



TOWN COUNCIL STUDY SESSION AGENDA
April 10, 2023
5:00 PM

I. Staff/Council Updates

II. Study Session Items

1. Legend High School Criminal Justice Class Presentation - Richard Vaccaro - 45 minutes
2. Public Works/Engineering Department Update - Williams/Staff - 45 minutes
3. Golf Cars, Low-Speed Electric Vehicles Process & Class B Low-Speed Electric Vehicles – Wynn/Williams/Tsurapas - 30 minutes
4. SB23-213 Overview – Hall - 30 minutes

III. Town Council Items



MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Tom Williams, Director Eng/PW
DATE: April 10, 2023
SUBJECT: Public Works/Engineering Department Update

ISSUE:

Public Works/Engineering Department Update

FISCAL/BUDGET IMPACT:

None.

BACKGROUND:

The Engineering and Public Works Department is providing an update to the Mayor and Town Council on three (3) topics. The first topic will be focused on the 2023 Roadway Maintenance Program and lead by Scott Borzillo, Operations Manager. The presentation will include a variety of information related to the Town's resurfacing and preservation program, including the streets and subdivisions that are planned for this year. Staff will also be giving an update on the Parker Road resurfacing project scheduled to start this summer.

The next discussion topic will be focused on the Town's Traffic Control Capital Improvement projects for 2023. This presentation will be led by Chris Hudson, Deputy Director of Engineering, and will include information on new signals that will be installed this year. The presentation will also include information on the expansion of the Town's Traffic Responsive System which is also scheduled for this year.

The third topic will include information on the Town's Stormwater Capital Improvement program which will be presented by Michael Grabczyk, Stormwater Project Manager. The presentation will include detailed information on the proposed improvements planned for the Cherry Creek at Dransfeldt Road project. The presentation will also include information on the recently updated Cherry Creek Major Drainageway Plan (Master Plan) and other Drainage Master Plan updates that are planned in the future.

Staff will also be giving a brief update on the fiber optic installation (high speed internet) that is underway in Town.

RECOMMENDATION:

None at this time.

REQUESTED DIRECTION:

None at this time.

ATTACHMENT:

None



MEMORANDUM

TO: Mayor and Town Council

FROM: James Tsurapas, Chief of Police
Tom Williams, Director of Engineering
Jamie Wynn, Deputy Town Attorney

DATE: April 10, 2023

RE: Operation of Golf Cars, Low-Speed Electric Vehicles Process and Class B Low-Speed Electric Vehicles on Town roadways/trails/parks

The purpose of this memorandum is to address with the current Town Council, (1) the legal standards for the operation of Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles on local streets under State law and the distinction between Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles; (2) the extent to which the Town of Parker can regulate the use of Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles on local streets, parks and trails; (3) the enforcement of Town regulations by the Parker Police Department if Golf Cars are permitted on local streets, parks and trails; and (4) the impact to Town parks and trails if Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles are allowed to operate on Town parks and trails.

(1) The legal standards for the operation of Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles on local streets under State law and the distinction between Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles.

There is a distinction under the law between Golf Cars, Low-Speed Electric Vehicles, and Class B Low-Speed Electric Vehicles. Below this memo discusses each of these categories of vehicles.

A. Golf Cars. Per C.R.S. § 42-1-102(39.5), a golf car is a self-propelled vehicle **not designed primarily for operation on roadways** and that has:

- (a) A design speed of less than twenty miles per hour;
- (b) At least three wheels in contact with the ground;
- (c) An empty weight of not more than one thousand three hundred pounds; and
- (d) A carrying capacity of not more than four persons.

Statute allows local authorities, such as the Town, to regulate the operation of low-speed electric vehicles and Golf Cars on its roadways by resolution or ordinance if it is consistent with statute. See C.R.S. § 42-4-111(1)(aa) and (bb).

Currently, the Municipal Code does not allow for Golf Cars to be used on Town roadways. The Town Council has the authority to regulate the use of Golf Cars on Town roadways, including limiting the roadways that can be used by Golf Cars, requiring operational/safety equipment (for the reason that Golf Cars are not designed for primary use on roadways), as well as requiring insurance and permits. However, State law would prohibit the Town from:

1. Allowing an unlicensed driver of a Golf Car to carry a passenger under the age of twenty-one (21);
2. Allowing the operation of a Golf Car by someone under the age of sixteen (16); and
3. Allowing the operation of a Golf Car on a State highway.

C.R.S. § 42-4-111(bb).

Statute also requires that a vehicle designed to be operated under twenty-five (25) miles per hour on a roadway be marked with a triangular slow-moving-vehicle emblem on the rear of the vehicle. C.R.S. § 42-4-234(1)(a).

If the Town Council wishes to allow the operation of Golf Cars on its roadways, State law allows the Town Council to exercise its police power to provide appropriate regulations. Currently, some limited use of vehicles, such as Golf Car is allowed under Code on private property or on public property via Resolution, with Town Manager or Designee approval, or through a permit process. However, these exceptions generally do not include allowing Golf Cars to operate on the Town's roadways.

B. Low-Speed Electric Vehicles. A low-speed electric vehicle ("LSEV") is:

1. Self-propelled using electricity as its primary propulsion method;
2. Has a minimum of three (3) wheels in contact with the ground;
3. Does not use handlebars to steer; and
4. Either exhibits the manufacturer's compliance with federal VIN requirements, or displays a 17-character VIN number.

C.R.S. § 42-1-102(48.6). A LSEV does qualify as a "motor vehicle" under State law. C.R.S. § 42-1-102(58). As such, they are subject to the registration requirements as a Class C vehicle, such as a passenger car. C.R.S. § 42-3-103(1)(a). They are also required to have standard green and white passenger license plates and must display current year and month validating tabs. C.R.S. § 42-3-201(1).

State law allows LSEVs to be used on roadways if they have a speed limit of no more than thirty-five (35) miles per hour (State law also allows a LSEV to be driven across a roadway with a speed limit higher than 35 miles per hour at an at-grade crossing, if necessary to continue along a 35-mile-per-hour roadway). C.R.S. § 42-4-109.5(1)(a), C.R.S. § 42-4-109.5(1). State law

prohibits the operation of LSEVs on limited access highways, which are highways that can only be accessed at certain locations as determined by the public entity having jurisdiction over the highway. *See* C.R.S. §§ 42-4-109.5(2); 42-1-102(18). A LSEV may also be operated on a State highway if certain conditions are met (the highway must have a maximum speed limit of forty (40) miles per hour). C.R.S. § 42-4-109.5(1)(b), C.R.S. § 42-4-409.5(1)(b). Furthermore, to be sold for use on a roadway, a LSEV must meet the equipment requirements otherwise applicable to passenger vehicles. C.R.S. § 12-6-120(t).

LSEVs are often referred to as “street legal.” If the operator of a LSEV has licensed the LSEV and is using the LSEV in the manner provided by State law, no further approval is needed from the Town to use this vehicle on Town roadways. However, LSEVs may not be used on Town trails and parks, which use is prohibited by Town ordinance with very limited exceptions.

C. Class B Low-Speed Electric Vehicles. A Class B low-speed electric vehicle is a type of LSEV that can travel greater than twenty-five (25) miles per hour but less than forty-five (45) miles per hour. C.R.S. § 42-4-109.6(4). In comparison to the LSEVs discussed above, a Class B LSEV may be operated on a roadway that has a maximum speed limit of forty-five (45) miles per hour (similar to low-speed electric vehicles, a Class B low-speed electric vehicle may cross a roadway with a speed limit greater than forty-five (45) miles per hour, if necessary to continue travelling along a roadway with a maximum speed limit of forty-five (45) miles per hour). C.R.S. § 42-4-109.6(1). A Class B low-speed electric vehicle may not be operated on a limited access highway. C.R.S. § 42-4-109.6(2).

A Class B LSEV is also considered a “motor vehicle” under State law, and therefore it must be registered as a Class C vehicle. C.R.S. §§ 42-1-102(58); 42-3-103(1)(a). Like regular LSEVs, they are also required to have standard green and white passenger license plates and must display current year and month validating tabs. C.R.S. § 42-3-201(1).

Importantly, the Colorado Department of Revenue is prohibited from registering or issuing a title for a Class B LSEV until the National Highway Traffic Safety Administration (“NHTSA”) adopts federal motor safety standards for LSEVs that would allow operation between twenty-five (25) and forty-five (45) miles per hour. C.R.S. § 42-4-109.6(5)(a). Once the NHTSA adopts such standards, the Colorado Department of Revenue would also have to adopt appropriate regulations before they may be operated on roadways. *Id.*

Accordingly, until the specific federal rules and State regulations are adopted, Class B low-speed electric vehicles cannot be operated on roadways within Colorado at this time. C.R.S. § 42-4-109.6(5)(b).

(2) The extent to which the Town of Parker can regulate the use of Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles on local streets, parks and trails.

A. Potential Regulations for Golf Cars

Prior to the Colorado General Assembly’s adoption of the low-speed electric vehicle statutes, the NHTSA did adopt standards for low-speed vehicles operated on public streets, roads and highways. 49 C.F.R. § 571.500. For the reason that these federal standards were adopted before

the Colorado statutes described above, it appears the Colorado General Assembly expects new NHTSA regulations prior to allowing the use of Class B LSEVs on roadways in Colorado. The NHTSA does appear to have updated some information in the Code of Federal Regulations related to LSEVs, but the Colorado Statutes have not been updated. Therefore, we cannot be certain if the State feels that these updates are adequate. That being said, NHTSA regulations apply to vehicles with a maximum speed of twenty-five (25) miles per hour, and would apply to the use of regular low-speed electric vehicles in Colorado.

It is important to note that these regulations do not apply to Golf Cars, for the reason that Golf Cars by definition have a maximum speed of less than twenty (20) miles per hour. The federal regulations require each low-speed vehicle to have:

1. Headlamps;
2. Front and rear turn signal lamps;
3. Tail lamps;
4. Stop lamps;
5. Reflex reflectors: one red on each side as far to the rear as practicable, and one red on the rear;
6. An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;
7. A parking brake; and
8. A windshield that conforms to federal standards.

49 C.F.R. § 571.500.S5(b).

Although the Town is probably “preempted” by federal law for requiring additional operation/safety equipment for low-speed electric vehicles, the Town Council is authorized to incorporate these standards into a Town ordinance that would apply to Golf Cars, if the Town Council decided to allow the operation of Golf Cars in the Town. As discussed above, the Town Council is the sole authority for authorizing the operation of Golf Cars on Town roadways/trails/parks. As the sole authority, the Town Council has the ability to prohibit, limit or otherwise regulate the operation of Golf Cars in the Town.

B. Review of Potential Regulations by the Department of Engineering

In 2016, one of the prior times this issue came before the Town Council, the Department of Engineering had performed an analysis on the safety and the potential impacts associated with the operation of Golf Cars on Town roads. As part of this analysis, research was conducted to identify other municipalities within the Denver Metro Area that, at that time, had allowed the operation of Golf Cars on public roadways. In 2010, the City of Englewood adopted regulations

permitting the operation of Golf Cars, which was examined in the preparation of the information and recommendations provided herein.

Basic Golf Cars are not typically built for roadway operation. They often lack safety features such as seat belts, windshields, brake lights, adequate braking, turn signals and other devices designed to protect the drivers, passengers, pedestrians and drivers of other vehicles and their passengers. The inherent safety risks also vary based on the roadway type (*i.e.*, local, collector, arterial) and the associated design speeds on which they are operated.

Should Town Council permit the operation of Golf Cars on Town roads, the Department of Engineering recommends that the following standards be included as part of the authorizing regulations to minimize the associated safety risks:

1. Golf Cars be allowed to operate on Town roadways with the following restrictions:
 - a. Allow Golf Cars on roadways with a maximum posted speed of thirty (30) miles per hour, with the exception of Mainstreet.
 - b. Prohibit Golf Cars on sidewalks and/or adjacent pedestrian pathways unless otherwise specifically authorized in Code, by Resolution, or through a Town issued permit.
2. Golf Cars used on Town roadways should be equipped in accordance with the federal NHTSA regulations for LSEVs. In addition to these minimum standards, the Department of Engineering recommends that Golf Cars also include the following operational equipment:
 - a. Seat belts at all seat positions.
 - b. Display a slow-moving-vehicle emblem per Model Traffic Code, Section 234.
3. A Golf Cars driver shall have in his or her possession a current driver's license and proof of insurance consistent with the requirements of the associated State statute.
4. Golf Cars used on Town roadways must have a maximum capable operating speed of twenty (20) miles per hour.
5. Golf Cars shall only carry the number of passengers for which they are designed and equipped.

(3) The enforcement of Town regulations by the Parker Police Department if Golf Cars are permitted on local streets and/or parks and trails.

In order to enforce the safety standards recommended by the Department of Engineering, Golf Cars will need to be inspected by the Town for safety and required equipment. The City of Englewood adopted an ordinance to regulate the use of Golf Cars on certain Englewood streets, a

copy of which is attached to this memorandum. Under the Englewood ordinance, a vehicle permit, in addition to a State-issued driver's license, is required in order to operate a Golf Cars on certain streets in Englewood. In this regard the ordinance requires permits. Specifically, the ordinances states:

“d) Permits required.

- i) Golf Car Vehicle Permit. The golf car shall be inspected for safety and required equipment by the Englewood Police Department every three years and issued a permit sticker. A vehicle driver must provide proof of current vehicle permit when requested by any enforcing officer.
- ii) Vehicle owners must provide proof of a current driver's license and complying insurance at the time of permitting and at all times when operating the golf car on the City's roadways.
- iii) Fees for the inspection and City permit shall be set by Council Resolution and incorporated within the City's Rate and Fee Schedule.”

Additionally, the Ordinance requires insurance consistent with Motor Vehicle Insurance limits required by Statute. Specifically,:

- “e) A golf car driver shall have in his or her possession a current valid driver's license or minor driver's license and proof of insurance for the golf car.
 - i) A golf car driver shall possess insurance consistent with Motor Vehicle Insurance limits required by State Statute.”

If the Town Council decides to allow the use of Golf Cars on certain Town streets, the Police Department recommends that the Town Council adopt a permit and insurance requirements similar to that of Englewood.

(4) The impact to Town parks and trails if Golf Cars, Low-Speed Electric Vehicles and Class B Low-Speed Electric Vehicles are allowed to operate on Town parks and trails.

Motor vehicles are currently prohibited on Town trails with very limited exceptions. As surveyed in 2016, other local governments that provide parks and recreation service (Aurora, Castle Rock, Centennial, Colorado Springs, Denver, Highlands Ranch, South Suburban Parks and Recreation District, Douglas County and Jefferson County) also prohibited motorized vehicles on the trails and in their parks. The introduction of motorized uses on the trail network poses several challenges including safety, enforcement, funding and design. The Town's Parks and Recreation Department still has multiple concerns with the use of these types of vehicles on the Town's trails, including overall safety, trail maintenance, property and native area damage, as well as other issues that would arise by allowing the use of these types of vehicles on the trail system other than what is currently allowed under the Code.

The current trails in Parker generally vary in width from ten (10) feet (Town of Parker trails) to five (5) or six (6) feet (HOAs). With even the widest sections of trail, we have experienced user

conflict when users meet or pass other trail users. This conflict is magnified with users that operate at higher speeds (such as cyclists) or wider profiles (such as strollers). The introduction of Golf Cars with greater widths (approximately forty-seven (47) inches) and higher speeds will inevitably magnify the potential conflicts with other users.

The most common complaint we receive from trail users is related to the speed of cyclists sharing the trails. Even with a 15-mile-per-hour speed limit, accidents have occurred between cyclists and other users. Due to high usage, limited visibility, blind corners and trail intersections or connections, accidents are inevitable; however, the introduction of Golf Cars, with widths of nearly four (4) feet and speeds capable of fifteen (15) miles per hour or more, will likely increase the potential for accidents on the trail network. Further, as one of the metro area's most prominent equestrian communities, our trail network is frequented by horseback riders. It is conceivable that a motorized vehicle could startle a horse while using the trail, especially if not in the horse's view. Finally, if Golf Cars were permitted on the trail system, how would the Town prevent similar motorized vehicles (utility carts, all-terrain vehicles, etc.) from also using the trails?

One of the Town's most significant funding sources for grants is Great Outdoor Colorado. Thanks to the Colorado State Trails Program, Parker has previously received funds and will likely qualify for future grant funding. These grants of varying size are *only* available for trails with nonmotorized activities, such as hiking, biking and horseback riding. By introducing motorized uses to our trails, we would likely be eliminated from future consideration for this category of grants.

Should the issue of allowing electrical assisted bicycles ("e-bikes") on trails and roadways come up as a reason to consider allowing the use of Golf Cars, the Model Traffic Code ("MTC") does treat e-bikes similarly to bicycles as they are generally human-powered vehicles. However, the MTC also states that the rider of an e-bike shall not use the motor on a bike or pedestrian path unless otherwise authorized by the power of the local authority, which the Town has done in Title 12, Chapter 12.02 Parker Regulations, in the Municipal Code. Additionally e-bikes have a much smaller footprint than Golf Cars, so they do not have the same types of concerns for safety and maintenance, specifically on the trail system that Golf Cars and similar vehicles would have.

While golf cars may be a convenient and fun way to travel through parts of Parker, there are a number of factors to consider with respect to both the safety of the user of the Golf Cars as well as the safety of others, whether they be authorized for use on the trail system or on certain Town roadways.

We hope this memorandum is helpful. Please let us know if you have any questions.

11-1-1: - Adoption of Code.

- A. Pursuant to Section 44, Article V of the Englewood Home Rule Charter, and Title 31, Article 16, Parts 1 and 2, C.R.S., as amended, there is hereby adopted by reference Articles I and II, inclusive of the 2020 Edition of the "Model Traffic Code for Colorado," promulgated and published as such by the Colorado Department of Transportation, Traffic Engineering and Safety Branch, 2829 W. Howard Place, Denver, Colorado 80204. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic-control regulations for the State of Colorado, and its subject counties, cities, towns and home rule municipalities, including the City of Englewood (hereinafter referred to as "City"). The purpose of this Ordinance and the Englewood Municipal Code ("E.M.C.") adopted herein is to provide a system of traffic regulation consistent with state law and generally conforming to similar regulations throughout the state and nation. Two copies of the Model Traffic Code adopted herein shall be on file in the office of the City Clerk for the City of Englewood, Colorado and may be inspected during regular business hours, and one copy shall be made available at the website of the City Clerk.
- B. The 2020 edition of the Model Traffic Code ("MTC") is adopted as if set out at length, except for the following amendments and deletions as set forth below.
1. Penalty Assessment. The penalty assessments for traffic violations are inapplicable to the City. Therefore, all references to penalty assessments and procedures dealing with penalty assessments as set forth within Parts 1-19 of the 2020 Model Traffic Code are hereby expressly deleted.
 2. Part 1, Section 103, MTC, is hereby amended by the addition of a new subsection (2)(c), which shall read as follows:
103. Scope and effect of Code — exceptions to provisions.

(2) (c) Provisions of these Parts 1—19 of the MTC as adopted herein shall apply to all public highways, roadways, streets, alley ways, and upon private property made available for public use where the City has contracted to provide traffic and parking enforcement, and any such contract shall be a waiver of any objection the owner may assert concerning enforcement of this section and the MTC by peace officers authorized and empowered to enforce this Code, provisions of law to the contrary notwithstanding.
 3. Part 1, Section 106, who may restrict right to use highways - is hereby amended to read as follows:
106. Right to restrict right to use highways.

a) The use of certain streets and roadways by trucks or other commercial vehicles, bicycles, and horse-drawn vehicles or other non-motorized traffic shall be restricted or prohibited when authorized by the City Traffic Engineer and when official signs giving notice thereof

are erected.

- b) For the purposes of road construction and maintenance any street or portion thereof may, by action of the City or by agreement with other concerned road agencies, be temporarily closed to through traffic or to all vehicular traffic during the work project, and the traffic affected shall be along appropriate detours or alternative routes by official traffic control devices.
 - c) When signs are so erected giving notice of restrictions or prohibitions upon the use of streets, no person shall disobey the directions or instructions stated on such signs.
 - d) The provisions of subsection (a) above shall not be construed to prohibit the drivers of any excluded vehicle(s) from traveling over such restricted or prohibited streets, other than controlled-access roadways, for the purpose of delivering or picking up materials or merchandise or reaching destinations which occur on these particular streets, provided such excluded vehicles enter such streets at the intersection nearest the destination of the vehicle and proceed thereon no further than the nearest intersection thereafter.
4. The Title of Part 1, Section 109, Low-power scooters, animals, skis, skates, and toy vehicles, on highways is hereby amended as follows:

109. Operation of low-power scooters, animals, skis, skates, toy vehicles and electric golf cars.

5. Sections (1) and (13) of Part 1, Section 109, Low-power scooters, animals, skis, skates, and toy vehicles, on highways - are hereby amended to read as follows, and a new subsection (14) is added as follows:

109. Operation of low-power scooters, animals, skis, skates, toy vehicles and electric golf cars.

- (1) A person riding a low-power scooter upon a roadway where low-power scooter travel is permitted shall be granted all of the rights and shall be subject to all of the duties and penalties applicable to the driver of a motor vehicle as set forth in the E.M.C. and the MTC, except those provisions of the E.M.C. or MTC that by their very nature, can have no application. Said riders shall also comply with the special rules set forth in this section and in Part 2, Section 220(1)(b) and (1)(c) of the MTC and when using streets and highways within the City of Englewood, and shall comply with any other applicable local ordinances regulating the operation of golf cars or low-power scooters. Whenever the word "vehicle" is used in any of the driving rules applicable to golf cars and low-powered scooter riders as set forth within Title 11, Chapter 1, of the EMC, such term shall be interpreted to include golf car and low-power scooter.

(13) (a)

Except as otherwise provided in paragraph (b) of this subsection (13), any person who violates a provision of this section commits a class B traffic infraction.

- (b) Any person who violates subsection (6.5) of this section commits a class A traffic infraction.

(14) Operation of an Electric Golf Car within the City of Englewood.

- a) A golf car used on City streets or roadways, must meet the definition stated in Section 42-1-102 C.R.S. and be powered by electricity.

- b) Golf cars will be allowed on the streets and roadways of the City with the following restrictions:

- i) Golf cars shall be allowed on City roadways with a maximum speed of thirty (30) miles per hour.
- ii) Golf cars shall be prohibited on sidewalks and pedestrian or bicycle pathways.
- iii) Golf cars shall not be permitted continuous travel on the following roadways within the City:

Evans Avenue

Dartmouth Avenue

Highway 285

Logan Street

Broadway Downing Street

South Santa Fe Drive

University Boulevard

Federal Avenue

Bellevue Avenue

Nor on sections of:

Navajo, from Quincy to Oxford

Windermere, from Oxford to Kenyon

- iv) With the exception of South Santa Fe Drive, golf cars may cross the roadways listed above, or other roadways with a speed limit of greater than thirty (30) miles per hour if they do so at marked intersections.

c)

All golf cars used on the streets or roadways of the City shall have the following operational equipment:

- i) Head lamps.
 - ii) Front and rear turn signals.
 - iii) Tail lamps.
 - iv) Stop lamps.
 - v) Reflex reflectors; one red on each side as far to the rear as practicable and one red reflector on the rear of the golf car.
 - vi) An exterior mirror mounted on the driver's side of the vehicle or an interior mirror.
 - vii) A windshield, or the driver must be wearing state approved goggles.
 - viii) Seat belts (type one or two) at all seat positions. Wearing seat belts is recommended but not required.
 - ix) Parking brake.
 - x) Display slow-moving vehicle emblem per MTC, Section 234.
 - xi) Display Englewood golf car permit sticker on the rear.
- d) Permits required.
- i) Golf Car Vehicle Permit. The golf car shall be inspected for safety and required equipment by the Englewood Police Department every three years and issued a permit sticker. A vehicle driver must provide proof of current vehicle permit when requested by any enforcing officer.
 - ii) Vehicle owners must provide proof of a current driver's license and complying insurance at the time of permitting and at all times when operating the golf car on the City's roadways.
 - iii) Fees for the inspection and City permit shall be set by Council Resolution and incorporated within the City's Rate and Fee Schedule.
- e) A golf car driver shall have in his or her possession a current valid driver's license or minor driver's license and proof of insurance for the golf car.
- i) A golf car driver shall possess insurance consistent with Motor Vehicle Insurance limits required by State Statute.
- f) Unauthorized use of golf cars.
- i) An unlicensed driver of a golf cart shall not carry a passenger who is under twenty-one years of age.
 - ii) A person under sixteen years of age may not operate a golf cart.

6. Part 1, Section 111, Powers of Local Authorities - is hereby deleted.

7. Part 1, Section 113, Appropriations for administration of article - is hereby deleted.
8. Part 1, Section 118, Establishment of wildlife crossing zones - is hereby deleted.
9. Part 2, Section 203, Unsafe Vehicles - Spot Inspections - is hereby deleted.
10. Part 2, Section 221 is hereby amended to include reference to electric scooters to read as follows:

221. Bicycle and personal mobility device equipment.

- (1) No other provision of this part 2 and no provision of part 3 of this Code shall apply to a bicycle, electrical assisted bicycle, electric scooter or EPAMD or to equipment for use on a bicycle, electrical assisted bicycle, electric scooter or EPAMD except those provisions in this Code made specifically applicable to such a vehicle.
- (2) Every bicycle, electrical assisted bicycle, electric scooter or EPAMD in use at the times described in section 204 shall be equipped with a lamp on the front emitting a white light visible from a distance of at least five hundred feet to the front.
- (3) Every bicycle, electrical assisted bicycle, electric scooter or EPAMD shall be equipped with a red reflector of a type approved by the department, which shall be visible for six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (4) Every bicycle, electrical assisted bicycle, electric scooter or EPAMD when in use at the times described in section 204 shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred feet.
- (5) A bicycle, electrical assisted bicycle, electric scooter or EPAMD or its rider may be equipped with lights or reflectors in addition to those required by subsections (2) to (4) of this section.
- (6) A bicycle, electric scooter or electrical assisted bicycle shall not be equipped with, nor shall any person use upon a bicycle or electrical assisted bicycle, any siren or whistle.
- (7) Every bicycle, electric scooter or electrical assisted bicycle shall be equipped with a brake or brakes that will enable its rider to stop the bicycle or electrical assisted bicycle within twenty-five feet from a speed of ten miles per hour on dry, level, clean pavement.
- (8) A person engaged in the business of selling bicycles, electric scooter or electrical assisted bicycles at retail shall not sell any bicycle or electrical assisted bicycle unless the bicycle or electrical assisted bicycle has an identifying number permanently stamped or cast on its frame.

- (9) (a) On or after January 1, 2018, every manufacturer or distributor of new electrical assisted bicycles intended for sale or distribution in this state shall permanently affix to each electrical assisted bicycle, in a prominent location, a label that contains the classification number, top assisted speed, and motor wattage of the electrical assisted bicycle. The label must be printed in the Arial font in at least nine-point type.
- (b) A person shall not knowingly modify an electrical assisted bicycle so as to change the speed capability or motor engagement of the electrical assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by subsection (9)(a) of this section.
- (10) (a) An electrical assisted bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.
- (b) A class 2 electrical assisted bicycle must operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electrical assisted bicycles must be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.
- (c) A class 3 electrical assisted bicycle must be equipped with a speedometer that displays, in miles per hours, the speed the electrical assisted bicycle is traveling.
- (11) A person who violated this section commits a class B traffic infraction.
11. Part 2, Section 227(3)(b), Tinted Windows - is hereby deleted.
12. Part 2, Section 235, Minimum Standards for Commercial Vehicles - is hereby amended to read as follows:

235. Minimum standards for commercial vehicles

The City hereby incorporates by reference the Department of Public Safety Rules and Regulations Concerning Minimum Standards for the Operation of Commercial Vehicles as adopted by the Colorado Code of Regulations (C.C.R.) or as same shall be amended which incorporates the Code of Federal Regulations, Title 49, or as same shall be amended.

13. Part 2, Section 236(7)(b), Child Restraint Systems, regarding fine for a minor driver - is hereby deleted.
14. Part 5, Section 511, Permits Standards - is hereby deleted.
15. Part 6, Section 603, Obedience to Official Traffic Control Devices - is hereby amended by the addition of a new paragraph (6) which shall read as follows:

603. Obedience to Official Traffic Control Devices.

(6) Obedience to Official Truck Traffic Control Devices. Nor operator or driver of a truck or commercial vehicle shall disobey any official traffic control devices relating to or concerning truck routes or vehicle weight restrictions within the City of Englewood, except as provided by Section 11-1-1(B)(2), (4) E.M.C.

16. Part 6, Section 616, Wildlife Crossing Zones — increase in penalties for moving traffic - is hereby deleted.
17. Part 7, Section 711, Driving on Mountain Highways - is hereby deleted.
18. Part 7, Section 714, Requirement To Yield To A Bicycle In A Bicycle Lane - is hereby added as follows:

714. Requirement To Yield To A Bicycle In A Bicycle Lane.

- (1) The driver of a vehicle shall yield the right-of-way to a bicyclist or other authorized user of a bicycle lane.
- (2) "Bicycle Lane:" means a portion of the roadway that has been designated by striping, signage, or pavement markings for the exclusive use of bicyclists and other authorized users of bicycle lanes. "Bicycle Lane" includes an intersection if the bicycle lane is marked on opposite sides of the intersection.
- (3) Any person who violates subsection (1) of this section commits a class A traffic infraction.
19. Part 8, Section 802(3), Pedestrians' Right-of-Way in Crosswalks - is hereby amended to read as follows:

802. Pedestrians' right-of-way in crosswalks.

- (3) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, electric scooter, walk, or run into the path of a moving vehicle that is so close as to constitute an immediate hazard.
20. Part 10, Section 1011, Use of Runaway Vehicle Ramps - is hereby deleted.
21. Part 11, Section 1101(1), Speed limits - is hereby amended to add the following subsection(1) (a):

1101(1) Speed limits.

- (1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions then existing.
- (a) No person shall drive a vehicle on a street or highway within the City at a speed greater than is reasonable and prudent under the conditions then existing. Except when a special hazard exists that requires a lower speed, any speed in excess of the

posted speed at any location shall be prima facie evidence that the speed at which the vehicle is being operated is not reasonable or prudent for the conditions and is being operated in an unlawful manner.

22. Part 11, Section 1101(2), Speed Limits - is hereby amended to read as follows:

1101(2) Speed limits.

- (a) Fifteen (15) miles per hour in any alley.
- (b) Twenty-five (25) miles per hour in any business district, unless otherwise posted.
- (c) Twenty-five (25) miles per hour in any residential district, unless otherwise posted.

23. Part 12, Section 1202, Parking or Abandonment of Vehicles - shall be amended to read as follows:

1202. Parking or abandonment of vehicles.

- (1) No person shall stop, park, or leave standing any vehicle, either attended or unattended, outside of a business or a residential district, upon the paved or improved and main-traveled part of the highway. Nothing contained in this section shall apply to the driver of any vehicle which is disabled while on the paved or improved and main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position, subject, when applicable, to the emergency lighting requirements set forth in Section 230.

24. Part 12, Section 1203, Ski Areas to Install Signs - is hereby deleted.

25. Part 12, Section 1204, Stopping, Standing, or Parking Prohibited in Specified Places - is hereby amended to read as follows:

1204. Stopping, standing, or parking prohibited in specified places.

- (1) Except as otherwise provided in subsection (4) of this section, no person shall stop, stand, or park a vehicle, including electric scooters, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or an official traffic control device, in any of the following places

26. Part 12, Section 1205(2) and (3), Parking at Curb or Edge of Roadway - are hereby amended to read as follows:

1205. Parking at curb or edge of roadway.

- (2) Except as authorized by the City's Traffic Engineer or designee, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway in the direction of authorized traffic movement, with its right-hand wheels within twelve (12") inches of the left-hand shoulder or with its left-hand wheels within twelve (12") of the left-hand curb or as close as practicable to the left edge of the left hand shoulder.

- (3) The local authority may, through its Traffic Engineer or designee, permit angle parking on any roadway; except that angle parking shall not be permitted on any State highway unless the Colorado Department of Transportation has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

27. Part 14, Section 1401(1), Reckless Driving "Electric Scooter" - is hereby amended to read as follows:

1401. Reckless driving - penalty.

- (1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, or low-power scooter in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property is guilty of reckless driving. A person convicted of reckless driving of a bicycle or electrical assisted bicycle shall not be subject to the provisions of Section 42-2-127, C.R.S.

28. Part 14, Section 1401(2), Reckless Driving — Penalty - is hereby deleted.

29. Part 14, Section 1402, Careless Driving — Penalty - is amended to read as follows:

1402. Careless driving - penalty.

- (1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving. A person convicted of careless driving of a bicycle or electrical assisted bicycle shall not be subject to the provisions of Section 42-2-127, C.R.S.
- (2) Failed to Yield Right-of-Way to Bicyclist or Other Authorized User in Bicycle Lane Caused Crash is hereby added.
- (3) Failed to Yield Right-of-Way to Bicyclist or Other Authorized User in Bicycle Lane Caused Bodily Injury, is hereby added.
- (4) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving. A person convicted of careless driving of a bicycle or electrical assisted bicycle shall not be subject to the provisions of Section 42-2-127, C.R.S.
- (5) Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense, but, if the person's actions are the proximate cause of bodily injury or death to another, such person commits a class 1 misdemeanor traffic offense.

30. Part 14, Section 1402.5 Vulnerable Road User is hereby added.

1402.5 Vulnerable road user - prohibition.

- (1) Definition. As used in this section, unless the context otherwise requires, "vulnerable road user" means:
- (a) A pedestrian;
 - (b) A person engaged in work upon a roadway or upon utility facilities along a roadway;
 - (c) A person providing emergency services within a right-of-way;
 - (d) A peace officer who is outside a motor vehicle and performing the peace officer's duties in a right-of-way;
 - (e) A person riding or leading an animal; or
 - (f) A person lawfully using any of the following on a public right-of-way, crosswalk, or shoulder of the roadway:
 - (i) A bicycle, electrical assisted bicycle, tricycle, or other pedal-powered vehicle;
 - (ii) A farm tractor or similar vehicle designed primarily for farm use;
 - (iii) A skateboard;
 - (iv) Roller skates;
 - (v) In-line skates;
 - (vi) A scooter;
 - (vii) A moped;
 - (viii) A motorcycle;
 - (ix) An off-highway vehicle;
 - (x) An animal-drawn, wheeled vehicle;
 - (xi) Farm equipment;
 - (xii) A sled;
 - (xiii) An electric personal assistive mobility device;
 - (xiv) A wheelchair;
 - (xv) A baby stroller; or
 - (xvi) A nonmotorized pull wagon.
- (2) Prohibition. A person who drives a motor vehicle in violation of Section 1402 of the MTC and whose actions are the proximate cause of serious bodily injury, as defined in Section 1601, to a vulnerable road user commits infliction of serious bodily injury to a vulnerable road user.

(3) Violations and penalties.

- (a) Infliction of serious bodily injury to a vulnerable road user is a class 1 traffic misdemeanor.

31. Part 14, Section 1407.5, Splash Guards (3)(g) - is hereby amended to read as follows:

1407.5.(3) Splash guards - when required.

(3) This section does not apply to:

- (a) Passenger-carrying motor vehicles registered pursuant to Section 42-3-306(2), C.R.S.;
- (b) Trucks and truck tractors registered pursuant to Section 42-3-306(4) or (5) C.R.S., having an empty weight of ten thousand pounds or less;
- (c) Trailers equipped with fenders or utility pole trailers;
- (d) Vehicles while involved in chip and seal or paving operations or road widening equipment;
- (e) Truck tractors or converter dollies when used in combination with other vehicles;
- (f) Vehicles drawn by animals; or
- (g) Bicycles, electric scooters or electrical assisted bicycles.

32. Sections (1), (2), (4)(a), and (6) of Part 14, Section 1409, Compulsory Insurance - are hereby amended to read as follows:

1409. Compulsory insurance - penalty - legislative intent.

- (1) No owner of a motor vehicle or low-power scooter required to be registered in this municipality shall operate the vehicle or permit it to be operated on the public highways of this municipality when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by law.
- (2) No person shall operate a motor vehicle or low-power scooter on the public highways of this municipality without a complying policy or certificate of self-insurance in full force and effect as required by law.
- (4) (a) Any person who violates the provision of subsections (1), (2), or (3) of this section commits a traffic offense.
- (6) No person charged with violating subsections (1), (2), or (3) of this section shall be convicted if he or she produces in court a bona fide complying policy or certificate of self-insurance in full force and effect as required by law at the time of the alleged violation.

33. Part 14, Section 1410.5, Sections (2) and (3), providing false evidence of proof of motor vehicle insurance — penalty - are hereby deleted.

34. Part 14, Section 1412, sections (1) to (13), Operation of bicycles and other human-powered vehicles - are hereby amended as follows:

1412. Operation of bicycles and other human-powered vehicles.

- (1) Every person riding a bicycle or electrical assisted bicycle or electric scooters shall have all of the rights and duties applicable to the driver of any other vehicle under this Code, except as to special regulations in this Code and except as to those provisions which by their nature can have no application. Said riders shall comply with the rules set forth in this section and Section 221, and, when using streets and highways within incorporated cities and towns, shall be subject to local ordinances regulating the operation of bicycles, electric scooters and electrical assisted bicycles as provided in this Title 11, Chapter 1 and C.R.S. Section 42-4-111.
- (2) It is the intent of the general assembly that nothing contained in House Bill No. 1246, enacted at the second regular session of the fifty-sixth general assembly, shall in any way be construed to modify or increase the duty of the department of transportation or any political subdivision to sign or maintain highways or sidewalks or to affect or increase the liability of the state of Colorado or any political subdivision under the "Colorado Governmental Immunity Act," Code 10 of Title 24, C.R.S.
- (3) No bicycle or electrical assisted bicycle or electric scooters shall be used to carry more persons at one time than the number for which it is designed or equipped.
- (4) No person riding upon any bicycle or electrical assisted bicycle or electric scooters shall attach the same or himself or herself to any motor vehicle upon a roadway.
- (5) (a) Any person operating a bicycle or an electrical assisted bicycle or electric scooters upon a roadway at less than the normal speed of traffic shall ride in the right-hand lane, subject to the following conditions:
 - (i) If the right-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a bicyclist shall ride far enough to the right as judged safe by the bicyclist to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.
 - (ii) A bicyclist may use a lane other than the right-hand lane when:
 - (A) Preparing for a left turn at an intersection or into a private roadway or driveway;
 - (B) Overtaking a slower vehicle; or
 - (C) Taking reasonably necessary precautions to avoid hazards or road conditions.
 - (iii) Upon approaching an intersection where right turns are permitted and there is a dedicated right-turn lane, a bicyclist may ride on the left-hand portion of the dedicated right-turn lane even if the bicyclist does not intend to turn right.
- (b) A bicyclist or electric scooter rider shall not be expected or required to:

- (i) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or
 - (ii) Ride without a reasonable safety margin on the right-hand side of the roadway.
- (c) A person operating a bicycle or an electrical assisted bicycle or electric scooters upon a one-way roadway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of such roadway as judged safe by the bicyclist, subject to the following conditions:
 - (i) If the left-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a bicyclist shall ride far enough to the left as judged safe by the bicyclist to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.
 - (ii) A bicyclist or electric scooter rider shall not be expected or required to:
 - (A) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or
 - (B) Ride without a reasonable safety margin on the left-hand side of the roadway.
- (6) (a) Persons riding bicycles or electrical assisted bicycles or electric scooters upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (b) Persons riding bicycles or electrical assisted bicycles or electric scooters two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.
- (7) A person operating a bicycle or electrical assisted bicycle or electric scooters shall keep at least one hand on the handlebars at all times.
- (8) (a) A person riding a bicycle or electrical assisted bicycle or electric scooters intending to turn left shall follow a course described in sections 901(1), 903, and 1007 or may make a left turn in the manner prescribed in paragraph (b) of this subsection (8).
- (b) A person riding a bicycle or electrical assisted bicycle or electric scooters intending to turn left shall approach the turn as closely as practicable to the right-hand curb or edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges, the bicyclist shall stop, as much as practicable, out of the way of traffic. After stopping, the bicyclist shall yield to any traffic proceeding in either direction along the roadway that the bicyclist had been

using. After yielding and complying with any official traffic control device or police officer regulating traffic on the highway along which the bicyclist intends to proceed, the bicyclist may proceed in the new direction.

- (c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (8), the transportation commission and local authorities in their respective jurisdictions may cause official traffic control devices to be placed on roadways and thereby require and direct that a specific course be traveled.
- (9) (a) Except as otherwise provided in this subsection (9), every person riding a bicycle or electrical assisted bicycle or electric scooters shall signal the intention to turn or stop in accordance with Section 903; except that a person riding a bicycle or electrical assisted bicycle or electric scooters may signal a right turn with the right arm extended horizontally.
- (b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the bicycle or electrical assisted bicycle or electric scooters before turning and shall be given while the bicycle or electrical assisted bicycle or electric scooters is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle or electrical assisted bicycle or electric scooters.
- (10) (a) A person riding a bicycle or electrical assisted bicycle or electric scooters upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. A person riding a bicycle or electric scooter in a crosswalk shall do so in a manner that is safe for pedestrians.
- (b) A person shall not ride a bicycle or electrical assisted bicycle or electric scooters upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk where such use of bicycles or electrical assisted bicycles or electric scooters is prohibited by official traffic control devices or local ordinances. A person riding a bicycle or electrical assisted bicycle or electric scooters shall dismount before entering any crosswalk where required by official traffic control devices or local ordinances.
- (c) A person riding or walking a bicycle or electrical assisted bicycle or electric scooters upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances, including, but not limited to, the rights and duties granted and required by Section 802.
- (11) (a) A person may park a bicycle or electrical assisted bicycle or electric scooters on a sidewalk unless prohibited or restricted by an official traffic control device or local ordinance.

- (b) A bicycle or electrical assisted bicycle or electric scooters parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.
 - (c) A bicycle or electrical assisted bicycle or electric scooters may be parked on the road at any angle to the curb or edge of the road at any location where parking is allowed.
 - (d) A bicycle or electrical assisted bicycle or electric scooters may be parked on the road abreast of another such bicycle or bicycles or electric scooters near the side of the road or any location where parking is allowed in such a manner as does not impede the normal and reasonable movement of traffic.
 - (e) In all other respects, bicycles or electrical assisted bicycles or electric scooters parked anywhere on a highway shall conform to the provisions of part 12 of this Code regulating the parking of vehicles.
- (12) (a) Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense; except that Section 42-2-127, C.R.S., shall not apply.
- (b) Any person riding a bicycle or electrical assisted bicycle or electric scooters who violates any provision of this Code other than this section which is applicable to such a vehicle and for which a penalty is specified shall be subject to the same specified penalty as any other vehicle; except that Section 42-2-127, C.R.S., shall not apply.
- (13) Upon request, the law enforcement agency having jurisdiction shall complete a report concerning an injury or death incident that involves a bicycle or electrical assisted bicycle or electric scooters on the roadways of the state, even if such accident does not involve a motor vehicle.
35. Part 14, Section 1412.5, Local adoption of alternative regulations of bicycles and electric scooters approaching intersections - is hereby added.

1412.5 Alternative regulations of bicycles and electric scooters approaching intersections.

- (1) The City may adopt an ordinance regarding the following:
- (a) A person riding a bicycle, electrical assisted bicycle, or electric scooter and approaching an intersection of a roadway with a stop sign shall slow down and, if required for safety, stop before entering the intersection. If a stop is not required for safety, the person shall slow to a reasonable speed and yield the right-of-way to any traffic or pedestrian in or approaching the intersection. After the person has slowed to a reasonable speed and yielded the right-of-way if required, the person may cautiously make a turn or proceed through the intersection without stopping.
 - (b) For purposes of this subsection (1), a reasonable speed is fifteen miles per hour or less. The City, by ordinance, may reduce the maximum reasonable speed at any individual intersection to ten miles per hour or raise the maximum reasonable speed

to twenty miles per hour if the City also posts signs at the intersection stating that lower or higher speed limitation.

(c) A person riding a bicycle, electrical assisted bicycle, or electric scooter and approaching an intersection of a roadway with an illuminated red traffic control signal shall stop before entering the intersection and shall yield to all other traffic and pedestrians. Once the person has yielded, the person may cautiously proceed in the same direction through the intersection or make a right-hand turn. When a red traffic control signal is illuminated, a person shall not proceed through the intersection or turn right if an oncoming vehicle is turning or preparing to turn left in front of the person.

(d) A person riding a bicycle, electrical assisted bicycle, or electric scooter approaching an intersection of a roadway with an illuminated red traffic control signal may make a left-hand turn only if turning onto a one-way street and only after stopping and yielding to other traffic and pedestrians. However, a person shall not turn left if a vehicle is traveling in the same direction as the person and the vehicle is turning or preparing to turn left. If the person is not turning left onto a one-way street, the person shall not make a left-hand turn at an intersection while a red traffic control signal is illuminated.

(2) As used in this section:

(a) "Electrical assisted bicycle" means the term as it is defined in Appendix — Definitions.

36. Part 17, Section 1701(3), (4), (5), (6), (7) and (8), Traffic Offenses Classified — Schedule of Fines (regarding fine schedules) - are hereby deleted.

37. Part 17, Section 1709, Penalty Assessment - is hereby deleted.

38. Part 17, Section 1710, Failure to Pay Penalty - is hereby deleted.

39. Part 17, Section 1716, Notice to Appear or Pay Fine-Failure to Appear-Penalty - is hereby amended to read as follows:

1716. Notice to appear or pay fine.

(1) For the purposes of the provisions of this Title 11, Chapter 1 (MTC) tender by an arresting officer of the summons shall constitute notice to the violator to appear in court or at the Violations Bureau within the times and dates specified on such summons.

40. Part 17, Section 1717, Conviction — Attendance at Driver Improvement School - is amended to read as follows:

1717. Conviction attendance at driver improvement school.

(1)

Except as otherwise provided in subsection (2) of this section, whenever a person has been convicted of violating any provision of this Code or other law regulating the operation of vehicles on streets or highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation other than a traffic infraction, may require the defendant, at the defendant's own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school located and operating in the county of the defendant's residence and providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Such school shall be approved by the court.

41. Part 18, Vehicles Abandoned on Public Property - is hereby deleted in its entirety.

C. Appendix — Definitions, Section 102(42)(c) - is hereby amended to add the following definitions:

- (10.3) "**Bicycle Lane**" means a portion of the roadway that has been designated by striping, signage, or pavement markings for the exclusive use of bicyclists and other authorized users of bicycle lanes. "Bicycle Lane" includes an intersection if the bicycle lane is marked on opposite sides of the intersection.
- (10.5) "**Bike Path or Pedestrian Path**" means that part of a roadway or separate path designed for or reserved for the exclusive use of pedestrians, bicycles or human powered vehicles.
- (28.8) "**Electric Scooter**" means a device weighing less than one hundred pounds, with handlebars and an electric motor that is powered by electric motor and has a maximum speed of twenty miles per hour on a paved level surface when powered solely by the electric motor. Electric scooter does not include an electrical assisted bicycle, EPMAD, motorcycle or low-power scooter.
- (58) "**Motor Vehicle**" means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include electrical assisted bicycles, low-power scooters, wheelchairs, or vehicles moved solely by human power.
- (103.5) "**Toy Vehicle**"
 - (a) "**Toy vehicle**" means any vehicle that has wheels and is not designed for use on public highways or for off-road use.
 - (b) "**Toy vehicle**" includes, but is not limited to, gas-powered or electric-powered vehicles commonly known as mini bikes, "pocket" bikes, kamikaze boards, go-peds, and stand-up scooters. It does not include electric scooters.
 - (c) "**Toy vehicle**" does not include off-highway vehicles or snowmobiles.

(Code 1985, § 11-1-1; Ord. 99-9; Ord. 99-44; Ord. 00-75; Ord. 01-16; Ord. 01-44; Ord. 04-16; Ord. 04-17; Ord. 10-54, § 1; Ord. 19-16, § 1; Ord. 49-2020, § 1)



MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Kelsey Hall, Assistant Town Attorney
DATE: April 10, 2023
SUBJECT: SB 23-213 - Land Use

ISSUE:

On March 22, 2023, the Colorado Legislature introduced SB 23-213 (the "Bill"), which attempts to address the housing affordability crisis across the state by setting statewide standards for municipal zoning laws in order to increase the supply of affordable housing. This involves, among other things, the creation of minimum land use standards to be adopted by local governments, including allowing denser housing options as a use by right.

The Colorado Municipal League ("CML") hosted an Executive Director Town Hall on March 29, 2023, at which it expressed numerous concerns with the Bill, including its preemption of home rule authority, unintended consequences of the legislation, and a concern that the Bill as drafted would do little to increase the supply of affordable housing. CML is therefore urging its members to pass a resolution opposing the Bill.

FISCAL/BUDGET IMPACT:

None.

BACKGROUND:

This memo attempts to distill those portions of the Bill that directly apply to the Town of Parker. Please be aware that not all provisions discussed below apply to all municipalities, or even all municipality types covered by the Bill. Furthermore, this memo is based on the Bill as drafted on March 22, 2023. As of the time of drafting this memo, the Bill has not yet been debated and no amendments have been introduced.

1. Overview of SB 23-213

a. Reasoning Behind the Bill

The Colorado Legislature is asserting that the housing affordability crisis is a matter of mixed local and statewide concern for several reasons. First, if local land use regulations are made consistent throughout the state and are coupled with state investment in affordable housing, these two approaches will increase the overall housing supply. Second, local regulations can reduce the availability of a variety of housing types, including those that are more affordable, and have resulted in a shortfall of the amount of housing needed for the state's population. Third, the availability of housing supply in one municipality can impact surrounding jurisdictions because a tighter supply results in higher prices, longer commute times, and ultimately an imbalance between jobs and housing that is available to workers nearby. And fourth, compact development encourages sustainable development patterns that can reduce pollution, use less

energy, and conserve water resources. The Legislature cites several research articles to support its proposition that local land use regulations, including zoning, are a primary driver of rising housing costs. The Legislature, therefore, desires to create a uniform system that will encourage the construction of a variety of housing types and denser development across the state in order to increase affordability.

b. Applicability

In large part, the Bill applies only to “local governments,” which include cities (home rule, statutory, and territorial charter), towns, and cities and counties. However, this term does not include counties, and the requirements of the Bill do not apply to them as it is currently drafted/proposed. Within the subset of local governments, the Bill specifically applies to Tier 1 and 2 Municipalities and Rural Resort Job Center Municipalities.

A Tier 1 Municipality is defined as a municipality that is in a metropolitan planning organization that has a population of at least 1 million and either: 1) has at least 10% of its land that is designated as an urbanized area and has a population of at least 1,000; or 2) has a population of at least 25,000. A metropolitan planning organization is an organization that engages in transportation planning for urbanized areas pursuant to the Federal Public Transportation Act. CML has included the Town on its list of Tier 1 Municipalities, therefore, this memo will not go into the details of a Tier 2 Municipality or a Rural Resort Job Center Municipality.

Finally, the zoning provisions discussed below do not apply to “standard exempt parcels,” which are parcels of land that meet any of the following criteria:

- Lie entirely outside of an area that is designated as urbanized;
- Are not served by a domestic water and sewage treatment system;
- Are in an agricultural zoning district;
- Are in an area of the wildland-urban interface that is identified as high risk; or
- Are in a floodway or 100-year floodplain.

c. Housing Needs Assessment and Planning

i. Needs Assessment

In order to determine housing needs across the state, the Bill requires the Director of the Department of Local Affairs (“DOLA”) to create methodologies for conducting a housing needs assessment at the state, regional, and local levels, and to conduct such assessments every five years, beginning no later than December 31, 2024. The statewide assessment will estimate existing housing stock, analyze the housing shortage, and estimate the amount of housing needed based on household size, household type, and income level. The regional assessment will allocate regional shares of the statewide housing needs and designate regions. Finally, local assessments will allocate local shares of the statewide housing needs to a local government based on the current proportion of the locality’s population in different household income levels, the locality’s current median income, the locality’s job-housing balance, the locality’s population and demographics, measures of local resources, vacancy rates, and homelessness rates.

ii. Housing Needs Plan

No later than December 31, 2026, and every five years thereafter, local governments covered by the Bill must create a housing needs plan that is informed by the information contained in the local and regional housing needs assessments. These plans are subject to notice and a

public comment period and municipalities may hold a public hearing on the plan if they so choose. At a minimum, a housing needs plan must include the following elements:

- A narrative description of the stakeholder engagement conducted during the development of the housing needs plan;
- An analysis of how the municipality will provide a realistic opportunity for development that will address its local housing needs assessment, including the demonstrated housing needs for persons of different income levels, over the next 20 years with an equitable distribution of housing within the municipality;
- A housing needs implementation plan, which must describe how the municipality has complied with the applicable housing requirements contained within the Bill for accessory dwelling units, middle housing, transit-oriented areas, and key corridors, and the implementation status of any relevant adopted local laws that satisfy the minimum standards established in the Bill or any model codes adopted by DOLA;
- A greenfield development analysis;
 - This is an analysis in which a local government classifies any area that is located in a metropolitan planning organization but outside of a census urbanized area identified in a master plan or outside of a three-mile area plan, as a conservation area, efficient growth area, or general growth area.
- A description of at least two strategies that the municipality adopts from the menu of affordable strategies created by DOLA (please note that these are not set forth in the Bill, but will be promulgated by DOLA via rulemaking at a later date);
 - The adopted strategies must both address housing needs and make progress towards meeting demonstrated housing needs across all household incomes and types identified in the local housing needs assessment.
 - The menu of strategies may include strategies proposed by municipalities during the rulemaking process; sustainable land use best practices identified in the statute governing the infrastructure and strong communities grant program; and policy or regulatory tools that local governments may adopt to incentivize affordable housing development identified by the statute governing the local government affordable housing development incentives grant program.
- An implementation plan and the anticipated outcomes for each of the strategies adopted by the municipality;
- A narrative analysis of any area at elevated risk of residential displacement that the municipality has identified and a description of and implementation plan for the strategies from the menu of displacement mitigation measures that the municipality will use to mitigate identified displacement risks in these areas. Please note that, like the affordability strategies discussed above, the displacement mitigation measures shall also be promulgated by DOLA via rulemaking at a later date (not later than December 31, 2024).
 - Displacement means the unwanted relocation of residents due to increased real estate prices, rents, or other economic factors.

d. Rulemaking by DOLA

In order to carry out the objectives of the Bill, DOLA is required to create numerous rules and processes through a public comment and hearing process, which includes engaging in outreach to local governments as well as experts in disability rights, affordable and fair housing, planning and zoning, and related fields. This rulemaking process would provide municipalities some opportunity to shape the ultimate requirements of the Bill, should it be passed by the

Legislature. In all, DOLA must engage in the rulemaking process for seven items: 1) the development of a methodology to conduct the housing needs assessments discussed above; 2) creation of a housing needs plan, including required elements; 3) development of a menu of affordability strategies to address housing production, preservation, and affordability; 4) development of a menu of displacement mitigation measures; 5) publication of a report identifying statewide strategic growth objectives; 6) development of reporting guidance and templates; and 7) the model codes and minimum standards required under the sections of the Bill governing ADUs, middle housing, and key corridors.

e. Technical Assistance

DOLA is required to provide technical assistance to local governments to comply with the Bill, including providing materials, briefings, consulting services, templates, tools, trainings, webinars, and other guidance. This may be provided through a grant program or consultant services and is subject to appropriation by the Legislature.

f. Reporting Requirements

No later than December 31, 2026, and at least once a year thereafter, municipalities must file a report with DOLA that includes the following information:

- The number of permits that the municipality issued for new housing units categorized by the number of units in each structure type;
- The number of new housing units categorized by the number of units in each structure type in the municipality on which construction has begun;
- Timeframes to complete residential permit reviews by housing type;
- Workforce assigned to development review by position type;
- The implementation status of the strategies identified in the municipality's housing needs plan;
- Zoning information that may include geospatial data specifying zoning districts, allowed uses and densities, and other data in a standard format; and
- The number of intergovernmental agreements that the municipality has entered into to address its local and regional housing needs assessments and a description of these agreements.

g. Zoning Provisions

i. Accessory Dwelling Units ("ADUs") and Middle Housing

Definitions

An ADU is an internal, attached, or detached residential dwelling unit that provides complete independent living facilities for at least one other person, is located on the same lot as a primary residence, and includes provisions for living, sleeping, eating, and sanitation.

Middle housing is defined as a single structure containing between two and six separate dwelling units, a townhome, or a cottage cluster (group of at least 4 separate units that are a maximum of 900 square feet).

Model Code and Minimum Standards Timeline

The Bill requires DOLA to draft both a model code and minimum standards addressing (separately) ADUs and middle housing. DOLA must draft the model codes no later than June 30, 2024. Municipalities must either adopt the model codes or modify their land use laws to satisfy the minimum standards by December 31, 2024, and must submit a report to DOLA demonstrating evidence of compliance. Within 90 days after receipt of the report, DOLA shall

either approve or reject the report. If DOLA rejects the report, the model code will immediately go into effect until the municipality either adopts laws that comply with the minimum standards or adopts the model code. DOLA has the option to grant the municipality 120 additional days to correct their local laws in order to come into compliance; however, it is not clear if the model code will be in effect during this additional time. If a municipality does not adopt the model code and fails to meet the minimum standards by June 30, 2025, then the model code will immediately go into effect for that municipality until DOLA determines that the municipality has adopted laws that are in compliance with the minimum standards.

However, a municipality may apply to DOLA no later than June 30, 2024, to extend its timeframe to adopt the model code or the minimum standards if it can demonstrate that: 1) the municipality's water, sewer, or stormwater services are currently deficient in specific areas or are expected to become deficient in the next five years; 2) the municipality has established a plan of action to remedy the deficient services on a specific timeline; and 3) the municipality is unable to serve less water efficient housing types than ADUs and middle housing. If this Bill were to pass, it is recommended that the Town discuss with Parker Water and Sanitation District ("PWSD") and other water districts providing water service within the Town if they anticipate that their services are or may become deficient, as described in this paragraph.

Model Code and Minimum Standards Requirements

The model code must allow ADUs and middle housing as a use by right in any zone district where single-unit detached dwellings are permitted as a use by right. It must also include the minimum standards set forth below, including objective standards for all elements addressed in such minimum standards.

The minimum standards are as follows:

- ADUs and middle housing are permitted as a use by right in any zone district where single-unit detached dwellings are permitted as a use by right;
- Laws concerning ADUs and middle housing must use objective standards and procedures;
- Allow additions to, or the conversion of, an existing single-unit detached dwelling to create an ADU or middle housing so long as the addition or conversion does not increase nonconformance with applicable objective standards, unless local laws allow for such an increase in nonconformance;
- Allow properties on which middle housing is allowed to be subdivided using objective standards and procedures;
- If the municipality applies design standards to ADUs and/or middle housing, only apply the same design standards that the municipality applies to single-unit detached dwellings; and
- Allow ADU sizes of at least the greater of either 800 square feet or 50% of the size of the primary residence on the same lot.

Prohibited Provisions in Local Laws

In addition to the minimum standards, municipalities are prohibited from adopting or enforcing local laws concerning ADUs or middle housing that: 1) are more restrictive than local laws governing single-unit detached dwellings in the same zone district, unless otherwise required by the model code or minimum standards; 2) create unreasonable costs or delays, or make the permitting, siting, or construction of an ADU or middle housing more difficult; 3) amend or interpret a local law in a way that interferes with the intent of the ADU and middle housing

sections of the Bill; or 4) require new off-street parking in connection with the construction or permitting of an ADU or middle housing.

Furthermore, with respect to ADUs, municipalities may not: 1) impose a requirement on an ADU that is contingent upon the primary residence on the same lot being owner-occupied; or 2) require side or rear setbacks greater than 5 feet for an ADU, unless a greater setback is necessary to comply with public health or safety standards.

With respect to middle housing, municipalities may not: 1) apply minimum setback, lot width, lot depth, or lot size standards to middle housing that are more restrictive than the standards that the subject jurisdiction would apply to single-unit detached dwellings on the same property; 2) apply lower maximum height standards to middle housing than it would apply to single-unit detached dwellings on the same property; 3) apply limits on the scale of middle housing buildings through floor area ratios, lot or building coverage, or other similar standards that individually or collectively would restrict a middle housing project to less than 125% of the building area of a single-unit detached dwelling on the same lot; or 4) impose a restriction on the footprint or size of a middle housing project in a historic district or on an historic property that is more restrictive than a footprint or size restriction that the subject jurisdiction would impose on a single-unit detached dwelling in the same historic district or on the same property.

Provisions Not Limited by the Bill

Finally, nothing in the Bill prohibits municipalities from requiring parking in accordance with the provisions of the Americans with Disabilities Act (“ADA”); imposing requirements on the short-term rental of an ADU or middle housing; allowing single-unit detached dwellings in zone districts which are zoned for such uses; applying a local inclusionary zoning ordinance to middle housing; or applying the standards of an historic district to an ADU or middle housing.

ii. Key Corridors and Frequent Transit Service Areas

The Bill requires DOLA to create maps of frequent transit service areas and key corridors. If a municipality has either a frequent transit area or a key corridor within its boundaries, this section of the bill shall apply. Since the Town does not have a frequent transit service area, this memo will focus on the zoning-based definition of a key corridor.

Definitions

The definition of a key corridor depends on whether a municipality adopts a model code or the minimum standards. If a municipality adopts the model code, a key corridor is defined as a zoning district that permits commercial uses compatible with residential uses, such as office, retail, personal services, parking commercial uses, or public or institutional uses; or an area zoned for a mix of uses including commercial, institutional, public, or residential uses. If a municipality chooses to adopt laws that meet the minimum standards, the municipality may choose to identify areas within the zone districts described above as key corridors. However, a key corridor may not be, or adjoin a site that is, used or permitted for industrial use, or designated for heavy industrial use.

Model Code and Minimum Standards Timeline

Much like with ADUs and middle housing, the Bill requires DOLA to promulgate a model code and minimum standards applying to development in key corridors no later than June 30, 2025. Municipalities must adopt either the model code or the minimum standards by December 31, 2026, and provide a report to DOLA demonstrating evidence of compliance. DOLA may accept or reject the report, and upon rejection, the model code will go into effect until the municipality

comes into compliance with the minimum standards. However, municipalities may apply for an extension of time to adopt the model code or minimum standards for the same reasons provided in the ADU and middle housing section of this memo. Finally, if a municipality does not modify its local laws to comply with the minimum standards by June 30, 2027, the model code immediately goes into effect until DOLA determines that the municipality has come into compliance.

Model Code and Minimum Standards Requirements

The model code must include:

- A minimum residential density limit for multifamily residential housing that must be allowed as a use by right in key corridors;
- An allowable minimum residential density limit for mixed-income multifamily residential housing that must be allowed as a use by right in key corridors, and must be at least 50% greater than the minimum residential density limit for general multifamily residential housing;
- Requirements for the percentage of units in mixed-income multifamily residential developments that must be reserved for low- and moderate-income households; and
- Area median income requirements for regulated affordable housing units that are informed by the need for affordable housing identified in the local housing needs assessment.

The minimum standards shall include guidance to encourage regional strategies for key corridors; identify a net residential zoning capacity for each municipality, which shall be informed by the local housing needs assessment; and identify any additional standards deemed necessary, such as a minimum residential density limit and district size. If a municipality adopts the minimum standards, it is required to establish a district within key corridors that allows multifamily residential housing as a use by right. This housing must satisfy the net residential zoning capacity established by the minimum standards. However, municipalities may allow different levels of density within key corridors, so long as the minimum standards are satisfied.

Prohibited Provisions in Local Laws

If a municipality adopts the minimum standards, it may not apply standards that create unreasonable costs or delays for multifamily developments in key corridors, make the minimum density limits infeasible, or require new off-street parking.

Provisions Not Limited by the Bill

Finally, nothing in the Bill prohibits municipalities from requiring parking in accordance with the provisions of the ADA; applying a local inclusionary zoning ordinance to multifamily housing; permitting mixed-use development; allowing commercial only developments; or applying the standards of an historic district to housing in that district.

iii. Summary

Reading the ADU, middle housing, and key corridor sections together, the Legislature intends to increase the supply denser housing types, under the premise that denser housing is more affordable, through the requirement that municipalities either adopt a model code or minimum standards governing each type of housing. Municipalities must allow these housing types as a use by right in certain zone districts and must largely treat these housing types the same way

they would single-family detached dwellings. Additionally, municipalities would be prohibited from adopting or enforcing any laws that would make it more difficult or expensive to build these housing types. This includes prohibiting municipalities from using planned unit developments to restrict these housing types. Finally, if a municipality is not in compliance with the minimum standards, the model code(s) would automatically apply and override any conflicting local laws and regulations.

iv. Key Dates

June 30, 2024	DOLA promulgates model codes for ADUs and middle housing Last day to apply for an extension to adopt model code or minimum standards for ADUs or middle housing based on water and sanitation service deficiencies
December 31, 2024	Municipalities must adopt model code or minimum standards for ADUs and middle housing and send a report evidencing compliance to DOLA Last day for DOLA to conduct the housing needs assessment (thereafter due every 5 years) DOLA promulgates menu of affordability strategies and displacement mitigation strategies
June 30, 2025	ADU and middle housing model codes go into effect for any municipality that is not in compliance with the minimum standards DOLA promulgates model code for key corridors
June 30, 2026	Last day to apply for an extension of time to adopt the model code or minimum standards for key corridors
December 31, 2026	Municipalities must adopt the model code or minimum standards for key corridors and send a report evidencing compliance to DOLA Last day for municipalities to submit their housing needs plan to DOLA (thereafter due every 5 years) Last day for municipalities to submit first annual report on housing metrics to DOLA
June 30, 2027	Key corridor model code goes into effect for any municipality that is not in compliance with the minimum standards

h. Miscellaneous Provisions

In addition to addressing ADUs, middle housing, and multifamily housing, the Bill also attempts to increase affordability by:

- Requiring that manufactured and modular homes be subjected to the same objective standards that are applied to site-built homes;
- Prohibiting local governments, including counties, from enacting residential occupancy limits based on the relationships of the occupants (commonly known as you plus two laws);
- Prohibiting local governments from enacting minimum square footage requirements unless necessary for health and safety purposes;
- Granting municipalities the power to sell public buildings or real property (other than property held for park purposes) for the purpose of providing property to be used for the development of affordable housing;
- Requiring that master plans be subject to an “inclusive process” by consulting with housing authorities, nongovernmental organizations, and local governments. Additionally, master plans must address water supply issues and priorities for

conservation of natural and agricultural lands.

2. CML's Position

CML strongly opposes the Bill and is urging its members to voice their opposition through the issuance of a resolution, and testifying against the Bill. Shortly after the Bill was introduced, CML released an analysis of the Bill, including what it believes are problematic components. Additionally, CML and Colorado Counties Incorporated released Joint Land Use Principles, which details their proposals to address the housing crisis in Colorado. These resources are available on CML's website.

3. Actions Available to Council

Town Council has several actions it can take at this point:

- a) Pass the CML sample resolution in opposition to SB 23-213 as drafted.
- b) Pass a resolution in opposition to SB 23-213, drafted by Town staff, that specifically addresses Council's concerns.
- c) Take no position.
- d) Engage in a public outreach campaign.

RECOMMENDATION:

None.

REQUESTED DIRECTION:

Provide guidance to staff as to whether Council would like to proceed with a resolution opposing the Bill, and if Council would like to take any other action in response to the Bill. CML's sample resolution is **attached** for Council's review.

ATTACHMENT:

- 1. CML Analysis
- 2. Sample resolution opposing SB23-213



COLORADO
MUNICIPAL
LEAGUE



CML Analysis of SB23-213, Land Use

► INTRODUCTION

Senate Bill 23-213 includes several subjects but primarily focuses on a central theme: municipal zoning laws caused the housing crisis by not permitting unfettered residential construction and by trying to protect communities and resources. The bill attempts to draw a line from local zoning laws affecting individual parcels of land in dozens of municipalities to “regional imbalances” that “affect equity, pollution, infrastructure costs, and quality of life.” The bill does not question the state’s involvement in actual statewide problems, but asserts that state regulation of hyper-local matters, imposed through over a dozen regulatory actions with insufficient process, will improve these imbalances and presumes that there will not be significant unintended consequences. This analysis is not a complete list of problems in the bill but represents the most significant elements.

► CML ANALYSIS:

LAND USE BILL WOULD DO LITTLE TO MAKE HOUSING AFFORDABLE

Section 2 of SB23-213 creates a new article 33 in title 29 that imposes top-down standards on some local governments to remove local zoning authority. Despite being titled as requirements for affordable housing, **Section 2 doesn’t require affordability at all and is premised on speculation that developers will build more housing, either passing savings along to Coloradans or causing a market-based decline in housing costs.** Section 2 begins with overbroad and complex definitions and continues to address assessments and planning before imposing mandates and preempting authority to zone land for particular uses.

An uneven strategy

The bill largely applies only to municipalities, and then only to some municipalities and in differing degrees. Municipalities are classified into four basic groups that do not cover all municipalities. The bill’s requirements apply to each category, and then subsets of categories, to differing degrees in each part. Identifying where a municipality is classified is a complicated process requiring reference. Whether the bill addresses actual problems in the municipalities included in each category or causes more problems in those municipalities will be difficult to determine. See the last page of this analysis for a list of affected municipalities, reported by Colorado Public Radio.

Geographic Classification of Municipalities

Tier 1 Urban Municipality (T1UM)	Tier 2 Urban Municipality (T2UM)	Rural Resort Job Center (RRJC)	Non-urbanized Municipality (NUM)
In an MPO with a population of at least 1 million	Within an MPO	Not within an MPO	Not within the definition of an urban municipality or a rural resort job center; and
10% of territory in urbanized area with population over 75,000; and	A population between 5,000-25,000; and	A population of at least 1,000	A population of at least 5,000
A population of at least 1,000; <i>or</i>	In a county with a population of at least 250,000	1,200 jobs and a jobs-to-population ratio of at least 64-hundredths; and	
In an MPO with a population under 1 million; and		A transit stop serviced by a transit agency serving two municipalities with at least 20 trips per day	
A population of at least 25,000			

The bill grants broad regulatory authority to DOLA

The bill contemplates dozens of regulatory actions, primarily by DOLA. The bill appropriates \$15 million dollars to DOLA; however, it is not clear how that funding will be expended and whether funding for the various regulatory actions is included.

First, the Director of DOLA is tasked with issuing multiple methodologies, guidance, “menus” of strategies, statewide strategic growth objectives, model codes, rules, and minimum standards based on the recommendation of a “multi-agency committee” of executive appointees. Although the bill does not outline a public comment process, DOLA will undergo a rulemaking process that may include a public comment period. The committee’s recommendation only involves a limited public process involving public comment, consultation with local governments and experts, and only two hearings, despite having statewide impact and addressing extremely local issues (29-33-108(2)). The bill does not specify which local governments and “local experts” will be consulted, and it is seemingly up to the committee members to choose those experts without any guidelines. There are no requirements to ensure inclusivity, such as meetings during varying hours, meetings in different geographic locations, or outreach to educate and explain proposed recommendations.

Second, the Director of DOLA is granted authority to modify statutory minimum standards relating to accessory dwelling units (ADUs), middle housing, housing in transit-oriented areas, and housing in key corridors. Only token consideration of process is provided.

Third, DOLA is tasked with a substantial amount of new oversight and enforcement responsibility with the receipt, review, and approval of various reports, codes, and draft and final plans.

In addition to DOLA, the Office of Climate Preparedness is directed to develop a natural and agricultural land priorities report that MPOs should apply to achieve connectivity of open space and natural lands and preservation of agricultural land and open space. Counties and municipalities must include natural and agricultural priorities in their master plans in accordance with the state's mandate.

Ambiguous mandates for housing needs assessment & planning

The bill asserts that “assessing and planning for housing needs” is a matter of mixed state and local concern. DOLA will issue methodologies for developing state, regional, and local “housing needs assessments” and then create the assessments every 5 years, beginning December 31, 2024. DOLA will allocate shares of statewide housing needs to regions defined by DOLA and local governments. DOLA will also use local housing needs assessments to mandate “net residential zoning capacities” for key corridors in tier 1 urban municipalities and rural resort job centers (see below for a more detailed analysis).

T1UM, T2UM, and RRJC municipalities must use DOLA's local and regional assessments to inform any required “housing needs plans.” DOLA will create guidance for these plans, but the bill includes procedural and extensive, but ambiguous, substantive mandates for their development and adoption, including requirements to describe compliance with the bill's mandates and a “greenfield development analysis.” The greenfield development analysis relies on undefined “statewide strategic growth objectives” also developed by DOLA. The bill's limited direct connection to affordability and displacement includes requirements to include a varying number of strategies regarding those issues from state-created “menus” (also developed by DOLA), although RRJC are not required to address displacement. None of the items in the menus provide additional authority to municipalities beyond existing law and given the bill's other restrictions, may inhibit existing authority to plan communities and ensure affordability.

Housing needs plans, a greenfield development analysis, and a concept of natural and agricultural land priorities consistent with state requirements must be included in master plans for T1UM, T2UM, and RRJC.

Counties and municipalities that DOLA groups into rural resort regions are required to participate in “regional housing needs planning process” resulting in a report and commitments that DOLA must review and approve. The bill suggests that this process will encourage participants to address needs through individual or regional strategies, including strategies from “menus” and locations where reduced parking requirements can reduce housing needs. The process will map locations where Article 33's minimum standards for middle housing, transit-oriented areas, and key corridors could meet needs, but later the bill actually indicates that this map would dictate where middle housing standards apply in RRJCs.

Burdensome reporting standards

T1UM, T2UM, and RRJC must collect, track, maintain, and report to DOLA an overwhelming amount of data beginning December 31, 2026. These municipalities must report both the number of permits for new housing and the number of housing construction starts each categorized by structure type, time frames to complete residential permit reviews by housing type, workforce assigned to development review by position time, implementation status of strategies identified in a housing needs plan mandated by the law, zoning information specifying zone districts, allowed uses and densities and “other data,” and regional efforts to address housing needs.

“Use by right” would supersede local control

In removing the legislative discretion of municipal governing bodies in making zoning decisions, the bill removes a traditional elements of zoning authority to consider — in their best legislative judgment — consistency with plans, compatibility or harmony of surrounding land uses and development, and strategies for mitigating project impacts. Each of the zoning preemptions also includes a concept of a “use by right,” meaning the development approval relies only on “objective standards” that lack any discretionary component. Objective standards prohibit any personal or subjective judgment by a public body or official and must be “uniformly verifiable or ascertainable by reference to an external or uniform benchmark or criterion” that is known before filing of the proposal. Not only does this inhibit local officials from exercising traditional authority, but it also potentially prevents municipalities making critical changes to land use laws to protect their communities that might apply to a pending project.

Zoning preemption No. 1: Accessory dwelling units — T1UM, T2UM, RRJC, NUM

The bill declares “an increased supply of housing through accessory dwelling units” to be a matter of mixed state and local concern but reflects inadequate study of how ADUs are treated in all subject jurisdictions or what the supply would look like if the bill is enacted. Under the bill, an ADU is an internal, attached, or detached “dwelling unit” providing complete independent living facilities for at least one person that is located on the same lot as a primary residence with provisions for living, sleeping, eating, cooking, and sanitation.

By December 31, 2024, a T1UM, T2UM, and RRJC must change their local laws concerning ADUs to meet the bill’s minimum standards (as may be modified by DOLA) or adopt DOLA’s model ADU code. The municipalities must report their compliance by that date, subject to DOLA review and approval. Failure to adopt meet the minimum requirements by June 30, 2025, or DOLA’s rejection of the jurisdiction’s report, means the model code goes into effective immediately; no provision is made for who makes this determination or whether it can be disputed. If the model code is adopted, it must be implemented using “objective procedures” and the municipality cannot have any “local law” that would contravene it. The bill does not account for potential citizen referendum and expressly seeks to preempt local zoning ordinances enacted pursuant to Article XX, Section 6 of the Colorado Constitution.

Developed by June 30, 2024, DOLA’s model ADU code will allow ADUs as a “use by right” anywhere a municipality allows single-unit detached dwelling units as of January 1, 2023. The code will provide “objective standards” for approval of the units, so that officials cannot evaluate local conditions to determine if the ADU will cause an unfair burden or be incompatible. The model code cannot require new off-street parking in any subject jurisdiction, even if the ADU is in an area without adequate parking or transit. The model code is not subject to the same minimum standards that apply to municipalities that do not adopt the model code.

The bill establishes minimum standards that attempt to preempt local law if the model code is not voluntarily adopted. DOLA can update minimum standards through rulemaking under an ambiguous “public hearing and comment process.”

ADUs are not required to be permitted on the same lot or parcel as middle housing.

Other exemptions apply for parking spaces required by the Americans with Disabilities Act, short-term rental rules, and historic districts.

Minimum Standards for ADUs

ADUs of the greater of 800 square feet or 50% of the primary residence must be allowed as a “use by right” anywhere the municipality allows single-unit, detached dwelling units as of January 1, 2023.

Only “objective standards and objective procedures can apply,” meaning that officials cannot evaluate local conditions to determine if the ADU will cause an unfair burden or be incompatible.

Municipalities must allow additions to, or conversions of, existing single detached dwelling units and must apply the same design standards that apply to single detached dwelling units.

Municipalities cannot have local laws that treat ADUs more restrictively, “create unreasonable costs or delays” or make ADUs “infeasible,” require that primary residences be owner-occupied, require new off-street parking (in T1UM and T2UM), or require side or rear setbacks of more than 5 feet unless needed for health or safety standards.

Zoning preemption No. 2: “Middle housing” — T1UM and RRJC

The bill declares “an increased supply of housing through middle housing” to be a matter of mixed state and local concern but reflects inadequate study of how “middle housing” is treated in all subject jurisdictions or what the supply would look like if the bill is enacted. Under the bill, “middle housing” is either a single structure with 2-6 separate dwelling units (duplex through sixplex), a townhome, or cottage cluster. A townhome is a dwelling unit in a row of 2 or more attached dwelling units on individual lots with common walls. A cottage cluster is a grouping of at least 4 detached units with a common courtyard, with each unit being smaller than 901 square feet.

By December 31, 2024, a T1UM, and by December 31, 2026, a RRJC, must change their local laws concerning middle housing to meet the bill’s minimum standards (as may be modified by DOLA) or adopt DOLA’s model middle housing code. The municipalities must report their compliance by that date, subject to DOLA review and approval. Failure to adopt the minimum requirements by June 30, 2025, for a T1UM, or by June 30, 2027, for a RRJC, or DOLA’s rejection of the jurisdiction’s report, means the model code goes into effect immediately; no provision is made for who makes this determination or whether it can be disputed. If the model code is adopted, it must be implemented using “objective procedures” and the municipality cannot have any “local law” that would contravene it. The bill does not account for potential citizen referendum and expressly seeks to preempt local zoning ordinances enacted pursuant to Article XX, Section 6 of the Colorado Constitution.

Developed by June 30, 2024, DOLA’s model middle housing code will allow middle housing as a “use by right” anywhere the municipality allows single-unit detached dwelling units as of January 1, 2023. The code will provide “objective standards” for approval of the units, so that officials cannot evaluate local conditions to determine if the housing will cause an unfair burden or be incompatible. The model code cannot require new off-street parking in any subject jurisdiction, even if the housing is in an area without adequate parking or transit. The model code is not subject to the same minimum standards that apply to municipalities that do not adopt the model code.

The bill establishes minimum standards that attempt to preempt local law if the model code is not voluntarily adopted.

Minimum Standards for Middle Housing

Middle housing of at least 125% of the building area of a single-unit detached dwelling must be allowed as a “use by right” anywhere the T1UM allows single-unit detached dwelling units as of January 1, 2023, or wherever designated in the RRJC’s regional housing needs plan (even if the RRJC did not approve it).

Only “objective standards and objective procedures can apply,” meaning that officials cannot evaluate local conditions to determine if the middle housing type will cause an unfair burden or be incompatible.

Municipalities must allow additions to or conversions of existing single detached dwelling units and must apply the same design standards that apply to single detached dwelling units.

Municipalities must allow properties to be subdivided using objective standards and procedures.

Municipalities cannot have local laws that treat middle housing more restrictively, “create unreasonable costs or delays” or make middle housing “infeasible,” apply minimum setbacks, lot widths, lot depths, lot size standards, or maximum height standards that are more restrictive than single-unit detached dwellings on the same property, require new off-street parking, or impose footprint restrictions differently than single-unit detached dwellings.

DOLA can update minimum standards through rulemaking under an ambiguous “public hearing and comment process.” Middle housing is not required to be permitted on the same lot or parcel as an ADU. Other exemptions apply for parking spaces required by the Americans with Disabilities Act, short-term rental rules, and historic districts. Middle housing requirements will not affect an inclusionary zoning ordinance unless it renders the “development of middle housing financially infeasible.” The bill does not define “financially infeasible” and does not explain how a developer must prove that the ordinance makes said development financially infeasible. This could make inclusionary zoning ordinances moot.

Zoning preemption No. 3:

Housing in “transit-oriented areas” — T1UM with fixed rail

The bill declares “an increased supply of housing in transit-oriented areas” to be a matter of mixed state and local concern but reflects no study of how any of the subject jurisdictions treat the topic or what the supply would look like if the bill is enacted. Under the bill, a “transit-oriented area” is a one-half mile boundary from some part of a fixed-rail transit station, including parcels that have at least 25% of their area within the boundary. Unincorporated parcels are not included.

The focus of this part of the bill is on multifamily housing (one or more buildings on one lot with separate living units for 3 or more households) and mixed-income multifamily housing (at least 10% of units are set aside for households earning no more than 80% AMI). Although municipalities with inclusionary zoning ordinances can establish their own threshold and set asides, the bill interferes by setting density standards and inconsistently restricts local inclusionary zoning ordinances based on the financial effect on developers.

By December 31, 2024, a T1UM with a transit-oriented area must change their local laws concerning housing in transit-oriented areas to meet the bill's minimum standards (as may be modified by DOLA) or adopt DOLA's transit-oriented area model code. The municipalities must report their compliance by that date, subject to DOLA review and approval. Failure to adopt meet the minimum requirements by June 30, 2025, or DOLA's rejection of the jurisdiction's report, means the model code goes into effective immediately; no provision is made for who makes this determination or whether it can be disputed. If the model code is adopted, it must be implemented using "objective procedures" and the municipality cannot have any "local law" that would contravene it. The bill does not account for potential citizen referendum and expressly seeks to preempt local zoning ordinances enacted pursuant to Article XX, Section 6 of the Colorado Constitution.

Developed by June 30, 2024, DOLA's transit-oriented area model code will prohibit new off-street parking in transit-oriented areas for multifamily or mixed-income multifamily development, allow minimum density as a "use by right" for multifamily residential (at least 40 units per acre net density) and mixed-income multifamily (at least 60 units per acre net density). Affordable units must be a similar size. This prevents T1UM jurisdictions from influencing multifamily development according to local standards.

The bill establishes minimum standards that attempt to preempt local law if the model code is not voluntarily adopted.

Minimum Standards for Transit-Oriented Areas

A T1UM must legislatively create a zoning district for the transit-oriented area to allow multifamily housing as a "use by right" with a minimum gross density of 40 units per acre for all eligible parcels. Districts can extend outside the transit-oriented area to meet gross density requirements based on development constraints or other planning for transit-compatible uses.

Municipalities cannot have local laws that apply to "create unreasonable costs or delays" or make multifamily in a transit-oriented area or the residential density limits "infeasible" or require new off-street parking.

DOLA can update minimum standards through rulemaking under an ambiguous "public hearing and comment process." Other exemptions apply for parking spaces required by the Americans with Disabilities Act, short-term rental rules, and historic districts. Transit-oriented area requirements will not affect an inclusionary zoning ordinance unless it renders the "development of multifamily housing financially infeasible."

Zoning preemption No. 4: Housing in "key corridors" — T1UM and RRJC

The bill declares "an increased housing supply in key corridors" to be a matter of mixed state and local concern but reflects no study of how any of the subject jurisdictions treat the topic or what the supply would look like if the bill is enacted. Under the bill, a "key corridor" is an extraordinarily broad concept that is not limited to transit corridors and could undermine the zoning and land use plans of an entire municipality. Key corridors include "frequent transit service areas" as mapped by

DOLA (including in some cases anything within one-quarter mile of a bus route with certain service levels). Key corridors also include any parcel in zone districts that permit commercial uses that are supposedly compatible with residential uses and public or institutional uses. Key corridors also include anything zoned for a mix of uses other than industrial. The definitions used in this part are likely inconsistent with many local zoning codes and could capture very large parts of a community.

The bill suggests some option for the municipality that does not adopt a model code to designate their own key corridors. The bill extent of this discretion is not clear, and all minimum standards described for key corridors apply.

The focus of this part of the bill also focuses on multifamily housing (one or more buildings on one lot with separate living units for 3 or more households) and mixed-income multifamily housing (at least 10% of units are set aside for households earning no more than 80% AMI). Although municipalities with inclusionary zoning ordinances can establish their own threshold and set asides, the bill interferes by setting density standards, set asides, and AMI requirements, and inconsistently restricts local inclusionary zoning ordinances based on the financial effect on developers.

By December 31, 2026, T1UM and RRJC must change their local laws concerning housing in key corridors to meet the minimum standards that DOLA must develop or adopt DOLA's key corridor model code. The municipalities must report their compliance by that date, subject to DOLA review and approval. Failure to adopt and meet the minimum requirements by June 30, 2027, or DOLA's rejection of the jurisdiction's report, means the model code goes into effective immediately; no provision is made for who makes this determination or whether it can be disputed. If the model code is adopted, it must be implemented using "objective procedures" and the municipality cannot have any "local law" that would contravene it. The bill does not account for potential citizen referendum and expressly seeks to preempt local zoning ordinances enacted pursuant to Article XX, Section 6 of the Colorado Constitution.

Developed by June 30, 2024, DOLA's key corridor model code will set minimum residential density limits for multifamily housing as a "use by right," an allowable minimum residential density limit for mixed-income multifamily housing at least 50% greater than the multifamily minimum density as a "use by right," requirements for set asides for low- and moderate-income households.

By June 30, 2025, DOLA will establish key corridor minimum standards that attempt to preempt local law if the model code is not voluntarily adopted. The minimum standards appear to be targeted to take over municipal land use planning in broad swaths of territory and must include: guidance to encourage regional strategies for key corridors, a "net residential zoning capacity" for each municipality based on that municipality's local housing needs assessment, and "any additional standards" that DOLA "deems necessary," like a minimum residential density limit and minimum district size.

Minimum Standards for Key Corridors

A T1UM must legislatively create a zoning district within key corridors to allow multifamily housing as a "use by right" that satisfies DOLA's mandated net residential zoning capacity and requirements that DOLA may impose.

A RRJC must allow multifamily housing as a "use by right" wherever a key corridor is designated in the RRJC's regional housing needs plan (even if the RRJC did not approve it).

Municipalities can allow different density within the key corridor if minimum standards are satisfied.

Municipalities cannot have local laws that apply to "create unreasonable costs or delays" or make multifamily in a key corridor "infeasible."

For key corridors only, the bill prohibits new off-street parking in key corridors **for any use.**

Other exemptions apply for parking spaces required by the Americans with Disabilities Act, short-term rental rules, and historic districts. Key corridor requirements will not affect an inclusionary zoning ordinance unless it renders the “development of multifamily housing financially infeasible.”

What’s exempt from SB23-213?

Each part of the proposed article 33 of title 29 includes varying degrees of exemptions. Except for ADU requirements, a common exemption is for “standard exempt parcels,” or those that are outside an urbanized area, not served by domestic water or sewer treatment, have an agricultural zoning designation as of January 1, 2023, are noted as a “high risk, high very high, or very high risk” for wildfire by the state forest service (which does not appear to include much land covered by the bill), or in a floodway or 100-year floodplain identified by FEMA. The bill does not account for other local conditions.

For transit-oriented areas, standards also do not apply in park and open space or on properties subject to conservation easements. For key corridors, standards also do not apply on a site that is on or adjacent to a site used or permitted for industrial use or designated for heavy industrial use in a master plan adopted before 2023.

“Unreasonable costs or delays” and feasibility

Each of the zoning preemptions includes a dangerous concept that preempts any local land use law that “individually or cumulatively create unreasonable costs or delays” or that would make the permitting, siting, or construction of the housing type “infeasible.” This language recklessly exposes municipalities to significant liability, could undermine local efforts to create affordable housing, and risks forcing the public to bear burdens that should be borne by developers. It is unclear whether safety standards, impact fees, fees for water or municipal services, or other important local standards could fall prey to this type of language. Several provisions in the middle housing, transit-oriented areas, and key corridor parts also suggest that financial burdens on developers imposed by local inclusionary zoning ordinances will invalidate those local laws.

Interference

Each of the zoning preemptions includes another dangerous concept that would preempt a municipality from amending, developing, or even interpreting a local law “in a manner that would interfere with the intent” of the part. Broad and careless language could have significant unintended consequences and expose municipalities to significant risk.

Parking burdens

Each zoning preemption prohibits a municipality from requiring new off-street parking as part of a housing development approval. The “key corridor” provision appears to prohibit parking requirements for any development approval in a key corridor, not just housing. The bill does not limit these restrictions to any guarantee of public transit availability. The bill does not identify where cars will go or how municipalities are to address the burdens on public streets, public safety, and quality of life. Each zoning mandate permits parking standards required by the Americans with Disabilities Act.

Water, wastewater, and stormwater burdens

Each zoning preemption allows a municipality to apply to DOLA for an unclear “extension of applicable requirements” based on deficient water, sewer, or stormwater “services.” The bill does not seem to account for any other burden on public infrastructure or services. To obtain the extension, the municipality must have a plan to remedy the deficiency on a specific timeline and must show that it cannot serve other, less efficient housing types than those provided in the mandate. The provisions do not account for pre-existing service obligations to those other housing types or rights of their owners. These provisions also do not consider long-term planning and suggest that municipalities must fund development to accommodate the state mandate.

Manufactured & modular housing

Section 3 requires the division of housing to create a report by June 30, 2024, on “opportunities and barriers” in current state law concerning manufactured homes, modular homes, and tiny homes.

Sections 4 and 6 remove financial assurance requirements for manufacturers of factory-built structures (not necessarily limited to residential structures). Under current law, those assurances are payable to the division if the manufacturer fails to deliver a structure or refund a down payment or ceases doing business.

Section 5 adds “final construction plan reviews” to the scope of quality assurance representatives approved by the Division of Housing relating to factory-built structures. The impact of this addition is not clear.

Section 11 amends current law to mandate that municipalities address manufactured and modular housing in the same manner as site-built homes. Municipalities must use “objective standards” and an administrative review process equivalent to site-built homes, unless a subjective review process is used for site-built homes. More restrictive standards than are applied to site-built homes are prohibited, including zoning and subdivision laws and “other regulation affecting development” such as requiring permanent foundations, minimum floor space, home size or sectional requirements, “improvement location standards,” and side yard or setback standards. **Despite allowing for equivalency with site-built homes, the bill removes existing language that ensures authority to enact consistent zoning, developmental, use, aesthetic, or historical standards that are applicable to existing and new housing.** The categorization of municipalities in Section 2 does not apply to these amendments.

Preemption of planned unit development zoning

Section 7 amends the Planned Unit Development Act at CRS 24-67-105(5.5) to provide that PUDs with residential uses cannot restrict ADUs, middle housing, housing in transit-oriented areas, or housing in key corridors in a manner prohibited by the proposed article 33 of title 29. It is not clear whether this applies only to PUDs in jurisdictions covered by proposed article 33 or more broadly.

Preemption of residential occupancy limits

Section 8 creates CRS 29-20-110 that would preempt counties and municipalities from placing residential occupancy limits on “dwellings” that differentiate between occupants based on family relationship (other than short term rental restrictions). Here, a “dwelling” is defined as any improved property used or intended to be used as a residence, but in Section 2 a different definition of “dwelling” is used. (a single unit providing complete independent living facility)

No commitment to use state-controlled property for affordable housing

Section 10 permits statutory municipalities to sell municipal property held for a government purpose (other than park property) without an election if the purpose is to develop affordable housing. The categorization of municipalities in Section 2 does not apply to these amendments. The state makes no commitment to the use of state-controlled property for affordable housing in the bill.

A narrowing of municipal zoning authority

In addition to Section 2’s broad preemptions and mandates, Section 13 bluntly narrows the traditional zoning authority of municipalities by prohibiting T1UM and T2UM from imposing minimum square footage requirements for residential units unless “necessary for health and safety” in the municipality. The bill would not allow those municipalities to address issues relating to their communities’ welfare.

Undefined process for creating master plans

Sections 9 and 12 amend Titles 30 and 31 regarding county and municipal master plans. The categorization of municipalities in Section 2 does not apply to these amendments. **Counties and municipalities must ensure an undefined “inclusive process” by consulting with housing authorities, nongovernmental organizations, and local governments in the creation of the master plan. Master planning already involves heavy public engagement.**

Counties and municipalities must include, for plans after June 30, 2024, water items including the location and extent of water supply, a water supply element and conservation policies, and priorities for natural and agricultural land in accordance with the state’s natural and agricultural land priorities report. Counties over 250,000 in population must include a “greenfield development analysis.”

Section 12 also addresses the inclusion of housing needs plans, a greenfield development analysis, and a concept of natural and agricultural land priorities following the state’s natural and agricultural land priorities report.

DOLA must receive draft and final plans and is required to review plans for compliance.

New reporting requirements for water loss accounting

Section 14 requires covered entities (including municipal and special district water providers) to provide and validate water loss audit reports to the Colorado Water Conservation Board. The board will adopt standards for validation of reports, technical qualifications, and methods by January 1, 2025. Some funding is provided for assistance in validation and for technical training and assistance to guide water loss programs.

Invalidation of HOA housing decisions

Section 15 would invalidate common interest community limitations on ADUs, middle housing, housing in transit-oriented areas, and housing in key corridors.

Transportation planning and grants. Section 16 requires the transportation commission to include “statewide strategic growth objectives relating to regionally significant transportation projects” in the ten-year plans for existing and future transportation systems created under CRS 43-1-106(15)(d). It is not clear whether those objectives are the same created by DOLA under Section 2.

Section 17 requires the department of transportation to ensure that grant prioritization criteria are “consistent with state strategic growth objectives” by December 31, 2024. It is not clear whether those objectives are the same created by DOLA under Section 2.

Section 18 requires regional transportation plans and the statewide transportation plan under CRS 43-1-1103, beginning December 31, 2024, to address and ensure consistency with state strategic growth objectives. At least for the regional plans, the objectives are those determined by DOLA under the proposed CRS 29-33-107.

Section 19 requires that projects funded from the multimodal transportation options under CRS 44-4-1103 be “consistent with state strategic growth objectives.” It is not clear whether those objectives are the same created by DOLA under Section 2.

Inadequate funding

Section 20 appropriates \$15 million for DOLA to provide technical assistance under the proposed CRS 29-33-111(3). The extensive amount of code revision, reporting, plan development, and compliance with various mandates required by the bill in covered municipalities has an unknown cost that would certainly exceed this funding. The funding will not address impacts

to infrastructure, public services, and quality of life in municipalities or litigation costs arising from the bill. The funding does not address the major overhaul of DOLA’s mission and authority.

Safety clause prevents voters from weighing in

Section 21 includes a safety clause, preventing voters from exercising the right of referendum. Local zoning ordinances on the same issues covered by the bill are subject to the reserved constitutional power of referendum.

► SUPPLEMENTAL INFORMATION

Communities by tier level

Urban Municipalities Tier 1	Urban Municipalities Tier 2	Rural Resort Job Centers	Non-Urban Municipalities
Denver region: Arvada, Aurora, Boulder, Brighton, Broomfield, Castle Pines, Castle Rock, Centennial, Cherry Hills Village, Columbine Valley, Commerce City, Denver, Edgewater, Englewood, Erie, Federal Heights, Glendale, Golden, Greenwood Village, Lafayette, Lakewood, Littleton, Lochbuie, Lone Tree, Longmont, Louisville, Northglenn, Parker, Sheridan, Superior, Thornton, Westminster, Wheat Ridge North Front Range: Greeley, Fort Collins, Loveland, Windsor Pikes Peak: Colorado Springs, Fountain Grand Valley: Grand Junction Pueblo Area: Pueblo	Denver region: Dacono, Fort Lupton, Firestone, Frederick North Front Range: Evans, Berthoud, Johnstown, Tinmath, Eaton, Miliken, Severance Pikes Peak: Monument	Aspen, Avon, Breckenridge, Crested Butte, Dillon, Durango, Frisco, Glenwood Springs, Mountain Village, Silverthorne, Snowmass Village, Steamboat Springs, Telluride, Vail, Winter Park	Alamosa, Brush, Canon City, Carbondale, Cortez, Craig, Delta, Eagle, Fruita, Fort Morgan, Gunnison, Gypsum, La Junta, Lamar, Montrose, Rifle, Sterling, Trinidad, Wellington

This table lists communities by tier level, according to a document provided by Rep. Steven Woodrow.

Tier-level table published by Colorado Public Radio, <https://bit.ly/3FVlYio>.

RESOLUTION NUMBER _____

**RESOLUTION OF THE [NAME OF MUNICIPALITY] IN OPPOSITION
TO STATEWIDE LAND USE AND ZONING PREEMPTIONS IN SENATE BILL 23-213**

WHEREAS, for a century, the State of Colorado has committed both in statute and in the state constitution to the local control of land use planning and zoning because local governments are closest to the land and to the people that occupy it;

WHEREAS, zoning and land use cannot be viewed separately from the impacts of proposed uses of land on surrounding properties and a community as a whole, including the ability to ensure adequate water and utilities; to provide enough public safety services, schools, and recreational services; to make sure that sufficient and safe infrastructure is available to handle increased population or more intense uses; to align development with the community's economic goals; to prevent displacement of existing people; to preserve important historical sites; and to protect open space and the environment in general;

WHEREAS, Senate Bill 23-213 would place statewide mandates on hyper local land use matters and substitute the judgment of legislators and state regulators who lack the understanding needed to make the right decisions for our community;

WHEREAS, Senate Bill 23-213 will undermine long-range planning efforts and will severely limit our ability to maintain reasonable zoning regulations to ensure a high quality of life and sound economic environment for our current and future residents, workers, and business owners;

WHEREAS, Senate Bill 23-213 silences the voices of our residents by taking away the right to be heard at public hearings on zoning matters or to use their constitutional rights of initiative or referendum to address zoning and land use matters;

NOW, THEREFORE, be it resolved by the [City Council/Board of Trustees] of the [Name of Municipality] that:

1. It is the position of the [Name of Municipality] that municipalities are best suited to determine appropriate zoning laws for their communities and that collaboration and cooperation – not top-down statewide mandates and giveaways to special interests – are the solution to Colorado's affordable housing problem;
2. The [Name of Municipality] opposes Senate Bill 23-213 and strongly urges its legislators to vote NO on this unprecedented and irresponsible preemption.

Resolved this ____ of 2023.

Mayor

Attest:

Municipal Clerk