

AGENDA
LAKEWOOD CITY COUNCIL
STUDY SESSION
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
MAY 2, 2022
7:00 P.M.

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

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

or

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

How to Connect to provide Public Comment:

By Computer: <https://lakewood.zoom.us/j/82062813086>

By iPad, iPhone, or Android device on the Zoom App, enter webinar ID: **820 6281 3086**

By Telephone: **720-707-2699**

Webinar ID: **820 6281 3086, #**

Participant ID: **#**

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ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PRESENTATION – ARTICLE 13 SUSTAINABLE DEVELOPMENT STANDARDS UPDATE

PUBLIC INPUT

ITEM 4 – DISCUSSION – ENTERTAINMENT DISTRICTS APPLICATION

PUBLIC INPUT

ITEM 5 – REPORTS

ITEM 6 – ADJOURNMENT

STAFF MEMO

DATE OF COUNCIL MEETING: MAY 2, 2022 / AGENDA ITEM NO. 3

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: **AMENDMENTS TO TITLE, 17, ARTICLE 13 OF THE LAKEWOOD ZONING ORDINANCE
– SUSTAINABLE DEVELOPMENT STANDARDS**

SUMMARY STATEMENT:

The purpose of the May 2, 2022, study session is to discuss proposed updates to the city's sustainable development standards currently found in Article 13 of the Lakewood Zoning Ordinance. The proposed amendments (see Attachment B) build upon the existing sustainable design standards previously adopted in 2019 by the Lakewood Planning Commission and City Council and were developed with representatives from internal departments, technical experts, and members of the community. On January 5, 2022, the Planning Commission unanimously voted to recommend approval of the proposed amendments, with certain changes.

During the study session, staff will provide a presentation detailing the proposed amendments and will be available to answer Council's questions. No formal action or vote is required; the intent of the meeting is to review and discuss the proposed amendments before introducing an ordinance to adopt the amendments in June.

BACKGROUND INFORMATION:

Title 17, Article 13, the Enhanced Development Menu (EDM), was adopted as part of the Lakewood Zoning Ordinance in May 2019 as a tool to help ensure that new development supports Lakewood's Comprehensive Plan and Sustainability Plan goals. The EDM also provides a mechanism to test emerging sustainable technologies, design, and building methods that may be included in future development and building code updates.

At the time the EDM was adopted, staff committed to provide regular updates to the Planning Commission and City Council on the effectiveness of the EDM and to evaluate opportunities for refinement. Staff presented an update on Article 13 along with preliminary ideas for amendments to the Planning Commission in March 2021. This presentation also included discussion of the Lakewood Advisory Commission's recommendation to City Council in February 2021 regarding a Renewable Energy Mitigation Program (REMP).

Over the last year, staff have reviewed best practices in sustainable development, and collaborated with other city staff and community representatives to develop the specific standards and language. The result is a proposed holistic sustainable development program incorporating updates to the EDM, a Greenhouse Gas (GHG) Mitigation Program, and Construction and Demolition (C&D) waste recycling supplemental standards.

Staff estimates that the proposed amendments will increase construction costs of multi-family and non-residential development by an average of 2.5% of total construction cost. In considering the development costs and benefits, staff paid close attention to potential equity concerns and designed the standards to have a positive impact in the community. The proposed standards exempt any square footage of developments dedicated to

affordable housing from the requirements of the Enhanced Development Menu, offer an incentive for providing adaptable housing with universal design elements, and will result in lower monthly bills for building occupants due to enhanced efficiency and renewable energy.

Several meetings were held with the Planning Commission from October 2021 to January 2022 to refine the proposed amendments, and review the draft code language. On January 5, 2022, the Planning Commission voted to recommend approval of the proposed standards to City Council with two recommended changes: (1) remove the maximum point cap in the EDM; and (2) increase the GHG fee-in-lieu from 5 years' of emissions to 15 years. Staff performed additional feasibility and legal analysis of these requests, and recommends: (1) increasing the maximum EDM points from 100 to 150 rather than removing it entirely; and (2) keeping the GHG fee-in-lieu at 5 years' of emissions. Additional analysis is available in Attachment A. Meeting packets and videos of each Planning Commission meeting are available at LakewoodSpeaks.org.

BUDGETARY IMPACTS:

The proposed amendments would have two main budgetary impacts. These are:

- Creation of a Climate Protection & Sustainability Program to collect fees-in-lieu of compliance and forfeited performance deposits, which would fund projects and programs that advance communitywide emissions reduction and adaptation. Annual revenues are estimated to be between \$750,000 and \$2.2 million.
- One (1) additional full-time Planning Department employee to implement the proposed standards, and track and monitor the city's progress towards meeting built environment goals. This position would be primarily funded by application fees for development projects requiring review under the new standards; the remainder could be funded from the Climate Protection & Sustainability Program.

STAFF RECOMMENDATIONS: Staff recommends that the City Council reach a general consensus regarding the proposed amendments and direct staff to move the proposed amendments forward to a first reading ordinance.

ALTERNATIVES: N/A; study session for discussion only.

PUBLIC OUTREACH: Throughout the development of the proposed amendments to Article 13, staff has sought input from the Lakewood community. This has included regular meetings with both a community task force and internal working group, shared project updates through newsletters and social media channels, a project page on LakewoodTogether.org, presentations at community meetings, and developer interviews.

NEXT STEPS: Following Council direction regarding the Planning Commission-recommended changes to the EDM point cap and the GHGMP fee-in-lieu value, and any other discussion about the proposed Article 13 amendments, the City Attorney's Office will draft an ordinance to incorporate the proposed amendments into the Zoning Ordinance. First reading of the ordinance is currently scheduled for June 13, and second reading is scheduled for June 27. If those dates remain as scheduled, the amendments would go into effect in August 2022.

ATTACHMENTS: Attachment A – Summary of Article 13 Regulations, Benefits, and Impacts
Attachment B – Draft Article 13 Code Language (staff's recommendations)
Attachment C – Draft Article 13 Code Language (Planning Commission recommendations)
Attachment D – List of recommended code language changes
Attachment E – List of Developer Resources

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

SUMMARY OF ARTICLE 13 ANALYSIS

Regulations, Benefits, and Impacts

The proposed amendments to Article 13 of the Zoning Ordinance are the culmination of over a year of collaborative work with staff, community members, and technical experts to develop standards that expand upon the existing related requirements and would align new development with the Lakewood community's vision and goals.

The following sections of this report explore the overall framework and key elements of each component of the proposed Article 13 – Sustainable Development Standards and offer detailed analysis of the potential impacts of the program.

Policy Guidance

The proposed sustainable development standards support dozens of goals from the city's guiding policy documents, including the Comprehensive Plan (2015) and the Sustainability Plan (2015). These documents reflect the community's desire to ensure a vibrant, thoughtfully designed, and resource-sensitive built environment that balances affordability, preservation of existing neighborhood character, and growth to ensure a high quality of life for existing residents and future generations.

Comprehensive Plan:

At least 19 goals and policies throughout the citywide Comprehensive Plan directly support the adoption of the proposed Article 13 – Sustainable Development Program. These include maintaining the character of existing neighborhoods, enhancing streetscapes and urban design elements, supporting multi-modal transportation, and restoring ecosystems and protecting biodiversity.

Sustainability Plan:

The Sustainability Plan includes over 30 goals and objectives that will be supported by the proposed Article 13 amendments. In particular, the proposed standards would help us meet climate commitments, resource efficiency goals, waste diversion targets, and enhance our community resilience.

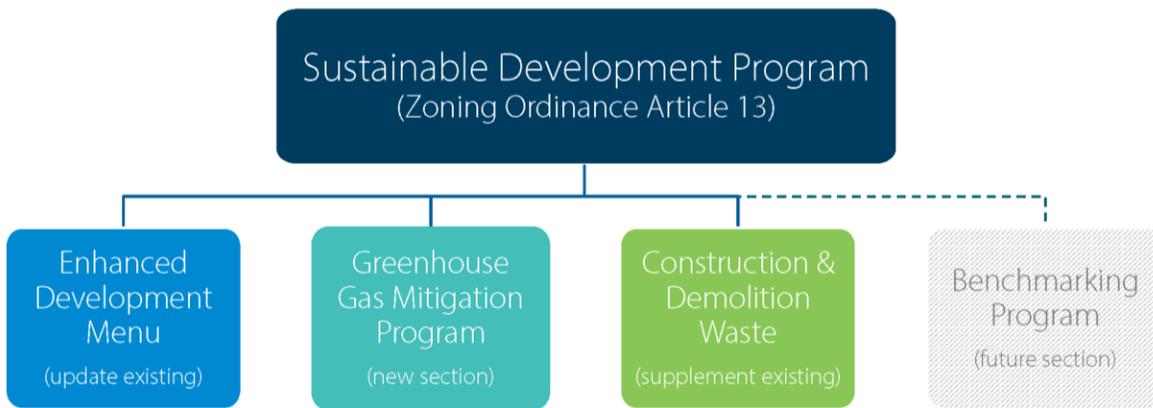
The Article 13 amendments will help ensure that new developments are a positive investment in the community that advance our adopted goals and reflect Lakewood's vision for a sustainable and vibrant future.

Overarching Framework

The framework for the proposed updated Article 13 – Sustainable Development is organized into four sections: the existing **Enhanced Development Menu**, the new **Greenhouse Gas Mitigation Program**, the

supplemental **Construction & Demolition Waste Recycling** standards, and the future Benchmarking Program (not under consideration at this time), as shown in **Figure 1** below. This framework has been designed to integrate sustainability in a holistic, flexible, and context-sensitive manner, ensuring that new developments reflect the goals and vision of Lakewood’s adopted plans through project-relevant enhancements and with minimal increases in construction costs.

Figure 1. Sustainable Development Framework



The **Enhanced Development Menu (EDM)** requires that certain types of developments earn a minimum number of points from a menu of design elements and building services. The EDM is intended to be flexible and context-specific, allowing developers to select those items that are appropriate for the location and type of development. Menu items range from renewable energy generation and bicycle amenities to local food access and public art.

The **Greenhouse Gas Mitigation Program** has been designed to capture the impact that all developments have on air quality and emissions. These types of impacts cannot be seen and do not stay within the confines of a single property. Mitigation of these impacts is essential for the community to reach its climate goals and commitments.

The **Construction & Demolition Waste Recycling Supplemental Standards** have been developed to aid in enforcement of and compliance with the existing waste diversion requirements adopted in the building code. These standards would support diversion of C&D waste from area landfills by giving staff an opportunity to more closely support contractors and facilitate change.

A future Benchmarking Program (not currently proposed) would provide building managers with tools, data, and programs to compare similar buildings within the city, increase efficiency, and reduce utility costs. This part of the sustainable development framework is envisioned within 3-5 years, following implementation of the 2021 statewide benchmarking legislation.

Enhanced Development Menu Details

The Enhanced Development Menu (EDM) currently exists as Article 13 of the zoning code as a way for large-scale (over 20,000 square feet) development to reduce the impact on the community by minimizing its own use of limited resources as well as providing amenities to be enjoyed by the general public. It offers a menu of sustainability-related development features that earn points. Developers can choose any of the menu items to satisfy the minimum number of points required for their project. The minimum points required depends on the size of the development; currently, 35 points are required for projects from 20,000 square feet to 50,000 square feet, and 50 points are required for projects over 50,000 square feet. The menu items available represent a variety of sustainability topics, from energy and water conservation to public art and social amenities to multi-modal transportation infrastructure, which allows developers to select items that fit best for the context of an individual project or site.

Proposed updates to the existing EDM include:

A. Applicability

Expanded applicability and point structure that scales based on the size of development, with 1 point per 1,000 square feet (10 points minimum, maximum 150 points as recommended by staff) for new development over 2,500 square feet in size.

- Individual single family and duplex construction would be exempt.
- The square footage of affordable housing units would be excluded from the development size for the purposes of determining how many points are required. This would reduce the burden on existing affordable housing developers and may incentivize new mixed-income projects.
- Designated historic landmarks on the local, state, or national registers would be eligible for a 50% reduction in required points.

B. Fee-in-Lieu of Compliance

A new fee-in-lieu would be offered for required points over 50 at a proposed rate of \$4,000 per point. The final value will be determined and published with other land development fees and may be administratively updated from time to time to reflect changing costs of construction.

C. Additional Menu Items

Eleven new items added to the EDM as shown in **Figure 2** to allow for greater variety, flexibility, and the ability to mitigate greenhouse gas emissions.

- Maintain the Open Option as it currently exists to provide space for innovation and creativity in earning the required points.

Figure 2. EDM Option Details – Proposed new options shown in green

Category	Proposed EDM Items	Description
Energy & Buildings	Green Building Certification	Achieve LEED or NGBS certification (Gold or Silver).
	Outdoor Lighting	Use fixtures and bulbs that are ENERGY STAR or DLC certified and are IDA DarkSky certified.
	On-site Renewable Electricity	Provide on-site renewable electricity (solar photovoltaic or wind).
	Off-site Renewable Electricity	Procure renewable electricity (solar photovoltaic or wind) from off-site sources.
	On-site Renewable Energy Systems and Design	Provide on-site renewable energy systems (such as solar thermal or geothermal) that reduce overall energy use.
	Building Electrification	Use all electric space conditioning, water heating, and appliances to eliminate natural gas usage within the project.
Water & Landscape	Hydro Zones	Group plants in irrigation zones according to water need for efficient landscape irrigation.
	Water Budgeting	Provide landscape designs that meet or fall below Denver Water benchmark of 12 gallons per square foot of pervious area annually (GPSF).
	Pollinator-Friendly Landscaping	Use plant materials that provide food and habitat for pollinators and environmentally-sensitive land management strategies.
	Water Quality	Provide creative and impactful water quality infrastructure.
Zero Waste	Recycling & Compost Enclosures	Designate space for recycling and composting collection.
	Recycling & Compost Contracts	Contract services for recycling and composting collection for a minimum of 2 years.
	Deconstruction	Use deconstruction instead of demolition services to remove existing structures, and donate or recycle a minimum of 50% of the materials.
Materials	Urban Heat Island	Use measures such as ENERGY STAR- compliant roofing, green roofs, shade trees, or reflective materials to reduce urban heat island effects.
	Low-Carbon Concrete	Use concrete mixes with emissions less than or equal to the “Achievable (Low)” category of the Carbon Leadership Forum Material Baselines Report

	Reclaimed/Recycled Materials	Incorporate a minimum of 10% reclaimed and/or recycled materials into the exterior facades and open space hardscape.
	Adaptive Reuse	Repurpose existing primary buildings for new uses rather than demolishing to help preserve the urban fabric of neighborhoods.
Transportation	Multi-Modal Assessment (Residential and Non-Residential)	Identify pedestrian, bicycle, and transit connections to and from a project site.
	Bike Amenities	Provide amenities available to the public, such as fix-it stations with air pumps, covered bicycle parking, water bottle refill stations, etc.
	Public EV Charging Infrastructure	Install publicly available EV charging infrastructure and designated parking spaces
	Above-Code EV Charging	Install EV charging infrastructure beyond those spaces already required. May be reserved for residents, tenants, and employees.
	Enhanced Streetscapes	Provide enhanced streetscape design including elements such as additional landscaping, pedestrian amenities, transit stop improvements, and placemaking features.
Community & Health	Social Connection Amenities	Provide amenities that support community interaction and are accessible by the general public.
	Public Art	Consult with City staff to acquire permanent public art viewable from public or semi-public areas.
	Adaptability / Universal Design	Provide minimum 15% of housing units designed to accommodate people of all ages and ability levels.
	Food Production	Provide food plots for vegetable gardens and fruit trees to foster local food production.
Other	Open Option	Provide enhanced amenities that are in addition to other code requirements and approved by the Director or Planning Commission.

Greenhouse Gas Mitigation Program

The proposed Greenhouse Gas Mitigation Program evolved from City Council's request for staff to further explore sustainable building programs following a presentation from the Lakewood Advisory Commission. The program as designed would: establish a Performance Standard, or maximum amount of annual emissions that new developments may emit based on their non-residential square footage or number of residential

units; help developers calculate the projected emissions of a given development; and offer strategies to reduce emissions in order to meet the Performance Standard.

Key elements of the proposed program include:

A. Applicability

Applies to all new construction of single-family and multi-family residential, and non-residential construction, as well as major remodels/additions requiring Major Site Plan review for multi-family and non-residential developments.

- This would not apply to remodels or additions to existing single-family dwelling units, such as room additions, detached garages, accessory dwelling units, or basement finishes.

B. Performance Standard

Establishes the maximum annual greenhouse gas emissions to be generated by a new development in order to align the performance of the development with the community's climate goals and commitments.

- Residential projected emissions based on energy, waste and transportation would be compared with the per capita Performance Standard for a given project.
- Non-residential projected emissions based on energy and waste would be compared with the per-square-foot Performance Standard for a given project.
- The Performance Standard will be updated administratively to reflect new climate commitments, adopted plans, or similar changes to climate goals.

C. Options to Achieve Performance Standard

Developments have several opportunities to achieve the Performance Standard:

- Design to achieve the standard through the building's systems and efficiency.
- Mitigate the emissions exceeding the standard from a list of available measures, such as by installing solar panels or expanding EV charging infrastructure. These mitigation measures also earn points from the EDM, if applicable.
- Pay a fee-in-lieu of compliance for staff-recommended 5 years' worth of annual emissions at the established rate for the Social Cost of Carbon, currently valued at \$76 per metric ton of emissions.
- Utilize a combination of some mitigation measures plus pay a fee-in-lieu for any remaining excess emissions

Construction & Demolition Waste Recycling

The Construction & Demolition Waste Recycling Supplemental Standards are intended to increase compliance with the existing requirements in the building code. There is no proposed change to the existing

standards in the building code, which apply to all demolition projects and all construction projects greater than 2,500 square feet, and require recycling of concrete, asphalt, metal, untreated wood, cardboard, and interior fixtures/salvageable items. The proposed supplemental standards include:

- Requirements for a comprehensive construction waste management plan (CWMP) and ongoing material tracking for projects also requiring review under the EDM
- Ability to collect a deposit on any project required to comply with construction and demolition standards in the building code.
- A deposit to be paid prior to issuance of building or demolition permit in the amount of \$1 per square foot (minimum \$2,500 – maximum \$100,000).
 - Deposits to be refunded in full upon successful compliance with waste management plan and reporting requirements.
 - Deposits to be partially refunded or forfeited for non-compliance with waste management plan or incomplete reporting.

Community Benefits and Climate Impact

Staff estimates that based on existing development trends, these standards would result the avoidance of approximately 7,000 metric tons of CO₂-equivalent emissions in year one and would increase exponentially each year as each new development complies with these standards.

Overall, the proposed amendments to Article 13 – Sustainable Development have the potential to rapidly advance the city’s progress towards achieving the goals of the Comprehensive Plan and Sustainability Plans. The built environment in Lakewood could look much different in 10 years, and more in line with the community’s vision for a sustainable future. Details about the potential impact of each section of the Sustainable Development Program is included below:

Enhanced Development Menu

Based on recent Major Site Plan case data, in an average year in Lakewood, there are approximately 100 properties located directly adjacent to new development projects and more than 3,700 properties are located within a quarter mile of new development projects. With these current development trends, in 10 years more than 35,000 properties in Lakewood have the potential to benefit from the proposed Article 13 standards through enhanced streetscapes; public art; bicycle amenities such as fix-it stations, water bottle stations, and covered parking; community meeting spaces, such as playgrounds, picnic areas, or event rooms; community garden space for healthy food access to residents in new multi-family buildings; better air quality from fewer emissions and more transportation options; improved water quality through collaborative stormwater design; and wildlife habitat through the use of native and pollinator-friendly landscaping.

Greenhouse Gas Mitigation Program

Development occurring over the next 10 years will account for approximately 12% of the total citywide building square footage. This represents a great opportunity to ensure that a significant amount of the building stock reflects the vision of where the community wants to be. The cumulative emissions avoided over 10 years to meet the Greenhouse Gas Mitigation Program Performance Standard would be between 200,000 and 250,000 metric tons, worth over \$15 million in avoided costs to infrastructure, economy, and public health.

Beyond just reducing emissions, the new building stock would have long-term benefits such as utility cost savings from renewable energy and more efficient high-quality materials, higher property values, and potential tax benefits, all of which may result in a return on the initial up-front investment in sustainable development.

Construction & Demolition Waste Recycling

According to Ecocycle's State of Recycling and Composting in Colorado report, over 3.5 million tons of industrial waste statewide were sent to a landfill in 2019. Much of this industrial waste consists of construction and demolition debris, which is readily recyclable or reusable, such as concrete, asphalt, metal, untreated wood, and cardboard. In the Denver metropolitan area, as much as 50% of landfill waste is construction and demolition waste. The proposed supplemental standards will significantly reduce this volume and enable the city to track progress towards our waste diversion goals. Other benefits of C&D recycling include reduced emissions from hauling to landfills, the opportunity to promote growth of a circular construction sector where there is demand for recycled and reclaimed materials, and opportunity to develop a construction labor force skilled in deconstruction techniques and recycling logistics.

Development Cost Impacts

Staff analyzed numerous development scenarios based on actual past permit data to assess the potential impacts to new development from the recommended Article 13 amendments. Staff found that added costs to developers resulting from the Enhanced Development Menu and Greenhouse Gas Mitigation Program would range from 0.4% to 6.8% of the total construction costs, with an average of 2.5% for multi-family and non-residential development. For single-family homes, for which the EDM portion of Article 13 does not apply, the average additional costs would be approximately 2% of total construction costs.

Developers may elect to make larger up-front investments that increase near-term costs but provide long-term payback and cost savings. For example, investments in on-site renewable energy systems such as solar panels would likely provide full return on the investment in 8 to 12 years, and then provide ongoing electricity bill savings for the remainder of the life of the system. These types of investments also result in higher property values and potential tax credit benefits.

Equity Impacts

In considering the development costs and benefits, staff paid close attention to potential equity concerns and believes that the proposed amendments will have a positive impact in the community.

Affordable Housing

To incentivize new affordable housing, and avoid unintentionally increasing housing costs, any square footage of developments dedicated to affordable housing units would be exempt from the requirements of the Enhanced Development Menu. This means that projects that are entirely affordable, such as MetroWest projects, would not need to earn any points. Projects that are partially affordable would only need to earn points for the non-affordable gross floor area. For example, if a multifamily project is 20% affordable units and 80% market-rate units, EDM points would be earned only for the market-rate gross floor area. Due to funding requirements for affordable housing, the type of construction for non-profit developers is very high quality and energy efficient, and would likely meet or exceed the Greenhouse Gas Performance Standard.

Adaptable Housing / Universal Design

Enhanced Development Menu points would be offered for increasing the number of residential units designed to accommodate people of any age and ability level. All people deserve the dignity of having interior spaces designed to allow them to navigate and perform daily functions as safely and independently as possible. Some examples of universal design features include flush doorway thresholds for easy access with a wheelchair or stroller, lever-style door handles, and sink cabinets constructed to convert for knee space when seated.

Long-Term Savings for Building Occupants

The development of resource efficient buildings will result in lower ongoing monthly utility bills for both residential and business tenants.

Funding Programs for Low- and Moderate-Income Households

Revenues generated from the fees-in-lieu and forfeited deposits would be used to advance communitywide emissions reduction and adaptation through the Climate Protection & Sustainability Program. This would give the City the opportunity to allocate funds to programs supporting low- to moderate-income households, such as energy and water efficiency retrofits, renewable energy and electrification assistance, and tree planting and preservation to support clean air and reduce urban heat impacts.

Budgetary Impacts

Climate Protection & Sustainability Program

The proposed amendments include options for developers to pay a fee-in-lieu of compliance under certain conditions and establish a deposit and refund system to support compliance for existing construction and demolition requirements. As aligned with legal requirements for fee-in-lieu expenditures, any revenues from the optional fees-in-lieu and forfeited deposits will fund a Climate Protection & Sustainability Program for advancing sustainability of the built environment, climate mitigation and adaptation, and waste reduction projects. Staff estimates between \$750,000 and \$2.2 million of revenue would be added to the Program each year, based on 25% and 75% compliance rates. Funds would be appropriated annually through the regular budget process along with transparent reporting of expenditures and outcomes from previously funded projects.

Staff Resource Needs

Successful implementation of the proposed amendments will require one (1) additional full-time Planning Department employee. This position is necessary to provide development review services, track and monitor the city's progress toward achieving goals related to the built environment, climate and waste reduction, and to administer the Climate Protection & Sustainability Program. Most of the compensation for this employee would be covered by new application fees for projects requiring review under the proposed standards; the remainder could be funded from the Program for administration of that program once collected revenues are sufficient.

The proposed EDM application fees align with the fee structure for Major Site Plan applications, adding approximately \$250 per acre to the total application fee. The proposed GHGMP and C&D fees range from \$100 to \$300 per application, depending on the land use and project type. Based on the anticipated number of applications per year, total administrative fees would yield approximately \$55,000 to \$70,000 annually. Application fees will be determined and adjusted to reflect changing resource needs and will be published with all other land development fees.

Public Outreach

Throughout the development of the proposed amendments to Article 13, staff has sought input from the Lakewood community:

Task Force and Internal Working Group: Staff has regularly engaged with an internal staff working group and a task force consisting of key Lakewood Advisory Commission (LAC) representatives, technical experts, and community members to develop the proposed Article 13 amendments and ensure the standards will be implementable and reflect community goals.

Newsletters and Social Media: The overarching framework was first shared in the October 2021 edition of the Lakewood Sustainability monthly newsletter. Staff has provided ongoing updates through subsequent newsletters and through the division’s social media channels. These updates were also shared across other city newsletter and social media accounts.

Lakewood Together Project Page: A project page has been available throughout the process on LakewoodTogether.org. This provides space to share progress, provide easy-to-understand details about each part of the proposed Sustainable Development Program, and invite feedback about the amendments.

Planning Commission: The Planning Commission held progressively detailed study sessions about the proposed amendments in October, November, and December of 2021, followed by a public hearing on January 5, 2022, at which the Commission voted unanimously to recommend approval to City Council. There was also online outreach for each of the Planning Commission meeting through LakewoodSpeaks.org.

Community Outreach: Over the last several months, staff has presented information about the proposed amendments to local business organizations, with several more meetings scheduled in the coming months. Interviews were also conducted with the developers of recently approved Major Site Plan cases which utilized the current version of the Enhanced Development Menu to get a better sense of how the standards and process worked for them.

Staff and Planning Commission Recommendations

On January 5, 2022, the Planning Commission voted unanimously to recommend approval of the proposed amendments, with two recommended changes to the code language:

1. EDM: Remove the limit on the maximum required points (no cap)
2. GHGMP: Increase the value of the fee-in-lieu from 5 years to 15 years of annual emissions

Explanations of the recommended changes along with staff’s analysis of costs, ease of implementation, and legal feasibility is summarized in this section for City Council’s consideration and discussion.

1. Maximum required points for the Enhanced Development Menu

- *Staff’s initial recommendation: 100 points*
- *Planning Commission recommendation: no cap (unlimited points)*
- *Staff’s updated recommendation: 150 points*

The Planning Commission expressed concern that a 100-point limit would mean that very large developments (for example, 500,000 square feet) would be required to provide no more offsets than a 100,000 square foot development, even though larger projects tend to have greater environmental impacts on the community and the developers of such projects often have more funds available to either invest in additional amenities

or offset the greater environmental impacts. The Planning Commission's recommendation was intended to ensure the largest of the large developments do their fair share in proportion to smaller developments.

Staff reviewed the Planning Commission's recommendation and agrees with its underlying philosophy regarding fairness. However, staff has determined that there are not enough available points in the EDM to entirely remove a cap from the standards. Many of the menu items are dependent on the specific context of a given property and won't be available for every development. For example, points for Deconstruction are only available for projects with existing structures that will be demolished. Other items are targeted to areas of the city where their impact will be most beneficial, such as Enhanced Streetscapes within Growth Areas identified in the Comprehensive Plan. For the largest developments, once the required points exceed what can be earned through EDM items, LEED Gold construction would become mandatory to achieve compliance (it's valued at 100% of required points), or developers would be forced to pay a significant fee-in-lieu. While staff believes that LEED Gold is a great option for building sustainably, any code requirement mandating a certain type of construction would be more appropriate in the Building Code rather than the Zoning Code.

However, in keeping with the Planning Commission's desire to make sure large developments do their fair share, staff proposes increasing the maximum required points to 150. This would help increase fairness while ensuring that the EDM maintains the intended flexible and context-relevant program design.

2. Greenhouse Gas Mitigation Program fee-in-lieu

- *Staff's initial recommendation: Fee equal to Social Cost of Carbon per metric ton for **5 years** of projected emissions*
- *Planning Commission recommendation: Fee equal to Social Cost of Carbon per metric ton for **15 years** of projected emissions*
- *Staff's updated recommendation: No change from initial recommendation (Fee equal to Social Cost of Carbon per metric ton for **5 years** of emissions)*

Since new buildings generally have a lifespan of 30-50 years, the intention of the Planning Commission's recommendation was to capture the value of the emissions impact for a longer portion of the building's life.

Staff reviewed the Planning Commission's recommendation and identified two areas of concern: shifts in future emissions from the electrical grid, and the reliability of estimating long-term building performance at the time of construction.

Estimating future grid emissions

The electrical grid is continually becoming "cleaner," with more renewable energy sources becoming a significant percentage of total power. To fairly estimate the impact of 15 years' worth of annual emissions from the time of initial construction, projected annual emissions would need to be "discounted" to account for a more renewable grid. While there is some data about the projected grid mix, it relies on many assumptions that are out of the city's control, including the Public Utilities Commission and Xcel Energy.

Therefore, since it is difficult to accurately predict emissions 15 years out into life of a building, staff recommends retaining the original value of 5 years' worth of annual emissions, based on the most recent actual emissions data available.

Long-term building performance

Building use and occupancy can change over time. Cities working to support energy and water efficiency in existing buildings typically use building benchmarking/performance standards programs. Benchmarking programs have been established all over the country as well as locally in Denver, Fort Collins, and the State of Colorado. Through annual reporting requirements, cities can track the energy usage, water usage, and emissions of buildings throughout their operations and provide building managers with tools, incentives, and program support to enhance building performance. Staff has begun preliminary research into establishing a Lakewood benchmarking program within the next 3 to 5 years, which aligns with the initial recommendation for 5 years' worth of emissions to cover the time before annual benchmarking is established.

Next Steps

At the May 2 study session meeting, staff is requesting direction from City Council on the proposed amendments to Article 13; no formal vote or action will take place. First reading of the ordinance is currently scheduled for June 13, and second reading is scheduled for June 27. If those dates remain as scheduled, the amendments would go into effect in August 2022.

More Information

Please visit the following web pages for more background and information about the proposed amendments:

- Project page on LakewoodTogether.org
- Planning Commission meeting packets, presentations, and videos on LakewoodSpeaks.org
 - See October 13, 2021; November 17, 2021; December 15, 2021; and January 5, 2022
- Existing standards:
 - [Article 13 – Enhanced Development Menu](#)
 - [Construction & Demolition Waste Recycling Requirements](#)

ARTICLE 1: PURPOSE AND ADMINISTRATION

ARTICLE 2: PROCEDURES AND APPEALS

ARTICLE 3: ZONE DISTRICTS

ARTICLE 4: USE AND SUPPLEMENTAL STANDARDS

**ARTICLE 5: DIMENSIONAL AND DEVELOPMENTAL
STANDARDS**

**ARTICLE 6: RESIDENTIAL BUILDING AND SITE DESIGN
STANDARDS**

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ARTICLE 13: SUSTAINABLE DEVELOPMENT

17.13.1: General

17.13.1.1: Purpose and Intent

This Article establishes standards for sustainable development in the City of Lakewood. The purpose of these standards is to ensure that development implements the goals articulated in the community's adopted plans for resilient and efficient development that is adaptable to infrastructure changes in the face of climate change, minimizes its impact on limited resources, contributes to communitywide greenhouse gas emissions targets, and becomes a positive asset within the community.

17.13.1.2: Authority

Unless otherwise specifically designated, the Director shall have the authority to determine whether a project has met the standards and requirements set forth in this article. Where an applicant seeks to demonstrate compliance with the provisions of this article in a manner not explicitly prescribed herein (such as through an open option, emissions modeling, or similar), the Director may request independent verification of compliance by a consultant of the City's choosing, whose services to complete shall be paid by the applicant. Development proposals under this Article 13 may be referred to the Planning Commission at the Director's discretion.

17.13.1.3: Definitions

Notwithstanding the definitions contained elsewhere in this Zoning Ordinance, the following terms, as used in this Article, shall have the meanings ascribed thereto:

Affordable Housing means a dwelling unit which is available for rent or home ownership on terms that would be affordable to households earning eighty (80) percent or less of the median income for rental units or one hundred twenty percent (120) of the area median income for for-sale units, as adjusted for family size, for residents paying less than thirty (30) percent of their gross income for housing (including rent or mortgage and utilities) through recorded deed restriction for a minimum period of fifteen (15) years.

Deconstruction means the process of methodically disassembling a building or structure in the reverse order from how it was built for the purpose of reusing materials on site, donating materials to a non-profit organization, or recycling waste materials at appropriate recycling facilities. Deconstruction can refer to completely removing a structure, or partially removing a portion of a structure or interior or exterior finishes.

Renewable Energy Systems and Design means on-site systems and/or design features that reduce a building's operational energy use from natural gas and grid electricity through the use of renewable energy sources. Examples include solar thermal, geothermal, biomass systems, and passive solar design. For the purposes of Section 17.13.2: Enhanced Development Menu, on-site solar photovoltaic and wind energy installations are excluded from this definition.

Required Materials means all materials required to be donated, reused, or recycled as set forth in the Construction and Demolition Recycling Standards in Title 14 of the Lakewood Municipal Code (LMC), as adopted and amended from time to time.

Social Cost of Carbon (SCC) is the estimated value of economic damages resulting from one (1) additional ton of greenhouse gas emissions, including increased risk of infrastructure and property damage due to natural disasters, and impacts on human health, agricultural productivity, and ecosystem health. The rate of the SCC is established in state and federal guidance.

17.13.2: Enhanced Development Menu

17.13.2.1: Purpose and Intent

The Enhanced Development Menu (EDM) is intended to promote development that supports the community goals identified in the Lakewood Comprehensive Plan and Sustainability Plan while minimizing negative impacts on and providing direct benefits to adjacent properties and neighborhoods, helping the community as a whole realize benefits from new development.

17.13.2.2: Applicability

- A. The EDM shall be applied to all development projects with cumulative gross floor area of 2,500 square feet or greater for all proposed buildings and parking structures (not including single-level open parking lots) on the site, including new residential subdivisions and alterations to existing sites requiring Major Site Plan review.
1. New construction must achieve 1 point per 1,000 square feet of gross floor area, rounded to the nearest 1,000 square feet, with a minimum of 10 points and a maximum of ~~150~~ ~~400~~ points, as shown in Table 17.13.1: EDM Applicability.
 2. Existing development undergoing site modifications that require Major Site Plan review shall achieve 1 point per 1,000 square feet of new or modified floor area, rounded to the nearest 1,000 square feet, with a maximum of ~~150~~ ~~400~~ points, as shown in Table 17.13.1: EDM Applicability.

Table 17.13.1: EDM Applicability

Project Cumulative Gross Floor Area (rounded to nearest 1,000 sf)	Required Points
< 2,500 sf	N/A (0 points)
2,500 sf – 9,999 sf	10 points
10,000 sf – 9 149,999 sf	10 – 150 400 points (1 point per 1,000 sf)
400 150,000+ sf	150 400 points

B. Exceptions:

1. Construction of individual single-family detached and duplex residential units is not subject to the EDM. This exception shall not be interpreted to extend to residential subdivisions requiring Major Site Plan review.
2. The gross floor area of any proposed Affordable Housing, as defined in this article, may be subtracted from the project cumulative gross floor area for the purpose of determining required points. For example, a multi-family residential building that includes 20% affordable units can reduce the total gross floor area by the square footage of those units when determining how many EDM points are required.
3. Proposed projects which include existing designated historic landmarks on the local, state, or national registers and which receive approval of the proposed project from the Lakewood Historic Preservation Commission may reduce the number of required EDM points by 50%.

C. Fee-in-Lieu: Projects required to earn more than 50 points may choose to pay a fee-in-lieu of compliance for any number of those points exceeding 50 at the rate established set forth in the Sustainable Development Program Fee Schedule, which shall be administratively established and updated annually.

1. A minimum of 50 points shall be achieved as part of the development through selected EDM items.
2. Any fees-in-lieu shall be due upon approval of Major Site Plan.
3. Fees-in-lieu shall be used for the Climate Protection & Sustainability Program, which will support sustainable built environment projects.

D. Miscellaneous:

1. Points earned in excess of the minimum number of points required for a given project shall not receive a monetary refund.
2. For existing development undergoing additions, renovations, or other improvements which require Major Site Plan review, selected EDM items may be located where practical on the site not limited to the area of disturbance, upon approval of the City.

17.13.2.3: Menu

Refer to Table 17.13.2: Enhanced Development Menu. All proposed points are subject to review for alignment with existing City plans and site-specific availability. Detailed documentation and methodology requirements are in the EDM Applicant Resource Guide, as may be amended from time to time upon approval of the Planning Director.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes	
Energy & Building Systems	1	Green Building Certification	Achieve LEED or NGBS certification.	LEED: Provide documentation of a LEED AP on the project team, LEED registration, pre-certification process completion, and final LEED certificate. NGBS: Provide documentation of NGBS registration, preliminary design checklist, rough and final inspection reports, and final NGBS certificate.	75% - 100% of required points	LEED Gold or Platinum, NGBS Gold or Emerald: 100% of required points LEED Silver, NGBS Silver: 75% of required points
	2	Energy efficient outdoor lighting	Use outdoor lighting fixtures and bulbs that are ENERGY STAR or DLC certified and are IDA DarkSky certified.	Provide product specifications that include certification listings and identify compliant color temperature.	2	All outdoor lighting fixtures must be compliant to earn points.
	3	Renewable electricity production* – on-site installation	Provide on-site renewable electricity (solar photovoltaic or wind) beyond Xcel Energy's Colorado Certified Renewable Percentage to reduce the projected electricity use of the project.	1) Demonstrate the projected electricity use of the site and calculate the percentage that will be offset by onsite renewable sources (minimum 10% required) 2) Provide documentation of ownership or a signed lease agreement for a period of at least 15 years and structured to survive a partial or full transfer of ownership of property.	20 – 38	20 points for 10% of electricity use offset by on-site renewable sources. Additional 1 point per additional 5% offset, up to 38 points maximum.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Energy & Building Systems	4	Renewable electricity production* – off-site subscription or community solar garden	Procure renewable electricity (solar photovoltaic or wind) from off-site sources for electricity use beyond Xcel Energy’s Colorado Certified Renewable Percentage.	1) Demonstrate the projected electricity use of the site and calculate the percentage that will be offset by off-site renewable sources (minimum 10% required). 2) Provide documentation of ownership or a signed lease agreement for a period of at least 15 years and structured to survive a partial or full transfer of ownership of property.	10 – 28	10 points for 10% of electricity use offset by off-site renewable sources. Additional 1 point per additional 5% offset, up to 28 points maximum.
	5	On-site renewable energy systems and design*	Provide on-site renewable energy systems (not including solar or wind electricity production) that reduce energy use intensity (EUI). Examples of specific technologies may include solar thermal, geothermal, and passive solar design.	Demonstrate the projected EUI of the project without renewable energy systems, and calculate the percent reduction in EUI (minimum 10% required) from on-site renewable energy systems.	10 – 28	10 points for 10% EUI reduction through energy use offset by renewable energy systems. Additional 1 point per additional 5% offset, up to 28 points maximum. Points may be earned for either Item 5 or Item 6, but not both.
	6	Building Electrification*	Use all electric space conditioning, water heating, and appliances to eliminate natural gas usage within the project.	Demonstrate on civil plan that no natural gas utility service will be provided to the site.	50% of required points	Points may be earned for either Item 5 or Item 6, but not both.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes	
Water & Landscape	7	Hydro zones	Select plants appropriate to the local climate and group them in hydrozones according to water need for efficient landscape irrigation.	On the landscape plan, indicate hydrozones, selected plants, specific water requirements for each zone (gallons per square foot per season), and typical irrigation schedule (routine irrigation every 2-4 days, limited irrigation only during periods of drought, etc.).	2	-
	8	Water budgeting	Provide landscape designs that meet or fall below Denver Water benchmark of 12 gallons per square foot of pervious area annually (GPSF).	Calculate the projected outdoor water use of the site using EPA WaterSense tool. Square footage of landscape areas dedicated to food production and sports fields are exempt.	2 – 6	2 points for not exceeding 12 GPSF, 1 additional point per GPSF reduction up to 6 points (8 GPSF)
	9	Pollinator-friendly landscaping	Use plant materials that provide food and habitat for pollinators such as bees, wasps, butterflies, and birds throughout the landscape plan. Use environmentally-sensitive and pollinator-friendly land management strategies whenever possible. Install interpretive signage to identify the pollinator habitat for the public.	Demonstrate pollinator-friendly landscape design on landscape plan. Native species should be used whenever possible. Indicate what source was used as a plant list. Include a note on the landscape plan describing pollinator-friendly maintenance practices to be implemented throughout the site, not only within pollinator garden areas. Provide detail of signage in site plan demonstrating compliance with 17.9.2.2: Exempt Signs.	2 – 10	2 points per 120 contiguous square feet of pollinator-friendly landscape design, up to a maximum of 10 points (600 square feet). Individual 120 sf pollinator gardens do not have to be contiguous with each other to earn points.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Water & Landscape	10	Water Quality	Identify on-site water quality features on site plan, landscape plan, and relevant engineering documents. Drainage design requires approval from the City's Public Works Dept.	5	-
		For projects not otherwise required to install stormwater drainage improvements, provide water quality capture volume in accordance with Mile High Flood District Urban Storm Drainage Criteria Manual Volume 3, utilizing site-appropriate best management practices to be approved by the City's Public Works Dept. For projects required to install stormwater drainage improvements, particularly innovative or creative drainage solutions or impactful off-site drainage improvements may be eligible for points under EDM Item 28: Open Option.		See EDM Item 28: Open Option	

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Zero Waste	11	Recycling and composting enclosures	Designate space for recycling and composting collection (or other applicable waste stream based on the building use)	On the site plan, indicate location and dimensions of dumpster enclosures for a minimum of three waste streams (e.g., trash, recycling, compost). If applicable, indicate waste infrastructure internal to the building (e.g., trash and recycling chutes).	5	
	12	Recycling and composting services*	Contract for recycling and composting collection (or other applicable waste stream based on the building use and management)	Provide documentation of a 2-year minimum contract for a minimum of trash, recycling, and compost pick-up services. Alternative waste stream services can be submitted if applicant demonstrates sufficient volumes. Alternative recycled waste streams cannot be those mandated or otherwise required by other regulatory agencies.	10	
	13	Deconstruction	Use deconstruction instead of demolition services to remove existing structures, and donate or recycle a minimum of 50% of the materials.	Provide a detailed deconstruction plan indicating how deconstruction will be performed, a quote for services from a deconstruction contractor licensed in Lakewood, and final receipts showing quantities of recycled materials.	3 - 12	3 points per 2,500 sf deconstructed, maximum 12 points. Points for EDM Item 16: Reclaimed/Recycled Materials may include documented deconstructed materials reused on-site.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Materials	14	Urban heat island reduction	Use any combination of the following measures to reduce urban heat island effects for roof and hardscaped area: ENERGY STAR–compliant roofing; a “green” (vegetated) roof; reflective materials with minimum certified SRI (solar reflective index) of 29 for aged condition; open-grid pavement; or shade trees with a caliper size of 3” or greater.	Provide product specifications including SRI or list selected vegetation. Demonstrate on a site plan sheet that a minimum of 50% of the combined total square footage of the roof and hardscaped areas use UHI mitigation measures. Public sidewalks meeting the minimum city standard, or along frontages also earning points for EDM Item 23: Enhanced Streetscapes, shall be excluded from the total hardscape.	5- 20	5 points for 50% of hardscaped area covered by UHI reduction measures. Additional 3 points per additional 5% coverage, up to 20 points maximum
	15	Low-Carbon Concrete	For all on-site exterior flatwork, use a concrete product with CO ₂ e less than or equal to the “Achievable (Low)” category of the Carbon Leadership Forum Material Baselines Report, as amended. Structural uses of concrete products with CO ₂ e less than or equal to the “Achievable (Low)” category of the Carbon Leadership Forum Material	Provide third-party verified Environmental Product Declaration (EPD) of the specific concrete mix proposed to be used.	5 See EDM Item 28: Open Option	-

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes
		Baselines Report, as amended, may be eligible for points under EDM Item 28: Open Option.			
16	Reclaimed/ recycled materials	Incorporate a minimum of 10% reclaimed and/or recycled materials into the exterior facades, open space hardscape, or other areas as determined by the Director.	Provide third-party verified Environmental Product Declarations (EPD) indicating percent of recycled content, or written and photographic documentation of the source of reclaimed materials. Specific materials are subject to approval by the Planning Department and shall comply with any other applicable design standards.	5	-

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Materials	17 Adaptive Reuse	<p>Repurpose existing primary buildings for new uses rather than demolishing and constructing new buildings to help preserve the urban fabric of neighborhoods. Points may be earned for either:</p> <p>Full Building Reuse - all exterior walls are maintained as part of the proposed development, or;</p> <p>Partial Building Reuse - a minimum of 50% of the street-facing façade of the existing primary building structure is maintained as part of the street-facing façade of the proposed development.</p>	<p>Demonstrate on the site plan, landscape plan, and architectural elevations how existing building(s) will be incorporated into the design. Include a written narrative and photographs describing the approach to adaptive reuse of the existing building(s) as well as a letter of opinion from a structural engineer licensed in the state of Colorado regarding the suitability of each building for the proposed reuse. Any reuse must meet the International Existing Building Code (IEBC), as adopted or amended in Title 14 of the LMC.</p>	10 – 15, +5 bonus	<p>Full Building Reuse: 15 points</p> <p>Partial Building Reuse: 10 points for 50% of existing street-facing facade, additional 1 point for each additional 10% up to 15 points (100%).</p> <p>Bonus: 5 points for concurrent historic landmark designation by the Lakewood Historic Preservation Commission, if eligible.</p>

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – 9,999 ~~10,000~~ sf = 10 points; 10,000 – 149,999 ~~100,000~~ sf = 1 point per 1,000 sf; >100 ~~150,000~~ sf = 150 ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	18 Multimodal transportation assessment – Residential	Identify available pedestrian, bicycle, and transit connections from the site to essential destinations in order to inform wayfinding, connectivity with the existing transportation network, and other infrastructure improvements.	Provide a plan sheet indicating multimodal routes to essential destinations within a 0.5-mile radius for suburban and urban contexts and a 0.2-mile radius for transit contexts, or to the nearest location if none exists within the stated radius. Essential destinations to be identified include: grocery stores, parks, schools, libraries, and transit stations/bus stops. Identify transit route and bike route numbers. Include narrative explaining how the project facilitates connections to these destinations and existing and planned multimodal infrastructure.	2	-
	19 Multimodal transportation assessment – Non-Residential	Identify available pedestrian, bicycle, and transit connections to the site in order to inform wayfinding, connectivity with the existing transportation network, and other infrastructure improvements.	Provide a plan sheet indicating multimodal routes to the site within a 0.5-mile radius for suburban and urban contexts and a 0.2-mile radius for transit contexts. Consider how people of all abilities would access the site as pedestrians, by bicycle, and by transit from the surrounding area, such as from transit stops, neighborhoods, and trails. Identify transit route and bike route numbers. Include narrative explaining how the project facilitates connections to and through the site	2	-

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	20	Bike amenities	Provide bike amenities that are available to the community, such as fix-it stations with air pumps, bicycle vending machines, bicycle parking cover, e-bike charging station, designated space for dock less bike share parking, water bottle refill stations, custom bike racks in areas of the City where a specific streetscape design package or adopted design guidelines are implemented, etc.	Indicate bike amenities on site plan and provide product specification sheets and a maintenance plan. Must provide a minimum of 2 amenities.	2 – 5	1 point per amenity, up to 5 points maximum. Must provide a minimum of 2 amenities.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
	21 Public EV charging infrastructure*	Install publicly available Electric Vehicle (EV) charging infrastructure and designated parking spaces.	Indicate designated public EV spaces on site plan and provide EV charging infrastructure product specification sheets. Must provide a minimum of 1 universal dual port charger (2 parking spaces) in addition to the EV charging minimum required in Article 8 of this Zoning Ordinance. Signage installed at each charging space shall indicate that charging is publicly accessible.	5 – 30	All points below are per universal dual-port charger, and can be combined up to a maximum of 30 points. Chargers earning points in this item do not qualify for points under Item 22. Level 2 <u>and DCFC</u> <u><50kW</u> : 5 points DCFC 50kW – 99kW: 10 points DCFC 100kW+: 15 points
Transportation	22 Above-code EV charging infrastructure*	Install EV charging infrastructure for greater than the minimum number of EV parking spaces required in Article 8 of this Zoning Ordinance. These spaces are not required to be publicly available, and may be reserved for building residents, tenants, and employees.	Indicate designated EV spaces on the site plan and provide EV charging infrastructure product specification sheets. Minimum 2 additional installed spaces (1 universal dual port charger).	5 – 30	5 points per universal dual port charger, up to 30 points maximum (6 dual port chargers/12 parking spaces). Chargers earning points in this item do not qualify for points under Item 21.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	23 Enhanced Streetscapes	Provide enhanced streetscape design in support of and consistent with citywide, neighborhood, or strategic plans within Growth Areas as identified in the Comprehensive Plan. At a minimum, enhanced design shall include a minimum of four (4) of the following elements: <ul style="list-style-type: none"> - Street trees in addition to any required elsewhere in this zoning code - Shrub/perennial beds within the tree lawn - Masonry seat walls - Pedestrian-scale lighting - Transit stop improvements - Pedestrian amenities such as trash receptacles, benches, etc. - Placemaking features as identified in specific area plans. 	Streetscape design will be reviewed for consistency with applicable city plans, studies, and design guidelines. Provide a conceptual streetscape design as a detail site/landscape plan for each proposed enhanced frontage indicating the specific elements proposed. Include product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All enhanced streetscape elements shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any elements located within the right-of-way.	5 – 40 +5 bonus	5 points for enhanced primary frontage up to 50 linear feet, plus 1 point per additional 10 linear feet of enhanced lot frontage, 40 points maximum (400 linear feet of frontage). Must install complete frontages, starting with the primary frontage, unless otherwise approved. Bonus 5 points for projects in areas of the City where a specific streetscape design package or adopted design guidelines are implemented.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

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	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Community Cohesion & Public Health	24	Social connection amenities	<p>Provide amenities, in addition to other requirements, that support community interaction and are accessible by the general public.</p> <p>Small amenities (<\$5,000) may include little free libraries, community bulletin boards, picnic tables, <u>permanent games such as corn hole, ping pong, or bocce</u>, etc.</p> <p>Medium amenities (approx. \$5,000 - \$15,000) may include outdoor exercise equipment, shade structures, water bottle filling stations, musical instruments, game tables, <u>dog parks</u>, etc.</p> <p>Large amenities (approx. \$15,000+) may include community meeting room, outdoor classroom, playground equipment, <u>basketball or pickleball courts</u>, etc.</p>	<p>Indicate amenities on site plan and evidence that amenities are easily visible and accessible by the general public. Include product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All social connection amenities shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any amenities located within the right-of-way.</p> <p>Where a proposed amenity does not clearly fit within one of the suggested categories at left, the Planning Director shall determine the appropriate category (small, medium, or large) of the proposed amenity.</p> <p><u>Other public recreation amenities may also be considered under Item 28: Open Option in collaboration with Community Resources staff.</u></p>	2 – 20	<p>1 point per small amenity</p> <p>2 points per medium amenity</p> <p>5 points per large amenity</p> <p>Must earn a minimum of 2 points, up to a maximum of 20 points.</p> <p>Developments over 100,000 sf must earn a minimum of 5 points.</p>

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Community Cohesion & Public Health	25 Public art	Consult with the City's Arts Programming Curator and Comprehensive Planning and Research staff to receive guidelines for the acquisition of public art or a template RFP/RFQ for public art on the site. Artwork acquisition and/or RFP/RFQ must be approved by the City before issuing.	Indicate art location(s), proposed medium, and proposed scale on site plan. The art must be permanent and viewable/accessible from public or semi-public areas. Include any product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All public art shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any art located within the right-of-way.	2 – 25 +3 bonus points within designated arts or creative districts +5 bonus points adjacent to the ArtLine (bonus points shall not be combined)	Points shall be awarded based on the art budget (inclusive of artist fees, materials, and installation) as shown below: \$5,000: 2 points \$10,000: 4 points \$15,000: 8 points \$25,000: 12 points \$50,000: 15 points \$100,000: 20 points \$150,000: 25 points Developments over 100,000 sf must earn a minimum of 8 points.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000 – ~~149,999~~ ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100~~ ~~150,000~~ sf = ~~150~~ ~~100~~ points

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
	26 Adaptability / Universal Design	Provide a minimum of 15% of housing units designed to accommodate people of all ages and ability levels in addition to the minimum number of accessible units required by law.	Provide floorplan of residential building(s) meeting the minimum number of required universal design features listed in the EDM Applicant Resource Guide.	5	
Community & Health	27 On-site food production	Provide community-serving food plots for vegetable gardens and fruit trees to foster local food production.	On landscape plan, indicate location, size, and number of garden plots, fruit trees, etc. and provide evidence that garden plots are easily accessible, of appropriate slope, and contain appropriate soil for food production, adequate sunlight and an available water source (exempt from water budget). Provide food plots on site for a minimum of 10% of multifamily units (or commercial equivalent). Combined area of plots must equal a minimum of 20 sq. ft. each per unit.	15	
Other	28 Open Option	Provide enhanced amenities that are in addition to other code requirements and approved by the Director or Planning Commission	Submit a proposal including a description, cost estimate, alignment with City goals and policies, points proposed and any documentation necessary to substantiate the claimed benefits.	2 – 100	2-14 points may be approved by the Director; projects requesting 21 or more points must be approved by Planning Commission

17.13.3: Greenhouse Gas Emissions Performance Standard

17.13.3.1: Purpose and Intent

The Greenhouse Gas Mitigation Program (GHGMP) is intended to ensure new development is aligned with the City's climate goals and targets to help the community do its part to meet climate commitments by preventing excess greenhouse gas emissions.

17.13.3.2: Applicability

- A. All new development, including new single-family residential construction, and all remodels, alterations, and additions requiring a Major Site Plan application, shall comply with the standards of this section. A fee-in-lieu of compliance will be available where full compliance is impractical or infeasible or where preferred by the applicant.
- B. Exceptions:
 - 1. These standards do not apply to remodels, alterations, and additions to existing single-family residential dwellings, including individually-owned detached, duplex, and attached/townhome units. This shall not be interpreted to exclude complete reconstruction (scrape and rebuild) from compliance with the Greenhouse Gas Mitigation Program.

17.13.3.3: Performance Standards

- A. Residential Uses – All new residential development shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standard, calculated using the following formula:

Residential Performance Standard (Maximum Permitted Greenhouse Gas Emissions = Target Emissions Per Capita x Projected Residents)

- 1. "Target Emissions per Capita" equals the sum of emissions from residential energy, residential waste, and transportation as reported in the city's most recent greenhouse gas inventory, divided by the city population of the year of the inventory, and then multiplied by the percentage reduction needed to meet the city's climate commitments (Emissions Reduction Factor).

*Target Emissions per Capita = ((Emissions from: Residential Energy + Residential Waste + Transportation) / Citywide Population) * Emissions Reduction Factor*

- 2. "Projected Residents" is determined based on the average number of individuals per dwelling unit by number of units in a residential building as calculated from currently available Census Bureau data.

3. Projected annual greenhouse gas emissions for each residential development shall be calculated for the residential energy, residential waste, and transportation sectors using the methodology published in the GHGMP Applicant Resource Guide and regularly updated upon approval of the Director to reflect the most recent available data.
 - a. Projected transportation emissions may be reduced by 20% for residential developments within Transit context zone districts and for age-restricted communities.
- B. Non-Residential Uses – All new non-residential development shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standard, calculated using the following formula:
- Non-Residential Performance Standard (Maximum Permitted Greenhouse Gas Emissions) = Target Emissions Per Square Foot x Proposed Gross Floor Area*
1. “Target Emissions per Square Foot” equals the sum the emissions from non-residential energy and non-residential waste as reported in the city’s most recent greenhouse gas inventory, divided by the total citywide non-residential square footage of the year of the inventory, and then multiplied by the percentage reduction needed to meet the city’s climate commitments (Emissions Reduction Factor).

*Target Emissions per Square Foot = ((Emissions from Non-Residential Energy + Emissions from Non-Residential Waste) / Citywide Non-Residential Square Footage) * Emissions Reduction Factor*
 2. Projected annual greenhouse gas emissions for each non-residential development shall be calculated for the non-residential energy and non-residential waste sectors using the methodology published in the GHGMP Applicant Resource Guide and regularly updated upon approval of the Director to reflect the most recent available data.
- C. Mixed-Uses – Developments with a mix of residential and non-residential uses shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standards calculated as shown in 17.13.3.3.A and 17.13.3.3.B for the respective square footages of the residential and non-residential portions of the building(s).

17.13.3.4: Submittal Process

- A. Applicants shall submit the City’s Greenhouse Gas Emissions Worksheet with development and/or building permit applications. This worksheet will determine the estimated annual emissions for the size and type of development assuming no mitigation efforts are made. If development proposals exceed the Greenhouse Gas Emissions Performance Standard, there are two pathways for compliance:
 1. Mitigation – Use mitigation measures to reduce projected annual emissions in order to meet the Performance Standard. Applicants shall submit their proposed mitigation

measures using the Greenhouse Gas Emissions Worksheet and identify such measures on the Site Plan. Mitigation may be accomplished in one or a combination of the following ways:

- a. Use approved mitigation measures and emission reduction values identified in the GHGMP Applicant Resource Guide, which may be updated annually upon approval of the Planning Director to reflect new data availability. Identified mitigation measures include:
 - i. EDM Items 3-4: Renewable Electricity Production (on-site installation or off-site subscription)
 - ii. EDM Item 5: On-Site Renewable Energy Systems and Design (not including electricity production)
 - iii. EDM Item 6: Building Electrification
 - iv. EDM Item 12: Recycling and Composting Services
 - v. EDM Item 21: Public EV Charging Infrastructure
 - vi. EDM Item 22: Above-code EV Charging Infrastructure (may be private spaces)
 - b. Submit alternative method (such as a building energy model) to demonstrate reduced emissions. Modeling shall conform to IECC or ASHRAE standards or similar as approved by the Director.
2. Fee-in-Lieu – Pay a fee-in-lieu of compliance for **five (5) years'** worth of annual emissions exceeding the Performance Standard in accordance with the following formula:
- $$\text{Fee-In-Lieu} = ((\text{Projected Emissions} - \text{Performance Standard}) \times \text{5 years}) \times \text{Social Cost of Carbon}$$
- a. The fee-in-lieu will be levied at the rate established set forth in the Sustainable Development Program Fee Schedule, which shall be administratively established and updated annually based on state and federal guidance for the Social Cost of Carbon (SCC), ~~but no less than \$76 per metric ton of CO₂ equivalent emissions, which is the SCC value for 2020 emissions using a 2.5% discount rate.~~
 - b. Fees-in-lieu shall be used for the Climate Protection & Sustainability program, which will fund programs and projects within the City that reduce the community's overall greenhouse gas emissions, adapt to changing climate conditions, and support workforce and technology innovations.
3. Applicants may use a combination of the Mitigation and Fee-in-Lieu pathways by demonstrating mitigation measures to reduce the development's estimated emissions and paying a fee-in-lieu for the remainder emissions exceeding the Performance Standard.

17.13.4: Construction & Demolition Waste Recycling

17.13.4.1: Purpose and Intent

The Construction & Demolition (C&D) Waste Recycling Supplemental Standards are intended to achieve reduction and/or recycling of debris generated by construction and demolition projects, thereby diverting debris from area landfills, reducing environmental impacts, and advancing Lakewood's waste diversion goals. Additionally, these standards support compliance with construction and demolition waste recycling requirements set forth in LMC Title 14.

17.13.4.2: Applicability

The standards in this section shall apply to any development project that must also comply with section 17.13.2 Enhanced Development Menu. Upon six (6) months written notice posted on the City's website, the Director may expand this applicability to any project subject to the construction and demolition recycling standards set forth in LMC Title 14.

17.13.4.3: Comprehensive Waste Management Plan

Prior to issuance of a building or demolition permit, the applicant shall submit a comprehensive waste management plan which shall, at a minimum, contain the following information:

- A. Designated employee to be the on-site construction waste recycling manager and point of contact for waste-related issues;
- B. Acknowledgment of all Required Materials to be donated, reused, or recycled as set forth in the building code, and the identification of the specific Required Materials that will be generated by the project.
- C. Collection and disposal strategy for all Required Materials and landfilled waste including:
 - 1. The method of collection
 - 2. Waste hauler(s)
 - 3. Disposal, recycling or reuse facilities
- D. Strategy for training and education of subcontractors and employees to support compliance
- E. Compliance tracking and reporting strategy

17.13.4.4: Performance Security Deposit

The applicant shall post a performance security deposit prior to issuance of a building or demolition permit in accordance with the following:

- A. New construction, additions, and remodels: one dollar per square foot of interior building space, with a maximum deposit of \$100,000.
- B. Demolition projects: one dollar per square foot for the area of disturbance as identified in the permit application, including any parking areas to be removed, with a maximum deposit of \$100,000.

17.13.4.5: Performance Security Deposit Refund Procedures

Any project required to submit a comprehensive waste management plan or performance security deposit shall submit a final Compliance Report within sixty (60) days of issuance of a certificate of completion (for demolition projects) or the last certificate of occupancy (for construction projects).

- A. The Compliance Report shall contain documentation showing that the diversion requirements for the project have been met, including the following:
 - 1. Copy of the approved Comprehensive Waste Management Plan
 - 2. Individual weight tickets from the vendor or facility that received each Required Material clearly listing the type of material that was recycled and the actual volume or weight of that material. Receipts/weight tickets for landfill disposal are also required.
 - 3. Narrative and photographic documentation of the applicant's reuse/salvage activities not accounted for with receipts or weight tickets.
- B. Upon receipt of the completed Compliance Report, the City will have sixty (60) days to confirm that the diversion requirements have been met and will request release of the applicant's security deposit.
- C. The security deposit will be refunded according to the following schedule, based on how well the project met the diversion requirements identified in the comprehensive waste management plan and the completeness of the documentation provided in the compliance report:
 - 1. Full compliance and complete documentation: 100% refund
 - 2. Partial compliance: Refund prorated based on the percentage of Required Material weight tickets provided in the Compliance Report as compared to the number of Required Materials identified in the comprehensive waste management plan. The city may also conduct on-site inspections to verify compliance and may pro-rate the refund based on the results of the inspection.
 - 3. Non-compliance or incomplete documentation: 0% refund

- D. If an applicant fails to submit a Compliance Report and final documentation within the required 60-day reporting period, the entire security deposit will be forfeited.
- E. Any fully or partially forfeited deposits shall be used for the Climate Protection & Sustainability Program to promote waste diversion, material recovery and reuse, and related projects and programs.

17.13.5: Reserved for Benchmarking Program & Building Performance Standards

17.13.5.1: Reserved

17.13.6: Climate Protection & Sustainability Program

17.13.6.1: Purpose and Intent

The Climate Protection & Sustainability Program (Program) is intended to offset the impacts of development and climate change on the community. It will fund programs and projects that reduce the community's overall greenhouse gas emissions and build a climate resilient community through a lens of environmental justice and equity for our most underserved populations and historically marginalized communities, adapt to changing climate conditions, and implement the goals of the Sustainability Plan.

17.13.6.2: Program Established

- A. The Program is hereby established to collect fees-in-lieu of compliance from the Enhanced Development Menu (EDM) and Greenhouse Gas Mitigation Program (GHGMP), and to hold deposits from the Construction & Demolition (C&D) waste recycling supplemental standards.
- B. The funds shall be tracked separately by their source, and expended on programs and projects within the following Program Areas:
 - 1. EDM fees-in-lieu: sustainable built environment
 - 2. GHGMP fees-in-lieu: emissions reduction and adaptation
 - 3. C&D forfeited deposits: waste diversion, material recovery and reuse
- C. Funds from more than one source may be expended on programs or projects that span multiple Program Areas.
- D. Funds may also be used to support administration of the Program.

17.13.6.3: Administration

- A. Funds collected into the Program shall be appropriated annually through the City's usual budgeting process to fund programs and projects in accordance with the intended purpose of this Program.
- B. The Program shall be administered by the Sustainability Planning Division, with approval by the Planning Director.

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ARTICLE 1: PURPOSE AND ADMINISTRATION

ARTICLE 2: PROCEDURES AND APPEALS

ARTICLE 3: ZONE DISTRICTS

ARTICLE 4: USE AND SUPPLEMENTAL STANDARDS

**ARTICLE 5: DIMENSIONAL AND DEVELOPMENTAL
STANDARDS**

**ARTICLE 6: RESIDENTIAL BUILDING AND SITE DESIGN
STANDARDS**

**ARTICLE 7: INSTITUTIONAL, MIXED-USE, COMMERCIAL,
AND LIGHT INDUSTRIAL BUILDING AND SITE DESIGN
STANDARDS**

ARTICLE 8: PARKING AND LOADING STANDARDS

ARTICLE 9: SIGN STANDARDS

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ARTICLE 13: SUSTAINABLE DEVELOPMENT

17.13.1: General

17.13.1.1: Purpose and Intent

This Article establishes standards for sustainable development in the City of Lakewood. The purpose of these standards is to ensure that development implements the goals articulated in the community's adopted plans for resilient and efficient development that is adaptable to infrastructure changes in the face of climate change, minimizes its impact on limited resources, contributes to communitywide greenhouse gas emissions targets, and becomes a positive asset within the community.

17.13.1.2: Authority

Unless otherwise specifically designated, the Director shall have the authority to determine whether a project has met the standards and requirements set forth in this article. Where an applicant seeks to demonstrate compliance with the provisions of this article in a manner not explicitly prescribed herein (such as through an open option, emissions modeling, or similar), the Director may request independent verification of compliance by a consultant of the City's choosing, whose services to complete shall be paid by the applicant. Development proposals under this Article 13 may be referred to the Planning Commission at the Director's discretion.

17.13.1.3: Definitions

Notwithstanding the definitions contained elsewhere in this Zoning Ordinance, the following terms, as used in this Article, shall have the meanings ascribed thereto:

Affordable Housing means a dwelling unit which is available for rent or home ownership on terms that would be affordable to households earning eighty (80) percent or less of the median income for rental units or one hundred twenty percent (120) of the area median income for for-sale units, as adjusted for family size, for residents paying less than thirty (30) percent of their gross income for housing (including rent or mortgage and utilities) through recorded deed restriction for a minimum period of fifteen (15) years.

Deconstruction means the process of methodically disassembling a building or structure in the reverse order from how it was built for the purpose of reusing materials on site, donating materials to a non-profit organization, or recycling waste materials at appropriate recycling facilities. Deconstruction can refer to completely removing a structure, or partially removing a portion of a structure or interior or exterior finishes.

Renewable Energy Systems and Design means on-site systems and/or design features that reduce a building's operational energy use from natural gas and grid electricity through the use of renewable energy sources. Examples include solar thermal, geothermal, biomass systems, and passive solar design. For the purposes of Section 17.13.2: Enhanced Development Menu, on-site solar photovoltaic and wind energy installations are excluded from this definition.

Required Materials means all materials required to be donated, reused, or recycled as set forth in the Construction and Demolition Recycling Standards in Title 14 of the Lakewood Municipal Code (LMC), as adopted and amended from time to time.

Social Cost of Carbon (SCC) is the estimated value of economic damages resulting from one (1) additional ton of greenhouse gas emissions, including increased risk of infrastructure and property damage due to natural disasters, and impacts on human health, agricultural productivity, and ecosystem health. The rate of the SCC is established in state and federal guidance.

17.13.2: Enhanced Development Menu

17.13.2.1: Purpose and Intent

The Enhanced Development Menu (EDM) is intended to promote development that supports the community goals identified in the Lakewood Comprehensive Plan and Sustainability Plan while minimizing negative impacts on and providing direct benefits to adjacent properties and neighborhoods, helping the community as a whole realize benefits from new development.

17.13.2.2: Applicability

- A. The EDM shall be applied to all development projects with cumulative gross floor area of 2,500 square feet or greater for all proposed buildings and parking structures (not including single-level open parking lots) on the site, including new residential subdivisions and alterations to existing sites requiring Major Site Plan review.
1. New construction must achieve 1 point per 1,000 square feet of gross floor area, rounded to the nearest 1,000 square feet, with a minimum of 10 points **and a maximum of 100 points**, as shown in Table 17.13.1: EDM Applicability.
 2. Existing development undergoing site modifications that require Major Site Plan review shall achieve 1 point per 1,000 square feet of new or modified floor area, rounded to the nearest 1,000 square feet, **with a maximum of 100 points**, as shown in Table 17.13.1: EDM Applicability.

Table 17.13.1: EDM Applicability

Project Cumulative Gross Floor Area (rounded to nearest 1,000 sf)	Required Points
< 2,500 sf	N/A (0 points)
2,500 sf – 9,999 sf	10 points
10,000+ sf – 99,999 sf	10 – 100 points (1 point per 1,000 sf)
100,000+ sf	100 points

B. Exceptions:

1. Construction of individual single-family detached and duplex residential units is not subject to the EDM. This exception shall not be interpreted to extend to residential subdivisions requiring Major Site Plan review.
2. The gross floor area of any proposed Affordable Housing, as defined in this article, may be subtracted from the project cumulative gross floor area for the purpose of determining required points. For example, a multi-family residential building that includes 20% affordable units can reduce the total gross floor area by the square footage of those units when determining how many EDM points are required.
3. Proposed projects which include existing designated historic landmarks on the local, state, or national registers and which receive approval of the proposed project from the Lakewood Historic Preservation Commission may reduce the number of required EDM points by 50%.

C. Fee-in-Lieu: Projects required to earn more than 50 points may choose to pay a fee-in-lieu of compliance for any number of those points exceeding 50 at the rate established set forth in the Sustainable Development Program Fee Schedule, which shall be administratively established and updated annually.

1. A minimum of 50 points shall be achieved as part of the development through selected EDM items.
2. Any fees-in-lieu shall be due upon approval of Major Site Plan.
3. Fees-in-lieu shall be used for the Climate Protection & Sustainability Program, which will support sustainable built environment projects.

D. Miscellaneous:

1. Points earned in excess of the minimum number of points required for a given project shall not receive a monetary refund.
2. For existing development undergoing additions, renovations, or other improvements which require Major Site Plan review, selected EDM items may be located where practical on the site not limited to the area of disturbance, upon approval of the City.

17.13.2.3: Menu

Refer to Table 17.13.2: Enhanced Development Menu. All proposed points are subject to review for alignment with existing City plans and site-specific availability. Detailed documentation and methodology requirements are in the EDM Applicant Resource Guide, as may be amended from time to time upon approval of the Planning Director.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes	
Energy & Building Systems	1	Green Building Certification	Achieve LEED or NGBS certification.	LEED: Provide documentation of a LEED AP on the project team, LEED registration, pre-certification process completion, and final LEED certificate. NGBS: Provide documentation of NGBS registration, preliminary design checklist, rough and final inspection reports, and final NGBS certificate.	75% - 100% of required points	LEED Gold or Platinum, NGBS Gold or Emerald: 100% of required points LEED Silver, NGBS Silver: 75% of required points
	2	Energy efficient outdoor lighting	Use outdoor lighting fixtures and bulbs that are ENERGY STAR or DLC certified and are IDA DarkSky certified.	Provide product specifications that include certification listings and identify compliant color temperature.	2	All outdoor lighting fixtures must be compliant to earn points.
	3	Renewable electricity production* – on-site installation	Provide on-site renewable electricity (solar photovoltaic or wind) beyond Xcel Energy's Colorado Certified Renewable Percentage to reduce the projected electricity use of the project.	1) Demonstrate the projected electricity use of the site and calculate the percentage that will be offset by onsite renewable sources (minimum 10% required) 2) Provide documentation of ownership or a signed lease agreement for a period of at least 15 years and structured to survive a partial or full transfer of ownership of property.	20 – 38	20 points for 10% of electricity use offset by on-site renewable sources. Additional 1 point per additional 5% offset, up to 38 points maximum.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Energy & Building Systems	4	Renewable electricity production* – off-site subscription or community solar garden	Procure renewable electricity (solar photovoltaic or wind) from off-site sources for electricity use beyond Xcel Energy’s Colorado Certified Renewable Percentage. 1) Demonstrate the projected electricity use of the site and calculate the percentage that will be offset by off-site renewable sources (minimum 10% required). 2) Provide documentation of ownership or a signed lease agreement for a period of at least 15 years and structured to survive a partial or full transfer of ownership of property.	10 – 28	10 points for 10% of electricity use offset by off-site renewable sources. Additional 1 point per additional 5% offset, up to 28 points maximum.
	5	On-site renewable energy systems and design*	Provide on-site renewable energy systems (not including solar or wind electricity production) that reduce energy use intensity (EUI). Examples of specific technologies may include solar thermal, geothermal, and passive solar design. Demonstrate the projected EUI of the project without renewable energy systems, and calculate the percent reduction in EUI (minimum 10% required) from on-site renewable energy systems.	10 – 28	10 points for 10% EUI reduction through energy use offset by renewable energy systems. Additional 1 point per additional 5% offset, up to 28 points maximum. Points may be earned for either Item 5 or Item 6, but not both.
	6	Building Electrification*	Use all electric space conditioning, water heating, and appliances to eliminate natural gas usage within the project. Demonstrate on civil plan that no natural gas utility service will be provided to the site.	50% of required points	Points may be earned for either Item 5 or Item 6, but not both.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Water & Landscape	7	Hydro zones	Select plants appropriate to the local climate and group them in hydrozones according to water need for efficient landscape irrigation.	On the landscape plan, indicate hydrozones, selected plants, specific water requirements for each zone (gallons per square foot per season), and typical irrigation schedule (routine irrigation every 2-4 days, limited irrigation only during periods of drought, etc.).	2	-
	8	Water budgeting	Provide landscape designs that meet or fall below Denver Water benchmark of 12 gallons per square foot of pervious area annually (GPSF).	Calculate the projected outdoor water use of the site using EPA WaterSense tool. Square footage of landscape areas dedicated to food production and sports fields are exempt.	2 – 6	2 points for not exceeding 12 GPSF, 1 additional point per GPSF reduction up to 6 points (8 GPSF)
	9	Pollinator-friendly landscaping	Use plant materials that provide food and habitat for pollinators such as bees, wasps, butterflies, and birds throughout the landscape plan. Use environmentally-sensitive and pollinator-friendly land management strategies whenever possible. Install interpretive signage to identify the pollinator habitat for the public.	Demonstrate pollinator-friendly landscape design on landscape plan. Native species should be used whenever possible. Indicate what source was used as a plant list. Include a note on the landscape plan describing pollinator-friendly maintenance practices to be implemented throughout the site, not only within pollinator garden areas. Provide detail of signage in site plan demonstrating compliance with 17.9.2.2: Exempt Signs.	2 – 10	2 points per 120 contiguous square feet of pollinator-friendly landscape design, up to a maximum of 10 points (600 square feet). Individual 120 sf pollinator gardens do not have to be contiguous with each other to earn points.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Water & Landscape	10	Water Quality	<p>For projects not otherwise required to install stormwater drainage improvements, provide water quality capture volume in accordance with Mile High Flood District Urban Storm Drainage Criteria Manual Volume 3, utilizing site-appropriate best management practices to be approved by the City's Public Works Dept.</p> <p>For projects required to install stormwater drainage improvements, particularly innovative or creative drainage solutions or impactful off-site drainage improvements may be eligible for points under EDM Item 28: Open Option.</p>	<p>Identify on-site water quality features on site plan, landscape plan, and relevant engineering documents. Drainage design requires approval from the City's Public Works Dept.</p>	<p>5</p> <p>See EDM Item 28: Open Option</p>	-
	Zero	11	Recycling and composting enclosures	<p>Designate space for recycling and composting collection (or other</p> <p>On the site plan, indicate location and dimensions of dumpster enclosures for a minimum of three waste streams (e.g., trash, recycling, compost). If</p>	5	

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes	
		applicable waste stream based on the building use)	applicable, indicate waste infrastructure internal to the building (e.g., trash and recycling chutes).			
	12	Recycling and composting services*	Contract for recycling and composting collection (or other applicable waste stream based on the building use and management)	Provide documentation of a 2-year minimum contract for a minimum of trash, recycling, and compost pick-up services. Alternative waste stream services can be submitted if applicant demonstrates sufficient volumes. Alternative recycled waste streams cannot be those mandated or otherwise required by other regulatory agencies.	10	
	13	Deconstruction	Use deconstruction instead of demolition services to remove existing structures, and donate or recycle a minimum of 50% of the materials.	Provide a detailed deconstruction plan indicating how deconstruction will be performed, a quote for services from a deconstruction contractor licensed in Lakewood, and final receipts showing quantities of recycled materials.	3 - 12	3 points per 2,500 sf deconstructed, maximum 12 points. Points for EDM Item 16: Reclaimed/Recycled Materials may include documented deconstructed materials reused on-site.
Material	14	Urban heat island reduction	Use any combination of the following measures to reduce urban heat island effects for roof and hardscaped area: ENERGY	Provide product specifications including SRI or list selected vegetation. Demonstrate on a site plan sheet that a minimum of 50% of the combined total square footage of the	5- 20	5 points for 50% of hardscaped area covered by UHI reduction measures. Additional 3 points per

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* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes
		STAR-compliant roofing; a “green” (vegetated) roof; reflective materials with minimum certified SRI (solar reflective index) of 29 for aged condition; open-grid pavement; or shade trees with a caliper size of 3” or greater.	roof and hardscaped areas use UHI mitigation measures. Public sidewalks meeting the minimum city standard, or along frontages also earning points for EDM Item 23: Enhanced Streetscapes, shall be excluded from the total hardscape.		additional 5% coverage, up to 20 points maximum
15	Low-Carbon Concrete	For all on-site exterior flatwork, use a concrete product with CO ₂ e less than or equal to the “Achievable (Low)” category of the Carbon Leadership Forum Material Baselines Report, as amended. Structural uses of concrete products with CO ₂ e less than or equal to the “Achievable (Low)” category of the Carbon Leadership Forum Material Baselines Report, as amended, may be eligible for points under EDM Item 28: Open Option.	Provide third-party verified Environmental Product Declaration (EPD) of the specific concrete mix proposed to be used.	5 See EDM Item 28: Open Option	-

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
	16 Reclaimed/ recycled materials	Incorporate a minimum of 10% reclaimed and/or recycled materials into the exterior facades, open space hardscape, or other areas as determined by the Director.	Provide third-party verified Environmental Product Declarations (EPD) indicating percent of recycled content, or written and photographic documentation of the source of reclaimed materials. Specific materials are subject to approval by the Planning Department and shall comply with any other applicable design standards.	5	-
Materials	17 Adaptive Reuse	<p>Repurpose existing primary buildings for new uses rather than demolishing and constructing new buildings to help preserve the urban fabric of neighborhoods. Points may be earned for either:</p> <p>Full Building Reuse - all exterior walls are maintained as part of the proposed development, or;</p> <p>Partial Building Reuse - a minimum of 50% of the street-facing façade of the existing primary building structure is maintained as part of the street-facing façade of the proposed development.</p>	<p>Demonstrate on the site plan, landscape plan, and architectural elevations how existing building(s) will be incorporated into the design. Include a written narrative and photographs describing the approach to adaptive reuse of the existing building(s) as well as a letter of opinion from a structural engineer licensed in the state of Colorado regarding the suitability of each building for the proposed reuse. Any reuse must meet the International Existing Building Code (IEBC), as adopted or amended in Title 14 of the LMC.</p>	10 – 15, +5 bonus	<p>Full Building Reuse: 15 points</p> <p>Partial Building Reuse: 10 points for 50% of existing street-facing facade, additional 1 point for each additional 10% up to 15 points (100%).</p> <p>Bonus: 5 points for concurrent historic landmark designation by the Lakewood Historic Preservation Commission, if eligible.</p>

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	18 Multimodal transportation assessment – Residential	Identify available pedestrian, bicycle, and transit connections from the site to essential destinations in order to inform wayfinding, connectivity with the existing transportation network, and other infrastructure improvements.	Provide a plan sheet indicating multimodal routes to essential destinations within a 0.5-mile radius for suburban and urban contexts and a 0.2-mile radius for transit contexts, or to the nearest location if none exists within the stated radius. Essential destinations to be identified include: grocery stores, parks, schools, libraries, and transit stations/bus stops. Identify transit route and bike route numbers. Include narrative explaining how the project facilitates connections to these destinations and existing and planned multimodal infrastructure.	2	-
	19 Multimodal transportation assessment – Non-Residential	Identify available pedestrian, bicycle, and transit connections to the site in order to inform wayfinding, connectivity with the existing transportation network, and other infrastructure improvements.	Provide a plan sheet indicating multimodal routes to the site within a 0.5-mile radius for suburban and urban contexts and a 0.2-mile radius for transit contexts. Consider how people of all abilities would access the site as pedestrians, by bicycle, and by transit from the surrounding area, such as from transit stops, neighborhoods, and trails. Identify transit route and bike route numbers. Include narrative explaining how the project facilitates connections to and through the site	2	-

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TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	20 Bike amenities	Provide bike amenities that are available to the community, such as fix-it stations with air pumps, bicycle vending machines, bicycle parking cover, e-bike charging station, designated space for dock less bike share parking, water bottle refill stations, custom bike racks in areas of the City where a specific streetscape design package or adopted design guidelines are implemented, etc.	Indicate bike amenities on site plan and provide product specification sheets and a maintenance plan. Must provide a minimum of 2 amenities.	2 – 5	1 point per amenity, up to 5 points maximum. Must provide a minimum of 2 amenities.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
	21 Public EV charging infrastructure*	Install publicly available Electric Vehicle (EV) charging infrastructure and designated parking spaces.	Indicate designated public EV spaces on site plan and provide EV charging infrastructure product specification sheets. Must provide a minimum of 1 universal dual port charger (2 parking spaces) in addition to the EV charging minimum required in Article 8 of this Zoning Ordinance. Signage installed at each charging space shall indicate that charging is publicly accessible.	5 – 30	All points below are per universal dual-port charger, and can be combined up to a maximum of 30 points. Chargers earning points in this item do not qualify for points under Item 22. Level 2 <u>and DCFC</u> <u><50kW</u> : 5 points DCFC 50kW – 99kW: 10 points DCFC 100kW+: 15 points
Transportation	22 Above-code EV charging infrastructure*	Install EV charging infrastructure for greater than the minimum number of EV parking spaces required in Article 8 of this Zoning Ordinance. These spaces are not required to be publicly available, and may be reserved for building residents, tenants, and employees.	Indicate designated EV spaces on the site plan and provide EV charging infrastructure product specification sheets. Minimum 2 additional installed spaces (1 universal dual port charger).	5 – 30	5 points per universal dual port charger, up to 30 points maximum (6 dual port chargers/12 parking spaces). Chargers earning points in this item do not qualify for points under Item 21.

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes
Transportation	23 Enhanced Streetscapes	<p>Provide enhanced streetscape design in support of and consistent with citywide, neighborhood, or strategic plans within Growth Areas as identified in the Comprehensive Plan. At a minimum, enhanced design shall include a minimum of four (4) of the following elements:</p> <ul style="list-style-type: none"> - Street trees in addition to any required elsewhere in this zoning code - Shrub/perennial beds within the tree lawn - Masonry seat walls - Pedestrian-scale lighting - Transit stop improvements - Pedestrian amenities such as trash receptacles, benches, etc. - Placemaking features as identified in specific area plans. 	<p>Streetscape design will be reviewed for consistency with applicable city plans, studies, and design guidelines. Provide a conceptual streetscape design as a detail site/landscape plan for each proposed enhanced frontage indicating the specific elements proposed. Include product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All enhanced streetscape elements shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any elements located within the right-of-way.</p>	<p>5 – 40 +5 bonus</p>	<p>5 points for enhanced primary frontage up to 50 linear feet, plus 1 point per additional 10 linear feet of enhanced lot frontage, 40 points maximum (400 linear feet of frontage). Must install complete frontages, starting with the primary frontage, unless otherwise approved.</p> <p>Bonus 5 points for projects in areas of the City where a specific streetscape design package or adopted design guidelines are implemented.</p>

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Community Cohesion & Public Health	24	Social connection amenities	<p>Provide amenities, in addition to other requirements, that support community interaction and are accessible by the general public.</p> <p>Small amenities (<\$5,000) may include little free libraries, community bulletin boards, picnic tables, <u>permanent games such as corn hole, ping pong, or bocce</u>, etc.</p> <p>Medium amenities (approx. \$5,000 - \$15,000) may include outdoor exercise equipment, shade structures, water bottle filling stations, musical instruments, game tables, <u>dog parks</u>, etc.</p> <p>Large amenities (approx. \$15,000+) may include community meeting room, outdoor classroom, playground equipment, <u>basketball or pickleball courts</u>, etc.</p>	<p>Indicate amenities on site plan and evidence that amenities are easily visible and accessible by the general public. Include product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All social connection amenities shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any amenities located within the right-of-way.</p> <p>Where a proposed amenity does not clearly fit within one of the suggested categories at left, the Planning Director shall determine the appropriate category (small, medium, or large) of the proposed amenity.</p> <p><u>Other public recreation amenities may also be considered under Item 28: Open Option in collaboration with Community Resources staff.</u></p>	2 – 20	<p>1 point per small amenity</p> <p>2 points per medium amenity</p> <p>5 points per large amenity</p> <p>Must earn a minimum of 2 points, up to a maximum of 20 points.</p> <p>Developments over 100,000 sf must earn a minimum of 5 points.</p>

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM	DESCRIPTION	Documentation Required	Points	Scoring Notes	
Community Cohesion & Public Health	25	Public art	Consult with the City's Arts Programming Curator and Comprehensive Planning and Research staff to receive guidelines for the acquisition of public art or a template RFP/RFQ for public art on the site. Artwork acquisition and/or RFP/RFQ must be approved by the City before issuing.	Indicate art location(s), proposed medium, and proposed scale on site plan. The art must be permanent and viewable/accessible from public or semi-public areas. Include any product specifications and a note within the site plan identifying the responsible party for ongoing maintenance. All public art shall be maintained by the property owner, unless other arrangements are made with the City at time of Site Plan approval. A revocable License Agreement with the City is required for any art located within the right-of-way.	2 – 25 +3 bonus points within designated arts or creative districts +5 bonus points adjacent to the ArtLine (bonus points shall not be combined)	Points shall be awarded based on the art budget (inclusive of artist fees, materials, and installation) as shown below: \$5,000: 2 points \$10,000: 4 points \$15,000: 8 points \$25,000: 12 points \$50,000: 15 points \$100,000: 20 points \$150,000: 25 points Developments over 100,000 sf must earn a minimum of 8 points.
	26	Adaptability / Universal Design	Provide a minimum of 15% of housing units designed to accommodate people of all ages and ability levels in addition to the minimum number of accessible units required by law.	Provide floorplan of residential building(s) meeting the minimum number of required universal design features listed in the EDM Applicant Resource Guide.	5	

TABLE 17.13.2: ENHANCED DEVELOPMENT MENU

TOTAL POINTS REQUIRED: 2,500 – ~~9,999~~ ~~10,000~~ sf = 10 points; 10,000+ – ~~100,000~~ sf = 1 point per 1,000 sf; ~~>100,000 sf = 100 points~~

* Eligible Greenhouse Gas Mitigation Measure under Section 17.13.3: Greenhouse Gas Mitigation Program.

	MENU ITEM		DESCRIPTION	Documentation Required	Points	Scoring Notes
Community & Health	27	On-site food production	Provide community-serving food plots for vegetable gardens and fruit trees to foster local food production.	On landscape plan, indicate location, size, and number of garden plots, fruit trees, etc. and provide evidence that garden plots are easily accessible, of appropriate slope, and contain appropriate soil for food production, adequate sunlight and an available water source (exempt from water budget). Provide food plots on site for a minimum of 10% of multifamily units (or commercial equivalent). Combined area of plots must equal a minimum of 20 sq. ft. each per unit.	15	
	28	Open Option	Provide enhanced amenities that are in addition to other code requirements and approved by the Director or Planning Commission	Submit a proposal including a description, cost estimate, alignment with City goals and policies, points proposed and any documentation necessary to substantiate the claimed benefits.	2 – 100	2-14 points may be approved by the Director; projects requesting 21 or more points must be approved by Planning Commission

17.13.3: Greenhouse Gas Emissions Performance Standard

17.13.3.1: Purpose and Intent

The Greenhouse Gas Mitigation Program (GHGMP) is intended to ensure new development is aligned with the City's climate goals and targets to help the community do its part to meet climate commitments by preventing excess greenhouse gas emissions.

17.13.3.2: Applicability

- A. All new development, including new single-family residential construction, and all remodels, alterations, and additions requiring a Major Site Plan application, shall comply with the standards of this section. A fee-in-lieu of compliance will be available where full compliance is impractical or infeasible or where preferred by the applicant.
- B. Exceptions:
 - 1. These standards do not apply to remodels, alterations, and additions to existing single-family residential dwellings, including individually-owned detached, duplex, and attached/townhome units. This shall not be interpreted to exclude complete reconstruction (scrape and rebuild) from compliance with the Greenhouse Gas Mitigation Program.

17.13.3.3: Performance Standards

- A. Residential Uses – All new residential development shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standard, calculated using the following formula:

Residential Performance Standard (Maximum Permitted Greenhouse Gas Emissions = Target Emissions Per Capita x Projected Residents)

- 1. "Target Emissions per Capita" equals the sum of emissions from residential energy, residential waste, and transportation as reported in the city's most recent greenhouse gas inventory, divided by the city population of the year of the inventory, and then multiplied by the percentage reduction needed to meet the city's climate commitments (Emissions Reduction Factor).

*Target Emissions per Capita = ((Emissions from: Residential Energy + Residential Waste + Transportation) / Citywide Population) * Emissions Reduction Factor*

- 2. "Projected Residents" is determined based on the average number of individuals per dwelling unit by number of units in a residential building as calculated from currently available Census Bureau data.

3. Projected annual greenhouse gas emissions for each residential development shall be calculated for the residential energy, residential waste, and transportation sectors using the methodology published in the GHGMP Applicant Resource Guide and regularly updated upon approval of the Director to reflect the most recent available data.
 - a. Projected transportation emissions may be reduced by 20% for residential developments within Transit context zone districts and for age-restricted communities.

- B. Non-Residential Uses – All new non-residential development shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standard, calculated using the following formula:

Non-Residential Performance Standard (Maximum Permitted Greenhouse Gas Emissions) = Target Emissions Per Square Foot x Proposed Gross Floor Area

 1. “Target Emissions per Square Foot” equals the sum the emissions from non-residential energy and non-residential waste as reported in the city’s most recent greenhouse gas inventory, divided by the total citywide non-residential square footage of the year of the inventory, and then multiplied by the percentage reduction needed to meet the city’s climate commitments (Emissions Reduction Factor).

*Target Emissions per Square Foot = ((Emissions from Non-Residential Energy + Emissions from Non-Residential Waste) / Citywide Non-Residential Square Footage) * Emissions Reduction Factor*
 2. Projected annual greenhouse gas emissions for each non-residential development shall be calculated for the non-residential energy and non-residential waste sectors using the methodology published in the GHGMP Applicant Resource Guide and regularly updated upon approval of the Director to reflect the most recent available data.

- C. Mixed-Uses – Developments with a mix of residential and non-residential uses shall demonstrate projected annual greenhouse gas emissions not to exceed the Performance Standards calculated as shown in 17.13.3.3.A and 17.13.3.3.B for the respective square footages of the residential and non-residential portions of the building(s).

17.13.3.4: Submittal Process

- A. Applicants shall submit the City’s Greenhouse Gas Emissions Worksheet with development and/or building permit applications. This worksheet will determine the estimated annual emissions for the size and type of development assuming no mitigation efforts are made. If development proposals exceed the Greenhouse Gas Emissions Performance Standard, there are two pathways for compliance:
 1. Mitigation – Use mitigation measures to reduce projected annual emissions in order to meet the Performance Standard. Applicants shall submit their proposed mitigation

measures using the Greenhouse Gas Emissions Worksheet and identify such measures on the Site Plan. Mitigation may be accomplished in one or a combination of the following ways:

- a. Use approved mitigation measures and emission reduction values identified in the GHGMP Applicant Resource Guide, which may be updated annually upon approval of the Planning Director to reflect new data availability. Identified mitigation measures include:
 - i. EDM Items 3-4: Renewable Electricity Production (on-site installation or off-site subscription)
 - ii. EDM Item 5: On-Site Renewable Energy Systems and Design (not including electricity production)
 - iii. EDM Item 6: Building Electrification
 - iv. EDM Item 12: Recycling and Composting Services
 - v. EDM Item 21: Public EV Charging Infrastructure
 - vi. EDM Item 22: Above-code EV Charging Infrastructure (may be private spaces)
 - b. Submit alternative method (such as a building energy model) to demonstrate reduced emissions. Modeling shall conform to IECC or ASHRAE standards or similar as approved by the Director.
2. Fee-in-Lieu – Pay a fee-in-lieu of compliance for ~~five (5)~~ **fifteen (15)** years' worth of annual emissions exceeding the Performance Standard in accordance with the following formula:
- $$\text{Fee-In-Lieu} = ((\text{Projected Emissions} - \text{Performance Standard}) \times \text{5 15 years}) \times \text{Social Cost of Carbon}$$
- a. The fee-in-lieu will be levied at the rate ~~established set forth~~ in the Sustainable Development Program Fee Schedule, which shall be administratively established and updated annually based on state and federal guidance for the Social Cost of Carbon (SCC), ~~but no less than \$76 per metric ton of CO₂ equivalent emissions, which is the SCC value for 2020 emissions using a 2.5% discount rate.~~
 - b. Fees-in-lieu shall be used for the Climate Protection & Sustainability program, which will fund programs and projects within the City that reduce the community's overall greenhouse gas emissions, adapt to changing climate conditions, and support workforce and technology innovations.
3. Applicants may use a combination of the Mitigation and Fee-in-Lieu pathways by demonstrating mitigation measures to reduce the development's estimated emissions and paying a fee-in-lieu for the remainder emissions exceeding the Performance Standard.

17.13.4: Construction & Demolition Waste Recycling

17.13.4.1: Purpose and Intent

The Construction & Demolition (C&D) Waste Recycling Supplemental Standards are intended to achieve reduction and/or recycling of debris generated by construction and demolition projects, thereby diverting debris from area landfills, reducing environmental impacts, and advancing Lakewood's waste diversion goals. Additionally, these standards support compliance with construction and demolition waste recycling requirements set forth in LMC Title 14.

17.13.4.2: Applicability

The standards in this section shall apply to any development project that must also comply with section 17.13.2 Enhanced Development Menu. Upon six (6) months written notice posted on the City's website, the Director may expand this applicability to any project subject to the construction and demolition recycling standards set forth in LMC Title 14.

17.13.4.3: Comprehensive Waste Management Plan

Prior to issuance of a building or demolition permit, the applicant shall submit a comprehensive waste management plan which shall, at a minimum, contain the following information:

- A. Designated employee to be the on-site construction waste recycling manager and point of contact for waste-related issues;
- B. Acknowledgment of all Required Materials to be donated, reused, or recycled as set forth in the building code, and the identification of the specific Required Materials that will be generated by the project.
- C. Collection and disposal strategy for all Required Materials and landfilled waste including:
 - 1. The method of collection
 - 2. Waste hauler(s)
 - 3. Disposal, recycling or reuse facilities
- D. Strategy for training and education of subcontractors and employees to support compliance
- E. Compliance tracking and reporting strategy

17.13.4.4: Performance Security Deposit

The applicant shall post a performance security deposit prior to issuance of a building or demolition permit in accordance with the following:

- A. New construction, additions, and remodels: one dollar per square foot of interior building space, with a maximum deposit of \$100,000.
- B. Demolition projects: one dollar per square foot for the area of disturbance as identified in the permit application, including any parking areas to be removed, with a maximum deposit of \$100,000.

17.13.4.5: Performance Security Deposit Refund Procedures

Any project required to submit a comprehensive waste management plan or performance security deposit shall submit a final Compliance Report within sixty (60) days of issuance of a certificate of completion (for demolition projects) or the last certificate of occupancy (for construction projects).

- A. The Compliance Report shall contain documentation showing that the diversion requirements for the project have been met, including the following:
 - 1. Copy of the approved Comprehensive Waste Management Plan
 - 2. Individual weight tickets from the vendor or facility that received each Required Material clearly listing the type of material that was recycled and the actual volume or weight of that material. Receipts/weight tickets for landfill disposal are also required.
 - 3. Narrative and photographic documentation of the applicant's reuse/salvage activities not accounted for with receipts or weight tickets.
- B. Upon receipt of the completed Compliance Report, the City will have sixty (60) days to confirm that the diversion requirements have been met and will request release of the applicant's security deposit.
- C. The security deposit will be refunded according to the following schedule, based on how well the project met the diversion requirements identified in the comprehensive waste management plan and the completeness of the documentation provided in the compliance report:
 - 1. Full compliance and complete documentation: 100% refund
 - 2. Partial compliance: Refund prorated based on the percentage of Required Material weight tickets provided in the Compliance Report as compared to the number of Required Materials identified in the comprehensive waste management plan. The city may also conduct on-site inspections to verify compliance and may pro-rate the refund based on the results of the inspection.
 - 3. Non-compliance or incomplete documentation: 0% refund

- D. If an applicant fails to submit a Compliance Report and final documentation within the required 60-day reporting period, the entire security deposit will be forfeited.
- E. Any fully or partially forfeited deposits shall be used for the Climate Protection & Sustainability Program to promote waste diversion, material recovery and reuse, and related projects and programs.

17.13.5: Reserved for Benchmarking Program & Building Performance Standards

17.13.5.1: Reserved

17.13.6: Climate Protection & Sustainability Program

17.13.6.1: Purpose and Intent

The Climate Protection & Sustainability Program (Program) is intended to offset the impacts of development and climate change on the community. It will fund programs and projects that reduce the community's overall greenhouse gas emissions and build a climate resilient community through a lens of environmental justice and equity for our most underserved populations and historically marginalized communities, adapt to changing climate conditions, and implement the goals of the Sustainability Plan.

17.13.6.2: Program Established

- A. The Program is hereby established to collect fees-in-lieu of compliance from the Enhanced Development Menu (EDM) and Greenhouse Gas Mitigation Program (GHGMP), and to hold deposits from the Construction & Demolition (C&D) waste recycling supplemental standards.
- B. The funds shall be tracked separately by their source, and expended on programs and projects within the following Program Areas:
 - 1. EDM fees-in-lieu: sustainable built environment
 - 2. GHGMP fees-in-lieu: emissions reduction and adaptation
 - 3. C&D forfeited deposits: waste diversion, material recovery and reuse
- C. Funds from more than one source may be expended on programs or projects that span multiple Program Areas.
- D. Funds may also be used to support administration of the Program.

17.13.6.3: Administration

- A. Funds collected into the Program shall be appropriated annually through the City's usual budgeting process to fund programs and projects in accordance with the intended purpose of this Program.
- B. The Program shall be administered by the Sustainability Planning Division, with approval by the Planning Director.

Draft

List of code language changes since Planning Commission 1/5/22

Sec. 17.13.2.2: Applicability

- Adjusted maximum point value from 100 points to 150 points to reflect staff's updated recommendation.
- Added language to clarify when and how the Sustainable Development Program Fee Schedule will be established and updated.

Sec. 17.13.2.3: Menu

- Heading – Updated maximum point requirements from 100 points to 150 points.
- Item 21 – Added "...and DCFC <50kW" language to capture the full range of available EV charging technologies
- Item 24 – Added more suggested amenities to the list of examples, and added language that "Other public recreation amenities may also be considered under Item 28: Open Option in collaboration with Community Resources staff."

Sec. 17.13.3.4: Submittal Process

- Added language to clarify when and how the Sustainable Development Program Fee Schedule will be updated.
- Removed language setting a minimum value of the Social Cost of Carbon at the recommendation of Legal staff

Sec. 17.13.6.1: Purpose and Intent

- Added language to include equity in purpose of Climate Protection & Sustainability Program

ARTICLE 13 SUMMARY OF SUPPORTING DOCUMENTS

Enhanced Development Menu (EDM) Applicant Guide

The existing EDM applicant guide will be updated to reflect revised and new items added to the menu with the proposed amendments. This guide provides applicants with:

- Detailed instructions, calculations, and guides for what to submit to earn points for each menu item
- Links to key resources that may be used to support proposal requirements
- Templates and examples

GHG Mitigation Program Applicant Guide

The GHG Mitigation Program Applicant Guide will provide the detailed instructions, methodology, and calculations needed for applicants to meet the submittal requirements of **Article 17.13.3: Greenhouse Gas Emissions Performance Standard**. The guide will also publish the latest emissions factors and key data points needed to calculate projected emissions and mitigation soon after being released by the data sources.

Key information, methodologies, and factors to be published in the guide include:

1. Resources for calculating building emissions and mitigation measures including a GHG Emissions Worksheet to assist the applicant in performing all calculations to simplify and streamline the process.
2. Performance Standard calculations and methodology:
 - Residential Performance Standard = Target Emissions per Person x Number of Anticipated Residents
 - Target Emissions per Person
 - Based on a 60% reduction from the emissions presented in Lakewood’s 2018 GHG Inventory to reach climate commitments by 2030, divided by the 2018 city population (Source: 2018 GHG Inventory).
 - Includes emissions for the residential energy, waste, and transportation (excluding aviation) sectors.

Table 1: Performance Standard Calculations per Capita

	Energy	Transportation	Waste	Total
2018 Total Emissions (mTCO ₂ e)	458,463	479,480	14,639	952,583
2018 Population	151,411			
Emissions Per capita	3.03	3.17	0.097	6.29
Target Reduction (%)	60%			
Performance Standard per Capita (mTCO ₂ e)	1.21	1.27	0.039	2.52

- Number of Anticipated Residents
 - Calculated from 2019 American Community Survey (ACS) 5-year Estimates TableID: B25124 – Tenure by Household Size by Units in Structure.

Table 2: Anticipated Residents Per Unit by Units in Building

Building Type	Total Households	Total Population	Average Household Size
1 unit	40,594	106,088	2.61
2-4 units	4,030	8,547	2.12
5-19 units	12,239	23,974	1.96
20-49 units	5,029	9,660	1.92
50+ units	3,796	5,815	1.53
MH, RV, etc.	586	1,061	1.81

- Non-residential Performance Standard = Target Emissions per SF x Proposed Gross Floor Area
 - Target Emissions per Square Foot
 - Based on a 60% reduction from the emissions presented in Lakewood’s 2018 GHG Inventory to reach climate commitments by 2030, divided by the 2018 non-residential square footage.
 - Includes emissions for the non-residential energy and waste sectors.
 - 2018 Non-residential Square footage = 42,475,914 SF (Source: Jefferson County Assessor’s Data)

Table 3: Performance Standard Calculations per Square Foot

	Energy	Waste	Total
2018 Total Emissions (mTCO ₂ e)	500,714	12,868	513,582
2018 Non-residential SF	42,475,914		
Emissions Per SF	0.0118	0.000303	0.01209
Target Reduction (%)	60%		
Performance Standard per SF (mTCO ₂ e)	0.0047	0.000121	0.00484

3. Projected Emissions Calculations

Many of these factors will be updated as new data is released to reflect best possible information for applicants. Some sources release new data annually, while others are more occasional. The figures listed in this section are the current values.

- Residential Emissions = Energy + Transportation + Waste Emissions
 - Energy Emissions = ((Electricity energy intensity x Carbon emissions factor) + Natural gas intensity x Carbon emissions factor)) x Proposed Gross Floor Area
 - Use Residential Building Energy Consumption Survey (RBECS) energy intensity data listed in Table 4 based on principal building activity or submit an energy model demonstrating the projected energy use
 - Carbon emissions factor for electricity = 0.4747 metric tons CO₂ per MWh (Source: 2020 Xcel Community Report)
 - Carbon emissions factor for natural gas = 0.0053 metric tons CO₂ per therm (Source: 2020 Xcel Community Report)
 - Transportation Emissions = (Transportation emissions per capita) * (Number of Anticipated Residents)
 - Transportation emissions per capita = 2.13 metric tons CO₂e (Sources: 2018 Inventory, DRCOG Travel Demand Model, Google Environmental Insights Explorer)
 - Waste Emissions = (Waste emissions per capita) * (Number of Anticipated Residents)
 - Waste emissions per capita = 0.097 metric tons CO₂e (Source: 2018 Inventory)
- Non-residential Emissions = Energy + Waste Emissions
 - Energy Emissions = ((Electricity energy intensity x Carbon emissions factor) + Natural gas intensity x Carbon emissions factor)) x Proposed Gross Floor Area
 - Use Commercial Building Energy Consumption Survey (CBECS) energy intensity data listed in Table 4 based on Principal building activity or submit an energy model demonstrating the projected energy use
 - Carbon emissions factor for electricity = 0.4747 metric tons CO₂ per MWh (Source: 2020 Xcel Community Report)
 - Carbon emissions factor for natural gas = 0.0053 metric tons CO₂ per therm (Source: 2020 Xcel Community Report)
 - Waste Emissions = (Waste emissions per square foot) * (Proposed Gross Floor Area)
 - Waste emissions per square foot = 0.00030 metric tons CO₂e per square foot (Source: 2018 Inventory)

4. Mitigation Options:

The proposed ordinance and the Applicant Resource Guide will include a menu of approved mitigation options that can be used to reduce the projected emissions for a development project to help get closer to or meet the Performance Standard.

- Methodology for identified mitigation measures
 - Renewable Energy (Onsite)
 - Calculate grid or natural gas use offset by onsite renewable energy and multiply by emissions factor of 0.4747 metric tons CO₂ per MWh or 0.0053 metric tons CO₂ per therm offset (Source: 2020 Xcel Community Report)

- Renewable Energy (Offsite)
 - Calculate electricity use offset by offsite renewable energy and multiply by emissions factor of 0.4747 metric tons CO₂ per MWh offset (Source: 2020 Xcel Community Report)
- Building Electrification:
 - Calculate difference between projected and baseline EUI and multiply by emissions factor of 0.4747 metric tons CO₂ per MWh offset or 0.0053 metric tons CO₂ per therm offset (Source: 2020 Xcel Community Report)
- Recycling and Composting Contracts
 - Reduce total projected waste emissions by diversion rate for recycling and composting services (Source: TBD)
- Electric Vehicle Charging Infrastructure
 - Reduce the projected transportation emissions in accordance with the number of public EV charging infrastructure spaces, where each EV parking space receives credit for avoiding the tailpipe emissions from 1 fossil fuel-based passenger vehicle, calculated as 1 person.
 - Transportation emissions per capita = 2.83 metric tons CO₂e (Sources: 2018 Inventory, DRCOG Travel Demand Model, Google Environmental Insights Explorer)
- Alternative Method
 - Submit an alternative method / strategy to demonstrate reduced emissions

Construction and Demolition Comprehensive Waste Management Plan

A comprehensive construction waste management plan (CWMP) and ongoing material tracking for projects also requiring review under the EDM. Specific requirements of the CWMP include:

- Designating a single on-site waste manager
- Projected types and volumes of waste materials likely generated
- Identification of haulers and disposal and recycling facilities for all materials hauled from the site
- On-site planning for waste stream separation,
- Training plan for employees and subcontractors,
- Final reporting requirements including material specific waste receipts.

Table 4: Energy Use Intensity per Square Foot for Residential and Non-Residential Uses

Source: 2012 CBECS / 2015 RECS data (filtered for very cold/cold climate region)

Principal building activity	Electricity energy intensity (kWh/square foot)	Natural gas energy intensity (cubic feet/square foot)
Education	9.1	40.9
Food sales	45.8	70.4
Food service	35.8	150.4
Health care - General	22.3	77.3
Healthcare - Inpatient	26.7	108.7
Healthcare - Outpatient	18.0	45.7
Lodging	15.4	58.6
Mercantile	17.1	39.9
Mercantile - Retail (other than mall)	13.5	31.6
Mercantile - Enclosed and strip malls	20.7	46.6
Office	15.4	33.8
Public assembly	12.4	39.9
Public order and safety	9.7	45.6
Religious worship	4.6	33.6
Residential - Mobile home	8.7	23.9
Residential - Single-family detached house	3.6	23.1
Residential - Single-family attached house	3.9	27.9
Residential - Apartment in a building with 2 to 4 units	5.6	35.1
Residential - Apartment in a building with 5 or more units	6.1	20.9
Service	7.1	41.7
Warehouse and storage	5.7	27.1
Other	24.9	63.5
Vacant	4.5	15.8

STAFF MEMO

DATE OF COUNCIL MEETING: MAY 2, 2022 / AGENDA ITEM NO. 4

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: **ENTERTAINMENT DISTRICTS**

SUMMARY STATEMENT: Staff has provided for City Council review and discussion a draft application for the establishment of an entertainment district and draft modifications to Title 5, Chapter 39 to support the imposition and application of sustainability and nuisance control standards to entertainment districts.

BACKGROUND INFORMATION:

On February 28, 2022, the City Council approved on second reading **Ordinance O-2022-1** – an Ordinance establishing Title 5, Chapter 39, of the Municipal Code of the City of Lakewood, Colorado, in connection with the establishment of entertainment districts, common consumption areas, and associated promotional associations. On April 11, 2022, the City Council acted to table a Resolution adopting applications in association with Title 5, Chapter 39, and directed staff to bring forward for their review at the May 2, 2022 study session a draft application for the establishment of an entertainment district and draft modifications to Title 5, Chapter 39 to support the imposition and application of sustainability and nuisance control standards to entertainment districts. There are several updates to Ordinance O-2022-1 as the previous focus of this section of the ordinance was limited to a review focused upon needs and desires of the neighborhood. The new focus is upon specific and measurable standards, which require staff review and comment and methods for enforcing the established standards.

Specifically, members of the City Council expressed a desire that entertainment districts be established within Lakewood in a manner that supports community building and interaction as well as to serve as economic drivers. Additionally, the members of the City Council wanted a means to assure that entertainment districts, and the licensed entities within them, are developed in support of the City's sustainability plan and conform to the City's nuisance control regulations. Examples of areas the members of the City Council would like entertainment district regulations to address include: composting, bike racks, recycling, electric vehicle support, access to transit, etc.

The new ownership of the Belmar commercial area has approached the city about the creation of an entertainment district on the plaza and Teller Street between Alaska and Virginia Avenues. Such a district would allow restaurants, bars, and venues in that area to establish promotional associations to oversee common consumption areas.

BUDGETARY IMPACTS:

There are anticipated budgetary impacts, including oversight of the new standards and monitoring of compliance with the new standards. Exactly what these budgetary impacts will be, however, is undetermined at this time.

STAFF RECOMMENDATIONS:

Staff recommends approval of new sustainability and nuisance control standards for entertainment district created in the City of Lakewood.

ALTERNATIVES:

City Council may choose not to adopt the amending ordinance, in which event, entertainment districts will be established in accordance with the existing code provisions.

PUBLIC OUTREACH:

Normal public outreach was conducted for this meeting.

NEXT STEPS:

Incorporate sustainability standards and nuisance control standards into the entertainment district application process by Resolution.

ATTACHMENTS:

Updates to Ordinance 2022-1, Establishing a Code for the Establishment of Entertainments Districts, Common Consumption Areas, and Associated Promotional Associations.

Entertainment District Draft Application

Draft sustainability standards for entertainment districts

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

O-2022-___

AN ORDINANCE

ESTABLISHING TITLE 5, CHAPTER 39, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH THE ESTABLISHMENT OF ENTERTAINMENT DISTRICTS, COMMON CONSUMPTION AREAS, AND ASSOCIATED PROMOTIONAL ASSOCIATIONS

WHEREAS, the City of Lakewood (“Lakewood” or “City”) is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, pursuant to C.R.S. § 12-47-301(11)(a) of the Colorado Liquor Code the governing body of a Local Licensing Authority may provide for the establishment of Entertainment Districts within which Common Consumption Areas may be created under the direction of Promotional Associations;

WHEREAS, Entertainment Districts are an economic development tool intended to allow established commercial entities that serve alcoholic beverages to partner with neighboring businesses that serve food to create identified outdoor dining spaces called Common Consumption Areas where food and beverages from any or all of the attached food and/or beverage retailers may be lawfully consumed;

WHEREAS, the City desires to establish application procedures, fees and hours of operation applicable to establishment of Entertainment Districts, Common Consumption Areas, and Promotional Associations within the City;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Establishment of Title 5, Chapter 39. Title 5, Chapter 39 of the Lakewood Municipal Code shall be added as follows:

Chapter 5.39 Entertainment Districts

Section 5.39.010 - Purpose

The purpose of this Chapter is to authorize the designation of entertainment districts in the City, to provide for the creation of common consumption areas within such entertainment districts, and to establish provisions for the certification and regulation promotional associations, all in accordance with C.R.S. 44-3-101, *et seq.*

Section 5.39.020 - Definitions

As used in this Chapter, the following terms shall have the following meanings:

- A. *Attach(ed)* means the **physical** connection, as authorized by the Authority, of any of the liquor licensed premises, as identified in this Section, to an adjoining common consumption area to provide alcohol beverages for consumption within the common consumption area.
- B. *Application* means a form provided by the Lakewood City Clerk's Office allowing an applicant to request designation of an entertainment district, create a common consumption area or certify a promotional association.
- C. *Application fee* means an administrative fee, the amount of which is set by City Council resolution, imposed on each application submitted pursuant to this Chapter.
- D. *Authority* means the Liquor Licensing Authority of the City of Lakewood.
- E. *Colorado Liquor Code* means Articles 3, 4 and 5 of Title 44 of the Colorado Revised Statutes, as amended, and the rules and regulations therefor set forth in the Colorado Code of Regulations at 1 CCR 203-2, as amended.
- F. *Common consumption area* means an area defined in C.R.S. § 44-3-103(11), as amended, where persons over twenty-one (21) years of age may consume alcohol beverages outside of a liquor licensed premises.
- G. *Designated neighborhood* means the neighborhood(s), as designated by the City Clerk, within and immediately adjacent to a proposed entertainment district or immediately adjacent to a proposed common consumption area, as applicable to a particular application.
- H. *Entertainment district* means an area within the City designated by City Council resolution as an entertainment district, which is comprised of no more than one hundred (100) acres and contains, at the time the entertainment district is designated, at least twenty thousand square feet (20,000 s.f.) of premises licensed as a tavern, hotel and restaurant, brew pub, distillery pub, vintner's restaurant, beer and wine licensee, manufacturer or beer wholesaler that operates a sales room, or limited winery. See C.R.S. 44-3-301(11).
- I. *Liquor licensed premises or licensed premises* means the location authorized to serve or sell alcohol pursuant to a liquor license.
- J. *Liquor license* means a license issued pursuant Chapter 5.38 of the Lakewood Municipal Code but excluding special event permits issued pursuant to section 5.38.120 thereof.

- K. *Non-liquor licensed business* means a business or occupation that does not possess a liquor license pursuant to Chapter 5.38.
- L. *Person/People* means a partnership, association, company, corporation, organization or individual (natural person), or a manager, agent, servant, officer or employee thereof.
- M. *Promotional association* shall have the same meaning as set forth in C.R.S. § 44-3-103(39), as amended, and is generally understood to mean an association that is incorporated within Colorado, organizes and promotes entertainment activities within a common consumption area, and is organized or authorized by two or more people who own or lease property within an entertainment district.
- N. *Regulations* means those Regulations promulgated by the City Clerk to carry out the intentions of this Chapter.

5.39.030 - Entertainment Districts; Application

The City Council, by resolution and in accordance with the requirements of this Chapter, may designate specific areas within the City as individual entertainment districts.

A. General.

1. Entertainment districts shall have perpetual existence unless the City Council otherwise sets a specific term in the authorizing resolution. **Where an entertainment district has no common consumption area within its boundaries, the City Council may at any time ~~during the term of the entertainment district~~, terminate the authorizing resolution to remove the area's entertainment district designation for violation of the terms of this Chapter or the terms of the authorizing resolution. **Where an entertainment district has a common consumption area operating within its boundaries, any disciplinary action shall be in accordance with section 5.39.110 of this Chapter.****
2. No entertainment district shall include any area zoned for single family dwelling units, as such are defined in Chapter 17.14 of the Lakewood Municipal Code. Entertainment districts shall avoid inclusion of any area with a residential zoning classification.

B. Application. A request to designate an area within the City as an entertainment district shall be made by application submitted to the Lakewood City Clerk's Office, which shall include the following:

1. The proposed name of the entertainment district;
2. A detailed area map of the proposed entertainment district including the following:
 - a. The boundaries of the proposed entertainment district outlined in red;
 - b. The total acreage of the proposed entertainment district; and
 - c. The name, address, license type and square footage (excluding temporary modifications) of each liquor licensed premises within the proposed entertainment district.
3. The application fee.
4. A certification that the proposed entertainment district meets the minimum requirements established by this Chapter, including, but not limited to: size of

district, percentage of area within proposed district containing premises licensed for alcohol sale, and any other certifications deemed necessary by the City Council, or as set forth within the regulations promulgated by the City Clerk.

5.39.040 - Review of Applications for Certification, ~~Recertification~~ or Attachment

- A. Common Consumption Areas. The Authority may approve an application for a common consumption area within a designated entertainment district, subject to the provisions of this Chapter.
1. General.
 - a. The size of the common consumption area shall not exceed the area ~~approved~~ **designated** as the entertainment district within which the common consumption area is located. However, the common consumption area may be smaller than the area of the entertainment district.
 - b. Each common consumption area shall include no fewer than two (2) ~~liquor licensed premises attached premises licensed to sell liquor or alcohol beverage~~.
 - c. As part of the process for ~~approving~~ **authorizing** a common consumption area, the Authority may place limits on such common consumption area, including, but not limited to: the size, security or hours of operation of a common consumption area. The Authority is also empowered to ~~eliminate~~ **terminate** a common consumption area if there is no certified promotional association in the associated entertainment district. Unless specifically modified by the Authority, common consumption areas and their attached liquor licensed premises may sell and serve alcohol, and customers may consume alcohol, only during the hours between 8:00 a.m. and 2:00 a.m.
 - d. In the event a common consumption area has no certified promotional association for a period of twelve (12) consecutive months, such common consumption area shall automatically be deemed abandoned and no longer in existence, and no affirmative action by the City shall be required.
 - e. A common consumption area shall be approved for a term as established by the Liquor Licensing Authority, not to exceed twelve months. Except where the City Clerk has received a complete renewal application along with the requisite fees, it shall be unlawful for any certified promotional association to operate a common consumption area after the expiration date recorded upon the face of the common consumption area license.
 - f. The Authority may terminate a common consumption area ~~certification~~ for violation of any specific term of such common consumption area ~~certification~~ **authorization**, or in the event a violation results in termination pursuant to section 5.39.110 of this Chapter.
 2. Application. A request to ~~create~~ **authorize** a common consumption area shall be made by application submitted to the Lakewood City Clerk's Office. Applications shall include the following:

- a. The name of the entertainment district in which the common consumption area would be located and a map indicating the location of the common consumption area within the entertainment district.
- b. A site plan for the common consumption area indicating the following:
 - (1) The boundaries of the proposed common consumption area outlined in red;
 - (2) All liquor licensed premises to be attached to the common consumption area, including addresses, contact names and liquor license number;
 - (3) Identification of any liquor licensed premises that are adjacent, but not to be attached, to the common consumption area;
 - (4) All non-liquor licensed businesses whose premises are included within the boundaries of the common consumption area; and
 - (5) The location of all physical barriers, entrances and exits of the common consumption area.
- c. Proof that notice of the application for a common consumption area was served on the owner of each non-liquor licensed business located within the proposed consumption including the date and time of the hearing to be held regarding the establishment of such consumption area, such service to be either in person or by registered mail.
- d. A description of the proposed days and hours of operation and, for common consumption areas that will operate on an event basis only, all dates for any event occurring within the then-current calendar year, or the following calendar year if the common consumption area will have no events during the year of its creation.
- e. The names and addresses of all liquor licensed premises to be attached to and provide alcohol beverages for consumption within the proposed common consumption area.
- f. Evidence of community support, which may include any additional operational requirements that the registered neighborhood organization(s) within the designated neighborhood, if any, desire in order to protect the health, safety, and welfare of the surrounding community.
- g. A parking and transportation plan.
- h. A health, sanitation **and nuisance control** plan.
- i. A security and admission control plan, including evidence of training and approval of personnel, a detailed description of security arrangements and the approximate location of security personnel within the common consumption area during operating hours.
- j. A sustainability and waste disposal plan in conformance with standards adopted from time-to-time by City Council resolution.
- k. Any required permits or authorizations including, but not limited to, right-of-way, street closure, zoning, fire and building permits.
- l. The application fee.

B. Promotional Association Certification.

1. General.
 - a. The Authority is authorized to certify and decertify promotional associations and allow the attachment of licensed premises to common consumption areas; provided, however, if an applicant is seeking the creation of a common consumption area concurrently with certification of a promotional association, the Authority shall have the authority to both certify the promotional association and create the common consumption area pursuant to regulations promulgated by the Authority.
 - b. A member of each licensed premises to be attached to the proposed common consumption area shall serve as a director on the promotional association's board.
 - c. Certification of a promotional association shall be valid for twelve (12) months, subject to re-certification as set forth in in this Chapter.
2. Application. A request to certify a promotional association shall be made by application submitted to the Lakewood City Clerk's Office. Applications shall include the following:
 - a. The name of the promotional association to be certified;
 - b. The name and address of each individual on the board of directors of the promotional association;
 - c. A copy of the promotional association's articles of incorporation and bylaws, as well as a list of all officers and employees, if any;
 - d. Proof of liability insurance carried by the promotional association with coverages for general liability and liquor liability, naming the City as an additional insured, in a minimum amount of one million U.S. dollars (\$1,000,000.00);
 - e. A description of any disciplinary action against any attached liquor licensed premises within the five (5) years prior to the date of the application;
 - f. The application fee; and
 - g. Any other information and documents the Authority may reasonably require.
- D. Rules and Regulations. The Authority may promulgate rules and regulations necessary to establish the criteria and carry out the duties and requirements of this Section. Any such criteria, rules and regulations shall be incorporated into and included with any rules and regulations promulgated by the City Clerk to carry out the duties and requirements of the balance of this Chapter.

5.39.050 - Investigation; Results

- A. The City Clerk shall designate one or more investigators to conduct applicant investigations regarding the information provided with the application. **The investigator shall refer all applications, including all submittals required therewith, to the City's Planning Department, Economic Development Department, Transportation Engineering Division, and Parks Division for review and comment as to compliance with this Chapter and other applicable provisions of the Lakewood Municipal Code.** Investigators are authorized to acquire additional information as necessary to ensure compliance with the provisions of this Chapter.

- B. Upon completion of the investigation, the investigator(s) shall deliver the results thereof to the City Clerk.
- C. Not less than ten (10) days prior to the date of the hearing on the application, the City Clerk shall:
 - 1. Mail to the applicant a report of the findings of the investigation;
 - 2. Post such report on the City's website; and
 - 3. Provide the application, the report and all documentation to the Authority.

The City's failure to mail or post such findings as set forth in this subsection shall not preclude a later determination that the application should be approved or denied.

5.39.060 - Public Hearing on Applications for Entertainment Districts, Common consumption Areas, and Promotional Associations.

A. Timing; Public notice.

- 1. Upon receipt of a complete application(s) pursuant to this Chapter, the City Clerk will schedule a quasi-judicial public hearing upon such application(s), to be held not less than forty-five (45) days from the date the City Clerk deems the application(s) complete. Such public hearings will be held before the body authorized to review and approve such application(s). In the event an applicant submits concurrent applications for an entertainment district, a common consumption area and a promotional association, 1) all three applications must be complete before any may be accepted, 2) the entertainment district application will be reviewed and decided by the City Council prior to review of the other applications by the Authority, and 3) the foregoing forty-five-day period shall not begin to run for the common consumption area or promotional association until the next business day following approval of the application for the entertainment district by the City Council, or shall be dismissed if such entertainment district is denied.
- 2. For any application submitted to the City Clerk pursuant to this Chapter, the City Clerk shall post and publish the public notice thereof not less than thirty (30) days prior to such hearing.
- 3. Additional notice applicable to application for a common consumption area. Public notice shall also be given by the conspicuous posting of a sign at each liquor licensed premises to be attached to the common consumption area and by publication in a newspaper of general circulation, as set forth in C.R.S. § 44-3-311.

- B. Entertainment District - Conduct of Public Hearings - Findings and Decision. At the public hearing for review and determination of an application for an entertainment district held pursuant to this subsection B, the City Council shall consider the reasonable requirements of the abutting neighborhood(s), the desires of the adult inhabitants of the abutting neighborhood(s) and of the business owners of the included commercial area as evidenced by petitions, statements for and against such application, and all other evidence submitted as otherwise provided and deemed relevant. Upon conclusion of the hearing, the City Council shall deliberate in public, make findings of fact and law as to those matters set forth in herein, and either approve a Resolution specifically incorporating the findings of fact and law or deny the application. The decision of the City Council may include conditions for operation of

the entertainment district, or requirements to be placed upon consumption areas within the established entertainment district, such conditions to be specifically set forth in the Resolution approving the establishment of the entertainment district.

C. Common Consumption Area or Promotional Association - Conduct of Public Hearings - Findings and Decision.

- a. At the public hearing for review and determination of an application for either a consumption area or a promotional association held pursuant to this subsection C, the Liquor Authority shall consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants of the abutting neighborhood(s) and of the business owners of the included commercial area as evidenced by petitions, statements for and against such application, and all other evidence submitted as otherwise provided and deemed relevant.
- b. Upon conclusion of the hearing, the Authority shall have ten (10) days to make written findings of fact and law as to those matters set forth herein, and either approve or deny the application. Any such findings of fact and law shall be provided to the applicant within fifteen (15) days following the close of the hearing, but failure of the applicant to receive such findings within that time shall not be grounds for modifying or changing the decision of the Authority.
- c. Any authorization for a common consumption area shall specifically incorporate by reference the applicable provisions of the resolution establishing the associated entertainment district, as well as the regulations for controlling and monitoring all alcohol beverages entering into the common consumption area.

5.39.070 - Causes for denial of application

An application may be denied if:

A. For Entertainment Districts, Common Consumption Areas and Promotional Associations:

1. Evidence shows that approval of the application will adversely impact the health, welfare or public safety of the designated neighborhood.
2. The application fails to comply with applicable state and local laws, and any rules and regulations adopted pursuant thereto.

B. For Common Consumption Areas:

1. The applicant has violated, or the application does not meet or has failed to comply with, any of the terms, conditions or provisions of the Colorado Liquor Code or any rules and regulations promulgated pursuant thereto, this Chapter or any rules and regulations promulgated by the City Clerk pursuant to thereto, any special terms placed upon a previously issued license for such consumption area, or fails to comply with all state and local laws, and any rules and regulations adopted pursuant thereto;
2. The applicant has failed to establish and maintain evidence of community support of its adult inhabitants;
3. The information and evidence available to and considered by the Authority fails to reasonably establish that the proposed procedures for security and admission control will prevent the consumption of alcohol beverages by underage persons;

4. The proposed common consumption area does not have adequate physical barriers to close the area to motor vehicle traffic and limit pedestrian access;
 5. If a certified promotional association has received notice of disciplinary action against any of a common consumption area's attached liquor licensed premises the application for renewal shall include a notice;
 6. The proposed common consumption area is not a single contiguous area; or
 7. The proposed common consumption area overlaps with another common consumption area.
- C. For Promotional Associations:
1. The promotional association board is not composed of at least one (1) director from each liquor licensed premises attached to the common consumption area;
 2. Any member of the promotional association has failed to comply with any special terms or conditions placed on its liquor license; or
 3. Any member of the promotional association has had its liquor license suspended or revoked in the twelve (12) months immediately preceding the date of the application.
 4. Decertification of a promotional association shall be in the manner provided in C.R.S. § 12-47-601.

5.39.080 - Common Consumption Area Renewal; Promotional Association Re-certification

A. Common Consumption Area Renewal.

1. Not less than sixty (60) days prior to expiration of a common consumption area authorization, the associated promotional association shall submit to the City Clerk's Office a renewal application.
2. Such application: (a) shall comply in all material respects with the requirements set forth in section 5.39.040(A)(2) of this Chapter; (b) shall be in compliance with the applicable provisions of section 5.39.040(A)(1) of this Chapter; and (c) shall reflect and be in compliance with any changes to established standards, rules and regulations applicable to common consumption areas.
3. After investigation as set forth in section 5.39.050 of this Chapter, if the City Clerk finds that the renewal application is complete in all material respects and is in compliance with subsection 2 of this subsection A, the City Clerk may administratively approve the renewal.
4. In the event the City Clerk finds that the renewal application materially deviates from, or is otherwise not in compliance with, the requirements of subsection 2 of this subsection A or there are grounds for denial under section 5.39.070(C) of this Chapter, or if the promotional association requests that the common consumption area be authorized for a longer term, the public hearing process set forth in section 5.39.060 of this Chapter, as applicable to common consumption areas, shall be followed.

B. Promotional Association Re-certification.

1. Not less than sixty (60) days prior to the expiration of its certification, a promotional association shall submit to the City Clerk's Office an application for re-certification.

2. Applications for re-certification shall include the same information as required in section 5.39.040(B)(2) of this Chapter; **provided, however, that, at the time of recertification, the applicant shall comply with all then-existing rules, regulations, requirements and standards applicable to the application.**
3. The City will conduct applicant investigations as set forth in section 5.39.050 of this Chapter.
4. A public hearing shall not be required unless the City Clerk determines that one or more causes for denial under section 5.39.070(C) of this Chapter might exist.

5.39.090 - Transfer of Ownership; Promotional Association Structure Change; Detachment from Common Consumption Area; Other

- A. In General. Applications to change the composition of the board of directors of a certified promotional association shall be made upon forms provided by the City Clerk. The City Clerk may refuse to authorize a change in the certified promotional association membership for any of the reasons for which the City Clerk would refuse to certify a new promotional association.
- B. Change in Ownership of Attached Liquor Licenses. A change in ownership of a liquor license attached to the common consumption area does not require recertification of a promotional association certification. The certified promotional association shall submit the name and address of each proposed director to the City Clerk within thirty (30) days of such a change.
- C. Nontransferable. No license or certification granted pursuant to this Chapter shall be transferable from one (1) person or entity to another.
- D. Detachment from a Common Consumption Area. A Promotional Association may request that the Authority approve the detachment of one or more of the associated licensed entities from a Common Consumption Area operated by such Promotional Association, if the remainder of the elements of the Common Consumption Area continues to meet the minimum requirements necessary to establish a Common Consumption Area. Approval of the request shall be in conformance with rules and regulations promulgated by the Authority.

5.39.100 - Unlawful Acts

It is unlawful:

- A. For any person to operate a common consumption area between the hours of 2:00 a.m. and 8:00 a.m.
- B. For any promotional association to change or modify, or attempt to change or modify, the boundaries of a common consumption area except in accordance with this Chapter.
- C. For any liquor licensed premises not attached to a common consumption area to allow its patrons to consume alcohol beverages in such common consumption area.
- D. For a promotional association or any liquor licensed premises attached to the common consumption area to sell or store alcohol within the common consumption area other than within the licensed premises in accordance with the Colorado Liquor Code.

- E. For any promotional association to permit its patrons to remove an open alcohol beverage from the common consumption area.
- F. For any non-liquor-licensed business or person located with the boundaries of the common consumption area to sell or serve alcohol.

5.39.110 - Disciplinary actions - administrative

The Authority shall hear, rule on and impose administrative sanctions for violations of this Chapter in accordance with this Section, including violation of the establishment provisions of any entertainment district.

- A. Show Cause Hearing. In addition to any other penalties prescribed by the Lakewood Municipal Code, the Authority may, on its own motion or on complaint, and after investigation and a show cause hearing at which the alleged violator is afforded an opportunity to be heard, decertify **or temporarily suspend** a promotional association **or temporarily or permanently close a common consumption area;**~~or temporarily suspend a license or certification,~~ as applicable, for any of the following:
 - 1. A violation of section 5.39.090 of this Chapter;
 - 2. A fact or condition exists that would result in denial of an application of the same type, as identified in section 5.39.070 of this Chapter;
 - 3. A promotional association, either knowingly or without the exercise of due care to prevent the same, has violated any condition placed on the common consumption area;
 - 4. A promotional association, or any agent, servant or employee thereof, has violated any City, state or federal law or ordinance constituting a misdemeanor or higher-level offense **related to a common consumption area, promotional association, Chapter 5.38 of the Lakewood Municipal Code or the Colorado Liquor Code** or has permitted such a violation by any other person; or
 - 5. Any of the standards set forth in C.R.S. 44-3-301(11)(c)(III).
- B. Suspension. No suspension under this Section shall be for a longer period than six (6) months.
- C. Notice. Notice of a show cause hearing shall be given in the same manner as provided for in section 5.38.130 of the Lakewood Municipal Code.
- D. Removal of Entertainment District Designation – Districts with a Common Consumption Area. The following process shall be employed when an entertainment district that contains a common consumption area has violated a provision of this Chapter:
 - 1. Following a show cause hearing as provided above, the Authority shall provide the City Council with a written report and recommendation.
 - 2. The City Council shall hold a quasi-judicial hearing to accept any further evidence on the matter. At the conclusion of such hearing, the City Council shall determine appropriate disciplinary action, up to terminating the authorizing resolution to remove the area's entertainment district designation.

5.39.120 - Cumulative and concurrent remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction of violation of this Chapter in the municipal court of the City, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any criminal activity, civil offense, or nuisance found to exist upon any property licensed hereto.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 14th day of February, 2022; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 17th day of February, 2022; set for public hearing to be held on the 28th day of February, 2022, read, finally passed and adopted by the City Council on the 28th day of February, 2022 and, signed by the Mayor on the 1st day of March, 2022.

Adam Paul, Mayor

ATTEST:

Michele Millard, Interim City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney



ENTERTAINMENT DISTRICT APPLICATION

This document provides basic information necessary for the licensing authority's investigation. All questions must be answered in their entirety. Information provided will be verified. A falsehood or omission of facts constitutes evidence regarding the character of the applicant and may result in denial of the application.

<input type="checkbox"/>	Entertainment District Application Fee	\$
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Name of Entertainment District: _____

Main Contact Information:

Name: _____

Phone: _____

Email: _____

Mailing Address: _____

City	State	Zip Code
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Please attach a detailed map of the area included within the proposed Entertainment District, including scale measurements and all premises located within the District to allow for a determination of whether the size of the proposed District, and the premises included within the District, conforms to the provisions of C.R.S. 44-3-301(11) and L.M.C. Chapter 5.39.030(B).

****Please refer to required Sustainability Standards and Nuisance Abatement Standards that shall apply to this application.**

I certify:

- compliance with the regulations promulgated by the City Clerk;
- the information contained in this Application to establish an Entertainment District, and all attachments hereto, is true and complete and that I am authorized to sign as the applicant or on behalf of the applicant.
- I am in compliance with all provisions of the [Lakewood Municipal Code Chapter 5.39](#).
- I understand that any misrepresentation, falsification, or omission may result in the rejection of this application.

Applicant's Signature

Date

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission Expires: _____

ENTERTAINMENT DISTRICT APPLICATION

Entertainment District's licensed liquor premises within the proposed entertainment district. Lakewood Municipal Code 5.39.030(B)(2)(c).

BUSINESS NAME	ADDRESS	LICENSE TYPE	SQUARE FOOTAGE
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

ADDITIONAL PAGES WILL BE PROVIDED



ENTERTAINMENT DISTRICTS DOCUMENT CHECKLIST

Submittal for an Entertainment District Must Include:

- Application
- Zoning Certificate
- Detailed map of the proposed entertainment district including the following:
 - The boundaries of the proposed entertainment district outlined in red;
 - The total acreage of the proposed entertainment district; and
 - The name, address, license type and square footage (excluding temporary modifications) of each liquor licensed premises within the proposed entertainment district.
- A certification that the proposed entertainment district meets the minimum requirements established by this Chapter, including, but not limited to:
 - size of district,
 - percentage of area within proposed district containing premises licensed for alcohol sale, and;
 - any other certifications deemed necessary by the City Council, or as set forth within the regulations promulgated by the City Clerk.
- Application Fee

Sustainability and Waste Goals and Standards for Entertainment Districts Pursuant to Lakewood Municipal Code Chapter 5.39

Applicability: The following sustainability goals and standards adopted by the City of Lakewood are understood to be relevant to the establishment of an Entertainment District, especially those developed within high traffic commercial areas of the City. The City Council will review each application for the establishment of an Entertainment District to determine its ability to incorporate these goals and standards within the area of the Entertainment District, focusing upon those areas within the Entertainment District where Common Consumption Areas are anticipated to be established. All standards made specifically applicable to the establishment of any Entertainment District shall be incorporated into the establishing Resolution.

SUSTAINABILITY STANDARDS TO BE REVIEWED IN ACCORDANCE WITH THE ESTABLISHMENT OF ENTERTAINMENT DISTRICTS

- **Waste Reduction.** Entertainment Districts shall provide, or cause to be provided, three-bin waste collection stations for collection of compostable, recyclable, and landfilled materials within the perimeter of any Common Consumption Area, and within fifteen feet beyond the perimeter of any Common Consumption Area. Collection stations should be clearly signed to facilitate ease of use and minimize contamination of waste streams and shall be emptied and disposed of as often as necessary to prevent the creation of a nuisance concern, but no less than once weekly.
- **Waste Reduction.** When submitting an application for a common consumption area to the City, Entertainment Districts shall submit to the City plan for conformance with C.R.S. 25-18-101 et seq., and a zero-waste plan that includes plans for collection, site plans for waste collection locations, employee training materials, and a public outreach and signage plan.
- **Waste Reduction.** The Entertainment District shall provide an annual waste diversion report to the City Clerk with weights and volumes of waste landfilled, recycled, and composted.
- **Transportation Support.** Entertainment Districts shall conduct a multi-modal transportation assessment to identify all available multi-modal transportation options including walking, cycling, public transit, and ride sharing within the Entertainment District.
- **Transportation Support.** Entertainment Districts shall encourage the use of multi-modal transportation by providing educational materials on the availability and use of multi-modal transportation options in and around the Entertainment District, including maps.
- **Transportation Support.** Entertainment Districts are encouraged to install appropriate wayfinding signage to support multi-modal transportation access.
- **Bicycle Parking.** 1 space per 1,500sf calculated as the square footage of outdoor space within the boundary of the Entertainment District area and rounded up to the nearest number.
- **Bicycle Parking.** Bicycle parking shall be designed such that bicycles may be securely locked and safeguarded from intentional or accidental damage to the extent reasonably possible.

- **Bicycle Parking.** Each required bicycle parking space shall be accessible without moving another bicycle and shall accommodate a variety of bicycle types and attachments (e.g., trailers for children, recumbent bikes, tandem bikes, cargo bikes).
- **Bicycle Parking.** Bicycle parking shall be located in highly visible and well-lit locations.
- **Bicycle Parking.** Bicycle parking shall be located convenient to all primary points of access to the Entertainment District area to reduce the number of bicycles locked to street signs and fencing and to reduce the number of bicycles being walked through the site.
- **Bicycle Parking.** Bicycle parking should be located at sites that minimize conflicts with pedestrians, parked vehicles and other sidewalk amenities.
- **Bicycle Parking.** The Entertainment District will encourage Promotional Associations to identify an area for additional temporary bicycle corrals to be utilized as needed for larger events.
- **Bicycle Parking.** The Entertainment District will encourage Promotional Association to provide wayfinding signage specific to bicycle access and parking.

SUSTAINABILITY GOALS THAT ENTERTAINMENT DISTRICTS AND ALL COMMERCIAL ENTITIES LOCATED WITHIN ENTERTAINMENT DISTRICTS ARE ENCOURAGED TO ADOPT AND INCORPORATE INTO THEIR SHORT AND LONG TERM SUSTAINABILITY AND INFRASTRUCTURE PLANS.

- **Waste Reduction.** Stand-alone containers providing collection for landfill waste are strongly discouraged within Entertainment Districts.
- **Zero Waste.** All commercial entities within the City of Lakewood are encouraged to avoid single-use *plastic* service ware. This includes plates, bowls, containers, cups, straws, utensils, chip and snack bags, pre-packaged beverages, individually wrapped condiments, and packaging for food items.
- **Zero Waste.** All commercial entities within the City of Lakewood are encouraged to adopt single-use service ware and packaging, including pre-packaged beverages and foods, made from certified compostable materials or recyclable metals such as aluminum.
- **Zero Waste.** All commercial entities within the City of Lakewood are encouraged to adopt zero waste standards for all carry-out sales regardless of whether consumption will occur on or off-site.
- **Bicycle Parking.** All commercial entities within the City of Lakewood are encouraged to establish a bike maintenance station and a publicly accessible water bottle refill station.