

CITY OF LEADVILLE, COLORADO
Ordinance No. 7
Series of 2021
Also known as the BUD ELLIOT ORDINANCE

**AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON
APPROVAL OF LAND USE APPLICATIONS AND BUSINESS LICENSE
APPLICATIONS FOR NEW FORMULA BUSINESSES IN THE RETAIL
CORE ZONING DISTRICT AND DECLARING AN EMERGENCY**

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

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

WHEREAS, the City Council desires to develop fair, clear and consistent development regulations and timely processes for land use and business permitting of formula businesses in accordance with the goals and strategies set forth in the City’s Comprehensive Plan; 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, implementation of regulations that balance the City’s competing interests will take time to study, analyze and establish, and the moratorium as set forth in this Ordinance provides for the time needed to receive information, weigh all factors, and develop changes to the Leadville Municipal Code to establish appropriate standards related to formula businesses; and

WHEREAS, the City Council finds that a temporary moratorium until and including May 3, 2022 on the City’s acceptance and issuance of land use and business license applications for new formula businesses, as defined in this Ordinance, in the RC zoning district is necessary to provide the City a period of time to develop formula business regulations and will best preserve the health, peace and safety of the City.

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

Section 1. Recitals. The foregoing recitals are hereby adopted as findings of the City Council and are incorporated herein by this reference.

Section 2. Moratorium. No applications or requests for City approval of land use applications under Title 17 of the Leadville Municipal Code or business license applications under Title 5 of the Leadville Municipal Code for the establishment of new formula businesses within the Retail Core zoning district of the City shall be accepted, reviewed, considered or approved until such time as this Ordinance is terminated or repealed, unless otherwise expressly provided by this Ordinance. The provisions of this Ordinance are temporary in nature and intended to be replaced or repealed by a subsequent legislative enactment. The temporary moratorium established by this Ordinance shall automatically terminate and this Ordinance shall automatically be repealed as of **11:59 P.M. on May 3, 2022**, unless terminated earlier by City Council or extended in its duration by the enactment of another ordinance. Nothing contained in this Ordinance shall be construed to limit or preclude the City Council from termination, repeal, amendment, or modification of this Ordinance prior to the date and time of expiration and repeal.

Section 3. Definition. "Formula Business" means any restaurant, café, hotel, motel or lodge, rooming or boarding house, services or commercial business, and any retail business 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 at all establishments in operation: 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.

Section 4. Preservation of Status Quo and Violation. Any person or entity that has received a land use approval, building permit, or business license from the City prior to the effective date of this Ordinance may continue to rely on such approvals, permits, or licenses throughout the duration of this Ordinance. Any person who violates this Ordinance may be subject to the general penalty provisions of the Leadville Municipal Code and enforcement action in Leadville Municipal Court.

Section 5. Remaining provisions. Except as specified in this Ordinance, all other provisions of the Leadville Municipal Code shall continue in full force and effect. This Ordinance makes no amendments to the Leadville Municipal Code and temporarily suspends the provisions specified herein only.

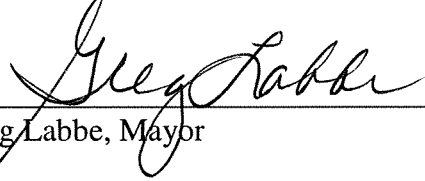
Section 6. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are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

Section 7. Emergency. This Ordinance is necessary for the immediate preservation of the public peace, health and safety because of the potential for the City to receive land use and business license applications for the establishment of new formula businesses within the RC zoning district of the City prior to the City's implementation of formula business regulations, which the City is actively pursuing. If this Ordinance does not pass as an emergency ordinance with the required three-fourths affirmative vote of all members of City Council, but is nonetheless approved by majority vote, it shall be deemed effective as a regular ordinance with the emergency clause deemed severed from the other provisions of the Ordinance.

Section 8. Effective Date. This Ordinance shall be effective immediately upon adoption, if approved as an emergency measure. If this Ordinance is approved as a non-emergency ordinance, it shall be effective thirty (30) days following final publication.

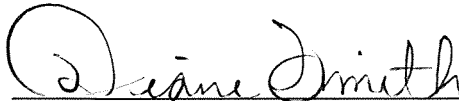
INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day of June, 2021 by a vote of 6 in favor and 0 against.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:

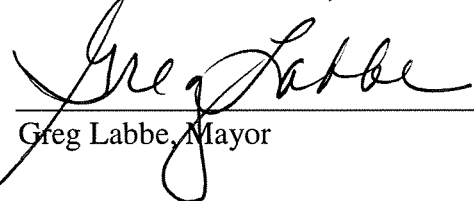


Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on this 10th day of June, 2021.

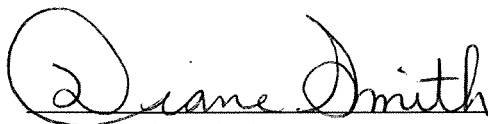
PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED, with any amendments, this 6th day of July, 2021 by a vote of 6 in favor and 0 against.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk

PUBLISHED by title only in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this _____ day of _____, 2021.