



CITY OF LEADVILLE

Tuesday, March 1st, 2022 – 6:00 P.M.

REGULAR COUNCIL MEETING AGENDA

800 HARRISON AVE, LEADVILLE, CO.

(Held in-person and via Zoom)

<https://leadville-co-gov.zoom.us/j/83111814072?pwd=RHppaHJJWjFTakpXSDhF...>

Meeting ID: 831 1181 4072

Passcode: 80461

Dial by your location

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| | | |
|-----------|----|---|
| 6:00 p.m. | 1. | Call to order of Regular Meeting of City Council |
| | 2. | Roll Call |
| | 3. | Approval of Agenda |
| | 4. | Housekeeping Matters |
| | 5. | Public comments about items not on the agenda |
| | | Citizens wishing to speak to council on issues <u>not</u> on the agenda are requested to send a message in the chat section or raise your hand in the participants section of Zoom or in person. Staff will call on public in order. Comment is limited to three (3) minutes (not including council questions). Action, if required, will be assigned to city staff. For matters <u>on the agenda</u> public input will be heard prior to a vote being taken on the matter. |
| | 6. | A. Approval of the minutes Approval of February 15, 2022 Minutes |
| | 7. | Presentations and Discussions |
| | | A. City Administrator Report B. Mayor Appoint HPC Commissioner & Alternate |
| | 8. | Resolutions and Ordinances |
| | | A. Joint Public Hearing with Planning & Zoning for First Reading of: 1. Ordinance No. 3, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code to Add a Formula Business Exclusion Overlay District and Related Formula Business Regulations and Amending the Official Zoning Map of the City to Reflect the Boundaries of Such Zoning District |

* These items may not have briefs or may have additional briefs Tuesday before the Council meeting.



| | | |
|-----------|-----|--|
| | | <p>2. Ordinance No. 4, Series of 2022: An Ordinance Repealing and Replacing Chapter 17.92 of the Leadville Municipal Code Concerning Rezoning and Zoning Code Amendments, Adding a New Chapter 17.84 Relocating the City's Vested Rights Regulations, and Amending Section 17.52.030 of the Leadville Municipal Code</p> <p>3. Ordinance No. 5, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes</p> <p>B. Ordinance No. 2, Series of 2022 (Second Reading): An Ordinance Amending the Leadville Municipal Code to Add a New Chapter 2.56 and Amending Various Sections to Establish the Position of City Administrator</p> <p>C. Ordinance No. 6, Series of 2022 (Second Reading): An Ordinance Repealing Chapter 10.12 of Title 10 of the Leadville Municipal Code Concerning Parking Permits</p> <p>D. Resolution No. 9, Series of 2022: A Resolution Amending the City's Fee Schedule to Adopt Fees for the Leadville-Lake County Animal Shelter</p> |
| | 9. | Public Meetings Planner |
| | 10. | Mayor's Report |
| | 11. | Council Reports |
| | 12. | Public comments about items not on the agenda |
| | | Citizens wishing to speak to council on issues <u>not</u> on the agenda are requested to send a message in the chat section or raise your hand in the participants section of Zoom or in person. Staff will call on public in order. Comment is limited to three (3) minutes (not including council questions). Action, if required, will be assigned to city staff. |
| 9:00 p.m. | 13. | Adjournment |

* These items may not have briefs or may have additional briefs Tuesday before the Council meeting.



CITY OF LEADVILLE

Tuesday, February 15, 2022 – 6:00 P.M. REGULAR COUNCIL MEETING MINUTES 800 HARRISON AVE, LEADVILLE, CO.

Call to order of regular council meeting at 6:02 p.m. in Council Chambers and via Zoom.

Roll call: CM Lauritzen, CM Hill, Mayor Labbe, CM Luna-Leal, CM Forgensi, CM Tharp and MPT Greene were present.

Approval of the agenda: CM Lauritzen moved to approve the agenda. MPT Greene seconded. Passed by all present.

Housekeeping Matters: Mayor commented on the dedication of 2 CM that drive long distances to be here.

Public comments for items not on the agenda. BOCC Commissioner Mudge

Approval of the Minutes of February 1, 2022:

CM Tharp moved to approve the minutes of February 1, 2022; CM Tharp seconded. Passed unanimously.

Approval of the Bills: CM Lauritzen moved to pay the Bills, CM Hill seconded. Passed unanimously.

COA/CUP/TUP:

Boom Days TUP: Discussion around gunfights on Harrison and firing of guns at random times. It was discussed and decided that the gunfights should be off of Harrison and be at specific pre-designated times, and those times be announced prior to the staged gunfights.

CM Lauritzen moved to approve Temporary Use Permit for Boom days Inc to host Leadville's Boom Days, Friday August 5, 2022 through Sunday, August 7, 2022 from 12:00 pm until 6:00 pm daily. Approval includes the requested city services, as well as LLCFR's requirements, ON THE CONDITION that All discharging of firearms be banned from the parade and any discharge of firearm reenactments take place on, or near, the stage on 5th Street with appropriate notice.

Flaming Foliage Relay TUP: No Discussion

CM Hill moved to approve Temporary Use Permit for Timberline Events LLC to host Flaming Foliage Relay, Friday September 9th, 2022 from 9:00 pm until 6:00 am Saturday, September 10th, 2022, said approval being good for three (3) years, or through 2024.

Resolutions and Ordinances:

Ordinance No. 1, Series of 2022: An Ordinance Amending Various Sections of the Leadville Municipal Code to Remove Specific Fees for the Leadville-Lake County Animal Shelter Fees and Authorizing Animal Shelter Fees to be Set by Resolution. Second Reading)

CM Forgensi moved to adopt Ordinance No. 1, Series 2022, CM Luna-Leal seconded, approved unanimously



Resolution No. 9, Series of 2022: A Resolution Amending the City's Fee Schedule to Adopt Fees for the Leadville-Lake County Animal Shelter

MPT Greene moved to continue Resolution No. 9, Series of 2022, CM Lauritzen seconded, approved unanimously. Council would like more information from Caitlin on Surrender Fees

Resolution No. 10, Series of 2022: A Resolution of the City of Leadville Designating Authorized Signatories on the City's Bank Accounts and for the Safe Deposit Box

CM Lauritzen moved to adopt Resolution No. 10, Series of 2022, CM Luna-Leal seconded, approved unanimously

Adjournment: 7:55 p.m.

APPROVED this 1st day of March by a vote of __ in favor, __ against, __ abstaining, and __ absent.

CITY OF LEADVILLE, COLORADO

ATTEST:

By

Deputy City Clerk

Appointment of HPC Commissioners

3/1/2022

New Commissioner – Mick Lindquist

New Alternate – Nancy Bailey

Reappointment – Steve Whittington, Completed a 1 year term; has agreed to serve a 3 year term

City of Leadville

800 Harrison Avenue, Leadville, CO 80461
Clerk - (719) 486-0349, Public Affairs Office - (719) 486-2092

APPLICATION FOR THE HISTORIC PRESERVATION COMMISSION

Name MICHAEL (MICK) LINDQUIST

Address 112 E. 2nd St.

City, State, Zip LEADVILLE, CO 80461

Phone 303-898-5100 Email MICK@TIMBERLINELEADVILLE.COM

Full time Leadville resident ☒ Yes ☐ No 1/2 # years here

If part time, how many months a year do you spend in Leadville? _____

Do you have a degree in any of the following? Please check all that apply.

☐ History ☐ Year & degree

☐ Archaeology ☐ Year & degree

☐ Architectural History ☐ Year & degree

☐ Architecture ☐ Year & degree

☐ Historic Architecture ☐ Year & degree

☒ CONSTRUCTION MANAGEMENT 2007 BS FROM CSU

Please specify your professional experience in your degree field. If you do not have a degree, please explain your experience with any or all of the above areas. Please attach a separate sheet.

Do you have any research experience? ☒ Yes ☐ No
If yes, please explain on a separate sheet.

How many hours a month are you able to spend with the HPC? 16 hours

Are you willing to attend training sessions to become more knowledgeable about the CLG?

Do you have special skills that will enhance the HPC? Please describe. YES

Please describe any additional qualifications that you believe enhance your ability to serve on the Historic Preservation Commission.

PAST RELATED WORK EXPERIENCE.

- DURING MY 14 YEARS W/ S280 EXTERIORS, I WORKED ON DOZENS OF PROJECTS THAT INVOLVED W/ WORKING WITH THE DENVER LANDMARK + HISTORICAL PRESERVATION DISTRICTS. MAJORITY OF THE WORK WAS EXTERIOR RENOVATION (SIDING, WINDOWS, BRICK, ROOFING, ETC.)

CURRENT RELATED WORK EXPERIENCE.

CURRENTLY, MY WIFE (NELL) AND I ARE REMODELING THE TIMBERLINE MOTEL AT 216 HARRISON AVE. WITH THE MOTEL, WE ALSO OWN THE BLUE HALF OF THE TENNESSEE PASS CAFE BUILDING WHICH IS PART OF THE NATIONAL HISTORICAL DISTRICT. WE HAVE BEEN WORKING W/ THE CITY OF LEADVILLE + HISTORIC COMMISSION. IT IS OUR GOAL TO PRESERVE + RESTORE AS MUCH OF THE BUILDING AS POSSIBLE.

RELATED PERSONAL EXPERIENCE.

IN 2017, WE DID A COMPLETE REMODEL ON OUR VICTORIAN HOUSE (BUILT IN 1892) IN DENVER. WE WERE ABLE TO PRESERVE ALL THE EXTERIOR AS WELL AS THE INTERIOR BRICK WALLS + ENTIRE 2ND STORY. WORKED WITH THE DENVER HISTORICAL PRESERVATION + LANDMARK DISTRICT ON THIS PROJECT AS WELL

City of Leadville

800 Harrison Avenue, Leadville, CO 80461
Clerk - (719) 486-0349, Public Affairs Office - (719) 486-2092

APPLICATION FOR THE HISTORIC PRESERVATION COMMISSION

Name Nancy Bailey
Address 711 Emerald St.
City, State, Zip Leadville, CO 80461
Phone 719 398 3132 Email mainstreet@lakecountycolorado.com
Nancylynnbailey@gmail.com

Full time Leadville resident ☒ Yes ☐ No ☐ # years here

If part time, how many months a year do you spend in Leadville?

Do you have a degree in any of the following? Please check all that apply.

| | |
|--|------------------------------------|
| <input type="checkbox"/> History | <input type="text"/> Year & degree |
| <input type="checkbox"/> Archaeology | <input type="text"/> Year & degree |
| <input type="checkbox"/> Architectural History | <input type="text"/> Year & degree |
| <input type="checkbox"/> Architecture | <input type="text"/> Year & degree |
| <input type="checkbox"/> Historic Architecture | <input type="text"/> Year & degree |

Please specify your professional experience in your degree field. If you do not have a degree, please explain your experience with any or all of the above areas. Please attach a separate sheet.

Do you have any research experience? ☒ Yes ☐ No
If yes, please explain on a separate sheet.

How many hours a month are you able to spend with the HPC? 10 ? hours

Are you willing to attend training sessions to become more knowledgeable about the CLG?

yes
Do you have special skills that will enhance the HPC? Please describe.

Please describe any additional qualifications that you believe enhance your ability to serve on the Historic Preservation Commission.

See
Attached

Nancy Bailey

City of Leadville

HPC Application

As the Main Street Director for the City of Leadville through the LLCEDC, it would be advantageous for our Program to remain close to HPC activities as we work together on rehabilitation efforts in our historic core.

Personally, I have a passion for community history that dates back years when I was a writer for my local historical society as well as a TV host for a public access channel highlighting historic people and events. Connecting the community to our heritage is something that will always be close to my heart.

My non-profit career spans over 25 years with a focus on housing and economic development. I believe my experience could be helpful as we navigate our efforts to keep Leadville authentic.

LinkedIn Profile: https://www.linkedin.com/in/nancy-bailey-73399b3b?lipi=urn%3Ali%3Apage%3Ad_flagship3_profile_view_base_contact_details%3BS9d2LN5MQz2Vuma0kLk0iA%3D%3D

Thank you in advance for your consideration! Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'N Bailey', written over the printed name and phone number.

Nancy Bailey

719-398-3132

City of Leadville

800 Harrison Avenue, Leadville, CO 80461
Clerk - (719) 488-0349, Public Affairs Office - (719) 488-2092

APPLICATION FOR THE HISTORIC PRESERVATION COMMISSION

Name Stephen L. Whittington

Address 142 E. 7th St.

City, State, Zip Leadville, CO 80461

Phone (316) 782-1469 Email whittis1@gmail.com

Full time Leadville resident ☒ Yes ☐ No 6 1/2 # years here

If part time, how many months a year do you spend in Leadville? _____

Do you have a degree in any of the following? Please check all that apply.

☐ History _____ Year & degree

☒ Archaeology 1989 PhD Year & degree

☐ Architectural History _____ Year & degree

☐ Architecture _____ Year & degree

☐ Historic Architecture _____ Year & degree

Please specify your professional experience in your degree field. If you do not have a degree, please explain your experience with any or all of the above areas. Please attach a separate sheet.

Do you have any research experience? ☒ Yes ☐ No

If yes, please explain on a separate sheet.

How many hours a month are you able to spend with the HPC? whatever it takes hours

Are you willing to attend training sessions to become more knowledgeable about the CLG? yes

Do you have special skills that will enhance the HPC? Please describe.

Please describe any additional qualifications that you believe enhance your ability to serve on the Historic Preservation Commission.

Leadville HPC Answers

Stephen L. Whittington

Professional Experience: I have taught archaeology courses at Penn State University, the University of Maine, and Wake Forest University. I directed anthropology museums from 1991 until 2014. I have co-edited and co-authored two books on archaeology and have authored various papers and reviews in professional archaeological journals and books.

Research Experience: In addition to the research required to earn my PhD, I have directed archaeological projects since 1989 in Honduras, Guatemala, and southern Mexico. As part of those projects I have engaged in library and field research.

Special Skills: As Executive Director of the National Mining Hall of Fame and Museum I have been involved with historic preservation projects at the Matchless Mine since arriving in Leadville in 2014. I have raised funds and/or been project director for the powder magazine rehabilitation (2014-2015), headframe rehabilitation (2017), and hoist house rehabilitation (2020). The projects have involved collaborations with HistoriCorps and grants from the State Historical Fund, Freeport-McMoRan Foundation, El Pomar Foundation, and other organizations. Mary Ann Graham-Best of the Tabor Opera House Preservation Foundation and I did a joint presentation about our projects at the 2020 Saving Places conference. The hoist house project has been approved for a historic preservation tax credit. In addition, I applied for and received a historic preservation tax credit based on repainting my house in the Historic District.

Additional Qualifications: The County Commissioners, Mayor, and City and County staffs know me because of my service on the Lake County Tourism Panel (Chairman), Partnership for Lake County Recreation board (Vice Chairman), and Leadville Lake County Dog Park Committee (Chairman). I am also a member of the Climax-Area Community Partnership Panel and the Leadville Boom Days Committee. Explorations on foot, by bicycle, and in my Jeep have made me familiar with the physical layout and characteristics of the Mining District and Historic District.



AGENDA ITEM # 8.A.1

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Ordinance No. 3, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code to Add a Formula Business Exclusion Overlay District and Related Formula Business Regulations and Amending the Official Zoning Map of the City to Reflect the Boundaries of Such Zoning District (Joint Public Hearing & First Reading)

PRESENTED BY: Christiana McCormick, City Attorney

☒ ORDINANCE
☐ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council on first reading is Ordinance No. 3, Series of 2022 ("Ordinance"), which would establish regulations for new formula businesses seeking to locate within the City. The Ordinance has been revised to show all direction from City Council and recommendations of the Planning & Zoning Commission that have been provided to-date.

II. BACKGROUND INFORMATION:

The Ordinance before Council establishes a Formula Business Exclusion Overlay District ("FBE District") that encompasses the retail core zoning district ("RC District") and portions of other zoning districts that are adjacent to the RC District or adjacent to the City's main thoroughfare. The boundaries of the proposed FBE District are shown in the Exhibit A to the Ordinance.

If the Ordinance is adopted by City Council, then formula businesses, as defined in the Ordinance, would be excluded from the FBE District. Any formula businesses that are currently within the area of the FBE district would be "grandfathered in" and become a non-conforming use.

At City Council's work session on 12/14/2021, Council directed that:

1. The boundaries of the FBE district be revised as shown in Exhibit A to the Ordinance;
2. In the commercial zoning district, formula businesses be allowed as a conditional use (except those parts of the C District that are within the FBE District);

3. A CUP approval standard regarding employment opportunities and competitive wages/benefits be added (see #14 in CUP chart); and
4. The definition of “formula business” be narrowed/amended to remove “services and commercial businesses” but add personal services outlets, bars and lounges.

In addition, the Planning Commission recommended the following at a public hearing on this Ordinance held on January 12, 2022. The first two recommendations have been incorporated into the Ordinance:

1. Add a definition for “personal services outlet” to Chapter 17.08. This term is used in the Table of Uses but is not defined in Title 17.
2. Impose no additional regulations on non-conforming formula businesses that are grandfathered in, but better define/describe “intensity of use” in the municipal code to make it more clear what is allowed and what is prohibited for any new owners that purchase the property and continue its use as a formula business (the definition/description would apply to any non-conforming use, not just formula businesses). Please see the Legal Issues section below for additional information.

A proposed amendment to Section 17.68.010 modeled on language in more recent, up-to-date land development codes of other jurisdictions is included in the Ordinance.

3. The City’s Zoning Map should be updated as soon as possible to reflect the PUD boundary for Railyard Phase 2, as was authorized and directed by City Council via Ordinance No. 9, Series of 2021.
4. If the Ordinance is adopted and the City’s Zoning Map is updated to show the FBE District, add a note to the Zoning Map directing people to refer to the Table of Uses for additional information on prohibited and allowed uses in each zoning district.

III. FISCAL IMPACTS:

N/A

V. LEGAL ISSUES:

Authority and Process:

The City has authority to enact and enforce land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes.

For amendments to Title 17 of the Leadville Municipal Code, which is the City’s zoning code, the City must follow the procedures set forth in Chapter 17.92 of the Municipal Code. Tonight’s meeting serves to satisfy the following requirements of Chapter 17.92:

- After the referral period (30 days) is complete, the Ordinance must be considered at a public hearing held jointly by the City Council and Planning Commission (Sec. 17.92.060.F). Referral agencies were chosen by Planning Commission and had 30 days to provide comments on the Ordinance. Any referral agency comments received by the City are included in the agenda packet.
- Notice of such joint public hearing must be published in a newspaper of general circulation at least 15 days before the joint public hearing (Sec. 17.92.030). Notice of tonight’s public

hearing was published in the Herald Democrat on February 3, 2022.

To ensure that this process proceeds as expeditiously as possible, the joint public hearing with Planning Commission and City Council is also first reading of the Ordinance. This Ordinance has been sent to the Herald Democrat to be published in full following first reading on March 3, 2022, which allows Council to schedule second reading for its second regular meeting in March.

Nonconforming Uses:

City Council previously had questions about how and to what extent the City can regulate formula businesses that are “grandfathered in” and become non-conforming uses. Specifically, Council asked if it could require formula businesses to comply with the conditional use standards that are in the Ordinance.

As explained further below, the City does have the option to require that non-conforming formula businesses comply with the City’s conditional use standards for formula businesses, but it would be challenging to implement and enforce. Planning Commission has recommended that additional regulations not be put on non-conforming formula businesses but that the City clarify what is allowed and not allowed for such non-conforming uses by amending Section 17.68.010.

Section 17.68.010 of the municipal code would allow existing formula businesses in the new FBE district to continue pursuant to the non-conforming use regulations in that Section. One primary non-conforming use regulation prohibits non-conforming uses and buildings from being “...structurally altered or expanded in any way **that would increase the degree or area of nonconformance.**” (emphasis added). What constitutes increasing the “degree” of a use (also commonly referred to as “intensity of use” in many zoning codes) is not further explained in the code.

The challenge in trying to apply the formula business CUP standards to non-conforming formula businesses is that the trigger for the City’s conditional use review of the formula business would have to be an application for a business license or building permit. If the formula business is sold, for example, the new owner could continue the same formula business use or use the property for a different formula business as long as the use is not increased or expanded per 17.68.010. Some new owners may not need a building permit for the new business, so the business license may be a better trigger for the conditional use review if the City decides to adopt such regulations.

As recommended by Planning Commission, instead of imposing additional regulations on non-conforming formula businesses, the proposed change to Section 17.68.010 shown in the Ordinance has been added to better describe what constitutes enlarging or increasing the intensity of a use (or “degree” of the use as stated in the municipal code). The change to 17.68.010 provides more description to help make it clear what is and is not allowed when it comes to non-conforming uses.

VI. RECOMMENDATION:

Staff recommends that Planning Commission recommend adoption of the Ordinance to City Council.

Staff further recommends that City Council adopt Ordinance No. 3, Series of 2022 on first reading and schedule second reading for a date and time certain.

VII. PROPOSED MOTIONS:

Planning Commission Recommended Motion:

“I move that Planning Commission recommend to City Council adoption on first reading of Ordinance No. 3, Series of 2022, An Ordinance Amending Title 17 of the Leadville Municipal Code to Add a Formula Business Exclusion Overlay District and Related Formula Business Regulations and Amending the Official Zoning Map of the City to Reflect the Boundaries of Such Zoning District.”

City Council Recommended Motion:

“I move to adopt Ordinance No. 3, Series of 2022, An Ordinance Amending Title 17 of the Leadville Municipal Code to Add a Formula Business Exclusion Overlay District and Related Formula Business Regulations and Amending the Official Zoning Map of the City to Reflect the Boundaries of Such Zoning District on **first reading**. I further move to schedule second reading of the Ordinance for City Council’s regular meeting on March 15, 2022.”

VIII. ATTACHMENTS:

Ordinance No. 3, Series of 2022

Planning and Zoning



Agency Referral Request

| | |
|-------------------------------|---|
| Today's Date: | January 18, 2022 |
| Referral Comments Due: | February 17, 2022 |
| Referral Item: | <i>Ordinance No. 3, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code to Add a Formula Business Exclusion Overlay District and Related Formula Business Regulations and Amending the Official Zoning Map of the City to Reflect the Boundaries of Such Zoning District</i> |
| City Contact: | Lori Tye |
| Email: | adminassistant@leadville-co.gov |
| Phone: | (719) 486-2092, Ext. 104 |

Dear Referral Organization or Agency:

Information on the proposal in the City of Leadville referenced above is enclosed for your review and comments. Please reply by the date listed above, any response not received before or on this date may be deemed to be a positive response by the City of Leadville.

☒ **We have no objections to this proposal.**

☐ **Please note the following comments this organization has for this proposal:**

☐ **See attached letter for comments regarding this proposal.**

Organization or Agency Name: Leadville Lake County Economic Dev. Corp.
Your Name: Nancy Bailey
Date: 2-7-22
Email: director@lakecountyedc.com

Please send your response to adminassistant@leadville-co.gov.

If you have any further questions regarding the referral item, please contact the City Contact person as referenced above.

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 3
SERIES OF 2022**

**AN ORDINANCE AMENDING TITLE 17 OF THE LEADVILLE MUNICIPAL
CODE TO ADD A FORMULA BUSINESS EXCLUSION OVERLAY DISTRICT
AND RELATED FORMULA BUSINESS REGULATIONS AND AMENDING
THE OFFICIAL ZONING MAP OF THE CITY TO REFLECT THE
BOUNDARIES OF SUCH ZONING DISTRICT**

WHEREAS, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, the City has authority to enact and enforce land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes; and

WHEREAS, in 1961 Leadville’s National Historic Landmark District was listed on the National Register of Historic Places; and

WHEREAS, the City’s historic downtown is one of the community’s greatest assets and, as the center of the City’s community and historic identity, is important to preserve; and

WHEREAS, the City’s Comprehensive Plan includes the objectives of providing support and resources to ensure the preservation and maintenance of historic structures and landmarks in the downtown core as well as ensuring that the redevelopment and infill in the historic district are consistent and do not compromise the integrity of existing historic values; and

WHEREAS, the City’s distinctive character and aesthetics, historic relevance and economic vitality are threatened by the potential of a homogenizing effect if formula businesses are an allowed use in the City’s historic downtown area in the Retail Core (“RC”) zoning district and in the portions of the zoning districts that are adjacent to the RC district or are part of the main thoroughfare of the City; and

WHEREAS, the proliferation of formula businesses may unduly limit or eliminate business establishment opportunities for unique businesses and decrease the diversity of retail activity and dining options in key areas of the City; and

WHEREAS, at the same time, the City recognizes the importance of establishing the appropriate balance between the varying goals in the City’s Comprehensive Plan of attracting new businesses, supporting existing businesses, encouraging appropriate and sensitive redevelopment and infill, encouraging tourism, and promoting businesses that serve both local residents and visitors and that augment the inventory of businesses within the City serving the day-to-day needs of residents; and

WHEREAS, the City's Planning and Zoning Commission has carefully reviewed and considered this Ordinance in accordance with Chapter 17.92 of the Leadville Municipal Code and recommends that this Ordinance be adopted by City Council as a text amendment and map amendment to Leadville's Zoning Ordinance; and

WHEREAS, City Council has held the properly noticed public hearings required by Chapter 17.92 of the Leadville Municipal Code and has reviewed the recommendation of the Planning and Zoning Commission; and

WHEREAS, the City Council finds that this Ordinance promotes and achieves the goals and objectives of the City's Comprehensive Plan, serves to preserve the City's historic downtown in the RC zoning district and adjacent zoning district areas, balances the historic preservation goals of the City with its other, at times competing, goals and needs, will enhance the vitality and sustainability of the local economy, and is in the best interests of the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Recitals.** The recitals contained above are incorporated herein by this reference and are adopted as findings and determinations of the City Council.

Section 2. **Chapter 17.08 Amendments.** Chapter 17.08 titled "Definitions," is hereby amended as follows with bold, underlined text showing additions and strikethrough text showing deletions:

17.08.020 – Definitions.

"Formula Business" means any restaurant, café, bar, lounge, hotel, motel or lodge, rooming or boarding house, any retail business, and any personal services outlet that has seven (7) or more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States. In addition to the seven (7) establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two (2) or more of the following features: a standardized array of merchandise, standardized array of services, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized sign, a trademark, or a service mark.

- 1. "Standardized array of merchandise" means fifty percent (50%) or more of in-stock merchandise from a single distributor bearing uniform markings.**
- 2. "Standardized array of services" means as a common menu or set of services priced and performed in a consistent manner.**

3. **"Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.**
4. **"Service mark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.**
5. **"Façade" means the face or front of a building, including awnings, looking onto a street or an open space.**
6. **"Décor" means the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.**
7. **"Color Scheme" means a selection of colors used throughout the establishments, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.**
8. **"Uniform Apparel" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags), and standardized colors of clothing.**

"Personal services outlet" means an establishment primarily engaged in providing individual services generally related to personal needs. Typical uses may include but are not limited to beauty and barber shops, laundromats, dry cleaners, travel agencies, catering service, chiropractic clinics, funeral homes and mortuaries, massage facilities, photography studios, tailors, and shoe repair services.

Section 3. **Chapter 17.12 Amendments.** Chapter 17.12 titled "Zoning Districts," is hereby amended as follows with bold, underlined text showing additions and strikethrough text showing deletions:

17.12.010 – Established.

In order to carry out the purpose and intent of this title and to implement the goals, objectives and policies of the city, as contained in this title and the Leadville Comprehensive Plan, as amended, the incorporated area of the city is divided into the following zoning districts and the city of Leadville Zoning District Map is adopted:

| | |
|-----|-------------------------|
| R-1 | Low density residential |
| R-2 | Traditional residential |

| | |
|-------------------|--|
| TR | Transitional retail/residential |
| <u>TC</u> | <u>Transitional commercial</u> |
| RC | Retail core |
| C | Commercial/highway |
| <u>FBE</u> | <u>Formula business exclusion overlay</u> |
| PUDO | Planned unit development overlay |
| NHL | National Historic Landmark District overlay |

Section 4. **Chapter 17.36 Added.** A new Chapter 17.36 titled “Formula Business Exclusion Overlay (FBE) District,” is hereby added to read in full as follows:

Chapter 17.36 – FORMULA BUSINESS EXCLUSION OVERLAY (FBE) DISTRICT

17.36.010 – Purpose.

The purpose and intent of the formula business exclusion overlay (FBE) district is to address the adverse social and economic impact of formula businesses on Leadville’s community character. Formula businesses detract from the city’s overall historic experience and threaten its tourist economy. Formula businesses are therefore prohibited in the FBE district to prevent the negative impact on the city’s economy, historical relevance, unique character and economic vitality caused by a proliferation of formula businesses in the FBE district.

17.36.020 – Boundaries.

The FBE district shall encompass the entire RC district and the portions of the R-2, C, TC, and TR districts as shown in the city’s official zoning district map.

17.36.030 – Permitted and prohibited uses.

- A. Except as otherwise set forth in this chapter, any use permitted or prohibited in the underlying zoning district, as set forth in chapter 17.48 of this code, shall be permitted or prohibited, as applicable, in the FBE district.**
- B. Notwithstanding anything in this title to the contrary, formula businesses are prohibited in the FBE district.**

Section 5. **Chapter 17.48 Amendments.** Chapter 17.48 titled “By-Right, Conditional and Prohibited Uses,” is hereby amended as follows with bold, underlined text showing additions and strikethrough text showing deletions:

17.48.010 - Designated.

| | R-1 | R-2 | TR | RC | C | TC |
|--------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| <u>59. Formula businesses</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>C</u> | <u>P</u> |

Section 6. **Chapter 17.52 Amendments.** Chapter 17.52 titled “Conditional Use Permits,” is hereby amended as follows with bold, underlined text showing additions and strikethrough text showing deletions:

17.52.070 – Formula Business Approvals.

An applicant for a conditional use permit application for a formula business, where such use is permitted in accordance with this title, must demonstrate that the proposed use complies with at least five (5) of the fourteen (14) standards set forth in this section in addition to the approval criteria set forth in section 17.52.040 of this code. The standards set forth in this section promote the goals of and ensure consistency with the city’s comprehensive plan.

| <u>FORMULA BUSINESS CUP STANDARDS</u> |
|---|
| <u>1. The formula business will not result in an overconcentration of similar uses within the block or along the street frontage of the proposed project.</u> |
| <u>2. The proposed use will help to diversify the mixture of uses present in the zoning district and immediate vicinity of the proposed use and will not result in duplication or over-abundance of the types of goods and services already provided in the city.</u> |
| <u>3. The formula business will contribute to the adequate availability and diverse mix of retail, restaurant and services or commercial businesses providing basic necessities and providing for the daily needs of residents and visitors within the zoning district and the immediate vicinity of the proposed project.</u> |
| <u>4. The formula business will be mutually beneficial to and enhance the economic health of the surrounding uses in the zoning district.</u> |
| <u>5. The proposed use represents or encourages an innovative or creative business idea.</u> |
| <u>6. The proposed use provides an opportunity for an entrepreneur to offer new services or explore new products.</u> |

| |
|--|
| <u>7. The proposed use helps to place the city in a leadership position as a place of innovation and creativity.</u> |
| <u>8. The proposed use offers goods and services that meet the daily or frequent needs of the city’s residents and visitors.</u> |
| <u>9. The proposed use offers goods and services that are affordable to and needed by a broad range of the city’s residents and visitors.</u> |
| <u>10. The formula business, together with its design and improvements, is consistent with or does not detract from the unique and historic character of the zoning district.</u> |
| <u>11. The proposed use provides opportunities for residents and visitors to enjoy a one-of-a-kind recreational, cultural or entertainment experience while they are in the area.</u> |
| <u>12. The proposed use, together with its design and improvements, will preserve and be compatible with the visual appearance and retail experience of the zoning district.</u> |
| <u>13. The formula business will be compatible with existing uses in the zoning district and promote the zoning district’s vitality and long-term sustainability.</u> |
| <u>14. The formula business will provide needed employment opportunities and offer competitive wages and benefits to employees.</u> |

Section 7. Chapter 17.68 Amendments. Chapter 17.52 titled “Conditional Use Permits,” is hereby amended as follows with bold, underlined text showing additions and strikethrough text showing deletions:

17.68.010 – General requirements.

- D. Enlargement of **or Change to** a Nonconforming Use or Building. ~~No nonconforming building or use shall be structurally altered or expanded in any way that would increase the degree or area of nonconformance.~~ **Nonconforming uses shall not be expanded, enlarged, extended, increased, or moved to occupy an area of land or building that was not occupied on the effective date of this title or any amendment to this title that made the use nonconforming. No building or structure that contains a nonconforming use shall be enlarged unless the nonconforming use is permanently discontinued. A nonconforming use shall not be changed to another nonconforming use. Except as permitted by paragraphs C, E and F of this section, structural alterations to nonconforming buildings or structures are permitted only if it is demonstrated that the alteration will eliminate the nonconformity or reduce it.** In matters pertaining to the restoration of nonconforming buildings, the provisions of the Dangerous Building Code and other such building, fire, plumbing, mechanical and other codes as the city has adopted shall apply unless such provisions are in conflict with or inconsistent with provisions contained within this title, in which case the provisions contained herein shall prevail.

Section 8. **Amendment to Official Zoning Map.** The City Council hereby amends the official zoning map of the City to incorporate the Formula Business Exclusion Overlay District as shown in **Exhibit A** to this Ordinance. City Council further authorizes and directs City staff to effect such amendments to the official zoning map in accordance with Section 17.12.040 of the Leadville Municipal Code.

Section 9. **Remaining Provisions.** Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 10. **Codification Amendments.** The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 11. **Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 12. **Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

Section 13. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 14. **Effective Date.** This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day of March, 2022.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the _____ day of _____, 2022.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this ____ day of _____, 2022.**

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this _____ day of _____, 2022.

EXHIBIT A **FORMULA BUSINESS EXCLUSION OVERLAY DISTRICT**



CITY OF **LEADVILLE**

ZONING DISTRICT MAP

FEBRUARY 8, 2021



LEGEND

- LEADVILLE CITY LIMITS
- C = COMMERCIAL
- R1 = CONVENTIONAL RESIDENTIAL
- R2 = TRADITIONAL RESIDENTIAL
- RC = RETAIL CORE
- TC = TRANSITIONAL COMMERCIAL
- TR = TRANSITIONAL RETAIL & RESIDENTIAL
- PLANNED SECTION
- LAND PARCEL
- PLANNED (PUD)
- US HIGHWAY
- STREET



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AGENDA ITEM # 8.A.2

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Ordinance No. 4, Series of 2022: An Ordinance Repealing and Replacing Chapter 17.92 of the Leadville Municipal Code Concerning Rezoning and Zoning Code Amendments, Adding a New Chapter 17.84 Relocating the City's Vested Rights Regulations, and Amending Section 17.52.030 of the Leadville Municipal Code (Joint Public Hearing & First Reading)

PRESENTED BY: Christiana McCormick, City Attorney

☒ ORDINANCE
☐ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council on first reading is Ordinance No. 4, Series of 2022 ("Ordinance"), which would repeal and replace the City's current Chapter 17.92 of the Leadville Municipal Code and make related amendments to other sections of the Code.

II. BACKGROUND INFORMATION:

Chapter 17.92 (attached) currently requires multiple public hearings and a lengthy referral period that make the process of amending the City's zoning ordinance (Title 17) significantly protracted. These requirements are cumbersome and unnecessary. Chapter 17.92 was last updated over 20 years ago in 1999.

The Ordinance sets out clear steps for applicants, staff, Planning Commission, and City Council and is intended to streamline the rezoning and zoning ordinance amendment process. It requires two public hearings where the public has the opportunity to comment, one held by Planning Commission to make a recommendation to City Council and one held by City Council to make the ultimate decision on adoption. There are no joint hearing or referral requirements in the new process.

In addition, the Ordinance relocates the City's vested rights code provisions to their own separate chapter in the zoning code (no other amendments to those provisions) and updates one section of Chapter 17.52 that requires revision due to the proposed changes in Chapter 17.92.

III. FISCAL IMPACTS:

N/A

V. LEGAL ISSUES:

The City has authority to enact and enforce land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes.

For amendments to Title 17 of the Leadville Municipal Code, which is the City's zoning ordinance, the City must follow the procedures set forth in Chapter 17.92 of the Municipal Code. Tonight's meeting serves to satisfy the following requirements of Chapter 17.92:

- After the referral period (30 days) is complete, the Ordinance must be considered at a public hearing held jointly by the City Council and Planning Commission (Sec. 17.92.060.F). Referral agencies were chosen by Planning Commission and had 30 days to provide comments on the Ordinance. Any referral agency comments received by the City are included in the agenda packet.
- Notice of such joint public hearing must be published in a newspaper of general circulation at least 15 days before the joint public hearing (Sec. 17.92.030). Notice of tonight's public hearing was published in the Herald Democrat on February 3, 2022.

To ensure that this process proceeds as expeditiously as possible, the joint public hearing with Planning Commission and City Council is also first reading of the Ordinance. This Ordinance has been sent to the Herald Democrat to be published in full following first reading on March 3, 2022, which allows Council to schedule second reading for its second regular meeting in March.

VI. RECOMMENDATION:

Staff recommends that Planning Commission recommend adoption of the Ordinance to City Council.

Staff further recommends that City Council adopt Ordinance No. 4, Series of 2022 on first reading and schedule second reading for a date and time certain.

VII. PROPOSED MOTIONS:

Planning Commission Recommended Motion:

"I move that Planning Commission recommend to City Council adoption on first reading of Ordinance No. 4, Series of 2022, An Ordinance Repealing and Replacing Chapter 17.92 of the Leadville Municipal Code Concerning Rezoning and Zoning Code Amendments, Adding a New Chapter 17.84 Relocating the City's Vested Rights Regulations, and Amending Section 17.52.030 of the Leadville Municipal Code."

City Council Recommended Motion:

"I move to adopt Ordinance No. 4, Series of 2022, An Ordinance Repealing and Replacing Chapter 17.92 of the Leadville Municipal Code Concerning Rezoning and Zoning Code Amendments, Adding a New Chapter 17.84 Relocating the City's Vested Rights Regulations, and Amending Section 17.52.030 of the Leadville Municipal Code on **first reading**. I further move to schedule second reading of the Ordinance for City Council's regular meeting on March 15, 2022."

VIII. ATTACHMENTS:

Ordinance No. 4, Series of 2022
Current Chapter 17.92

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 4
SERIES OF 2022**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 17.92 OF THE
LEADVILLE MUNICIPAL CODE CONCERNING REZONING AND ZONING
CODE AMENDMENTS, ADDING A NEW CHAPTER 17.84 RELOCATING
THE CITY’S VESTED RIGHTS REGULATIONS, AND AMENDING
SECTION 17.52.030 OF THE LEADVILLE MUNICIPAL CODE**

WHEREAS, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, the City has authority to enact, enforce, and amend land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes; and

WHEREAS, City Council desires to update and streamline the City’s procedures for rezonings and amending its zoning code; and

WHEREAS, making such updates requires the relocation of the City’s vested rights regulations and a minor amendment to section 17.52.030 of the Leadville Municipal Code; and

WHEREAS, the City’s Planning and Zoning Commission has carefully reviewed and considered this Ordinance in accordance with Chapter 17.92 of the Leadville Municipal Code and recommends that this Ordinance be adopted by City Council; and

WHEREAS, City Council has held the properly noticed public hearings required by Chapter 17.92 of the Leadville Municipal Code and has reviewed the recommendation of the Planning and Zoning Commission; and

WHEREAS, the City Council finds that adoption of this Ordinance is in the best interests of the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Recitals.** The recitals contained above are incorporated herein by this reference and are adopted as findings and determinations of the City Council.

Section 2. **Section 17.52.030 Amended.** Section 17.52.030 of the Leadville Municipal Code, titled “Procedures for review and action on conditional use applications,” is hereby amended to delete subsection I. The remaining subsections of section 17.52.030 shall be renumbered as necessary to accommodate this amendment.

Section 3. **Chapter 17.84 Added.** A new Chapter 17.84, titled “Vested Rights,” is hereby added to Title 17 of the Leadville Municipal Code to relocate the City’s vested rights provisions. Chapter 17.84 shall read in full as follows:

Chapter 17.84 – VESTED RIGHTS

17.84.010 – Site specific development plan.

For all developments, the final approval step, regardless of its title, which occurs prior to building permit shall be considered the "site specific development plan" for purposes of Article 68 of Title 24, C.R.S.

17.84.020 – Creation of vested property rights.

In the event an applicant for site development approval wishes the approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created thereby.

17.84.030 – Amendment to site specific development plan.

In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless city council specifically finds to the contrary and incorporates such finding in its approval of the amendment.

17.84.040 – Relationship to state vested property rights statute.

Nothing in this section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this subsection shall be deemed to be repealed, and the provisions hereof no longer effective.

17.84.050 – Rezoning approvals.

No actions taken under this title regarding rezoning of land within the city shall be construed as representing the approval of a site-specific development plan or in any other fashion authorizing the establishment of vested real property rights as defined by Title 24, Article 68, C.R.S., as amended, or by common law.

Section 4. **Chapter 17.92 Repealed and Replaced.** Chapter 17.92, titled “Rezoning and Amendments,” is hereby repealed and replaced to read in full as follows:

Chapter 17.92 – REZONING AND AMENDMENTS

17.92.010 – Purpose and applicability.

- A. The procedures set forth in this chapter provide a process to amend the official zoning district map of the city, the text of this title, and the zoning classification of any parcel in the city. An amendment to the zoning classification of a parcel or an amendment to the official zoning district map of the city may be referred to as a “rezoning” in this code. Amendments to the text of this title may be referred to as “text amendment(s).” This chapter is not intended to relieve the particular hardships of or confer special privileges or rights on any person.
- B. Rezoning may be initiated by city council, the planning and zoning commission, city staff, or the owner of real property subject to a proposed rezoning or the owner’s agent.
- C. Text amendments to this title 17 may be initiated by the city council, the planning and zoning commission, or city staff.

17.92.020 – Procedure.

- A. Generally. The table below outlines the steps that must be taken pursuant to this chapter:

| Procedure | Action |
|-----------|---|
| Step 1* | Pre-application conference (optional) |
| Step 2* | Application submittal |
| Step 3* | Staff review/acceptance/revision/withdrawal |
| Step 4 | Scheduling and notice of public hearings |
| Step 5 | Public hearings |
| Step 6 | Post-approval actions |

*This step is not applicable to city-initiated rezonings and text amendments.

- B. Step 1: Pre-application conference. An applicant may request a pre-application conference with city staff prior to the applicant’s submission of an application pursuant to this chapter. The purpose of a pre-application conference is to provide an opportunity for the applicant to meet with city staff to discuss submittal requirements, procedures for approval, applicable fees, and timeframes for approval of a rezoning application. The conference also allows staff to convey any details regarding potential impacts of the proposed rezoning to the applicant.
- C. Step 2: Application Submittal. An application for a rezoning shall be submitted, accepted, and may be revised or withdrawn in accordance with this section.

1. Application.

- a. The application shall be submitted to the deputy city clerk on forms approved by the city.
- b. The applicant bears the burden of ensuring that an application contains sufficient information and supporting documents to demonstrate compliance with application requirements and any other request made by city staff.

2. Application Fees.

- a. Application fees shall be paid at time of application submittal according to the city's fee schedule. Fees shall be established by resolution of the city council. Applications will not be processed until fees are paid in full.
- b. As provided in chapter 17.96 of this code, if the city determines that additional funds are needed to complete the application review, including for retention of outside professional services or city consultants, the city may impose additional application fees to recover the city's actual costs in completing review of the application. If the city will incur such additional costs, the city shall notify the applicant of the estimated amount of such additional costs. The applicant shall submit a deposit in the amount of the city's estimated costs to the city before the city completes the application review.
- c. If the deposit amount is greater than the city's actual costs, the applicant shall be reimbursed the deposit amount less the city's actual costs.
- d. If the city incurs costs in addition to the deposit amount, the city will notify the applicant in writing of the additional amount due to the city. If the applicant does not pay those costs within thirty (30) days after the date of the written notice from the city, the city reserves the right to stop processing the application until such additional amount is paid.

D. Step 3: Application Review.

- 1. The deputy city clerk or his or her designee, in consultation with additional staff or consultants as necessary, shall determine whether the application is complete or incomplete within ten (10) business days of the date the city receives the application and provide the applicant with a written notification of such determination.
- 2. Applicants must submit the following for the application to be complete:
 - a. Complete application form;
 - b. Appropriate fees and deposit, as applicable;
 - c. Proof of ownership of the property subject to the rezoning, such as copies of deeds or title commitments;

- d. Written authorization to submit the application from property owner(s) if the applicant is an agent acting on behalf of the owner;
 - e. Certified boundary and improvement survey;
 - f. Traffic impact analysis or study;
 - g. Legal description of the parcel subject to the proposed rezoning; and
 - h. A written description of the rezoning request that contains sufficient detail to convey the full intent of the application and a justification of why the rezoning is appropriate. The written description must address how the application meets each of the applicable approval criteria set forth in this chapter.
- 3. Incomplete applications shall not be processed or reviewed. The city shall provide written notice of application deficiencies to the applicant, and the applicant may correct the deficiencies and resubmit the application for a determination of application completeness. An incomplete application that is not resubmitted within ninety (90) days of written notice of deficiencies from the city shall be considered abandoned.
 - 4. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a written notice of withdrawal to the deputy city clerk. If an application is withdrawn after publication of the required notice of any scheduled public hearing, the application shall be subject to the limitations on submittal of subsequent applications set forth in this section. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the city may refund fees not expended during the staff review of the application if the application is withdrawn prior to completion of such review.

E. Step 4: Scheduling and Notice of Public Hearings.

- 1. After staff has reviewed the application and determined it is complete, staff will schedule the application for review by the planning and zoning commission and by the city council. Review by each body shall be conducted at a properly noticed public hearing.
- 2. For each public hearing, the city shall publish notice of the scheduled public hearing in a newspaper of general circulation at least fifteen (15) days before the public hearing.
- 3. If the application is for a rezoning initiated by a property owner or the owner's agent, the applicant shall mail notice of each public hearing and post the subject parcel with notice of each public hearing, using forms provided by the city, at least fifteen (15) days before the applicable public hearing.
 - a. The applicant must mail such notices via first class mail to all property owners within two hundred (200) feet of the subject parcel.

- b. The applicant must post the subject parcel with one (1) notice, which must be clearly visible from the most heavily traveled adjacent street or public right-of-way and shall remain on the parcel until after the hearing.
 - c. Proof of the applicable mailing and posting shall be provided to the city at least forty-eight (48) hours prior to each public hearing. Failure to provide such proof may result in continuation or cancellation of the public hearing.
- 4. For a city-initiated rezoning, the city shall provide mail and posting notices in accordance with this Step 4 if the rezoning applies to a single property. A city-initiated rezoning that is for more than a single property is legislative in nature and requires the city to publish notice of the public hearings in accordance with this Step 4 in a newspaper of general circulation only. No posting or mailing of notices shall be required.
 - 5. Nothing in this section shall be construed to prevent notice of both the required public hearings to be published, mailed or posted, as required, in a single notice at least fifteen (15) days prior to the first public hearing.

F. Step 5: Public Hearings.

- 1. Planning and Zoning Commission Public Hearing.
 - a. Prior to the public hearing by city council, the planning and zoning commission shall hold a public hearing on the rezoning or text amendment. The planning and zoning commission shall consider the application, if applicable, relevant support materials, any staff report created, and any evidence and public comments from the public hearing.
 - b. Based on the information presented at the hearing and the approval criteria set forth in this chapter, the planning and zoning commission shall make a recommendation to city council to approve, approve with conditions, or deny the rezoning or text amendment based on the applicable approval criteria set forth in this chapter. The reasons for such recommendation shall be clearly stated in the record and may be provided in writing to city council for consideration at council's public hearing. The planning and zoning commission may continue a public hearing to a time and date certain to obtain additional information from city staff or the applicant, provided that such continuance does not exceed thirty (30) days.
- 2. City Council Public Hearing.
 - a. Following the public hearing of the planning and zoning commission, city council shall hold a public hearing on the rezoning or text amendment. City Council shall consider the application, if applicable, relevant support materials, any staff report created, any evidence and public comments from the public hearing held by city council, and the recommendation of the planning and zoning commission.

- b. Based on such information and the approval criteria set forth in this chapter, the city council shall approve, approve with conditions, or deny the rezoning or text amendment. The reasons for such decision by city council shall be clearly stated in the record. The city council may continue a public hearing to a time and date certain to obtain additional information from city staff or the applicant.
 - c. For decisions on rezoning applications of a property owner or their agent, the city shall provide a written notification of the city council's decision to the applicant within thirty (30) days of the public hearing.
3. Conditions of Approval. Any conditions of approval recommended by the planning and zoning commission or imposed by city council shall be limited to conditions deemed necessary to ensure compliance with the requirements of this code and shall relate to the anticipated impacts of the proposed rezoning or text amendment.
 4. The final decision on a proposed rezoning expressly rests in the exercise of the discretion of city council, and all applicants are advised that there is no right to a change of zone of property.

G. Step 6: Post-decision actions and limitations.

1. Following approval of a rezoning, the city shall prepare an appropriate revision to the official zoning district map of the city.
2. For rezonings initiated by a property owner or owner's agent, any modification of an approved rezoning shall require a new application to be submitted and reviewed in accordance with this chapter.
3. Following denial of a property owner's application for rezoning, the city shall not consider or process any applications related to the subject parcel that are the same or substantially similar for one (1) year following the city's denial of the application. This one-year period may be waived by the city if an applicant adequately demonstrates that there is a substantial change in circumstances, new and relevant information is available, or the new application is materially different than the previous application. City council must approve the waiver of the one-year period before city staff begins to process the new application.
4. Approval of a text amendment to this title does not authorize specific development activity.

17.92.030 – Approval criteria.

- A. Rezoning approval criteria. In reviewing a proposed rezoning, the planning and zoning commission and city council shall consider whether the proposed rezoning complies with each of the following criteria, as applicable:
 1. The rezoning promotes the health, safety, and general welfare of the community;

2. The rezoning will not result in a significant adverse effect on the surrounding area;
3. The proposed rezoning is in conformity with the city's comprehensive plan, as amended from time to time;
4. There have been material changes in the character of the neighborhood that justify a rezoning of the subject parcel;
5. The proposed rezoning will preserve and promote property values in the neighborhood;
6. Development of the subject parcel in accordance with the proposed rezoning will be in harmony and compatible with surrounding land uses and present development in the area;
7. Adequate infrastructure and facilities are available to serve the types of uses allowed by the rezoning, or the applicant will upgrade and provide such infrastructure or facilities at the applicant's expense where they do not exist or are under capacity;
8. The proposed rezoning will not cause or increase traffic congestion in the area;
9. The existing zoning classification currently recorded on the official zoning map of the city is in error; and
10. The proposed rezoning is necessary in order to provide for a community need that was not anticipated at the time of the adoption of the current comprehensive plan of the city.

B. Text amendment approval criteria. An amendment to the text of this title is a legislative decision by the city council. Prior to recommending approval or approving a proposed text amendment, the planning and zoning commission and the city council shall consider whether and to what extent the proposed amendment:

1. Is consistent with the city's comprehensive plan, as amended from time to time;
2. Does not conflict with other provisions of this title or this code;
3. Addresses a demonstrated community need;
4. Responds to changing City policy or conditions; and
5. Is consistent with the purpose and intent of the zoning districts in this title, would improve compatibility among land uses, or would result in an orderly and logical development pattern.

Section 5. Remaining Provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 6. **Codification Amendments.** The codifier of Leadville’s Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 7. **Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 8. **Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

Section 9. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 10. **Effective Date.** This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day of March, 2022.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the _____ day of _____, 2022.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this ____ day of _____, 2022.**

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this _____ day of _____, 2022.

Chapter 17.92 REZONING AND AMENDMENTS

Sections:

17.92.010 General information.

Applications to rezone or change the zoning classification of a parcel or parcels of land or to change the text of this shall be treated as proposed amendments to this zoning regulation and such applications shall comply with the provisions contained herein and elsewhere in this title. Applications for rezoning shall be accompanied by an application form provided by the city, by the appropriate submittal materials and by the necessary filing fees.

(Ord. 99-8 § 1 (part): prior code § 17.27.010(A))

17.92.020 Vested property rights.

- A. For all developments, the final approval step, regardless of its title, which occurs prior to building permit shall be considered the "site specific development plan" for purposes of Article 68 of Title 24, C.R.S.
- B. In the event an applicant for site development approval wishes the approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created thereby.
- C. In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless city council specifically finds to the contrary and incorporates such finding in its approval of the amendment.
- D. Nothing in this section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this subsection shall be deemed to be repealed, and the provisions hereof no longer effective.
- E. No actions taken under this chapter regarding rezoning of land within the city shall be construed as representing the approval of a site-specific development plan or in any other fashion authorizing the establishment of vested real property rights as defined by Title 24, Article 68, C.R.S., as amended, or by common law.

(Ord. 99-8 § 1 (part): prior code § 17.68.010(B))

17.92.030 Rezoning.

At least fifteen (15) days prior to a public hearing scheduled before city council and the planning commission to consider a rezoning application, a notice of public hearing shall be published in a newspaper of general circulation in the city. Publication of notice(s) shall follow a form prescribed by the city and publication of the notice is the responsibility of the applicant. Applicants shall be billed directly by the newspaper and shall submit proof of publication of the notice and proof of payment with the planning official before the hearing may take place.

In addition, the applicant shall also post notice on the property for which a rezoning is requested at least fifteen (15) days prior to a public hearing scheduled before the planning commission or city council. Such notice shall follow a form prescribed by the city and shall consist of at least one sign facing each adjacent public right-of-way in the case of map amendments.

The applicant shall also deposit in the United States mail, first class postage prepaid, a written notice of said hearing(s), postmarked at least seven days prior to a planning commission or city council hearing date, to owners of record, as listed in the records of the Lake County assessor's office, of all property adjacent to the property proposed for rezoning in the case of map amendments. The notice shall include a vicinity map, a short narrative describing the current zoning, the proposed rezoning and the nature of the proposed land use change along with the date, time and location of the scheduled hearing. The applicant shall submit a signed affidavit, in a city-approved form, to the city prior to the date of the hearing evidencing that the required mailing was performed in accordance with this section. Failure to mail such notice shall not affect the validity of any hearing or determination by planning commission or city council, as applicable.

Rezoning applications may be initiated by:

- A. City council or the planning commission; or
- B. Any citizen or group of citizens, association, partnership or corporation owning or leasing property or residing in the city.

(Ord. 02-10 § 3; Ord. 99-8 § 1 (part): prior code § 17.27.020)

17.92.040 Submittal requirements/map amendments.

Applications for rezoning map amendments shall include a letter of intent and a site plan providing the information required in Section 17.52.020 for a conditional use application. In addition, applicants shall supply the following information and such additional information and documentary material as the planning commission shall reasonably stipulate:

- A. The source and quantity of water required for the proposed use(s) within the area to be rezoned;
- B. The method of wastewater treatment and anticipated quantity of wastewater generated;
- C. When water or wastewater service would be provided by a municipality or a water or sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question;
- D. A description of any natural or man-made hazard within or in the vicinity of the land proposed for rezoning and a statement describing how the anticipated impact of such hazards would be mitigated if the proposed rezoning requires such mitigation;
- E. A legal description of the property to be rezoned;
- F. A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding municipal and unincorporated area;
- G. A graphic description of all natural and manmade water courses, retention areas, stream, ponds, ditches and known one hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater;
- H. A description of any unique features, such as historical sites, unique land forms or scenic vistas, contained within the land proposed for rezoning;
- I. Other such information as the planning commission shall specify by majority vote.

(Ord. 99-8 § 1 (part): prior code § 17.27.030)

17.92.050 Submittal requirements/text amendments.

Applicants for rezoning text amendments to this title shall submit:

- A. A statement of the existing text of this title proposed for amendment or deletion, including specific title citation of the text in question;
- B. A statement of the proposed amendment(s) to the text in question, clearly showing by underlining and strikeout or other readily visible means, the text amendments proposed;
- C. A description of the reasons why the desired amendment(s) and/or deletion(s) are in the public interest and the consequences to public and private groups that would result from adoption of the proposed text amendment(s).

(Ord. 99-8 § 1 (part): prior code § 17.24.040)

17.92.060 Rezoning application review procedures/map and text amendments.

Rezoning applications shall be processed, reviewed and acted upon in the following manner:

- A. Applicants for rezoning are required to schedule an informal preapplication conference with city staff and with the planning commission to agree upon procedures, application costs and submittal requirements in advance of a formal submittal to the city.
- B. The rezoning application, with all supporting documents and fees, shall be submitted to the planning official for review for compliance with the requirements of this title.
- C. The matter shall then be brought before the planning commission in regular or special session and the commission shall rule by majority vote if they are complete and adequate, in which case they shall be accepted for review or, if they are incomplete or inadequate, they shall be returned to the applicant, along with all applicant fees, for revision. The planning commission shall record in its minutes the reason why any materials returned are incomplete or inadequate.
- D. When the application materials are deemed acceptable for review, the applicant shall be so notified and the materials shall be scheduled for review by the planning commission at a public hearing. The planning commission shall determine: (1) if copies of the rezoning application shall be submitted for review by referral agencies and, if so, which referral agencies; and (2) when a public hearing shall be held to consider the rezoning, except that all proposed text amendments and all map amendments including land adjacent to unincorporated territory shall be submitted to Lake County for review.
- E. Rezoning applications that the planning commission determines require referral agency review shall be scheduled for a public hearing not less than three days nor more than thirty-five (35) days after the completion of the forty-five (45) day referral agency review period. In no case before publication of hearing notice in a newspaper of general circulation in Leadville.
- F. Rezoning applications shall be considered at a public hearing jointly held by the planning commission and city council. Referral agencies reviewing amendment application materials shall have thirty (30) days from the date of mailing of the materials to respond to the planning commission with their comments or recommendations. Failure of a referral agency to respond within thirty (30) days shall constitute de facto approval by that agency. Upon request of a referral agency, however, the planning commission may extend the review period an additional fifteen (15) days, with written notice of such extension to the applicant.

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- G. Following completion of the public hearing, the planning commission shall make its recommendations in accordance with the provisions of Section 17.52.030 and base its decisions on the criteria contained in this section and Section 17.52.040.
- H. Within ten (10) days of taking its action, the planning commission shall forward its recommendation to city council, which shall base its decision in regard to the rezoning application on the criteria contained in this section and Section 17.52.040.
- I. A copy of all approved applications for amendment to this title shall be filed with the city clerk within ten (10) days of their approval by city council. Official city zoning map(s), in the case of map amendments, shall be amended to reflect the rezoning(s) within thirty (30) days of an approved rezoning.
- J. All actions by the planning commission in reviewing and making recommendations on a text or map amendment, and by city council in approving or disapproving such application, shall be based in general upon the provisions of this title and specifically on the criteria contained in Section 17.52.040 and the following additional criteria:
1. That the proposed text amendment(s) would further the purpose and the goals policies and other provisions of the Leadville comprehensive plan, as amended;
 2. That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of this title to require different densities or uses within the land in question;
 3. That the proposed map amendment is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Leadville comprehensive plan, as amended;
 4. That the proposed change of zone is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived;
 5. That there will be social, recreational, physical and/or economic benefits to the community derived by the change of zone;
 6. That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zone, or that the applicant will upgrade and provide such where they do not exist or are under capacity;
 7. That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems, or seriously reducing light and air to adjacent properties;
 8. That the property cannot reasonably be developed under the existing zoning conditions;
 9. That the rezoning will not create an isolated or spot zone district unrelated to adjacent or nearby areas; and
 10. That there is a void in an area or a community need that the change of zone will fill by providing for necessary services, products or facilities especially appropriate at the location, considering available alternatives.
- K. In any petition for a text or map amendment, the petitioner shall carry the burden of demonstrating that the land in question should be rezoned or that the text should be amended and that the advantages resulting from such change would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of city council to rezone any land within the city or otherwise amend this zoning regulation for any reason consistent with the health, welfare or safety of the residents of the city.

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- L. In the event of a protest to any proposed rezoning signed by the owners .of twenty (20) percent or more of the area of the lots included in such change, of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from street frontage of such lots, such amendment shall not become effective except by the favorable vote of three-quarters of all members of city council.

(Ord. 99-8 § 1 (part): prior code § 17.27.050)



AGENDA ITEM # 8.A.3

COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Ordinance No. 5, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes (Joint Public Hearing & First Reading)

PRESENTED BY: Christiana McCormick, City Attorney

☒ ORDINANCE
☐ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council on first reading is Ordinance No. 5, Series of 2022 ("Ordinance"), which brings Leadville's zoning regulations into compliance with the requirements of House Bill 2021-1222 ("HB 1222").

II. BACKGROUND INFORMATION:

The Ordinance adds to and amends the definitions in Title 17 of the Municipal Code and adds "family child care home" as a use by right in all zone districts in the City's table of uses.

HB 1222 requires that local governments treat family child care homes (i.e. in-home day care providers) as a residential use in the application of their zoning regulations. Local governments cannot impose any regulations on family child care homes that are in addition to regulations that apply to other residential properties.

HB 1222 permits local governments to prohibit on a case-by-case basis the operation in immediately adjacent residences of two or more large family child care homes (caring for 7-12 children). It also allows local governments to manage the flow of traffic and parking related to adjacent large family child care homes. These allowed regulations are not addressed in the Ordinance due to the complexity of implementation of such regulations. However, Planning Commission can consider whether or not to include such regulations in the Ordinance.

Family child care homes are listed and defined separately from "home occupation" in the Ordinance because many of the conditions applicable to home occupations in Leadville's Code

either cannot or do not apply to family child care homes. However, family child care homes must still obtain a business license from the City to operate.

III. **FISCAL IMPACTS:** N/A

V. **LEGAL ISSUES:**

The City has authority to enact and enforce land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes.

For amendments to Title 17 of the Leadville Municipal Code, which is the City's zoning code, the City must follow the procedures set forth in Chapter 17.92 of the Municipal Code. Tonight's meeting serves to satisfy the following requirements of Chapter 17.92:

- After the referral period (30 days) is complete, the Ordinance must be considered at a public hearing held jointly by the City Council and Planning Commission (Sec. 17.92.060.F). Referral agencies were chosen by Planning Commission and had 30 days to provide comments on the Ordinance. Any referral agency comments received by the City are included in the agenda packet.
- Notice of such joint public hearing must be published in a newspaper of general circulation at least 15 days before the joint public hearing (Sec. 17.92.030). Notice of tonight's public hearing was published in the Herald Democrat on February 3, 2022.

To ensure that this process proceeds as expeditiously as possible, the joint public hearing with Planning Commission and City Council is also first reading of the Ordinance. This Ordinance has been sent to the Herald Democrat to be published in full following first reading on March 3, 2022, which allows Council to schedule second reading for its second regular meeting in March.

VI. **RECOMMENDATION:**

Staff recommends that Planning Commission recommend adoption of the Ordinance to City Council.

Staff further recommends that City Council adopt Ordinance No. 5, Series of 2022 on first reading and schedule second reading for a date and time certain.

VII. **PROPOSED MOTIONS:**

Planning Commission Recommended Motion:

"I move that Planning Commission recommend to City Council adoption on first reading of Ordinance No. 5, Series of 2022, An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes."

City Council Recommended Motion:

"I move to adopt Ordinance No. 5, Series of 2022, An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes on **first reading**. I further move to schedule second reading of the Ordinance for City Council's regular meeting on March 15, 2022."

VIII. **ATTACHMENTS:**

Ordinance No. 5, Series of 2022
House Bill 2021-1222



Lori Tye <adminassistant@leadville-co.gov>

Agency Referral Ordinance No 5

Hannah Guilford <hannah@lcbag.org>
To: Lori Tye <adminassistant@leadville-co.gov>

Tue, Jan 25, 2022 at 1:09 PM

Hi Lori,

Attached is LCBAG's response to Ordinance No.5. Please let me know if input on similar ordinances would be helpful in the future!

Also, I work closely with Stacy Petty, the director of the Rocky Mountain Early Childhood Council. She has a wealth of knowledge about early childhood and childcare policy, and may be a helpful person to include for comment on future ordinances on these topics. Her email address is rmecc@mtnvalley.org.

Thank you!
Hannah

On Tue, Jan 18, 2022 at 4:12 PM Lori Tye <adminassistant@leadville-co.gov> wrote:
[Quoted text hidden]



Hannah Guilford | Youth and Family Health Lead Facilitator

| Lake County Build A Generation

| **mobile:** 313-657-8659

| **email:** hannah@lcbag.org

| **site:** www.lcbag.org

| **address:** 825 W. 6th St., Leadville, CO

Follow us:



Planning Zoning Ordinance Referral.pdf
648K

Planning and Zoning



Agency Referral Request

| | |
|-------------------------------|---|
| Today's Date: | January 18, 2022 |
| Referral Comments Due: | February 17, 2022 |
| Referral Item: | <i>Ordinance No. 5, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes</i> |
| City Contact: | Lori Tye |
| Email: | adminassistant@leadville-co.gov |
| Phone: | (719) 486-2092, Ext. 104 |

Dear Referral Organization or Agency:

Information on the proposal in the City of Leadville referenced above is enclosed for your review and comments. Please reply by the date listed above, any response not received before or on this date may be deemed to be a positive response by the City of Leadville.

☒ ***We have no objections to this proposal.***

☐ ***Please note the following comments this organization has for this proposal:***

☐ **See attached letter for comments regarding this proposal.**

Organization or Agency Name: Lake County Build 3 Generation
Your Name: Hannah Guilford
Date: Jan 25, 2022
Email: Hannah@LCBAG.org

Please send your response to adminassistant@leadville-co.gov.

If you have any further questions regarding the referral item, please contact the City Contact person as referenced above.

Planning and Zoning



Agency Referral Request

| | |
|-------------------------------|---|
| Today's Date: | January 18, 2022 |
| Referral Comments Due: | February 17, 2022 |
| Referral Item: | <i>Ordinance No. 5, Series of 2022: An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes</i> |
| City Contact: | Lori Tye |
| Email: | adminassistant@leadville-co.gov |
| Phone: | (719) 486-2092, Ext. 104 |

Dear Referral Organization or Agency:

Information on the proposal in the City of Leadville referenced above is enclosed for your review and comments. Please reply by the date listed above, any response not received before or on this date may be deemed to be a positive response by the City of Leadville.

☒ ***We have no objections to this proposal.***

☐ ***Please note the following comments this organization has for this proposal:***

☐ **See attached letter for comments regarding this proposal.**

Organization or Agency Name: Full Circle of Lake County
Your Name: Stephanie Cole
Date: 1/24/2022
Email: stephanie@fullcircleleadville.org

Please send your response to adminassistant@leadville-co.gov.

If you have any further questions regarding the referral item, please contact the City Contact person as referenced above.

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 5
SERIES OF 2022**

**AN ORDINANCE AMENDING TITLE 17 OF THE LEADVILLE MUNICIPAL CODE
CONCERNING THE REGULATION OF FAMILY CHILD CARE HOMES**

WHEREAS, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and; and

WHEREAS, the City has authority to enact, enforce, and amend land use regulations pursuant to Title 31, Article 23 and Title 29, Article 20 of the Colorado Revised Statutes; and

WHEREAS, the Colorado General Assembly passed House Bill 2021-1222 (“HB 1222”), which prohibits local governments from imposing certain regulations on family child care homes and requires local governments to regulate family child care homes as a residential use; and

WHEREAS, City Council desires to amend its land use regulations, specifically the definitions in Chapter 17.08 and the table of uses in Chapter 17.48 of the Leadville Municipal Code, to be consistent with the requirements of HB 1222; and

WHEREAS, the City’s Planning and Zoning Commission has carefully reviewed and considered this Ordinance in accordance with Chapter 17.92 of the Leadville Municipal Code and recommends that this Ordinance be adopted by City Council; and

WHEREAS, City Council has held the properly noticed public hearings required by Chapter 17.92 of the Leadville Municipal Code and has reviewed the recommendation of the Planning and Zoning Commission; and

WHEREAS, the City Council finds that adoption of this Ordinance is in the best interests of the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Recitals.** The recitals contained above are incorporated herein by this reference and are adopted as findings and determinations of the City Council.

Section 2. **Chapter 17.08 Amended.** Chapter 17.08 of the Leadville Municipal Code, titled “Definitions,” is hereby amended at Section 17.08.020, as follows, with added definitions to be shown in alphabetical order. Strikethrough text shows deletions and bold, underlined text shows additions:

17.08.020 – Definitions.

“Child care facility” has the same meaning as “child care center,” as defined in C.R.S. § 26-6-102(5).

“Family child care home” has the same meaning as set forth in C.R.S. § 26-6-102(13), as further defined and regulated in the Code of Colorado Regulations.

"Home occupation" means any use within a dwelling and carried on by the inhabitants, which use is clearly additional and secondary to the use of the dwelling for residential purposes and which does not change the character thereof, nor generate traffic or parking requirements which significantly or adversely affect the residential character of the neighborhood. **A home occupation does not include a family child care home.** A home occupation is an occupation or a profession which:

1. Is customarily carried on in a dwelling unit;
2. Is carried on by a member of the family residing in the dwelling unit with not more than one assistant who is not a resident of the premises;
3. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; occupying not more than twenty-five (25) percent of the total floor area of the dwelling;
4. Conforms to the following additional conditions:
 - a. The occupation or profession shall be carried on wholly within the principal building.
 - b. A sign shall not be lit, not exceed two square feet and be constructed of wood and nonreflective paint or other such materials as may be allowed by planning official.
 - c. No offensive noise, vibrations, smoke, dust, odors, heat or glare shall be produced.
 - d. No additions to or alterations of the exterior of the dwelling unit, including outside entrances for the purpose of the home occupation, shall be permitted.
 - e. The conduct of the home occupation and its external effects must not interfere with the peace, quiet and dignity of the neighborhood and adjoining properties.

Section 3. **Chapter 17.48 Amended.** Chapter 17.48 of the Leadville Municipal Code, titled “By-Right, Conditional and Prohibited Uses,” is hereby amended at Section 17.48.010 to add a row 59 to Table 1 as follows:

| | R-1 | R-2 | TR | RC | C | TC |
|-----------------------------|-----|-----|----|----|---|----|
| 59. Family child care homes | R | R | R | R | R | R |

Section 4. Remaining Provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 5. Codification Amendments. The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 6. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 7. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

Section 8. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 9. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day of March, 2022.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on this _____ day of _____, 2022.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this _____ day of _____, 2022.**

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on the _____ day of _____, 2022.

An Act

HOUSE BILL 21-1222

BY REPRESENTATIVE(S) Valdez A. and Van Winkle, Burnett, Caraveo, Carver, Catlin, Cutter, Daugherty, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Jackson, Kipp, Lontine, Lynch, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Pelton, Ransom, Ricks, Sandridge, Sirota, Tipper, Titone, Valdez D., Van Beber, Will, Williams, Woog, Young, Garnett, Amabile, Baisley, Bird, Boesenecker, Froelich, Geitner, McKean, Pico, Snyder, Sullivan, Woodrow; also SENATOR(S) Smallwood and Winter, Bridges, Buckner, Cooke, Danielson, Fields, Ginal, Gonzales, Hisey, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Pettersen, Priola, Rankin, Scott, Simpson, Sonnenberg, Story, Zenzinger, Garcia.

CONCERNING ALIGNING LOCAL GOVERNING AUTHORITY REGULATIONS TO
EXPAND OPPORTUNITIES TO ACCESS CHILD CARE IN FAMILY CHILD
CARE HOMES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Colorado has a shortage of licensed, safe, and affordable child

care options, while at the same time there is a growing need for child care in order to bolster the economy and allow parents to work;

(b) Family child care homes provide an essential element of the child care network in both urban and rural parts of the state. In fact, in many counties, there are no licensed child care centers, making family child care homes the only option families have for licensed child care.

(c) Many parents prefer child care that is located in family homes within their neighborhood so their children can experience a home-like environment that is conducive to healthy and safe development.

(2) The general assembly further finds that:

(a) Zoning, land use development, building, and fire standards that vary across the state and that treat family child care homes differently from family residences are difficult for providers to meet, create undue hardship and barriers to entry, and negatively impact the number of providers willing and able to offer licensed child care; and

(b) The child care licensure rules promulgated by the Colorado department of human services provide rigorous protections for children's health and safety, including protective standards relating to fire and life safety, sanitation, and physical environment in family child care homes.

(3) Therefore, the general assembly declares that the regulation of family child care homes throughout the state is a matter of statewide concern and the inconsistent regulation by local governments relating to zoning, land use development, building codes, and fire and life safety hinders the ability of the state department of human services to license and inspect family child care homes and to provide accessible, safe, and affordable licensed child care options for all Colorado parents.

SECTION 2. In Colorado Revised Statutes, 26-6-104.5, **amend** (1) as follows:

26-6-104.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure.

(1) (a) The department shall require any child care facility seeking licensure pursuant to section 26-6-104 to comply with any applicable

zoning AND LAND USE DEVELOPMENT regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning AND LAND USE regulations ~~shall constitute~~ CONSTITUTES grounds for the denial of a license to a facility.

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION TO THE CONTRARY, THE AVAILABILITY OF SAFE, AFFORDABLE, AND LICENSED FAMILY CHILD CARE HOMES IS A MATTER OF STATEWIDE CONCERN. THEREFORE, PERMITTING FRAGMENTED REGULATION AMONG JURISDICTIONS IMPEDES AND INFRINGES UPON THE DEPARTMENT'S APPROPRIATE AND CONSISTENT LICENSING AND REGULATION OF FAMILY CHILD CARE HOMES THROUGHOUT THE STATE. ACCORDINGLY, LOCAL GOVERNING AUTHORITIES SHALL TREAT FAMILY CHILD CARE HOMES AS RESIDENTIAL PROPERTY USE IN THE APPLICATION OF LOCAL REGULATIONS, INCLUDING ZONING, LAND USE DEVELOPMENT, FIRE AND LIFE SAFETY, SANITATION, AND BUILDING CODES. LOCAL GOVERNING AUTHORITIES SHALL NOT IMPOSE ANY ADDITIONAL REGULATIONS GOVERNING FAMILY CHILD CARE HOMES THAT DO NOT ALSO APPLY TO OTHER RESIDENTIAL PROPERTIES, PROVIDED THAT THE FOREGOING DOES NOT RESTRICT AN AUTHORITY'S ABILITY TO PROHIBIT, ON A CASE-BY-CASE BASIS, THE OPERATION IN IMMEDIATELY ADJACENT RESIDENCES OF TWO OR MORE LARGE FAMILY CHILD CARE HOMES, AS THAT TERM IS DEFINED BY RULES BY THE DEPARTMENT THAT GOVERNS THE OPERATION OF FAMILY CHILD CARE HOMES, OR TO MANAGE THE FLOW OF TRAFFIC AND PARKING RELATED TO ADJACENT LARGE FAMILY CHILD CARE HOMES. RESIDENTIAL USE OF PROPERTY FOR ZONING PURPOSES INCLUDES ALL FORMS OF RESIDENTIAL ZONING AND, SPECIFICALLY, ALTHOUGH NOT EXCLUSIVELY, SINGLE-FAMILY RESIDENTIAL ZONING.

SECTION 3. In Colorado Revised Statutes, 26-6-106, **amend** (1)(a) as follows:

26-6-106. Standards for facilities and agencies - rules.

(1) (a) The department shall prescribe and publish standards for licensing. ~~Such~~ THE standards ~~shall~~ MUST be applicable to the various types of facilities and agencies for child care regulated and licensed by this part 1; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing ~~such standards. Such~~

~~standards shall~~ THE STANDARDS, INCLUDING THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY AND COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS AND BUILDING CODE OFFICIALS IN THE PROMULGATION OF ANY RULES RELATED TO ADEQUATE FIRE PROTECTION AND PREVENTION, AS ALLOWED IN SUBSECTION (2)(e) OF THIS SECTION, IN A FAMILY CHILD CARE HOME. THE STANDARDS MUST be established by rules promulgated by the state board of human services and ~~shall~~ be issued, and published, AND BECOME EFFECTIVE only in conformity with ~~the provisions and procedures specified in article 4 of title 24. C.R.S., and shall become effective only as provided in said article.~~

SECTION 4. 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

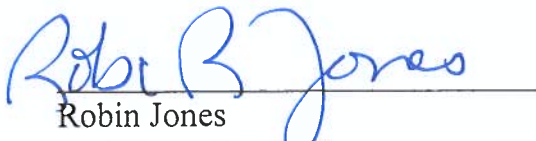
November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 7, 2021 at 12:40 pm
(Date and Time)


Jared S. Polis

GOVERNOR OF THE STATE OF COLORADO



AGENDA ITEM # 8.B

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Ordinance No. 2, Series of 2022: An Ordinance Amending the Leadville Municipal Code to Add a New Chapter 2.56 and Amending Various Sections to Establish the Position of City Administrator (Second Reading)

PRESENTED BY: Christiana McCormick, City Attorney

☒ ORDINANCE
☐ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council for consideration on second reading is Ordinance No. 2, Series of 2022 ("Ordinance"), which would amend the municipal code to establish the appointed position of city administrator and amend the municipal code to designate various duties to the city administrator.

II. BACKGROUND INFORMATION:

The City determined to establish the appointive position of city administrator in 2021 and went through a recruitment and hiring process for that position. This Ordinance is before City Council to formally establish the city administrator position in the municipal code and set forth the city administrator's duties, and Council adopted this Ordinance without amendment on first reading at its February 1, 2022 regular meeting.

The city administrator will have oversight over all city departments and will make personnel decisions regarding department heads (fire chief, police chief/commissioner, street department supervisor, deputy city clerk, deputy treasurer) and all city employees serving in those departments, in consultation with the appropriate department heads.

The city administrator will not have oversight over appointive officers of the city who are appointed by and report directly to the Mayor and City Council (municipal judge, municipal prosecutor, city attorney). Such appointive officers, including the city administrator, are under the orders and control of the Mayor in accordance with Section 2.04.030 of the municipal code.

In addition to establishing the city administrator position and setting out the duties of the city

administrator in Section 2 of the Ordinance, the Ordinance makes the following changes to the municipal code:

- **Chapter 1.24 Amendments:** Section 3 of the Ordinance amends Chapter 1.24, which relates to procedures for disposing of unclaimed property in the custody of the City. The Ordinance makes it the responsibility of the city administrator instead of the Mayor to process unclaimed property in accordance with this Chapter. *(Please note that this section of the municipal code will need to be further amended at a future date to comply with current state law, which was amended in 2019 to include new requirements for local governments concerning unclaimed property.)*
- **Chapter 2.04 Amendments:** Section 4 of the Ordinance amends Chapter 2.04 at sections 2.04.070 and 2.04.110 to make the city administrator responsible for designating/hiring/supervising the deputy city clerk and the deputy treasurer.
- **Chapter 2.24 Amendments:** Section 5 of the Ordinance amends Chapter 2.24 at section 2.24.020 to make the section consistent with the police chief reporting to the city administrator instead of the Mayor.
- **Chapter 2.28 Amendments:** Section 6 of the Ordinance amends Chapter 2.28 at section 2.28.010 to state that fire department members are subject to the control and orders of the city administrator instead of the Mayor.
- **Chapter 2.44 Amendments:** Section 7 of the Ordinance amends sections 2.44.020, 2.44.030, 2.44.110, and 2.44.120 to separate and delineate the personnel responsibilities and roles of the city council, the city administrator, and department heads.
- **Chapter 3.04 Amendments:** Section 8 of the Ordinance amends section 3.04.080 to designate the city administrator as the person who countersigns city financial warrants instead of the director of administrative services.
- **Chapter 5.04 Amendments:** Section 9 of the Ordinance amends section 5.04.090 to have business license application denials appealed to the city administrator's office instead of the administrative services office.
- **Chapter 12.08 Amendments:** Section 10 of the Ordinance amends section 12.08.050 to have the city administrator be responsible for processing and administering the business snow removal requirements instead of the Mayor.
- **Chapter 12.12 Amendments:** Section 11 of the Ordinance amends section 12.12.110 to allow the city administrator, instead of the Mayor, to grant extensions of the three-day period allowed for blocking rights-of-way related to street excavations.
- **Chapter 12.24 Amendments:** Section 12 of the Ordinance amends section 12.24.010 to give the city administrator (instead of the director of administrative services) or other designee of city council the authority to name new streets.

III. **FISCAL IMPACTS:** N/A

V. **LEGAL ISSUES:**

C.R.S. § 31-4-107 permits statutory cities, such as Leadville, to appoint such officers as may be necessary or desirable, including a city administrator.

VI. STAFF RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2, Series of 2022 on second reading.

VII. COUNCIL OPTIONS:

Council may take one of the following actions:

1. Adopt the Ordinance.
2. Adopt the Ordinance with amendments.
3. Table for further discussion and consideration.

VIII. PROPOSED MOTION:

"I move to adopt Ordinance No. 2, Series of 2022, An Ordinance Amending the Leadville Municipal Code to Add a New Chapter 2.56 and Amending Various Sections to Establish the Position of City Administrator on second reading."

IX. ATTACHMENTS:

Ordinance No. 2, Series of 2022

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 2
SERIES OF 2022**

**AN ORDINANCE AMENDING THE LEADVILLE MUNICIPAL CODE TO ADD A
NEW CHAPTER 2.56 AND AMENDING VARIOUS SECTIONS TO ESTABLISH THE
POSITION OF CITY ADMINISTRATOR**

WHEREAS, the City Council of the City of Leadville ("City Council") possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, C.R.S. § 31-4-107 permits statutory cities to appoint such officers as may be necessary or desirable, including a city administrator; and

WHEREAS, the City desires to establish the appointed position of city administrator, set out the primary duties of the city administrator, and make related updates in the Leadville Municipal Code; and

WHEREAS, City Council has determined that adoption of this Ordinance is in the best interests of the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Recitals.** The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. **Chapter 2.56 Added.** Title 2 of the Leadville Municipal Code is hereby amended to add a new Chapter 2.56, titled "City Administrator," to read in full as follows:

Chapter 2.56 – CITY ADMINISTRATOR

2.56.010 – Appointment.

- A. There is hereby created the office of city administrator as authorized by Section 31-4-107, C.R.S.
- B. The city council shall appoint the city administrator by resolution to be the chief administrative officer of the city.
- C. City council shall enter into a city administrator employment agreement with the administrator prior to or at the same time as the administrator's appointment occurs. The city administrator employment agreement shall contain specific terms of the administrator's duties, compensation, benefits and other provisions relating to the

administrator's employment. The city administrator employment agreement, as amended from time to time, shall be in addition to the provisions of this chapter.

- D. The city administrator shall be an at-will employee and shall be appointed for an indefinite term.
- E. In the event the office of city administrator becomes vacant, the city council shall appoint an acting city administrator to perform the duties of the office until such time as a new city administrator is appointed as provided herein.

2.56.020 – Qualifications.

- A. The city administrator shall be chosen solely on the basis of such person's executive and administrative qualifications and need not, when appointed, be a resident of the city or the state.
- B. No member of the city council shall be appointed as city administrator during the council member's term of office or for one (1) year following the end of the council member's term of office.

2.56.030 – Powers and responsibilities.

- A. The city administrator shall be directly responsible to the mayor for day-to-day operations and to the city council in matters of policy and for the efficient and effective performance of the duties and responsibilities of the departments of the city.
- B. In addition to the duties set forth in the city administrator employment agreement, the city administrator shall perform the following duties. The city administrator may delegate any duty or responsibility to one (1) or more designees; however, it remains the ultimate duty and responsibility of the administrator to ensure that each is properly performed:
 - 1. Attend all scheduled council meetings and work sessions and participate in discussions at such meetings and work sessions. Provide administrative updates at council meetings and such other reports as may be required by city council.
 - 2. Make recommendations to city council concerning the affairs of the city as seem desirable to the city administrator.
 - 3. Supervise the enforcement of all laws and ordinances of the city, save and except to the extent that the administration of such enforcement is confined to other city officials by law or ordinance.
 - 4. Ensure the implementation of city council policies and directives.
 - 5. Prepare and recommend an annual budget to the city council and keep the city council advised of the financial condition and future needs of the city.

6. In cooperation with the city treasurer, monitor budgetary and fiscal control through accepted fiscal and accounting procedures, including familiarity with financial software and training. Act as a liaison between the elected city treasurer and the deputy city treasurer and manage their coordination.
7. In cooperation with the city clerk, ensure the proper performance of all city clerk duties and functions required by state law, this code, and city ordinances. Act as a liaison between the elected city clerk and the deputy city clerk and manage their coordination.
8. Monitor the procurement of all services, supplies, material, and equipment to ensure compliance with the city's adopted purchasing policy and the city's approved budget, subject to the limitations imposed by law.
9. Exercise control over and coordinate the work of all city departments, and all employees of the city with the exception of the city attorney, municipal judge, the city's municipal prosecutor, and any other city officer who reports directly to and is appointed by city council. The city administrator shall work closely with the city attorney to coordinate the city administrator's efforts with the city attorney's activities and responsibilities so that policies and ordinances involving the affairs of the city are properly implemented.
10. Recruit and hire all prospective employees with the exception of city officers appointed by and under the direct control of city council. The hiring and discipline of all employees supervised by the city's department heads shall be in coordination with the appropriate department head.
11. Provide written reviews, in coordination with department heads as applicable, of the performance of all employees not less than annually.
12. Maintain the city's personnel rules and regulations and recommend updates, in coordination with the city attorney, to the city council for adoption.
13. Administer all forms of discipline, including termination, for all employees in accordance with the city's adopted personnel rules and regulations, as amended from time to time.
14. Recommend the creation or elimination of employment positions within the city. The city council has the sole authority for the creation or elimination of positions.
15. Designate, with the approval of the city council, a qualified city employee to serve as the acting city administrator during the city administrator's temporary absence or disability. The acting city administrator shall have all responsibilities, duties, functions, and authority of the city administrator during the period of the city administrator's temporary absence or disability except hiring and employee discipline unless the city council provides otherwise. The acting city administrator

shall receive no additional compensation for the performance of such duties unless specifically authorized by the city council.

16. Attend appropriate meetings of organizations whose activities may affect the operation of the city as may be directed by city council or the mayor. Provide the city council with updates on these organizational activities.
17. Coordinate staff support to city council, including composing and editing correspondence, providing informational reports and studies, scheduling appointments, and researching records and investigations.
18. Write grant applications and administer grants, if funded, in accordance with applicable grant conditions.
19. Receive continuing education so as to keep abreast of current trends in municipal management.
20. Perform any additional duties as directed by the mayor or city council or as required by the ordinances of the city.

2.56.040 – No interference.

- A. Neither the mayor nor any member of the city council shall in any way interfere with the city administrator in the exercise of the powers and duties granted in this chapter or in the city administrator employment agreement. Except for the purpose of inquiry, the mayor and members of the city council shall deal with the administrative functions of the city solely through the city administrator. Neither the mayor nor any member of the city council shall give orders to any of the subordinates of the city administrator.
- B. Nothing in this section shall be interpreted so as to impair the responsibility of the mayor and city council for the overall operation of the city as required by state law

Section 3. **Chapter 1.24 Amended.** Chapter 1.24, titled “Unclaimed Property,” is hereby amended to read in full as follows with strikethrough text showing deletions and bold, underlined text showing additions:

Chapter 1.24 UNCLAIMED PROPERTY

1.24.010 Purpose.

The purpose of this chapter is to provide for the administration and disposal of unclaimed property which is in the possession of or under the control of the city.

1.24.020 Definitions.

Unless otherwise required by context or use, words and terms used in this chapter shall be defined as follows:

"City administrator" means the city administrator of the city of Leadville or the city administrator's designee.

~~"Mayor" means the mayor of the city of Leadville or designee thereof.~~

"Municipality" means the city of Leadville, Colorado.

"Owner" means a person or entity, including a corporation, partnership, association, governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the municipality.

"Tangible property" includes but shall not be limited to, property left in safekeeping at a municipal facility; weapons left with or seized by the police; money or property from police forfeiture or seizure; items held for evidence in connection with municipal or other court proceedings; lost and found money or personal property turned into the municipality; and lost and found money or personal property found by any city employee.

"Unclaimed property" means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, held by or under the control of the municipality and which has not been claimed by its owner for a period of more than one year after it became payable or distributable. Unclaimed, abandoned or seized motor vehicles are excluded from this chapter as such property is governed by existing sections of the Leadville Municipal Code. Municipal court bond forfeitures are also excluded as said bonds are subject to the provisions of the Colorado Municipal Court Rules.

In addition to the property included in the definition of "intangible property" in Section 38-13-102(7), C.R.S., the term "intangible property" shall also include, but shall not be limited to, the following: street cut permit deposits; developer cost recovery agreements; moneys unclaimed by beneficiaries of pension funds; uncashed payroll checks; bonds posted for reasons other than municipal court; and uncashed court ordered restitution payments.

1.24.030 Notice of unclaimed property.

- A. Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the ~~mayer~~**city administrator** shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the record of the municipality or any of its departments, or as determined by the ~~mayer~~**city administrator**. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the ~~mayer~~**city administrator** with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.
- B. Subject to the provisions of subsection C of this section, prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00) or having no last known address of the owner, the ~~mayer~~**city administrator** shall cause a notice to be published in a

newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the mayorcity administrator with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

- C. No notice shall be required prior to the disposition of any item which the mayorcity administrator has determined, after investigation, to be of insubstantial commercial value, and the mayorcity administrator may dispose of any such item as provided in Section 1.24.040(E).

1.24.040 Procedure for disposition of property.

- A. If the mayorcity administrator receives no written claim within the above sixty (60) day claim period, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.
- B. If the mayorcity administrator receives a written claim within the above sixty (60) day claim period, the mayorcity administrator shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The mayorcity administrator may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.
- C. Any legal action filed challenging a decision of the mayorcity administrator shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the mayor pursuant to the order of the court having jurisdiction over such claim.
- D. In the event there is more than one claimant for the same property, the mayorcity administrator may, in the mayor'scity administrator's sole discretion, resolve the claims, or may resolve such claims by depositing the disputed property with the registry of the district court in an interpleader action.
- E. In the event all claims filed are denied, the property shall become the sole property of the municipality and any claim of the owner of such property shall be deemed forfeited.
- F. The mayorcity administrator may periodically cause any of such unclaimed property, other than money, to be sold, at public sale or otherwise, or he or she may otherwise dispose of it, in the discretion of the mayorcity administrator, with the money collected to be paid into the general fund of the municipality.
- G. If the mayorcity administrator determines after investigation that any forfeited unclaimed property has insubstantial commercial value, the mayor may destroy, exchange, transfer or otherwise dispose of the property.

- H. No action or proceeding may be maintained against the municipality or any officer or employee for or on account of an action taken by the ~~mayer~~city administrator pursuant to the provisions of this chapter.

1.24.050 Sale of unclaimed property.

- A. Any public sale of unclaimed property must be preceded by a single publication of notice at least three weeks in advance of sale, in a newspaper of general circulation within the limits of the municipality. The notice of sale shall describe the property and state where and when the sale shall take place.
- B. Property sold at public sale shall be sold to the highest bidder for cash; however, the ~~mayer~~city administrator may decline the highest bid and reoffer the property for sale if in the judgment of the ~~mayer~~city administrator the bid is insufficient.
- C. The purchaser of property at any public sale conducted pursuant to this section takes the property free of all claims of the owner or previous holder thereof and all persons claiming through or under them. The ~~mayer~~city administrator shall execute all documents necessary to complete the transfer of ownership.

1.24.060 Promulgation of procedural regulations.

The ~~mayer~~city administrator may promulgate reasonable procedural rules and regulations for the administration and disposition of unclaimed property consistent with this chapter including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

Section 4. Chapter 2.04 Amended. Sections 2.04.070 (“City clerk; deputy city clerk—Duties”) and 2.04.110 (“City treasurer; deputy treasurer—Financial management duties”) of the Leadville Municipal Code are hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

2.04.070 City clerk; deputy city clerk—Duties.

The city clerk shall have the custody of all the laws, ordinances and resolutions of the city and shall maintain a regular and correct journal of the proceedings of the council. The clerk shall have custody of the seal of the city and shall affix the same to all instruments as may be required or requested.

The routine administrative duties of the office of city clerk shall be performed by a city employee, ~~as designated by city council by resolution~~, who shall serve as the deputy city clerk **and who shall be hired by and report directly to the city administrator**. The deputy city clerk shall be responsible for fulfilling the duties and responsibilities as established by city council resolution or by contract **or as directed by the city administrator**.

2.04.110 City treasurer; deputy treasurer—Financial management duties.

The personnel and support needs for the treasury and financial management of the city shall be performed by a city employee or contract employee, ~~as designated by city council by resolution,~~ who shall serve as the deputy treasurer **and who shall be hired by and report directly to the city administrator**. The treasurer shall coordinate with the designated deputy treasurer to ensure that all of the treasurer's duties are fulfilled by or through the deputy treasurer, including but not limited to the following and those established by council resolution or by contract **or that the deputy city treasurer fulfills such duties as directed by the city administrator**:

- A. Collection of Moneys. The deputy treasurer shall receive and collect any and all moneys payable to the city and shall provide a receipt specifying the date of receipt of such funds and upon which account such funds were credited. Copies of such receipts shall be filed with the treasurer no later than the filing of the monthly financial report.
- B. Deposits of Moneys. The deputy treasurer shall deposit all funds and moneys received on behalf of the city in such institutions and accounts as designated by city council.
- C. Accounting and Reporting. The deputy treasurer shall keep books and accounting of all revenues received and expenditures made on behalf of the city. Separate accounts shall be kept of each fund or appropriation and the debits and credits belonging thereto. On a monthly basis, the deputy treasurer shall, through the treasurer, file with the city council and city clerk a report of the state of the city treasury. Such monthly report shall include a statement of all receipts and expenditures classified by appropriate account, and the city balance of money in the treasury. The deputy treasurer shall annually, on or before March 1 after the close of the fiscal year, file with the city clerk and city council a full and detailed account of all receipts, expenditures and financial transactions during the preceding fiscal year and state of the treasury at the close of the fiscal year. Such annual report shall be published in the newspaper designated for publishing official city notices. Should the treasurer disagree with or wish to supplement any report prepared by the deputy treasurer, the treasurer shall file with the city council a separate written report indicating areas and basis of disagreement or supplementation. Any disagreement between the treasurer and the deputy treasurer regarding receipt, disbursement, accounting or reporting methods and practices shall be reported to ~~city council~~ **the city administrator**.

Section 5. **Section 2.24.020 Amended.** Section 2.24.020 of the Leadville Municipal Code, titled "Chief of police—powers and duties," is hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

2.24.020 Chief of police—Powers and duties.

The chief of police shall be the head of the police department and shall, in addition to the duties imposed upon all members of the department, exercise general supervision and control over the work of all members of the department, prescribe the number of hours and the times of day or night when police officers shall be on duty. The chief of police, with the approval of the ~~mayor~~ **city administrator**, may administratively establish new fees and charges or modify (increase or decrease) any one or more of the fees and/or charges as reasonably necessary to recover the direct and indirect

costs of the police department in providing services to the public. No new or modified fees or charges shall be made without first posting notice of such modification at least five business days prior to the effective date of such modification.

Section 6. **Section 2.28.010 Amended.** Section 2.28.010 of the Leadville Municipal Code, titled “Created—Composition—Members’ appointment, promotion or discharge,” is hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

2.28.010 Created—Composition—Members’ appointment, promotion or discharge.

The city shall have a paid fire department consisting of a fire chief and such number of firefighters as in the judgment of the council may be necessary for the protection of the city. The members of the fire department shall be subject to the control and orders of the ~~mayer~~**city administrator**. The provisions of Chapter 2.44 shall be applicable to the fire department.

Section 7. **Chapter 2.44 Amended.** Chapter 2.44 of the Leadville Municipal Code, titled “City Employees,” is hereby amended at Sections 2.44.020, 2.44.030, 2.44.110, and 2.44.120 as follows with strikethrough text showing deletions and bold, underlined text showing additions:

2.44.020 City council authority.

The city council shall have the authority to create such positions and to authorize filling such positions as it may, from time to time, determine to be necessary to the proper operation of the city government. All decisions regarding the number of city employees shall be made by the city council. **All appointments made by city council shall be made by the vote of a majority of the council unless otherwise provided by this code.** All personnel decisions involving hiring and disciplinary action (including discharge) of department heads shall be made by the ~~city council~~**city administrator**.

2.44.030 ~~Appointment~~Department heads.

The chief of police, the fire chief, the street supervisor, the deputy treasurer, and the ~~administrative services manager~~ **the deputy city clerk, and any other head of a department of the city** shall be ~~appointed~~**hired by and under the direct supervision and control of the city administrator** and ~~serve at the pleasure of the city council.~~ ~~All appointments shall be made by the vote of a majority of the council unless otherwise provided by this code.~~

2.44.110 Hiring procedures.

The hiring of all city employees shall be made upon the basis of merit and fitness as may be determined by the **city administrator, in consultation with the** appropriate department head, following such testing procedures as the ~~department head~~**city administrator** shall deem to be appropriate. Such testing may include written, physical, and psychological testing (if appropriate) and an appropriate background check, which tests and checks shall be in accordance with the

Americans with Disabilities Act and other applicable federal and state laws. ~~Department heads~~ **The city administrator, in consultation with the appropriate department heads,** shall make the final decision regarding the hiring of city employees.

2.44.120 Personnel rules.

The city council may, from time to time, by resolution promulgate personnel rules and regulations for both union and non-union employees which are not inconsistent with the provisions of this chapter. The ~~administrative services manager~~ **city administrator or the city administrator's designee** shall present each employee of the City of Leadville with a copy of these personnel policies for their review, and each employee shall execute an acknowledgement of receipt and understanding of those policies. The ~~administrative services manager~~ **city administrator or designee** shall keep this acknowledgement in the employee's personnel file.

Section 8. **Section 3.04.080 Amended.** Section 3.04.080 of the Leadville Municipal Code, titled "Warrants—Signing and countersigning," is hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

3.04.080 Warrants—Signing and countersigning.

All warrants drawn upon the treasurer must be signed by the mayor and countersigned by the city clerk, stating the particular fund or appropriation to which the same is chargeable and the person to whom payable; provided however, that in the absence of the mayor a warrant may be signed by the mayor pro tem and countersigned by the city clerk, and in the absence of the city clerk a warrant may be signed by the mayor and countersigned by the **city administrator** ~~director of administrative services~~.

Section 9. **Section 5.04.090 Amended.** Section 5.04.090 of the Leadville Municipal Code, titled "Appeal process," is hereby amended at subsection A as follows with strikethrough text showing deletions and bold, underlined text showing additions:

5.04.090 Appeal process.

- A. Appeal. An applicant may appeal a denial of his or her application, and a licensee may appeal the suspension or revocation of his or her business license to the city council and shall be entitled to a public hearing before the city council. An appeal must be made in writing, stating the grounds for appeal, and be delivered to the ~~city administrative services~~ **city administrator's** office within five business days of the date of the notice of denial, suspension or revocation by the license officer. In the event of an appeal of a suspension or revocation decision, the owner may continue to operate the business during the hearing process.

Section 10. **Section 12.08.050 Amended.** Section 12.08.050 of the Leadville Municipal Code, titled "Removal of snow and other obstructions," is hereby amended at subsection C as follows with strikethrough text showing deletions and bold, underlined text showing additions:

12.08.050 Removal of snow and other obstructions.

- C. If any portion of sidewalk within the business district has not been cleared of snow, ice, mud or other obstruction as required in subsection A., the ~~mayor~~city administrator or his or her designee, shall notify the owner, occupant or tenant of any lot, block or parcel of land, or for any agent in charge of such property, in writing that said sidewalk shall be cleared within a twenty-four-hour period from the date of receipt of the written notice. Notice under this subsection is sufficient if written notice is hand delivered to and received by the owner, adult occupant, tenant agent in charge of such property or the written notice is posted on the property in a clear and conspicuous manner. If the accumulation of snow, ice or other obstruction is not removed within the twenty-four-hour period set forth in the notice, the city may issue a penalty assessment notice or summons to the violator, and if convicted, shall be assessed a penalty or fine of no more than twenty-five dollars (\$25.00).

Section 11. **Section 12.12.110 Amended.** Section 12.12.110 of the Leadville Municipal Code, titled "Time and area limitation on obstructions," is hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

12.12.110 Time and area limitation on obstructions.

It is unlawful to obstruct more than one block or one intersection at the same time in any one street or to keep the same blocked for more than three consecutive days. In the event of unforeseen extenuating circumstances, the applicant may apply for an extension of the three day limitation, and after investigation of the extenuating circumstances, the ~~mayor~~city administrator or his or her authorized representative may grant such extension, provided that valid reasons and circumstances exist and justify the extension.

Section 12. **Section 12.24.010 Amended.** Section 12.24.010 of the Leadville Municipal Code, titled "Naming of streets," is hereby amended as follows with strikethrough text showing deletions and bold, underlined text showing additions:

12.24.010 Naming of streets.

Chestnut Street shall be the dividing line east and west in the city and that portion of all streets lying south thereof shall be known by their present names with the word "South" prefixed thereto, and the portion lying north thereof shall be known by their present names with the word "North" prefixed thereto. Harrison Avenue shall be the dividing line north and south in the city and that portion of all streets lying west hereof shall be known by their present names or numbers with the word "West" prefixed thereto, and all portions of streets lying east thereof shall be known by their present names or numbers with the word "East" prefixed thereto. New streets shall be named as set forth on an annexation plat, subdivision plat or as designated otherwise by the ~~city director of administrative services~~city administrator or other designee appointed by the city council.

Section 13. **Remaining Provisions.** Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 14. **Codification Amendments.** The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 15. **Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 16. **Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

Section 17. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 18. **Effective Date.** This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day February, 2022.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the 10th day of February, 2022.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED, with any amendments, this ____ day of _____, 2022.

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this ____ day of _____, 2022.



AGENDA ITEM # 8.C

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Ordinance No. 6, Series of 2022: An Ordinance Repealing Chapter 10.12 of Title 10 of the Leadville Municipal Code Concerning Parking Permits (Second Reading)

PRESENTED BY: Christiana McCormick, City Attorney

☒ ORDINANCE
☐ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council on second reading is Ordinance No. 6, Series of 2022 (“Ordinance”), which would repeal the parking permit program of the City that is currently set forth in Chapter 10.12 of the municipal code.

II. BACKGROUND INFORMATION:

The Ordinance repeals Chapter 10.12 of the municipal code, which will formally terminate the City’s private parking program. The Ordinance was adopted without amendment by Council at its February 1, 2022 regular meeting.

Chapter 10.12 allows the City to issue parking permits for exclusive, private use of parking spaces on public streets by residents with properties adjacent to such streets. The purpose of establishing this parking program was to address extreme traffic congestion and overflow from the commercial areas that affected those residents. The parking permit program also provides for parking permits for short-term rental owners. Under the program, the City issued “Private Parking” or “No Parking” signs to those residents eligible for the parking permit.

Following completion of the City of Leadville Downtown Parking Assessment by Walker Consultants dated June 9, 2021 (“Parking Study”), the City decided to terminate the parking program. This decision was based on concerns surrounding the legality of privatizing public rights-of-way and recommendations of the Parking Study. The Parking Study found, among other things, that the City’s parking program deters some visitors and non-residents from parking in front of residences along certain streets, lacks uniform spacing of the “Private Parking” signs and

markings to clearly delineate where the private space is located, has lead to property owners installing parking space markers that are not approved by the City or compliant with any code or standard, and creates and exacerbates snow removal problems along public streets.

The City has not accepted new permit applications or permit fees for approximately a year, so no refunds of parking permit fees should be required due to adoption of this Ordinance. If any parking permit fees were paid to or accepted by the City for a permit starting in 2022, the City should refund the fee in a prorated amount.

III. FISCAL IMPACTS:

The City will no longer receive permit fees for parking permits and will no longer have the expenses of administration, issuance of signs, or enforcement of private parking spaces for the parking permit program.

V. LEGAL ISSUES:

None.

VI. STAFF RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 6, Series of 2022 on second reading.

VII. COUNCIL OPTIONS:

Council may take one of the following actions:

1. Adopt the Ordinance.
2. Adopt the Ordinance with amendments.
3. Table for further discussion and consideration.

VIII. PROPOSED MOTION:

"I move to adopt Ordinance No. 6, Series of 2022, An Ordinance Repealing Chapter 10.12 of Title 10 of the Leadville Municipal Code Concerning Parking Permits on second reading."

IX. ATTACHMENTS:

Ordinance No. 6, Series of 2022

**CITY OF LEADVILLE, COLORADO
ORDINANCE NO. 6
SERIES OF 2022**

**AN ORDINANCE REPEALING CHAPTER 10.12 OF TITLE 10 OF THE LEADVILLE
MUNICIPAL CODE CONCERNING PARKING PERMITS**

WHEREAS, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, City Council previously codified a parking permit program in Chapter 10.12 of the Leadville Municipal Code that allows the City to issue annual parking permits to owners of short-term rentals and certain other residents of the City; and

WHEREAS, City Council desires to formally terminate the parking permit program in anticipation of the City discussing and implementing new parking policies following completion of the City of Leadville Downtown Parking Assessment by Walker Consultants dated June 9, 2021; and

WHEREAS, City Council has determined that adoption of this Ordinance is in the best interests of the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. Recitals. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. Chapter 10.12 Repealed. Chapter 10.12 of the Leadville Municipal Code, titled “Parking Permits,” is hereby repealed and reserved for future use to read in full as follows:

Chapter 10.12 – Reserved.

Section 3. Remaining Provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 4. Codification Amendments. The codifier of Leadville’s Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 5. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

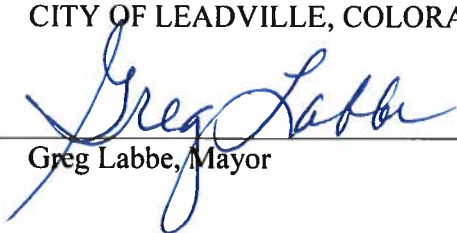
Section 6. **Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

Section 7. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 8. **Effective Date.** This Ordinance shall become effective thirty (30) days after publication following final passage.

**INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on
first reading this 1st day February, 2022.**

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the 10th day of February, 2022.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,
with any amendments, this ____ day of _____, 2022.**

CITY OF LEADVILLE, COLORADO:

Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

**PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of
general circulation in the City of Leadville, Colorado, following final reading on this _____
day of _____, 2022.**



AGENDA ITEM # 8.D

CITY COUNCIL COMMUNICATION FORM

MEETING DATE: March 1, 2022

SUBJECT: Resolution No. 9, Series of 2022: A Resolution Amending the City's Fee Schedule to Adopt Fees for the Leadville-Lake County Animal Shelter

PRESENTED BY: Caitlin Kuczko, Animal Shelter Manager

☐ ORDINANCE
☒ RESOLUTION
☐ MOTION
☐ INFORMATION

I. REQUEST OR ISSUE:

Before City Council for consideration is Resolution No. 9, Series of 2022 ("Resolution"), which would adopt updated fees for the Leadville-Lake County Animal Shelter ("Animal Shelter") and amend the City's fee schedule to include those fees for 2022.

II. BACKGROUND INFORMATION:

This Resolution adopts Animal Shelter fees in conjunction with the City's adoption of Ordinance No. 1, Series of 2022, which removes specific animal shelter fees from the municipal code and authorizes City Council to set fees for the Animal Shelter by resolution. The Resolution came before City Council on February 15, 2022, and City Council tabled the Resolution until the March 1, 2022 meeting so Council get more information about the proposed fees from the Animal Shelter Manager.

The changes to the Animal Shelter fees adopted by this Resolution are as follows:

| FEE TYPE | OLD AMOUNT | NEW AMOUNT |
|-----------------------------------|-----------------------|---|
| Impoundment | \$10/day | \$20/day |
| License Fee (spayed/neutered) | \$10 – 3-year license | \$15 – 1-year license \$40 – 3-year license |
| License Fee (not spayed/neutered) | \$30 – 3-year license | \$40 – 1-year license \$100 – 3-year license |

| | | |
|-----------|------|--|
| Adoptions | None | \$50 plus vet fees \$50 spay/neuter deposit |
| Surrender | None | \$50 – spayed/neutered, vaccinated \$75 – spayed/neutered, not vaccinated \$100 – not spayed/neutered, vaccinated \$150 – not spayed/neutered, not vaccinated |

The new Animal Shelter fees become effective on the same date as Ordinance No. 1 becomes effective (Monday, March 28, 2022).

III. FISCAL IMPACTS:

See Background section above.

V. LEGAL ISSUES:

Fees adopted by the City must be reasonably related to the actual costs of the City in administering permits, licenses, or providing services.

VI. STAFF RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 9, Series of 2022.

VII. COUNCIL OPTIONS:

Council may take one of the following actions:

1. Adopt the Resolution.
2. Adopt the Resolution with amendments.
3. Table for further discussion and consideration.

VIII. PROPOSED MOTION:

“I move to adopt Resolution No. 9, Series of 2022, A Resolution Amending the City’s Fee Schedule to Adopt Fees for the Leadville-Lake County Animal Shelter.”

IX. ATTACHMENTS:

Resolution No. 9, Series of 2022
Animal Shelter Fee Schedule (Exhibit 1 to Resolution)

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 9
SERIES OF 2022**

**A RESOLUTION AMENDING THE CITY’S FEE SCHEDULE TO ADOPT FEES FOR
THE LEADVILLE-LAKE COUNTY ANIMAL SHELTER**

WHEREAS, the City of Leadville (“City”) is authorized under Article 15 of Title 31 of the Colorado Revised Statutes to exercise its general police and financial powers; and

WHEREAS, such powers include but are not limited to the ability to impose and collect fees for the processing of licenses and applications, the performance of other administrative services, and collection of fines and fees for violations of the Leadville Municipal Code; and

WHEREAS, the Leadville Municipal Code authorizes certain fees to be adopted by resolution of the City Council; and

WHEREAS, the Leadville City Council hereby determines that the fees established by this Resolution are reasonably related to the actual and necessary expenses incurred by the Leadville-Lake County Animal Shelter (“Animal Shelter”) to provide services to the public and are consistent with state law and the Leadville Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Animal Shelter Fees Adopted.** The City Council hereby: (a) adopts the fees for the Animal Shelter attached hereto as **Exhibit 1**; (b) directs City staff to incorporate the attached fees into the City’s Fee Schedule; and (c) directs City staff to cause the amended Fee Schedule to be uploaded to the City’s website and make a copy available for public inspection in the office of the deputy city clerk.

Section 2. **Severability.** If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this resolution.

Section 3. **Effective Date.** This Resolution shall be effective upon the effective date of the City of Leadville’s Ordinance No. 1, Series of 2022, An Ordinance Amending Various Sections of the Leadville Municipal Code to Remove Specific Fees for the Leadville-Lake County Animal Shelter and Authorizing Animal Shelter Fees to be Set by Resolution.

**ADOPTED this 15th day of February 2022 by a vote of ___ in favor, ___ against,
___ abstaining, ___ absent.**

CITY OF LEADVILLE, COLORADO:

By: _____
Greg Labbe, Mayor

ATTEST:

Deputy City Clerk

EXHIBIT 1
ANIMAL SHELTER FEES

(to be added to City Fee Schedule)

EXHIBIT L
ANIMAL SHELTER FEES

| Fees | Local Fee |
|---|--------------------|
| Impoundment Fee | \$20.00/day |
| License Fees for Spayed/Neutered Animals | |
| 1-Year License | \$15.00 |
| 3-Year License | \$40.00 |
| License Fees for Animals Not Spayed/Neutered | |
| 1-Year License | \$40.00 |
| 3-Year License | \$100.00 |
| Adoption Fee | \$50.00 + vet fees |
| Spay/Neuter Deposit (in addition to adoption fee) | \$50.00 |
| Surrender Fees | |
| Spayed/Neutered, Vaccinated | \$50.00 |
| Spayed/Neutered, Not Vaccinated | \$75.00 |
| Not Spayed/Neutered, Vaccinated | \$100.00 |
| Not Spayed/Neutered, Not Vaccinated | \$150.00 |

| | | | | | | |
|-----------|-------------------------------|------------------------------|----------------------------|------------------------------|----------|----------|
| SUN 30 | MON 31 | TUE Feb 1 | WED 2 | THU 3 | FRI 4 | SAT 5 |
| | | ● 6pm Regula | ● 5pm Sanita | | | |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| | ● 1pm BOCC | ● 4pm HPC M | ● 9am Court ● 6pm P&Z M | ● 2pm LURA ● 5:15pm Par | | |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | | ● 8:30am Tou ● 6pm Regula | | ● 6pm Tri BO ● 6pm Tri BO | | |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| | City Hall close ● 1pm BOCC | ● 4pm HPC R | ● 6pm P&Z M | | | |
| 27 | 28 | Mar 1 | 2 | 3 | 4 | 5 |
| | | ● 6pm Regula | ● 5pm Sanita | | | |

| | | | | | | |
|-----------|------------------|------------------------------------|---------------------------------|----------------------------------|----------|----------|
| SUN 27 | MON 28 | TUE Mar 1 ● 6pm Regule | WED 2 ● 5pm Sanita | THU 3 | FRI 4 | SAT 5 |
| 6 | 7 ● 1pm BOCC | 8 ● 4pm HPC M | 9 ● 9am Court ● 6pm P&Z M | 10 ● 2pm LURA ● 5:15pm Par | 11 | 12 |
| 13 | 14 | 15 ● 8:30am Tou ● 6pm Regule | 16 | 17 | 18 | 19 |
| 20 | 21 ● 1pm BOCC | 22 ● 4pm HPC - | 23 ● 6pm P&Z M | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | Apr 1 | 2 |

| SUN 27 | MON 28 | TUE 29 | WED 30 | THU 31 | FRI Apr 1 | SAT 2 |
|-----------|------------------|------------------------------------|----------------------------------|----------------------------------|--------------|----------|
| 3 | 4 ● 1pm BOCC | 5 ● 6pm Regulæ | 6 ● 5pm Sanita | 7 | 8 | 9 |
| 10 | 11 | 12 ● 4pm HPC M | 13 ● 9am Court ● 6pm P&Z M | 14 ● 2pm LURA ● 5:15pm Par | 15 | 16 |
| 17 | 18 ● 1pm BOCC | 19 ● 8:30am Tou ● 6pm Regulæ | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 ● 4pm HPC - | 27 ● 6pm P&Z M | 28 | 29 | 30 |

| | | | | | | |
|--------------|------------------------|------------------------------------|----------------------------------|----------|----------|----------|
| SUN May 1 | MON 2 ● 1pm BOCC | TUE 3 ● 6pm Regulæ | WED 4 ● 5pm Sanita | THU 5 | FRI 6 | SAT 7 |
| 8 | 9 ● 4pm HPC M | 10 ● 9am Court ● 6pm P&Z M | 11 ● 2pm LURA ● 5:15pm Par | 12 | 13 | 14 |
| 15 | 16 ● 1pm BOCC | 17 ● 8:30am Tou ● 6pm Regulæ | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 ● 4pm HPC - | 25 ● 6pm P&Z M | 26 | 27 | 28 |
| 29 | 30 | 31 ● 5pm Sanita | Jun 1 | 2 | 3 | 4 |

| SUN | MON | TUE | WED | THU | FRI | SAT |
|-----|----------|--------------------------|-----------------------------|------------------------|-------|-----|
| 29 | 30 | 31 | <div>Jun 1</div> 5pm Sanita | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| | 1pm BOCC | 6pm Regulæ | 9am Court 6pm P&Z M | 2pm LURA 5:15pm Par | | |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| | | 4pm HPC N | | | | |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| | 1pm BOCC | 8:30am Tou 6pm Regulæ | 6pm P&Z M | | | |
| 26 | 27 | 28 | 29 | 30 | Jul 1 | 2 |
| | | 4pm HPC - | | | | |



2022 City of Leadville Planning Calendar

|  MONTH | Regular Council Meetings | Tasks | Work Sessions Needed | Other Committees Involved | Finish Deadline | Action Items |
|---|--------------------------|---|-------------------------|---------------------------|--|--------------|
| January | January 4th | - Resolution for 2022 Public Posting - Resolution for 2021 Supplemental Budget - Ordinance to Align Animal Shelter Fees with County | | | | |
| | | | January 25th - PARKING | | | |
| | January 18th | -Swearing in of New Councilmember & City Treasurer -Resolution for 2022 Fee Schedule -Ordinance for Formula Businesses | | | - Moratorium for Formula Businesses ends May 3, 2021; Ordinance must be passed by March 1st. | |
| February | February 1st | | | | | |
| | | | February 22nd - PARKING | | | |
| | February 15th | | | | | |
| March | March 1st | Joint Public Hearing w/P&Z 1st Reading of 3 Ordinances Second Reading of 2 Ordinances -Resolution LLCAS Fee Sched | | | | |
| | | Council Orientation 4:00-5:30 | March 8th | | | |
| | March 15th | Second Reading of 3 Ordinances | | | | |
| April | April 5th | Proclamation History Month Presentation by HPC Possible COA | | | | |
| | | | April 12th | | | |
| | April 19th | | | | | |
| May | May 3rd | | | | | |
| | | | May 10th | | | |
| | May 17th | | | | | |
| June | June 7th | | | | | |
| | | | June 14th | | | |
| | June 21st | | | | | |



2022 City of Leadville Planning Calendar

|  MONTH | Regular Council Meetings | Tasks | Work Sessions Needed | Other Committees Involved | Finish Deadline | Action Items |
|---|-----------------------------|---|---|---------------------------|-----------------|--------------|
| July | July 5th | | | | | |
| | | | July 12th | | | |
| | July 19th | | | | | |
| August | August 2nd | - City Audit Report | | | | |
| | | | August 9th | | | |
| | August 16th | | | | | |
| September | September 6th | | | | | |
| | | | September 13th - Budget Open House / Work Session | | | |
| | September 20th | | | | | |
| | | | September 27th - Budget Wk #1 | | | |
| October | October 4th | | | | | |
| | | | October 11th - Budget Wk #2 | | | |
| | October 18th | | | | | |
| | | | October 25th - Budget Wk #3 | | | |
| November | November 1st | | | | | |
| | | | November 8th - Budget Wk #4 | | | |
| | November 15th | | | | | |
| | | | November 29th | | | |
| December | December 6th | - Resolution for 2023 Budget - Resolution for 2022 Supplemental Budget - Resolution for Mill Levy | | | | |
| | | | | | | |
| | | | | | | |
| | (December 20th - tentative) | | | | | |