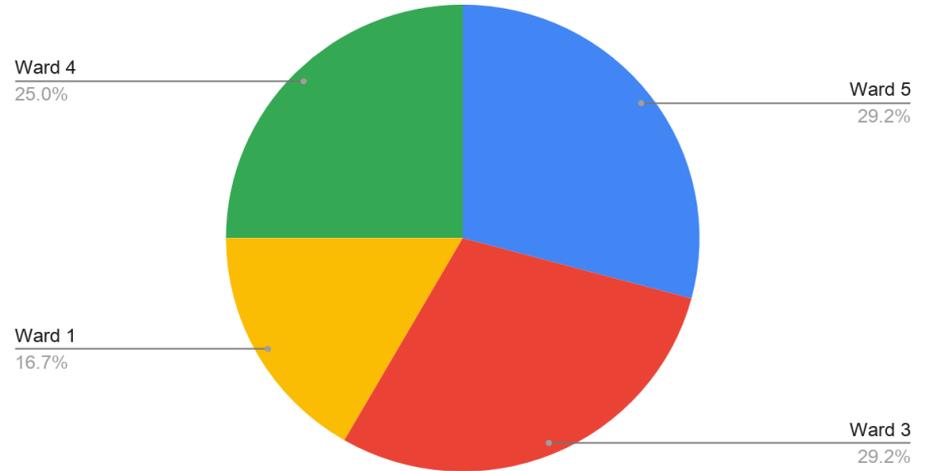
- **Finding:**

There are no current Ward 2 Residents in the LAC.

- **Recommendation:**

Target recruitment in Ward 2.

Which Ward do you live in?





Significant Finding 2: Housing

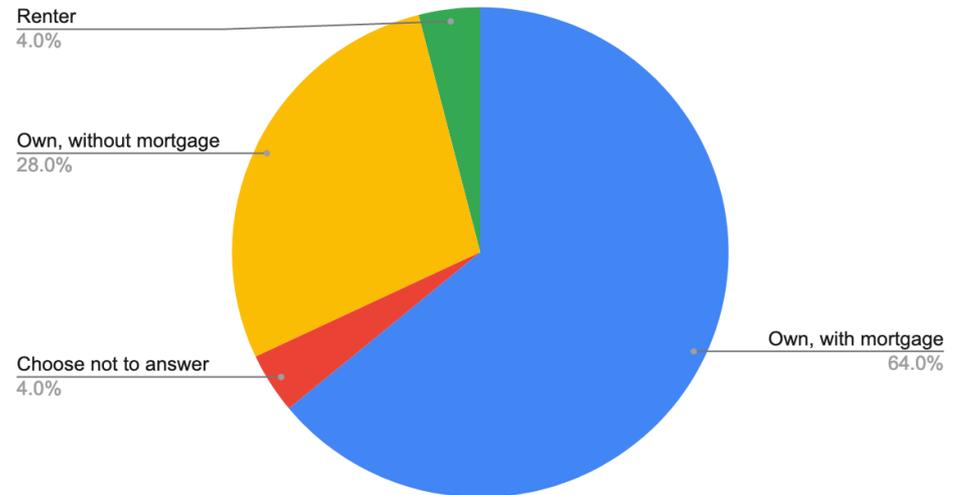
- **Finding:**

Most of the Commission owns their home, lacks representation from renters and non-homeowners.

- **Recommendation:**

Target those that rent or otherwise do not own their housing.

Housing

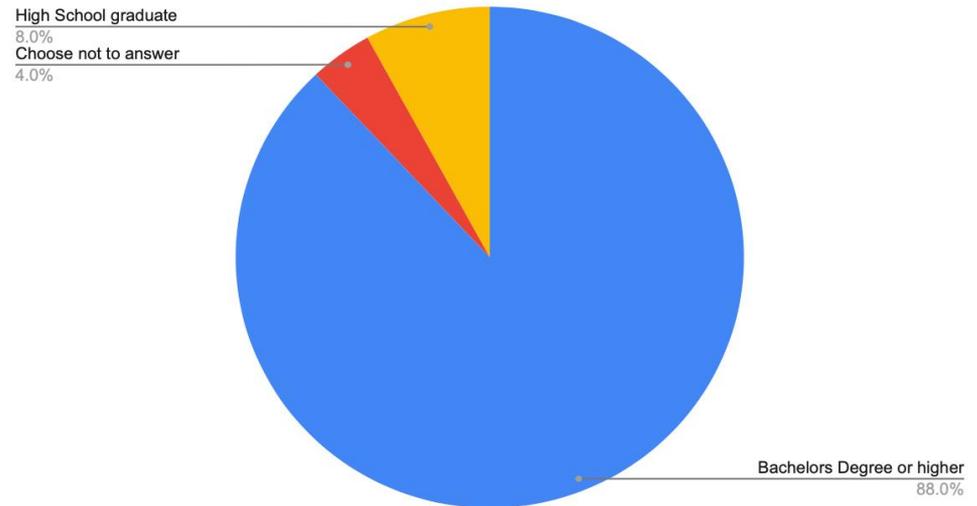




Significant Finding 3: Education

- **Finding:**
We have limited representation from high- and trade-school graduates.
- **Recommendation:**
Reach out to in-city non-traditional schools (ex: Rocky Mountain Community College) and high schools.

Education





Significant Finding 4: Children in the Home

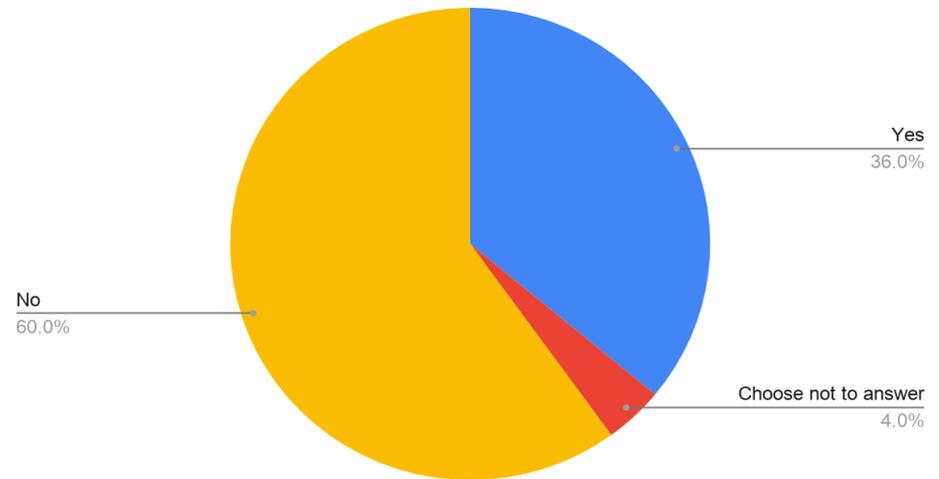
- **Finding:**

- Relatively consistent with demographic makeup of the City but could be a sign that participation is relatively inaccessible to parents.
- There is an in-migration of new parents and younger families.

- **Recommendation:**

Identify reasons LAC participation may be inaccessible to parents.

Do you have Children living at home

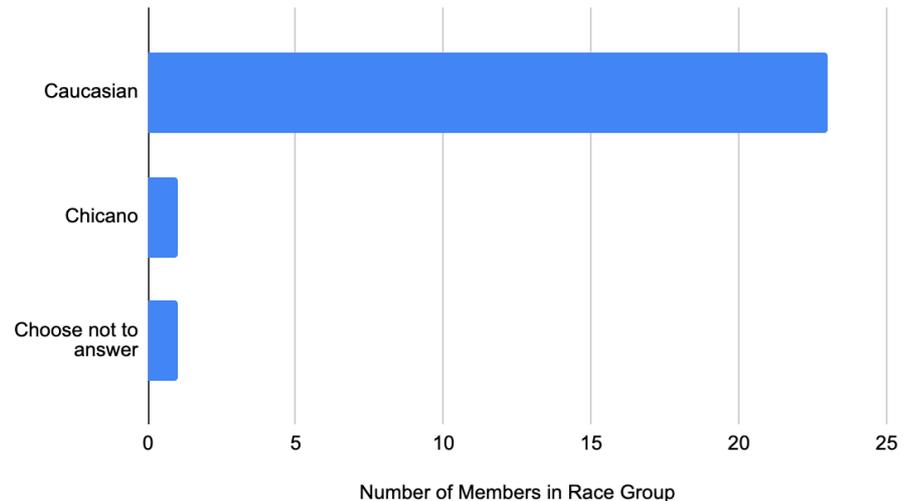




Significant Finding 5: Caucasian Majority

- **Finding:**
 - Relatively consistent with Lakewood at its founding, but not with its new demographic makeup.
- **Recommendation:**
 - Reach out to diversity-focused organizations and groups in Lakewood area

Race and Hispanic Origin





Summary

Potential Recommendations:

- Target recruitment and communication in Ward 2
- Target those that rent or otherwise do not own their housing
- Reach out to in-city non-traditional schools (ex: Rocky Mountain Community College)**
- Identify reasons LAC participation may be inaccessible to parents**
- Implementation of an equity lens to be utilized when making LAC decisions.

Note: These recommendations are not within the scope and power of the assignment, but act as foci for a permanent committee or could be turned into separate assignments for this committee.

** Results such as education and children at home are in line with most recent Census data and are therefore relatively representative of Lakewood.



Where Our Research and Values are Leading Us

Other Recommendations:

- **Make the LAC Diversity Committee Permanent:** The LAC Diversity Committee will remove barriers and expand direct outreach by creating best practices that can apply to other boards and commissions and could meet regularly to constantly evaluate our processes and representation.

Our Proposed Mission:

The LAC Diversity Committee's mission is to develop and recommend best practices in Diversity for internal purposes that can also be used to ensure diversity within all Boards and Commissions within the City of Lakewood.



Lakewood
Full of Possibilities

Ad-hoc Diversity committee members:

Casey Hensley

Rigby Johnson

Roberto Gurza

David Rein

Karen Gordey

STAFF MEMO

DATE OF COUNCIL MEETING: APRIL 19, 2021 / AGENDA ITEM NO. 3

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **LAKEWOOD ADVISORY COMMISSION – COVID IMPACTS ON SMALL BUSINESS**

SUMMARY STATEMENT: The Civic Awareness Committee of the Lakewood Advisory Commission worked as a group to provide the City Council a report on the impacts of COVID-19 on Lakewood’s small businesses. Civic Awareness Committee Member/LAC Secretary Jamie Cornell recorded the presentation, now posted on Lakewood Speaks, so that Council can watch the video before the meeting. Ms. Cornell will attend the meeting to field any questions that City Council has.

BACKGROUND INFORMATION: In 2020, City Council gave an assignment to LAC, asking them to research the financial and social impacts of COVID-19 on Lakewood small businesses and potential methods to increase awareness of resident behavior that could benefit these businesses.

BUDGETARY IMPACTS: The proposal itself has no fiscal impacts. If City Council approves the recommendations, there could be budgetary impacts for some areas of implementation.

RECOMMENDATIONS: The Civic Awareness Committee of the Lakewood Advisory Commission proposes the following recommendations:

- Improve the website and associated Lakewood Small Business Map within the Economic Development Department.
 - Create a separate page or area within the “Coronavirus Resources for Business” page that links to “Best Practices.”
 - Promote the Economic Development’s COVID Resource Page links from the City of Lakewood’s home page.
 - Create a platform or portal where businesses could interact with the public to promote and interact with customers.
- Invest in Public Awareness Campaigns across multiple mediums.
- Increase Marketing Support:
 - Better social media coverage (Instagram, Facebook, Twitter, YouTube, etc.)
 - Spotlight Small Businesses
 - Expand Lakewood Speaks and Looking at Lakewood
 - Promote Positive Reviews of Businesses
- Seek means to provide tax relief and/or financial support
- Strategic Business Partner Promotion
- Support specific to Restaurants

ALTERNATIVES: No alternatives are being proposed at this time.

PUBLIC OUTREACH: This item was promoted via the regular communication channels for an item coming before City Council.

NEXT STEPS: If City Council approves LAC recommendations, next steps will be for staff to research costs and implementation strategies.

ATTACHMENTS: Civic Awareness Committee Report
PowerPoint Presentation

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

Lakewood Advisory Commission

Assignment #2020-03: COVID-19 Small Business Impact

Civic Awareness Committee
Rick Ash, Heide Barthel, Jim Bunch, Jamie Cornell, Marsha Osborn,
Karen Morgan, Joshua Oliver
2/23/2021

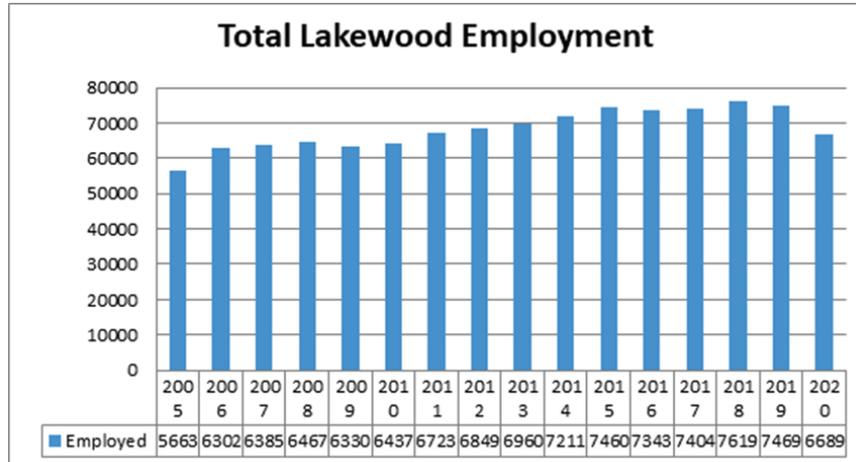
ASSIGNMENT: Research financial and social impacts of COVID-19 on Lakewood small businesses and potential methods to increase awareness of and influence citizen behavior that could benefit these businesses.

BACKGROUND & JUSTIFICATION:

Covid-19 had devastating impacts to individual lives, communities, and businesses. Small businesses, defined as businesses with 25 or fewer employees, were especially hard hit financially. Unlike many national chain stores, small businesses cannot weather uncertain economic times due to their smaller cash reserves and smaller customer bases. Across Lakewood, small businesses have been struggling to overcome increased regulations due to COVID, financial demands, while at the same time having decreased hours and capacity. Many of the remaining small businesses faced permanent closure or unemployment of their workers. Restaurants and entertainment businesses are closing at an even faster rate. The loss of our small businesses poses a risk to our entire community, with the economic consequences, loss of community cohesion, and a decreasing tax base.

The city of Lakewood's Economic Development Department has put in extensive work gathering local business data throughout this COVID crisis, and some of their key insights included:

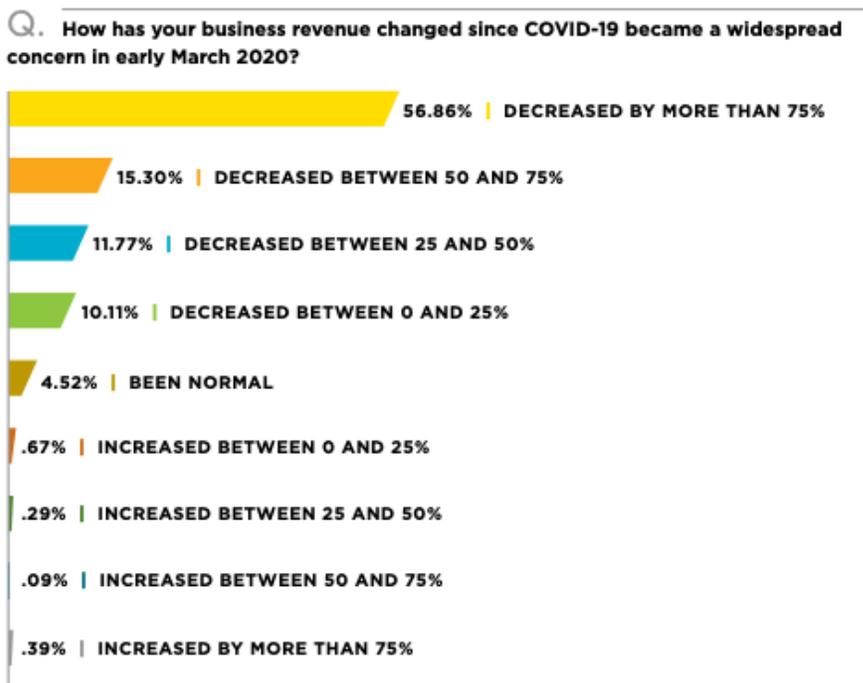
- Small businesses are handling the economic impacts of the pandemic in a variety of ways- some being more successful than others.
- Any business that is dependent on the gathering of people is struggling (restaurants, hotels, event centers, celebration planners, caterers, bars, performing arts venues, etc.).
- Different sectors are growing at different rates. Some businesses have had to lay off significant numbers of their workers, while sectors such as construction or grocery have continued to stabilize or grow.
- Due to time lags in data processing, final second quarter 2020 numbers are only now being finalized. According to Robert Smith of the Economic Development Department, "While these year-over-year employment counts can be startling, we believe Lakewood is following the national trend and the job losses in June of 2020 do not reflect the local employment growth in the last half of the year. Since June 2020 many businesses have reopened, COVID cases have declined, we have improved on the state dial, vaccines continue to be administered, and capacity restrictions for our businesses have loosened. Through our connections with local businesses, we believe many people have been re-hired. When we compare Q3 & Q4 year-over-year data, later in the year, we're confident we'll see a steadily improving employment market in Lakewood."



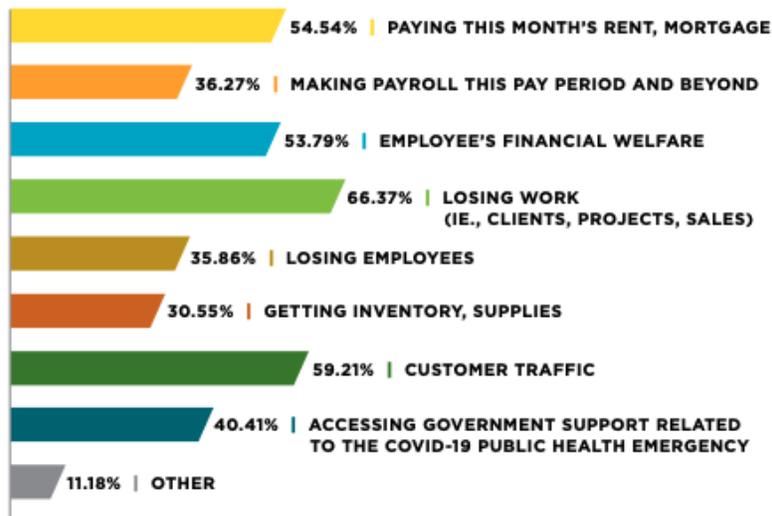
Source: Email summarizing 2020 data trends from Robert Smith, Lakewood Economic Development

Over the past 11 months, the city’s Economic Development department has also worked tirelessly to facilitate \$3.3 million dollars of local business grants funded through federal CARES Act dollars over 3 rounds to 337 Lakewood businesses. An extensive list of the funding layout and justification can be found in [appendix A](#).

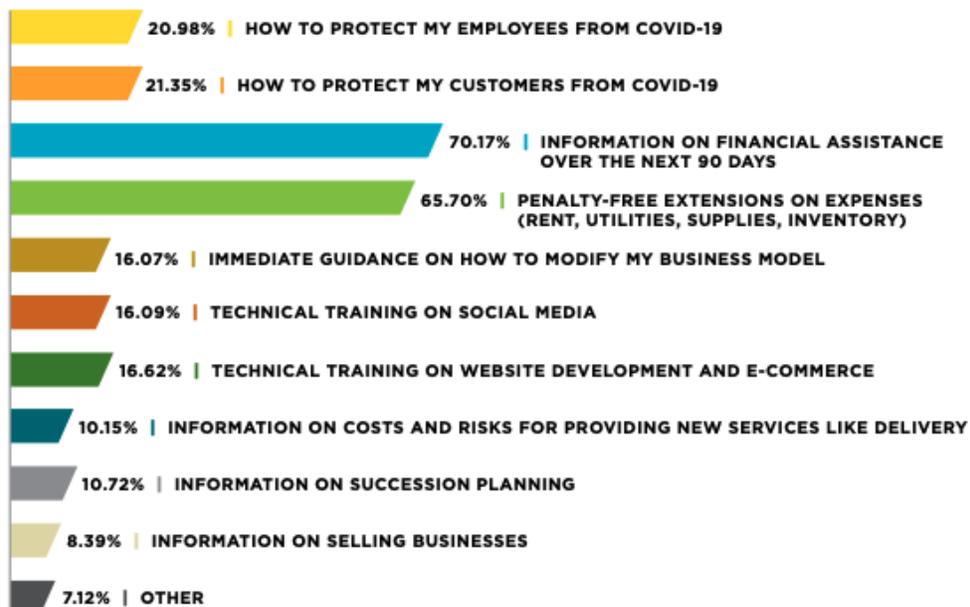
A study from Main Street America & Urban Main published a report based on studies conducted in March-April 2020 that summarized the negative impacts of COVID on both small and larger businesses across the US, and can be found in [appendix B](#). A few of their visual displays of findings are below:



Q. At this time, what are you most concerned about? (Please choose all that apply)



Q. What types of assistance would be most helpful to your business?



EXECUTIVE SUMMARY:

We found 5 reoccurring themes in our research that are potential methods to increase awareness of and influence citizen behavior that could benefit Lakewood's small businesses:

1. Improve the website and associated Lakewood Small Business Map within the Economic Development Department. Focus on making the website more user friendly for small businesses and local residents looking for information in how to support small businesses.
2. Invest in Public Awareness Campaigns across multiple mediums: #Shoplocal Social Media pushes, radio or TV promotional campaigns, newsletters or physical signage in and around shopping areas.
3. Increase the marketing promotion of local business products and services through the city's website and social media accounts, and increase print media (such as newsletters) going to households in Lakewood.
4. Provide tax and/or financial burden relief in various formats, such as deferring business and occupational tax filing, or providing exemptions from payment and fines.
5. Work with County Officials and Health Departments to get all restaurants back to normal capacity with full and extended hours of operations while maintaining a focus on COVID-safe operations.

METHODOLOGY:

To gather information, Civic Awareness committee members first reached out to the City of Lakewood's Economic Development Department to gather baseline data and suggested research tracks. Members were assigned businesses and business associations to contact with a set of questions. Members made phone calls and some communicated via electronic medium. Many businesses belong to these groups. This information was shared with the LAC Civic Awareness members via Slack. Some members even attended the meetings of the various business groups via zoom. In addition, members contacted other municipalities and counties across the country to learn of their programs and funding available in response to the COVID pandemic. The members further widened their search and combed the internet and other media for ideas for city government to pursue. Final drafts of the proposal were shared with the city's Economic Development Department. This information was last collected in February 2021 while the impact of the COVID pandemic continues to evolve and change sometimes on a daily basis.

RESEARCH AND KEY FINDINGS:

City of Lakewood Website

There is currently no mention of anything relating to Small Businesses on the City website home page, as it is located in the Economic Development's department homepage. Business associations (e.g. Alameda Connects, West Colfax Community Assn) hear complaints about the user-interface on the city of Lakewood's website in reference to their businesses. Some of these comments heard were:

“The City of Lakewood's website used to be more user friendly.”

“The search engine is woefully inadequate.”

“If there was a way to showcase businesses through the city, that would be awesome!”

Listed below were suggested methods in how the city could improve the City of Lakewood website:

- Create a separate page or area within the “Coronavirus Resources for Business” page that links to “Best Practices” being used in other cities/states etc.
- Create a platform or portal where businesses could interact with the public to promote their businesses and interact with customers. Setup a portal alongside the map of businesses which also allows the ability to see inventory/services and reviews of businesses on the map.
- Promote the Economic Development’s COVID Resource Page links from the City of Lakewood’s home page:
 - A [link](#) to the master list of Small Business-related assistance
 - City of Lakewood Local Business [Map](#)
 - Helpful articles printed in publications such as [Looking at Lakewood, Page 3](#)
 - lakewood.org/Government/Departments/City-Managers-Office/Coronavirus-Resource-Center/Coronavirus-Business

Marketing Support

Many small businesses do not have the funding to spare for proper marketing and promotion. Much of their success relies on word of mouth and positive reviews about their establishments. During this Covid-19 pandemic, spreading the news about small local businesses and letting the public know they are open and running could mean the difference between them staying open or shutting for good. With everyone home, people are spending more time on social media and the internet than ever before. Ways to support small businesses include:

Better social media coverage (Instagram, Facebook, Twitter, YouTube, Etc.):

- Profiles already exist for Lakewood on many of these platforms but don’t see daily or even weekly use, other than Twitter. Quite a few organizations in Lakewood have Instagram accounts, including the sustainability department, but we found no main account for the city itself.
- Utilize the format and success of Lakewood Speaks/Looking at Lakewood. Post frequently to these platforms to grow engagement and following for both the city itself and the small businesses within its limits.
- Encourage the city run profiles to engage with their following with the comments/messages they receive.
- Proper use of hashtags to extend the marketing impact far outside the city and state.
- Many of the social media platforms have the ability to fund ad campaigns inside of the platform itself.

Spotlight Small Businesses:

- Interview owners/employees, or let them submit videos to the city to promote on the Lakewood website and social media pages.
- Radio/ local broadcast of a “support and buying local” public awareness campaign.
- Point people in the direction of the Lakewood business map, or the social media’s through these campaigns.

Expand Lakewood Speaks & Looking at Lakewood:

- Include current business news or run special “small business” editions between the release of the main issues and consider more frequent publications.

Promote Positive Reviews of Businesses:

- Use enhanced social media accounts and website as mentioned above.
- Utilize and increase the use of review systems like Yelp/Google, etc, to increase the likelihood that the business will show at the top of the algorithm of search engines.

Examples of small business public awareness campaigns in other US cities and counties:

- [Dane County, WI: Buy Dane Local initiative](#)
- wabi.tv/2020/11/10/shop-local-ellsworth-campaign-underway-for-the-holiday-season/
- 9news.com/article/money/business/small-business/shop-local-colorado-2020/73-a3076232-d3f8-48a3-aa1b-621190d23e58

Grant/Support Funding for Small Businesses Federal/State/Local/Private

Since the start of the COVID-19 pandemic, government, public and private agencies have stepped forward with funds to provide support for the economic impacts felt by businesses. The following is a list of the economic relief/funding efforts that have helped small businesses. Some of these efforts center on getting money to the business, while other efforts involve cities or public entities helping financially by deferring taxes and payments to businesses.

Cares Act:

These are federal funds given to states, and administered through the various counties, which then filter them down to local entities such as cities. There have been 3 rounds of funds distribution in Lakewood.

- jeffco.us/4057/CARES-Act-Emergency-Grants-Funding

Congressional Appropriations Act of 2021:

This first ever temporary paid federal leave requirement for employers including county governments, provided up to 80 hours of emergency paid sick leave and up to 12 weeks of partially paid emergency family leave for those unable to work due to COVID 19 related reasons.

- [Congressional Appropriations Act of 2021](#)

Small Business Administration (SBA):

Through the CARES ACT, the SBA was given approval to infuse \$349 billion into small businesses in the form of low interest loans with the explicit goal of helping maintain small business payrolls (Paycheck Protection Program PPP).

Other Funding:

- Grant programs are available through Jefferson County under the Jeffco Small Business Relief Program. These funds also include financial assistance to arts and cultural organizations and minority owned businesses.
[Jefferson County Small Business Grant](#)
- Alameda Connects also accepted applications to assist businesses along the Alameda corridor. One program is the “make a difference” grants and sponsorships program for public schools and 501 (c) (3) non-profit organizations.

[Alameda Connects Grants](#)

- Alameda Connects also has a “Small but Mighty”, business COVID-19 Recovery Grant Program, also giving members of Alameda Connects businesses \$1,000 in funding. [Alameda Connects.org/2021-small-but-mighty-business-grant](https://www.alamedacommunityconnects.org/2021-small-but-mighty-business-grant)

Angel Relief Fund:

The Colorado Restaurant Foundation is working to support restaurant workers and those in the hospitality community with financial assistance and access to a hub of support services that provide Federal, State and community resources for housing, transportation, mental health, medical care and child care assistance, etc.

Resident Gift Cards:

Cities are using some of their resources to get people to shop at local small businesses. This takes the form of giving residents gift cards to shop at local businesses.

[Gift Card Promotion Example](#)

[Superior, Colorado Cash Program](#)

Fund Raising:

The 40West Arts District along the Colfax corridor is always looking to enhance its identity, increase visitors, and raise needed funds. As related at a West Colfax Community Association meeting, they do this by creating arts and cultural events (even if virtual). They have a fund-raising page.

lakewood.org/City-News-Media-Contacts/ArtLine-receives-grant/

Other Ways Cities Have Provided Financial Support:

[5 Ways Local Governments are Supporting Small Businesses](#)

- Halting or deferring financial burdens placed on small businesses by deferring business and occupational tax relief filing and payment (City of Seattle, WA), or waiving fees, fines, interest and penalties on sales tax payments due to the city for so many days.
- Creating a local relief fund with a blend of financing options. Some cities are waiting to see the level of need until after all federal funds are disbursed. Other cities are moving forward through a combination of city resources, philanthropic dollars, or by redeploying state Community Development Block Grant (CDBG) funds to small businesses and doing zero to low interest loans and grants.
- Providing enhancement support to businesses applying for SBA loans.
- Cook County, Illinois seeded an initial \$10 million to create the Cook County Community Recovery Initiative which includes emergency relief funds for small businesses and independent contractors and gig economy workers, particularly targeting workers and businesses owned by women and people of color. [Cook County Illinois Cook County Community Recovery Initiative](#)
- Buncombe County, North Carolina formed a partnership with the City of Asheville, the Asheville Chamber of Commerce, the Land of Sky Regional Council and Mountain BizWorks to launch the One Buncombe Fund, a COVID relief and donation center. [Buncombe County, North Carolina: One Buncombe Fund](#)
- Crook County, Oregon formed a COVID-19 Business Assistance Task Force to help local businesses deal with impacts affecting daily operations.

[Crook County, Oregon Business Assistance Task Force](#)

- Dane County, Wisconsin partnered with local Buy Dane Local initiative to support local businesses impacted by COVID-19. To further promote local businesses, the #DaneCountyCurbsideChallenge was also created to drive takeout business to local restaurants.

Promotion of Strategic Business Partnership Organizations:

Many of the strategic business partnership organizations are actively working to increase traffic to small businesses, as well as to keep each business aware and informed as to financial and other assistance available to them. These organizations have found ways to pivot to online platforms and gatherings in which they provide valuable resources and promote strategic and crisis business management. As stated by Pam Bales, of the West Metro Chamber, “We serve as a lifeline to many of these businesses who just want to keep from going out of business.”

How These Organizations Currently Support Businesses:

- Provide timely, relevant updates and resources focused on funding opportunities and COVID/public health changes (restrictions, openings, guidelines) within Jeffco County and each city.
- Create public awareness around “Buy Local” and “Support our Community” campaigns via newsletters and social media campaigns.
- Create business partnerships that can lead to enhanced services and increased customer engagement via regular meetings, events and/or communication.
- Provide monthly newsletters and marketing exposure to a wider customer base.
- Serve as a networking hub to connect small businesses with the relevant, immediate help that is required for a specific problem.
- Promote local business products and services on additional social media accounts and email blasts.
- Organize and host virtual or socially distanced public events which build partnerships and provide businesses and artists exposure to the public.
- Organize leads-based groups that are solely focused on increasing business between its members.
- Offer free resources that help businesses pivot products or services to a more virtual, online-friendly environment.

Ways in Which the City Can Increase Support to Business Partners:

- Increasing the city’s promotion of all active and surrounding Strategic Business Partners to encourage small businesses to become members to benefit from the marketing and promotional support.
- Actively sharing the contact information and membership fees of all organizations on the city’s website while encouraging small businesses to contact their local partner.
- Promoting the value of membership by sharing real-life business/Strategic partner success stories on the Lakewood’s economic development social media accounts.
- Providing the additional funding to these associations so that they can increase marketing efforts for the small businesses that they support. Consider re-allocating funding from the recently closed Jeffco Business Resource Center to other business support organizations.

Lakewood and Jefferson County Small Business Partnership Organizations:

[Alameda Connects](#)

[West Metro Chamber of Commerce](#)

[West Colfax Community Association](#)

[Union Corridor Professionals](#)

[South Lakewood Business Association](#)

[Applewood Business Association](#)

[Wheat Ridge Business Association](#)

[Jeffco Economic Development Corporation.](#)

Restaurant Support

The recent requirements that have forced outside dining at times, reduced operating capacity and shorting business hours have resulted in some older and iconic restaurants closing. Some restaurants have been innovative enough to adapt to “take out” and to outdoor dining, while others have been unable to adapt to the changing restrictions and circumstances.

Relief Acts:

- There are several options set up for relief by various local government and business associations. These include but are not limited to Cares Act Funding and the Colorado Restaurant Association’s Angel Relief Fund (mentioned above). [Angel Relief Fund:](#) Courtney Baylie at 303-8302972 x151 or cbaylie@corerestaurant.org

Tax Relief:

- The State of Colorado is allowing for some sales tax holidays for a certain period of time. County and City officials could provide for similar sales tax holidays.
- The property valuation by the Jefferson County Assessor’s Office was completed in June of 2020 for the real estate valuation of commercial properties. It is up to the elected officials of the county, cities and boards to set the mills that are then used to calculate property taxes. Counties and Cities could examine their mills which are used to calculate its property taxes and determine if any could be temporally eliminated.
- Delay collecting Payroll Taxes created by Proposition 118. The Paid Family and Medical leave Insurance Program which increases pay roll taxes will impact the businesses, the employees and the consumer.

Delivery Service:

- Restaurants could work with their various associations to address better ways to deliver their meals. Currently, the use of online, application-based delivery services, such as Grub Hub and Door Dash, charge local restaurants an additional 15% surcharge on each order to use the delivery service. This 15% additional fee was prohibitive to numerous restaurants prior to COVID, and therefore this became even more prohibitive once they had to restrict services and hours.
- Some cities and towns have implemented capped fees and/or a reallocation of fees to the consumers instead of the restaurants. Denver and Aurora have implemented a cap of 15% on third party delivery fees in the hope of assisting restaurants profit margins during the

pandemic. Door Dash responded by adding a \$2.00 fee to consumers in areas that enact this. The extra \$2 dollars of fee would be on the consumers end in the app, to recover that extra % they were gaining off of businesses. This model transfers a small amount of the financial stress from the restaurant to the consumer.

- kdvr.com/news/money/doordash-charging-2-denver-fee-in-response-to-citys-commission-cap/
- [Boulder Safe Ordering Service to Cap Delivery fees](#)

Ways to Support Restaurants:

- The City of Lakewood could work with County Officials to get all businesses back to normal capacity and hours of operations. Businesses need to work with their county health department in how to conduct safe operations at their maximum allowed capacity during the pandemic.
- Promotion of the [5-Star program](#) could be an option for restaurants and small businesses in some cities. It encourages businesses to implement additional safety and cleaning measures (beyond what is already required by public health orders) and guidelines that will help slow the spread of COVID-19. If the business is able to meet these guidelines, it will be able to accelerate its reopening once certified.
- Negotiate with the county to allow extended hours for restaurants to stay open at night. Many restaurants earn a significant portion of their revenue each evening from alcohol sales.

REFERENCES & RESOURCES:

Financial Relief Information:

Cares Act:

These are federal funds given to states, and administered through the various counties, which then filter them down to local entities such as cities. In the first round the Feds gave Jefferson county \$101 million, who then distributed \$40 million to the cities, of which \$12 million went to the City of Lakewood. There was a second round of funds that went to businesses for expenses such as equipment and rental and PPE, and for home-based businesses, such as travel agents. (Mary O'Neill is overseeing these fund disbursements for Jefferson county). Jeffco and the Jeffco Chamber of Commerce are supporting small businesses and non-profits with 25 or less employees that have been negatively impacted by COVID by distributing PPE (personal protective equipment) free of charge for those who qualify. Businesses need to apply for these funds with the City of Lakewood through the Economic Development Department which has a list of businesses who have qualified and received such funding. Businesses that have received funding of this type under this round, would not necessarily qualify for further rounds of monies disbursed. Restaurants could qualify for up to \$30,000 and many on this list have received this amount.

Congressional Appropriations Act of 2021:

On December 27, 2020 President Trump signed the \$2.3 trillion Congressional Appropriations Act of 2021 which contains both appropriations for Fiscal Year 2021 and additional COVID-19 relief. This package also contains languages related to the paid sick leave and family leave program authorized under the Families First Coronavirus Response Act (FFCRA) which went into effect April 1, 2020. This first ever temporary paid federal leave requirement for employers including county governments, provided up to 80 hours of emergency paid sick leave and up to 12 weeks of partially paid emergency family leave for those unable to work due to COVID 19 related reasons. This affects small businesses indirectly because it impacts their employees who due to layoffs might see some other forms of funding for their daily expenses.

Small Business Administration (SBA)

Through the CARES ACT, the SBA was given approval to infuse \$349 billion into small businesses in the form of low interest loans with the explicit goal of helping maintain small business payrolls (Paycheck Protection Program PPP). Additional rounds of money are coming in the next round of relief packages, dependent on Congressional approval, expected to be around \$250 billion. Most of the loans made can be forgiven and converted to grants if spent on payroll costs, utilities, mortgage interest or rent. SBA website has details on a comparison of SBA loan programs. Those applying for these funds are advised to seek legal advice and if they are IRS tax deductible. The SBA currently has distributed over \$5 million and is overloaded and therefore has outsourced the distribution to lenders such as banks. Forgiveness of loans could be as much as \$150,000 to \$2 million.

1. [Small Business Emergency Grants](#)
2. [Nonprofit Emergency Grants](#)
3. [Small Business Sustainability Grants](#)
4. [Comprehensive Business Stability Award \(Round One\)](#)
5. [Home-Based Business Stability Award](#)

Other Funding:

- Grant programs are available through Jefferson County under the Jeffco Small Business Relief Program. These funds also include financial assistance to arts and cultural organizations and minority owned businesses.
- Alameda Connects is also accepting applications to assist businesses along the Alameda corridor. One program is the “make a difference” grants and sponsorships program for public schools and 501 (c) (3) non-profit organizations. Applications are due by January 27, 2021 and monies in the amount of \$1,000 to be disbursed on February 22, 2021. Alameda Connects also has a “Small but Mighty”, business COVID-19 Recovery Grant Program, also giving members of Alameda Connects businesses \$1,000 in funding. Applications are also due by January 27, 2021, with funds disbursed on February 22, 2021. These funds are designed to be implemented quickly and assist commercial and/or business owners in recovery from COVID 19.

Angel Relief Fund:

The Colorado Restaurant Foundation is working to support restaurant workers and those in the hospitality community with financial assistance and access to a hub of support services that provide Federal, State and community resources for housing, transportation, mental health, medical care and child care assistance, etc. They consider themselves a safety net for those workers who are employed and who are experiencing general hardship by providing financial assistance up to \$1,000 to those in crisis due to unexpected illness, injury or natural disaster such as COVID. Those eligible include any Colorado hospitality worker who has a primary source of income rooted in the food and beverage industry, who lives in the state of Colorado and is facing an unanticipated hardship (within the past 6-9 months.) and who has worked for current employer for 90 days + consideration given from previous employer. They must fill out a General Hardship form. This organization is also soliciting donations that go to industry workers who are suffering and in need due to business closures and restrictions caused by the COVID-19 crisis.

Resident Gift Cards:

Cities are using some of their resources to get people to shop at local small businesses. This takes the form of giving their residents gift cards to shop at local small businesses. One such program is in Boulder, Boulder Buck and Superior. Also, Giles County, Virginia created a centralized gift card program to promote local businesses and quickly generate revenue. This would help support restaurants, lodging and hospitality businesses. Gift cards can be purchased on-line through the county and customers will receive a 50% increased value when redeemed, subsidized directly by local meals tax and other tourism related tax revenues. 100% of the funds raised are sent directly to local businesses across the county.

Fund Raising:

The 40West Arts District along the Colfax corridor is always looking to enhance its identity, increase visitorship, and raise needed funds. As related at a West Colfax Community Association meeting, they do this by creating arts and cultural events (even if virtual). They have a fund-raising page. They aim to give each artist up to \$125,000 to create murals and art along the Colfax corridor. Artists and small vendors make up part of the gig economy along

with the self-employed. As mentioned previously, other cities throughout the country through their Chambers of Commerce, have Donation pages on their website where citizens and other organizations can donate funds to help struggling small businesses. Is it feasible that the City of Lakewood could create a Chamber of Commerce which could combine all the business organizations in the city to form a partnership and work together as a group to grow business within the City?

Other Ways Cities Have Provided Financial Support:

- Halting or deferring financial burdens placed on small businesses by deferring business and occupational tax relief filing and payment (City of Seattle, WA, or waiving fees, fines, interest and penalties on sales tax payments due to the city for so many days. Also, cities such as New Orleans, St. Louis, and Phoenix are ordering utility companies to keep business lights on and water running while the public health crisis persists.
- Creating a local relief fund with a blend of financing options. Some cities are waiting to see the level of need until after all federal funds are disbursed. Other cities are moving forward through a combination of city resources, philanthropic dollars, or by redeploying state Community Development Block Grant (CDBG) funds to small businesses and doing zero to low interest loans and grants. (i.e., Jersey City, NJ is redirecting CDBG funds up to match grants, up to \$10,000 per business; Philadelphia, PA has provided a \$10million COVID-19 Small Business Relief Fund to provide grants and zero interest loans to impacted businesses; San Francisco, CA has \$9 million for zero interest loan funds and an additional \$1 million to city's existing Resiliency Fund.)
- Providing enhancement support to businesses applying for SBA loans—by deploying staff to provide technical support assistance to business owners as they apply for SBA loans, making a special effort to reach out to minority owned businesses that might face structural barriers in completing applications. (Chattanooga, TN is hosting webinars with city council members and working with non-profits, and sharing info over radio; City of Vallejo, CA has transitioned its economic development team from project management to advocating for small businesses and providing resources and support.
- Cook County, Illinois seeded an initial \$10 million to create the Cook County Community Recovery Initiative which includes emergency relief funds for small businesses and independent contractors and gig economy workers, particularly targeting workers and businesses owned by women and people of color. The fund offers one-time zero interest loans up to \$20,000 for small businesses with 25 employees or less and \$10,000 for contract workers receiving at least half their income from 1099 contract work.
- Buncombe County, North Carolina formed a partnership with the City of Asheville, the Asheville Chamber of Commerce, the Land of Sky Regional Council and Mountain BizWorks to launch the One Buncombe Fund, a COVID relief and donation center. In addition to economic support to unemployed individuals, the Fund provides low interest loans up to \$10,000 to locally owned businesses with no payments due for six months. Loans are designed to support local businesses with needed “bridge funding” to help businesses stay open and limit job losses. The Fund site allows for donation support from community members to raise additional funds for this initiative.
- Crook County, Oregon formed a COVID-19 Business Assistance Task Force to help local businesses deal with impacts affecting daily operations. In addition to technical

assistance with federal and regional assistance opportunities, local businesses can also apply for up to \$2,500 in grant funds to assist with operational costs such as rent, mortgage, utilities.

- Dane County, Wisconsin partnered with local Buy Dane Local initiative to support local businesses impacted by COVID-19. In addition to grant funds, Buy Dane hosts a weekly webinar series providing technical assistance and critical information and resources for local business owners. To further promote local businesses, the #DaneCountyCurbsideChallenge was also created to drive takeout business to local restaurants. County residents are encouraged to post and hashtag their takeout photos to enter a monthly drawing for local restaurant gift cards.



Lakewood

Lakewood Advisory Commission- Civic Awareness

COVID-19 Small Business Impact

March 2021

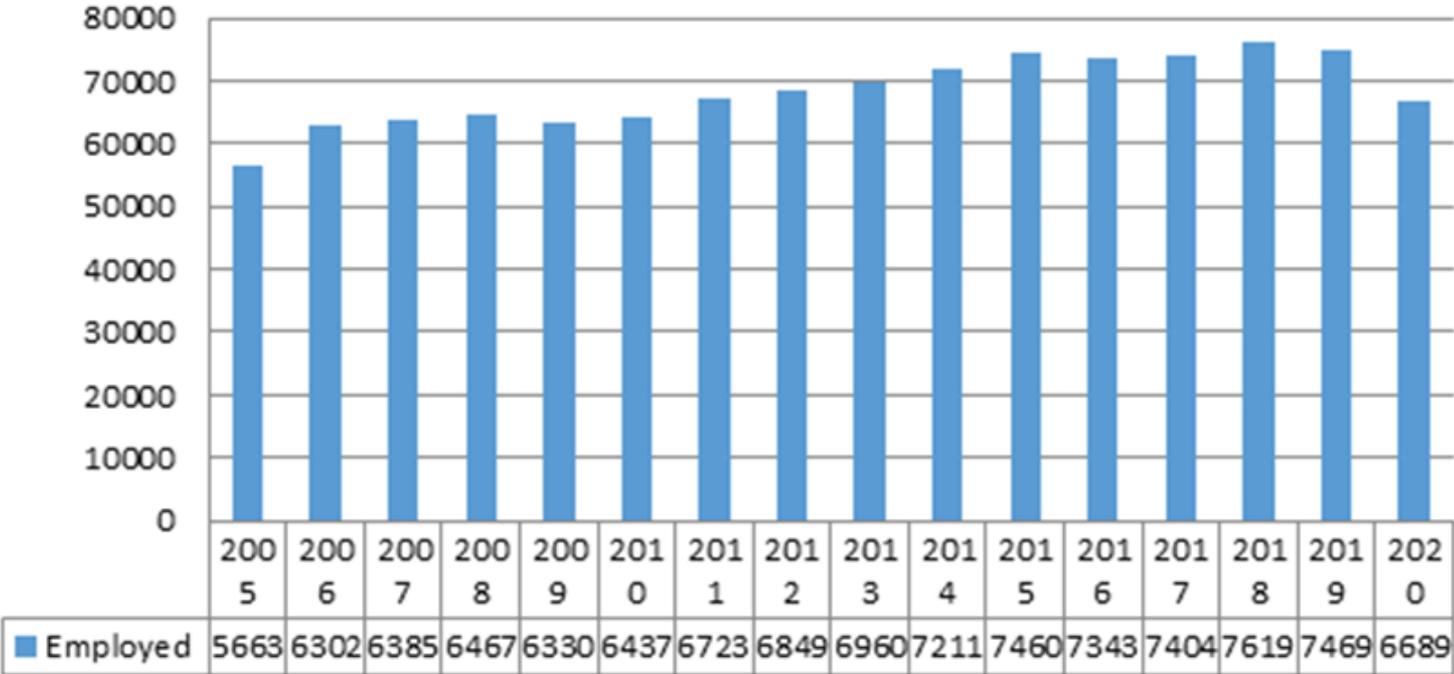
Assignment #2020-03

Research financial and social impacts of COVID-19 on Lakewood small businesses and potential methods to increase awareness of and influence citizen behavior that could benefit these businesses.

BACKGROUND:

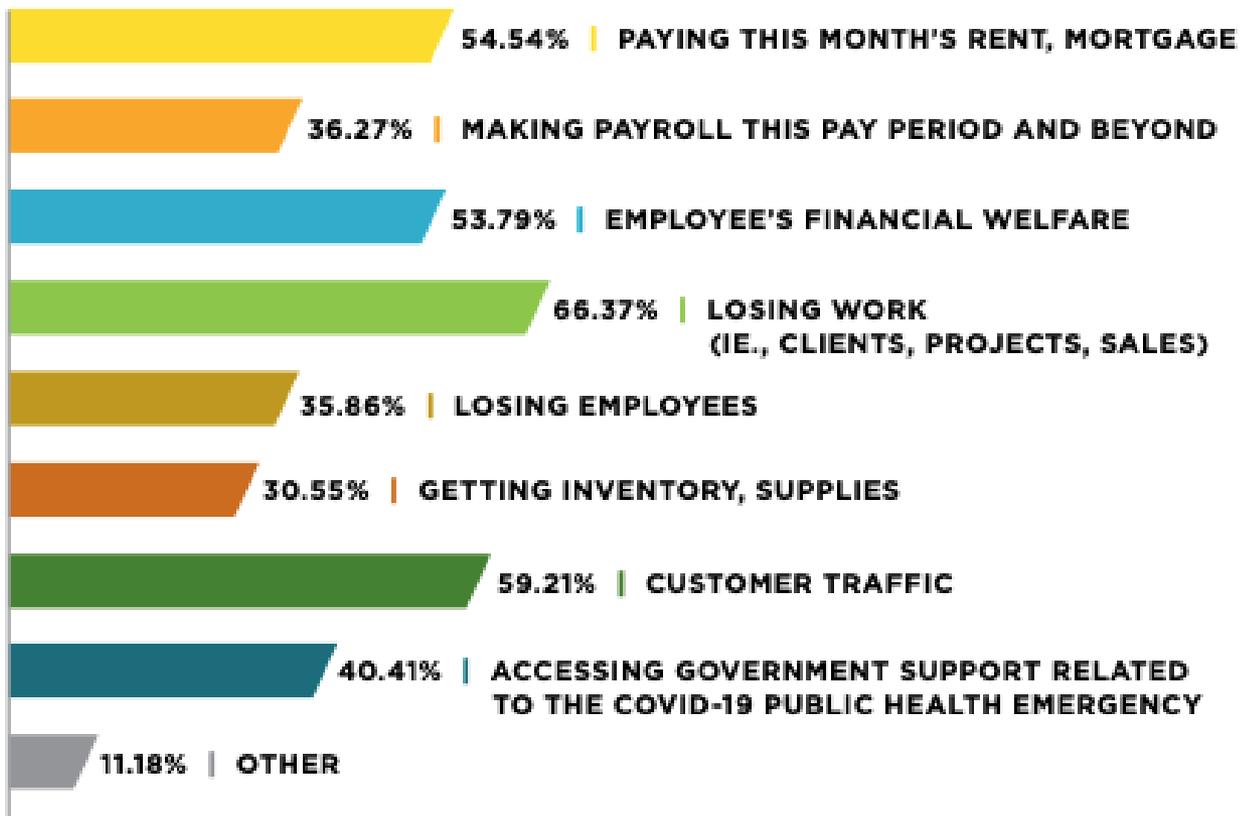
- ▶ Small businesses are handling the economic impacts of the pandemic in a variety of ways- some being more successful than others.
- ▶ Any business that is dependent on the gathering of people is struggling.
- ▶ Different sectors are growing at different rates.
- ▶ Due to time lags in data processing, final second quarter 2020 numbers are only now being finalized.
- ▶ Economic Development department has also worked to facilitate \$3.3 million dollars of local business grants funded through federal CARES Act dollars over 3 rounds to 337 Lakewood businesses.

Total Lakewood Employment



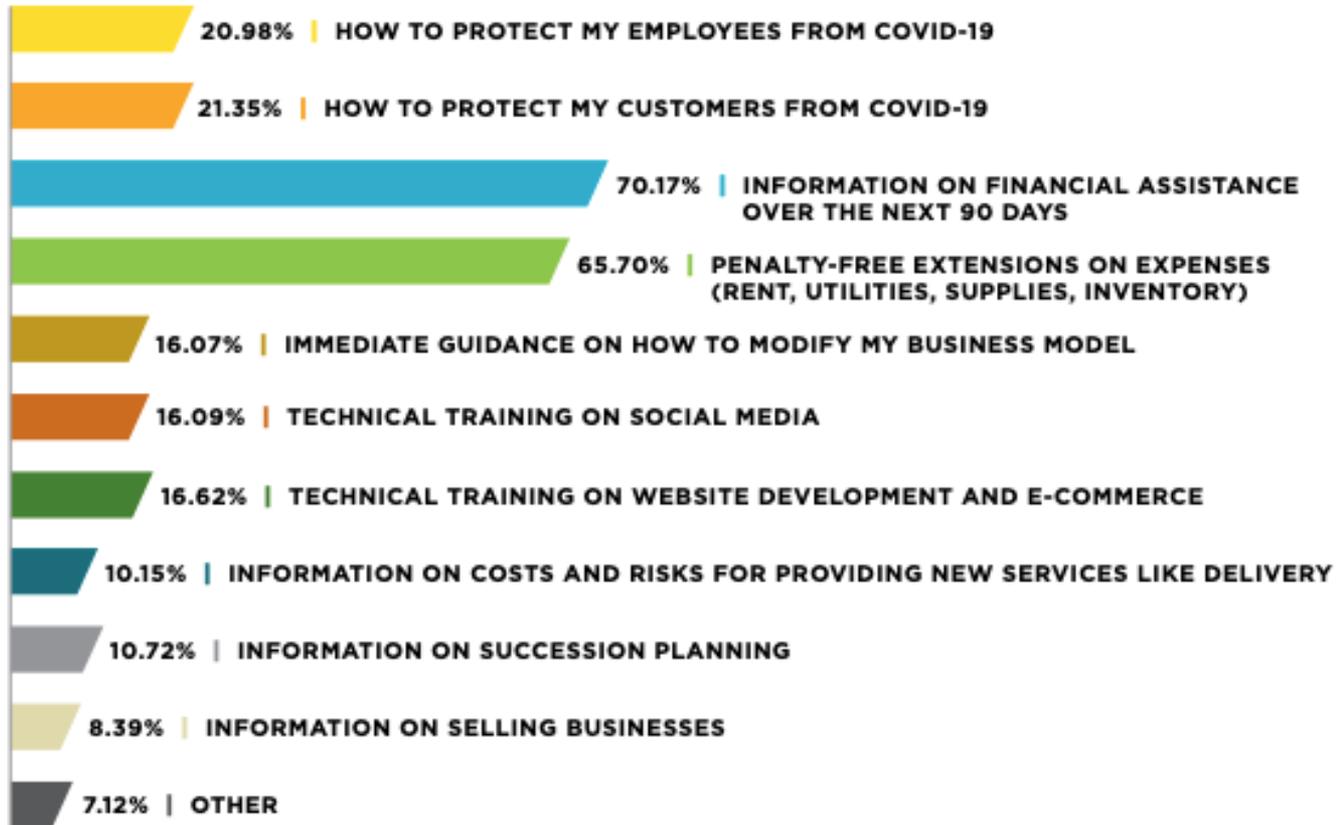
City of Lakewood Economic Development Dept, Feb 2021

Q. At this time, what are you most concerned about? (Please choose all that apply)



Main Street America & Urban Main Study, April 2020

Q. What types of assistance would be most helpful to your business?



Main Street America & Urban Main Study, April 2020

City of Lakewood Website

- ▶ Create a separate page or area within the “Coronavirus Resources for Business” page that links to “Best Practices”
- ▶ Create a platform or portal where businesses could interact with the public to promote and interact with customers
- ▶ Promote the Economic Development’s COVID Resource Page links from the City of Lakewood’s home page

Marketing Support

- ▶ Better social media coverage (Instagram, Facebook, Twitter, YouTube, Etc.)
- ▶ Spotlight Small Businesses
- ▶ Expand Lakewood Speaks & Looking at Lakewood
- ▶ Promote Positive Reviews of Businesses

Funding:

Federal/State/Local/Private

- ▶ Cares Act, Congressional Appropriations Act of 2021, Small Business Administration (SBA)
- ▶ Angel Relief Fund
- ▶ Resident Gift Cards
- ▶ Fund Raising

Strategic Business Partner Promotion

- ▶ Increasing the city's promotion of Strategic Business Partners
- ▶ Actively sharing contact information of all organizations
- ▶ Sharing real-life business/Strategic partner success stories
- ▶ Providing or re-allocating additional funding to these associations

Restaurant Support

- ▶ Relief Acts
- ▶ Tax Relief
- ▶ Delivery Service Assistance
- ▶ 5-Star Promotion

Summary of Recommendations

- ▶ Improve the website and associated Lakewood Small Business Map within the Economic Development Department. Focus on making the website more user friendly for small businesses and local residents looking for information in how to support small businesses.
- ▶ Invest in Public Awareness Campaigns across multiple mediums: #Shoplocal Social Media pushes, radio or TV promotional campaigns, newsletters or physical signage in and around shopping areas.
- ▶ Increase the marketing promotion of local business products and services through the city's website and social media accounts, and increase print media (such as newsletters) going to households in Lakewood.
- ▶ Provide tax and/or financial burden relief in various formats, such as deferring business and occupational tax filing, or providing exemptions from payment and fines.
- ▶ Work with County Officials and Health Departments to get all restaurants back to normal capacity with full and extended hours of operations while maintaining a focus on COVID safe operations.

LAC Civic Awareness Committee Members

- ▶ Jamie Cornell
- ▶ Heide Barthel
- ▶ Joshua Oliver
- ▶ Rick Ash
- ▶ Karen Morgan
- ▶ Marsha Osbourn
- ▶ Nicole Milandri



Lakewood
Colorado

STAFF MEMORANDUM

DATE OF COUNCIL MEETING: MARCH 15, 2021 / AGENDA ITEM NO. 3
APRIL 19, 2021 / AGENDA ITEM 6

To: Mayor and City Council

From: Jay N. Hutchison, Public Works Director, 303-987-7900

Subject: **FUTURE METROPOLITAN DISTRICTS**

This agenda item was continued by Council consensus on March 15, 2021, due to the topic's considerable size.

SUMMARY STATEMENT: City Council has indicated an interest in discussing approaches to responding to future proposals for metropolitan districts. The Development Dialogue Ad Hoc City Council Committee has completed its consideration of the topic. The Committee's recommendations to the City Council are presented below. Additional information is provided that may be helpful during City Council's discussion. The background Staff Memorandum provided to City Council in June 2020 is also attached for reference.

BACKGROUND INFORMATION: Colorado law provides for a variety of types of local government entities, in addition to cities, towns and counties, that are often referred to generally as *special districts*. Metropolitan districts are one type of special district. Metropolitan districts are governmental entities that can be created and must be operated pursuant to Colorado state statute.

Other types of special districts include fire districts (e.g., West Metro Fire Protection District), water districts, sewer districts, water and sewer districts (e.g., Bancroft Clover Water and Sanitation District), business improvement districts (e.g., the West Colfax Business Improvement District), special improvement districts, the Mile High Flood Control District, and the Regional Transportation District. These types of special districts are not discussed below.

Urban renewal is also not a topic of this discussion. This memorandum focuses on metropolitan districts.

Colorado state statutes create an obligation for the City Council during creation of any metropolitan district located at least partially within Lakewood. The City Council's obligation is to evaluate the proposed service plan of a proposed metro district. State law also creates an opportunity for City Council to participate in limited types of future changes of existing districts. This opportunity arises when a service plan is proposed to be materially modified, which obligates the metro district to seek City Council review of the modification.

Policies adopted by the City Council will apply to future proposals for metropolitan districts. The authority of the City to control or influence existing metropolitan districts is limited by state law. Governmental entities, including metro districts, that already exist are less malleable than governmental entities yet to be created. An imperfect, but useful comparison could be made to the authority of the state or the county to impose its will on cities within the county. If a city in Jefferson County becomes a bad player, the County's ability to create and enforce new rules for the existing municipality is limited—the County does not have the direct authority to supplant another duly constituted governmental entity. And, the City Council does not have the authority to supplant a metropolitan district's elected board—a separate governmental entity duly constituted pursuant to state statute. While the goals may be the same for future and existing districts, the ability to achieve those goals will be diminished when approaching existing districts.

UPDATED INFORMATION: The remainder of this memorandum provides new information developed subsequent to the information contained in the June 2020 staff memorandum.

This memorandum focuses primarily on the recommendations from the City Council's Development Dialogue Ad Hoc Committee. The Committee invested three meetings on this topic. All three meetings included public comment. The first meeting included a panel discussion. During the second meeting, the Committee focused on developing potential recommendations for the City Council to consider, which were finalized during the third meeting.

During the Committee's deliberations, it was noted that one option available to the City Council is to prohibit creation of additional metropolitan districts within the City. The Committee chose to proceed with proposing recommendations for application to future metropolitan districts leaving to the full city council further discussion of whether to have a City Council vote on whether to prohibit additional metro districts in Lakewood. See Committee recommendation 9 later in this memorandum.

Background material was provided to City Council and the Committee in the June 2020 staff memorandum (attached). As noted in that memorandum, potential methods to accomplish the Committee's goals and complete legal analysis had not yet been addressed.

This memorandum does address legal and other considerations applicable to the Committee's recommendations to support City Council's upcoming discussion. Generally, the additional information addresses the following questions:

1. What legal difficulties might a recommendation create and how could they be addressed?

The City Attorney has reviewed and contributed to the material below.

2. Should consideration be given to applying a particular recommendation differently depending on whether the proposed district includes residential property or is exclusively non-residential?

The distinction for residential properties recognizes that many residential end-users do not have professional advisors for real estate transactions. Further, many non-residential property owners have a higher commitment to property transaction knowledge and more commonly have professional advisors. This distinction may support a higher standard if residential development will occur.

3. Should consideration be given to applying a particular recommendation differently during the period of time that the proposed district's board is controlled by developer affiliates compared to when the board is controlled by end-users?

There are typically two periods of a metro district board's existence during each of which the board has fundamentally different character. Initially the board consists of individuals affiliated with the developer. This is because of the developer's ownership or control of the property the metro district encompasses. As end-users begin to own property within a metro district, they can be elected to replace developer-affiliated board members through metro district elections at times and using processes defined by state law.

During the initial developer-controlled board period several key decisions are typically made that carry forward into the period when end-users control the board. Perhaps the City's interest in the transparency and authority of the metro district is somewhat different during the initial, developer-controlled board period in comparison to the later, end-user controlled board period.

For purposes of this memorandum, the term "end-user" means an owner or tenant of an owner who will pay metro district property taxes. An entity that constructs infrastructure or homes or commercial structures is generally not an end-user. However, a developer that retains a structure long-term, such as an apartment developer/owner or a retail developer/owner, may also be an end-user.

The term "developer" used herein generally includes the developer(s) and builder(s) of property within a metro district and their affiliates but does not include end-users.

Within the discussions below of some Committee recommendations, recommendation-specific enforcement and remedies are also discussed. In addition, there are more universally applicable existing remedies that would be relevant to multiple recommendations including actions in response to statutory, contractual or service plan violations.

Preliminary indications suggest that the 2021 Colorado General Assembly may consider regulation changes for metropolitan districts. While most of the Committee recommendations can be implemented solely in Lakewood, some may be more effective and more useful to consumers if they are implemented in a broader, statewide context. Staff will monitor General Assembly activity and inform City Council as this process moves forward.

POLICY RECOMMENDATIONS FROM THE DEVELOPMENT DIALOGUE AD HOC CITY COUNCIL COMMITTEE: The Committee's recommendations are in bold font below followed by additional information. Public Works believes all of the Committee's intended

results are achievable, although implementation of the first two recommendations may benefit from somewhat modified forms as discussed below.

- 1. Improve metropolitan district information disclosure to potential end-users including:**
 - a. Require a one-page, standalone disclosure in simple language as part of real estate closings.**
 - b. Include in the disclosure the following:**
 - i. What a metro district is and its ability to control certain costs of the end-users,**
 - ii. How the board is elected,**
 - iii. Initial costs to the end-user of the metro district in dollars, and**
 - iv. What the metro district cost (in dollars) could be in the future.**
 - c. Include disclosure as part of the Multiple Listing Service (MLS).**
 - d. Consider how to enforce the disclosure requirement.**

A model disclosure document could be prepared consistent with 1.b. if the City Council adopts this Committee recommendation. A district-specific disclosure document consistent with the model document would be required with each new metro district proposal.

A more complex challenge is ensuring each potential end-user receives the disclosure. Three possibilities will be discussed below: disclosure (i) as part of real estate closings, (ii) as part of the MLS, and (iii) as part of the County Clerk and Recorder's records. A challenging aspect of disclosure is ensuring disclosure in perpetuity as properties are transferred multiple times through various processes and by varied parties. A staff recommendation is included at the end of the discussion of this Committee recommendation that suggests an implementation approach designed to support the Committee's intent as understood by Public Works.

- i. Real Estate Closing: The real estate community transacts business generally without regard to jurisdictional boundaries within the state of Colorado. A broker in Colorado Springs or Aurora may sell a property in Lakewood that is in a metro district area but not be familiar with the City's unique disclosure requirement.

There are statewide closing requirements imposed by the Colorado Real Estate Commission, which include a notice that special taxing districts, which includes metro districts, may have indebtedness and mill levies and encourages buyers to pursue several avenues to be well informed. However, the Commission's reach extends only to those parties it regulates – brokers, appraisers and mortgage originators. Transactions that do not include any of those parties could occur without the involved parties being aware of the desired disclosure requirement. Because the Commission's documents apply statewide, it does not seem likely that a district-specific or even more general Lakewood-centric disclosure would be required by the Commission.

It seems impractical for the city to monitor inclusion of a disclosure as part of closing documents in perpetuity. However, ensuring the initial end-user's closing includes the disclosure seems manageable.

There may be substantial value in monitoring disclosure with the sale to the initial end-user. An initial buyer may be less likely to be aware of the effect of a metro district because the district is in its infancy. As a metro district matures, its existence and mill levy will become apparent in the certificate of taxes for the property and on the County Assessor's website. Because of the biannual real estate assessment process and the time that may pass as a district is formed, then issues debt, then certifies a future year mill levy that is then added to the County Assessor's website, it is less likely that an early buyer will come across the potential financial effects of a metro district than subsequent buyers of a particular property.

The initial sale to an end-user will likely include either the developer that creates the metro district or builders who contract with the initial developer to construct the initial buildings, residential or not. Proof of disclosure on each initial transaction could be a required part of a metro district's annual report to the city.

- ii. MLS: There are multiple MLS services in the state, all of which are private entities. The potential issues associated with ensuring disclosure within closing documents, as described above, also apply to ensuring the disclosure occurs as part of an MLS.

Potential City liability may also accrue from this approach. The concern revolves around the City inserting itself into the private transfer of property. For example, if the City failed to notice a transfer of property that was not properly associated with a metro district through MLS, has the City defaulted on its responsibility? And, has the City created grounds for a claim that the property wasn't validly transferred?

In addition, data entry into an MLS is typically the responsibility of individual real estate professionals and not a single identifiable entity that could be held responsible for failing to provide a required disclosure. Finally, there is no entity that regulates MLS content other than the individual private MLS organizations.

- iii. County Clerk and Recorder's Records: Recording, in the records of the County Clerk and Recorder, the disclosure against each property within the metro district enhances the potential that a buyer will receive the disclosure in perpetuity including sales from future end-users to subsequent end-users. Disclosure of pre-existing conditions or restrictions is a primary purpose of the property records maintained by the Clerk and Recorder. Most real estate transactions include a title search to determine whether there are any of a variety of pre-existing conditions or limitation or claims against the property being purchased. The title search should reveal to a potential buyer the recorded disclosure document.

Recordation should occur immediately upon final creation of the district. And, to optimize effectiveness, it should be recorded again by lot and block, upon each subsequent subdivision. The City permit to construct a building could be withheld until proof is provided to the City that the disclosure notice has been recorded.

An additional option available to City Council would be to pursue Colorado General Assembly action to require the Colorado Real Estate Commission to obligate brokers, appraisers and mortgage originators to include, statewide, a disclosure statement. Such a statewide disclosure could also be pursued directly with the Colorado Real Estate Commission. Neither approach could be assured and either approach seems likely to require substantial effort over an indeterminate time with unknown potential for success.

The harmed party if disclosure compliance does not occur is the buyer. And the city is not made aware of pending real estate transactions, making it difficult for the City to timely enforce a disclosure violation. Public Works recommends that buyers be provided the opportunity to pursue enforcement and seek remedy directly without city involvement. This approach is also fairer to out-of-district Lakewood taxpayers who are not harmed by a violation yet would likely fund any City action to enforce disclosure violations.

Staff Recommendation regarding the Committee's Recommendation 1:

Public Works recommends that the following occur to improve disclosure to potential end-users of information related to future metropolitan district:

- a. Require a one-page, standalone disclosure in simple language.
- b. Include in the disclosure the following:
 - i. What a metro district is and its ability to control certain costs of the end-users,
 - ii. How the board is elected,
 - iii. Initial costs to the end-user of the metro district in dollars, and
 - iv. What the metro district cost (in dollars) could be in the future.
- c. Require that the disclosure document be recorded against all property within the metro district immediately upon formation of the district and against each parcel upon subdivision of any property within the metro district.
- d. Prior to the City issuing a building permit, require proof that the disclosure was recorded against the lot on which the building will be constructed.
- e. Require that the disclosure be included in all real estate transaction closing documents at least until the metro district's mill levy is included in the closing documents' disclosure of taxes and available on the County assessor's website.
- f. Require the metro district to annually report all real estate transactions that should have included the disclosure and evidence that the appropriate disclosure occurred and to certify compliance with disclosure requirements.
- g. Create authority for buyers to pursue enforcement and seek remedy, without city involvement, if disclosure does not occur as prescribed.

Applicability Regarding Land Use and Board Control: If a disclosure document is required, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

2. **Require transition of metro district boards from developer-affiliate members to 100% end-user members at the earlier of:**
 - a. **A defined time after creation of the district (e.g., within __ years), or**
 - b. **Upon a defined percentage of the district has end-user electors (e.g., __% of the lots have sold to end-users).**

Metro district boards are the governing body of limited local governments. State law explicitly defines who is eligible to be a metro district board member, how board members are elected, and when board elections occur. The provisions of state statutes do not provide a means for the City to control when an election occurs or who can run for a board seat.

Consequently, board elections are not a practical way to implement a requirement that the board be 100% end-users within a certain amount of time or at the point of a defined amount of development.

However, it may be possible to establish obligations of the district and its developer affiliated board members that accomplish the Committee's goal to accelerate transition of a board to end-users. Whether the transition is of 100% of the board members or a majority of the board members to end-users may warrant some consideration. Transition of 100% of the board at a single point in time may burden the new directors with self-educating themselves regarding the board's obligations, authorities and on-going activities.

Retaining on the board the institutional knowledge of a minority number of developer affiliated board members until the next regular election may be beneficial to the end-user, newer board members. One alternative transition requirement could be to a majority rather than 100% end-user board members at a pre-defined date or level of development.

Regardless of whether the Council's choice is to require turn-over of 100% or a majority of the board at a particular time or level of development, the following steps could be utilized:

- a. As a condition of City Council approval of a proposed metro district, all (or a majority of) potential developer-affiliated board members must commit in writing to resigning from the board upon a pre-defined date or level of development.
- b. Upon resignation of any board member, state law requires that the remaining board members select the replacement to serve the remaining partial board term.

- c. As a condition of City Council approval of the proposed metro district, the metro district must commit to using the board member election process as the means for appointing board members to replace developer-affiliated board members who resign.

This process will not guarantee that end-users are selected to fill the partial board term created by resignation of a developer-affiliated board member. However, it would ensure that any end-user eligible to serve on the board pursuant to state law will be made aware of the opportunity to pursue a board seat and be on the ballot.

The Committee's recommendation 3, below, addresses the board member election process including notification to individual voters and use of mail-in ballots.

Establishing the deadline for the board membership transition may be district specific. Perhaps the deadline should be set as part of City Council's service plan review and approval process. Factors that may be relevant to establishing the board transition deadline include the number of potential electors, the projected pace of development, the actual pace of development, and the land-use types in the district. These factors will vary among potential metro districts.

Complying with a board-control transition requirement will be a one-time event. The City could monitor the district's progress toward the trigger independently and through an annual metro district report to City Council (see Committee recommendation 6.c.).

The harmed parties if a developer-affiliated board member does not timely resign are the end-user eligible electors. Public Works recommends that eligible metro district voters be provided the opportunity to pursue enforcement and seek remedy directly without city involvement. This approach is also fairer to out-of-district Lakewood taxpayers who are not harmed by a violation yet would likely fund any City action to enforce resignation and election requirements.

Applicability Regarding Land Use: If a required transition to end-users is adopted, Public Works recommends that it be required if there is any property planned for residential development within the metro district area. Such a requirement seems less necessary if the metro district is exclusively non-residential.

- 3. Require metro district board selection information be effectively provided to end-users including:**
 - a. Send, by U.S. Mail at least 90 days prior to an election or appointment of a board member, notification to all electors of such impending election or appointment and the opportunity to seek a board position, and**
 - b. Use only mail-in board election ballots with each elector receiving a ballot.**

State statute requires only annual publication in a newspaper of metro district election information including for those who are interested in self-nominating for a board seat.

This Committee recommendation would result in an election process similar to elections of a broader nature in Lakewood and Jefferson County (i.e., a mail ballot election) and it would provide direct notification to potential voters of upcoming elections, which should improve voter awareness.

The harmed parties if a district fails to comply with election notification and process requirements are the end-user eligible electors. Public Works recommends that eligible metro district voters be provided the opportunity to pursue enforcement and seek remedy directly without city involvement. This approach is also fairer to out-of-district Lakewood taxpayers who are not harmed by a violation yet would likely fund any City action to enforce election requirements.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

4. Prevent loan interest paid by a metro district from being a profit center for the developer by limiting interest paid to the developer.

Developers provide funds for initial development activities. One way those funds can be recovered is through a reimbursement agreement between the metro district and the developer. Such a reimbursement agreement may occur while the metro district board is developer controlled. To prevent the conflict of interest between the developer and the developer-controlled board entering into a reimbursement agreement that creates a profit center from the interest paid, the following options are suggested:

- a. The maximum interest rate allowed for a reimbursement agreement could be established during approval consideration of the proposed metro district.
- b. The maximum interest rate could be the prime rate.
- c. The interest rate could be required to be established through a market transaction.
- d. A reimbursement agreement could be prohibited, which would require that the developer seek reimbursement from other source(s).

All four options could be retained and considered on a district-specific basis.

The harmed parties if an inappropriate interest rate is paid to a developer are the end-users within the metro district. Public Works recommends that eligible metro district voters be provided the opportunity to pursue enforcement and seek remedy directly without city involvement. This approach is also fairer to out-of-district Lakewood taxpayers who are not harmed by a violation yet would likely fund any City action to enforce interest limitations.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

- 5. Limit metro district debt issued by:**
- a. Establish in the Service Plan the maximum initial debt amount, and**
 - b. Prohibit additional debt until approved by an end-user-controlled metro district board, and**
 - c. Consider whether to prevent a metro district TABOR election until the board is end-user controlled.**

Implementation of 5.a. will require a TABOR election to approve the initial debt and to approve the related tax to retire that debt. However, 5.c. could be modified to only allow, until the board is end-user controlled, the minimum TABOR election scope necessary to implement the initial debt established in the service plan and the tax associated with retirement of such initial debt.

Note that Committee recommendation 10 includes further provisions that would limit metro district debt.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

- 6. Determine how City Council provides oversight of metro districts including:**
- a. Require with the proposed Service Plan:**
 - i. A pro forma for the development delineating the proposed metro district's financial role, and**
 - ii. An explanation of what will be accomplished that would not be accomplished if the metro district is not approved including numerical support.**
 - b. Consider whether the Budget and Audit Board could provide, perhaps with consultant support, an evaluation of the financial components of the proposed Service Plan.**
 - c. Require a periodic report by the metro district board to the City Council.**

Public Works and Finance recommend that the city use a consultant to evaluate the financial aspects of any metro district proposal and pro forma required by the City to support whomever makes a recommendation to City Council. The consultant would provide expertise not available within city staff. The expertise would be infrequently needed and, consequently, not a skillset for city staff to maintain internally.

City Council could consider requiring the proponent of any proposed metro district to pay the costs of the consultant the City selects to evaluate the proposed district's financial aspects.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that 6.a. and 6.b. be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

Recommendation 6.c. could be applicable perpetually to each district that includes residential development or until the district board is end-user controlled. Perhaps periodic reporting could end after full development of districts that include no residential development.

Public Works recommends that reports to City Council be annual for the required duration of a reporting requirement.

7. Require metro districts to obtain City Council approval before utilizing eminent domain.

If this recommendation is adopted, any party whose property is subjected to eminent domain by a metro district could raise a defense that the district does not have such authority. City enforcement is probably not necessary, although use of eminent domain could be enforced by the City using provisions applicable to any violation of the City Council approved service plan.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

8. Prohibit any multi-district structure that could result in one of the districts being perpetually controlled by developer-affiliates and having authority to impose costs on or require revenue from any other district.

Applicability Regarding Land Use and Board Control: If this recommendation is adopted, Public Works recommends that it be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

9. Discuss whether to have a City Council vote on whether to prohibit additional metro districts.

Applicability Regarding Land Use: Additional metropolitan districts could be prohibited in Lakewood. Another option would be to only prohibit additional metro districts that would contain residential land uses.

10. Consider Preliminary Recommendations C.1. through C.10 regarding Financial Considerations included in the June 11, 2020 Staff Memorandum (attached) from Jay N. Hutchison, Director of Public Works.

For convenience, section C of the June memorandum is reproduced below in all italics.

C. Financial Considerations

Metro districts are primarily a financing tool. There are a variety of potential financing needs and options. The following topics and Preliminary Recommendations are intended to protect the district and its end-users while recognizing the complexity and evolutionary nature of the financial markets and while retaining the flexibility for districts to accomplish their varied intended purposes.

Financial Considerations – Service Plan Review

Metropolitan districts' proposed service plans include information that the City is not routinely in the business of reviewing such as the financial plan. Because metro district proposals are not frequent in Lakewood, it is impractical to maintain adequate city staff capability to perform a complete review of service plans.

Preliminary Recommendation C.1.: The City could obtain the services of a consultant to review the cost estimates and financial plan for the district's proposed services, improvements and funding. Cost for these services could be recovered through a fee charged to the district organizer.

The more detailed the City's review of the district's proposed finances, the greater the potential for future end-users to assume that future district financial issues that may arise could have been prevented by the City. If Preliminary Recommendation C.1. is implemented, the resolution approving each district's service plan should include an explicit statement that the City Council relied on the financial consultant that used information provided by the district proponents to perform its review.

A district's financial plan is nonbinding but its financial projections inform the service plan's financial restrictions discussed below, such as a debt mill levy cap. A link between the financial projections and the financial restrictions is reasonable and would support fairness to end-users. Given the inherently imperfect nature of financial projections years into the future and the rigidity of service plan financial restrictions the link between the two should be carefully considered.

Preliminary Recommendation C.2.: The financial plan for a proposed district should be based on estimates of the actual costs of the improvements to be funded and the financial restrictions of the service plan should have a reasonable relationship to the financial projections.

Financial Considerations – Debt

Financial risk associated with land development includes the combination of the predictability of costs and of revenues to cover those costs. A key to fair utilization of metro districts is to avoid shifting those two risks—that costs will exceed projections or that a revenue shortfall will occur—from the developers and financial entities to the metro district and its end-users.

To avoid those two potential risk shifts a fence can be created around the financial obligation of the metro district and its end-users. If the end-users' financial obligation is fenced in by pre-determined limits, then the risks of costs exceeding estimates and revenue being less than estimates remain with the developer and financing entities.

Creating the protective fence requires the following:

- ✓ *A defined scope of improvements for which metro district debt can be used.*
- ✓ *A cap on the debt mill levy that end-users will be responsible to pay for metro district debt in districts that have or will have residential properties.*
- ✓ *A cap on the duration of the debt mill levy for which residential end-users will be obligated.*
- ✓ *A reasonable debt interest rate.*

With these boundaries in place, each residential end-user's financial obligation for retiring debt associated with the costs of developing the end-user's property is fenced. With good information disclosure, as discussed elsewhere in this memorandum, a potential residential end-user will be able to understand the following:

- *How is my cost calculated for paying metro district debt?*
- *How long will I be paying for metro district debt?*

Further, the fencing is effective regardless of whether the board is in the developer-controlled period or the board is controlled by end-users. It is also effective regardless of how much of the debt is for reimbursement of developer advances used to create the neighborhood and how much is for infrastructure that will be built after the district's debt is issued.

This approach also provides flexibility for the metro district to respond to the financial markets at the time debt is issued. Regardless of financial market evolution, financial regulation changes, or other factors, a district and the financial markets can fulfill their obligations knowing that the end-users' role is defined and limited.

Preliminary Recommendation C.3.: *Debt issued by a metro district that does or will include residential property could be limited to a maximum debt mill levy (amount) and maximum debt mill levy term (duration).*

Preliminary Recommendation C.4.: *Metro districts could include a statement in each bond and any other debt-related instruments that explicitly identifies and obligates the bond holder to accept the limitation on the metro district's obligation under the bond.*

Debt can be issued publicly or can be placed privately. In a public market transaction, the competitive market will determine the appropriate interest rate and the acceptability of the structure of the debt. Public market transactions typically result in the debt being purchased by financial professionals and large-scale investors such as financial institutions and institutional investors.

In privately placed transactions, an independent financial advisor's professional review of the structure and interest rate on the debt could provide protection for the end-users that the debt is reasonable based on the district's financial circumstances.

Preliminary Recommendation C.5.: *Prior to a metro district privately placing debt, the district could be required to obtain a certification from an independent financial advisor experienced in such debt that the terms of such debt are reasonable given the district's financial circumstances.*

Financial Considerations – On-Going Expenses

In addition to financing infrastructure, amenities and other improvements in the early stages of development, metro districts can operate and maintain facilities and property that the district may own or control. On-going costs require on-going revenue that can be varied as costs change over time.

Preliminary Recommendation C.6.: *For a metro district that has or will contain residential property, the service plan could pre-define, for the period the board will be developer controlled, estimated operation, maintenance and any other costs not associated with debt. It could also contain an estimate, in current year dollars, of the annualized operation and maintenance cost anticipated after the district is fully built-out.*

By the service plan including estimates of operation and maintenance costs, a potential end-user would have information to make a ballpark estimate of perpetual costs the end-user may experience.

Future end-users may infer from such information that, if financial issues arise with district operation and maintenance costs, the City should have prevented the issue. Perhaps it should be made clear that this is information for potential end-users and was not evaluated by the City.

Financial Considerations – Revenue Sources

State law allows the use of fees, charges, and taxes by metro districts to defray expenses. Some sources of funds are better suited for specific uses than others. Fees may be an appropriate revenue source for on-going maintenance or operations. For instance, a metro district could require a fee for use of a community building or pool, which would be similar to City fees for use of City recreation centers. Because some district end-users may choose not to use such a facility, charging a fee to those who do may be a fair choice by a district board.

However, requiring fees or other payments, other than property tax, from end-users for the purpose of debt retirement or capital costs may circumvent the limitation intended in Preliminary Recommendation C.3.

Preliminary Recommendation C.7.: Metro district boards may choose to assess fees, but such fees should not be used for capital costs or for repayment of debt so as not to circumvent the restrictions in Preliminary Recommendation C.3.

There are grant funds potentially available to metro districts that are also available to the City.

Preliminary Recommendation C.8.: Metro districts could be generally prohibited from applying for or accepting funds for which the City is eligible to apply or receive. However, with the City's agreement, the District may apply for such funds or co-apply with the City.

Financial Considerations – Specific Ownership Tax

Generally, metro districts are thought of as self-taxing entities meaning that those who pay the costs are those who benefit from or are required to provide the district's improvements and services. To a large degree this is true, except for specific ownership tax.

State law mandates how specific ownership tax is collected and distributed. Specific ownership tax is paid with each annual registration of a vehicle. It is remitted from the vehicle sellers to the county. The county distributes the funds according to state law to all property tax collecting entities in proportion to their property tax. Each property tax collecting entity, including metro districts, receives a portion of the specific ownership tax collected from throughout the county.

In Jefferson County approximately \$4.2 million of specific ownership tax is distributed to metro districts each year. If there were no metro districts in Jefferson County, the JeffCo Public Schools would receive approximately \$2 million more each year, Jefferson County about \$1 million more, approximately \$500,000 more would be available to fire districts and nearly \$55,000 more to Lakewood annually.

Preliminary Recommendation C.9.: A state law change could stop the growing distribution of specific ownership tax to metro districts and away from other public entities. It is likely a law change would not affect distribution of specific ownership

tax for pre-existing districts because it could significantly harm such districts' ability to fulfill their service plan obligations.

Preliminary Recommendation C.10.: *An alternative to, or interim step until, a state law change may be a requirement that future metro districts in Lakewood annually remit revenue from specific ownership tax to and in proportion to property tax revenues of entities other than metro districts or remit it all to the City.*

For several of the Preliminary Recommendations above, the harmed parties if a district fails to comply are the end-user eligible electors (see C.3., C.4., C.5. and C.7.). Public Works recommends that, for any of those Preliminary Recommendations that are adopted, eligible metro district voters be provided the opportunity to pursue enforcement and seek remedy directly without city involvement. This approach is also fairer to out-of-district Lakewood taxpayers who are not harmed by a violation yet would likely fund any City action to enforce election requirements.

Applicability Regarding Land Use and Board Control: Public Works recommends that any of these Preliminary Recommendations that are adopted be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users except where the description of the Preliminary Recommendation suggests otherwise (see C.3. and C.6.).

11. Consider Preliminary Recommendations H.1. and H.2. included in the June 11, 2020 Staff Memorandum.

Section H of the June memorandum addressed the topic of City Council authority to review district changes. For convenience, it is reproduced below in all italics. The Committee recommendation is understood to include consideration of only Preliminary Recommendations H.1. and H.2. All of section H has been reproduced below because H.2. includes a reference to H.4.

H. City Council Authority to Review District Changes

Metro districts are required to obtain City Council approval of any material modification to the service plan. However, the City does not have complete discretion to define whether an action is a material modification of a service plan. By state statute, material modifications are defined as follows:

Changes of a basic or essential nature, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area.

Note that the examples in the preceding paragraph are provided only as examples and not as limitations. The material modification definition rests on the phrase “changes of a basic or essential nature.”

Preceding sections of this memorandum include actions by a metro district that could be considered service plan material modifications requiring City Council approval. Because the definition of a material modification under state law is broad, service plans may define whether certain actions constitute a material modification and may contain a non-exclusive list. Those actions which constitute material modifications to the service plan or require City concurrence could include any of the following:

- 1. Changing the scope of improvements or services.*
- 2. Exceeding debt related limitations (e.g., debt mill levy cap and debt mill levy duration).*
- 3. Applying for grants or other funds for which the City is eligible.*
- 4. Changing terms for reimbursement to the developer.*
- 5. Providing services to property outside of the district that would not fit within the listed minimal effects (see Preliminary Recommendation E.3.).*
- 6. Allowing a property owners’ association within a district.*
- 7. Forming special improvement districts where not permitted under the service plan.*
- 8. Changing metro district boundaries that would exclude property from the district.*
- 9. Using eminent domain in a manner requiring City concurrence.*

Additional actions that could be considered material modifications of the service plan include the following:

- 10. Defaulting materially on any financial or contractual obligation.*
- 11. Material shortfall in district revenue from the service plan’s financial projection.*
- 12. Changes included as examples in the statutory language (quoted above).*

This is not intended to be a limiting or comprehensive list of actions that may be material modifications of a service plan under state law. Anything else that would change the basic or essential nature of the service plan of a district would also require City Council review as a material modification of a district’s service plan.

Preliminary Recommendation H.1.: Future service plans should include a non-exhaustive list of actions that may constitute material modifications.

It may be possible in some fact situations that a change of a type included in the above list will not change the “basic and essential nature” of the service plan because it is minor.

Preliminary Recommendation H.2.: A metro district board that believes an action identified pursuant to Preliminary Recommendation H.1. does not rise to the threshold of changing the basic and essential nature of the service plan could be required to provide a written explanation to the City. The City could respond within a pre-defined period (perhaps 45 calendar days) either concurring with the district's position or asserting that and explaining why the action is a material modification requiring City Council approval. If the City does not concur, Preliminary Recommendation H.4. could provide the resolution process.

The provisions of Preliminary Recommendation H.2. should precede a district pursuing the statutory process that allows it to provide notice and proceed if no objection is received to an action the district deems to not be a material modification of its service plan. The remedy for the statutory process is legal action by the City to pursue an injunction for relief. The statutory process would remain available, but H.2. would insert an alternative resolution process (described below) during which the district and City would pursue resolution without court involvement.

The City may identify a district action as a material modification of the service plan without such acknowledgement by the district.

Preliminary Recommendation H.3.: Upon notification from the City of a potential material modification, a metro district board could be required to concur with the City's position or report the district's reasoning that such action is not a major modification of the district's service plan (perhaps within 45 calendar days). Such a report could be in writing and/or by presentation at a public City Council meeting. If the City does not concur, Preliminary Recommendation H.4. could provide the resolution process.

State law does not provide a non-litigation process to resolve potential differences between a metro district board's opinion and the City's opinion whether a particular action is a service plan material modification requiring City Council concurrence.

Preliminary Recommendation H.4.: If a district and the City disagree after the steps suggested in Preliminary Recommendations G.3., H.2. or H.3. the parties could have a reasonable time and process to resolve the question prior to either party filing legal action. This process may be a negotiation period and/or a mediation and prior to any court filing without prejudicing either party's potential court filing.

Applicability Regarding Land Use and Board Control: Public Works recommends that any of the preliminary recommendations in section H that are adopted be required regardless of whether there is residential development planned for the metro district area or not and regardless of whether the district board is controlled by developer affiliates or end-users.

12. Consider Preliminary Recommendations E.2. and E.3 included in the June 11, 2020 Staff Memorandum.

Section E of the June memorandum addressed the breadth of services a district could provide. For convenience, the relevant portion of Section E of the June memorandum is reproduced in all italics below.

E. Breadth of Services Provided by a District

Metro districts can provide facilities that will appear to be available to the general public including individuals who are not district end-users such as sidewalks, paths, trails, open space and parks. Districts can also provide facilities that are intentionally designed for only the anticipated number of district end-users and may be capacity-limited such as recreation centers or pocket park playgrounds embedded in small residential areas.

Preliminary Recommendation E.2.: Generally, trails, paths, sidewalks and some parks owned by a metro district could be required to be open to the general public including non-district City residents. A district could limit access to district end-users or charge a fee to allow non-end-users access to facilities with limited capacity or with operation or maintenance costs that are affected by usage. Identification of which, if any, facilities would not be open to the general public could be established in the district's service plan.

Metro districts can construct or provide improvements outside of their boundaries and such facilities are sometimes necessary to provide services or improvements to serve the property located within the district. As an example, some districts construct transportation improvements adjacent to or near the boundary of the metro district but outside of the district's legal boundaries. Often such improvements are a requirement of the development imposed by the City or other jurisdiction and are provided by a district.

Some circumstances may arise that justify a district providing services outside its boundaries.

Preliminary Recommendation E.3.: Metro district service to properties outside of the district could be permitted in several circumstances that would have minimal material effect on the district such as the following:

- The services or facilities are a necessary part of anticipated future service to an area planned for inclusion in the district; however, such improvements should be either the minimum necessary to facilitate future expansion for service to the inclusion area or should occur after the area is included into the district.*
- The district is reimbursed for the services.*

- *A district board that is end-user controlled deems the services beneficial to the district.*
- *If providing service outside the district is a no cost or low-cost addition to services provided within the district. Such a situation may occur when the district requires a main utility line to serve its properties and an adjacent property would connect to that utility line, at minimal district cost, to serve the adjacent property. This is consistent with most utilities, which provide networks that routinely cross boundaries of multiple developments.*
- *The services or facilities are necessary to fulfill the district's obligations under its service plan.*
- *Upon approval of a service plan modification by the City Council.*

Applicability Regarding Land Use and Board Control: Public Works recommends that any of the preliminary recommendations in section E that are adopted be required regardless of whether there is residential development planned for the metro district area and regardless of whether the district board is controlled by developer affiliates or end-users.

BUDGETARY IMPACTS: Additional resources will be necessary for implementation of some of the Committee's recommendations if adopted. The additional resources could be provided through a fee paid by those proposing new metropolitan districts. City Council consensus is requested on whether to require a fee be paid by metro district proponents to cover additional costs incurred.

STAFF RECOMMENDATION: City Council consensus will be helpful regarding each of the Committee's 12 proposed policies and sub points, including revisions or amendments thereto, and whether to consider a fee.

ALTERNATIVES: City Council could choose to pursue all or some of the Committee's proposals, as-is or amended, or pursue other policy proposals or pursue no policies.

PUBLIC OUTREACH: Public notification was made through the normal processes for all three Development Dialogue Ad Hoc Committee meetings and for this City Council study session.

NEXT STEPS: City staff will draft implementation documents reflecting City Council's consensus received during the study session.

ATTACHMENTS: June 11, 2020 Staff Memorandum

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



STAFF MEMORANDUM

To: Mayor and City Council

From: Jay N. Hutchison, Public Works Director, 303-987-7901

Subject: **FUTURE METROPOLITAN DISTRICTS**

City Council has indicated an interest in discussing approaches to responding to future proposals for metropolitan districts. Based on City Council's discussion during its 2020 planning session, it is anticipated that opportunities for public input on this topic will occur as part of the Development Dialogue process, one or more City Council study sessions, and during a formal City Council meeting if action is taken. The outcome of the City Council's process could result in districts that are more transparent, effective and fair.

BACKGROUND

Metropolitan districts are a creation of state law. Colorado state statutes create an obligation for the City Council during creation of any metropolitan district located at least partially within Lakewood. The City Council's obligation is to evaluate the proposed service plan of a proposed metro district. State law also creates an opportunity for City Council to participate in limited types of future changes for existing districts. This opportunity arises when a service plan is proposed to be materially modified, which obligates the metro district to seek review of the modification by the City Council.

The authority of the City to control or influence existing metropolitan districts is limited by state law. Governmental entities, including metro districts, that already exist are less malleable than governmental entities yet to be created. An imperfect, but useful comparison could be made to the authority of the state or the county to impose its will on cities within the county. If a city in Jefferson County becomes a bad player, the County's ability to create and enforce new rules for the existing municipality is limited—the County does not have the authority to supplant another duly constituted governmental entity. And, the City does not have the authority to supplant a metropolitan district's elected board—a separate governmental entity duly constituted pursuant to state statute.

However, the City Council's goals regarding future metro districts could provide starting points for discussions with existing metro districts. While the goals may be the same for future and existing districts, the ability to achieve those goals will be diminished when approaching existing districts.

The focus of this memorandum is discussion of results the City Council may desire from its involvement in creation of future metropolitan districts (e.g., minimizing the potential that future property owners subject to a district will be surprised by the existence, roles and costs of a metropolitan district).

Accomplishing the goals around which City Council coalesces may require utilization of one or more tools. Rather than focusing this memorandum on the mechanics of how to accomplish City Council's goals, this memorandum focuses on potential results City Council may want to achieve.

The term "end-user" is utilized in the following information. In this context, an end-user is an owner or tenant of an owner who will pay metro district property taxes. An entity that constructs homes or commercial structures is generally not an end-user. However, a developer that retains a structure long-term, such as an apartment developer/owner or a retail developer/owner, may also be an end-user.

The term "developer" used herein generally includes the developer(s) and builder(s) of property within a metro district and their affiliates but not end-users.

MEMORANDUM ORGANIZATION

This remainder of this memorandum is organized as follows:

- Metropolitan districts in general.
- Metropolitan districts in Lakewood.
- Potential policy topics regarding future metropolitan districts in Lakewood.

Most of this memorandum will be focused on the potential policy topics built on the background context from the earlier sections listed above. The potential policy topics are an initial list the City Council may want to consider when evaluating any future metro district proposal. The potential policy topics are organized as follows to facilitate consideration and discussion:

- A. Disclosure to potential end-users
- B. District governance including district board elections
- C. Financial considerations
- D. Developer transactions with districts
- E. Breadth of services provided by a district
- F. Geographical boundaries of districts
- G. Acquisition of property rights and eminent domain use by districts
- H. City Council authority to review district changes
- I. District reporting obligations
- J. Standard consideration schedule and model documents
- K. Potential state law changes

The material below is extensive although not exhaustive.

METROPOLITAN DISTRICTS IN GENERAL

Metropolitan districts are governmental entities that can be created and must be operated pursuant to Colorado state statute. Colorado law provides for a variety of types of local government entities, in addition to cities, towns and counties, that are often referred to generally as *special districts*. Metropolitan districts are a type of special district.

Other types of special districts include fire districts (e.g., West Metro Fire Protection District), water districts, sewer districts, water and sewer districts (e.g., Bancroft Clover Water and Sanitation District), business improvement districts (e.g., the West Colfax Business Improvement District), special improvement districts, the Mile High Flood Control District, and the Regional Transportation District. These types of special districts are not discussed below.

Urban renewal is also not a topic of this discussion. This memorandum focuses on metropolitan districts.

Metropolitan districts or, as they are often referred to, metro districts have geographical boundaries, are governed by an elected board and must comply with several state laws including the following:

- Elections,
- Open meetings,
- Open records,
- TABOR,
- Budget,
- Audit,
- Reporting, and
- Director qualification

Metro districts are required by state law to provide two or more of the following generally described services:

- Fire protection
- Elimination and control of mosquitoes
- Parks or recreational facilities or programs
- Safety protection through traffic and safety controls and devices on streets and highways and at railroad crossings
- Sanitation services
- Street improvement through the construction and installation of curbs, gutters, culverts, and other drainage facilities and sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements
- Establishment and maintenance of television relay and translator facilities
- Transportation
- Water and sanitation services
- Water

- Solid waste disposal facilities or collection and transportation of solid waste

To provide those services, metro districts can purchase services and materials, construct and install improvements, operate and maintain improvements, and condemn property under state law.

As a financing tool, metro districts can provide advantages including:

- Providing early funding that can support community or commercial area amenities early in a development rather than late in the development cycle.
- Allowing residential end-users to qualify for and obtain a reduced home loan amount and monthly payment.
- Creating the opportunity to use tax exempt bonds with access to a national bond investor market, which can reduce cost to those who pay the debt service for the bonds.
- Providing operation and maintenance of district owned facilities and improvements.
- Replacing a homeowners' association or commercial development's common area maintenance fee.
- Supporting infrastructure costs needed for a project.

For creation of a metro district in the City of Lakewood, a metro district service plan must be approved by the City Council, the District Court must approve a petition for organization of any metro district, and an organizing election must be held. The service plan is the guiding document that establishes parameters within which the metro district must operate.

State statute establishes four minimum threshold findings of the City Council without which the City Council cannot approve a service plan. Those threshold requirements are as follows:

- (a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.
- (b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs.
- (c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.
- (d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

While these findings regarding the service plan must be made for City Council to approve a service plan, this is not a definitively limiting list.

Typical metro district service plans generally address the following topics:

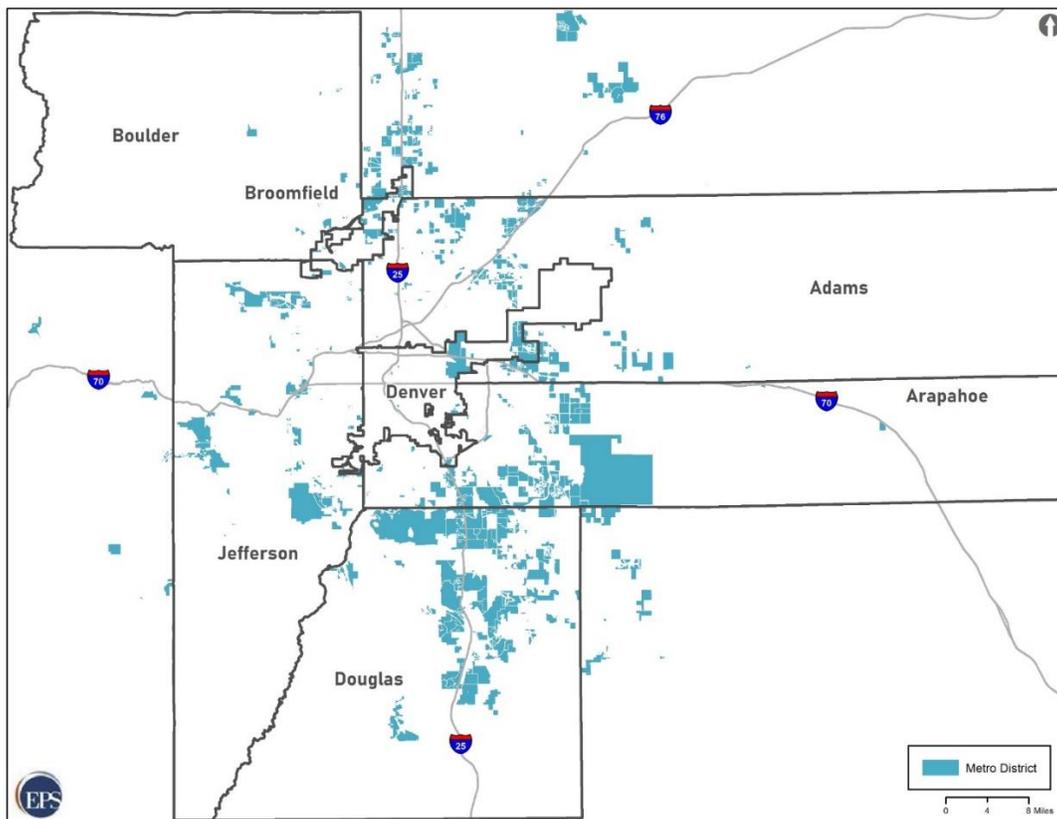
- A. **Geography** – What property is proposed to constitute the metro district and what land, if any, is considered area that may be included in the district at a later time?

- B. **Services** – Which services and what improvements is the metro district intended to provide? Adequate conceptual design is provided to prepare estimates of district costs.
- C. **Finances** – What are the estimated costs of the services and improvements and how will those expenses be funded?
- D. **Agreements** – What agreements is the metro district proposed to have with other entities?

After a metro district is created, state statute provides that the district must obtain City Council approval of any material modifications of the service plan. By statute, this is the only opportunity for the City to be involved in an existing metro district. Service plan material modifications are discussed later in this memorandum.

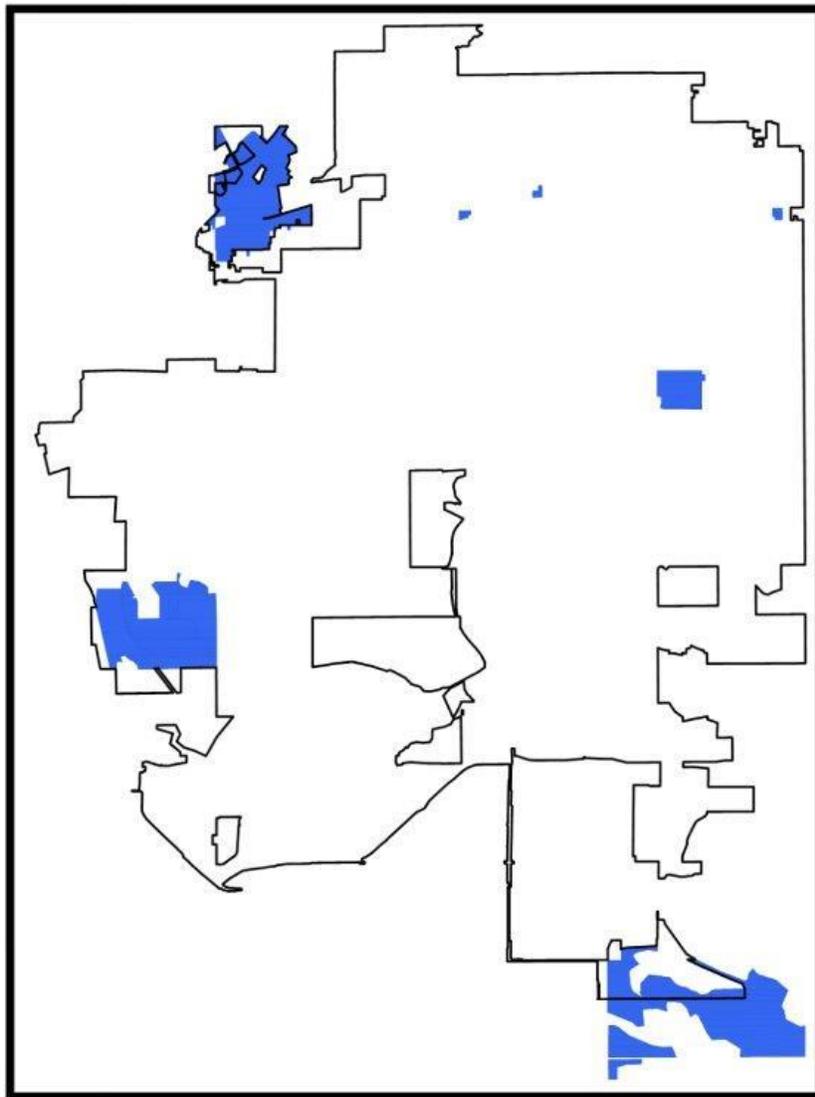
In summary, metropolitan districts are a tool, established by Colorado statute, to provide services or improvements including their financing, operation and maintenance. Metro districts have been created for many types of projects in Colorado and in what is now Lakewood since the 1940s.

The following map, provided by Economic and Planning Systems, illustrates, in blue, the locations of metropolitan districts throughout the Denver metropolitan area:



METROPOLITAN DISTRICTS IN LAKEWOOD

There are seven general geographic locales within Lakewood that have existing metropolitan districts. The following illustration shows metro district areas (in blue) that are at least partially within Lakewood with the City of Lakewood boundary drawn in black.



Some of the seven geographic locales include more than a single metro district. Multiple metro districts may exist in one general locale for a variety of reasons including:

- Different districts may serve different geographic areas within the general locale.
- Different districts may provide different services or facilities.
- Multiple districts may be used as a governance structure.

The number, names and year the metro districts were formed in each locale are as follows:

- Denver West area (shown in the northwestern—upper left—part of Lakewood). This area has four metropolitan districts – Denver West (1984), Lena Gulch (1998), Indiana Valley (2001), Denver West Promenade (2012) – and includes residential and non-residential properties. A portion of this area is in unincorporated Jefferson County. Much of the area was annexed into Lakewood in the 1990s.

- Rooney Valley area (the most western area—farthest left—on the illustration). This area has ten metropolitan districts – Fossil Ridge Metropolitan District No. 1, 2 and 3 (2006), Big Sky Metropolitan District No. 1 through 7 (2015) – and includes residential properties and property planned for residential uses. Most of this area was annexed in the 1970s.

- South Wadsworth area (the farthest south area). This area has two metropolitan districts – Bowles (1986), Section 14 (1987) – and includes residential and non-residential properties. Each of these districts includes properties in Lakewood, unincorporated Jefferson County and Denver. The portion of these districts within Lakewood was annexed in the 1980s.

- Belmar (the nearly square area near the middle of the eastern portion of the City). This area has three metropolitan districts – Plaza Metropolitan District No. 1, 2 and 3 (2000) – and includes residential and non-residential properties.

- Sheridan Station (the smaller area near the eastern City boundary in northern Lakewood). This area is a single metropolitan district – Sheridan Station West (2016) – and includes residential properties and property planned for residential uses.

- Indy-Oak (two separate locales shown as the smaller areas in the central portion of northern Lakewood). These two locales are a single metropolitan district – Indy-Oak TOD (2017) – and include residential properties.

A commonly used metro district financial tool is a property tax mill levy. Each district establishes its own mill levy. The following table identifies the number of Lakewood metro districts within several ranges of property tax mill levies.

Mill Levy	0 Mills	1 – 5 Mills	20 – 29 Mills	30 – 39 Mills	60 – 69 Mills	110 – 120 Mills
Number of Districts	Ten	One	Three	Four	Two	One

Districts may have a mill levy to retire debt, a mill levy for on-going operations and maintenance, or both. The mill levies included in the preceding table are the sum of any mill levy for debt retirement plus any mill levy for operational or maintenance activities.

There are three other metropolitan districts located at least partially in the City of Lakewood. They have been excluded from the above descriptions for specific reasons as follows:

- The Pleasant View Metropolitan District was created in 1948 and provides fire protection, parks and recreation services to a portion of the Denver West area in northwest Lakewood. The majority of the land area in this district is outside of Lakewood.
- The South Sheridan Water, Sanitary Sewer & Storm Drainage Metropolitan District was created in 1965, and only provides water and sewer services. If it were created today, it would likely be a water and sanitation district rather than a metropolitan district. South Sheridan serves approximately 1000 customers and is in the vicinity of Sheridan Boulevard, Harlan Street, Florida Avenue and Mississippi Avenue.
- The Mount Carbon Metropolitan District was created in 1976 in the Rooney Valley. The district filed for bankruptcy in 1997, which reduced district debt for which the landowners were responsible and restricted the district's activities to water and sewer services. If created today for its currently authorized functions, it would likely be a water and sanitation district rather than a metropolitan district.

The Mount Carbon district has, over time, largely been excluded from properties within Lakewood. However, in compliance with state law, properties formerly included in the Mount Carbon district retain their share of the obligation for the reduced, post-bankruptcy debt originally taken on by Mount Carbon when those properties were a part of the metro district.

There are also several metro districts located near but fully outside of Lakewood in unincorporated Jefferson County including the RRC metro district area in the southern portion of the Rooney Valley, The Green Tree metro district around the C-470/Alameda interchange, and the Green Gables metro district near the intersection of Wadsworth Boulevard and Jewell Avenue.

Outcomes of Lakewood Metropolitan Districts

Additional information about the purposes or benefits of existing Lakewood metro districts may be helpful in considering the future of metro districts in Lakewood. Some examples of potential benefits are as follows:

Accomplish Key Community Needs – Metro districts can contribute to developments that help meet key Lakewood community goals or bring something important or new to Lakewood.

Colorado Mills filled an important, long-term need for tax revenue to fund public services at the time the Villa Italia mall was declining rapidly from its role as a major tax revenue generator for the City. The south Wadsworth area has also been a key source of funds necessary to provide City services to the community. Belmar created a downtown and replaced a rapidly failing mall that, for many, was also a community center. The Sheridan Station West and Indy-Oak TOD areas provide new investment in older areas of Lakewood.

Provide Supplemental Facilities, Services or Amenities – Metro Districts can be used to help create unique neighborhoods or features potentially increasing the value of residential or non-residential areas. Belmar is a unique place in Lakewood in part because of the metro district owned, maintained and operated features such as a park, non-standard street lighting, and parking garages. The metro districts provide a higher level of snow removal service in the commercial areas than the City could by providing snow services from building face to building face and in a timely manner. Solterra’s metro districts own, operate and maintain the recreation/community center, landscaping along the major roadways and multiple pocket parks and trail connections. These features support the uniqueness of the Solterra neighborhood within the City.

Address Uncommon Needs – Some development projects require infrastructure improvements on a large scale and metro districts are a tool that can help finance those improvements. The Colorado Mills and Denver West Village developments required major transportation improvements including expansion of Colfax Avenue and Colorado Mills Denver West Boulevard. Solterra required a new underground water storage tank, a water supply pipeline of approximately six and one-half miles, substantial transportation improvements to Alameda Avenue and creation of McIntyre Boulevard. Belmar included demolition of a large, two-story enclosed mall, creation of a grid of public streets with associated utility infrastructure and construction of public parking garages.

Reduced Financing Costs – As a governmental entity, districts have access to tax-exempt bonds to provide funds for improvements necessary for a development. Tax-exempt bonds have a national market that can bring more competitive financing for a metro district. Because end-users ultimately fund all costs of development, the use of competitive market, tax-exempt bonds can provide a financial benefit to end-users of property within a metro district.

End-user Affordability – Metro districts often use property tax as a funding source. Some end-users may benefit by deferring expenses through:

- Lower initial housing cost,
- Lower total cost due to the use of tax-exempt financing, and
- The tax deductibility of property tax payments in contrast to mortgage principal payments or property owners’ association dues.

The trade-off is typically higher property taxes.

Protect City-wide Taxpayers – A metro district need not become a financial burden on the portions of Lakewood that pre-existed creation of the district. Metropolitan districts are responsible for their finances and cannot obligate City-wide taxpayers to provide funding for the district's obligations. In Lakewood, this was experienced with the bankruptcy of the Mount Carbon metropolitan district. None of the Mount Carbon debt became the obligation of the City or of Lakewood property or business owners that did not have property ownership in the former Mount Carbon area. Similarly, if the financial effects of COVID-19 reduce revenues for a metro district, the district will have no recourse to non-district taxpayers as a backstop for its unrealized revenues.

Property Owners' Association Replacement or Complement – A metro district can perform the typical functions of a property owners' association whether it is residential (often referred to as a homeowners' association) or non-residential property (where a common area maintenance [CAM] fee is often used for funding). A metro district, using property tax funding, is in a better position to ensure that it can accomplish its responsibilities and treat all owners fairly because processes exist to ensure property taxes are collected whereas failure to pay property owners' association dues (a typical homeowners' association mechanism) and failure to pay CAM fees can require a more extensive, less certain and more costly collections process.

Other Potential Community Goals – Metro districts could help facilitate community goals such as affordable housing or improved sustainability. While a district may not directly address a particular goal, the desire for a district may offer the opportunity for a developer and the City to collaborate to include development components that help implement other community goals.

The preceding examples of potential community value of metro districts are not intended to imply that the advantages used as examples were fully attributable to metro districts or that they could not have happened without metro districts. Such an analysis is outside of the scope of this memorandum. However, it was determined by the City Council at the time each district was approved that the district had a role to play in accomplishing the goals of the project.

The state law regarding metro districts does not require that a metro district provide any of the added value opportunities in the preceding examples. Some may suggest that there are more items that metro districts can support, while others may suggest this list is too extensive. The purpose here is not to perfectly articulate the exact universe of potential value to the community of approving metro districts. Rather, this portion of this memorandum has been intended to recognize that metro districts are a tool that can provide improvements or services from which the community could benefit and to mention how varied the possibilities are.

Because of the complexity and variety associated with property development and redevelopment, each situation where a metro district is proposed may warrant project-specific, City Council consideration within some universally applicable City Council established boundaries.

Establishing those boundaries would require City Council decisions on multiple policy questions such as those introduced later in this memorandum.

Much of the preceding discussion has focused on existing metropolitan districts. The remainder of this memorandum will focus on considerations that may be of interest to the City Council regarding the formation of any metropolitan districts in the future. As noted in the memorandum introduction, future policies can be directly applied to proposed future districts. Their application to existing metro districts will be constrained by those districts' current existence as governmental entities with their own elected boards and approved service plans.

POTENTIAL POLICY TOPICS REGARDING FUTURE METROPOLITAN DISTRICTS

The Colorado General Assembly has addressed some concerns regarding metro districts through changes to the applicable state law. The law also includes an opportunity for the City Council to tune specific metro district proposals more finely. Some communities have written policies or ordinances or model documents to guide an applicant proposing a metro district. Such documents may articulate a community's goals and reduce community concerns regarding metro districts.

Many concerns with metro districts seem to be driven by desires to:

- More completely and timely inform future and existing end-users regarding the district,
- Provide City Council appropriate information during consideration of the service plan proposed for a new metro district, and
- Define the limitations within which new metro districts will be considered by the City Council.

Accomplishing these desires could help align service plan preparation by a developer with City Council's goals, improve the efficacy of City staff review of proposed service plans, improve information available for City Council decision making, and improve public and end-user understanding of a metro district.

Potential policy topics the City Council could consider can be described in several ways. The following structure is used in the remainder of this memorandum to facilitate discussion:

- A. Disclosure to potential end-users
- B. District governance including district board elections
- C. Financial considerations
- D. Developer transactions with districts
- E. Breadth of services provided by a district
- F. Geographical boundaries of districts
- G. Acquisition of property rights and eminent domain use by districts
- H. City Council authority to review district changes

- I. District reporting obligations
- J. Standard consideration schedule and model documents
- K. Potential state law changes

There are many *Preliminary Recommendations* suggested below for City Council's consideration. There are circumstances—concerns or opportunities—that may be specific to some proposed metro districts and not others. City Council retaining the flexibility to recognize circumstances associated with a particular metro district proposal may be a goal to pursue while addressing the topics discussed below.

Some *Preliminary Recommendations* are discussed below as only applying to proposed districts that include residential properties and some are presented as only applying to the initial period of a metro district during which the district board is developer controlled. Most of the *Preliminary Recommendations* are suggested to apply regardless of these distinctions. The distinction for residential properties is an acknowledgement that many residential end-users do not have professional advisors for real estate transactions and that many non-residential property owners have a higher commitment to property transaction knowledge and more commonly have professional advisors. The separate recognition of the period that the metro district is controlled by the developer is explained in greater detail later in this memorandum.

The *Preliminary Recommendations* included below are preliminary for the following reasons:

- City Council is beginning its discussion of this topic with this memorandum and the topics addressed may be revised by City Council.
- As more information is developed, some *Preliminary Recommendations* may require revision or deletion and other recommendations may arise.
- Given the early stage and breadth of this topic, full research regarding implementation and potential unintended consequences has not occurred for the *Preliminary Recommendations*.

The goal of this memorandum is to support articulation by City Council of its intended results for metro districts. Defining implementation methods best suited to accomplish Council's intended results can occur after City Council's goals are clarified; although, some implementation examples are provided below.

A. **Disclosure to Potential End-users**

Some residential end-users have expressed surprise, after a purchase, of the existence or effects of a metro district that includes the end-user's property. There are several existing obligations that ensure notice to potential end-users of a metro district. Those methods are as follows:

- All Purchase Agreements for Real Estate within a District – This notice, which is required to be in bold-faced type, indicates that taxable property in a district may be subject to general obligation indebtedness of a special taxing district and that owners of such property may be at risk for increased mill levies and tax to support payment of such debt. Purchasers are urged, within the notice, to investigate the district by contacting specifically noted governmental departments and to review tax related information. State law requires that this notice be contained within the property purchase agreement.
- Court Order of Organization of or Inclusion in a District – When a district is formed, the court issues an Order of Organization. The Order of Organization is required, by state law, to be recorded in the county property records. Similarly, if a district's boundaries are expanded by the inclusion of additional property, the court issues an inclusion order that is recorded. Title work for buyers of property within a district should identify the court's Order of Organization or inclusion order, whichever is relevant, to potential buyers.
- Special District Notice – State law requires that a notice disclosing the presence of each special district be recorded in the county property records. The notice must include a map of the district, the district name, the district's scope (e.g., service plan or statement of purpose), notice that the service plan is available from the state, a statement that the district can raise revenue for a variety of purposes by issuing debt, levying taxes, and imposing fees and charges, and a statement that more information is available from the district or state. This notice should be provided to a buyer in the title work for a property.
- Title Insurance Policy – Each title insurance policy for sale of residential property must disclose that the property may be in a special taxing district and how to obtain a certificate of taxes due and the boundaries of special districts.
- Property Tax Statement – After a district has imposed a tax on properties, it will appear on the property tax statement available from the county treasurer along with other property tax entities and rates.

The disclosures noted above are all available prior to a purchase being concluded. While helpful and probably adequate for many buyers, notices in purchase contracts, county records and title work tend to be embedded in substantial documents that some potential end-users may not review thoroughly. Further, purchase agreements and title work are documents that typically become available after a potential end-user has evaluated many other considerations associated with potential purchase of a property.

The City may be able to improve potential end-users' awareness of metro district existence. The overall goal may be to timely provide information such that a prudent or reasonable person could avoid being surprised, after completing a purchase or lease, by obligations attributable to the existence of a metro district.

Preliminary Recommendation A.1.: Sellers, lessors, real estate professionals and sales people of property within a metro district could be required to disclose information about the metro district to potential end-users perhaps as follows:

- A summary about the metro district in plain language.
- Access to more detail including the metro district service plan, services and improvements to be provided, financial parameters that may affect an end-user, governance structure including board members and election rules, geography and the latest annual report.
- Disclosure early enough in the process for it to be a part of considering whether to enter into a transaction.

Preparation of a model disclosure document is discussed later in this memorandum. Another potential step is requiring real estate professionals to support earlier and more complete disclosure.

To enhance the potential of accomplishing this goal, district-specific information could be required to be part of initial inquiry information packets provided by a seller, lessor, real estate professional or sales person and confirmation could be required that receipt of the information by the potential end-user was timely.

Preliminary Recommendation A.2.: Sellers, lessors, real estate professionals and sales people could be required to obtain a signed and dated acknowledgement from the potential end-user indicating receipt of the disclosure discussed above. The acknowledgement could be required to be executed a defined minimum number of days before closing, or perhaps before contract execution, on any transaction that would cause the purchaser or lessee to become a district end-user.

Enforcement of *Preliminary Recommendations A.1.* and *A.2.* is likely to be difficult and perhaps impractical, particularly with sales after the initial developer's sale of a property. For example, a fourth or fifth owner may or may not be aware of requirements such as *A.1.* and *A.2.* and an end-user's recourse may be limited or questionable due to the multiple disclosure aspects of existing state law noted above. As mentioned earlier in this memorandum, these are *Preliminary Recommendations* for several reasons including detailed research into whether City Council's intended results can be achieved.

An additional concern is the legal or political liability that A.1. and A.2. may create. If the City creates these two obligations and they are not carried out, end-users may seek recourse against the City or express dissatisfaction to future City Council's about the City's ineffectiveness. The dissatisfaction may be justifiable because the City may have no ability to monitor or enforce compliance with these recommendations.

An alternative to A.1. and A.2. may be for the City Council to work toward improved metro district disclosure through the state and its regulatory role in real estate sales, which is known to real estate professionals and has enforcement provisions.

Preliminary Recommendation A.3.: City Council could support a change to state real estate transaction requirements to require earlier disclosure of metro district-specific information by sellers, lessors, real estate professionals and developers' sales people involved in a potential transaction and in the documents they often use (e.g., the Multiple Listing Service).

Preliminary Recommendation A.1. and *A.2.* have potential appearance, enforcement and remedy difficulties. If improving disclosure is desired beyond existing disclosure requirements, *Preliminary Recommendation A.3.* may be a more meaningful effort.

B. District Governance Including District Board Elections

Metro districts are governed by an elected board. State law defines eligible electors for metropolitan district elections and, consequently, who is eligible to be a district board member.

There are typically two periods of a metro district board's existence during each of which the board has fundamentally different character. Initially the board consists of individuals affiliated with the developer. This is because of the developer's ownership or control of the property the metro district encompasses. As end-users begin to own property, they can be elected to replace developer-affiliated board members in metro district elections.

During the initial developer-controlled board period several key decisions are typically made that carry forward into the period when end-users control the board. Perhaps the City's interest in the governance of the metro district is somewhat different during the initial, developer-board period in comparison to the later end-user controlled board period.

District Governance – Initial Board Phase Only (Developer Controlled)

During the first phase of a metro district, while the board is controlled by developer interests, the City Council may desire a more direct communication link to the district to increase awareness of district activity. A City representative cannot be a board member

because board members must be persons who own property in the district or are obligated by contract to pay taxes on property in the district.

Preliminary Recommendation B.1.: City Council could appoint a person to attend district board meetings during the time the developer controls the board of any district that has or will have residential property. Of particular importance is ensuring the community and future city councils understand that this is a communication connection between the City Council and the district board and does not create, in itself, any actionable authority or responsibility for the City Council given the district's independent governmental status.

District Governance – Initial and Subsequent Board Phases

There have been indications that some end-user electors may not be aware of their opportunity to vote or to run for board positions in subsequent elections. State law provides that a call for nominations be published annually in a newspaper. A disclosure that is more visible to electors may be helpful.

Preliminary Recommendation B.2.: Concurrent with the state-required annual publication of self-nomination and election information, a district could provide the same information via direct mailing to all electors or on the district's website.

To facilitate end-user participation, metropolitan district board meetings should be held within the district. However, that is not always practical because the district may be vacant land for a time and even when fully developed there may be no suitable facility for district meetings (e.g., in the case of a district of solely single-family homes).

Preliminary Recommendation B.3.: Metro district board meetings could be held within the district for any district that has or will have residential property. When that is not reasonably practical, the meetings could be required to be held within the City of Lakewood. To avoid additional cost to the district, the City could make available space in a City building for the district meetings. This recommendation could apply only to metro districts that have or will have residential uses.

District Governance – Multiple District Structure

A development project may be proposed to have multiple metropolitan districts. Multiple district structures are used for a variety of reasons that generally fall into three categories. First, multiple districts may best serve end-users of a large, long timeframe build-out project. Financing may be most efficient for long timeframe projects if issued incrementally as needed to meet each project phase's infrastructure needs. Each project phase could be a separate district to support phased financing.

Secondly, end-users in a development that has distinctly different needs in different geographic areas may best be served by multiple districts. An example might be a development project that has residential development in one area and non-residential in another. A multiple district approach may be preferable in these types of situations in recognition of different types or amounts of costs for which each district may have responsibility.

A third use of a multiple district structure is for one district to be retained by the developer (sometimes referred to as the control or coordinating district and generally a small geographic area). The other district(s) (sometimes referred to as the financing district(s)) would, while the developer controls the boards of all the districts, contract with the control district for the control district to issue debt, which the financing districts share responsibility to repay; contract for the construction of and then own and operate facilities or improvements; and receive revenues generated from the financing districts.

Preliminary Recommendation B.4.: A control district multiple district structure could be prohibited for metro districts that have or will have residential property.

C. **Financial Considerations**

Metro districts are primarily a financing tool. There are a variety of potential financing needs and options. The following topics and *Preliminary Recommendations* are intended to protect the district and its end-users while recognizing the complexity and evolutionary nature of the financial markets and while retaining the flexibility for districts to accomplish their varied intended purposes.

Financial Considerations – Service Plan Review

Metropolitan districts' proposed service plans include information that the City is not routinely in the business of reviewing such as the financial plan. Because metro district proposals are not frequent in Lakewood, it is impractical to maintain adequate staff capability to perform a complete review of service plans.

Preliminary Recommendation C.1.: The City could obtain the services of a consultant to review the cost estimates and financial plan for the district's proposed services, improvements and funding. Cost for these services could be recovered through a fee charged to the district organizer.

The more detailed the City's review of the district's proposed finances, the greater the potential for future end-users to assume that future district financial issues that may arise could have been prevented by the City. If *Preliminary Recommendation C.1.* is implemented, the resolution approving each district's service plan should include an

explicit statement that the City Council relied on the financial consultant that used information provided by the district proponents to perform its review.

A district's financial plan is nonbinding but its financial projections inform the service plan's financial restrictions discussed below, such as a debt mill levy cap. A link between the financial projections and the financial restrictions is reasonable and would support fairness to end-users. Given the inherently imperfect nature of financial projections years into the future and the rigidity of service plan financial restrictions the link between the two should be carefully considered.

Preliminary Recommendation C.2.: The financial plan for a proposed district should be based on estimates of the actual costs of the improvements to be funded and the financial restrictions of the service plan should have a reasonable relationship to the financial projections.

Financial Considerations – Debt

Financial risk associated with land development includes the combination of the predictability of costs and of revenues to cover those costs. A key to fair utilization of metro districts is to avoid shifting those two risks—that costs will exceed projections or that a revenue shortfall will occur—from the developers and financial entities to the metro district and its end-users.

To avoid those two potential risk shifts a fence can be created around the financial obligation of the metro district and its end-users. If the end-users' financial obligation is fenced in by pre-determined limits, then the risks of costs exceeding estimates and revenue being less than estimates remain with the developer and financing entities.

Creating the protective fence requires the following:

- ✓ A defined scope of improvements for which metro district debt can be used.
- ✓ A cap on the debt mill levy that end-users will be responsible to pay for metro district debt in districts that have or will have residential properties.
- ✓ A cap on the duration of the debt mill levy for which residential end-users will be obligated.
- ✓ A reasonable debt interest rate.

With these boundaries in place, each residential end-user's financial obligation for retiring debt associated with the costs of developing the end-user's property is fenced. With good information disclosure, as discussed elsewhere in this memorandum, a potential residential end-user will be able to understand the following:

- How is my cost calculated for paying metro district debt?
- How long will I be paying for metro district debt?

Further, the fencing is effective regardless of whether the board is in the developer-controlled period or the board is controlled by end-users. It is also effective regardless of how much of the debt is for reimbursement of developer advances used to create the neighborhood and how much is for infrastructure that will be built after the district's debt is issued.

This approach also provides flexibility for the metro district to respond to the financial markets at the time debt is issued. Regardless of financial market evolution, financial regulation changes, or other factors, a district and the financial markets can fulfill their obligations knowing that the end-users' role is defined and limited.

Preliminary Recommendation C.3.: Debt issued by a metro district that does or will include residential property could be limited to a maximum debt mill levy (amount) and maximum debt mill levy term (duration).

Preliminary Recommendation C.4.: Metro districts could include a statement in each bond and any other debt-related instruments that explicitly identifies and obligates the bond holder to accept the limitation on the metro district's obligation under the bond.

Debt can be issued publicly or can be placed privately. In a public market transaction, the competitive market will determine the appropriate interest rate and the acceptability of the structure of the debt. Public market transactions typically result in the debt being purchased by financial professionals and large-scale investors such as financial institutions and institutional investors.

In privately placed transactions, an independent financial advisor's professional review of the structure and interest rate on the debt could provide protection for the end-users that the debt is reasonable based on the district's financial circumstances.

Preliminary Recommendation C.5.: Prior to a metro district privately placing debt, the district could be required to obtain a certification from an independent financial advisor experienced in such debt that the terms of such debt are reasonable given the district's financial circumstances.

Financial Considerations – On-Going Expenses

In addition to financing infrastructure, amenities and other improvements in the early stages of development, metro districts can operate and maintain facilities and property that the district may own or control. On-going costs require on-going revenue that can be varied as costs change over time.

Preliminary Recommendation C.6.: For a metro district that has or will contain residential property, the service plan could pre-define, for the period the board will be developer controlled, estimated operation, maintenance and any other costs not associated with debt. It could also contain an estimate, in current year dollars, of the annualized operation and maintenance cost anticipated after the district is fully built-out.

By the service plan including estimates of operation and maintenance costs, a potential end-user would have information to make a ballpark estimate of perpetual costs the end-user may experience.

Future end-users may infer from such information that, if financial issues arise with district operation and maintenance costs, the City should have prevented the issue. Perhaps it should be made clear that this is information for potential end-users and was not evaluated by the City.

Financial Considerations – Revenue Sources

State law allows the use of fees, charges, and taxes by metro districts to defray expenses. Some sources of funds are better suited for specific uses than others. Fees may be an appropriate revenue source for on-going maintenance or operations. For instance, a metro district could require a fee for use of a community building or pool, which would be similar to City fees for use of City recreation centers. Because some district end-users may choose not to use such a facility, charging a fee to those who do may be a fair choice by a district board.

However, requiring fees or other payments, other than property tax, from end-users for the purpose of debt retirement or capital costs may circumvent the limitation intended in Preliminary Recommendation C.3.

Preliminary Recommendation C.7.: Metro district boards may choose to assess fees, but such fees should not be used for capital costs or for repayment of debt so as not to circumvent the restrictions in Preliminary Recommendation C.3.

There are grant funds potentially available to metro districts that are also available to the City.

Preliminary Recommendation C.8.: Metro districts could be generally prohibited from applying for or accepting funds for which the City is eligible to apply or receive. However, with the City's agreement, the District may apply for such funds or co-apply with the City.

Financial Considerations – Specific Ownership Tax

Generally, metro districts are thought of as self-taxing entities meaning that those who pay the costs are those who benefit from or are required to provide the district's

improvements and services. To a large degree this is true, except for specific ownership tax.

State law mandates how specific ownership tax is collected and distributed. Specific ownership tax is paid with each annual registration of a vehicle. It is remitted from the vehicle sellers to the county. The county distributes the funds according to state law to all property tax collecting entities in proportion to their property tax. Each property tax collecting entity, including metro districts, receives a portion of the specific ownership tax collected from throughout the county.

In Jefferson County approximately \$4.2 million of specific ownership tax is distributed to metro districts each year. If there were no metro districts in Jefferson County, the JeffCo Public Schools would receive approximately \$2 million more each year, Jefferson County about \$1 million more, approximately \$500,000 more would be available to fire districts and nearly \$55,000 more to Lakewood annually.

Preliminary Recommendation C.9.: A state law change could stop the growing distribution of specific ownership tax to metro districts and away from other public entities. It is likely a law change would not affect distribution of specific ownership tax for pre-existing districts because it could significantly harm such districts' ability to fulfill their service plan obligations.

Preliminary Recommendation C.10.: An alternative to, or interim step until, a state law change may be a requirement that future metro districts in Lakewood annually remit revenue from specific ownership tax to and in proportion to property tax revenues of entities other than metro districts or remit it all to the City.

D. Developer Transactions with Districts

Given the inherent conflicts of interest for metro district board members who are affiliated with the developer, limitations on transactions between the developer and metro district are reasonable.

Initial expenses necessary for land development are paid by the developer. Ultimately, the end-users pay these costs either through the metro district or through purchase of developed properties. As financial capacity of a district is created by a district's development, initial costs may be reimbursed by the metro district to the developer. The decision to reimburse developer advances usually occurs while the metro district board is controlled by the developer.

Preliminary Recommendation D.1.: A metro district's reimbursement agreement with the developer could be defined in the service plan and could establish the reimbursement amount, other terms and accounting requirements. Such an agreement

could include reimbursement of actual not-yet-incurred expenses based on parameters defined by the agreement.

Portions of the real property within most development proposals are necessary for public facilities such as roadways that will be owned by a public entity. Providing land for public facilities, at no cost to the public, is a normal development requirement. Land within the metro district boundaries is typically owned or controlled by the same interests as those proposing creation of a metro district.

A purchase of real property from the developer by a metro district while the district board is developer controlled creates a direct conflict of interest that is unnecessary.

Preliminary Recommendation D.2.: The developer could be required to donate, at no cost to the district, all real property rights that are owned by the developer or its affiliates and are needed for public purposes.

Transactions between a developer and a metro district are less likely to occur later in the life of a metro district. However, in some districts, such an arrangement could be beneficial for maintenance or operation of district facilities or for creation of district facilities or public improvements. A metro district board that is controlled by end-users could find such a transaction beneficial to end-users.

Preliminary Recommendation D.3.: A metro district could, during the time the board is end-user controlled, be free to transact business with the developer.

E. **Breadth of Services Provided by a District**

Metro districts are required by state law to provide at least two of the services noted earlier in this memorandum. Some metro district proposals have included authorization for all the services in that list regardless of whether such services are explicitly intended by the service plan.

Preliminary Recommendation E.1.: The types of services and facilities authorized for metro districts could be limited to those explicitly necessary to fulfill the service plan.

Metro districts can provide facilities that will appear to be available to the general public including individuals who are not district end-users such as sidewalks, paths, trails, open space and parks. Districts can also provide facilities that are intentionally designed for only the anticipated number of district end-users and may be capacity-limited such as recreation centers or pocket park playgrounds embedded in small residential areas.

Preliminary Recommendation E.2.: Generally, trails, paths, sidewalks and some parks owned by a metro district could be required to be open to the general public including non-district City residents. A district could limit access to district end-users or charge a fee to allow non-end-users access to facilities with limited capacity or with operation or maintenance costs that are affected by usage. Identification of which, if any, facilities would not be open to the general public could be established in the district's service plan.

Metro districts can construct or provide improvements outside of their boundaries and such facilities are sometimes necessary to provide services or improvements to serve the property located within the district. As an example, some districts construct transportation improvements adjacent to or near the boundary of the metro district but outside of the district's legal boundaries. Often such improvements are a requirement of the development imposed by the City or other jurisdiction and are provided by a district.

Some circumstances may arise that justify a district providing services outside its boundaries.

Preliminary Recommendation E.3.: Metro district service to properties outside of the district could be permitted in several circumstances that would have minimal material effect on the district such as the following:

- The services or facilities are a necessary part of anticipated future service to an area planned for inclusion in the district; however, such improvements should be either the minimum necessary to facilitate future expansion for service to the inclusion area or should occur after the area is included into the district.
- The district is reimbursed for the services.
- A district board that is end-user controlled deems the services beneficial to the district.
- If providing service outside the district is a no cost or low-cost addition to services provided within the district. Such a situation may occur when the district requires a main utility line to serve its properties and an adjacent property would connect to that utility line, at minimal district cost, to serve the adjacent property. This is consistent with most utilities, which provide networks that routinely cross boundaries of multiple developments.
- The services or facilities are necessary to fulfill the district's obligations under its service plan.
- Upon approval of a service plan modification by the City Council.

A metro district can overlap with or replace the need for a property owners' association (POA), often referred to in a residential area as a Homeowners' Association. (HOA).

Such an association can have a variety of purposes including, but not limited to one or more of the following: managing and operating community facilities, maintaining community property, providing community communication, enforcing covenants and providing design review. Metro districts can perform these services also and have some distinctions compared to POAs such as the following:

- Metro districts have a state law defined process for electing board members. POAs do not.
- Metro district boards are subject to several transparency and fairness requirements by state law, which are listed earlier in this memorandum. POAs are not.
- City Council has an explicit role in creation of metro districts but not in POAs.
- Property tax, available to metro districts and not to POAs, is a more reliable source of revenue than dues or fees resulting in a higher confidence that the community organization's obligations can be fulfilled.
- Property tax has a reliable, fair, well-defined collection process that is managed by the county treasurer. Collection of POA dues and fees is subject to court processes, which means more of the amount owed is lost to administrative and legal expenses.
- POAs typically must file annual informational tax returns, an expense obligation not applicable to metro district end-users.

It may be less confusing and be more efficient for end-users to have either a metro district expense or a POA expense rather than both.

There is the possibility that a metro district and POA should overlap. For example, a small townhome neighborhood within a larger metro district that is otherwise detached single-family homes may warrant a POA for the townhomes. Townhomes, by definition, have community responsibilities, such as maintaining commonly held real estate, that may not exist in the detached single-family areas.

Preliminary Recommendation E.4.: Property owners' associations could generally be prohibited in a metro district that has or will have residential properties. However, also having a POA may be appropriate if circumstances are shown to specifically warrant both.

Metro districts may create special improvement districts. Special improvement districts can generally be thought of as a geographic area within which the property owners pay a special assessment for defined improvements that benefit those properties whose owners pay the assessment. As an example, the City of Lakewood used special improvement districts in the past to pave gravel streets with the owners of adjacent properties paying a

portion of the cost. No metro districts in Lakewood have created special improvement districts.

Preliminary Recommendation E.5.: Creation of a special improvement district by a metro district could be considered a material modification of a service plan requiring City Council approval unless creation of such special improvement district is included in the original service plan.

F. **Geographical Boundaries of Districts**

Most metro districts serve a single geographic area when public street rights-of-way are ignored. It is possible that two or more geographically separated areas within a single metro district may, over time, have disparate interests.

Preliminary Recommendation F.1.: A metro district could be limited to a single, contiguous geographic area unless, through the service plan approval process, long-term interests of multiple areas proposed for a district can be shown to coincide. The single, contiguous area could be composed of the initial district boundaries plus future inclusion areas.

Initial financial modeling confirms that a metro district area is anticipated to successfully support certain improvements or services. If properties are later excluded from the district the remaining property may or may not be able to support those costs. If an exclusion occurs after legal commitments are made by the district to provide, operate or maintain improvements or services, the area that remains within the district may become financially overburdened.

Preliminary Recommendation F.2.: Any exclusions of property from a metro district could require City Council approval.

G. **Acquisition of Property Rights and Eminent Domain Use by Districts**

Eminent domain, also known as condemnation, is a tool available to various governmental entities that allows such an entity to acquire a property or a portion of a property for a public purpose but only in exchange for payment of fair market value. A key feature of eminent domain authority is that the governmental entity can, through a prescribed process and with court approval, compel the sale of the property rights needed for the public purpose. The City of Lakewood has eminent domain authority but relies first on reasonable, arms-length negotiations to seek an agreement satisfactory to all parties. The courts are the final backstop to prevent misuse of eminent domain.

Unless otherwise limited by applicable service plan provisions, metro districts may utilize eminent domain for acquisition of property rights under the same state laws.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act was created to protect the rights of property owners through an eminent domain acquisition process. The Act is designed for federally funded projects and may, given the difference in scale, require some adjustments for metro district application.

Preliminary Recommendation G.1.: Metro districts could be required to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act for their acquisitions possibly with some modification including an exception for minimal value acquisitions.

It is conceivable that property rights near but outside of a metro district could be needed to provide necessary public improvements such as a road at the perimeter of the metro district or a utility line connection from outside of the district. State law includes limitations on the use of eminent domain by metro districts. It does permit eminent domain within or without district boundaries, if the condemnation is for an authorized purpose.

Preliminary Recommendation G.2.: The potential need for metro district use of eminent domain to acquire real property rights for necessary public improvements could be identified in its service plan and be limited to that necessary to accomplish the improvement obligations of the district as identified in the service plan, in addition to conforming with state law limitations.

Preliminary Recommendation G.3.: Any other use of eminent domain proposed by a metro district could require notice from the district to the City Council and, within a set time period (perhaps 45 calendar days), City Council could have an opportunity to object. If the City does not object within the prescribed time, the district could go forward with the condemnation. If the City does object a process to reconcile the parties, perhaps as described in H.4. below, could occur.

H. **City Council Authority to Review District Changes**

Metro districts are required to obtain City Council approval of any material modification to the service plan. However, the City does not have complete discretion to define whether an action is a material modification of a service plan. By state statute, material modifications are defined as follows:

Changes of a basic or essential nature, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the

existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area.

Note that the examples in the preceding paragraph are provided only as examples and not as limitations. The material modification definition rests on the phrase “changes of a basic or essential nature.”

Preceding sections of this memorandum include actions by a metro district that could be considered service plan material modifications requiring City Council approval. Because the definition of a material modification under state law is broad, service plans may define whether certain actions constitute a material modification and may contain a non-exclusive list. Those actions which constitute material modifications to the service plan or require City concurrence could include any of the following:

1. Changing the scope of improvements or services.
2. Exceeding debt related limitations (e.g., debt mill levy cap and debt mill levy duration).
3. Applying for grants or other funds for which the City is eligible.
4. Changing terms for reimbursement to the developer.
5. Providing services to property outside of the district that would not fit within the listed minimal effects (see *Preliminary Recommendation E.3.*).
6. Allowing a property owners’ association within a district.
7. Forming special improvement districts where not permitted under the service plan.
8. Changing metro district boundaries that would exclude property from the district.
9. Using eminent domain in a manner requiring City concurrence.

Additional actions that could be considered material modifications of the service plan include the following:

10. Defaulting materially on any financial or contractual obligation.
11. Material shortfall in district revenue from the service plan’s financial projection.
12. Changes included as examples in the statutory language (quoted above).

This is not intended to be a limiting or comprehensive list of actions that may be material modifications of a service plan under state law. Anything else that would change the basic or essential nature of the service plan of a district would also require City Council review as a material modification of a district’s service plan.

Preliminary Recommendation H.1.: Future service plans should include a non-exhaustive list of actions that may constitute material modifications.

It may be possible in some fact situations that a change of a type included in the above list will not change the “basic and essential nature” of the service plan because it is minor.

Preliminary Recommendation H.2.: A metro district board that believes an action identified pursuant to *Preliminary Recommendation H.1.* does not rise to the threshold of changing the basic and essential nature of the service plan could be required to provide a written explanation to the City. The City could respond within a pre-defined period (perhaps 45 calendar days) either concurring with the district’s position or asserting that and explaining why the action is a material modification requiring City Council approval. If the City does not concur, *Preliminary Recommendation H.4.* could provide the resolution process.

The provisions of *Preliminary Recommendation H.2.* should precede a district pursuing the statutory process that allows it to provide notice and proceed if no objection is received to an action the district deems to not be a material modification of its service plan. The remedy for the statutory process is legal action by the City to pursue an injunction for relief. The statutory process would remain available, but *H.2.* would insert an alternative resolution process (described below) during which the district and City would pursue resolution without court involvement.

The City may identify a district action as a material modification of the service plan without such acknowledgement by the district.

Preliminary Recommendation H.3.: Upon notification from the City of a potential material modification, a metro district board could be required to concur with the City’s position or report the district’s reasoning that such action is not a major modification of the district’s service plan (perhaps within 45 calendar days). Such a report could be in writing and/or by presentation at a public City Council meeting. If the City does not concur, *Preliminary Recommendation H.4.* could provide the resolution process.

State law does not provide a non-litigation process to resolve potential differences between a metro district board’s opinion and the City’s opinion whether a particular action is a service plan material modification requiring City Council concurrence.

Preliminary Recommendation H.4.: If a district and the City disagree after the steps suggested in *Preliminary Recommendations G.3., H.2.* or *H.3.* the parties could have a reasonable time and process to resolve the question prior to either party filing legal action. This process may be a negotiation period and/or a mediation and prior to any court filing without prejudicing either party’s potential court filing.

I. **District Reporting Obligations**

Annual reporting is a typical business function of metro districts. The Colorado Department of Local Affairs (DOLA) requires certain information be reported each year and makes that information publicly available via <https://dola.colorado.gov/lgis/>. The City has typically required metro districts to provide annual reports.

Preliminary Recommendation I.1.: Annual reports from metro districts could provide summary information in plain language (including financial obligation calculation examples) and either provide or provide access to additional specifics. Topics included in a typical metro district annual report may vary depending on the district's obligations for providing improvements and services, the district's on-going operational and maintenance responsibilities, and the financial aspects of each district's authorizations including sources and uses of funds.

Preliminary Recommendation I.2.: Metro districts could routinely notify end-users of the availability of a district's annual report and how to access it.

For districts that have or will include residential properties and during the period that the district board is developer controlled, a more public presentation of annual district information may be helpful.

Preliminary Recommendation I.3.: Until end-users control the board of a metro district that has or will have residential properties, the board could present a summary of each annual report to the City Council during a public City Council meeting. It must be clear that the presentation is information for the community and that City Council has no actionable authority regarding the information presented.

Preliminary Recommendation I.4.: When the board of a district that has or will have residential properties is end-user controlled, the board could notify the City Council of its availability to present a summary of its annual report to City Council if requested by City Council; however, future City Councils should be reminded that any costs of such presentation will be borne by end-users and that the City Council's purview is quite limited by state law. It must be clear that the presentation is information for the community and that City Council has no actionable authority regarding the information presented.

Annual reporting, whether only written or including a presentation to City Council, may carry with it potential legal or political liability. While the reporting could be quite

comprehensive regarding the district's progress, upcoming actions and condition, the City has a very narrow role regarding districts as described elsewhere in this memorandum.

It is possible that district reporting may reveal information about which end-users infer the City should act on and, given the City's limited role with district governments, may cause dissatisfied end-users to seek recourse against the City or express dissatisfaction to future City Council's about the City's ineffectiveness.

- J. **Standard Consideration Schedule and Model Documents** – Establishing reasonable expectations typically allows all parties to work more efficiently and collaboratively to a successful conclusion of any interaction. For metro districts proposed in the City of Lakewood, expectations of all parties—public, City Council, applicant, staff—can be clarified to improve the process for all.

State law very specifically limits the dates on which elections to form metro districts can be held. City Council has, at times, been in the position of either approving a service plan for a proposed district at the first City Council meeting during which the service plan is considered or the district formation election would be delayed by up to a year.

A clearly established schedule for service plan submittal, staff review and City Council consideration of a proposed metro district's service plan would benefit all parties.

Preliminary Recommendation J.1.: A standard schedule could require that a proposed service plan be ready for City Council consideration early enough that City Council could continue its decision on the proposed service plan until its next regular meeting without causing the potential district to miss an election deadline. A schedule for earlier steps would be built back from the required initial City Council meeting for consideration of the service plan.

Other model metropolitan district documents and guidance for annual report contents have been discussed earlier in this memorandum.

Preliminary Recommendation J.2.: A model disclosure document for prospective end-users could be prepared that would define required content, ensure appropriate dissemination and ensure a means to formally confirm receipt of the disclosure by prospective end-users.

Preliminary Recommendation J.3.: A model service plan could be prepared to guide future metro district proposals.

Preliminary Recommendation J.4.: Guidance regarding annual report content could be prepared and incorporated as a requirement of service plans.

K. **Potential State Law Changes** – This memorandum focuses primarily on actions the City Council could consider implementing. There are potential state law changes that were mentioned earlier in this memorandum and are summarized as follows:

Real Estate Professionals – An obligation for real estate professionals, developers’ sales people and their documents to disclose early in a potential sale or lease, perhaps prior to contract execution, information comparable to the metro district disclosure information City Council finds appropriate.

Specific Ownership Tax – Remove future metro districts from the entities qualified for a share of Specific Ownership Tax or provide the flexibility for an entity approving a future metro district, such as the City of Lakewood, to remove the metro district from the list of entities qualified for a share of Specific Ownership Tax. It is likely a law change would not affect distribution of specific ownership tax for pre-existing districts because it could significantly harm such districts’ ability to fulfill their service plan obligations.

SUMMARY

Adoption by City Council of policies establishing minimum requirements and providing guidance for metro district proposals could:

- Optimize fairness for all parties including future end-users,
- Improve timeliness and content of information for City Council, potential end-users and developers,
- Reduce the potential that end-users will receive post-purchase/lease surprises, and
- Help clarify what actions require a metro district to return to the City Council for authorization.

Well-crafted policies can also retain, for the City Council, reasonable flexibility to determine the appropriateness of a new metro district being created in any of a broad range of potential future circumstances.

The *Preliminary Recommendations* included in this memorandum are intended to facilitate City Council discussion of future metropolitan districts within the City of Lakewood. Given the breadth of potential topics and the early stage of City Council’s discussion, the *Preliminary Recommendations* herein are intended to support City Council’s determination of its goals for future metro districts. Adjustments may be required based on legal issues or subsequently identified unintended consequences.

Future Metropolitan Districts

Development Dialogue
Ad Hoc City Council Committee's
Recommendations

March 15, 2021
City Council Study Session

City Process

- ❑ **Public Comments during past City Council meetings**
- ❑ **Background and preliminary recommendations memorandum – June 2020**
- ❑ **Development Dialogue Ad Hoc City Council Committee**
 - ❑ **July 2020**
 - ❑ **September 2020**
 - ❑ **December 2020**
- ❑ **This Study Session**
- ❑ **Future formal City Council action**

1. Disclosure to Potential End-users

(Staff Memo Page 4)

Development Dialogue Committee

- One page, stand alone
- Part of Real Estate Closing
- Part of the Multiple Listing Service
- Consider enforcement

Staff Recommendations

- One page, stand alone
- Record in the county's property records
- For each lot, require proof of recorded disclosure prior to issuing initial building permit
- Part of Real Estate Closing through 1st end-user and mill levy appearing on County website
- Report compliance annually
- Create the opportunity for buyers to pursue remedy

2. Board Transition to End-users

(Staff Memo Page 7)

Development Dialogue Committee

- Defined time, or
- Defined percentage of development

Staff Recommendations

- Require board member resignations
- Require election to replace resignees
- Report compliance status annually
- Create the opportunity for eligible electors to pursue remedy

Staff Questions

- 100% or majority resign?
- Resignation upon a defined date or development percentage? Perhaps determine at time of district creation?
- Perhaps not applicable to non-residential metro district?

3. Provide Board Member Selection Information to End-users

(Staff Memo Page 9)

- Notify all electors
 - By U.S. Mail
 - At least 90 days prior
 - Of opportunity to seek board position
- Elections only by mail-in ballots, each elector receive a ballot

Additional Staff Recommendation

- Create the opportunity for eligible electors to pursue remedy

4. Prevent Loan Interest from Being a Developer Profit Center

(Staff Memo Page 9)

Staff Recommendations

- Choose one of the following options at the time of district creation
 - Establish interest rate during Council approval of the district
 - Only allow prime rate
 - Require that a competitive market transaction set the rate
 - Prohibit developer reimbursement from the district
- Create the opportunity for end-users to pursue remedy

5. Limit Metro District Debt

(Staff Memo Page 10)

- Use Service Plan to establish maximum initial debt amount
- Prohibit additional debt until board is end-user controlled
- Consider preventing TABOR election until board is end-user controlled

Note: A limited scope TABOR election is necessary for implementation of the approved initial debt and its repayment

6. City Council Oversight

(Staff Memo Page 10)

- Require with proposed Service Plan
 - Pro forma of District's financial role
 - Explanation of what would not be accomplished without metro district, include numerical support
- Consider Budget & Audit Board evaluation of Service Plan financials (perhaps with consultant support)
- Require periodic report to City Council

Additional Staff Recommendations

- City hire a consultant, applicant pay consultant costs
- Consider requiring reporting annually
- Require reporting until board is end-user controlled if residential and full development if no residential

7. Require City Council approval before eminent domain use (Staff Memo Page 11)

8. Prohibit Multi-district Structure under which
Developer-affiliates Perpetually Control District
Revenue Requirements
(Staff Memo Page 12)

9. Discuss Whether to have a City Council Vote on Whether to Prohibit Additional Metro Districts (Staff Memo Page 12)

Potential Option: Prohibit additional metro districts that would contain residential development. Allow consideration of non-residential metro districts.

10. Consider Prelim Financial Recommendations C.1. Through C.10

(Staff Memo Page 12)

- C.1. Financial plan review (city's consultant costs paid by developer)
- C.2. Base district financial plan and its limits on estimated costs of improvements
- C.3. Residential district – Establish maximum debt mill levy and duration
- C.4. District bonds – In debt documents, explicitly limit district's obligation
- C.5. Private debt – Independent certification that terms are reasonable

10. Consider Prelim Financial Recommendations C.1. Through C.10 (Continued)

- C.6. Residential district – Service Plan include estimated operation & maintenance costs
- C.7. No fees used for debt payments
- C.8. No district pursuit of funding otherwise available to the City unless City agrees
- C.9. Specific ownership tax – pursue state law change regarding its distribution to metro districts
- C.10. Specific ownership tax – require remittance to non-metro district tax recipients

11. Consider Authority to Review Changes Prelim Recommendations H.1. and H.2.

(Staff Memo Page 17)

- H.1. Non-exhaustive list in Service Plan of actions that may be material modifications
- H.2. If district believes scope of a specific action on the list is not a material modification:
 - District explains
 - City responds
- H.4. If no concurrence, negotiate before court action

Additional Staff Recommendation

- Insert negotiation process before court action if the City believes a specific district action not on the list is a material modification (H.3.)

12. Consider Breadth of Service

Prelim Recommendations E.2. & E.3.

(Staff Memo Page 19)

- E.2. Assign each district-owned facility to one of the following categories:**
 - Available for general public use
 - Only available to district end-users (could charge a fee to others)
- E.3. Allow services outside of district in limited circumstances**
 - Only if effect on district end-users is minimal
 - See bullets on staff memo pages 20 – 21 for examples

Next Steps

- Public Input Tonight**
- Formal City Council action at a future meeting**