



## AGENDA

### MANAGEMENT AND FINANCE POLICY COMMITTEE

October 26, 2021

1:00 pm

Aurora Room

15151 E. Alameda Parkway

Aurora, CO 80012

Public Participant Dialing Instructions  
Dial Access Number: 1-408-418-9388  
Enter Participant Code: 2481-476-6816

Council Member Gardner, Chair  
Council Member Gruber  
Deputy City Manager Roberto Venegas  
Finance Director Terri Velasquez

The Management and Finance Committee oversees the following Council goal and objectives:  
**PROVIDE A WELL-MANAGED AND FINANCIALLY STRONG CITY**

- Ensure the delivery of high-quality services to residents in an efficient and cost-effective manner.
- Maintain superior financial reporting, financial controls, appropriate reserves, budgeting financial management, and transparency, and invest in capital and infrastructure to support efficient and effective long-term provision of services.
- Maintain a high financial credit (bond) rating, maintain debt policies and debt practices that allow the assessment of appropriate debt levels, and periodically review debt and debt service to minimize costs.
- Provide appropriate stewardship of natural resources to ensure long-term sustainability for the city.

**Pages**

1. **Call to Order**
2. **Approval of Minutes** 1
3. **Consent Items**
  - 3.a. **September 2021 Sales Tax Chart** 5

Greg Hays, Budget Manager (5 minutes)

**4. General Business**

- 4.a. 2021 FALL SUPPLEMENTAL: FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR** 9

**2021 FALL SUPPLEMENTAL: FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR**

Greg Hays, Budget Manager

Mike Franks, Budget Program Manager (15 minutes)

- 4.b. Review of Outstanding Moral Obligations in Accordance with Adopted Policies** 30

**REVIEW OF OUTSTANDING MORAL OBLIGATIONS IN ACCORDANCE WITH ADOPTED POLICIES**

Teresa Sedmak, City Treasurer (10 minutes)

- 4.c. FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL BEVERAGE FESTIVAL PERMIT** 39

**FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL BEVERAGE FESTIVAL PERMIT**

Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

- 4.d. FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES** 51

**FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES**

Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

**4.e. Short Term Rental Regulations Update and Ordinance**

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FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 26 RELATING TO THE SALES OF LODGING IN PRIVATE RESIDENCES

Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

**4.f. FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO SALES AND USE TAX CLARIFICATIONS**

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FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO SALES AND USE TAX CLARIFICATIONS

Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

**4.g. Q3 2021 Internal Audit Progress Report**

80

Q3 2021 Internal Audit Progress Report

Wayne Sommer, Internal Audit Manager (10 minutes)

**5. Miscellaneous Matters for Consideration**

- Next meeting tentatively scheduled for November 23 at 1:00 pm WebEx Meeting

**6. Adjournment**

*Total projected meeting time: 80 minutes*

## MANAGEMENT AND FINANCE POLICY COMMITTEE WEBEX

Members Present: Council Member Gardner – Chair, Council Member Gruber

Others Present: T. Velasquez, G. Hays, P. Sylvester, C. Toth, T. Sedmak, S. Newman, H. Hernandez, N. Wishmeyer, R. Peterson, D. Brotzman, T. Sedmak, N. Wishmeyer, B. Fillinger, B. Rulla, D. Hudson, A. Pogue, C. Waldron, C. Argentar, M. Rogers, C. Horiuchi, N. Finco, J. Orozco D. Cesarina, D. Medina Caro, M. Murphy, and T. Hoyle

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### INTRODUCTIONS AND MINUTES

August 24, 2021 minutes were approved.

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### CONSENT ITEMS

August of 2021 was 13.9 percent higher than August of 2020.

#### Outcome

The Committee thanked staff. Information only.

#### Follow-up Action

No follow-up needed.

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### CAREER SERVICE COMMISSION UPDATE

#### Summary of Issue and Discussion

Pat Sylvester, Manager of Employee Relations provided a brief update. The purpose of the Career Service Commission is to hear and determine appeals made by an aggrieved employee pursuant to the rules and regulations of the Charter and Ordinances of the City as well as the City Employee Manual. Members of the Commission must be registered electors and residents of the city at least one year immediately preceding the date of their appointments.

#### Committee Discussion

CM Gruber: The only question I would have is the training that's provided. Does the Commission receive training for review immediately before a case, or is it a continuing education?

P. Sylvester: Thank you for the question. Yes, in regard to training. Once we have a hearing. A group of Commission members meet with the outside attorney. They receive all the paperwork the disclosures the discoveries and the employees file. Any relevant information in regard to the level of discipline. They also receive the most updated employee manual. So, they are fully aware of the City's policies in regard to the disciplinary action that has been taken towards that employee. So, all of those documents are provided to the Commission ahead of each hearing.

CM Gardner: I do not have any questions but thank you for the presentation. Obviously, the trend of cases we are reviewing is a good thing and is probably a credit to the management and supervisor staff we have throughout the City. So good job.

### Outcome

The Committee thanked staff. Information only.

### Follow-up Action

No follow-up needed.

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## **2022 BID OPERATING PLANS AND BUDGETS**

### Summary of Issue and Discussion

State statute requires that each Business Improvement District (BID) organized within the city file their proposed annual budget for the upcoming year with the City Clerk for City Council review and approval.

- The resolution will approve the Fitzsimons Business Improvement District 2022 operating plan and budget. The Fitzsimons Business Improvement District was approved for organization by City Council in 2011. The 2022 operating plan and budget anticipates funding from square foot charges of commercial buildings for its \$5,859 revenue and expected expenditures. The Fitzsimons BID does not anticipate any major public improvements for 2022 and its expenditures are primarily directed towards administrative costs and parking enforcement.
- The resolution will approve the Porteos Business Improvement District 2022 operating plan and budget. The operating plan anticipates beginning fund balance (mainly due to developer advances received in prior years), property taxes and public improvement fees for its \$502,426 revenue and expected expenditures. The Porteos BID will undertake projects as development needs require in 2022.
- The resolution will approve the Parkside at City Centre Business Improvement District 2022 operating plan and budget. All public improvements are anticipated to be completed in 2021, funded by \$13,990,000 from the 2019 debt issuance. Therefore, the 2022 operating plan anticipates no new activity for the Capital Projects Fund. In 2022 the General and Debt Service Funds anticipate \$729,510 in new revenue mainly from sales tax, property tax, developer advances, a privately imposed Public Improvement Fee (PIF), and a transfer from the Parkside Metropolitan District. The Debt Service Fund also anticipates a \$1,885,796 beginning fund balance, carried over from prior years. Together, the General and Debt Service Funds anticipate \$1,042,631 in expenditures in 2022, mainly for management and bond interest expenses.
- The resolution will approve the Citadel on Colfax Business Improvement District 2022 operating plan and budget. The operating plan anticipates mainly remaining bond proceeds from the 2020 debt issuance, property taxes and a transfer from Colfax Sable Metropolitan District for its \$1,810,121 revenue and expected expenditures (General, Capital Projects and Debt Service Funds). The Citadel on Colfax BID will continue to construct and install public improvements to serve the development in 2022 including street improvements, landscaping, traffic signalization and site furnishings.
- The resolution will approve the Painted Prairie Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$30,003 revenue and expected expenditures. The Painted Prairie No. 1 BID does not anticipate any major public improvements for 2022.

- The resolution will approve the Painted Prairie Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates mainly developer advances for its \$25,000 revenue and expected expenditures. The Painted Prairie No. 2 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Tower Business Improvement District 2022 operating plan and budget. The operating plan anticipates developer advances for its \$75,000 revenue and expected expenditures. The Tower BID will undertake projects as development needs require in 2022.
- The resolution will approve the Havana Business Improvement District 2022 operating plan and budget. On September 16, 2021 the Havana BID Board approved a draft budget based on preliminary property valuations from the county and will update their Operating Plan prior to City Council approval. In the interim and for this policy committee meeting, the BID has provided a summary of the key aspects of the 2022 budget and operation plan they plan to incorporate into their final plan.

The 2022 operating plan and budget anticipates revenues of \$623,765 from property taxes, its portion of urban renewal tax increment from the Buckingham Urban Renewal Area, and specific ownership taxes. Combined with carry over funds from 2021, the total 2022 budget is anticipated to be \$1,210,025. No additional revenues are projected to be generated from sponsorships in 2022. Primary changes over the 2021 budget includes an estimated increase in special events (and associated advertising costs) to \$125K in 2022 and smaller increases in staff and accounting costs. The Havana BID does not anticipate any major public improvements other than its continued communication, marketing, a few district markers, and branding efforts to capitalize on its strengths and economic development activities to promote the prosperity of the Havana Corridor. Additional details of projected plans and expenditures are in the included 2022 Budget Message from the BID.

- The resolution will approve the Windler Business Improvement District No. 1 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 1 BID does not anticipate any major public improvements for 2022.
- The resolution will approve the Windler Business Improvement District No. 2 2022 operating plan and budget. The operating plan anticipates developer advances for its \$50,000 revenue and expected expenditures. The Windler No. 2 BID does not anticipate any major public improvements for 2022.

#### Committee Discussion

CM Gruber: Having looked at these so many times over the years. I want to congratulate some of the BIDs, especially Havana and Parkside and some of the others for what they've done and what they are accomplishing. I think these were an important part of our city structure or city government structure. I'm proud to see that they are working as well as they are.

CM Gardner: I don't have any questions. I echo what CM Gruber said. With that we're good moving these forward to Study Session. I don't believe that we need a vote on each one separately at the Committee level. We may want to ask the attorney.

H. Hernandez: No. You can move all of them as a group to Study Session.

Outcome

The Committee recommended the item move forward to Study Session.

Follow-up Action

Staff will forward the item to October 18, Study Session.

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**MISCELLANEOUS MATTERS FOR CONSIDERATION**

- The next meeting is on Tuesday, October 26, 2021 at 1:00 PM (WebEx)

THESE MINUTES WERE APPROVED AS SUBMITTED

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Curtis Gardner, Chair of the Management & Finance (M&F) Committee

\_\_\_\_\_  
Date



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> September 2021 Sales Tax Chart
<b>Item Initiator:</b> Greg Hays
<b>Staff Source/Legal Source:</b> Greg Hays, Hanosky Hernandez
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** N/A

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

September 2021 Sales Tax Chart  
 Greg Hays  
 5 minutes

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session   | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input checked="" type="checkbox"/> Information Only  |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |

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### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A



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**Policy Committee Date:** N/A

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

Members of the M&F Committee have asked for the monthly sales tax performance chart

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

Attached is the September sales tax performance chart. September of 2021 was 13.2 percent higher than September of 2020

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**QUESTIONS FOR COUNCIL**

Info Only

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**LEGAL COMMENTS**

The city charter requires that the city manager shall keep the council advised of the financial condition, future needs of the city, and the overall general condition of the city, and shall make such recommendations to the council for adoption as deemed necessary or expedient. This item is informational only. (See, Aurora City Charter Art. 7-4 (f)). (Hernandez).

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**PUBLIC FINANCIAL IMPACT**

- YES       NO

**If yes, explain:** N/A

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**PRIVATE FISCAL IMPACT**

- Not Applicable       Significant       Nominal

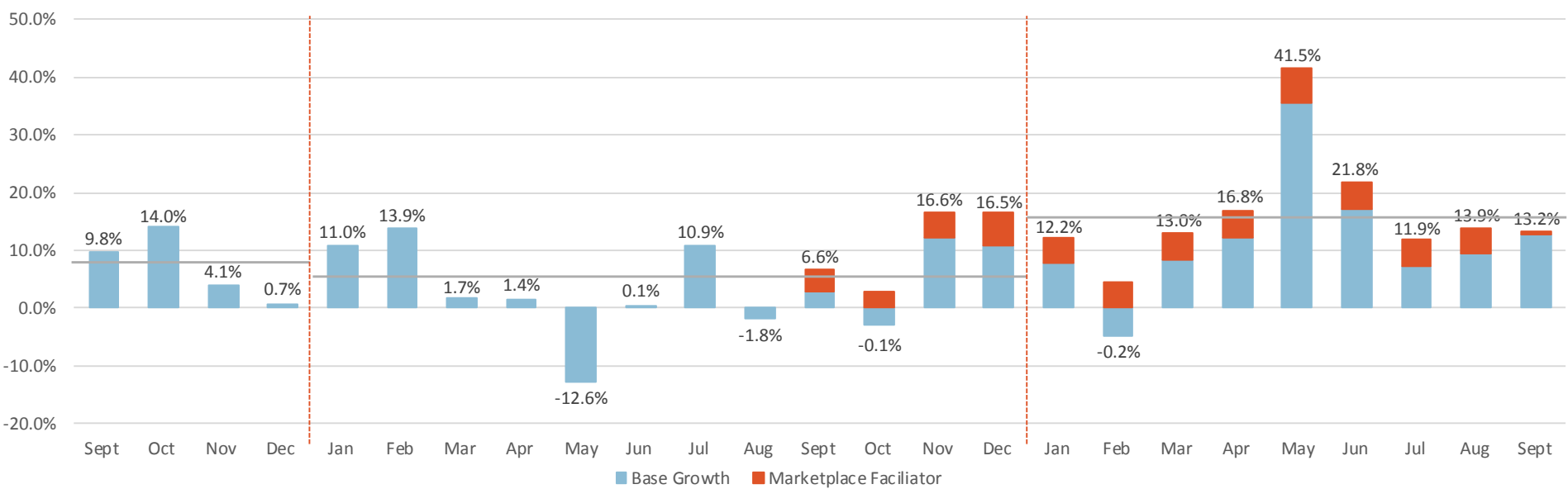
**If Significant or Nominal, explain:** N/A

# September 2021 Sales Tax Performance



## Percent Change from Prior Year By Month

September YTD Variance to  
 Projection: \$6.2M (3.5%)  
 2020: \$24.1M (15.2%)



**2019**  
8.7%

**2020**  
5.3%

**2021**  
15.2%

# September 2021 Sales Tax Performance



2019											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
21,261,542	14,381,591	13,694,934	18,411,530	15,367,303	15,678,576	19,567,045	17,546,377	16,570,069	20,482,667	15,110,710	14,954,977
1,073,579	941,689	969,933	1,668,244	1,104,394	853,685	1,990,632	2,867,198	1,483,060	2,519,146	588,881	109,178
5.3%	7.0%	7.6%	10.0%	7.7%	5.8%	11.3%	19.5%	9.8%	14.0%	4.1%	0.7%

2020											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
23,591,222	16,374,965	13,932,085	18,673,352	13,424,681	15,690,126	21,699,684	17,230,082	17,664,745	20,457,466	17,621,437	17,420,587
2,329,680	1,993,374	237,150	261,822	(1,942,622)	11,550	2,132,639	(316,295)	1,094,676	(25,201)	2,510,726	2,465,610
11.0%	13.9%	1.7%	1.4%	-12.6%	0.1%	10.9%	-1.8%	6.6%	-0.1%	16.6%	16.5%

2021								
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept
26,470,356	16,335,916	15,744,292	21,803,394	18,994,248	19,105,339	24,284,022	19,619,225	20,002,933
2,879,135	(39,049)	1,812,207	3,130,042	5,569,566	3,415,214	2,584,338	2,389,143	2,338,188
12.2%	-0.2%	13.0%	16.8%	41.5%	21.8%	11.9%	13.9%	13.2%



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> 2021 FALL SUPPLEMENTAL: FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR
<b>Item Initiator:</b> Mike Franks, Budget and Finance Manager
<b>Staff Source/Legal Source:</b> Mike Franks, Budget and Finance Manager and Hanosky Hernandez, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** 11/15/2021

**Regular Meeting:** 11/22/2021

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

**2021 FALL SUPPLEMENTAL: FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR**

**Item Initiator: Mike Franks, Budget and Finance Manager**

**Legal Source: Hanosky Hernandez Perez, Assistant City Attorney**

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session  | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only   |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |

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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

N/A

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

One of the first steps of the annual budget process is to prepare an updated projection of current year requirements. During this process revenue adjustments, potential savings, as well as new and additional requirements are identified and serve as the basis for the majority of supplemental appropriation requests.

The 2021 Fall Supplemental Appropriation Request includes operating expenditures and capital projects that require appropriation adjustments for 2021 in the funds listed in Attachment A. Nearly all of the requests were identified and included in the 2021 projection in the 2022 Proposed Budget document. Alternatively, several items that were identified and projected are not included in this fall process. Those items that are subject to change will be included in the 2022 spring supplemental as needed.

The vast majority of requests included in this supplemental process have been previously reviewed by Council or Council Committee. Council review includes items included in the 2021 projection and reviewed as part of the 2022 Proposed Budget as well as items reviewed at either a Council Committee meeting or City Council meeting. Technical items are typically budget lapses or reallocations, zero-dollar amendments with appropriation offset by revenue, and accounting or other adjustments. These items are indicated by including "technical" in the title and may or may not have been reviewed by Council. Council review details are included in the narrative for each supplemental request.

The attachments for this agenda item reflect summary and detail information regarding the requested appropriation changes for each fund and department. Transfers result in a move of funding from one fund to another. The details of these appropriation amendments are found in:

- Attachment A: 2021 Appropriation Summaries by Fund; and
- Attachment B: 2021 Appropriation Detail by Fund.

The following discussion will identify and focus on significant changes included for this budget year, rather than the list in its entirety. Please see attachment B for details on each request.

2021 Supplemental Amendment Requests

Appropriation requests in the Capital Projects Fund total \$46.3 million. Most significant items were included in the 2021 projection and reviewed by Council as part of the 2022 budget process:

- Transfer of **\$30.8 million** from the General Fund to the Capital Projects Fund and the appropriation of **\$30.8 million** for the I-70/Picadilly Interchange project.
- Transfer of **\$12.0 million** from the General Fund to the Capital Projects Fund and the appropriation of **\$12.0 million** for the implementation of an industry leading Enterprise Resource Planning (ERP) system.
- The appropriation of **\$3.3 million** for an ADA transition plan and various street and traffic related capital projects to include sidewalk improvements and the city match for the Revitalizing Main Streets grant application.
- The appropriation of **\$655,000** to install a protected mid-block crossing to facilitate pedestrian and bicycle crossings at Gardens On Havana in accordance with the recent Havana Corridor Study.
- The reduction (lapse) of **\$631,700** of funding for cost increases during the construction phase of pedestrian improvements on 25th Avenue.
- The lapse of **\$556,500** of funding for the Positive Timekeeping system so that it can be used for the ERP system. This adjustment will not impact the project as positive timekeeping has been included within the scope of the ERP project.

Other significant supplemental items include:

- The appropriation of **\$19.8 million** for the early repayment of the 2018 Wastewater interfund loan to the Water Fund for the South East Area Maintenance Facility (SEAM).
- The appropriation of one-time CDBG COVID-19 grant receipts of **\$1.8 million** in the Community Development Fund to help prevent, prepare for, and respond to the coronavirus.
- The appropriation of capital grant awards totaling **\$1.6 million** in the Gifts and Grants Fund for various PROS projects.

Detail for all supplemental items can be found in Attachment B.

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## QUESTIONS FOR COUNCIL

Does the Committee wish to send this item forward to Study Session?

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## LEGAL COMMENTS

The City Council may make appropriations in addition to those contained in the budget upon recommendation of the City Manager, provided that the Finance Director certifies there are sufficient funds available to meet such appropriations. City Charter Article 11-16. (Hernandez)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** The supplemental budget request will make adjustments to the 2021 budget.

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## PRIVATE FISCAL IMPACT

Not Applicable     Significant     Nominal

**If Significant or Nominal, explain:** N/A

One of the first steps of the annual budget process is to prepare an updated projection of current year requirements. During this process revenue adjustments, potential savings, as well as new and additional requirements are identified and serve as the basis for the majority of supplemental appropriation requests.

The 2021 Fall Supplemental Appropriation Request includes operating expenditures and capital projects that require appropriation adjustments for 2021 in the funds listed in Attachment A. Nearly all of the requests were identified and included in the 2021 projection in the 2022 Proposed Budget document. Alternatively, several items that were identified and projected are not included in this fall process. Those items that are subject to change will be included in the 2022 spring supplemental as needed.

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- Attachment B: 2021 Appropriation Detail by Fund.

The following discussion will identify and focus on significant changes included for this budget year, rather than the list in its entirety. Please see attachment B for details on each request.

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- The appropriation of **\$3.3 million** for an ADA transition plan and various street and traffic related capital projects to include sidewalk improvements and the city match for the Revitalizing Main Streets grant application.



- The appropriation of **\$655,000** to install a protected mid-block crossing to facilitate pedestrian and bicycle crossings at Gardens On Havana in accordance with the recent Havana Corridor Study.
- The reduction (lapse) of **\$631,700** of funding for cost increases during the construction phase of pedestrian improvements on 25th Avenue.
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Other significant supplemental items include:

- The appropriation of **\$19.8 million** for the early repayment of the 2018 Wastewater interfund loan to the Water Fund for the South East Area Maintenance Facility (SEAM).
- The appropriation of one-time CDBG COVID-19 grant receipts of **\$1.8 million** in the Community Development Fund to help prevent, prepare for, and respond to the coronavirus.
- The appropriation of capital grant awards totaling **\$1.6 million** in the Gifts and Grants Fund for various PROS projects.

Detail for all supplemental items can be found in Attachment B.

ORDINANCE NO. 2021- \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2020-53, AND 2021-17 FOR THE 2021 FISCAL YEAR

WHEREAS, pursuant to Ordinance Nos. 2020-53 and 2021-17, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”) has appropriated funds for the fiscal year beginning January 1, 2021, and ending December 31, 2021 (“Fiscal Year 2021”); and

WHEREAS, additional appropriations are needed to fund new expenditures for which revenues have recently become available; and

WHEREAS, the Director of Finance has certified that unappropriated reserves and additional funding sources and revenues are available for appropriation in the various funds; and

WHEREAS, the City Manager has recommended that the various appropriations enumerated in this Ordinance be made.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. Appropriations in addition to those made in Ordinance Nos. 2020-53 and 2021-17 shall be made for Fiscal Year 2021 for the purposes enumerated in Attachment B to the document entitled 2021 Fall Amendment Ordinance Appropriation Detail by Fund, such document being in the form as filed with the Office of the City Clerk and presented to the Council at this meeting (the “2021 Amendment Detail”), all as follows:

- a. From the unappropriated fund balance and/or additional revenues of the General Fund, the net amount of Forty Two Million, Eight Hundred Thousand Dollars (\$42,800,000).
- b. From the unappropriated fund balance and/or additional revenues of the Capital Projects Fund, the net amount of Forty Six Million, Three Hundred Thousand, Three Hundred Twenty Dollars (\$46,300,320).
- c. From the unappropriated fund balance and/or additional revenues of the Wastewater Fund, the net amount of Sixteen Million, Two Hundred Seventy-Six Thousand, Seven Hundred Fifty Dollars (\$16,276,750).
- d. From the unappropriated fund balance and/or additional revenues of the Water Fund, the net amount of Three Million, Five Hundred Sixty Thousand, Six Hundred Eighty-Eight Dollars (\$3,560,688).

- e. From the unappropriated fund balance and/or additional revenues of the Community Development Fund, the net amount of Two Million, One Hundred Seventy Six Thousand, Nine Hundred Sixty-One Dollars (\$2,176,961).
- f. From the unappropriated fund balance and/or additional revenues of the Gifts and Grants Fund, the net amount of One Million, Five Hundred Seventy Thousand Dollars (\$1,570,000).
- g. From the unappropriated fund balance and/or additional revenues of the Enhanced E-911 Fund, the net amount of Three Hundred Thousand Dollars (\$300,000).

Section 2. Inter-fund and inter-departmental transfers shall be made as enumerated in the 2021 Amendment Detail for Fiscal Year 2021.

Section 3. The City Manager and the Budget Officer are hereby directed and authorized to expend so much of said funds as are necessary to pay for the projects and acquisitions referenced herein.

Section 4. All ordinances or parts of ordinances of the City in conflict herewith are expressly repealed.

Section 5. Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

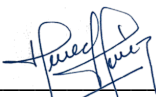
PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MICHAEL COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ,  
City Clerk

APPROVED AS TO FORM:

 RLA  
\_\_\_\_\_  
HANOSKY HERNANDEZ,  
Assistant City Attorney

**2021 Fall Amendment Ordinance  
Appropriation Summaries by Fund**

**2021 Amendment Summary  
Attachment A**

**Attachment A**  
**2021 Fall Amendment Ordinance**  
**Appropriation Summary by Fund and Department**  
**2021 Amendment Summary**

<b>Fund/Department</b>	<b>FTE Request</b>	<b>Net Total Appropriation</b>	<b>Revenue <sup>1</sup> Offset</b>	<b>Inc. / (Dec.) <sup>2</sup> in Fund Bal.</b>
<b>General Fund Total</b>	<b>0.00</b>	<b>42,800,000</b>	<b>0</b>	<b>-42,800,000</b>
Non-Departmental	0.00	42,800,000	0	-42,800,000
Planning & Development Services	0.00	0	0	0
<b>Capital Projects Fund Total</b>	<b>0.00</b>	<b>46,300,320</b>	<b>42,861,785</b>	<b>-3,438,535</b>
Finance	0.00	-556,465	0	556,465
Information Technology	0.00	12,000,000	0	-12,000,000
Non-Departmental	0.00	0	42,848,285	42,848,285
Planning & Development Services	0.00	703,285	0	-703,285
Public Works	0.00	34,153,500	13,500	-34,140,000
<b>Community Development Fund Total</b>	<b>0.00</b>	<b>2,176,961</b>	<b>2,176,961</b>	<b>0</b>
Housing and Community Services	0.00	2,176,961	2,176,961	0
<b>Enhanced E-911 Fund Total</b>	<b>0.00</b>	<b>300,000</b>	<b>0</b>	<b>-300,000</b>
Information Technology	0.00	300,000	0	-300,000
<b>Gifts &amp; Grants Fund Total</b>	<b>0.00</b>	<b>1,570,000</b>	<b>1,570,000</b>	<b>0</b>
Parks, Recreation & Open Space	0.00	1,570,000	1,570,000	0
<b>Wastewater Fund Total</b>	<b>0.00</b>	<b>16,276,750</b>	<b>0</b>	<b>-16,276,750</b>
Aurora Water	0.00	16,276,750	0	-16,276,750
<b>Water Fund Total</b>	<b>0.00</b>	<b>3,560,688</b>	<b>0</b>	<b>-3,560,688</b>
Aurora Water	0.00	3,560,688	0	-3,560,688
<b>Total</b>	<b>0.00</b>	<b>\$112,984,719</b>	<b>\$46,608,746</b>	<b>(\$66,375,973)</b>

1 The revenue offset includes new revenue and revenue from transfers.

2 Inc./Dec in Fund Balance = New Revenue minus Net Appropriation.

**2021 Fall Amendment Ordinance  
Appropriation Detail by Fund**

**2021 Amendment Detail  
Attachment B**

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Aurora Water**

**SEAM Wastewater Interfund Loan Repayment and Debt Issuance Costs**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Wastewater Fund	0.00	16,276,750	0	16,276,750	0	-16,276,750
Water Fund	0.00	3,560,688	0	3,560,688	0	-3,560,688
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$19,837,438</b>	<b>\$0</b>	<b>\$19,837,438</b>	<b>\$0</b>	<b>(\$19,837,438)</b>

This supplemental provides additional appropriation of \$19.8 million in the 2021 budget for the early repayment of the 2018 Wastewater interfund loan to the Water Fund for the South East Area Maintenance Facility (SEAM) (\$16.0 million) and debt-issue costs/underwriting discounts for the First-Lien Water & Sewer Revenue Bonds, Series 2021 (\$3.8 million). The early repayment of the 2018 Wastewater interfund loan to the Water Fund realized projected savings of approximately \$1.3 million in interest over the 8-year life of the note.

This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Aurora Water	Wastewater Fund	0	16,276,750	New Appropriation
Aurora Water	Water Fund	0	3,560,688	New Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

Finance

**Lapse of Positive Timekeeping Budget**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-556,465	-556,465	0	556,465
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$556,465)</b>	<b>(\$556,465)</b>	<b>\$0</b>	<b>\$556,465</b>

This amendment will lapse the funds budgeted for Positive Timekeeping system so that it can be used in the Enterprise Resource Planning (ERP) system project. This adjustment will not impact the project as positive timekeeping has been included within the scope of the ERP project. This supplemental was projected as such in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Finance	Capital Projects Fund	-556,465	0	Lapse of Appropriation



**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Housing and Community Services**

**Technical: 2021 Community Development Block Grant (CDBG) Award Reconciliation**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Community Development Fund	0.00	-75,971	0	-75,971	-75,971	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>(\$75,971)</b>	<b>\$0</b>	<b>(\$75,971)</b>	<b>(\$75,971)</b>	<b>\$0</b>

This technical adjustment will align the budget for the Community Development Block Grant to the 2021 actual award amount plus actual year-to-date program income. The final 2021 CDBG award received from HUD was 4.4 percent, or \$130,500, lower than anticipated. Actual CDBG program income received year-to-date through August is \$54,500 more than budgeted for the year due to higher than expected loan repayments.

This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Housing and Community Services	Community Development Fund	0	-75,971	Lapse of Appropriation

**Technical: 2021 Community Development Block Grant (CDBG) COVID-19 Grant**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Community Development Fund	0.00	1,752,084	0	1,752,084	1,752,084	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$1,752,084</b>	<b>\$0</b>	<b>\$1,752,084</b>	<b>\$1,752,084</b>	<b>\$0</b>

In 2020, the City of Aurora received a one-time CDBG COVID-19 grant in the amount of \$1,729,100 to help prevent, prepare for and respond to the coronavirus. Those funds were appropriated in a fall 2020 supplemental.

The City received a second distribution of CDBG COVID-19 funds in early 2021 in the amount of \$1,752,100. This technical supplemental will appropriate those funds to allow for additional expenditures in carrying out the grant.

This technical supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Housing and Community Services	Community Development Fund	0	1,752,084	New Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Housing and Community Services**

**Technical: 2021 Home Investment Partnership (HOME) Grant Award Reconciliation**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Community Development Fund	0.00	519,074	0	519,074	519,074	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$519,074</b>	<b>\$0</b>	<b>\$519,074</b>	<b>\$519,074</b>	<b>\$0</b>

This technical adjustment will align the budget for the Home Investment Partnership (HOME) grant to the 2021 actual award amount plus actual year-to-date program income. The final 2021 HOME award received from HUD was 6.6 percent, or \$81,000, lower than anticipated. Actual program income received year-to-date through August is \$600,100 more than budgeted due to another strong year of loan repayments.

This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Housing and Community Services	Community Development Fund	0	519,074	New Appropriation

**Technical: Reduce HOME Match for Community Development Funds Based on Final 2021 Grant Amount**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Community Development Fund	0.00	-18,226	0	-18,226	-18,226	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>(\$18,226)</b>	<b>\$0</b>	<b>(\$18,226)</b>	<b>(\$18,226)</b>	<b>\$0</b>

This technical adjustment will align the General Fund HOME match to the 2021 actual award amount. The city is required to provide a match to the HOME grant equal to 22.5 percent of the annual award. The final 2021 HOME award received from HUD was 6.6 percent, or \$81,000 less than anticipated, reducing the General Fund match by \$18,200.

This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Housing and Community Services	Community Development Fund	0	-18,226	Lapse of Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Information Technology**

**Enterprise Resource Planning (ERP) Implementation Costs**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	12,000,000	12,000,000	12,000,000	0
General Fund	0.00	12,000,000	0	12,000,000	0	-12,000,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$12,000,000</b>	<b>\$12,000,000</b>	<b>\$24,000,000</b>	<b>\$12,000,000</b>	<b>(\$12,000,000)</b>

This supplemental request is to appropriate the funds for the purchase of the city's new ERP system as discussed at the winter and spring workshops. This project implements an industry leading Enterprise Resource Planning (ERP) system of integrated software applications that standardizes, streamlines, and integrates various business processes across finance, human resources, and procurement.

This supplemental was included as part of the 2021 projection as shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Non-Departmental	General Fund	0	12,000,000	Operating Transfer Out
Information Technology	Capital Projects Fund	12,000,000	0	New Appropriation

**Uninterruptible Power System (UPS) Replacement**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Enhanced E-911 Fund	0.00	0	300,000	300,000	0	-300,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$0</b>	<b>(\$300,000)</b>

This supplemental request will provide additional appropriation of \$300,000 for the UPS project. This project was initially approved in the 2020 budget to mitigate a single point of failure for providing electrical power to the Aurora911 Center. This project included the UPS system and the building electrical infrastructure to provide two UPS units with one electrical feed from each to create redundancy in power supply for the Center. The project was originally budgeted at \$1.0 million. When Public Works began the design phase in June 2021, it was discovered infrastructure changes such as conduit, wiring, and structural changes to support the UPS were required to facilitate the project.

This supplemental was included as part of the 2021 projection as shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Information Technology	Enhanced E-911 Fund	300,000	0	New Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**Technical: Parks, Recreation and Open Space**  
**Capital Grants**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Gifts & Grants Fund	0.00	0	1,570,000	1,570,000	1,570,000	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$1,570,000</b>	<b>\$1,570,000</b>	<b>\$1,570,000</b>	<b>\$0</b>

This supplemental will appropriate additional funds for grant awards associated with park and trail improvement projects approved by City Council through annual budget processes. The grant awards leverage pre-existing city appropriations to extend the scope of various projects.

- \* Fulton Park Improvements Grant-ArCo (\$500,000)
- \* Laredo High Line Canal Join Project Grant-ArCo (\$180,000)
- \* Peoria Hills Park Improvements Grant-ArCo (\$350,000)
- \* Hoffman Park Basketball Court Grant-NRPA/Disney (\$40,000)
- \* High Line Canal Colfax to I-70 Grant-AdCo (\$500,000)

This supplemental was not included in the 2021 projection of the 2022 Proposed Budget due to the timing of the receipt of the grants.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Gifts & Grants Fund	1,570,000	0	New Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Planning & Development Services**

**Gardens on Havana Mid-Block Lighting Project**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	655,000	655,000	0	-655,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$655,000</b>	<b>\$655,000</b>	<b>\$0</b>	<b>(\$655,000)</b>

This amendment will provide appropriation to install a protected mid-block crossing to facilitate pedestrian and bicycle crossings at Gardens On Havana in accordance with the recent Havana Corridor Study. This specific improvement was identified through a public outreach effort as a high priority by the community. This will include a special type of hybrid beacon (Hawk) that's activated only when pedestrians actuate push-buttons resulting in signals stopping vehicular cross traffic at a mid-block location to assist pedestrians in crossing a street or highway at a make crosswalk, along with associated improvements to the access and crossing points. This was projected as such in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Planning & Development Services	Capital Projects Fund	655,000	0	New Appropriation

**Technical: Colfax Streetscape**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	48,285	48,285	48,285	0
General Fund	0.00	0	0	0	0	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$48,285</b>	<b>\$48,285</b>	<b>\$48,285</b>	<b>\$0</b>

This supplemental will add additional funding to the Colfax Streetscape project. In 2018, Del Real Concrete was commissioned to do work along the South Side of Colfax Avenue. The vendor decided they did not want to do the project so this was put on hold. Once funding for the Streetscape project was approved, a decision was made to use these funds to add funding to the Streetscape project. It will be funded with General Fund savings. The project was budgeted, but the General Fund transfer was not

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Planning & Development Services	General Fund	0	-48,285	Lapse of Appropriation
Planning & Development Services	General Fund	0	48,285	Operating Transfer Out
Planning & Development Services	Capital Projects Fund	48,285	0	New Appropriation

## Attachment B

### 2021 Fall Amendment Ordinance

### 2021 Appropriation Amendment Requests

#### Department \ Description - Reason for Appropriation

#### Public Works

##### Appropriate 25th Avenue Ped Improvement

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	0	0	0	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

This supplemental will transfer \$631,700 for cost increases during the construction phase of pedestrian improvements on 25th Avenue as part of a grant received from the Denver Regional Council of Governments (DRCOG) Community Mobility Planning and Implementation (CMPPI) set-aside; \$391,000 in federal funds have already been appropriated. The project will construct a pedestrian boulevard on the north side of 25th Avenue between Fulton Street and Lola Street. The work includes relocating the existing curb line to narrow the existing cross-section of the street. This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget. The 25th Ave Pedestrian Improvements project was identified as a priority and scoped and estimated as part of the 2017/2018 Northwest Aurora Mobility Study. Since the original 2017/2018 estimates were developed a few key items have resulted in the cost increases including:

\* Late 2018 state legislation requiring subsurface utility engineering (SUE) prepared and stamped by a registered professional engineer which increases project costs by 10 to 20 percent.

\* Significant labor and construction costs increases of over 45% over the last 3 years, with the largest increase in 2021 as a result of the pandemic, materials/labor shortages and supply chain issues.

\* Based on the proposed improvements and other very recent improvement projects, staff added 25 pedestrian level street lights through the project limits.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	-631,700	0	Lapse of Appropriation
Public Works	Capital Projects Fund	631,700	0	New Appropriation

##### Appropriate Capital Projects

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	3,340,000	3,340,000	0	-3,340,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$3,340,000</b>	<b>\$3,340,000</b>	<b>\$0</b>	<b>(\$3,340,000)</b>

This supplemental will appropriate additional funds available in the Capital Projects Fund for the following projects:

\* \$1 million for an ADA Transition Plan, necessary to apply for federal grant funds

\* \$850,000 ADA project to widen the existing sidewalk along the north side of Wesley Ave from Lima St to Nome St

\* \$480,000 for sidewalk improvements on Peoria from Yale to The Point

\* \$400,000 for the city match for the Revitalizing Main Streets grant application

\* \$500,000 for the application of protective window film at the Municipal Courts Building

\* \$110,000 for the city's cost share of the Parker Rd PEL (Planning and Environmental Linkage) Study with Arapahoe County and Denver

This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	3,340,000	0	New Appropriation

## Attachment B

### 2021 Fall Amendment Ordinance

### 2021 Appropriation Amendment Requests

#### Department \ Description - Reason for Appropriation

#### Public Works

##### Appropriate for Chambers over Sand Creek Bridge Grant

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	0	0	0	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

This supplemental will appropriate \$385,000 for cost increases for the Chambers Road Bridge over Sand Creek grant project. Since the cost estimate for the project was developed, there have been significant labor and construction costs increases. Also during design, additional needed improvements were identified that are more cost effective to address with this project rather than at a future date. The additional city funding will be transferred from the Bridge Maintenance Program.

The Chambers Road Bridge over Sand Creek currently serves as a main connection route between the neighborhoods and provides access to the trail system along Sand Creek. The rehab work consists of expansion joint replacement as needed; repair of sidewalks; and repair of spalled concrete bridge rails and corroded steel parts. The Intergovernmental Agreement (IGA) for this award was approved at the September 23, 2019 Regular City Council Meeting. During design of the improvements, additional requirements were identified that require additional city funding which will be transferred from the Bridge Maintenance Program.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	-385,000	0	Lapse of Appropriation
Public Works	Capital Projects Fund	385,000	0	New Appropriation

##### Appropriate I-70 Picadilly Match

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	30,800,000	30,800,000	30,800,000	0
General Fund	0.00	30,800,000	0	30,800,000	0	-30,800,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$30,800,000</b>	<b>\$30,800,000</b>	<b>\$61,600,000</b>	<b>\$30,800,000</b>	<b>(\$30,800,000)</b>

The City of Aurora was approved for a \$25 million BUILD multimodal surface transportation grant. The federal portion of the grant will be awarded upon execution of the IGA. This supplemental will transfer and appropriate the match, in the amount of \$30.8 million. The I-70/Picadilly Interchange project will construct a new interchange on Interstate 70 in Aurora to facilitate much-needed north-south connectivity on Picadilly Road where it intersects with the I-70 corridor. This project will unlock a roadway network that can connect people and commerce to Denver International Airport and the adjacent Colorado Aerotropolis, a developing world-class residential, commercial and industrial community. This supplemental was included as part of the 2021 projection shown in the 2022 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Non-Departmental	General Fund	0	30,800,000	Operating Transfer Out
Public Works	Capital Projects Fund	30,800,000	0	New Appropriation

**Attachment B**  
**2021 Fall Amendment Ordinance**  
**2021 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Public Works**

**Appropriate Insurance Recoveries**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	13,500	13,500	13,500	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$13,500</b>	<b>\$13,500</b>	<b>\$13,500</b>	<b>\$0</b>

This supplemental will appropriate \$13,500 for an insurance reimbursement for repairs of damage caused to a bridge rail near Buckley and Evans. This supplemental was not included as part of the 2021 projection shown in the 2022 Proposed Budget as the monies had not yet been received.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Public Works	Capital Projects Fund	13,500	0	New Appropriation





# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Review of Outstanding Moral Obligations in Accordance with Adopted Policies
<b>Item Initiator:</b> Teresa Sedmak, City Treasurer
<b>Staff Source/Legal Source:</b> Teresa Sedmak, City Treasurer/Hanosky Hernandez, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** N/A

### ITEM DETAILS:

- REVIEW OF OUTSTANDING MORAL OBLIGATIONS IN ACCORDANCE WITH ADOPTED POLICIES
- Staff source: Teresa Sedmak, City Treasurer/Hans Hernandez, Assistant City Attorney
- Estimated Presentation/discussion time: 10 minutes

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session       Approve Item as proposed at Study Session
- Approve Item and Move Forward to Regular Meeting       Approve Item as proposed at Regular Meeting
- Information Only
- Approve Item with Waiver of Reconsideration  
Reason for waiver is described in the Item Details field.

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### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:**

**Action Taken/Follow-up:** *(Check all that apply)*

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

In the fall of 2010 and spring of 2011, the City studied, proposed, and adopted a policy on Moral Obligations (referred to in this commentary as “MO” or, collectively, “MOs”). See attachment A for the City’s Moral Obligation Policy (the Policy) and attachment B for more information on moral obligations.

A MO is a non-binding commitment to provide financial support to a project. The projects which the City grants MO pledges are intended and expected to be self-supporting. According to the Policy, projects which are unable to show they are viable and self-supporting should not be supported by a MO pledge. MOs are typically used for projects that are considered important to achieving City goals and which would not otherwise occur or which would be much more costly to finance absent the MO pledge. The Policy states that there should be a shared balance of risk and reward among the parties in the transaction.

Over the years, the City has issued a limited number of MOs. The City previously entered into MOs related to the Public Market Project (south of the Aurora Town Center), a project of the Aurora Housing Authority supporting affordable housing, and the Gaylord Project. These MOs are no longer in existence.

Presently, the City is party to two MO commitments; one related to the Hyatt Regency Hotel and Conference Center (Hyatt), and the second providing support to the FRA Biosciences III facility located on the Fitzsimmons Campus.

**ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

One of the requirements in the City’s Policy is that the MOs be reviewed annually. This item is intended to satisfy that requirement.

Hyatt Hotel and Conference Center:

As Council members may recall, NBH Bank provided \$27.75 million in financing for the construction of the Hyatt conference center and parking garage. The loan was structured as interest-only through 2018, with principal payments commencing in 2019 and a final maturity of December 1, 2024. The variable interest rate is based on a spread to LIBOR and is reset in December of each year. The current interest rate on the loan is 1.91118% with principal and interest payments on the loan in 2021 expected to total approximately \$1.22 million. TIF revenues (property, lodgers, and sales taxes) and net operational revenues are pledged to service the debt.

In addition to its MO pledge on the Hyatt project, the City funded a \$2.1 million debt service reserve fund, which is available for debt service payments on the project, should the project not be able to satisfy its debt service payments. The City is obligated to replenish the reserve in the event it is drawn upon to satisfy debt service payments.

The Hyatt opened in 2016 and initially experienced modest but promising growth in occupancy and event bookings. Unfortunately, the COVID pandemic was devastating to the hospitality industry, severely impacting TIF revenues and parking revenues. Current low interest rates have benefitted The Hyatt project through lower interest payments on the loan. Unfortunately however, while the lodger’s tax, sales tax and net parking revenues have recovered slightly from their lows, the conference and hospitality sectors remain significantly challenged.

Staff anticipates the project will require additional capital by the end of the year. Because staff believes it to be in the City's best interest to avoid draws against the debt service reserve or exercise its moral obligation, AURA has allocated available funds from the larger URA to support operations and debt service until the hospitality industry recovers and the project becomes self-supporting.

Biosciences III Building:

The City has also provided a MO pledge to support the Biosciences III project, a \$39 million state-of-the-art facility constructed by the Fitzsimmons Redevelopment Authority (FRA). The FRA funded a debt service reserve fund of \$2.5 million, to be used, if necessary, to satisfy debt service. The City's MO supports the debt service reserve such that, should the reserve be depleted, the City has the obligation to replenish it to its required level. The MO on the Bioscience project expires at the earliest of: (1) the repayment of the loan; (2) declaration of default; or (3) December 31, 2024.

Construction of the Biosciences III facility was completed in early 2020 and it is partially leased. However, as is the case with the Hyatt, COVID impacted the FRA's ability to lease the entirety of the building, which has placed downward pressure on its collected rents. Of the 115,000 square feet contained in the facility, 30,000 square feet (approximately 26% of the building's total square footage) remains unoccupied. Because lab space is at a premium in Colorado, the FRA is currently investing additional funds in tenant improvements to attract tenants who desire to lease completed lab space.

All requirements of the FRA's loan are being met with the exception of the debt service coverage ratio, for which its lender has granted a one-year extension. The FRA has adequate liquidity and is confident in its ability to satisfy its obligations in the near term. Accordingly, staff does not foresee a draw on its MO pledge, but will continue to monitor the situation closely.

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**QUESTIONS FOR COUNCIL**

N/A – Information Only

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**EXHIBITS ATTACHED**

- Moral Obligations Policy
- What is a Moral Obligation?

## Attachment 1 Background

### What is a moral obligation?

A moral obligation is a non-binding commitment of the city to provide financial support for a project in the event that it needs support, even though the project is intended to be self-supporting. This non-binding commitment can make it possible to finance a project that cannot otherwise be financed or it can substantially reduce the cost of financing. A moral obligation is NOT a legally binding commitment and the decision to honor it or not is always at the sole discretion of City Council. Therefore a moral obligation pledge does not technically qualify as a multi-year financial obligation or debt under TABOR. As a result, a moral obligation pledge by Aurora does not require a vote of the citizens even though, from the viewpoint of the market, the city is pledging general resources of the city. While a moral obligation pledge is “non-binding,” failure to honor that pledge would have very serious consequences as described in the paragraph on risks.

A moral obligation is essentially a “backstop” for the normal revenue source and that backstop would not be used except under extraordinary conditions that are unlikely to occur. A moral obligation can be used to back a public project (e.g., a parking garage for public parking) and it may also be used to support a for-profit project as long as a public purpose can be shown. A moral obligation pledge by the city is an extremely valuable addition to any debt transaction but it has costs in terms of lowered financial flexibility and financial risks to the city and its budget. It will always be in the financial interests of a developer to have the city provide a moral obligation pledge. It will often not be in the best interests of the city to provide one.

In Colorado, moral obligations are typically structured so that their technical purpose is to replenish a required debt service reserve fund after it has been drawn down to pay debt service because the main revenue sources were inadequate to pay debt service. Typically, the moral obligation pledge would provide that the city would budget and then expend funds to restore the debt service reserve. Ideally, the city would have a year to budget for this, so there may not be an instant impact on the budget and the amount in any one year would typically not exceed one year’s debt service.

### Why is a moral obligation pledge valuable?

A moral obligation is typically attached to a debt issuance for a project where the market interest rate would be too high because the market considers the project to have too much risk. A moral obligation pledge by a financially strong entity such as Aurora will result in a much lower interest rate. Essentially, debt with the city’s moral obligation takes on the strength of the city’s underlying credit and not that of the project itself. The buyer of debt with a moral obligation pledge can look to the underlying moral obligation pledge as a strong backup if the primary revenue source fails. As a result, the underlying strength of the primary revenue source will not be as important to a buyer of debt that carries a moral obligation. The investor will be relying on the strength of the city and its pledge to pay debt service if something goes wrong.

Why is a moral obligation a significant risk to the city and its budget?

A moral obligation is not legally considered debt. There is NO legal requirement to appropriate money with a moral obligation or to replenish a reserve fund if it gets drawn down. However, the bond markets and investors have an understanding that the city will always honor a moral obligation. If the city fails to make good on a moral obligation, the financial markets would almost certainly severely penalize the city. A failure to honor a moral obligation would likely lower the city's bond ratings across the board, inclusive of Aurora Water debt, and make the issuance of new debt by the city more difficult and expensive. The adverse financial impact might reach beyond the issuance of new debt to include creditors becoming uncomfortable with providing the city and Aurora Water letters of credit or favorable terms on specialized transactions.

Notwithstanding the problems of failing to honor moral obligations, the honoring of a moral obligation can have a significant impact on the city budget and adversely impact services or city reserves or both.

What is a moral obligation typically used for?

Moral obligations are typically used for projects that governments consider key to achieving important goals and which would not otherwise occur or would be much more costly. In most cases the governments have presumably evaluated the risk and have determined it to be very low. In other higher risk situations the governments presumably have determined that the risk and potential negative impact is justifiable and acceptable. A low risk example might be a state revolving-loan program that uses a moral obligation pledge to keep interest costs low to participants. Higher risk examples would be hotels, convention facilities and a variety of other public/private projects.

Where have we used a moral obligation in the past?

The city has used a moral obligation twice. The first time the city backed bonds issued by the AURA for its first TIF district known as the Public Market Project, located south of the Aurora Town Centre on Exposition. At one time, the moral obligation appeared as if it might be called on in the future, but the retail ended up being successful enough that from a financial viewpoint the bonds were easily paid off with the expected revenue source. That moral obligation expired in 2007. The second moral obligation is currently outstanding. That one is for \$5 million and is associated with the Aurora Housing Authority and its acquisition of properties.

What would happen if there is a financial problem with the project for which a moral obligation is pledged?

A moral obligation would typically be triggered when revenues for a project are not sufficient to pay debt service and there is a resulting draw on a pre-established debt service reserve fund. As soon as the reserve fund is drawn on, the city, under the moral obligation provision, is asked to budget for (appropriate) and then replenish that fund. In any year this would normally be no

more than one year's debt service. An appropriation may be needed for several years if the associated project continues to struggle.

As soon as a call on the moral obligation occurs (or perhaps even before), it can be expected that the city would begin to work with all parties involved to develop a solution that would end the call on the moral obligation. Such a solution is called a "work-out." It is likely that a work-out would be found and the call would end after a year or two. A work-out does not necessarily result in lowering the total costs to the city, although the timing of costs will often change. The basic work-out options include extending the term of the debt (and extending the sources of the debt services payments), lowering current debt service by increasing it during the term of the debt in the hope that the higher revenues will eventually show up, or adding a new revenue source. Another option would be to use a threat of not making good on the moral obligation to force a lowering of the costs, at least to the city. This last option may have similar impacts to not honoring the moral obligation.

#### Why should the city have a policy on moral obligations?

The city will likely see more requests for a moral obligation, primarily from developers seeking support for the public aspects of their projects. Staff recommends that Council have a policy that allows Council to distinguish those requests it wishes to consider from those it does not. In addition, the policy should play a key role in determining which requests are approved. As a result of the recent financial crisis, many developers are finding it extremely difficult to secure financing for their economic development projects. Consequently, projects are on hold or developers are looking at alternative financial arrangements. This increased level of requests appears to be a growing national trend. The use of traditional incentives such as the pledging of incremental tax revenues generated by the project, e.g., TIF creation or a sales tax incentive may not be enough to allow a developer to proceed on a project or provide the developer with his desired rate of return. The project may be viewed as too risky by normal funding sources, lenders may require more equity than the developer can or wants to provide and/or the developer may simply want a higher rate of return or less risk. A moral obligation can help address these developer issues.

However, developers are not the only potential source of a request for a moral obligation. The city received a request from the Aurora Housing Authority for a moral obligation pledge and the city could receive similar requests from other unrelated public entities or city enterprises such as from the city's golf system to lower the cost of its outstanding public debt. Moral obligations could also be used to make existing projects less costly or allow them to go forward. Fence financing or the Pier Point sewer would be an example of projects that could benefit from moral obligations, all with the typical risk of a moral obligation, i.e., the effective moral (but not legal) commitment of general (i.e., taxpayer) support if something goes wrong.

Without a policy and controls, it could be expected that the city would see many developers (and others) requesting a moral obligation to make their projects less risky for them, to increase profitability, or to allow their project to be financed in the first place. Without a policy and limits, the city could find itself with moral obligations that could expose the city to serious financial risks and problems that could significantly and even materially impact services.

# City of Aurora

## Policies With Regard to Moral Obligation Pledges

### 1. A moral obligation pledge should be viewed as a financial obligation of the city

A moral obligation is considered by both creditors and rating agencies to be a financial commitment (albeit non-binding) by the city to support debt. The city should view it in the same manner. A moral obligation should normally be viewed by the city as a commitment that must be honored by the city.

The city should perform due diligence on any proposed moral obligation to assure itself that it is 1) not going to have to make payments under its moral obligation, and 2) if it does it has a means to make the payments or otherwise honor the moral obligation pledge.

### 2. Moral obligation pledges should be used very infrequently and the cumulative outstanding amount should be limited

Because of the risks and the difficulty assessing the risk that moral obligations have to the city's financial strength and to the budget associated with moral obligation pledges and the impact on the city's financial standing, moral obligations should only rarely be used and only after thorough research and analysis. Moral obligations should generally be used only to support extremely important and special public projects or special public infrastructure, whether for individual projects or for a class of projects that serves that purpose (e.g., a revolving fund). Moral obligations should be used for projects only if they are expected to be self-supporting. Moral obligations should not be used for private projects (a project owned and operated by a for-profit entity), even if there is a public purpose or for normal public infrastructure associated with the private project.

In any event, the city should limit the cumulative amount of all outstanding moral obligations in order to limit the risk to the city's budget and limit the adverse impact on the city's bond rating and financial flexibility. The total amount of the anticipated expected worst case budget impact should not be more than City Council considers tolerable to the budget and to financial reserves. In addition, the impact of all outstanding moral obligations should not change or come close to changing the city's underlying rating. Leeway in the rating should be left for the normal ups and downs of the city's financial status and for additional bond issuance, all without causing a change in the city's rating.

Projects that do not meet the basic criteria should not be brought forward for consideration by City Council.

### 3. The city should be willing to adjust its budget and/or use reserves should it become necessary to honor its moral obligation pledges

Before entering into a moral obligation, City Council should determine that it would be willing to

reduce future services, use reserves, or otherwise provide funds to honor the moral obligation, should that become necessary, up to both the annual and full multi-year amount of the obligation. Each successive outstanding moral obligation becomes an additional potential impact and a new moral obligation should be viewed as having a cumulative impact. The likelihood of the level of obligations should be taken into account, but the City Council should also consider that the full cumulative obligation is a possibility, although very unlikely. The potential budgetary impact should be analyzed on a case-by-case basis, including possible work-out scenarios and their impacts. This analysis will be valuable not only for a decision on whether or not to use a moral obligation for a project, but also to develop risk mitigation approaches as a financing structure and agreement is developed and negotiated. As part of an analysis of the potential impact on the budget, the city should tentatively identify sources of funds and actions it would take in support of a call on its outstanding and proposed moral obligations. If it approves a moral obligation, the city should be prepared, if necessary, to take those actions.

#### 4. A proposed moral obligation should be fully analyzed

A proposed moral obligation should be analyzed from several different viewpoints as identified below. Independent experts are likely to be needed for at least some of the analysis. Consideration should be given to assigning the cost of the analysis to the project or to the proposer of the project.

- The project should be self supporting — This is a basic condition for a moral obligation pledge. There should be an independent analysis that shows that the project would be self-supporting under any likely scenario. The analysis should show that a call on a moral obligation would only be needed in extremely adverse situations.
- The moral obligation pledge will not be used to solve a temporary problem — A moral obligation pledge should not normally be used to solve a temporary financing problem. There should be an independent analysis that shows a proposed project requires a moral obligation pledge in order to be financed (or financed at an interest rate that is critical to meeting city goals anytime) in the reasonable future.
- The moral obligation pledge has a very low risk of being called — This is another basic condition of a moral obligation pledge. The overall chances of a call on the moral obligation should be independently evaluated using several approaches.
  - The likelihood of a call should be identified based on a thorough analysis of the project, its proposed financing and operating structures and any other relevant facts and conditions.
  - All key factors should be independently and separately analyzed (sensitivity analysis). The goal of this analysis is to determine what level of failure would have to occur in each key factor in order for a moral obligation call to occur.
  - The types of events that could result in a maximum call should be identified, the likelihood of those scenarios analyzed, and the associated impact on the city should be analyzed.
- There should be common risk and a balance of risk/reward among participants — The proposed project and overall financing should be analyzed in terms of the respective risk and the balance of risk and reward for all parties involved. This is particularly important in assessing whether or not the parties have similar concerns and would work in concert toward ensuring that a moral obligation call does not occur or whether their concerns are



potentially disparate. Any issues will help determine overall risk and may also identify approaches to risk mitigation in any final agreement.

- There should be no impact on bond rating — There should be an evaluation of the impact of both the individual moral obligation and the cumulative impact of all outstanding moral obligations on the city's financial strength, bond rating, financial flexibility, and potential impact on the budget. The benefits to providing a moral obligation should be greater than the costs, risk, and potential impact on the budget — There should be an analysis and assessment that compares the benefits to the adverse impact on the city and the associated risks. The benefits and risks may or may not be fully quantifiable. The benefits may relate to achieving a major city goal that is considered of paramount importance but cannot be quantified. The risks may be difficult to put into hard dollars and still make sense. In such a case, as much quantification as feasible should be done along with a clear description of the qualitative benefit or qualitative risk for Council to have as clear a comparison as possible of the overall benefits and the overall costs and risks.

5. The structure of a moral obligation should be designed to minimize the risk to the city, minimize the impact on the city's finances and budget, and potentially provide a benefit designed to compensate for the city's risk

The details of a moral obligation pledge should be designed to minimize the risk to the city and minimize the potential annual and long-term impact on the city's finances and budget. This includes both the likelihood of having to make payment under the moral obligation, and, if payment is necessary, minimizing the impact on the city. Experts should be utilized as necessary to develop approaches to minimize the risk and assist in any negotiations that may be necessary. Much of the analysis suggested in these policies to help make a go/no go decision for a moral obligation can also be used to help identify ways to reduce risk to the city.

With support of any for-profit project, consideration should be given to providing a specific benefit to the city in order to offset the risk and adverse impact on the city's bond rating and financial strength. Some kind of profit sharing should be considered, where feasible.

6. Outstanding moral obligations should be reviewed by staff and Council

Because of the potential financial impact of moral obligation pledges and because they are often hidden financial obligations, outstanding moral obligations should be reviewed annually by staff. Rating agencies would generally recommend such a review. The review would assess whether there are any changes in the risk level and whether there is compliance with agreements and terms for the moral obligations. As a due diligence process, the city should provide resources for and staff should actively monitor any moral obligation transactions/projects that are large or whose status is changing. Projects should be actively monitored if there are non-stable or poorly performing. The results of the annual review and any ongoing reviews should be presented to the Management and Finance Committee along with any staff recommendations and then forwarded to the full Council.



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL BEVERAGE FESTIVAL PERMIT

**Item Initiator:** Trevor Vaughn, Manager of Tax and Licensing

**Staff Source/Legal Source:** Trevor Vaughn, Manager of Tax and Licensing / Tim Joyce, Assistant City Attorney

**Outside Speaker:** n/a

**Council Goal:** 2012: 1.0--Assure a safe community for people

### COUNCIL MEETING DATES:

**Study Session:** 11/1/2021

**Regular Meeting:** 11/8/2021

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL BEVERAGE FESTIVAL PERMIT

Staff Source: Trevor Vaughn, Manager of Tax and Licensing

Legal: Tim Joyce, Assistant City Attorney

Estimated Presentation / Discussion time 5/5 minutes.

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting          | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only  |  |

- Approve Item with Waiver of Reconsideration  
Reason for waiver is described in the Item Details field.

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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

This item was presented at the Business Advisory Board on October 18<sup>th</sup>, 2021. The Board did not raise any concerns regarding the item.

This is a new permit program as a result of the passage of Colorado Senate Bill 21-082

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

Colorado Senate Bill 21-082 extended the ability for an alcohol beverage festival to include almost all on-premise licensees. This now allows someone that already holds a liquor license such as a restaurant or bar to participate in or hold a festival and serve alcohol anywhere in the city or the state. Prior to the passage of this bill, alcohol festivals were limited to wineries or non-profit entities via a special event permit. This bill allows for a local permit to be created.

Staff recommends creation of a local permit to ensure the safety, health and welfare of the community and to maintain safety and control standards similar to special events and all other liquor licensed premises.

The proposed ordinance creates the local permitting requirement. Similar to a special event permit, the proposed requirements include that plans for the event be submitted at least thirty days in advance of the festival. These plans will need to have an alcohol control plan, evidence of licenses, security, and zoning approval.

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**QUESTIONS FOR COUNCIL**

Does the committee approve of forwarding the item for full Council consideration?

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**LEGAL COMMENTS**

All legislative enactments must be in the form of an ordinance. (City Charter, art. V, sec. 5-1). Council has the power to publish ordinances consistent with the laws of the state for carrying into effect or discharging the powers and duties conferred by the state constitution, statute, or City Charter deemed necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the City and its inhabitants. (C.R.S. § 31-15-103 and City Code § 2.32). SB 21-082, created festival permits with C.R.S. 44-3-404(1)(a)(III) authorizing a local licensing authority to create a local permit for festivals. (TJoyce)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Additional fees for the permit to offset additional expense with processing the permits.

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Fees charged for the permits.

# An Act

SENATE BILL 21-082

BY SENATOR(S) Priola and Pettersen, Bridges, Gardner, Jaquez Lewis, Lundeen, Moreno, Smallwood, Winter;  
also REPRESENTATIVE(S) Mullica and Williams, Baisley, Bennett, Bockenfeld, Boesenecker, Cutter, Gray, Herod, Hooton, Jackson, Kipp, McCluskie, McCormick, Michaelson Jenet, Ortiz, Pico, Sandridge, Snyder, Titone, Valdez A., Van Winkle.

CONCERNING AUTHORIZATION FOR CERTAIN ALCOHOL BEVERAGE LICENSE HOLDERS TO HOLD FESTIVALS FOR ALCOHOL BEVERAGE RETAIL ACTIVITY, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 44-3-301, **amend** (3)(a) as follows:

**44-3-301. Licensing in general.** (3) (a) Each license issued under this article 3 and article 4 of this title 44 is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than the license the person holds or for any licensee to allow any other person to exercise the privileges granted under the licensee's

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

license, except as provided in section 44-3-402 (3), 44-3-403 (2)(a), 44-3-404, or 44-3-417 (1)(b). A separate license must be issued for each specific business or business entity and each geographic location, and in the license the particular alcohol beverages the applicant is authorized to manufacture or sell must be named and described. For purposes of this section, a resort complex with common ownership, a campus liquor complex, a hotel and restaurant licensee with optional premises, an optional premises licensee for optional premises located on an outdoor sports and recreational facility, and a ~~wine~~ festival at which more than one licensee participates pursuant to a ~~wine~~ festival permit is considered a single business and location.

**SECTION 2.** In Colorado Revised Statutes, 44-3-404, **amend** (1), (2), (4) introductory portion, (5), (6), and (7); and **add** (9) and (10) as follows:

**44-3-404. Festival permit - rules.** (1) (a) A ~~wine~~ PERSON LISTED IN SUBSECTION (9) OF THIS SECTION MAY FILE A festival permit application ~~may be filed~~ with the state licensing authority. ~~by any limited winery licensee or by any manufacturer licensee that is licensed to manufacture vinous liquors.~~ The applicant ~~shall~~ **MUST**:

(I) Specify the licensed premises for the first of the ~~wine~~ festivals to be held; ~~which application shall be filed~~

(II) FILE THE APPLICATION at least ten business days before the festival is to be held; ~~The applicant shall~~ **AND**

(III) Include a twenty-five dollar annual processing fee with the application filed with the state licensing authority.

(b) (I) A LOCAL LICENSING AUTHORITY MAY CREATE A LOCAL PERMIT FOR FESTIVALS; EXCEPT THAT A LIMITED WINERY LICENSEE OR WINERY LICENSEE NEED NOT OBTAIN A LOCAL PERMIT TO PARTICIPATE IN OR HOLD A FESTIVAL. IF A LOCAL LICENSING AUTHORITY DOES NOT CREATE A LOCAL PERMIT UNDER THIS SUBSECTION (1)(b), AN APPLICANT NEED NOT OBTAIN A LOCAL PERMIT UNDER THIS SUBSECTION (1)(b) TO CONDUCT FESTIVALS.

(II) IF A LICENSEE IS APPLYING FOR BOTH A FESTIVAL PERMIT AND A SPECIAL EVENT LIQUOR PERMIT ISSUED UNDER ARTICLE 5 OF THIS TITLE 44,

THE LICENSEE NEED NOT APPLY FOR ANY LOCAL PERMIT ESTABLISHED IN ACCORDANCE WITH SUBSECTION (1)(b)(I) OF THIS SECTION.

~~(c) Such fee shall entitle the permittee to use the wine festival permit for twelve months after the date of issuance, so long as the permittee notifies the state licensing authority and the appropriate local licensing authority of the location of all other wine festivals under this permit at least ten business days before any such festival is to be held. A wine festival permit shall entitle the permittee to hold no more than nine wine festivals during the twelve-month period~~ IF A FESTIVAL PERMITTEE NOTIFIES THE STATE LICENSING AUTHORITY AND THE APPROPRIATE LOCAL LICENSING AUTHORITY OF THE LOCATION OF AND DATES OF EACH FESTIVAL AT LEAST TEN BUSINESS DAYS BEFORE HOLDING THE FESTIVAL, THE PERMITTEE MAY HOLD UP TO, BUT NO MORE THAN, NINE FESTIVALS DURING THE TWELVE MONTHS AFTER THE FESTIVAL PERMIT IS ISSUED.

(2) ~~The applicant shall be the licensee filing the application, but any wine festival permit that is issued as a result of such application shall be considered to be jointly held by the permittee and the participating limited winery licensees or manufacturer licensees that are licensed to manufacture vinous liquors~~ THE LICENSEE THAT HOLDS THE FESTIVAL MUST FILE THE APPLICATION FOR THE PERMIT, BUT OTHER LICENSEES MAY JOINTLY PARTICIPATE UNDER THE PERMIT ISSUED TO THE LICENSEE THAT APPLIED FOR THE PERMIT.

(4) The state licensing authority may deny a ~~wine~~ festival permit or supplemental application for any of the following reasons:

(5) After the issuance of an initial ~~wine~~ festival permit, all supplemental applications that are complete and filed in a timely manner ~~shall be~~ ARE deemed approved unless the state licensing authority provides the permittee with a notice of denial at least seventy-two hours prior to the date of the event.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 3, the permittee and participating licensees are authorized to use the licensed premises jointly to conduct ~~wine~~ ALCOHOL BEVERAGE tastings and ~~sell any vinous liquors manufactured by a Colorado limited winery or manufacturer licensed to manufacture vinous liquors.~~ No ~~wine~~ TO ENGAGE IN THE SAME RETAIL SALES OF ALCOHOL BEVERAGES THAT THE PERMITTEE AND

PARTICIPATING LICENSEES ARE AUTHORIZED TO CONDUCT AT THEIR LICENSED PREMISES. A festival permit ~~shall~~ DOES NOT authorize the permittee to use the licensed premises for more than seventy-two hours for any one wine festival.

(7) If a violation of this article 3 occurs during a wine festival and the licensee responsible for the violation can be identified, the STATE OR LOCAL LICENSING AUTHORITY MAY CHARGE AND IMPOSE APPROPRIATE PENALTIES ON THE licensee. ~~may be charged and the appropriate penalties shall apply.~~ If the responsible party cannot be identified, the state licensing authority may send a written notice to every licensee identified on the permit application and may fine each the same dollar amount, which ~~amount shall~~ FINE MUST not exceed twenty-five dollars per licensee or two hundred dollars in the aggregate. ~~No~~ A joint fine levied pursuant to this subsection (7) ~~shall~~ DOES NOT apply to the revocation of the licensee's license under section 44-3-601.

(9) THIS SECTION APPLIES TO A PERSON LICENSED UNDER SECTION 44-3-402, 44-3-403, 44-3-407, 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-422, OR 44-3-426.

(10) THE STATE LICENSING AUTHORITY MAY ADOPT RULES NECESSARY TO IMPLEMENT AND ADMINISTER THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 44-5-103, **amend** (1)(b) as follows:

**44-5-103. Grounds for issuance of special permits.** (1) (b) If a violation of this article 5 or article 3 of this title 44 occurs during a special event wine festival and the responsible licensee can be identified, ~~such~~ THE STATE OR LOCAL LICENSING AUTHORITY MAY CHARGE AND IMPOSE APPROPRIATE PENALTIES ON THE licensee. ~~may be charged and the appropriate penalties may apply.~~ If the responsible licensee cannot be identified, the state licensing authority may send written notice to every licensee identified on the permit applications and may fine each the same dollar amount. The fine shall not exceed twenty-five dollars per licensee or two hundred dollars in the aggregate. ~~No~~ A joint fine levied pursuant to this subsection (1)(b) ~~shall~~ DOES NOT apply to the revocation of a ~~limited wineries~~ LICENSEE'S license under section 44-3-601.



**SECTION 4. Appropriation.** (1) For the 2021-22 state fiscal year, \$511,210 is appropriated to the department of revenue. This appropriation is from the liquor enforcement division and state licensing authority cash fund created in section 44-6-101, C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$10,634 for use by the executive director's office for the purchase of legal services;

(b) \$35,370 for use by the executive director's office for vehicle lease payments;

(c) \$363,038 for use by the liquor and tobacco enforcement division for personal services, which amount is based on an assumption that the division will require an additional 6.2 FTE; and

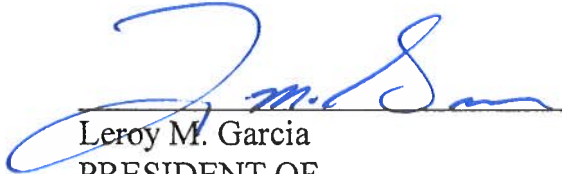
(d) \$102,168 for use by the liquor and tobacco enforcement division for operating expenses.


(2) For the 2021-22 state fiscal year, \$10,634 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(a) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of revenue.

(3) For the 2021-22 state fiscal year, \$35,370 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(b) of this section. To implement this act, the department of personnel may use this appropriation for vehicle replacement lease/purchase.

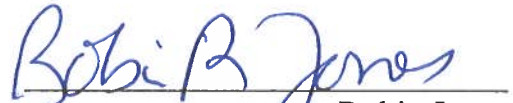
**SECTION 5. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

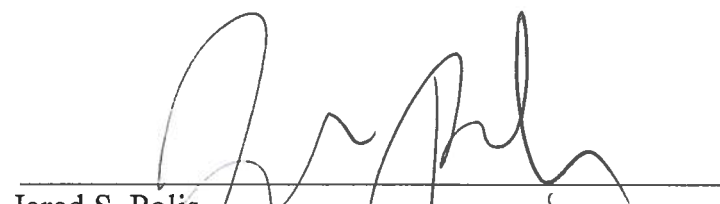
  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

  
Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED May 28, 2021 at 11:45am  
(Date and Time)

  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

ORDINANCE NO. 2021- \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,  
COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO  
ALCOHOL BEVERAGE FESTIVAL PERMIT

WHEREAS, the State Legislature enacted SB 21-082 that authorizes alcohol beverage festivals throughout the state; and

WHEREAS, a licensed alcohol beverage vendor may apply for a festival permit; and

WHEREAS, every municipality may create a local permit for alcohol beverage festivals;  
and

WHEREAS, if the City does not create a local alcohol beverage festival permit vendors may conduct an alcohol beverage festival without a local permit and without local oversight.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding a new subdivision, to be numbered III, to Chapter 6, Article I, Division 3, which subdivision shall read as follows:

**Subdivision III, Alcohol Beverage Festival Permit.**

Section 2. The City Code of the City of Aurora, Colorado is hereby amended by adding a new section, to be numbered 6-90, which section shall read as follows:

**Sec. 6-90. Alcohol beverage festival permit.**

**The local licensing authority of the City of Aurora, Colorado, (the “City”) hereby creates a local alcohol beverage festival permit (“festival permit”). A person authorized by state statute to apply for a festival permit must also obtain a festival permit from the City before holding a festival in the City.**

Section 3. The City Code of the City of Aurora, Colorado is hereby amended by adding a new section, to be numbered 6-91, which section shall read as follows:

**Sec. 6-91. Festival permit requirements.**

**(1) Applicants must specify the licensed premises where the festival will be held and the date of the festival.**

- (2) Applications must include information such as copies of the current liquor licenses, completed applicant questionnaires, diagrams, operation plan, possession documents and other documents as required by the local licensing authority necessary to review the application.**
- (3) Applicants must file a complete festival permit application with the local licensing authority and include the local fee at least thirty business days before the festival is to be held. The City’s fee will be established by the Director of Finance in accordance with the provision of section 2-587 of the City Code.**
- (4) The local licensing authority may deny a festival permit or supplemental application for any of the following reasons:**

  - a. The location where the festival is to be held is unsuitable due to time and proximity of other inhabitants of the area that would be adversely impacted; or**
  - b. The record, reputation, and character of the applicant, other associated parties and venue associated with the event are not acceptable to the authority; or**
  - c. If the issuance of the permit would be injurious to the public welfare because of the nature of the festival or its location; or**
  - d. The filing of an incomplete or late application; or**
  - e. A finding that the application, if granted, would result in violations of the Colorado Liquor Code, the Colorado Beer Code, or the rules issued pursuant thereto, or violations of the City Code.**
- (5) The local licensing authority may place conditions on a festival permit or supplemental application necessary to ensure the public health, safety, and welfare.**
- (6) If a festival permittee notifies the local licensing authority of the location of and dates of each festival at least thirty business days before holding the festival, the permittee may hold up to, but no more than, nine festivals during the twelve months after the festival permit is issued.**
- (7) Permittee and participating licensees are authorized to use the licensed premises of the permittee to jointly conduct alcohol beverage tastings and to engage in the same retail sales of alcohol beverages that the permittee and participating licensees are authorized to conduct at their licensed premises.**
- (8) Permittee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.**
- (9) Permittee must comply with all the Colorado Liquor Code, the Colorado Beer Code, and the rules issued pursuant thereto.**
- (10) If a violation occurs during a festival and the responsible licensee cannot be identified, the local licensing authority may fine each licensee the same dollar amount, which fine must not exceed five thousand dollars in aggregate. A joint fine levied pursuant to this subsection does not apply to the revocation of a licensee’s license under section C.R.S. § 44-3-601, as amended.**

Section 3. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 5. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ, AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2021.

PASSED AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Tim Joyce RLA  
TIM JOYCE, Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source/Legal Source:</b> Trevor Vaughn / Hanosky Hernandez
<b>Outside Speaker:</b> n/a
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** 11/1/2021

**Regular Meeting:** 11/8/2021

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES

Staff Source: Trevor Vaughn, Manager of Tax and Licensing

Legal: Hanosky Hernandez , Assistant City Attorney

Estimated Presentation / Discussion time 5/5 minutes.

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session  | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only   |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |

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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

This item was reviewed with the Business Advisory Board on October 18<sup>th</sup>, 2021. The BAB did not raise any concerns regarding the item.

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

In 1974 the city imposed a license requirement along with an occupational tax requirement on horse stables. In reviewing the original ordinance, it appears the intent of the ordinance was for tax revenue. At some point the occupational tax requirement was repealed. Currently the license is held by seven businesses listed below:

GODS LITTLE ACRE	211 S EVANSTON WAY
L&P RANCH	1350 N AIRPORT BLVD
BIG R STABLES	2000 N SABLE BLVD
AURORA STABLES	10850 E EXPOSITION AVE
SALVADOR CONTRERAS NORIEGA	17051 E 10TH AVE
KENLYN STABLES	1000 N SALIDA ST
HERNANDEZ HORSE BOARDING	15965 E 36TH AVE

This license has an annual fee of \$146. The license has very little regulatory effect and does not impose any screening or regulatory elements outside of a reference to other city codes and state law. Stable businesses are required to have a general business license. A general business license can be revoked or denied for violation of city codes or state law. The business license also allows for inspection of businesses. Therefore, staff including the Animal Care Manager believe this license can be eliminated without diminishing regulatory or enforcement ability.

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**QUESTIONS FOR COUNCIL**

Does the committee approval of moving the item forward to study session?

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**LEGAL COMMENTS**

The City of Aurora is a home rule municipality, organized and existing under and Article XX, Section 6 of the Colorado Constitution. Article XX Section 6 grants the city and its citizens the right to self-government in matters of local affairs not preempted by the State legislature. The City Council shall have and shall exercise the powers, privileges and duties granted and conferred by the state constitution, statute or city

Charter. The City Council has the power to make and publish from time to time ordinances, and to repeal previously passed ordinances, as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the city. City Code Section 2-32. The city council has determined that repealing the stable license requirement fulfills these purposes. This action repeals a legislative enactment and it must be take in the form of an ordinance. *See*, Article 5-1 Aurora City Charter. (Hernandez).

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Loss of fee revenue of \$1022 likely offset by soft cost savings.

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Fee savings for seven businesses.



## Division 6. Stable License

**Sec. 86-296 Definitions.**

**Sec. 86-297 License required.**

**Sec. 86-298 Review by other departments.**

**Sec. 86-299 Issuance; denial.**

**Sec. 86-300 Suspension or revocation.**

**Sec. 86-301 Fees.**

### **Sec. 86-296. Definitions.**

Except as otherwise indicated by the context, the following words and phrases shall have the following meanings for purposes of this division:

*Horse* means any member of the equidae family and equus genus, regardless of gender, including horses, burros, donkeys, and mules.

*Pack animal* means any animal used for carrying materials, including horses, burros, donkeys, mules, and llamas.

*Stable* means any structure or enclosure maintained for the purpose of housing, feeding, or keeping horses or pack animals where four or more horses or pack animals are boarded, kept for hire to the general public, or otherwise kept for compensation. Any time that four or more horses or pack animals are located on a particular lot or parcel of land, they will be presumed to be boarded, kept for hire to the general public, or otherwise kept for compensation; provided, however, that such presumption may be rebutted by the presentation of sufficient evidence to the contrary by the owner of such horses or pack animals. (Ord. No. 98-86, § 10, 11-30-1998)

### **Sec. 86-297. License required.**

No person shall be permitted to operate a stable in the city without a valid stable license. (Ord. No. 98-86, § 10, 11-30-1998)

### **Sec. 86-298. Review by other departments.**

Prior to the issuance of any stable license, each license application shall be submitted to the animal care division for review as provided in section [86-34](#). The division shall inspect the premises for which a stable license is sought for the purposes of:

- (1) Ensuring compliance with any and all provisions of this code pertaining to the keeping, boarding, and care of horses or pack animals;
- (2) Where a stable is used for the purpose of keeping horses or pack animals for hire to the general public, ensuring that sanitary rest room facilities are readily available on the premises for visitors to, or clients and patrons of, the stable. (Ord. No. 98-86, § 10, 11-30-1998)

### **Sec. 86-299. Issuance; denial.**

- (a) In order for a stable license to issue, the licensing administrator must find, in addition to the findings required by section [86-35](#), that the premises for which a stable license is sought has been inspected and approved by the animal care division as provided in section [86-298](#).
- (b) If the licensing administrator finds that the applicant does not meet all of the requirements for issuance set forth in this section and in section [86-35](#), he or she shall deny the stable license or defer a decision on the license application as provided in section [86-36](#). During said deferral period, the applicant may request a reinspection of the premises for the purpose of demonstrating compliance with the conditions set forth in section [86-298](#). (Ord. No. 98-86, § 10, 11-30-1998)

### **Sec. 86-300. Suspension or revocation.**

In addition to the reasons set forth in section [86-47](#), the director shall suspend or revoke a stable license if he or she finds that the license is no longer in compliance with:

- (1) Any provision of this code pertaining to the keeping, boarding, and care of horses or pack animals;
- (2) Any provision of this code pertaining to the keeping of sanitary rest room facilities; or
- (3) Any provision of state or federal law pertaining to the humane and sanitary care of animals. (Ord. No. 98-86, § 10, 11-30-1998)

### **Sec. 86-301. Fees.**

Application and annual license fees for stable licenses shall be established by the director in accordance with the provisions of section [2-587](#) of this Code. (Ord. No. 2005-92, § 15, 12-5-2005; Ord. No. 98-86, § 10, 11-30-1998)

**The Aurora City Code is current through Ordinance 2021-09, passed March 22, 2021.**

Disclaimer: The city clerk's office has the official version of the Aurora City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

**Note:** This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.auroragov.org](http://www.auroragov.org)

[Code Publishing Company](#)

ORDINANCE NO. 74-8

## A BILL

FOR AN ORDINANCE ENACTING CHAPTER 2A OF TITLE VI OF THE CITY CODE OF AURORA, COLORADO, ESTABLISHING AN OCCUPATIONAL LICENSE TAX FOR COMMERCIALY-OPERATED HORSE STABLES, AND AMENDING SECTION 6-1-1 OF CHAPTER 1, TITLE VI, OF THE CITY CODE OF AURORA, COLORADO, ENTITLED "DEFINITIONS," BY ADDING THERETO A DEFINITION OF THE TERM "COMMERCIAL HORSE STABLE"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Section 2A of Title VI of the City Code of Aurora, Colorado, be and the same is hereby enacted to read as follows, to-wit:

## CHAPTER 2A

## OCCUPATIONAL TAX; COMMERCIAL STABLES

6-2A-1. OCCUPATIONAL LICENSE TAX. THE COUNCIL HEREBY FINDS AND DETERMINES THAT THE NATURE OF THE BUSINESS OF OPERATING A COMMERCIAL HORSE STABLE WITHIN THE CITY LIMITS OF THE CITY IS SUCH AS TO PRESENT SPECIAL PROBLEMS WITH RELATION TO THE HEALTH, WELFARE AND SAFETY OF THE CITIZENS OF AURORA REQUIRING THE CLASSIFICATION OF SUCH BUSINESS AS A SEPARATE OCCUPATION AND FOR THE IMPOSITION OF A REASONABLE, PROPER, UNIFORM AND NON-DISCRIMINATORY OCCUPATIONAL LICENSE TAX SO AS TO PROVIDE FOR A PROPER AND JUST DISTRIBUTION OF THE TAX BURDEN WITHIN THE CITY OF AURORA.

(A) THERE IS HEREBY LEVIED AND ASSESSED FOR EACH YEAR AN ANNUAL OCCUPATIONAL LICENSE TAX OF THREE HUNDRED DOLLARS (\$300.00) UPON THE BUSINESS OF OPERATING A COMMERCIAL HORSE STABLE IN THE CITY OF AURORA, AS THAT TERM IS HEREIN DEFINED. EACH LOCATION SHALL BE CONSIDERED A SEPARATE BUSINESS FOR PURPOSES OF IMPOSING OF THE OCCUPATIONAL LICENSE TAX.

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Section 2. That Section 6-1-1 of Chapter 1, Title VI, of the City Code of Aurora, Colorado, entitled "Definitions," be and the same is hereby amended by adding the definition thereto of the term "Commercial Horse Stable," to read as follows:

6-1-1:

COMMERCIAL HORSE STABLE: THE TERM "COMMERCIAL HORSE STABLE" SHALL MEAN AND INCLUDE ANY STABLE WHERE HORSES ARE BOARDED FOR REMUNERATION OR WHERE HORSES ARE KEPT FOR HIRE.

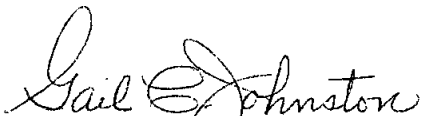
Section 3. That all Ordinances or parts of Ordinances in conflict herewith are hereby expressly repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this 17<sup>th</sup> day of December, A.D. 1973.

PASSED AND ORDERED PUBLISHED this 7<sup>th</sup> day of January, A.D. 1974.

  
\_\_\_\_\_  
PAUL C. BECK, Mayor

ATTEST:

  
\_\_\_\_\_  
GAIL C. JOHNSTON, Deputy City  
Clerk

First Publication:	<u>12/27/73</u>
Final Publication:	<u>1/17/74</u>
Effective Date:	<u>2/16/74</u>

-2-

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ORDINANCE NO. 2021- \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES

WHEREAS, a Stable License requirement is no longer needed as other federal, state, and local codes are in place to ensure the safety of the animals; and

WHEREAS, the City Council wishes to eliminate the stable license currently required.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. Division 6 of Article IV of Chapter 86 is hereby repealed.

Section 2. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

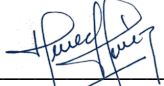
\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

---

KADEE RODRIGUEZ,  
City Clerk

APPROVED AS TO FORM:

 RLA

---

HANOSKY HERNANDEZ,  
Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Short Term Rental Regulations Update and Ordinance
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source/Legal Source:</b> Trevor Vaughn / Hanosky Hernandez
<b>Outside Speaker:</b> n/a
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

**COUNCIL MEETING DATES:**

**Study Session:** 11/1/2021

**Regular Meeting:** 11/8/2021

**ITEM DETAILS:**

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 26 RELATING TO THE SALES OF LODGING IN PRIVATE RESIDENCES

Staff Source: Trevor Vaughn, Manager of Tax and Licensing  
 Legal: Hanosky Dened Hernandez Perez, Assistant City Attorney  
 Estimated Presentation / Discussion time 5/5 minutes.

---

**ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session  | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only   |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |



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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

This item was reviewed by the Business Advisory Board on October 18<sup>th</sup>, 2021. One concern was raised regarding the day limitation and its impact. This was addressed as this day limitation would only apply to full home rentals and not those that maintain a living area on the premises while renting another segregated area of the dwelling. The day limitation is used as another enforcement point to ensure that the operator does in fact reside at the short-term rental.

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

In late 2016, a majority of City Council agreed to a framework for managing short term rentals. A short-term rental is the provision of lodging (stays of less than 30 days) in a private residence. The framework leveraged existing zoning code to treat them as a home occupation. As a home occupation, they need to be the primary residence of the short-term rental operator. Since lodging is considered a business activity, they also need to obtain a business license and lodger's tax needs to be collected. They cannot have external evidence of the business activity and their guests need to follow all other city codes. The short-term rental is allowed only one booking at a time. The operator does not need to be on site at the time the home is rented and there are no limits on days or amount of home used for the activity.

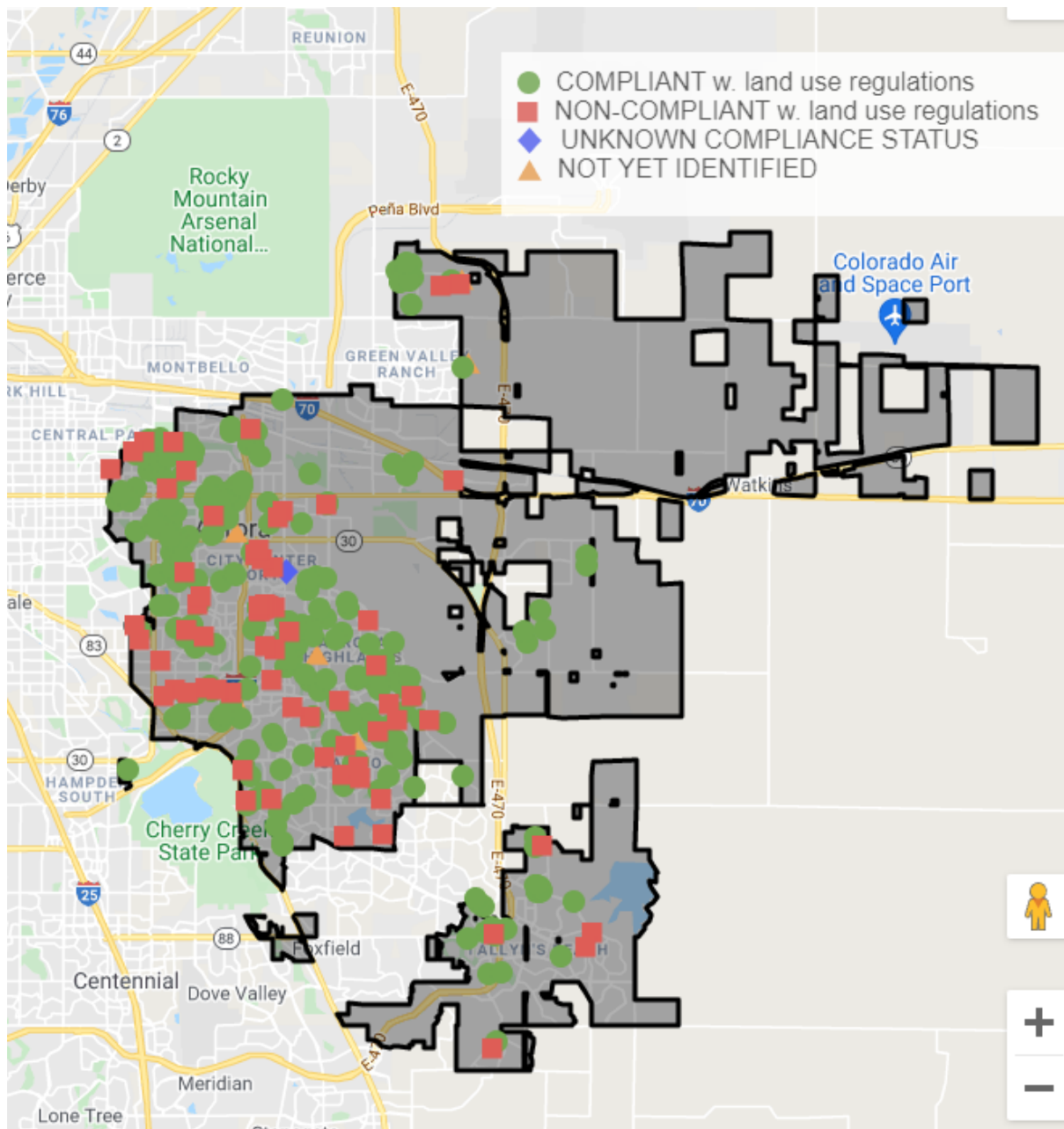
The city currently uses Host Compliance to assist with finding the addresses of short-term rentals to enforce compliance with business licenses and by extension to ensure the primary residency requirement. Below are some statistics of short-term rentals in Aurora:

Total listings: 565  
Total short-term rental listings: 404 (stays of less than 30 days)  
Individual short-term rental units: 269 (some list on multiple sites)  
Address identification: 97.4%

Property Type:  
Single Family: 83%  
Multi family: 17%

Compliant Licensed STRs: 189  
Long Term Rentals: 89  
Noncompliant: 80 (notices sent to most)

Rental type:  
Partial Home: 37%  
Entire Home: 63% (apx. 169 units)  
Total Aurora Households 136,400



The number of short-term rentals have stayed around 300 for the last five to six years after a rapid expansion. It is likely the city is receiving most of the owed lodgers tax as Airbnb and VRBO/Homeaway collect the tax on behalf of the operators. These websites contain nearly all short-term rental operations in the city.

Staff receives approximately one complaint every other month from neighbors that operators are not living at the location of the short-term rental. Neighbors are often very passionate in these circumstances. The operators are also equally passionate to continue operating these locations. Investment properties can have the impact of decreasing available housing stock and decreasing the overall affordability of housing. The short-term rentals also compete with area hotels that have made a commercial investment. Aurora has not had the level of impacts from the number of short-term rentals as communities such as Denver or other mountain communities. The largest issue for enforcement are those that own two properties but place their voter registration, driver's license, etc. in the address of the short-term rental.

Experience addressing the complaints and administering the regulations has demonstrated that some efficiencies can be gained with some adjustments to the city's code. The proposed ordinance for business regulations takes several steps:

- The ordinance codifies the zoning requirements and rules into chapter 26 of the city code. This allows enforcement outside the land use code and outlines very specifically that these requirements apply to short term rentals and not simply by reference to the home occupation guidelines of the zoning code.
- Booking service providers such as Airbnb and VRBO/Homeaway are held responsible for checking licenses. This is a requirement Denver enacted that has been very effective. Only about 1/3rd of operators get licensed before operating and resources are spent trying to figure out their exact address to send them a notice.
- Booking service providers will be required to remove listings that are not a primary residence of the operator. This reduces the amount of effort needed to obtain compliance.
- Short term rentals of an entire dwelling are limited to 180 days in a 365-day period. This is a fall back requirement to ensure that the dwelling is operated as a primary residence.
- The ordinance also requires that the operator permit inspections of documentation and records to confirm compliance with the regulations.

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## QUESTIONS FOR COUNCIL

Does the committee approval of moving the item forward to study session?

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## LEGAL COMMENTS

Pursuant to the city's home rule authority granted to the City of Aurora under Article XX Section 6 (g) of the Colorado Constitution, the City has the power of taxation for local municipal purposes. This ordinance clarifies the enforcement section of short-term rentals, is not imposing a new tax and is compliant with Article X Section 20 of the Colorado Constitution. City Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of an ordinance; all actions, except as herein provided, may be in the form of Resolutions or motions. Section 5-1 Aurora City Charter. (Hernandez)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** N/A

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## PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Requirement for booking service providers to verify licensed operations and respond to removal requests for unlicensed operators and operators not residing at the short-term rental.

ORDINANCE NO. 2021-\_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 26 RELATING TO THE SALES OF LODGING IN PRIVATE RESIDENCES

WHEREAS, the City of Aurora, Colorado, (the “City”), is a home rule municipality, organized and existing under and by virtue of Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, under Article XX, Section 6 the Colorado Constitution, the City has authority over local taxation matters; and

WHEREAS, the City intends to improve administration of the Tax Code and increase clarity by providing a clear framework for citizens engaging in the activity of short rentals; and

WHEREAS, the City does have a vested interest in clarifying the regulations on rental of properties in the City to protect the housing stock available to residents, preventing it from being converted into short term rentals, and therefore reducing the availability of houses in the City.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. Article V of Chapter 26 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Article V. Hotels, Motels, **Short Term Rentals** and Similar Establishments.

**Section 26-215. Definitions**

*Booking service provider* means any person or entity who facilitates a transaction between a prospective guest and a person or entity offering a short-term rental.

*Lodging* means the transaction for periods of less than thirty (30) consecutive days of furnishing a room or rooms, or other accommodations, by any person to a another person or persons who, for consideration, use, possess, or have the right to use or possess any room or rooms in a hotel, apartment hotel, lodging house, motor hotel, guest house, bed and breakfast residence, short-term rental, guest ranch, mobile home, auto camp, trailer court, or trailer park in the City, under any agreement, concession, permit, right of access, license, or otherwise. This definition shall not apply to the

transaction of furnishing rooms or accommodations for meetings or exhibitions.

*Primary residence* means the place in which a person's habitation is fixed for the term of the license and is the person's usual place of return. A person can have only one (1) primary residence.

*Short-term rental* means any residential dwelling unit offered, provided, or operated as lodging accommodations to guests in exchange for remuneration for a period of less than thirty (30) consecutive days. "Dwelling unit" has the meaning set forth in the Aurora Zoning Code.

**Section 26-219. ~~Internet Sales of Lodging~~ Short-term rentals unlawful acts.**

- (a) It shall be unlawful for any person to advertise a **short-term rental lodging in private residences** without:
  - (1) Having a general business license and lodger's license issued by the City; and
  - (2) Including their City ~~lodger's~~ business license number in their advertisement; and
- (b) The exception to the advertising requirement, in subsection (a)(2) above, is for the person who uses a ~~an internet-based platform booking service provider~~ **booking service provider** to advertise their lodging, and that ~~platform booking service provider~~ **provider** has an agreement with the city for the collection of lodger's tax as required by chapter 130, and the ~~platform booking service provider~~ **provider** provides the ~~guest short-term rental's registration license, address, and contact~~ **information** to the city for inspection upon request, ~~as required by this chapter and requires the licensee to provide a license number to the booking service provider prior to listing the property for rental.~~
- (c) Utilizing the residence as the person's primary residence.
- (d) It shall be unlawful to permit bookings by more than one person for a short-term rental at one time.
- (e) It shall be unlawful to operate a short-term rental of an entire dwelling for longer than 180 days in any 365-day period.
  - (1) Subsection 26-219(c) shall not apply to accessory dwelling units when the property owner lives in the primary structure on the property.

**(f) It shall be unlawful for any booking service provider to receive payment, directly or indirectly, for an unlicensed short-term rental located in the City of Aurora.**

**(g) It shall be unlawful for any booking service provider to receive payment, directly or indirectly for any short-term rental when it knows or should reasonably know that it is not being utilized as the short-term rental operator’s primary residence.**

**(h) Penalty. In addition to the general penalty provided for in section 1-13, a booking service provider who violates subsection (d) or (e) of this section shall be subject to a civil penalty of one thousand dollars (\$1,000.00) per violation per day.**

**Section 26-220. Short-term rental regulations.**

**(a) Any operator of a short-term rental shall make a good faith effort to prevent and quickly mitigate any deleterious impacts from the short-term rental operation on the neighborhood.**

**(b) Upon request of city enforcement to include the specific records, the short-term rental operation shall permit the inspection of the requested records demonstrating that they are in fact the primary resident of the short-term rental.**

Section 2. All ordinances, or parts of ordinances, of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the city clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2021.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

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KADEE RODRIGUEZ,  
City Clerk

APPROVED AS TO FORM:



RLA

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HANOSKY HERNANDEZ,  
Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO SALES AND USE TAX CLARIFICATIONS

**Item Initiator:** Trevor Vaughn, Manager of Tax and Licensing

**Staff Source/Legal Source:** Trevor Vaughn / Hanosky Hernandez

**Outside Speaker:** n/a

**Council Goal:** 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** 11/1/2021

**Regular Meeting:** 11/8/2021

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO SALES AND USE TAX CLARIFICATIONS

Staff Source: Trevor Vaughn, Manager of Tax and Licensing  
Legal: Hanosky Dened Hernandez Perez, Assistant City Attorney  
Estimated Presentation / Discussion time 5/5 minutes.

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Study Session  | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only   |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |



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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

This item was reviewed with the Business Advisory Board on October 18<sup>th</sup>, 2021. The BAB did not raise any concerns regarding the item.

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

During administration and enforcement of the tax code, staff has identified areas of the code that could be improved in order to make the code clear with its original intent. This proposed ordinance includes a number of clarifications that will result in the ability to more clearly enforce the tax code without technical challenges and will result in a de-minimis revenue increase. Since the increase is de-minimis and there are no new taxes with the proposed ordinance, the proposed ordinance does not violate the TABOR amendment of the state constitution.

The proposed ordinance makes the following clarifications:

- The definition for unprocessed retail marijuana is amended to include marijuana that is transferred to another marijuana cultivation facility. This change clarifies that a marijuana cultivation cannot avoid the excise tax by transferring marijuana to another grow facility outside of Aurora prior to sale.
- The imposition upon telecommunication and pay television and entertainment services is amended to separate pay television and entertainment services into a separate imposition since these services are taxed separate from telecommunications. Also, the tax as applied to intrastate telecommunications is amended to a more modern description of how these services are billed. This language was copied from the Denver tax code.
- A new section 130-156.5 is added to incorporate sourcing rules that were incorporated by the State in house bill 19-1240 are also incorporated into the city's code to ensure consistency and clarity across jurisdictional boundaries.
- In section 130-166 credit sales and leases are clarified that a sales tax refund is not provided for bad debt if there is a secured interest in the property even if it has not yet been repossessed.
- When the city adopted the standard definitions in 2017 the term manufacturing included an exclusion for certain types of production. This exclusion was not adopted by the committee that created the standard definition. As a result, this exclusion was moved from the definition into the exemption from sales tax for purchases of tangible personal property. However, this exclusion was errantly not included in the exemption for manufacturing equipment nor the exemptions from use tax for the supplies and equipment.
- In section 130-198 the exemptions from use tax for items either temporarily in the city or brought into the city were very vague and difficult to apply consistently. This ordinance removes the exemption for temporarily in the city as this exemption is not common and also more clearly defines the exemption for items brought into the city. The language is copied from the city of Thornton and is more common among

cities in that it provides some definition of what constitutes use. Also, the exemption is clarified that it does not apply to construction equipment, tools and machinery. Historically this exemption was not allowed for these items as they are administered through section 130-202 separately and most cities exclude these items from this exemption specifically. An experienced tax lawyer attempted to argue that the city's exclusion of this phrase should have resulted in an exemption from section 130-202 to this type of equipment.

- Section 130-202 is amended to make it clear that this section does not receive the exemption in section 130-198 for the reasons stated in the bullet above.
- In Section 130-431 the same statute of limitations that is used in the sales and use tax section for audits is copied into the occupational privilege tax section. This provides consistency as these taxes are usually audited together.

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## QUESTIONS FOR COUNCIL

Does the committee approval of moving the item forward to study session?

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## LEGAL COMMENTS

Pursuant to the city's home rule authority granted to the City of Aurora under Article XX Section 6 (g) of the Colorado Constitution, the City has the power of taxation for local municipal purposes. This ordinance clarifies the enforcement section of the tax code, is not imposing a new tax and is compliant with Article X Section 20 of the Colorado Constitution. City Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of an ordinance; all actions, except as herein provided, may be in the form of Resolutions or motions. Section 5-1 Aurora City Charter. (Hernandez)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** De minimis impacts.

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## PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** De minimis impacts.

ORDINANCE NO. 2021-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO CLARIFICATIONS ON SALES AND USE TAX

WHEREAS, the City of Aurora, Colorado, (the “City”), is a home rule municipality, organized and existing under and by virtue of Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, under Article XX, Section 6 the Colorado Constitution, the City has authority over local taxation matters; and

WHEREAS, the City intends to improve administration of the tax code and increase clarity within the ordinance language.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. Section 130-31 of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

Sec. 130-31. Definitions.

*Unprocessed retail marijuana* means marijuana at the time of the first transfer or sale from a retail marijuana cultivation facility to a retail marijuana product manufacturing facility, **another marijuana cultivation facility**, or a retail marijuana store.

Section 2. Section 130-156 subsection (3) of the City Code of the City of Aurora, Colorado, is hereby amended, and a new subsection (15) is added which shall read as follows:

Sec. 130-156. Taxable items.

(3) Upon telecommunication ~~and pay television and entertainment~~ services, whether furnished by public or private corporations or enterprises for all ~~intrastate~~ telecommunication ~~and pay television and entertainment~~ services originating from or received on telecommunication ~~and pay television and entertainment~~ equipment in this city if the charge for the service is billed to a person in this city or billed to an affiliate or division of such person in any state on behalf of a person in this city. **Excepting, however, monthly or other periodic usage charges that represent varying amounts billed to accounts for a subscriber's actual use of interstate services provided by a long-distance telecommunications company and charged to the subscriber by or on behalf of a long-distance telecommunications company.**

**(15) Upon pay television and entertainment services.**

Section 3. Division 4 of Article II City Code of the City of Aurora, Colorado, is hereby amended to add a new subsection 130-156.5, which shall read as follows:

**Sec. 130-156.5 Sourcing**

**(1) For purposes of determining where a sale of tangible personal property, commodities, or services is made, the following rules apply:**

- a. If tangible personal property, commodities, or services are received by the purchaser at a business location of the seller, the sale is sourced to that business location;**
- b. If tangible personal property, commodities, or services are not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser occurs, including the location indicated by instructions for delivery to the purchaser, if that location is known to the seller;**
- c. If subsections (1)(a) and (1)(b) of this section do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business, when use of this address does not constitute bad faith; or**
- d. If subsections (1)(a), (1)(b), and (1)(c) of this section do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of a purchaser's payment instrument, when use of this address does not constitute bad faith**

Section 4. Section 130-166 of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

**Sec. 130-166. Credit sales and leases.**

(a) Whenever tangible personal property is sold, including that sold in conjunction with a sale of business under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, the total sales tax based on the total purchase price, including finance and insurance charges which are not separately stated at the time of sale, shall become immediately due and payable. The finance director may authorize a retailer doing business wholly or partly on a credit basis to make returns on the basis of cash actually received or to collect the entire tax due at the time of the sale without regard to any deferred payment or whether or not the title passes to the purchaser; provided, however, that in any event, the entire tax due on a purchase or lease made on a revolving charge account shall be due and payable immediately. No refund or credit shall be allowed to either party to the transaction in case of repossession, **or if there is a secured interest in the property.**

Section 5. Section 130-157 subsection (28) of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

Sec. 130-157. Items exempt from taxation.

(28) All sales of machinery or machine tools, or parts thereof, in excess of \$500.00 to be used in the city directly and predominantly in manufacturing tangible personal property, for sale or profit. For purposes of this subsection:

a. A parent corporation and all closely held subsidiary corporations shall be considered one person and, as a group, shall be subject to the provisions of this subsection.

b. Direct use in manufacturing is deemed to begin for items normally manufactured from inventoried raw material at the point at which raw material is moved from plant inventory on a contiguous plant site and to end at a point at which manufacturing has altered the raw material to its completed form, including packaging, if required. Machinery used during the manufacturing process to move material from one direct production step to another in a continuous flow and machinery used in testing during the manufacturing process is deemed to be directly used in manufacturing.

c. In order to qualify for the exemption provided in this subsection, a sale must be of such nature that it would have qualified for the investment tax credit against federal income tax as was provided by section 38 of the Internal Revenue Code of 1954, as amended.

d. An exemption may not be claimed under this subsection for municipal sales tax paid in another state that is credited against city sales tax or use tax or both.

e. To receive an exemption under this subsection, a declaration of entitlement must be filed by the purchaser with the retailer of the machinery or machine tools or parts thereof and with the finance director.

**The term "manufacturing" shall not include, without limitation, the preparation, baking, and cooking of food and beverages; the generation and distribution of electricity; or the extraction of raw materials from the earth through mining, quarrying, the sinking of wells, or any other process.**

Section 6. Section 130-198 subsections (6) and (27) of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

Sec. 130-198. Items exempt from taxation.

(6) The storage, use or consumption of tangible personal property by a person engaged in manufacturing or compounding for profit or sale, which tangible personal property meets all the following conditions:

- a. Is actually and factually transformed by the process of manufacturing;
- b. Becomes, by the manufacturing processes, a necessary and recognizable ingredient component and constituent part of the finished product; and
- c. Is, by its physical presence in the finished product, essential to the use thereof in the hands of the ultimate consumer.

**The term "manufacturing" shall not include, without limitation, the preparation, baking, and cooking of food and beverages; the generation and distribution of electricity; or the extraction of raw materials from the earth through mining, quarrying, the sinking of wells, or any other process.**

Such personal property, when not sold for resale, shall be deemed to have been sold at wholesale and shall be exempt from taxation under this division.

(27) The storage, use, or consumption of machinery or machine tools, or parts thereof, in excess of \$500.00 to be used in the city directly and predominantly in manufacturing tangible personal property, for sale or profit. For purposes of this subsection:

- a. A parent corporation and all closely held subsidiary corporations shall be considered one person and, as a group, shall be subject to the provisions of this subsection.
- b. Direct use in manufacturing is deemed to begin for items normally manufactured from inventoried raw material at the point at which raw material is moved from plant inventory on a contiguous plant site and to end at a point at which manufacturing has altered the raw material to its completed form, including packaging, if required. Machinery used during the manufacturing process to move material from one direct production step to another in a continuous flow and machinery used in testing during the manufacturing process is deemed to be directly used in manufacturing.
- c. In order to qualify for the exemption provided in this subsection, a sale must be of such nature that it would have qualified for the investment tax credit against federal income tax as was provided by section 38 of the Internal Revenue Code of 1954, as amended.
- d. An exemption may not be claimed under this subsection for municipal sales tax paid in another state that is credited against city sales tax or use tax or both.
- e. To receive an exemption under this subsection, a declaration of entitlement must be filed by the purchaser with the retailer of the machinery or machine tools or parts thereof and with the finance director.

**The term "manufacturing" shall not include, without limitation, the preparation, baking, and cooking of food and beverages; the generation and distribution of electricity; or the extraction of raw materials from the earth through mining, quarrying, the sinking of wells, or any other process.**

Section 7. Section 130-198 subsections (4) and (12) of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

Sec. 130-198. Exemptions.

~~(4) The storage, use or consumption of tangible personal property brought into this city by a nonresident thereof for his or her own storage, use or consumption while temporarily within the city.~~

~~(12) The storage, use, distribution or consumption in the city of tangible personal property by a resident if such personal property was purchased for use outside of the city prior to such person's becoming a resident.~~ **The use, storage, distribution or consumption of tangible personal property of a resident, if such personal property was purchased and used for a longer duration than one-third of its depreciable life, using the straight line depreciation method, prior to the time the property was brought into the city, and if such property was used for the primary purpose for which it was acquired prior to the time it was brought into the city. This exemption does not apply to construction equipment, tools and machinery.**

Section 8. Section 130-202 of the City Code of the City of Aurora, Colorado, is hereby amended to add a new subsection, to be lettered (f), which subsection shall read as follows:

Sec. 130-202. Proration as applied to certain construction equipment.

**(f) Exemptions in section 130-198 shall not apply to this section.**

Section 9. Section 130-431 of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

(a)

(1) ~~Except as provided in this section, and unless such time is extended by waiver,~~ the amount of any tax imposed by this article, and penalty and interest applicable thereto, shall be assessed within three years after the filing of a return, whether or not such return was filed on or after the date prescribed, and no assessment shall be made or credit taken, and no notice of lien shall be filed, nor distraint warrant issued, nor suit for collection instituted, nor any other action to collect the same commenced after the expiration of such period.

(2) A written proposed adjustment of the tax liability by the finance director issued prior to the expiration of such period shall extend the limitation of subsection (a)(1) of this subsection for one year after a final determination or assessment is made.

(b)

(1) Except as provided in this section, no lien imposed by this article shall continue beyond three years after the filing of a return.

(2) For taxes assessed before the expiration of such three-year period, notice of lien with respect to which has been filed prior to the expiration of such period, and for taxes on which written notice of any proposed adjustment of the tax liability has been sent to the taxpayer during such three-year period, such lien shall continue for one year after the expiration of such period. **In the event of an appeal by the taxpayer of a notice of assessment, such lien shall continue for one year after the issuance of a final determination of such appeal.** ~~or after the issuance of a final determination or assessment based on the proposed adjustment issued prior to the expiration of the three-year period.~~

(c) For purposes of this section, a return filed before the last day prescribed by this article for the filing thereof shall be considered filed on such last day.

(d) In the case of a failure to file a return or the filing of a false or fraudulent return with intent to evade tax, the tax imposed by this article, together with interest and penalties thereon, may be assessed and collected at any time.

~~(e) Where, before the expiration of the time prescribed in this section for the assessment of tax, both the taxpayer and the finance director have consented in writing to an assessment after such time, the tax imposed by this article may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing.~~

**The issuance of a notice of audit by the finance director to the taxpayer prior to the expiration of the three-year limitation period prescribed in subsection (a) of this section shall extend such period with respect to the designated audit period until such time as the audit is completed and a notice of final determination or assessment is issued. For purposes of this subsection (e), "designated audit period" includes all reporting periods with due dates that fall within the three-year period preceding the date of the notice of audit. If a notice of assessment issued as a result of such audit, the limitation period shall be further extended as provided in subsection (b) of this section.**

Section 10. Section 130-493 of the City Code of the City of Aurora, Colorado, is hereby amended, which shall read as follows:

**The provisions set forth in section 130-431 which govern the statute of limitations for employee occupational privilege tax shall also apply to the employer occupational privilege tax except to the extent they conflict with the provisions of this article.**

~~(1) Except as provided in this section, and unless such time is extended by waiver, the amount of any tax imposed by this article, and penalty and interest applicable thereto,~~



~~shall be assessed within three years after the filing of a return, whether or not such return was filed on or after the date prescribed, and no assessment shall be made or~~

~~credit taken, and no notice of lien shall be filed, nor distraint warrant issued, nor suit for collection instituted, nor any other action to collect the same commenced after the expiration of such period.~~

~~(2) A written proposed adjustment of the tax liability by the finance director issued prior to the expiration of such period shall extend the limitation of subsection (a)(1) of this subsection for one year after a final determination or assessment is made.~~

~~(b)~~

~~(1) Except as provided in this section, no lien imposed by this article shall continue beyond three years after the filing of a return.~~

~~(2) For taxes assessed before the expiration of such three year period, notice of lien with respect to which has been filed prior to the expiration of such period, and for taxes on which written notice of any proposed adjustment of the tax liability has been sent to the taxpayer during such three year period, such lien shall continue for one year after the expiration of such period or after the issuance of a final determination or assessment based on the proposed adjustment issued prior to the expiration of the three year period.~~

~~(c) For purposes of this section, a return filed before the last day prescribed by this article for the filing thereof shall be considered filed on such last day.~~

~~(d) In the case of a failure to file a return or the filing of a false or fraudulent return with intent to evade tax, the tax imposed by this article, together with interest and penalties thereon, may be assessed and collected at any time.~~

~~(e) Where, before the expiration of the time prescribed in this section for the assessment of tax, both the taxpayer and the finance director have consented in writing to an assessment after such time, the tax imposed by this article may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing.~~

Section 11. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 12. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent

of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 13. Notwithstanding any provision of the Charter or the City Code of the City of Aurora, Colorado, to the contrary, this ordinance shall become effective on the first day of the month which is at least thirty days after the date of adoption

Section 14. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

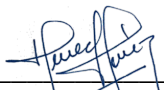
PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 RLA  
\_\_\_\_\_  
HANOSKY HERNANDEZ,  
Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Q3 2021 Internal Audit Progress Report
<b>Item Initiator:</b> Wayne C. Sommer, Internal Audit Manager
<b>Staff Source/Legal Source:</b> Wayne Sommer, Internal Audit Manager/ Hanosky Hernandez, Assistant City Attorney
<b>Outside Speaker:</b> N/A
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

### COUNCIL MEETING DATES:

**Study Session:** NA

**Regular Meeting:** NA

### ITEM DETAILS:

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time

Q3 2021 Internal Audit Progress Report

Wayne C. Sommer, Internal Audit Manager

Approximately 5-10 minutes to report highlights and respond to questions.

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### ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session   | <input type="checkbox"/> Approve Item as proposed at Study Session   |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting   | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input checked="" type="checkbox"/> Information Only  |  |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration<br>Reason for waiver is described in the Item Details field. |  |

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### PREVIOUS ACTIONS OR REVIEWS:

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**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/26/2021

**Action Taken/Follow-up: (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Recommends Approval              | <input type="checkbox"/> Does Not Recommend Approval    |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached                 | <input type="checkbox"/> Minutes Not Available          |

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**HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)**

M&F acts as the Audit Committee for the City. Internal Audit provides a quarterly progress report of work against our annual audit plan.

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**ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)**

This report includes the current status of all Internal Audit engagements that were included in the 2021 audit plan and any new additions to the plan during the year. It also provides the status of audit recommendations as of the quarter end date.

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**QUESTIONS FOR COUNCIL**

Informational Only

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**LEGAL COMMENTS**

The city charter requires that the city manager shall keep the council advised of the financial condition, future needs of the city, and the overall general condition of the city, and shall make such recommendations to the council for adoption as deemed necessary or expedient. This item is informational only. (See, Aurora City Charter Art. 7-4 (f)). (Hernandez).

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**PUBLIC FINANCIAL IMPACT**

- YES       NO

**If yes, explain:**

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**PRIVATE FISCAL IMPACT**

- Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**

Internal Audit Report



2021 Office of the Internal Auditor Operations  
Report

For the quarter ended June 30, 2021

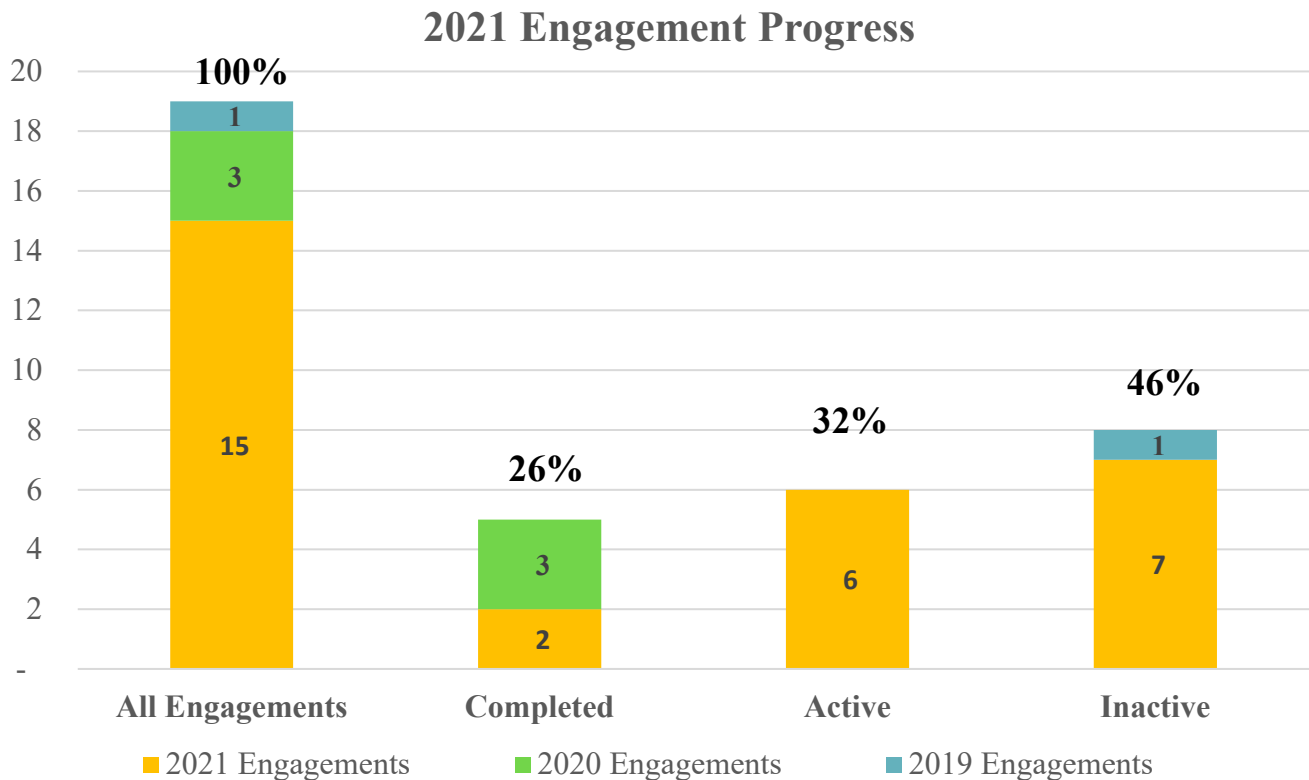




## 2021 ENGAGEMENT PROGRESS SUMMARY

Through June 30, Internal Audit has completed 26% of scheduled engagements closing out the three carryover engagements from the 2020 audit plan. Another 32% are currently active, all from the 2021 audit plan. One engagement remains from the 2019 audit plan—Succession Planning Survey. We do not consider it likely that we will commence this engagement in 2021. Staff have been heavily surveyed over the last year and survey fatigue is setting in. Additionally, Human Resources is likely to be consumed with the ERP implementation for the remainder of the year and beyond. We will regroup with them to decide if this engagement warrants retention on the audit plan or if it should be postponed to a later date. In the context of all the audit engagements, we consider this a low risk engagement that could be postponed if necessary. In total, 58% of all our possible engagements are either active or were completed in the first quarter. We are satisfied with this degree of progress through the first half of the year.

Internal Audit continues to work remotely, conducting business in-person only when absolutely necessary. Our TeamMate audit software and the ability to use electronic signatures have allowed us to be effective in this remote work environment. We can obtain audit documentation electronically and engage client staff through Microsoft Teams effectively.



*As of June 30, 2021*



## Agile Engagements

Internal Audit applies its own custom agile approach to our engagements. This approach brings valuable information to our clients more quickly than the traditional approach through a report provided at the end of each milestone.

This is an explanation of our Milestones:

**Team Preparation:** *Ensure that the engagement team can properly conduct the engagement.*

**Client Evaluation:** *Gain a deeper understanding of the client's operating environment and client issues that may affect the engagement objectives and that may influence subsequent engagement procedures.*

**Process Controls and Efficiency:** *Determine whether appropriate process controls exist and whether processes are efficient.*

**Risks:** *Assess the impact of identified risks on the engagement objectives, scope, and on the objectives test work procedures.*

**Planning and Preparation Finalization:** *Determine the final engagement objectives, scope, and objectives test work procedures.*

**Objectives Test Work:** *Obtain sufficient evidence to afford a reasonable basis for conclusions on the engagement objectives.*

**Reporting:** *Summarize the results of our engagement procedures and our related conclusions, findings, and recommendations in a clear and concise report that addresses all engagement objectives.*

**Wrap Up:** *Complete all administrative tasks necessary for a complete and orderly closeout of the engagement.*



2021 Operations Report—For the quarter ended June 30, 2021

In the table below, purple shading shows completed milestone work; hatched cells represent milestones in progress; and, orange shading represents future milestone work and the projected quarter in which that work is anticipated. This information is as of June 30. Engagements marked TBD in the table below are subject to possible carryover into 2022 or even deletion either in deference to more important engagements or if they are no longer relevant at the time.

Engagements	Milestones							
	1. Team Preparation	2. Client Evaluation	3. Internal Controls	4. Risk Evaluations	5. Preparation Finalization	6. Objectives Test Work	7. Reporting	8. Wrap Up
Succession Planning Survey		TBD						
AEDC Incentives	COMPLETED							
APD Versadex Case Management	COMPLETED							
APD Property and Evidence	COMPLETED							
<i>New</i> —APD Property and Evidence Change of Custodian	COMPLETED							
APD Vice and Narcotics	COMPLETED IN Q3							
Marijuana Enforcement	Q2	Q3	Q3	Q3	Q3	Q3	Q4	Q4
P-card Transactions Monitoring	Q2 and throughout the year							
AFR Culture Survey Follow Up	Q3	Q3	Q3	Q3	Q3	Q3	Q3	Q3
Payroll and HR Selected Process Reviews	TBD							
Planning Administration Culture Follow Up	POSTPONED DUE THE CHANGE IN LEADERSHIP							
Audit of Mayor and Council Expenses	Q3 and throughout the year							
Court Case Management	TBD							
<i>New</i> —Visit Aurora	Q3	Q3	Q3	Q3	Q4	Q4	Q4	Q4
Police: APD K-9 Part 1	COMPLETED							

Engagements	Milestones							
	1. Team Preparation	2. Client Evaluation	3. Internal Controls	4. Risk Evaluations	5. Preparation Finalization	6. Objectives Test Work	7. Reporting	8. Wrap Up
Police: K-9, Part 2	TBD							
Police: CCJRA Compliance						Q3		
Police: Crisis Intervention	Q3							
Police: Senate Bill 217 Compliance	Q3							

**Other Matters**

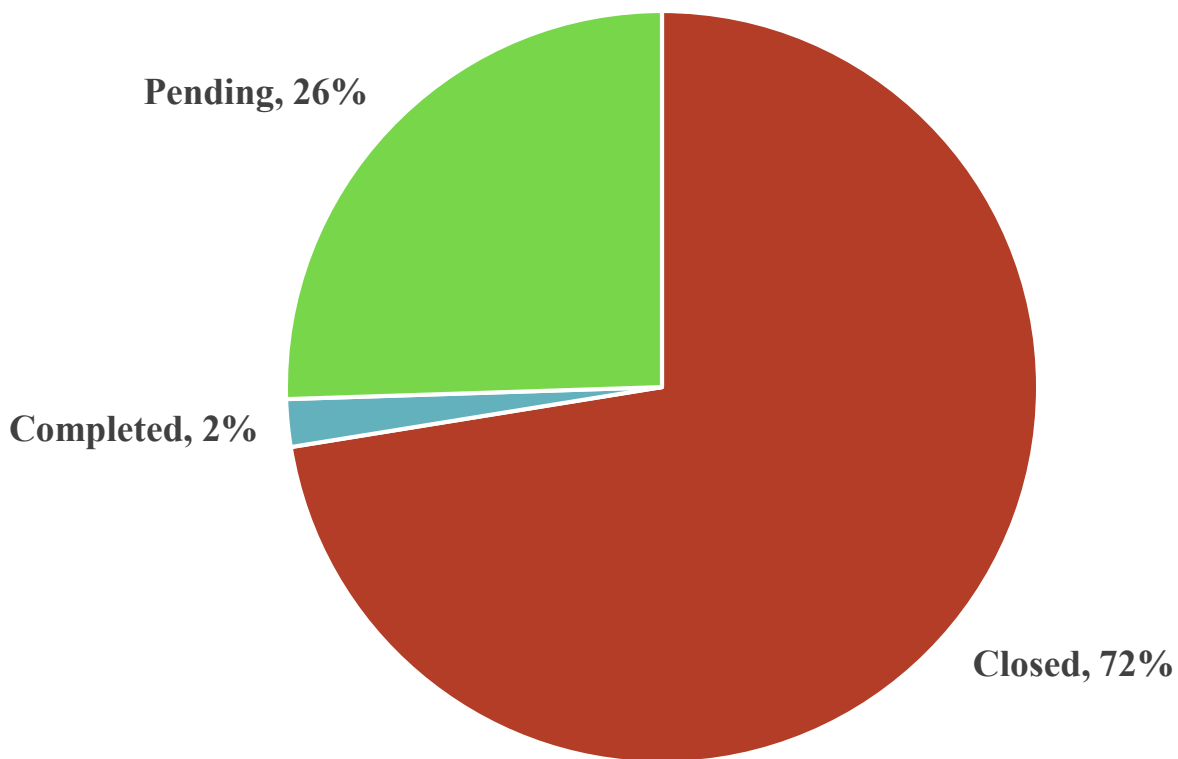
**2022 Risk Assessment:** Both Internal Audit and the Police Auditor commenced our risk assessment activities in Q2. We will use our risk survey and interview results as the basis for developing our proposed 2022 audit plans. Our target is to have draft plans to the City Manager in October and have them approved and presented to the Audit Committee in November.

**Staff Professional Development:** All staff is on track to complete their annually required 40 hours (minimum) of continuing professional training for 2021.

## RECOMMENDATIONS

We maintain and track the implementation status of our audit recommendations in our TeamMate audit software. The chart below displays the status of recommendations as of June 30, 2021. As of that date, 26% of all audit recommendations issued remained incomplete (Pending; either an implementation effort is in process or it has not begun.) All the percentages shown are almost identical to the prior quarter. What has changed is that new recommendations have been added and the number completed and closed have increased. The list that follows the table on the next page outlines the status, by engagement, of outstanding audit recommendations. Internal Audit regularly monitors the progress made on these recommendations.

### Audit Recommendations Status as of June 30, 2021



**Closed:** Client management has approved the implementation. No further action is necessary.

**Completed:** The client has implemented the recommendation and is waiting for client management’s final approval.

**Pending:** Implementation is not completed.

## 2021 Operations Report—For the quarter ended June 30, 2021

Report Release	Audit Plan Year	Engagement Year	Closed	Completed	Pending	Grand Total
January 2016	2015	Payroll and HR Audit	14		1	15
September 2017	2016	Citywide Physical Security Assessment	14		9	23
March 2018	2016	Fire Department Overtime	21		1	22
April 2017	2016	Overall Disaster Preparedness Assessment	10		1	11
September 2017	2016	Core 4 Culture Impact Assessment	3		1	4
May 2018	2017	Lethal and Less Lethal Weapons Inventory and Control Review	11		7	18
May 2019	2018	Fleet Management Operational Review	24		10	34
October 2019	2018	Purchasing Operations Review-Part 1	1		5	6
November 2018	2018	Overall Disaster Preparedness: Recommendations Follow-up	3		4	7
November 2020	2019	Purchasing Card Transaction Propriety			10	10
February 2020	2019	Grant Administration Processes	4	2	10	16
October 2019	2019	Planning Administration Culture Survey	4	2	8	14
October 2019	2019	House Aurora Partnership	10		3	13
September 2020	2020	APD - Body Camera Compliance			10	10
	2020	Economic Development Rebates Tracking			8	8
January 2021	2020	APD - Versadex Case Management			6	6
April 2021	2020	APD - K9 Operations Part 1			5	5
June 2021	2021	APD - Property and Evidence Audit	1	4	1	6
<b>Engagements with pending recommendations</b>			120	8	100	228
<i>Subtotal pending as a percentage of Grand Total</i>			53%	4%	44%	100%
<b>Closed and completed</b>			164	0	0	164
<i>Subtotal closed and completed as a percentage of Grand Total</i>			100%	0%	0%	100%
<b>Totals for all recommendation statuses</b>			<b>284</b>	<b>8</b>	<b>100</b>	<b>392</b>
<i>Total as a percentage of Grand Total</i>			72%	2%	26%	100%
<b>Prior quarter numbers for all recommendation statuses</b>			<b>269</b>	<b>10</b>	<b>94</b>	<b>373</b>
<i>Total as a percentage of Grand Total</i>			72%	3%	25%	100%
<b>Change from prior quarter</b>			<b>15</b>	<b>-2</b>	<b>6</b>	<b>19</b>

## Implementation Notes

### 2015 Payroll and HR Audit

- Implementation is in process; the final recommendation is pending the implementation of a new technology solution. We expect completion when the new solution is in place.

### 2016 Citywide Physical Security Assessment

- The newly hired Physical Security Manager is addressing the remaining outstanding recommendations. We expect continued progress throughout 2021.

2016 Fire Department Overtime

- The final recommendation relates to establishing performance measures for overall performance. This will be addressed during the City’s strategic planning process expected to be concluded in Q3 2021.

2016 Overall Disaster Preparedness Assessment

- Revised completion dates are Q4 2021. Internal Audit completed a follow-up engagement on the original audit recommendations: see *2018 Overall Disaster Preparedness: Recommendations Follow Up* below.

2016 Core 4 Culture Impact Assessment

- Human Resources is addressing the recommendations in Q4 2021.

2017 Lethal and Less Lethal Weapons Inventory and Control Review

- A new inventory system has been selected and is in the final stages of implementation. We expect the completion of all recommendations in 2021.

2018 Fleet Management Operational Review

- Implementations were delayed awaiting Wi-Fi installation by the Information Technology Department; this is outside of Fleet’s control.

2018 Purchasing, Part 1

- Implementation is in process; revised target dates are in Q3 2021.

2018 Overall Disaster Preparedness: Recommendations Follow Up

- Implementation is in progress; revised target dates are in Q3 2021.

2019 Grant Administration Processes

- Implementation is in process. Finance is developing new procedures and training for release in the first quarter of 2021.

2019 Purchasing Card Transaction Propriety

- Implementation is in process.

2019 Planning Administration Culture Survey

- Planning has been making consistent progress in addressing the recommendations.

2019 House Aurora Partnership

- New Homelessness Manager and the new Housing and Community Services Director are making progress on reimagining this program and implementing recommendations.

2019 Dispatch Culture Survey (Follow Up)

- Implementation of recommendations is in process.

2020 APD – Body Worn Camera Compliance

- Implementation is in process. APD is in the process of selecting a new BWC vendor. Updates to the BWC Policy are working through the APD approval process.

2020 APD – Versadex Case Management

- Implementation of recommendations is in process.

## INTERNAL AUDIT TEAM

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### **Wayne Sommer** | Internal Audit Manager

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Wayne is a Certified Public Accountant (CPA) and a Chartered Global Management Accountant (CGMA) with 41 years of diverse work experience. He began his career as an auditor for KPMG in Washington, DC (then known as Peat Marwick Mitchell and Co), with specialization in not-for-profit entities and financial institutions. He spent the next seven years in various financial and management capacities at a Northern Virginia savings bank. Prior to coming to the City of Aurora, Wayne spent 23 years at the International City/County Management Association (ICMA) in Washington, DC with 14 of those as Director, Administration and Finance (CFO), and the last nine working in executive management roles performing strategic planning, business development, and organizational change and development. Wayne also managed ICMA's U.S. Programs, which offered research and consulting products and services to local governments, the private sector, and the Federal government. Wayne has been with the City of Aurora since May 2014.

**Professional Associations:** American Institute of Certified Public Accountants; Institute for Internal Auditors; Association of Local Government Auditors; Government Finance Officers Association

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### **Michelle Crawford** | Internal Audit Senior—Police Auditor

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Michelle is a Certified Internal Auditor (CIA), a Certified Fraud Examiner (CFE), Certified in Risk Management Assurance (CRMA), and has 14 years of experience in governmental auditing. She received her Bachelor's in business administration at the University of Montana and her Master's in accountancy from Missouri State University. Upon graduation from Missouri State University, she started her career at the Missouri State Auditor's office as a Staff Auditor I and progressed over the next seven years to a Senior Auditor. As an auditor with the State Auditor's office, she conducted performance audits of local governments and worked on the statewide Single Audit. Michelle has been with the City of Aurora since October 2014.

**Professional Associations:** Association of Certified Fraud Examiners; Institute for Internal Auditors; Association of Local Government Auditors; Government Finance Officers Association

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### **Sheree Van Buren** | Internal Audit Staff

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Sheree is a Certified Internal Auditor (CIA) with 11 years of audit experience. She graduated from Colorado State University in 2010 with a Bachelor of Science in Business Administration – Accounting degree. Prior to joining the City of Aurora, she spent three years as an Audit Associate with PwC, LLP. During this time, Sheree worked in the financial services industry, performing year-end financial statement audits for local and international investment companies.

**Professional Associations:** Institute for Internal Auditors; Association of Local Government Auditors; Government Finance Officers Association; National Forum for Black Public Administrators; Black Employees for a Better Aurora

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**Laiba Saqib | Internal Audit Staff**

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Laiba earned a Master of Professional Accounting (MPAcc) degree from the Metropolitan State University of Denver (MSU Denver) in 2021. She received her Bachelor's in Accounting also from the Metropolitan State University of Denver. During her undergrad degree, Laiba interned as an internal audit intern for the Audit Division at the Colorado Department of Transportation (CDOT). After graduation, Laiba took a job as a tax auditor at the Colorado Department of Revenue and started her graduate degree. During her master's program, Laiba worked as the internal auditor for the University as a semester-long project. Laiba has been with the City of Aurora since March 2021.

**Professional Associations:** Institute for Internal Auditors; Association of Local Government Auditors



## Appendix A: Completed Engagement Summary Reports

- AEDC Incentives
- 2021 APD Property and Evidence
- 2021 APD Property and Evidence—Change of Custodian
- 2021 APD Vice and Narcotics
- APD K-9, Part 1