

**City of Leadville Planning & Zoning Commission  
REGULAR MEETING AGENDA**

**Wednesday, March 23<sup>rd</sup>, 2022 at 6:00 P.M.**

**VIA ZOOM ONLY**

Topic: 3-23-2022 P&Z Commission Meeting  
Time: Mar 23, 2022 06:00 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://leadville-co-gov.zoom.us/j/87013249457?pwd=UU5JSUZjbks2Y1ZzbVhtTHR2b1Q1UT09>

Meeting ID: 870 1324 9457

Passcode: 80461

Dial by your location

+1 346 248 7799 US (Houston)

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Meeting ID: 870 1324 9457

- 1. Open Meeting and Roll Call:**
- 2. Agenda revisions (if any):**
- 3. Housekeeping Items:** Ad to paper for 3/24 publication; Letter of Interest requested from Nadim Tannous
- 4. Public Comments about items not on the agenda (up to 3 minutes)**
- 5. Approval of the Minutes:**
  - A. Approval of January 12, 2022 minutes
  - B. Approval of February 9, 2022 minutes
  - C. Approval of March 9, 2022 minutes
- 6. General Updates**
  - A. City Planning Director/Planning position
  - B. Affordable Housing Analysis - County contract (to keep P&Z involved) Voeller/Law
- 7. Review of Mary Coddington's Red-Lined Density Tables – Sarah Dallas**
  
- 8. Adjourn**

Goal Setting 2022 –

1. PAT Recommended Code Changes
2. Revisit Table of Uses
3. City/County Collaboration – Zoning
4. Support PAT – funding for affordable housing
5. Support the new Parking Rollout – team up with City Council

Next Meeting – April 13, 2022 - CUP

**City of Leadville Planning & Zoning Commission**  
**Draft Minutes**  
**Wednesday, January 12<sup>th</sup>, 2022 at 6:00 P.M.**

1. Chair Voeller called the meeting to order at 6:00 pm.

Roll Call: Chair Voeller, Commissioner Haler, Mayor Labbe, Commissioner Bauer, Commissioner Weston and Commissioner Law were all present.

2. Agenda revisions: Commissioner Voeller asked that Agenda Item #4 be changed to “General Updates” & original agenda item #4 be moved into General Updates, as well as City Administrator & STR Compliance Letters; Move Goal Setting to 1/26/2022 meeting – **Revised Agenda Approved**

3. Public Comments about items not on the agenda: Kristi Galarza, LC BAG gave update on housing

4. General Updates –

1. **625 E 11<sup>th</sup> St** – Chair Voller made a motion to recommend that City Council and the Street Dept have a meeting about resolving the parking configuration on the blocks between 10<sup>th</sup> & 11<sup>th</sup> on Ash Street, Commissioner Weston seconded approved unanimously

2. **City Administrator** – Laurie Simonson accepted the position and starts February 14<sup>th</sup>, 2022.

3. **STR Compliance Letters** – have templates for the letters, waiting on list of non-compliant from MuniRevs & Sarah Dallas, maybe 12 non-compliant properties, we will issue letters. We have put together a process for dealing with this, which culminates in a final court appearance for owners who don't comply, within the next month letters will go out.

Chair Voeller asked mayor about a contract planner or city planner position – Sarah Dallas sent proposal for city planner, mayor waiting on city administrator to make that decision

5. Ordinance Completeness Review -

**A. 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

Commissioner Weston moved for Planning Commission to find that Ordinance No. 3, Series of 2022 (above) is complete and adequate. Commissioner Weston further moved that Planning Commission accept Ordinance No. 3, Series of 2022 for review. Chair Voeller seconded, passed unanimously Chair Voeller moved to refer Ordinance No. 3, Series of 2022 to Lake County BOCC, Lake County Building & Land Use, Lake County Manager and Lake County Economic Corporation. Chair Voeller seconded, passed unanimously

**B. 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.

Commissioner Zhu moved that Planning Commission find that Ordinance No. 4, Series of 2022 (above) is complete and adequate. Commissioner Zhu further moved that Planning Commission

accept Ordinance No. 4, Series of 2022 for review. Commissioner Weston seconded, passed unanimously

Chair Voeller moved to refer Ordinance No. 4, Series of 2022 to Lake County BOCC and Lake County Building & Land Use. Mayor Labbe seconded, passed unanimously

**C. Ordinance No. 5, Series of 2022:** An Ordinance Amending Title 17 of the Leadville Municipal Code Concerning the Regulation of Family Child Care Homes

Mayor Labbe moved that Planning Commission find that Ordinance No. 5, Series of 2022 (above) is complete and adequate. Mayor Labbe further moved that Planning Commission accept Ordinance No. 5, Series of 2022 for review. Commissioner Weston seconded, passed unanimously

Chair Voeller moved to refer Ordinance No. 5, Series of 2022 to Lake County BOCC, Lake County Build a Generation and Full Circle, Inc. for review and comment. Mayor Labbe seconded, passed unanimously

Add to the next agenda – TR/TC reevaluate zoning

6. Adjourn 8:16 pm

9. Next Meeting – January 26<sup>th</sup>, 2022 – Work Session

DRAFT

**City of Leadville Planning & Zoning Commission**  
**DRAFT Minutes**  
**Wednesday, February 9<sup>th</sup>, 2022 at 6:00 P.M.**

1. Chair Voeller called the meeting to order at 6:05 pm.

Roll Call: Chair Voeller, Mayor Labbe, Commissioner Law, Commissioner Zhu, Commissioner Bauer were all present. Commissioner Haler & Commissioner Weston were absent

2. **Agenda revisions:** Add Updates as regular agenda item for future – **Revised Agenda Approved**

3. **Public Comments about items not on the agenda:** Kristi Galarza, LCBAG – housing director interviews start Friday

4. **Updates**

1. Parking – Mayor – contract for parking lot; next week should have contract for T2, Mallory to get a neighborhood parking plan together; working with LTFitness & Community Banks for parking partnership for events

2. STR Compliance Letters – S. Dallas getting list from MuniRevso non-compliant STRs; Mayor issuing a cease & desist on 2 STR for fraudulent representation

3. City Administrator – Laurie Simonson starts next Monday

4. Planning position – Sarah Dallas, hourly; let Laurie make that decision


5. **Discussion on PAT Recommended Code Changes**, Mary Coddington

possibly asking Sarah Dallas to help with a list of questions to resolve proposed sections of code. Staff contacted S. Dallas and she will be at the next P&Z meeting. Work Session for proposed changes; ADU & duplex use by right R1 & R2

6. **Possible upcoming PUD/Major/Minor Subdivision** – No applications yet

7. **Adjourn** 7:15 pm

Next Meeting – March 9<sup>th</sup>, 2022



**City of Leadville Planning & Zoning Commission**  
**DRAFT Minutes**  
**Wednesday, March 9<sup>th</sup>, 2022 at 6:00 P.M.**

1. Chair Voeller called the meeting to order at 6:05 pm.

Roll Call: Chair Voeller, Mayor Labbe, Commissioners Law, Zhu, Bauer & Commissioner Weston were all present. Commissioner Haler was absent.

2. **Agenda revisions:** Add Commissioner Haler Resignation Letter to Agenda under Item #7; add question regarding PAT recommendation code changes between Agenda Items 3 & 4

**Revised Agenda Approved**

3. **Public Comments about items not on the agenda:** Kristi Galarza, LCBAG – housing director hired, Jackie Whelihan started last week. Nancy Bailey, EDC – few board vacancies, focused on communication; future collaboration with P&Z

4. **Railyard/PAT zoning code change question** – Sarah gave update - civic community use, city will not own, LURA will.

**5. Updates**

1. Voeller & Law professionally working on Affordable Housing Analysis, contract is with the County, Michael Yerman, SCEDD main contact

2. Ordinances 3, 4 & 5 passed by city council on first reading, second reading scheduled for March 15<sup>th</sup> council meeting, will go into effect 4/15/2022

2. STR Compliance Letters – waiting until after the renewal period, late April

3. Planning position – Laurie Simonson discussed a City Planning Director

6. **Discussion on PAT Recommended Code Changes:** Sarah Dallas to help with a list of questions to resolve proposed sections of code. Kristi Galarza will get red-lined version from Mary Coddington. Mayor would like to see some of the recommendations in place in the next 2-3 months, part of the big DOLA grant in September.

7. **Land Use Table** – TJ, planning strategies, code updates, TJ to send scope of work to Gabby & Laurie

8. **Alternates/Attendance** – Alex Haler resigned 3/15/22; discussed bylaws that state “any Commission member who misses 3 consecutive meetings shall be deemed to have resigned his/her position on the Commission”; place ad in paper for vacancy.

9. **Adjourn** 7:15 pm

Next Meeting – March 23, 2022

# Policy Advisory Team Recommendations to Enable Housing Variety

# Accessory Dwelling Units

# ADUs - Existing Specifications for each Zone District

ADU Size requirements - maximum size of 50% of the principal unit and a minimum size of 100 sqft. (17.60.020)

Existing Lot Requirements in the Zoning Code

Zone Dist.	Res. Density	Minimum Lot	Min DU sqft	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft	Max house/ADU size
R1	9	5,000	600	20/7.5/15 2,275	67% 3,350	1,517/758
R2	19	2,250	600	10/3/6 1,406	75% 1,687.5	938/468
TR	38	2,250	450	10/3/6 1,406	85% 1,912.5	938/468
TC	none	2,250	450	3/3/6 1,539	85% 1,912.5	1,026/513

Table 1. shows the existing requirements in the Leadville zoning code and the square footage of the developable area based on setback requirements and lot coverage requirements. It also shows the maximum square footage of a house and ADU for the lot based on the requirement that ADUs be no more than 50% of the size of the principal structure.



# ADUS

## **Key problems:**

1. Based on the listed residential densities you cannot develop two units on the minimum lot size in the R1, R2, or TR zones
2. The ADUs that would comply with all requirements and would fit on the minimum lots in R2, TR, and TC are smaller than the ADU “sweet spot” of 576 sq.ft.

## **Associated concerns:**

1. There is no readily apparent code requirement for off street parking for residential uses
2. The code notes that ADUs are excluded from the min DU size in R1 and R2, there is no corresponding note that exempts ADUs from the 450 min DU size in the TR and TC zones although the minimum size for an accessory dwelling unit is 100 sq ft (17.60.020)

# ADUs - Potential Code Adjustments

## Potential ADU Solutions

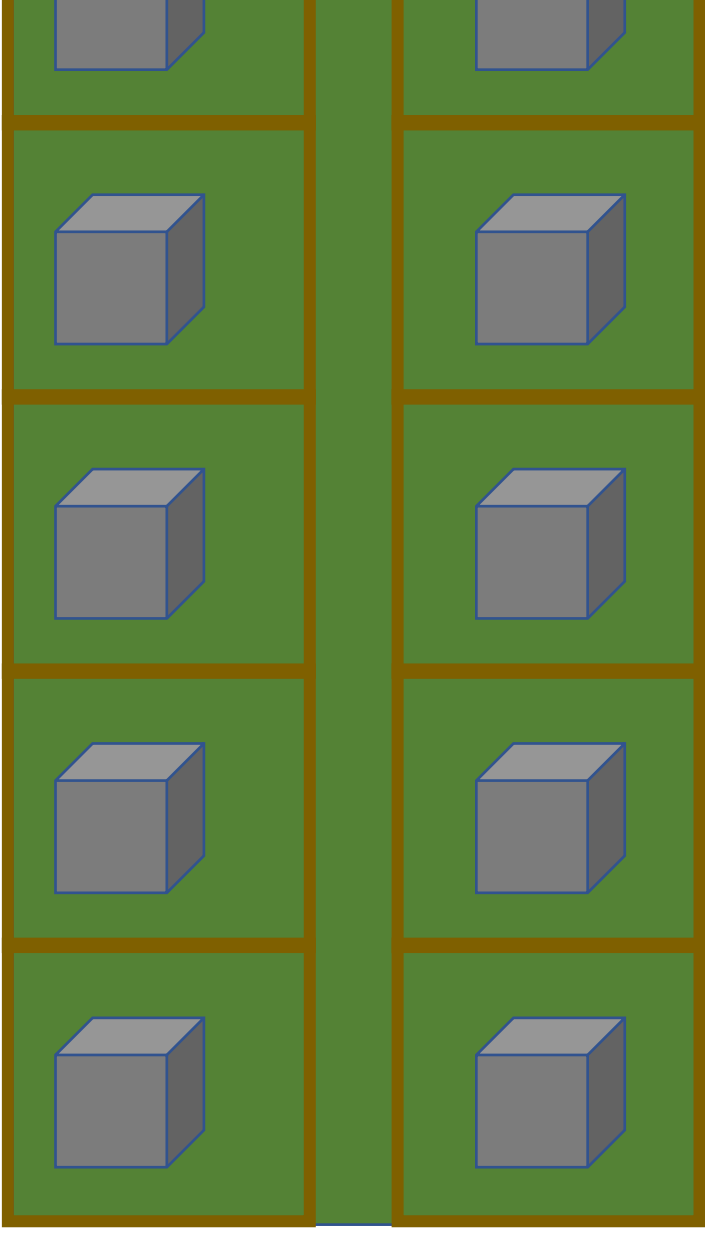
Zone Dist.	Res. Density	Minimum Lot	ADU Size	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft	Max house/ADU size
R1	<b>Remove the reference to density; focus on what is allowed by lot size</b>	5,000		20/7.5/15 2,275	67% 3,350	60%-1,242/745 w/2 parking spots
R2	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250	<b>Max ADU size: 0.60 principal structure and maximum height 2 story</b>	<b>3</b> /3/6 1,539	75% 1,687.5	60%- 781/468* w/2 parking spots
TR	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250		<b>3</b> /3/6 1,539	85% 1,912.5	60%- 781/468* w/2 parking spots

Recommended changes to the current code to better support the development of ADUs. The table focuses on the three zone districts where ADUs are currently limited by the residential density.

\*These are still smaller than recommended ADU size; this can be alleviated by waiving onsite parking or using more than 1 floor for the principal structure and/or the ADU

# ADUs - R1

The current residential density of 9 units/acre and a minimum lot size of 5,000 results in only allowing 1 dwelling unit on each lot.

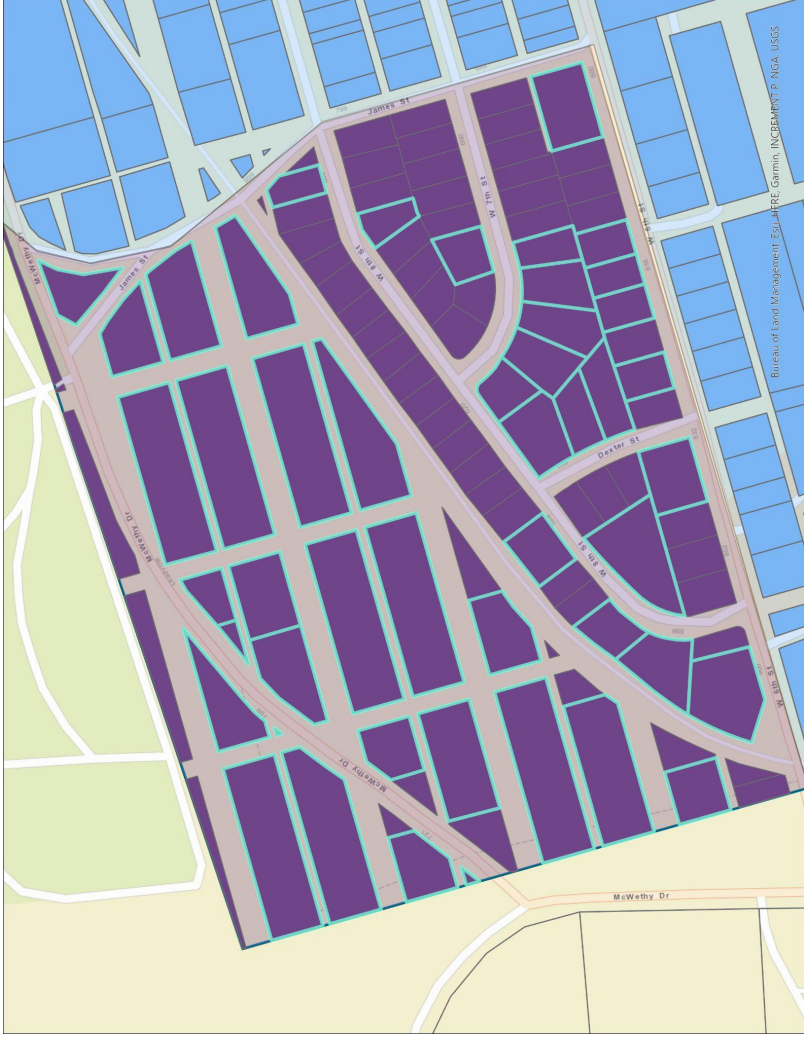



$$(\text{lot sqft}/\text{acre})RD = \text{units per lot}$$

$$(5,000/43,560)9 = 1.03$$

R1: 9 Dwelling Units/Acre

# ADUs - R1



 R1 parcels

 R1 parcels large enough for 2 units

Today to have an ADU in R1, you would need a lot of at least 9,680 sqft

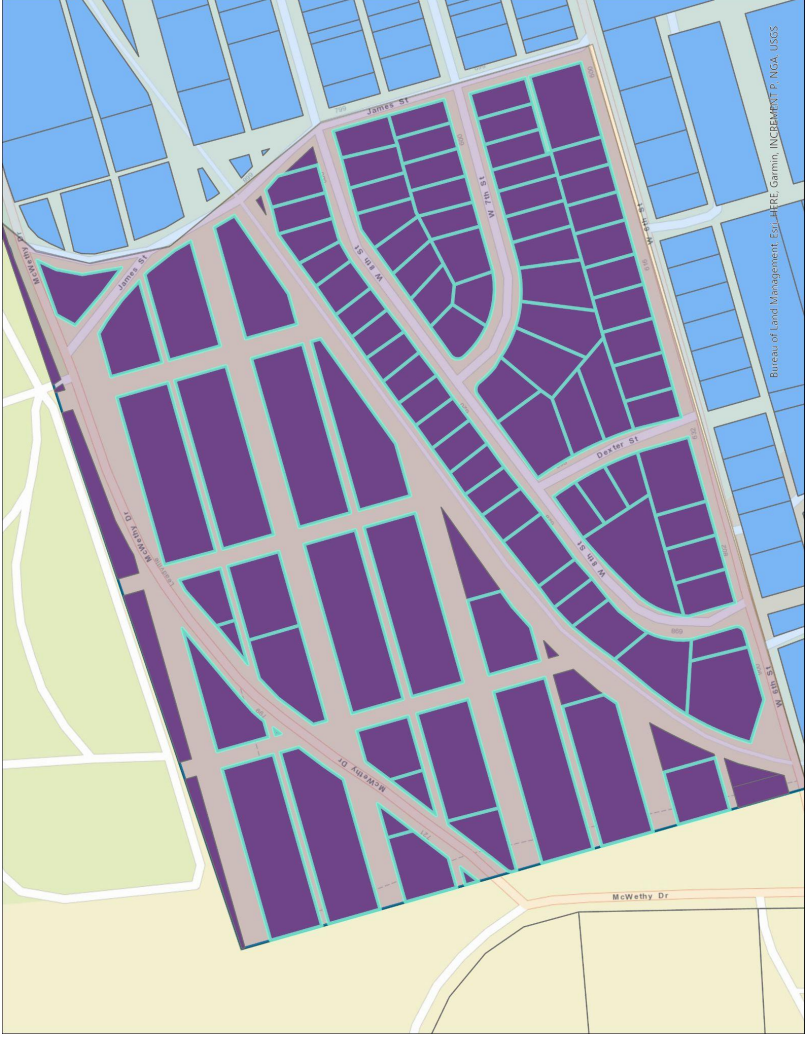
Approximately 42 of the 98 R1 parcels would be able to have an ADU.

# ADUs - R1

## **Proposed changes to allow more ADUs in the R1 zone district:**

1. Remove reference to the residential density entirely and specify that 1 ADU is allowed on lots equal to or above the minimum lot size
2. Increase the allowed ADU size to be 60% of the principal structure

# ADUs - R1

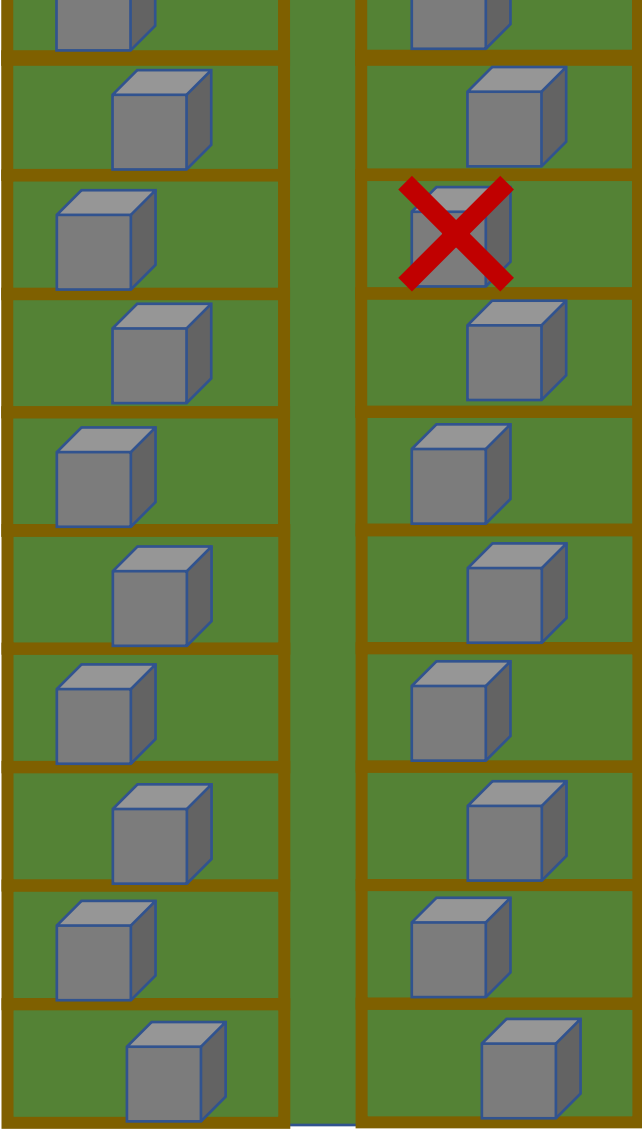


R1 parcels

R1 parcels large enough for 2 units

Proposed changes would allow ADUs on 87 of the 98 parcels in R1, more than doubling the opportunity for ADUs

# ADUs - R2



A residential density of 19 units/acre and a minimum lot size of 2,250 results in less than 1 dwelling unit on each lot, meaning if an acre were divided into 19 - 2,250 sq ft lots, one of those lots could not have a dwelling unit nor could any of the lots have more than 1 dwelling unit.

- 1 Acre
- Min Lot 2,250 sqft

$$\begin{aligned} (\text{lot sqft}/\text{acre})RD &= \text{units per lot} \\ (2,250/43,560)19 &= 0.98 \end{aligned}$$

R2: 19 Dwelling Units/Acre





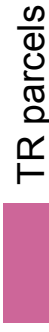
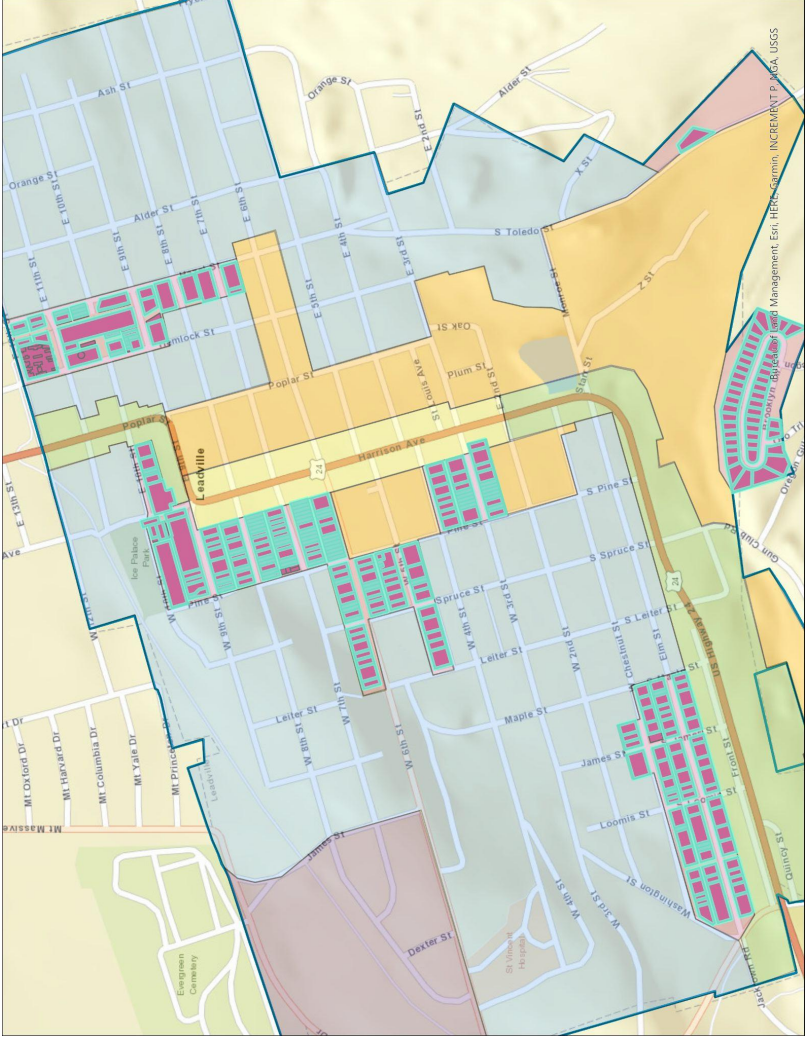
# ADUs - R2

## **Proposed changes to allow more ADUs in the R2 zone district:**

1. Remove reference to the residential density entirely and specify that 1 ADU is allowed on lots equal to or above the minimum lot size; to fit ADUs on lots smaller than 2,625 sqft, builders may need to consider a smaller footprint by leveraging 2 stories for the primary residence and/or the ADU
2. Increase the allowed ADU size to be 60% of the principal structure
3. Reduce the allowed side setback from to 3 ft



# ADUS - TR



TR parcels



TR parcels large enough for 2 units

Today to have an ADU in TR, you would need a lot of at least 2,293 sqft; because the residential density is already 38 in this zone district, that encompasses most lots.

Approximately 290 of the 338 TR parcels would be able to have an ADU.

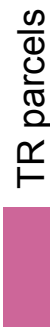
# ADUs - TR

## **Proposed changes to allow more ADUs in the TR zone district:**

1. Remove reference to the residential density entirely and specify that 1 ADU is allowed on lots equal to or above the minimum lot size; to fit ADUs on lots smaller than 2,625 sqft, builders may need to consider a smaller footprint by leveraging 2 stories for the primary residence and/or the ADU
2. Increase the allowed ADU size to be 60% of the principal structure
3. Reduce the allowed side setback from 10 ft to 3 ft

The current residential density in TR is high enough to support 2 units on most lots, but for consistency and clarity, it is recommended that reference to residential density be removed and instead use lot dimensions to determine if an ADU would be allowed.

# ADUS - TR

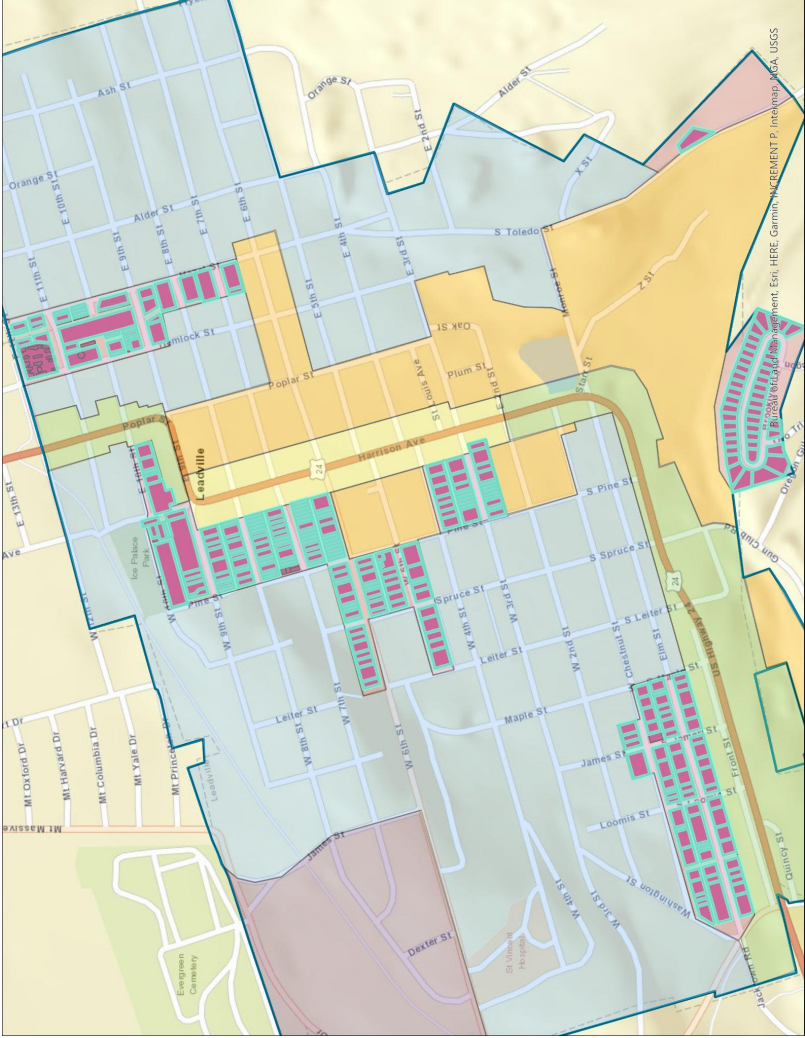


TR parcels



TR parcels large enough for 2 units

Proposed changes would allow ADUs on 294 of the 338 parcels in TR.



# Duplexes

# Duplexes - Existing Specifications for each Zone District

Existing Lot Requirements for Duplexes in the Zoning Code

Zone Dist.	Res. Density Current	Minimum Lot	Minimum Dwelling unit sqft	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft	Max duplex size - each half
R1	9	5,000/ 2,500 two family res*	600	20/0/15** 3,250	67% 3,350	1,625 (1,137)
R2	19	2,250	600	0/0/0 2,250	75% 1,687.5	843
TR	38	2,250	450	0/0/0 2,250	85% 1,912.5	956
TC	none	2,250	450	3/3/6 1,539	85% 1,912.5	769

\*This actually gets you further from alignment with the residential density

\*\*Side setback is reduced to 0 for two family residences, but the code does not reference sides abutting other parcels; max duplex size in parenthesis references 7.5 ft side setbacks from adjoining parcels

Table 3. shows the existing requirements in the Leadville zoning code and the square footage of the developable area based on setback requirements and lot coverage requirements. It also shows the maximum square footage of each half of a duplex based on the modified setbacks allowed for duplexes.

# Duplexes

## **Key problem:**

Based on the listed residential densities you cannot develop two units on the minimum lot size in the R1, R2, or TR zones

## **Associated concerns:**

1. There is no readily apparent code requirement for off street parking for residential uses
2. It is unclear if in the R2 and TR zones you can build to the lot line on all four sides or if you can only build to the lot line on one side.



# Duplexes

## Duplex Solutions

Zone Dist.	Res. Density	Minimum Lot	Minimum Dwelling unit sqft	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft	Max duplex size - each half
R1	<b>Remove the reference to density; focus on what is allowed by lot size</b>	5,000	600	20/0/15 3,250	67% 3,350	1,481 w/2 parking spots
R2	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250	600	0/0/0 2,250	75% 1,687.5	699.75 w/2 parking spots
TR	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250	450	0/0/0 2,250	85% 1,912.5	812.25 w/2 parking spots

Potential solutions to better support the development of duplexes. The table focuses on the three zone districts where duplexes are currently limited by the residential density. All items in red are suggestions that work toward enabling duplexes and are described in more detail below.

# Duplexes - R1

The current residential density of 9 units/acre and a minimum lot size of 5,000 results in only allowing 1 dwelling unit on each lot

## **Proposed changes to allow more duplexes in the R1 zone district:**

1. Remove reference to the residential density entirely and specify that duplexes are allowed on lots equal to or above the minimum lot size

*The city may want to clarify if the 0 foot side setback is only allowed where the duplexes meet and the 7.5 side setback is still in effect for the outer sides of the parcel.*

# Duplexes - R2

A residential density of 19 units/acre and a minimum lot size of 2,250 results in less than 1 dwelling unit on each lot, meaning if an acre were divided into 19 - 2,250 sq ft lots, one of those lots could not have a dwelling unit nor could any of the lots have more than 1 dwelling unit.

## **Proposed changes to allow more duplexes in the R2 zone district:**

1. Remove reference to the residential density entirely and specify that duplexes are allowed on lots equal to or above the minimum lot size; to fit duplexes on lots smaller than 2,625 sqft, builders may need to consider a smaller footprint by stacking the units as opposed to side by side construction.

The city may want to clarify if the 0 foot setbacks are allowed on all sides of the property simultaneously.

# Duplexes - TR

The residential density of 38 units/acre would allow for 2 units on most lots, but to be consistent, the reference to residential density should be taken out.

## **Proposed changes to allow more duplexes in the TR zone district:**

1. Remove reference to the residential density entirely and specify that duplexes are allowed on lots equal to or above the minimum lot size; to fit duplexes on lots smaller than 2,625 sqft, builders may need to consider a smaller footprint by stacking the units as opposed to side by side construction.

The city may want to clarify if the 0 foot setbacks are allowed on all sides of the property simultaneously.

# Multifamily 3-4 Unit

# Multifamily - 3-4 unit

Existing Lot Requirements for Multi-Family 3-4 unit in the Zoning Code

Zone Dist.	Res. Density Current	Minimum Lot	Minimum Dwelling unit sqft	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft
R1 - prohibited					
R2 - conditional	18	2,250	600 square feet (multi-family and accessory dwelling units excluded)	10/3/6 - 0/0/0 exception for upto 3 attached 1,406/2,250	75% 1,687.5
TR - conditional	38	2,250	450	10/3/6 - 0/0/0 exception for upto 3 attached 1,406/2,250	85% 1,912.5
RC - prohibited					
C - conditional	9	5000	600 square feet (multi-family and accessory dwelling units excluded)	10/5/10 3,200	50% 2,500
TC - by right	none	2,250	450	3/3/6 1,539	85% 1,912.5

# Multifamily - 3-4 unit

## **Key problems:**

1. Small multifamily properties integrate well into other residential districts and could be a use by right in more places.
2. There is very little in the code that addresses specifications for multifamily.

# Multifamily - 3-4 unit

## Multi-Family 3-4 unit Solutions

Zone Dist.	Res. Density	Minimum Lot/ <b>min lot for MF</b>	Minimum Dwelling unit sqft	Front/Side/Back; remaining sqft	Lot Coverage; remaining sqft
R1 - prohibited					
R2 - <b>by right</b>	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250/ <b>5,000</b>	600 square feet (multi-family and accessory dwelling units excluded)	10/3/6 - 0/0/0 exception for upto 3 attached 1,406/2,250	75% 1,687.5
TR - <b>by right</b>	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250/ <b>5,000</b>	450	10/3/6 - 0/0/0 exception for upto 3 attached 1,406/2,250	85% 1,912.5
RC - prohibited					
C - <b>by right</b>	<b>Remove the reference to density; focus on what is allowed by lot size</b>	5000	600 square feet (multi-family and accessory dwelling units excluded)	10/5/10 3,200	<b>64%</b> <b>3,200</b>
TC - by right	<b>Remove the reference to density; focus on what is allowed by lot size</b>	2,250/ <b>5,000</b>	450	3/3/6 1,539	85% 1,912.5



# Multifamily - 3-4 unit

## Typical 4 Plex Specifications

<b>Lot</b>	
Width	45–65 feet
Depth	100–150 feet
Area	4,500–9,750 sqft
	0.10–0.22 acres

<b>Density</b>	
Density	21–35 du/acre

<b>Setbacks</b>	
Front	10–25 feet
Side	5–12 feet
Rear (main building)	30–60 feet
Between Main and Accessory Buildings	10–20 feet
Lot Coverage	

<b>Units</b>	
Number of Units	4
Typical Unit Size	500–1,200 sq. ft.

<b>Parking</b>	
Parking Ratio	1-2 per unit
On-street Spaces	2–3
Off-street Spaces	1.5 per unit max.

<b>Building Size</b>	
Width	34–56 feet
Depth	32–60 feet
Height (to eave)	20–28 feet
Floors	2-2.5 stories

# Multifamily - 3-4 unit R2

## Typical 4 Plex Specifications

<b>Lot - Minimum for MF 5k</b>	
Width	45–65 feet
Depth	100–150 feet
Area	4,500–9,750 sqft
	0.10–0.22 acres

<b>Density</b>	
Density	<b>Remove reference</b>

<b>Setbacks</b>	
Front	10–25 feet
Side	5–12 feet
Rear (main building)	30–60 feet
Between Main and Accessory Buildings	10–20 feet
Lot Coverage	

<b>Units</b>	
Number of Units	4
Typical Unit Size	500–1,200 sq. ft.

<b>Parking</b>	
Parking Ratio	1-2 per unit
On-street Spaces	2–3
Off-street Spaces	1.5 per unit max.

<b>Building Size</b>	
Width	34–56 feet
Depth	32–60 feet
Height (to eave)	20–28 feet
Floors	2-2.5 stories

# Multifamily - 3-4 unit R2

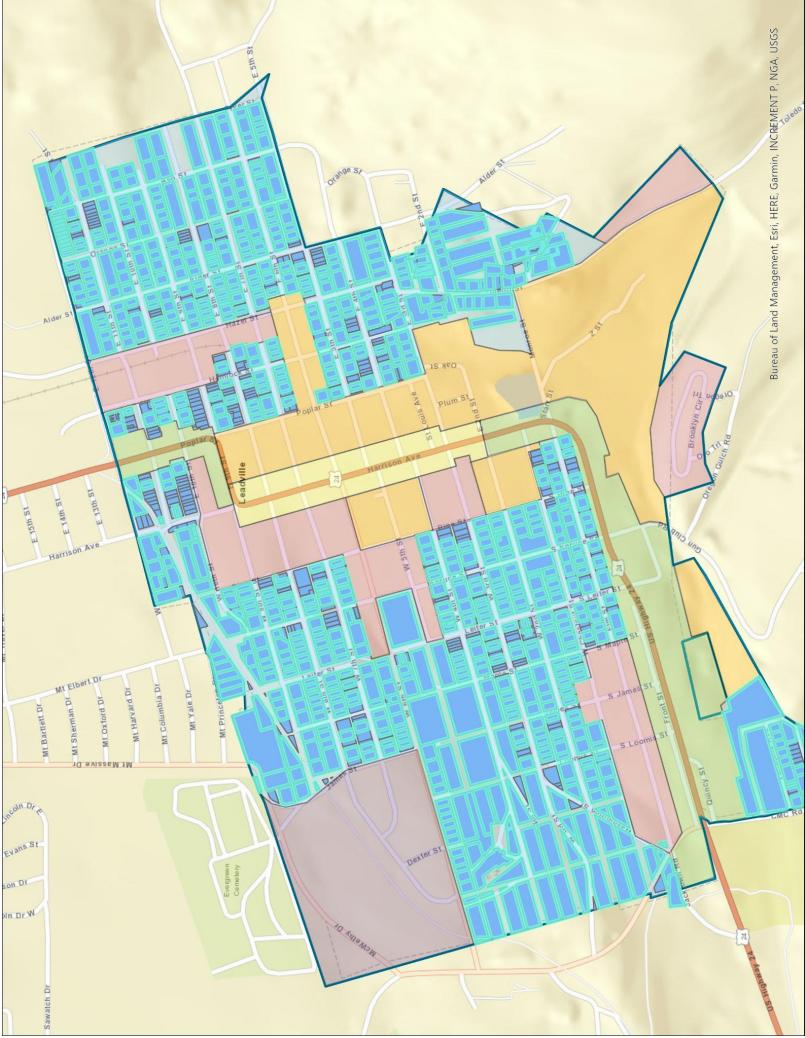


R2 parcels



R2 parcels large enough for 3-4 unit MF

Proposed changes would allow 3-4 unit MFs on 765 of the 1,197 parcels in R2



# Multifamily - 3-4 unit TR

## Typical 4 Plex Specifications

<b>Lot - Minimum for MF 5k</b>	
Width	45–65 feet
Depth	100–150 feet
Area	4,500–9,750 sqft
	0.10–0.22 acres

<b>Units</b>	
Number of Units	4
Typical Unit Size	500–1,200 sq. ft.

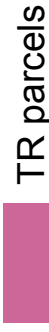
<b>Density</b>	
Density	<b>Remove reference</b>

<b>Setbacks</b>	
Front	10–25 feet
Side	5–12 feet
Rear (main building)	30–60 feet
Between Main and Accessory Buildings	10–20 feet
Lot Coverage	

<b>Parking</b>	
Parking Ratio	1-2 per unit
On-street Spaces	2–3
Off-street Spaces	1.5 per unit max.

<b>Building Size</b>	
Width	34–56 feet
Depth	32–60 feet
Height (to eave)	20–28 feet
Floors	2-2.5 stories

# Multifamily - 3-4 unit TR

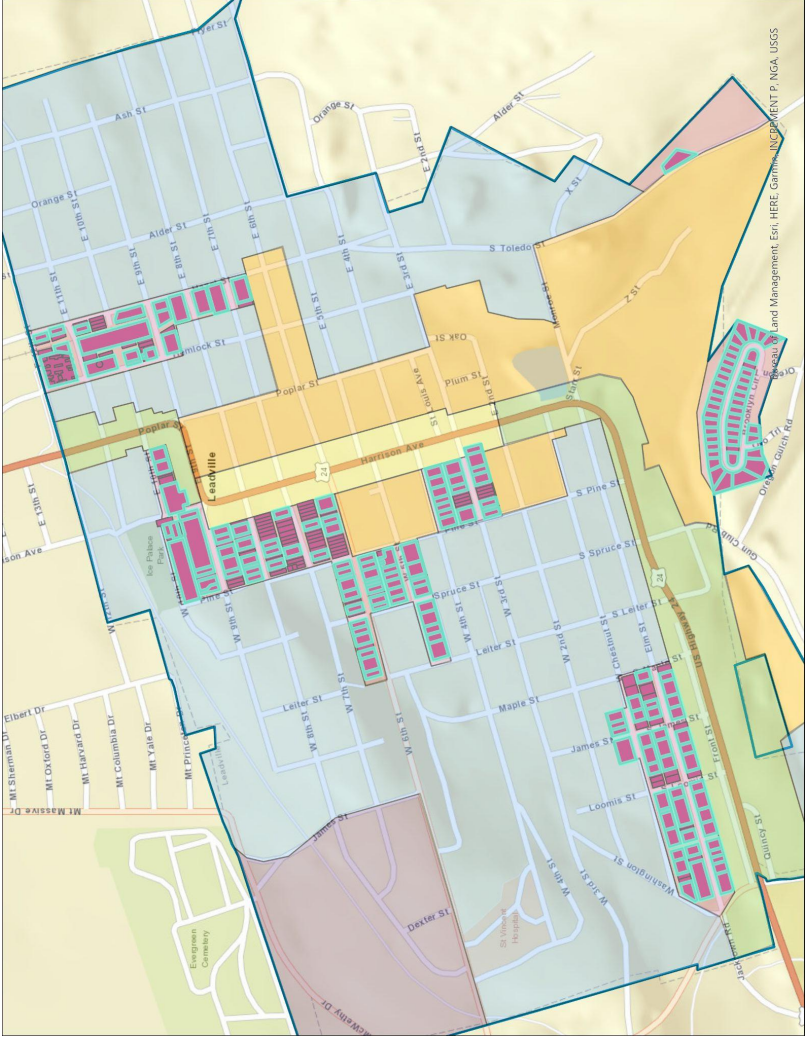


TR parcels



TR parcels large enough  
for 3-4 unit MF

Proposed changes would  
allow 3-4 unit MFs on on 181  
of the 338 parcels in TR.



# Multifamily - 3-4 unit C

## Typical 4 Plex Specifications

<b>Lot</b>	
Width	45–65 feet
Depth	100–150 feet
Area	4,500–9,750 sqft
	0.10–0.22 acres

<b>Units</b>	
Number of Units	4
Typical Unit Size	500–1,200 sq. ft.

<b>Density</b>	
Density	<b>Remove reference</b>

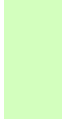
<b>Setbacks</b>	
Front	10–25 feet
Side	5–12 feet
Rear (main building)	30–60 feet
Between Main and Accessory Buildings	10–20 feet
Lot Coverage	<b>64%</b>

<b>Parking</b>	
Parking Ratio	1-2 per unit
On-street Spaces	2–3
Off-street Spaces	1.5 per unit max.

<b>Building Size</b>	
Width	34–56 feet
Depth	32–60 feet
Height (to eave)	20–28 feet
Floors	2-2.5 stories

# Multifamily - 3-4 unit C

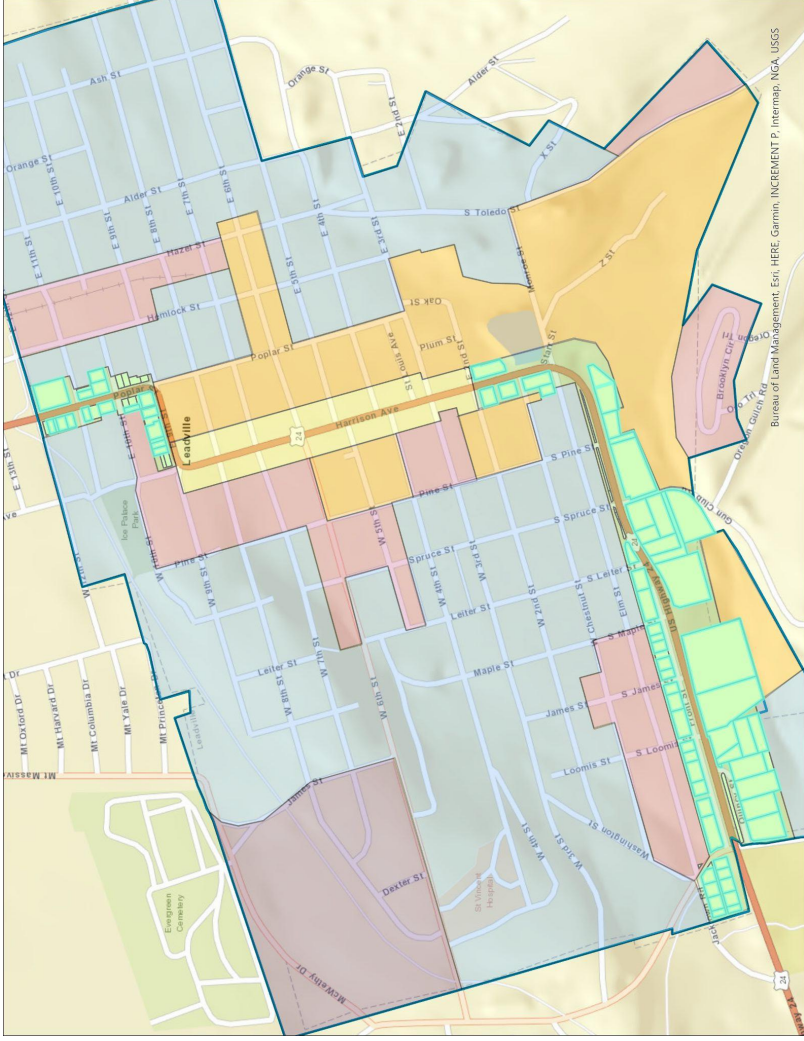
TR parcels



TR parcels large enough  
for 3-4 unit MF



Proposed changes would  
allow 3-4 unit MFs on on 68 of  
the 95 parcels in C.



# Multifamily - 3-4 unit TC

## Typical 4 Plex Specifications

<b>Lot - Minimum for MF 5k</b>	
Width	45-65 feet
Depth	100-150 feet
Area	4,500-9,750 sqft
	0.10-0.22 acres

<b>Density</b>	
Density	<b>Remove reference</b>

<b>Setbacks</b>	
Front	10-25 feet
Side	5-12 feet
Rear (main building)	30-60 feet
Between Main and Accessory Buildings	10-20 feet
Lot Coverage	

<b>Parking</b>	
Parking Ratio	1-2 per unit
On-street Spaces	2-3
Off-street Spaces	1.5 per unit max.

<b>Units</b>	
Number of Units	4
Typical Unit Size	500-1,200 sq. ft.

<b>Building Size</b>	
Width	34-56 feet
Depth	32-60 feet
Height (to eave)	20-28 feet
Floors	2-2.5 stories





## **Title 17 ZONING<sup>1</sup>**

### **Chapters:**

#### **Chapter 17.04 INTRODUCTORY PROVISIONS**

##### **Sections:**

##### **17.04.010 Title.**

This Title 17 of the Leadville Municipal Code shall be known as the "Leadville Zoning Ordinance and Associated Regulations" and is referred to hereinafter as "this title" or as "this ordinance."

(Ord. 99-8 § 1 (part): prior code § 17.01)

##### **17.04.020 Authority.**

This title is enabled and adopted pursuant to Title 31, Article 23; Title 24, Article 67; Title 29, Article 20; and Title 24, Article 68, Colorado Revised Statutes, as amended.

(Ord. 99-8 § 1 (part): prior code § 17.02)

##### **17.04.030 Scope.**

This title applies to all private and public land and structures located within the incorporated boundaries of the city and, except as deemed otherwise by the city council, all annexed lands at such time as they are annexed into the corporate limits of the city.

(Ord. 99-8 § 1 (part): prior code § 17.03)

##### **17.04.040 Purpose.**

The purpose and intent of this title shall encompass the purpose and intent of the enabling legislation cited in Section 17.04.020 and include but not necessarily be limited to:

- A. Implement the relevant provisions of the Leadville comprehensive plan;
- B. Promote the development of Leadville in a manner that will best promote health, safety, convenience, order, esthetics, prosperity, and general welfare;

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<sup>1</sup>Cross-reference: For the powers, duties, organization, rules and regulations of the city planning and zoning commission, also referred to in this title as the commission/the planning commission, see Chapter 2.36 of this code and such rules and regulations as the commission has adopted pursuant to its authority contained in Title 31, Article 23, Colorado Revised Statutes, as amended.

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- C. Promote safety from fire, floodwaters and other known dangers;
  - D. Provide adequate provision for sunlight and clean air quality;
  - E. Promote the sound and efficient expenditure of public funds;
  - F. Provide for the timely and efficient supply of public utilities and other public services and the orderly, uncongested flow of vehicular and pedestrian traffic;
  - G. Protect and preserve the unique historical features, cultural values, scenic views and land use patterns of Leadville while promoting compatible civic design and the safe and attractive arrangement of land use features;
  - H. Provide for and promote innovative and mixed-use land developments;
  - I. Mitigate the effects of this title on the property rights and development potential of existing property owners;
  - J. Promote economic development and the creation of new employment;
  - K. Provide for the vesting of property development rights in accordance with state of Colorado law;
  - L. Protect Leadville's National Historic Landmark district, ensuring its continuing viability.

(Ord. 99-8 § 1 (part): prior code § 17.04)

#### **17.04.050 Interpretation and application.**

The provisions of this title shall be considered the minimum requirements for the protection of the public health, safety, welfare, comfort, convenience and prosperity of the present and future residents within the city. Consequently, this title shall be regarded as remedial and, where appropriate, it shall be construed liberally in order to accomplish its purposes.

Whenever a given element in this title contains provisions regarding the same subject matter as any other element of this title or any other law, statute, regulation, resolution or contract of the city, the state of Colorado or the United States, the more restrictive requirement or the higher, more stringent standard shall apply, unless otherwise specified in this title.

Words in this title used in the present tense may include the future tense, words in the singular shall include the plural, words in the plural shall include the singular, the word "shall" is mandatory and the word "may" is permissive.

(Ord. 99-8 § 1 (part): prior code § 17.05.010)

#### **17.04.060 Separability.**

Should any part, section or provision of this title be declared illegal, unconstitutional or otherwise invalid by any court of competent jurisdiction, such action shall have no bearing upon the validity, application or effect of the remainder of this title.

(Ord. 99-8 § 1 (part): prior code § 17.05.020)

#### **17.04.070 Applicability.**

This title is not intended to abrogate, annul, govern over or prevail over any permits or easements issued prior to the effective date of adoption of this title, except as expressly so stated within this title.

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(Ord. 99-8 § 1 (part): prior code § 17.05.030)

**17.04.080 Disclaimer and waiver of liability.**

The zoning provisions and related land use regulations described herein and contained in this title represent the minimum appropriate measure that the elected and appointed officials, staff and consultants of the city believe necessary for the protection of the health, safety and welfare of city residents and the pursuit of other, related purposes listed in Section 17.04.040. However, users of this title, residents, prospective residents and all other persons, agencies and organizations should not presume nor construe that the adoption and implementation of the regulations contained in this title represent any guarantee or assurance of any sort that past, present or future developments within the city shall be free of known, suspected or unknown hazards to their health, safety and welfare or shall be immune from physical or environmental hazards that could prove injurious to buildings, the land upon which such buildings rest or the surface or ground waters in their vicinity.

Sufficiently detailed studies have not been conducted on a parcel-by-parcel basis by or on behalf of the city to provide any such assurances to individual property owners or prospective property owners or residents of the city. The city, its elected and appointed officials, staff and consultants hereby disclaim any liability for conditions that may arise from or in spite of the good-faith preparation, adoption, interpretation and application of the contents of this title.

The climate conditions common to the city combined with the potential existence of various natural and manmade environmental hazards, many of which remain incompletely documented and subject to varying interpretations, strongly suggest that prospective property owners and developers should conduct whatever site-specific tests and studies they believe to be necessary, above and beyond the requirements of this title, to ensure the health, safety, well-being and welfare of the present and future residents of the city. Neither the city nor any of its elected or appointed officials or consultants can or shall be held responsible for the failure of any individuals, agencies, organizations, partnerships or corporations to undertake such additional studies or to conduct such additional tests and to act reasonably and prudently upon the expert interpretation of such studies and tests.

(Ord. 99-8 § 1 (part): prior code § 17.06)

**17.04.090 Mandatory zoning compliance.**

No building or other structure shall be erected, constructed, reconstructed or structurally altered, nor shall any building or land be used for any purpose except in conformity with the regulations prescribed in this title for the zoning district in which such building or land is located. No building or other permit shall be issued by any official of the city so authorized to issue such permits unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conforms to all zoning and building code regulations then in effect in Leadville.

(Ord. 99-8 § 1 (part): prior code § 17.07.010)

**17.04.100 Control over use.**

Upon the adoption of this title and these zoning regulations, any building or other structure or any tract of land may be used, structurally altered, converted or relocated for any purpose permitted or required by the regulations for the district in which such building or other structure or tract of land is located. Such use, change, extension, structural alteration, conversion or relocation shall be subject to all other regulations set forth or referred to in the regulations for that district and to all other applicable regulations contained within this title.

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Upon special conditions, however, the board of adjustment is empowered to grant variances from certain of the provisions contained herein. See Chapter 17.88.

(Ord. 99-8 § 1 (part); prior code § 17.07.020)

## Chapter 17.08 DEFINITIONS

### Sections:

#### 17.08.010 Introduction.

As used in this title, unless the context requires otherwise, the following words and phrases shall be as stated below. Except as provided for in this title, the planning commission shall decide by a majority vote of the members present any questions or disputes regarding both the interpretation and the application of the definitions listed below and all words contained within this title but not specifically defined herein. Any such interpretation or application decided upon by the planning commission may be appealed by an applicant to the board of adjustment, which shall render a final decision by a concurring vote of four members.

(Ord. 06-2 § 1; Ord. 99-8 § 1 (part); prior code § 17.31.010)

#### 17.08.020 Definitions.

"Accessory building, structure or use" means a subordinate building, structure or use customarily incidental and subordinate in function to the principal building, structure or use and located on the same lot as the principal building, structure or use.

"Accessory dwelling unit" or "ADU" means an integrated or detached residential dwelling unit that is incidental and subordinate in function and size to the principal building which shall be located on the same parcel as the principal building. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation.

"Adjoining property and adjacent" includes all lots and parcels of land so long as any portion of the lot or parcel is located within one hundred (100) feet of the outer boundary or perimeter of the property in question.

"Adjoining property and adjacent specific to harboring of chickens" includes all lots and parcels of land so long as any portion of the lot or parcel is located within twenty (20) feet of the outer boundary or perimeter of the property in question.

"Administrative permit" is a permit issued by the building official after determining that the proposed use satisfies conditions specified in the municipal code for the particular use, and does not run with the land. Permits may be denied or referred to the planning and zoning commission and city council with a conditional use permit application as described in Chapter 17.52.

"Agricultural production" means the production of a plant or animal which will ultimately be sold at retail and which utilizes the cultivating of soil, planting, raising and harvesting crops: rearing, feeding and managing animals.

"Alley" or "alleyway" means a minor public roadway upon which the rear of building lots generally abuts and which is generally used for service purposes.

"Alteration" means any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to, the erection, construction, reconstruction or removal of any structure or

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substantial portion thereof. With regard to a mobile home park or travel trailer park alteration would be any act or process that changes density, lot size and boundaries.

"Alternative tower structure" means any man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

"Antenna" means any exterior apparatus designed for telephone, radio or television communications through the sending and/or receiving of wireless communications signals.

"Antenna, dish" means dish (parabolic or cylindrical) antennas used for microwave and satellite transmission and reception for commercial purposes. This definition shall not apply to wireless cable satellite dish antennas or dish antennas less than one meter in diameter or measured diagonally.

"Antennas, panel" means an array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

"Antenna, whip" means a single antenna that is cylindrical in shape and omni-directional.

"Applicant" means any person making application for a land use change or other action encompassed by this title. See also "Person."

"Approved foundation" means the ADU must be attached to a permanent foundation system in accordance with the manufacturer's requirements for anchoring, support, stability, and maintenance. The foundation system must be appropriate for the soil conditions for the site and meet local and state codes. The foundation system will have a stem wall, slab, diamond pier, or concrete pylon.

"Architectural feature salvage" means the storage yard of a dealer in interior or exterior architectural elements recovered from structures, and may include facilities, but not motor vehicles, for the administration or management of the business and for the maintenance of equipment used in the business. Such use shall not include unenclosed and/or exposed building materials on more than twenty-five (25) percent of the property.

"Awning" means a movable shelter supported entirely from the exterior wall of a building and of a type that can be retracted, folded, or collapsed against the face of the supporting building.

"Bed and breakfast establishment" means a building or portion thereof with kitchen facilities for the customary service of breakfast at no additional cost to patrons and with sleeping rooms designed to be used, let or hired for occupancy by persons on a temporary basis and containing not more than ten (10) such rooms.

"Block" means an area of land within a subdivision or proposed subdivision and bounded entirely by streets, roads or other thoroughfares, except alleys or the external boundaries of the subdivision.

"Board of adjustment" means the board whose members are appointed by city council that is vested with the powers set forth in Chapter 17.88 of this title.

"Buffer" means a screen which provides a visual barrier and noise abatement around the perimeter of mobile home parks and travel trailer parks excluding areas of ingress and egress. The screen can consist of any combination of the following: a wood or masonry fence, essentially solid, with a minimum height of six feet; or landscaping or a landscaped berm consisting of trees, plants, flowers or other natural vegetation. At no point can the screen be less than three feet in height. At the time of construction, sixty (60) percent of the perimeter area where the screen is to be placed must be at least six feet in height.

"Building" means any structure supported by columns and/or walls or other structures designed to enclose space.

"Building official" means the city official(s) appointed or retained by the city to administer or enforce the building codes adopted by the city and other such codes and other regulations as the city may so designate.

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"Building height" means the vertical distance as measured from the average finished grade to the point lying one-half the distance between the lowest and highest point on the roof of the building.

"Canopy" means a permanently roofed shelter wholly or partially covering a sidewalk, driveway or other similar area, that may be wholly supported by a building or may be wholly or partially supported by columns, poles, or braces extended from the ground.

"Church" means any building which people regularly use to attend, participate in, or hold religious services, meetings, and other activities. This definition shall include buildings in which the religious services of any denomination are held.

"City" or "the city" means the city of Leadville, Colorado.

"Collector street" means a street of limited continuity serving or intended to serve as a feeder of local traffic into one or more major thoroughfares.

"Commercial greenhouse" means a greenhouse for agricultural production.

"Common open space" means a parcel of land, an area of water or a combination of land and water within the site designated for a planned unit development designed and intended primarily for the use or enjoyment of residents, occupants, and owners of the planned unit development.

The "commission" or the "planning commission" means the Leadville planning and zoning commission.

"Comprehensive plan" means a master plan or comprehensive plan adopted by the Leadville planning commission and/or the city council and all attachments and/or amendments to that plan.

"Conditional use permit" means a use as defined in Chapter 17.52 and may indefinitely run with the land rather than ceasing upon sale of the business as long as the land use remains the same and there are no violations of the municipal code.

"Construction" means the act of adding an addition or modifications to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

"Cottage industry" means a commercial operation conducted within or adjacent to a dwelling unit, which dwelling unit is occupied as residence. In order to qualify for treatment as a cottage industry, the dwelling unit must be continuously occupied as a residence; the absence or cessation of the occupation of the dwelling unit as a residence shall render the cottage industry a commercial operation, subject to all of the requirements of this title.

1. The cottage industry may offer articles for sale or delivery on the premises;
2. The cottage industry use must be contained within or adjacent to and integrated with the dwelling unit, but is not required to be operated entirely within the dwelling unit;
3. Up to three persons, in addition to those persons residing within the dwelling unit may be employed in the operation;
4. All signs must be in compliance with the applicable requirements for the zoning district in which the property is located;
5. No more than three motor vehicles, in addition to those owned and operated by the persons dwelling in the dwelling unit, may be parked or stored at or adjacent to the cottage industry premises for more than three hours continuously.

"Demolition" means any act or process that destroys in part or in whole a designated historic structure or a structure within the National Historic Landmark District.

"Detached accessory dwelling unit" means detached units that are located inside of accessory buildings including spaces inside of garages.

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"Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

"District" means a physical or geographic area where a common set of land use regulations and/or development standards apply.

"Dwelling unit" or "dwelling" means a building or structure or portion therein designed to be used as the living quarters for one person, family or housekeeping unit.

Dwelling, Multifamily. "Multifamily dwelling" means a dwelling that was designed to house or houses more than two families, as defined herein.

Dwelling, Single-Family Detached. "Single-family dwelling, detached" means a dwelling designed for or occupied by a single-family as defined herein. Except as otherwise indicated, a "manufactured home" is also included within the definition of a "single-family dwelling, detached." However, a "mobile home" is not included within the definition of a single-family dwelling, detached."

Dwelling, Single-Family Attached. "Single-family dwelling, attached" means a dwelling designed for occupancy and ownership by one family that is connected by a common wall to another single-family dwelling, such as a town home.

Dwelling, Two-Family. "Two-family dwelling" means a dwelling designed for occupancy by two families, such as a duplex.

"Exterior architectural appearance" means the architectural character and general composition of the exterior of a structure, including but not limited to, the kind, color and texture of the building material(s) and the type, design and character of all windows, visible roof surfaces, doors, lighting fixtures, sign and related elements.

"FAA" means the Federal Aviation Administration.

"Family" means one or more persons occupying a dwelling unit and maintaining a common household but not including boarding or rooming houses, lodges, clubs, hotels or motels. Except as otherwise provided herein, "family" shall also include persons that are not related by blood, marriage, adoption, or legal custody occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title VIII or the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988; or disabled persons as defined by Section 24-34-301, C.R.S.; additional necessary persons employed in the care and supervision of such handicapped or disabled persons.

"FCC" means the Federal Communication Commission.

Frontage, Business. "Business frontage" means the horizontal, linear dimension of that side of a building occupied by a single business or use which abuts a street, a mall, or other circulation area open to the general public and which has a public entrance to the building; in industrial districts, a building side with an entrance open to employees in a business frontage, where more than one business or use occupies a building, each such use having a public entrance (or, in industrial districts, an employee entrance) for its exclusive use is considered to have its own business frontage, which is the linear frontage of the portion of the building occupied by that business or use and containing the entrance.

"Grade" means the mean point of elevation of the finished surface of the ground between a structure (whether a building, sign structure, or other) and a point five feet distant from the structure, or the mean point of elevation of the finished surface of the ground between the structure and the property lines if it is less than five feet distant from the structure. In case the structure is within five feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

"Garage—Noncommercial" means a building designed for the shelter, storage or maintenance of motor vehicles owned and operated by the owner of such building which does not change the character of and is in harmony with the neighborhood and where no activity is carried out for profit.



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"Gross density" means the average number of dwelling units per acre of a development or a proposed development.

"Gross floor area" means the total floor area of a structure as measured along the outside walls at floor level and including all floors but excluding open balconies and porches or enclosed parking areas and related features.

"Group homes" means a residential facility, whether or not licensed by the state, for the purpose of providing twenty-four-hour staff care, shelter, supervision, training and/or rehabilitation to eight or more developmentally disabled persons, mentally ill persons, or disabled persons, or a residential facility, whether or not licensed by the state, for any number of children, or for any number of persons sixty (60) years of age or older; provided, that such group home for elderly persons: (a) shall not be located within seven hundred fifty (750) feet of another such home; and (b) shall comply with any state, county, or municipal health, safety, and fire codes who do not need skilled and intermediate care facilities, plus no more than two live-in staff persons employed in the care and supervision of such elderly persons.

A group home or residential group home shall not include fewer than eight persons occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title VIII or the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988; or disabled persons as defined by Section 24-34-501, C.R.S., and such additional necessary persons employed in the care and supervision of such handicapped or disabled persons.

"Guest unit" means any room, group of rooms, or other portion of a dwelling unit, accessory dwelling unit, hotel, motel, lodge, bed-and-breakfast establishment, time share estate, rooming or boarding house, or similar structure, that does not constitute the entire dwelling unit or other type of structure, is used or intended to be used for living and sleeping, has adequate egress, and is available for lease or rent as a single unit.

"Habitation" means occupancy of any dwelling unit, including dependent mobile homes, for more than twenty-four (24) hours in a seven-day period.

"Historic district" means the Leadville National Historic Landmark (NHL) district designated by the National Park Service.

"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 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.

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"Hotel," "motel" or "lodge" means a building or portion thereof with guest units used or designated for use by or hired for occupancy by persons on a temporary basis and containing at least six such guest rooms and shall include hostels.

"Improvements" means any utility, roadway, survey monument, building, structural or other changes to the land as may be required by or provided for in this title.

"Integrated accessory dwelling unit" means units that are created by dividing space within a principal building, or by adding floor area to an existing building.

"Junkyard" means a building, structure or parcel of land or any combination thereof used for the collection, storage or sale of waste paper, rags, scrap metal or discarded or abandoned materials and equipment or parts thereof or for the collecting, disassembly, storage or salvaging or demolition of vehicles, machinery or other materials and including the commercial sale of whole items or parts thereof, but not including architectural feature salvage.

"Kennel" means:

1. Any building, structure or open space devoted wholly or partially to the raising, boarding or harboring of five or more animals, domesticated, that are over four months of age; or
2. Any establishment for the boarding, raising or training of animals, domesticated, for which a fee is charged. Such establishment may include incidental grooming or sale of pet supplies.

"Loading area" means a parking space other than a public street or alley for parking commercial vehicles for the purpose of loading or unloading materials or merchandise.

"Local street" means a street serving individual lots within a subdivision.

"Long-term rental unit" means any dwelling unit, including an accessory dwelling unit, or guest unit that is available for lease for a term of thirty (30) consecutive days or more.

"Lot" means a portion or parcel of land, including a portion of a platted subdivision, occupied or intended to be occupied by a building or use and its accessories, together with such yards as required under the provisions of this title, that is an integral unit of land held under unified ownership in fee or co-tenancy, or under legal control tantamount to such ownership.

"Lot area" means the total horizontal area within the lot lines of a lot.

"Lot depth" means the average distance from the front to the rear lot lines of a lot.

"Lot width" means the average distance between the side lot lines of a lot.

"Majority" means a majority of the members of the planning commission or city council present for a regular or special meeting to conduct business pursuant to this title, unless otherwise specified in state statute or city ordinance.

"Manufactured home" means a single-family dwelling which: (1) is partially or entirely manufactured in a factory; (2) is not less than twenty-four (24) feet in width and thirty-six (36) feet in length; (3) is installed on an engineered, permanent foundation; (4) has brick, wood, or cosmetically equivalent siding and a pitched roof; (5) is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended; and (6) is built for the Colorado climate and snow load according to the Department of Housing and Urban Development Standards established under the provisions of 42 U.S.C. Section 5401, et seq.

Master Plan. See "Comprehensive Plan."

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Mobile home, Dependent. "Dependent mobile home" means any vehicular camping unit, travel trailer unit or similar mobile vehicular unit, including buses, equipped with or without a working flush toilet and working bathtub or shower.

Mobile home, Independent. "Independent mobile home" means a structure which: (1) is transportable in one or more sections; (2) is less than twenty-four (24) feet in width or thirty-six (36) feet in length; (3) is built on a permanent chassis; (4) is designed to be used as a place of living for a single-family, with or without a permanent foundation, when connected to the required utilities; and (5) includes the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" is not included within the definition of "mobile home." However, structures commonly called "single-wide mobile homes" (whether certified pursuant to the National Mobile home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended, or not) and any other form of transportable housing which does not meet the definition of a "manufactured home" under this title is included within the definition of "mobile home."

"Mobile home park" means a site or facility containing or proposed to contain two or more spaces for mobile homes.

"Mobile home space" means a plot of ground or a lot within a mobile home park designed to be occupied by one independent mobile home.

"Nonconforming" means any preexisting building, structure or use conflicting with one or more provisions of this title applicable to the zoning district in which the building, structure or use is located.

"Nudity" or "state of nudity" means:

- a. The appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female human breast; or
- b. A state of dress which fails opaquely and fully to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

"Open space" means the land area within a subdivision, proposed subdivision or other development designated, reserved and dedicated to outdoor uses, including but not limited to recreation, flood control, scenic uses, pathways and related uses but excluding roadways.

"Outdoor storage screened" means all outdoor storage of materials, supplies, equipment, trash, or similar items required to be screened from view from adjacent streets or the first floor of adjacent buildings.

"Owner" means any person with fee title to any parcel of land within the city who desires to permit the development of or to construct, install or erect a telecommunications facility upon such owner's property.

"Owner-occupied" has the same meaning as set forth in section 5.12.030 of this code.

"Parapet wall" means that part of a wall or railing which is entirely above the roof.

"Parking area" means an open space or an enclosed structure, exclusive of drives, turning areas or loading spaces, devoted to the parking of one or more motor vehicles.

"Person" means any individual, partnership, corporation, association, company or other public or corporate body including the federal government and any political subdivision, agency, instrumentality or corporation of the state.

Pipeline, Gas. "Gas pipeline" means any major pipeline and its appurtenant facilities designed for and capable of transporting gasses, excluding local distribution lines.

"Planned unit development" means an area of land, controlled by one or more landowners, to be developed or developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not

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necessarily correspond in lot size, bulk, or type of use, density, lot coverage, open space or other restriction to the provisions contained elsewhere in this chapter.

"Planning commission" means the Leadville planning and zoning commission.

"Planning official" means the city officials(s) appointed or retained by the city to administer or enforce this title and associated regulations and other such codes and regulations as the city may so designate.

"Public entrance" means an entrance to a building or premises that is customarily used or intended for use by the general public and excludes fire exits, special employee entrances, and loading dock entrances not generally used by the public.

"Recycling center" means a totally enclosed structure in which used materials are collected prior to shipment to others who will use those materials to manufacture new products.

"Referral agency" means an agency, organization, unit of government, political subdivision, group or organization to whom submittal materials and related text maps and graphic items are submitted for review, comment and/or recommendations to be returned to the Leadville Planning Commission or the Leadville City Council.

"Roadway" means that portion of a street right-of-way designated for vehicular traffic.

"Roof line" means the highest portion on any building where an exterior wall encloses usable floor space (including roof areas for housing mechanical equipment) or the highest point on any parapet wall if the parapet wall extends around the entire perimeter of the building.

"Rooming or boarding house" means a building or portion thereof with guest units designed to be used, let or hired for occupancy by persons as long-term rental units or on a permanent basis and containing at least one such guest units.

"School" means a facility that provides a curriculum of academic instruction, including kindergartens, elementary schools, middle schools, junior high schools, high schools, or the campus of a college or university.

"Setback" means the distance required by the provisions of this title between the face of a building and the lot line opposite that building face, measured perpendicular to the building. In computing the minimum setback requirement, the following architectural features shall not be considered: open fire escapes projecting up to a distance of four feet from the face of a building, walls, rails or fences. Setback distances shall be measured from the edge of the eaves of the structure. Where angled buildings or lots exist or streets are curved, setbacks shall be measured from the shortest distance to the lot line.

"Sexually oriented business" means any adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, nude modeling studio, or sexual encounter center:

- a. "Adult arcade" means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to regularly show films, motion pictures, video cassettes, slides or other photographic, digital, or electronic reproductions depicting specified sexual activities or specified anatomical areas.
- b. "Adult bookstore, adult novelty store," or "adult video" store means a commercial establishment that devotes a significant or substantial portion of its business to any one or more of the following:
  - i. The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

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- ii. The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or
  - iii. A significant or substantial portion of its business is shown by characteristics including, but not limited to, some or all of the following:
    - 1. A significant or substantial portion of its stock in trade consists of the items listed in subsections a. and/or b. above; or
    - 2. A significant or substantial portion of its revenues is derived from the rental or sale of items listed in subsections a. and/or b. above; or
    - 3. A significant or substantial portion of its floor space, shelf space or storage space is devoted to the items listed in subsections a. and/or b. above; or
    - 4. A significant or substantial portion of its advertising is devoted to the items listed in subsections a. and/or b. above.
  - c. "Adult cabaret" means a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment which regularly features live performances that are characterized by the exhibition of specified sexual activities or the exposure of specified anatomical areas.
  - d. "Adult motel" means a motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical type of material by means of a sign visible from the public right-of-way, or by means of any off premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and offers a sleeping room for rent for a period of time less than five hours.
  - e. "Adult motion picture theater" means any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown for more than one hundred (100) days annually that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.
  - f. "Nude modeling studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. The provisions of this definition shall not apply to:
    - 1. A college, junior college, or university supported entirely or partly by taxation; or
    - 2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
    - 3. A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.
  - g. "Sexual encounter center" means a business or commercial enterprise that regularly offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or seminudity. This definition does not apply to any actions in compliance with any treatment or examination of another person for a bona fide medical purpose when such treatment or examination is conducted in a manner substantially consistent with reasonable medical practices, or to bona fide private parties not open to the general public.

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h. "Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

i. "Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal, or tumescence;
2. Masturbation, actual or simulated;
3. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; and
4. Fondling or other erotic touching of human genitals, pubic region, anus, buttocks, or female breasts.

"Short-term rental unit" means a dwelling unit, including an accessory dwelling unit, or a guest unit within a dwelling unit or accessory dwelling unit that is available for lease for a term of less than thirty (30) consecutive days. The terms "vacation rental" and "short-term vacation rental," if and as used elsewhere in this code, shall mean short-term rental unit as defined in this section. The term "short-term rental unit" shall not apply to hotels, motels, lodges, bed-and-breakfast establishments, hostels, or time share estates, or any guest units within such establishments.

"Solar energy device" means a facility, equipment or device or structural design feature of a structure which provides for the collection of sunlight and which comprises part of a system for the conversion of the sun's radiant energy into thermal, chemical, mechanical or electrical energy.

"Street" means a way for vehicular traffic, whether designated as or called a street, highway, road, avenue, parkway or however else named or designated.

"Structural alteration" means any addition to or subtraction of parts of a building or structure.

"Structure" means anything constructed or erected upon the ground except utility poles and like protrusions, flag poles or walls and fences up to six feet in height.

"Subdivision" means a tract of land which is divided into two or more lots, tracts, parcels, sites, separate interests (including leasehold interests), interests in common or other division for the purpose, whether immediate or future, of transfer of ownership or for building or other development or for street use by reference to such subdivision or recorded plat thereof; or a tract of land, including land to be used for condominiums, apartments or any other multiple-dwelling units, or for time-sharing dwelling units.

"Telecommunication facility" means a facility that transmits and/or receives electromagnetic signals. It includes antennas, cables, wires, conduit, microwave dishes, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development. A telecommunication facility operates at less than one thousand (1,000) watts of effective radiated power. A telecommunication facility does not include:

1. Residential television antennas;
2. Wireless cable satellite dish antennas;
3. Amateur radio antennas; or
4. Dish antennas less than one meter in diameter or measured diagonally.

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"Telecommunication facility, accessory equipment" means equipment, including buildings and cabinets, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antennas, that is necessary for the operation of a telecommunication facility.

"Telecommunication facility, building roof-mounted" means a telecommunication facility that is supported and/or projects above the roof of a legally existing building or transmission structure.

"Telecommunication facility, building wall or facade-mounted" means a telecommunication facility that is supported and/or mounted on the wall of a legally existing building or transmission structure and does not project above the roof line. Facilities mounted on the side of a penthouse, mechanical screening, or other appurtenance, provided it would not project above the side of the appurtenance, and facilities mounted on towers for high voltage electrical transmission shall also be considered wall-mounted telecommunication facilities.

"Telecommunication facility, freestanding" means a telecommunication facility that consists of a stand-alone support structure or tower, antennas, and accessory equipment.

"Time share estate" means any interest in real property, including condominiums, owned or leased by five or more persons or other devices including ownership in a corporation, cooperative, partnership or joint venture whereby the owners or lessees have formally or informally agreed that such owners or lessees shall have the preferred or exclusive use during specified periods of time. Any conveyance of a fractional fee estate or undivided interest by separate deed is within this definition and is hereby regulated within this title. A time share estate shall be deemed to be created upon the marketing, promotion, selling or offering for sale a specified period or periods of time of occupancy in one or more residential units.

The issuance of a conditional use permit by city council is required prior to the creation of any time share estate in Leadville.

"Tower" means any structure that is designed and considered primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

"Tower, lattice" means a tower or structure designed and constructed primarily to support antenna or antennae and comprised of interconnected poles, pipes, bars, beams, strips, wires or cross-members. A lattice tower shall include any type or form of tower that incorporates guy or supporting wires. A lattice tower is not a monopole tower.

"Tower, monopole" means a structure designed and constructed to support antenna or antennae for the purpose of providing telecommunications services and which consists solely of a stand-alone, ground-mounted support pole, pipe or other solid structure. A monopole tower shall not include any tower supported or attached to guy or support wires. A monopole tower is not a lattice tower.

"Tract" means a parcel of land or contiguous combination thereof.

"Transmission line" means any electric transmission line and its related facilities which emanate from a power plant or from a substation and terminate at a substation and which are designed for or are capable of the transmission of electricity at sixty-nine (69) kilovolts (KV) or more.

"Travel trailer park" means a site or facility containing or proposed to contain two or more travel trailer or camping unit spaces.

"Travel trailer space" means a plot of ground or a lot within a travel trailer park or portion of a mobile home park designed to be occupied by one travel trailer unit or one camping unit.

"Travel trailer unit" means any pickup camper, pickup with shell, motorhome, travel trailer, tent trailer or similar mobile unit with sleeping quarters and not exceeding eight feet in body width at its widest point or forty

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(40) feet in body length and designed and used principally for recreational purposes or for the support of recreational or commercial uses.

"Use" means the purpose or function for which any land, structure or building is designed, constructed, maintained or occupied.

"Use by right" means permitted uses designated as use by right are subject to all other applicable regulations of this code and state and federal law.

"Use variance" means a deviation from Chapter 17.48 listing of prohibited uses by zoning district whereby an otherwise prohibited use in a given zoning district may be treated as a conditional use, and processed accordingly, for purposes of historic conservation. See also "variance" and Section 17.44.080 and Chapters 17.48 and 17.52.

"Variance" means any deviation, except a use variance, from the requirements of this title as allowed for by the board of adjustment. See also "use variance."

"Yard" means the space on the same lot as a building or structure that is usually unoccupied and open to the sky except for landscaping improvements.

(Ord. 07-1 § 1; Ord. 06-2 § 2; Ord. 03-17 §§ 1, 2; Ord. 03-11 §§ 1, 2; Ord. 03-4 § 1; amended during 2002 codification; Ord. 01-10 § I; Ord. 99-8 § 1 (part): prior code § 17.31.020)

(Ord. No. 08-3, § 1; Ord. No. 2009-3, § 1, 9-1-09; Ord. No. 2010-2, § 1, 5-18-10; Ord. No. 2010-5, § 1, 8-17-10; Ord. No. 2014-5, § 3, 8-5-14; Ord. No. 2016-6, § 1, 7-5-16; Ord. No. 2016-8, § 1, 11-1-16; Ord. No. 2020-6, § 2, 2-2-21)

## Chapter 17.12 ZONING DISTRICTS

### Sections:

#### 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
RC	Retail core
C	Commercial/highway
PUDO	Planned unit development overlay
NHL	National Historic Landmark District overlay

(Ord. 00-16 § 5; Amended during 2002 codification; Ord. 99-8 § 1 (part): prior code § 17.08)

#### 17.12.020 Incorporation of maps.

The location and boundaries of the districts established herein are shown on the zoning district map of the city, which is incorporated into this title. The zoning map, together with everything shown thereon and all amendments thereto, shall be as much a part of this title as if it were fully set forth and described herein.



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(Ord. 99-8 § 1 (part): prior code § 17.07.030)

**17.12.030 Location of the zoning district map of the city.**

Upon the adoption of this title, city council shall file a certified copy of the zoning district map of the city in the office of the city clerk, which copy shall be available to the public, and in such other places as designated by city council.

(Ord. 99-8 § 1 (part): prior code § 17.07.040)

**17.12.040 Amendments to the zoning district map of the city.**

All amendments made to the zoning district map of the city in accordance with this title shall be recorded on the zoning district map on file in the office of the city clerk within ten (10) working days of the effective date of the adoption of the amendment(s). If there shall be any conflict among zoning maps filed with the city clerk, the map with the later date of filing shall take precedence or, if both have the same date of filing, the more detailed map shall take precedence.

(Ord. 99-8 § 1 (part): prior code § 17.07.050)

**17.12.050 Interpretation of district boundaries.**

Unless otherwise noted on the zoning map or in a text description, all district boundary lines shall be construed to lie on the centerline of streets, roads, alleyways, ditches, and rights-of-way, on lot lines of platted subdivisions, on section lines, on boundaries of special districts and on the corporate limit lines of the city. Disputes regarding the exact location of any district boundary line shall be decided by ordinance of the city council, acting upon recommendation of the planning commission.

(Ord. 99-8 § 1 (part): prior code § 17.07.060)

**Chapter 17.16 LOW DENSITY RESIDENTIAL (R-1) DISTRICT**

**Sections:**

**17.16.010 General requirements.**

This district is established to accommodate relatively low density single-family and two-family residential development.

Minimum district size:	3 acres
Minimum lot area:	5,000 square feet/single-family residences <del>2,500 square feet/two family residences</del>
Minimum lot width:	50 feet
Front setback:	20 feet
Side setback:	7.5 feet/single-family residences (none required for two-family residences with adequate fireproofing on the common wall)
Rear setback:	15 feet
Maximum building height:	35 feet

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Minimum dwelling size:	600 square feet (two-family and accessory dwelling units excluded)
Maximum lot coverage:	67 percent
<del>Maximum gross density:</del>	<del>9 dwelling units per acre</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 99-8 § 1 (part): prior code § 17.09.010)

(Ord. No. 2009-3, § 2, 9-1-09)

## Chapter 17.20 TRADITIONAL RESIDENTIAL (R-2) DISTRICT

### Sections:

#### 17.20.010 General requirements.

This district is created to provide for the continuation and preservation of mid-density residential development characteristic of Leadville's historic period from its establishment to the present era. In keeping with this stated purpose, the uses permitted by right and on a conditional approval basis are more varied and mixed than are found in other residential districts.

Minimum district size:	1 acre
Minimum lot area:	2,250 square feet; <del>5,000 square feet for multiple-family dwelling</del>
Minimum lot width:	25 feet
Front setback:	<del>10-3</del> feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Side setback:	3 feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Rear setback:	6 feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Maximum building height:	35 feet
Minimum dwelling size:	600 square feet (multi-family and accessory dwelling units excluded)
Maximum lot coverage:	75 percent
<del>Maximum gross density:</del>	<del>19 dwelling units per acre</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 03-11 § 3; Ord. 99-8 § 1 (part): prior code § 17.09.020)

(Ord. No. 2009-3, § 2, 9-1-09)

## Chapter 17.24 TRANSITIONAL RETAIL/RESIDENTIAL (TR) DISTRICT

### Sections:

#### 17.24.010 General requirements.

This district is created to allow traditional residential occupation in association with commercial business uses so long as such mixed land usage does not produce significant or objectionable levels of traffic, noise, dust or other adverse side effects not compatible with residential occupation.

Minimum district size:	½ acre
Minimum lot area:	Residential: 2,250 square feet; <del>5,000 square feet for multiple-family dwelling</del>
	Other uses: 2,250 square feet
Minimum lot width:	25 feet
Front setback:	<del>10-3</del> feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Side setback:	3 feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Rear setback:	6 feet, except zero feet for single-family attached on the common wall provided there are no more than three (3) such single-family attached connected by common walls.
Maximum building height:	35 feet
Minimum dwelling size:	450 square feet ( <del>accessory dwelling units excluded</del> )
Maximum lot coverage:	85 percent
<del>Maximum gross density:</del>	<del>28 dwelling units per acre, except the density can be increased with the permission of city council through a conditional use permit</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 03-15 § 6; Ord. 03-11 § 4; Ord. 03-4 § 4; Ord. 01-3 § 2; Ord. 99-8 § 1 (part); prior code § 17.09.040)

## Chapter 17.26 TRANSITIONAL COMMERCIAL (TC) DISTRICT

### Sections:

#### 17.26.010 General requirements.

This district is created to allow commercial business use in association with traditional residential occupation so long as such mixed land usage does not produce significant or objectionable levels of traffic, noise, dust or other

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adverse side effects not compatible to the existing neighborhood. In the area that was zoned industrial/mining prior to the effective date of Ordinance 16, Series of 2000, private mining or removal of tailings shall be permitted so long as such operation is completed within five years of the effective date of Ordinance 16, Series of 2000, and within two years of the physical commencement of the mining or removal operation.

Minimum district size:	½ acre
Minimum lot area:	2,250 square feet; <del>5,000 square feet for multiple-family dwelling</del>
Minimum lot width:	25 feet
Front setback:	3 feet
Side setback:	3 feet
Rear setback:	6 feet
Maximum building height:	35 feet
Minimum dwelling size:	450 square feet ( <del>accessory dwelling units excluded</del> )
Maximum lot coverage:	85 percent
<del>Maximum gross density:</del>	<del>None</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 03-15 § 1)

## Chapter 17.28 RETAIL CORE (RC) DISTRICT

### Sections:

#### 17.28.010 General requirements.

This district is created to encompass the principal retail and commercial core of the city, often with residential and office use on the upper floors of multi-story structures and intensive pedestrian shopping and sightseeing along the principal rights-of-way in the district. Streetscaping amenities along with rear or alleyway delivery facilities are particularly encouraged in this business and tourism oriented district.

Minimum district size:	3 acres
Minimum lot area:	2,250 square feet
Minimum lot width:	25 feet
Front setback:	0 feet
Side setback:	0 feet
Rear setback:	20 feet
Maximum building height:	35 feet
Maximum lot coverage:	80 percent
<del>Maximum gross density:</del>	<del>60 dwelling units per acre, except the density of existing buildings proposed for redevelopment may be negotiated with the City Council to higher levels upon a majority vote of the Council members present.</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 99-8 § 1 (part); prior code § 17.09.050)

## Chapter 17.32 COMMERCIAL/ HIGHWAY BUSINESS (C) DISTRICT

### Sections:

#### 17.32.010 General requirements.

This district is created for the purposes of providing for tourism and automobile oriented business and commercial, office and retail services along the city's major highway approaches, and providing for the scenic and visual enhancement of those major highway approaches to Leadville. Consequently, the visual appearance and contribution to attractiveness of Leadville's gateways shall be a significant characteristic of all new and expanded development in this district.

Minimum district size:	3 acres
Minimum lot area:	5000 square feet
Minimum lot width:	50 feet
Front setback:	10 feet
Side setback:	5 feet
Rear setback:	10 feet
Maximum building height:	35 feet
Minimum dwelling size:	600 square feet (multi-family and accessory dwelling units excluded)
Maximum lot coverage:	<del>50-64</del> percent
<del>Maximum gross density:</del>	<del>9 dwelling units per acre</del>

For permitted, conditional and prohibited uses see Chapter 17.48.

(Ord. 99-8 § 1 (part); prior code § 17.09.060)

(Ord. No. 2009-3, § 2, 9-1-09)

## Chapter 17.40 PLANNED UNIT DEVELOPMENT OVERLAY (PUD) DISTRICT

### Sections:

#### 17.40.010 General requirements.

This overlay district is created to accommodate and require new development of single or mixed usage in a comprehensive, planned design taking maximum advantage of the proposed uses, existing terrain features and available scenic views to maximize the aesthetic and safety features of the development. Uses potentially allowable in a PUD district shall include residential, commercial, retail, office and industrial developments so long as the overall development plan and design details are deemed appropriate to the purposes of this title, of the Leadville comprehensive plan and the purpose and intent of the zoning district(s) involved.

Minimum district size: 6 acres

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Application for a PUD district shall require rezoning approval, as provided in Chapter 17.92 and submission and approval of a development plan, as specified in this chapter. Applicants may first apply for the rezoning, prior to the submission or approval of a PUD plan, but no building permits shall be issued nor new construction commence, nor new utilities be constructed in a PUD district pursuant to the proposed project until city council has reviewed and approved the proposed PUD plan as specified in this chapter.

(Ord. 99-8 § 1 (part): prior code § 17.09.080)

#### **17.40.020 Objectives of PUD development.**

These PUD regulations are intended to: (a) allow flexibility in the development of medium and large scale sites; (b) permit development in a manner varying from the constraints upon innovative design and creative land use that might otherwise be imposed by traditional zoning districts when narrowly construed; (c) promote the unified and integrated development and use of land at its highest feasible economic and visual values while protecting the natural physical environment of the city; and (d) foster development that arranges various land uses in appropriate relationship to each other, to commonly shared open space and to common facilities.

(Ord. 99-8 § 1 (part): prior code § 17.17.010)

#### **17.40.030 General provisions.**

- A. PUD Application. Applicants wishing to create a PUD overlay district shall be required to make application for a PUD rezoning, which rezoning approval shall be mandatory in addition to any other rezoning approvals and permits required herein before a PUD may be constructed. Applications for a PUD rezoning shall be accompanied by an application on an appropriate form provided by the city, payment of the required filing fees and submittal of the required information.
- B. Approval of a PUD Rezoning Application. No PUD rezoning application shall be recommended for approval by the planning commission or be approved by city council unless and until it conforms with the appropriate provisions contained within these PUD regulations and the provisions contained elsewhere within this title.
- C. Building Permit Approvals. No building or other structure shall be erected nor shall a building permit be issued within a PUD or proposed PUD before a PUD rezoning approval and all necessary additional rezoning approvals and permit approvals have been granted by the city, except, however, that temporary uses as provided for in Chapter 17.64 shall be allowed if they meet the requirements and provisions contained therein.
- D. Comprehensive Plan Compliance. All PUD application materials, site design characteristics and other PUD characteristics shall be in compliance with the goals, objectives, policies and other provisions of the Leadville comprehensive plan, as amended.
- E. Relationship of these Regulations to the Underlying Districts. Planned unit developments are rezonings allowable in all underlying zoning districts established within the city, and the issuance of a PUD rezoning approval shall not change the underlying zoning district(s) within which such PUD Overlay district is established.

PUDs may include all uses allowed by right and any conditional uses allowed by the zoning regulations in the district(s) in which the PUD would be located. Approval of a PUD application by city council and the granting of a PUD rezoning approval shall be considered de facto approval of the proposed conditional uses and the applicant shall not be required to apply for or receive a conditional use permit, as specified in Chapter 17.52, when such proposed conditional uses are contained within a PUD proposal for which a rezoning approval has been granted.

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F. Minimum Size for a PUD. The minimum land area of a PUD shall not be less than six acres and a minimum land area of one acre shall be required for any single phase of a PUD. These minimum size requirements shall be calculated on the total land area of the proposed PUD, including all rights-of-way and easements and common areas.

(Ord. 99-8 § 1 (part): prior code § 17.17.020)

#### **17.40.040 Permitted uses within a PUD.**

Any use that is not specifically prohibited within the underlying zoning district(s) in which a PUD overlay district is to be located (see Table 1, Sections 17.48.010 and 17.48.020) may be an allowed use within a PUD. These uses may include, but need not be limited to:

- A. Single and multifamily residences;
- B. Sale or rental of commercial goods or services;
- C. Recreational facilities and open space;
- D. Offices and general business activities;
- E. Convention and meeting facilities;
- F. Lodging facilities of all types;
- G. Eating and drinking facilities;
- H. Schools, churches and other institutional uses;
- I. Additional commercial and industrial uses;
- J. Mining activities not inconsistent in character, impact or scale with other land use in the PUD.

(Ord. 99-8 § 1 (part): prior code § 17.17.030)

#### **17.40.050 Sales restriction.**

No developer, applicant or other person shall transfer or sell any lot, tract or parcel which is within a proposed PUD overlay district until such PUD rezoning approval has been granted and any other required rezoning approvals and permits have been obtained from city council.

(Ord. 99-8 § 1 (part): prior code § 17.17.040)

#### **17.40.060 Finding of conformity.**

This PUD regulation is found and declared to be in full and complete conformity with the Leadville comprehensive plan, as amended.

(Ord. 99-8 § 1 (part): prior code § 17.17.050)

#### **17.40.070 Exemption provisions.**

Following recommendation from the planning commission, city council may authorize waivers or modifications of the provisions contained within this PUD overlay district regulation in cases where an applicant clearly demonstrates that on the basis of the conditions peculiar to a site or other circumstances beyond the

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reasonable control of the applicant, an unnecessary and undue hardship would be placed upon the applicant by the literal enforcement of one or more provisions of these PUD regulations.

Such waivers or modifications shall not be granted if, in the opinion of city council, they would prove detrimental to the public health, safety or welfare or impair or be contrary to the purpose, intent or specific provisions of this title. In granting any waivers or modifications, city council may attach such reasonable conditions and safeguards as it deems necessary to implement the provisions of this title and of the Leadville comprehensive plan, as amended, and to protect the interests of the city.

The conditions of any waiver or modification authorized by city council shall be stated in writing in the minutes of the council along with the justification for granting or denying such waiver or modification. No waiver shall be granted by city council, however, if such waiver would conflict with the statutory provisions of Section 24-67-101 et seq., Colorado Revised Statutes, as amended.

(Ord. 99-8 § 1 (part): prior code § 17.17.060)

#### **17.40.080 PUD design standards and specifications.**

The following design standards and specifications shall apply to all PUDs to be proposed, reviewed or approved in the city following the adoption of this regulation, except as otherwise provided for within Section 17.40.070 provisions of this title.

A. General Design Standards and Specifications.

1. PUDs shall be designed in such manner that wherever possible they will protect and enhance the environmental assets of the site and the surrounding area. Such assets shall include but need not be limited to vegetation, watercourses, scenic vistas, prominent physical landmarks and features of historic interest where such features are consistent with the purposes of the PUD.
2. The design and layout of a PUD shall include adequate, safe and convenient arrangements for pedestrian circulation, roadways, driveways, access for the purposes of egress and ingress, off-street parking and loading space, snow storage and related features. Setbacks, lot widths and other such features shall be as otherwise required in this title unless provided for otherwise in the PUD design and approved by city council.
3. The PUD design shall bear a carefully thought out relationship to the surrounding area in order to avoid adverse affects to the proposed development caused by natural or manmade effects.
4. Visual screening and buffers of an appropriate height and construction are required to separate incompatible uses and to block from view unattractive features of the man-made and natural environment.
5. Parking and off-street loading spaces shall be provided in connection with every residential, commercial, recreational, industrial and other use within a PUD concurrent with the completion of the PUD element or phase.
6. Underground placement of utility lines shall be required at an acceptable depth of burial, except as otherwise allowed for in the design of the PUD and approved by city council.

B. Density Requirements.

1. Common Open Space. A minimum of twenty (20) percent of the area within a PUD shall be devoted to useable public open space, which shall be defined as open areas designed and developed for use by the occupants of the proposed development and by other persons for uses including but not limited to recreation, parks, green belts and walkways. The term shall not include private institutional uses nor space devoted to streets, roads, loading areas or land



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dedicated to the city or other public or quasi-public entities for schools, fire or police facilities or other, related institutional needs.

2. Residential Density. The overall residential density of a PUD shall be the density allowed in the zoning district(s) in which the PUD is to be located. Residential density shall be calculated by dividing the number of proposed residential units into the land area of the PUD including all property to be used for streets, rights-of-way, parking, and loading facilities and for institutional uses and open space areas associated with nonresidential uses.
3. Buildings shall not occupy more than forty (40) percent of the land area of that portion of the PUD devoted to uses other than residential and excluding, for purposes of this calculation, land to be used for streets, rights-of-way and parking and open space areas associated with residential uses.
4. The parking and loading space requirements of a PUD shall be the same as for those required for other uses under the regulations (see Chapter 17.76) contained in this title, except as proposed by the applicant and approved by city council.

(Ord. 99-8 § 1 (part): prior code § 17.17.070)

#### **17.40.090 Maintenance of public open space and common areas.**

- A. Public open space and common areas, including those spaces used or to be used as public or private recreational sites, shall be protected by adequate covenants running with the land, or by conveyances or dedications or other appropriate legal instruments acceptable in form and content to city council. Approval of such legal instruments, granted in writing by city council, shall be a prior condition to the issuance of a rezoning approval for a PUD.
- B. Applicants for a PUD rezoning approval shall establish or provide for the establishment of an organization for the ownership and maintenance of the common open space and the construction of improvements, if any, thereon for the benefit of the residents and other city residents. Such organization shall not be dissolved and shall not dispose of the common open space by sale or other means except to an organization conceived and established to own and maintain the common open space for the benefit of the PUD. Thereafter such organization shall not be dissolved or dispose of the common open space without first obtaining written permission to do so from city council.
- C. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the PUD fail to maintain the common open space, or any portion thereof, in reasonable order and condition or fail to establish or maintain said common open space in accordance with the PUD plan or other application materials, city council shall serve written notice upon such organization or upon the residents, owners and mortgagee(s) of the PUD.
- D. Such written notice shall set forth the manner in which the organization, occupant or developer has failed to maintain the common open space in reasonable condition or failed to comply with the PUD plan or other application materials. The notice shall include a demand that the deficiencies of maintenance or improvements be remedied within three months thereof and shall state the date and place of hearing thereon, which shall be held no less than fifteen (15) days after publication of the hearing notice in a newspaper of general circulation in the city. At such hearing city council may modify the terms of the original notice as to the deficiencies previously described and may grant an extension of time up to an additional six months, within which time the deficiencies shall be corrected before additional enforcement action is taken.
- E. If the deficiencies set forth in the original notice or in the modifications thereto are not corrected in the initial time period or any extensions granted thereto, city council or its appointed agents, in order to preserve the taxable value of the properties contained in the PUD and/or to prevent the public open space

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from becoming a public nuisance, may enter upon said common open space and maintain it for a period of up to one year or take such other measures as are necessary to bring it into compliance with the PUD plan or other application materials. Such entry, maintenance or improvement shall not vest in the public any right to use the common open space except when the common open space has been voluntarily dedicated to the public by the owner(s) of the PUD or their duly appointed association or by the original applicant.

- F. Before the expiration of the one year period, city council shall, at its own initiative or upon the written request of the organization and/or person(s) responsible for the maintenance of the common open space, call a public hearing with fifteen (15) days or more written notice in a publication of general circulation in the city and fifteen (15) days or more written notification to the residents, occupants, owner(s) and mortgagee(s) of the PUD.

At this public hearing held by city council, such organization and/or the owners and/or occupants of the PUD shall show cause why such maintenance by the city shall not, at the discretion of the city, continue for an additional year. If city council determines that the organization, residents or owner(s) are ready and able to maintain the common open space in reasonable condition, city council shall cease to maintain the open space at the end of the first year. If city council determines that the organization, residents or owners(s) are not ready and able to maintain the common open space in reasonable condition, the council may, at its discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

- G. The cost of such maintenance required in subsections E and F of this section or improvements to the city, including interest at one percent per month and collection fees, shall be assessed on a pro rata basis depending on the previous year's assessed evaluation against the properties within the PUD that have a right of enjoyment of the common open space and shall become a tax lien on the properties. City council, at the time of entering on the common open space for the purpose of maintenance or improvements, shall file a notice of such lien in the office of the county clerk and recorder upon the properties affected by the lien and the lien shall be discharged by the city upon payment, in the manner provided by law for the collection, enforcement and remittance of general property taxes.
- H. If any provision of this section is found to be in conflict with the provisions and language of Section 24-67-105(6)(c)and(d), Colorado Revised Statutes, as amended, then the specific provision contained within the Colorado Revised Statutes shall apply.

(Ord. 99-8 § 1 (part): prior code § 17.17.080)

#### **17.40.100 Submittal requirements for proposed PUD's.**

Applications for a PUD overlay rezoning approval shall include, in addition to a completed application form and the appropriate application fees, the items listed below. The planning commission may, upon written request by an applicant, waive any but not all of these items. The planning commission may add submission items it deems necessary to evaluate and recommend upon any application for a PUD rezoning approval. In so deciding to waive or to add submission items, a majority of the planning commission must concur and the outcome of the vote and the reason(s) for waiving or adding submission items and the submission items waived or added must be entered into the minutes of the planning commission meeting.

The following development plan submittal requirements shall be required of applicants:

- A. The name(s) and address(es) of the property owner(s) and of the applicant(s), if other than the owner(s), and the person(s) preparing the submittal material;
- B. In the case of a corporate property owner or corporate applicant, evidence of incorporation in the state of Colorado or authority to transact business in Colorado;

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- C. The owners of property included within the proposed area to be encompassed within the PUD overlay district, as shown in the records of the office of the Lake County assessor, and a list of all mortgages, judgments, liens, easements, contracts and agreements of record which shall affect the property within the proposed subdivision;
  - D. The name or identifying title of the proposed development;
  - E. The date of preparation of the development plan, a north arrow, a written and a graphic scale;
  - F. An accurate legal description of the property included within the proposed PUD and the total acreage of the proposed PUD;
  - G. The zoning, present land uses and location of structures, including all improvements, located within the proposed PUD and within two hundred (200) feet of its proposed boundaries;
  - H. The proposed residential density, expressed in dwelling units per gross acre, within the PUD and the density, expressed as the ratio of floor area to land area and also as total square feet of building area, of all non-residential development within the PUD;
  - I. The location, width, surfacing and other relevant features of all existing and proposed streets, roads, easements and other rights-of-way, including alleys and service roads, to be used within and for access to and from the proposed PUD;
  - J. The location, dimensions and size of all proposed off-street parking and loading facilities with acceptable snow storage or removal plans for these facilities;
  - K. A description of the location and characteristics of all land to be dedicated or reserved for parks, parkways, recreational areas and common open space with evidence that the land to be set aside for common open space meets or exceeds the common open space provisions within Section 17.40.080;
  - L. Copies of all agreements, provisions, covenants and related legal instruments to be used to govern the use, maintenance, improvement and continued protection of all public lands within the PUD, including but not necessarily limited to common open space;
  - M. Plans for grading, drainage and landscaping, showing existing and proposed grading, drainage and landscaping at a scale and level of detail acceptable to the planning commission, except that the scale shall not be less than one inch to fifty (50) feet except as allowed by majority vote of the planning commission;
  - N. The location, height and dimensions of each proposed structure within the PUD, with building footprint sites on the plan, drawn to scale;
  - O. A description of how the structures within the proposed PUD would be provided with potable water supply and sewage collection, with statements from the providing authorities that such water supply and sewage treatment services are available;
  - P. A description of any additional public improvements to be included within the proposed PUD along with adequate provision for the dedication of any and all public rights-of-way and an assurance that all rights-of-way will be constructed to the standards of the city;
  - Q. An analysis of the soils types on the site, their characteristics and their development limitations, if any, along with a delineation of all areas with a slope of more than twenty (20) percent and all known or suspected hazard areas, natural and manmade, within and adjacent to the site;
  - R. Drawings to scale of all proposed signs not in compliance with the sign code provisions of the city;
  - S. A statement signed by the landowner(s) whose property is included within the proposed PUD giving written consent for the development and the names and addresses of all adjoining landowners, as shown in the records of the office of the Lake County assessor;

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- T. Applicants for a rezoning approval for a PUD shall be required to provide suitable collateral to ensure completion of the construction of the proposed public improvements, with such collateral to be placed in an escrow account or similar instrument with a mutually acceptable schedule for periodic release of the collateral as portions of the development are completed as planned and to specifications;
  - U. Site plans shall be filed with the planning official within five working days of their approval by city council. All site plans and other map materials submitted by an applicant shall contain signature approval blocks for the planning commission and city council and other such officials as the city may designate. Any proposed changes from a previously approved site plan shall be resubmitted to the planning commission for review and recommendation and to city council for final action prior to the start of construction.

Compliance with the provisions contained herein does not exempt an applicant from compliance with the provisions of Title 38, Article 33 of the Colorado Revised Statutes, as amended.

(Ord. 99-8 § 1 (part): prior code § 17.17.090)

#### **17.40.110 Administrative procedures/PUD review and approval.**

Applications for a PUD rezoning approval shall be accompanied by an application form provided by the city, by the appropriate submittal materials and by the necessary filing fees.

The procedures for reviewing and acting on a proposed PUD overlay zoning district shall be the same as for any other proposed rezoning, as established in Chapter 17.92, except as otherwise specified in this chapter.

(Ord. 99-8 § 1 (part): prior code § 17.17.100)

#### **17.40.120 Development of a PUD and PUD modifications.**

- A. Rezoning approvals for development of a PUD shall be issued only on the basis of approved plans and plats. Any change in an approved plan or plat shall be submitted to the planning official, reviewed by the planning commission, and forwarded to city council for their action.
- B. No substantial modification, amendment, removal or release of the approved design and provisions of the PUD shall be approved by city council except upon a finding by the council, following a public hearing (held in compliance with the notification, publication and posting requirements contained in Chapter 17.52), that the modification, amendment, removal or release is consistent with the efficient development and preservation of the PUD, that it does not adversely affect either the PUD as it currently exists or neighboring residents and that it is consistent with the purpose, intent and various provisions of this title.
- C. Minor changes in the location, size, siting, height or other characteristics of a structure may be authorized by the planning commission, upon recommendation of the building official; provided, that such changes do not significantly alter the approved PUD application and do not otherwise conflict with any other provisions of this title.

(Ord. 99-8 § 1 (part): prior code § 17.17.110)

#### **17.40.130 Review and revocation of PUD overlay zoning district approvals.**

- A. When proposed new construction or a new use of the land was the basis for the approval of a PUD overlay district rezoning approval, city council shall declare such PUD rezoning approval to be revoked and invalid if building approvals have not been applied for and granted for a substantial part of the new construction, defined operationally as fifty (50) percent of the approved development, within three years of the date the

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PUD rezoning approval was granted unless the approved plans included phasing provisions with a time period greater than three years.

- B. The building approval(s) shall not be issued by the building official unless and until that official finds that the new construction or new use is substantially in accord with the descriptive material, drawings and other materials approved by city council.
- C. Following a recommendation by the planning commission, city council may not grant more than one extension of up to one year duration before the required revocation of a PUD rezoning approval for nonperformance. Application for such extension must be made in writing to city council prior to the expiration of the initial time period.
- D. Failure to conform to a development plan submitted as part of a PUD rezoning approval application shall also be considered adequate reason for revocation of a PUD rezoning approval, but such revocation shall not occur except upon recommendation by the planning commission and following a hearing before city council in accordance with the procedures contained in Section 17.52.050. At least once every twenty-four (24) months, or upon its own initiative or on request of the building official, the planning commission shall review all approvals issued for an approved PUD and examine the construction that has taken place. If the rate of construction or the characteristics of the construction are significantly out of compliance with the approved PUD application materials, a report on the matter shall be forwarded by the planning commission to city council with a recommendation to hold a public hearing, as specified above, to consider the revocation of the PUD rezoning approval or to take such other corrective or remedial action as appropriate.

(Ord. 99-8 § 1 (part): prior code § 17.17.120)

## **Chapter 17.44 NATIONAL HISTORIC LANDMARK DISTRICT OVERLAY (NHL) DISTRICT**

### **17.44.010 Purpose.**

This district was designated and created by the National Park Service of the U.S. Department of the Interior to encourage the conservation, historically appropriate and structurally sound renovation, and the creative and economically viable reuse of certain structures and areas contained within its boundaries. A map of the district is located with the planning official and in the Leadville comprehensive plan.

(Ord. 99-8 § 1 (part): prior code § 17.09.100)

### **17.44.020 Purposes and definitions.**

- A. Purposes. Leadville's historic district was designated a National Historic Landmark (NHL) district by the National Park Service of the U.S. Department of the Interior in 1961. The NHL program was created to recognize the nation's most significant historic places. The Leadville district encompasses a large part of the city and is one of only a few Colorado communities to receive this prestigious designation. A map of the NHL district is located in the Leadville comprehensive plan and with the planning official. These special regulations for the NHL district and for other designated historic structures are intended to accomplish the following purposes:
  - 1. To protect the unique character of Leadville;
  - 2. To safeguard the city's historic and cultural heritage, as embodied and reflected in its designated National Historic Landmark district;

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3. To foster and enhance civic pride in the attractiveness and accomplishments of the past development eras of the city;
  4. To strengthen and enhance the economy of the city;
  5. To protect and enhance the city's historical, cultural, architectural and related attractions for residents and visitors;
  6. To stabilize and improve property values and commerce; and
  7. To promote the uses of Leadville's NHL district, the designated structures therein and other designated historic structures in the city for the education, pleasure and welfare of residents and visitors.
- B. Definitions. Unless otherwise required by context or use, the words and terms used in this chapter shall be defined as follows:

"Demolition" means any act or process which destroys, in part or in whole, the historic integrity of a structure, or otherwise alters the structure so that it no longer qualifies as a historic structure or historic landmark or a contributing property within the NHL district.

"Design guidelines" means the guidelines promulgated by the historic preservation commission of Leadville and approved by city council outlining criteria for the review of applications for certificates of appropriateness for residential infill within the NHL district. The full title of the design guidelines is residential infill design guidelines and standards.

"Historic structure" means a site, structure, or object within the NHL district, or otherwise designated as a historic structure, under this chapter that is determined to be historically significant. Historically significant means the structure was: a) present during the period of significance and possesses sufficient integrity to convey its history, or b) independently meets the criteria for landmark designation. A contributing property may have experienced some degree of alteration from its original design, yet retains sufficient building fabric to still be considered contributing.

"National Historic Landmark" means a building, site, structure, object or district that is officially recognized by the federal government for its outstanding degree of national historical or architectural significance.

"National Historic Landmark Overlay (NHL) district" means that portion of Leadville designated a National Historic Landmark, the boundaries of which are depicted in the Leadville Comprehensive Plan and labeled as the "Historic Conservation Overlay Boundary" and on file with the planning official.

"Residential infill" means new residential development that is sited on vacant or undeveloped land within the existing properties in the established Leadville NHL district.

(Ord. 99-8 § 1 (part); prior code § 17.18.010)

(Ord. No. 2015-10, § 3, 10-6-15; Ord. No. 2017-6, § 3, 5-16-17)

#### **17.44.030 Applicability.**

- A. These regulations shall apply to:
1. All new construction within the retail core;
  2. Any exterior alterations to any structure, existing at the date of adoption of the ordinance codified in this chapter within the retail core district;
  3. Any exterior alterations to historic structures listed in the Leadville historic building inventory (available from the planning official), (on file and available from the planning official), as updated and amended from time to time.

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4. Demolition of any historic structure in the NHL district of the city.

B. These regulations shall not apply to:

1. Any additions to buildings or structures not listed in the Leadville Historic Building Inventory.

(Ord. 00-11 §§ 1, 2; Ord. 99-8 § 1 (part): prior code § 17.18.020)

(Ord. No. 2015-10, § 4, 10-6-15)

#### **17.44.040 General restrictions.**

A. Unless otherwise provided for in this chapter, any construction, exterior alteration, erection, relocation, demolition, restoration or improvement of any structure delineated in Section 17.44.030 within the NHL district shall be prohibited unless the historic preservation commission shall first review and city council shall first approve such action by issuing a certificate of appropriateness (COA), except in such cases the historic preservation commission deems the proposed exterior structural or cosmetic change to be insubstantial, as defined in subsection (A)(1) of this section. If any construction, exterior alteration, erection, relocation, demolition, restoration or improvement of any structure is deemed by the historic preservation commission advisory committee, in consultation with the planning official, to be insubstantial, no further historic preservation commission review is required and no fee shall be charged or collected for a determination of insubstantial modification. Any potential applicant wishing to receive a determination of insubstantiality shall submit to the HPC advisory committee a completed certificate of appropriateness pre-application on a form provided by the historic preservation commission, with supporting documentation including but not limited to photographs, drawings and any other appropriate material.

1. Insubstantial Modification. An insubstantial modification is defined as the following:

- a. The replacement of surface materials such as roofing or siding or an exterior architectural feature with materials and design substantially similar to the existing materials or design.
- b. The installation, removal or replacement of a fence, awning, or roofing material.
- c. The reuse of an existing window or door opening which has been covered or filled through installation of a replica of a historic door or glazing.
- d. The change in color scheme of a structure by the application of paint or whitewash, generally in conformance with historic paint palette.
- e. Those activities deemed to not detrimentally impact or influence in any substantial way the historic integrity or appearance of a landmark building, structure, site or the NHL district, or as deemed to be insubstantial upon petition to and determination by the HPC advisory committee.

2. Substantial Modification. A substantial modification is defined as the following:

- a. An activity not defined or qualifying as an insubstantial activity, including, but not limited to: reconstruction, rehabilitation, remodeling, renovation, relocation or demolition.
- b. Alterations, additions or other work performed on a building, structure or site that result in the increase or decrease of site coverage, floor area or exterior wall or roof surface.
- c. The installation, alteration or removal of a window or door opening.
- d. The replacement or repair of surface materials such as roofing or siding or an exterior architectural feature with materials or design not substantially similar to the existing materials or design.

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- e. The cleaning of an exterior surface of a contributing or landmark building or structure by sandblasting, high-pressure spraying or other chemical or mechanical means.
  - f. Application of sealant, paint, stucco, texture or other material that would conceal, alter or damage the exterior of any contributing or landmark building with an existing unfinished or unpainted brick, masonry or other unfinished siding or structural element.
  - g. Those activities deemed to potentially impact or influence in any substantial way the historic integrity or appearance of a landmark building, structure, site or designated historic district, or as deemed to be major upon petition to and determination by the HPC advisory committee.
- B. Nothing in this chapter shall be construed to prevent or inhibit the ordinary and routine maintenance and repair of structures in the NHL district.
  - C. No provision of this chapter shall in any way restrict the city from the normal enforcement of its repair, vacation or demolition of dangerous building regulations, as contained in city ordinances and the Uniform Code for the Abatement of Dangerous Buildings.
  - D. Only buildings with brick, wood frame or clapboard exteriors that are non-reflective and are in keeping with Leadville's historic commercial architecture will be allowed on Harrison Avenue to the alleys east and west between Elm Street and 9th Street; 9th Street to the alleys north and south between Harrison and Poplar; and Poplar Street to the alleys east and west between 9th Street and 12th Street.

(Ord. 99-8 § 1 (part); prior code § 17.18.030)

(Ord. No. 2013-2, § 4, 5-7-13; Ord. No. 2015-10, § 5, 10-6-15)

#### **17.44.050 Procedures for historic structure designation and revocation.**

- A. Initial Designation of Historic Structures. Designated historic structures include:
  - 1. All those listed in the Leadville historic building inventory, available from the planning official; and
  - 2. All structures existing at the date of adoption of the ordinance codified in this chapter which face onto Harrison Avenue from the two hundred (200) up to the nine hundred (900) blocks of Harrison Avenue.
- B. Procedure for Designation of Additional Structures as Historic. The owner(s) of any structure located within the city may petition the city for designation of that structure as a historic structure by so requesting in writing to the planning official. The following materials shall be provided by the owner(s):
  - 1. Proof of ownership of the structure and, if a representative, proof of authority to represent the owner(s);
  - 2. A legal description of the property;
  - 3. A color photograph of each side of the structure facing a public right-of-way;
  - 4. A site plan showing the structure, its approximate size, bulk and location on the property;
  - 5. A narrative statement, with any appropriate supporting information, describing the historic and architectural significance of the property.

Upon submittal of the appropriate material and the required application fee (see Section 17.96.020), petitions for the designation of a structure in the city as historic shall be processed in the same manner as conditional use permits (see Chapter 17.52).

The designation procedure described herein may be initiated by any owner of real property in the city, the commission, or city council.



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C. Procedure for Revocation of Historic Structure Designation. The owner(s) of any historic structure may petition the city for revocation of the designation of that structure as historic by requesting such revocation in writing to the planning official with the following application information:

1. The application information specified in subsection B of this section;
2. A narrative statement, with any appropriate supporting information, describing why such revocation of a historic structure designation should be granted.

Upon submittal of the appropriate material and the required application fee (see Section 17.96.020), petitions for revocation of designation of a historic structure shall be processed in the same manner as conditional use permits (see Chapter 17.52).

The revocation procedure described herein may be initiated by any owner of real property in the city, the commission, or city council.

D. Considerations in Designating, and Revoking Designations of, Historic Structures. In deciding whether to designate, revoke the designation of a historic structure, the historic preservation commission and city council shall base their decision on the following criteria:

1. The goals objectives, policies and other provisions of the Leadville comprehensive plan, as amended;
2. The character, interest and value of the structure as part of the development, heritage, history and culture of the city and the State of Colorado;
3. The location of the structure and its site in relationship to historical events;
4. The identification of the structure with a person or persons who significantly contributed to the development of Leadville and the surrounding area;
5. The importance of the structure to the cultural, historical, social and economic heritage of Leadville;
6. The extent to which the structure displays visual features either typical of or unique to a past historical period;
7. The historic and economic relationship of the structure to surrounding structures and other features of importance within Leadville's NHL district.

(Ord. 99-8 § 1 (part): prior code § 17.18.040)

(Ord. No. 2013-2, § 4, 5-7-13; Ord. No. 2015-10, § 6, 10-6-15)

#### **17.44.060 Procedures for issuing a certificate of appropriateness (COA) except demolitions.**

A. Unless provided for in this chapter, any construction, exterior alteration, erection, relocation, restoration or improvement of any structure delineated in Section 17.44.030 or residential infill construction shall be prohibited unless: (a) the planning official or other city staff member, as appropriate, first considers the proposal to determine if the appropriate criteria have been met, and (b) the city council first approves such action by the issuance of a COA, where required.

1. A COA is not required in cases where the proposed structural or cosmetic change is approved administratively as an insubstantial project or activity or where the city planning official determines, in accordance with Chapter 15.44 of this code, that the residential infill development dev complies with the design guidelines. See Section 17.44.040(A) regarding the procedures and criteria for historic preservation commission's determination of insubstantial changes. Such procedures and criteria, as well as consideration of the design guidelines, when applicable, shall also apply herein.

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2. The city shall issue an automatic COA at no cost if the construction, exterior alteration, erection, relocation, restoration or improvement is certified by the Historic Preservation Officer of the State of Colorado.
  3. The city planning official or his or her designee shall be responsible for determining whether building permit applications for residential infill meet the criteria set forth in the design guidelines. The city administrator or his or her designee shall have the discretion to determine the necessity for review of a building permit application by the historic preservation commission and its recommendation on whether to issue a COA for residential infill in the NHL district. necessary to properly interpret or apply the design guidelines.
- B. Applications for a COA shall be made on a form provided by the city, shall be accompanied by the required application fee (see Section 17.96.020) and shall include the following information:
1. The application information specified in Section 17.44.050(B)(1) through (3);
  2. A site plan or plans drawn to a scale and level of detail acceptable to the historic preservation commission showing: (a) for existing structures all existing exterior architectural features of the structure and all proposed external improvements and changes to the existing exterior architectural features of the structure; and (b) for new structures in the NHL district all proposed exterior architectural features of the structure and its proposed dimensions and location within the site and its dimensional relationship to neighboring buildings. In the case of businesses, off-street parking and loading shall be considered (see Chapter 17.76);
  3. Other such architectural renderings, elevation plans and related information the historic preservation commission may deem necessary to reach an informed decision.
- C. Design Review Process. No building permit for work or activity requiring a COA shall be valid or issued by the city building official without the receipt by the official of the necessary COA as outlined in this section and chapter.
1. Pre-application Meeting. An applicant shall meet with the historic preservation commission advisory members and planning official, who together constitute the "HPC advisory committee", to: (1) review and confirm the specific materials required to be submitted in conformance with subsection B; and (2) to determine whether the proposed project is substantial or insubstantial in accordance with Section 17.44.040. At such meeting, the applicant shall submit a written summary of the proposed activity in complete detail so that the HPC advisory committee may make a determination as to whether the project or activity is insubstantial or substantial. Within ten (10) business days of the pre-application meeting and receipt of a written summary of the proposed activity or project, the HPC advisory committee shall issue a written report through the planning official which summarizes the determination of substantial or insubstantial activity. If it is determined that the proposed activity or project is insubstantial, the planning official shall issue a COA within five business days of the insubstantiality determination authorizing the activity. If it is determined that the application pertains to substantial activity, it shall be processed in accordance with the substantial project procedures hereinbelow.
  2. Submittal of complete Application for Substantial Projects. Applicants must submit a complete application for COA including any required materials, as confirmed through the pre-application meeting with the HPC, and payment of application fees as may be established by the city council. Complete applications must include seven copies of all materials for substantial projects. The city planning official will review the application for completeness and will contact the applicant within seven business days of receipt if there are omissions or questions concerning the application. Once the application is deemed complete, the planning official will forward the application to the HPC for review.

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3. Review of Application for Substantial Projects. The HPC will schedule a formal review at a duly noticed public meeting of the HPC to be held within twenty (20) days of receipt of a complete application, or such other time frame as agreed upon between the HPC and applicant. The planning official shall provide notice to the applicant of such review date and time at least ten (10) days prior to the review date.
  4. HPC Decision. All HPC recommendations on COA applications shall be in writing and shall state the reasons for approval, conditional approval or denial. The HPC will base its decision on the applicable guidelines. The HPC may continue the application to obtain additional information from the applicant.
  5. Council Review. HPC's recommendation will be forwarded to city council for a final determination at a public hearing. City council's decision must be in writing and shall state the reasons for approval, conditional approval or denial. City council may condition approval on terms, limitations, or conditions deemed necessary to protect and preserve the structural, aesthetic or historic integrity of the building, structure or site to which it pertains. Building permits may be issued only after approval of a COA.
  6. Actions Following Approval. By submitting an application the applicant certifies that the project will be completed as approved. The applicant should receive all HPC approvals before proceeding with final construction documents and must obtain COA before issuance of any required building permits. An approved application is an implied contract with the city and no deviations therefrom shall be allowed. If design changes are made after approval, the applicant must amend and resubmit the application for consideration and approval in accordance with the process set forth in this section.
- D. In deciding whether to issue a COA, the historic preservation commission and city council shall take into consideration the criteria contained in Section 17.44.050(D) and the following additional criteria:
1. Reasonable efforts shall be made to provide for uses of a structure that require minimal alteration and redesign of the structure;
  2. The distinguishing original characteristics of a structure and its relationship to the environment shall not be destroyed and the removal or alteration of any historic material or architectural features shall be avoided when possible;
  3. Architectural changes that have taken place to a building since its construction often acquire significance in their own right and this significance shall be recognized and respected;
  4. Distinctive stylistic features or skilled craftsmanship that characterize or are in evidence on a structure shall be treated with sensitivity and preserved whenever possible;
  5. Deteriorated architectural features shall be repaired rather than replaced whenever possible and when replaced, the new material shall match the material being replaced in composition, color, texture and shape in so far as feasible;
  6. Cleaning and restoring exterior surfaces shall be undertaken with the least possible disruptive methods; sandblasting and similar techniques that damage historic exterior surfaces shall be discouraged;
  7. Additions and alterations to a structure shall be undertaken in a manner such that if the addition or alteration were removed in the future, the essential form and integrity of the original structure would be undamaged;
  8. All structures shall be recognized as products of their own time and place. Alterations or new structures with no historical basis and that seek to artificially create an earlier appearance shall be discouraged;

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9. Contemporary style structures, alterations and additions shall not be discouraged so long as they are compatible with the size, scale, texture and color of the existing structure and/or existing structures in the area;
  10. The unique historical and visual appearance of Leadville, as it exists at the present, shall be honored and protected in so far as possible.

(Ord. 99-8 § 1 (part); prior code § 17.18.050)

(Ord. No. 2013-2, § 4, 5-7-13; Ord. No. 2015-10, §§ 7, 8, 10-6-15; Ord. No. 2017-6, § 4, 5-16-17)

#### **17.44.070 Procedures for issuing a certificate of appropriateness (COA) for the demolition of historic structures.**

- A. Unless otherwise provided for in this chapter, any demolition of a designated historic structure or the demolition of a portion of such structure shall be prohibited unless the historic preservation commission shall review and city council shall approve such action by the issuance of a COA.
- B. Applications for a COA shall be made on a form provided by the city, shall be accompanied by the required application fee (see Section 17.96.020) and shall include the following information:
  1. The application information specified in Section 17.44.050(B)(1) through (3);
  2. A statement of the reasons such demolition is necessary, the visual and economic consequences of such demolition on the surrounding neighborhood, the consequences to the city and the Leadville NHL district, and the economic hardships that would result if such demolition did not occur;
  3. Evidence that the applicant has made a good faith effort to sell the structure to a new owner who would save the structure from demolition.
- C. Applicants for a COA for demolition shall meet with the historic preservation commission in an informal pre-application study session to discuss the proposed demolition and the possible alternatives to demolition.
- D. Applications for a COA shall be processed in the same manner as applications for a conditional use permit (see Chapter 17.52).
- E. No demolition of a historic structure may occur except as provided in this subsection E. Applicants requesting a COA for demolition must provide evidence to clearly demonstrate that the request meets all of the following criteria:
  1. The structure proposed for demolition is not structurally sound; and
  2. The structure cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property; and
  3. The structure cannot be practically moved to another site in the City of Leadville; and
  4. The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:
    - a. Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur.
    - b. Any impact on the historic importance of the remaining structure(s) located on the property and adjacent properties.
    - c. Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.

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- 5. In the case of archeological sites, whether archaeological information can be recovered as part of the demolition process.
  - F. In acting upon an application for a COA for the demolition of a designated historical structure, the historic preservation commission shall recommend and city council act to either:
    - 1. Issue the requested certificate; or
    - 2. Deny the issuance of a certificate and postpone the proposed demolition for a period not to exceed six months from the date of city council decision in order to allow for negotiations with the owner(s) of the structure for the purchase, lease or other action necessary to prevent the demolition of the structure.
  - G. In the event city council acts to deny an initial application for a COA to demolish a designated historic structure, the city shall notify the applicant in writing by certified mail within ten (10) days of taking its action, stating the reasons why such application was denied. The notification shall also inform the applicant of the applicant's right to reapply for a COA to demolish the structure so long as such reapplication is made no less than six months from the date of the original application to demolish the structure.
  - H. Upon making reapplication for a COA to demolish a designated historic structure after the six-month period specified in subsection F of this section, the applicant shall be issued such COA by the building official within ten (10) days of application.

(Ord. 99-8 § 1 (part); prior code § 17.18.060)

(Ord. No. 2013-2, § 4, 5-7-13; Ord. No. 2015-10, § 9, 10-6-15)

#### **17.44.080 Special variance provisions.**

- A. When deemed necessary for the conservation or restoration of a designated historic structure or a structure in the NHL district, the owner(s) or authorized agent of such structure may apply for a variance from any provision of this title, including but not limited to use variances, so long as the board of adjustment determines, in addition to the criteria contained in Section 17.88.020(C), that:
  - 1. Such variance is necessary and in the public interest;
  - 2. Such variance would not prove harmful to the public health, safety, welfare and convenience of neighboring residents.
- B. Such special variance applications shall be processed in the normal manner for variance applications, as otherwise specified in Chapter 17.88.

(Ord. 99-8 § 1 (part); prior code § 17.18.070)

#### **17.44.090 Relationship of the NHL district to underlying districts.**

Except as specified in this chapter, all of the regulations within the NHL district shall be as specified for the underlying district(s) and the procedures for district rezonings shall be as for all underlying zoning districts.

(Ord. 99-8 § 1 (part); prior code § 17.18.080)

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**17.44.100 Standards for construction within the NHL district.**

- A. All work performed in completion of an approved COA shall be in conformance with the most recent edition of the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, published by the U.S. Department of the Interior, National Park Service, Cultural Resource Stewardship and Partnerships, Heritage Preservation Services, Washington, D.C., which is adopted herein by reference and referred to in this chapter as "Secretary of Interior Standards" and a copy of which is available for review in the Administrative Services Department, City of Leadville, 800 Harrison Avenue, Leadville.
- B. Subject to final approval by the city council, the HPC may devise, adopt, publish and implement design guidelines to supplement the criteria set forth in this chapter for the review, evaluation and approval of COAs, provided however, that in the event of conflict between HPC adopted design guidelines and the Secretary of Interior Standards, the Secretary of Interior Standards shall govern and take priority over HPC adopted design guidelines.
- C. The HPC has adopted, and city council has approved, the design guidelines for residential infill within the Leadville NHL District. The design guidelines set forth criteria for what shall and what should be considered with designing and approving residential infill plans within the NHL district. A copy of the design guidelines is on file with the city clerk. The design guidelines as adopted by the city's historic preservation commission are hereby adopted by reference as the City of Leadville Residential Infill Design Guidelines and Standards as if fully set out in this section.

(Ord. No. 2015-10, § 10, 10-6-15; Ord. No. 2017-6, § 5, 5-16-17)

Editor's note(s)—Ord. No. 2015-10, § 10, adopted October 6, 2015, repealed the former § 17.44.100, and enacted a new 17.44.100 as set out herein. The former § 17.44.100 pertained to construction within the NHL district and derived from prior code § 17.18.090; Ord. No. 99-8 and Ord. No. 2013-2, adopted May 7, 2013.

**17.44.110 Violations and penalties.**

- A. Violation of the provisions of this chapter shall be punishable as set forth in Section 17.100.020 of this code. Additionally, each separate violation and each day any violation continues shall constitute a separate offense and be subject to the penalties specified in this section.
- B. Any development, activity, facility or structure which is continued, operated or maintained in violation of the provisions of this chapter, or the terms and conditions of a COA or any other permit, shall be subject to injunction, abatement and/or other appropriate legal remedy as may be sought and obtained by the city, in which event the city will be entitled to recover its reasonable costs and attorney fees from the offending party or parties.
- C. All penalties and remedies for violations of the provisions of this chapter shall be nonexclusive and cumulative, and the city's exercise of one remedy or penalty shall not foreclose or prohibit the exercise of alternative or other remedies.

(Ord. No. 2015-10, § 11, 10-6-15)

**Chapter 17.48 BY-RIGHT, CONDITIONAL AND PROHIBITED USES**

**Sections:**

**17.48.010 Designated.**

The table on the following pages indicates which land uses are allowed by right, which are conditional uses (that is, uses which the city may allow following detailed review) and which are prohibited uses in each of the zoning districts listed in Section 17.12.010. Uses not listed are considered to be conditional uses.

**TABLE 1  
By-Right, Conditional and Prohibited Uses by Zoning District**

R = Use allowed by right

P = Use prohibited

A = Administrative conditional use/permit required

C = Conditional use/permit required as defined in Chapter 17.52

R/C = Subject to use-specific conditions and review

	R-1	R-2	TR	RC	C	TC
1. Single-family dwelling	R	R	R	P	C	R
2. Two-family dwelling	R	R	R	P	C	R
3a. Multiple-family dwelling (3—4)	P	<del>C</del> R	<del>C</del> R	P	<del>C</del> R	R
3b. Multiple-family dwelling (5+)	P	C	C	C	C	C
3c. Residential dwellings above or below commercial use.	P	A	A	R	A	R
4. Boarding and rooming houses and retirement homes	P	C	C	C	C	R
5a. Bed and breakfast establishments (3 or fewer guest units)	A	A	A	A	A	A
5b. Bed and breakfast establishments (4 or more guest units)	P	C	C	C	C	C
6. Rest, nursing, convalescent and hospices	P	C	C	P	P	C
7. Group homes	R	R	C	P	P	C
8. Hospitals, clinics, detoxification centers and mortuaries	P	C	C	C	R	C
9a. Public and private schools, child care facilities, educational institutes, and training centers	C	C	C	C	C	C
9b. Museums	C	C	C	R	R	R
10. Churches and religious institutes including church camps	C	C	C	C	C	C
11. Private heliports	P	P	P	P	C	P
12. Cemeteries and mausoleums	P	P	P	P	C	P
13. Parks, playgrounds, athletic facilities and playing fields	R	R	R	C	R	R
14. Essential public and government utility uses, facilities, services and buildings, excluding water storage and high voltage electric transmission facilities and accessory uses to these facilities	C	C	C	C	R	C
15. Agricultural production related to the commercial production of animals	P	P	P	P	C	P
15a. Orchards, nurseries, and related uses for commercial purposes	P	P	C	P	C	C
15b. Commercial greenhouses < 500 square feet	A	A	A	C	A	A

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15c. Commercial greenhouses > 500 square feet	P	C	C	P	C	C
16a. Commercial cutting and storage of firewood	C	C	C	P	C	C
16b. Sales of firewood	P	P	C	C	R	C
17. Roadside outlets for the sale of agricultural products	P	P	C	C	R	C
18. Commercial riding stables	P	P	P	P	C	P
19. Kennels and veterinary clinics	P	P	C	P	C	C
20. Campgrounds and travel trailer parks (See Chapter 17.56)	P	P	P	P	C	C
21. Mobile home parks (See Chapter 17.56)	P	P	C	P	P	P
22. Individual mobile homes	P	P	P	P	P	P
23. Outdoor amusement and entertainment facilities including scenic railways	C	C	C	C	C	C
24. Membership clubs and lodges	P	C	C	R	R	R
24a. Membership clubs and lodges	A	A	A	R	R	R
25. Professional and business offices	P	C	C	R	R	R
26. Personal service outlets such as beauty and barber shops, Laundromats, travel agencies, etc.	P	C	C	R	R	R
27. Cottage industry	A	A	A	A	R	R
27a. Home occupation	R	R	R	R	R	R
28. General retail sales stores > 1,500 sq. ft.	P	C	C	R	R	C
28a. General retail sales stores < 1,500 sq. ft.	P	C	C	R	R	R
29. Hotels, motels and lodges, including time share estates	P	P	C	C	C	C
29a. Time share estates (3 or fewer guest units)	A	A	A	A	A	A
29b. Hotels, motels, lodges (3 or more guest units)	P	C	C	C	C	C
30. Restaurants and cafes	P	C	C	R	R	R
31. Restaurants, fast food with drive-up windows	P	P	P	P	C	C
32. Bars and lounges	C	C	C	R	R	C
32a. Retail marijuana store	P	P	P	P	C	C
32b. Retail marijuana cultivation facility	P	P	P	P	C	P
32c. Retail marijuana products manufacturing facility	P	P	P	P	C	C
32d. Retail marijuana testing facility	P	C	C	P	C	C
32e. Retail/medical marijuana combined facility	P	P	P	P	C	C
32f. Medical marijuana center	P	P	P	P	C	C
32g. Medical marijuana infused product manufacturer	P	P	P	P	C	C
32h. Medical marijuana optional premises cultivation operation	P	P	P	P	C	P
33. Outdoor storage	P	P	P	P	C	P
33a. Outdoor Storage Un-Screened	P	C	C	P	C	C
33b. Outdoor Storage Screened	P	A	A	P	A	A
33c. Outdoor Storage of snow and associated debris.	R	R	R	A	R	R
33d. Outdoor Storage for less than one year of dirt, stones, firewood or other natural materials but not construction or demolition debris.	R	R	R	A	R	R
33e. Outdoor Storage for more than one year of dirt, stones, firewood or other natural materials but not construction or demolition debris.	A	A	A	A	A	A



33f. Portable Storage Structures larger than 200 square feet	A	A	A	A	A	A
34. Automotive, recreational vehicles or marine sales and service, excluding service stations	P	P	C	C	R	C
35. Gasoline service stations	P	P	P	C	R	P
36. Bulk fuel sales and storage	P	P	P	P	C	P
37. Wholesale sales and/or distribution with open storage of goods	P	P	C	P	R	C
38. Wholesale sales and/or distribution without open storage of goods	P	C	C	R	R	C
39. Motor vehicle parking lots	C	C	C	C	R	C
40. Lumber yards and sawmills	P	P	P	P	C	P
41. High voltage (>69KV) electric transmission lines in existing transmission corridors and underground high pressure gas lines	C	C	C	P	C	C
42. High voltage electric transmission lines in new corridors	P	P	P	P	P	P
43. Reservoirs, towers and water storage facilities	C	C	C	P	C	C
44. Telecommunications facility						
44a. Building roof-mounted	C	C	R/C	R/C	R/C	R/C
44b. Building wall or facade mounted	C	C	R/C	R/C	R/C	R/C
44c. Dish antenna	C	C	R/C	R/C	R/C	R/C
44d. Telecommunication facility, freestanding	C	C	C	C	C	C
44e. Alternative tower structure	C	C	R/C	R/C	R/C	R/C
45. Recycling center	C	C	C	P	C	C
46. Landfills and disposal sites	P	P	P	P	P	P
47. Manufacture or storage of gases or above ground storage of flammable liquids such as gasoline for other than residential uses in bulk quantities	P	P	P	P	P	P
48. Railroad facilities including repair sheds and switch yards and trucking terminals, but excluding scenic railways	P	P	P	P	P	P
49. Junk or wrecking yards	P	P	P	P	P	P
50. Batch plants and hot mix plants and all accessory uses	P	P	P	P	P	P
51. Manufacture, fabrication or processing of all materials not otherwise listed and which will not cause noise, heat, dust, fumes or other adverse consequences that will impact the neighborhood	P	C	C	C	C	C
51a. Manufacture, fabrication or processing of all materials not otherwise listed and which will not cause noise, heat, dust, fumes, excessive traffic or parking or other adverse consequences that will impact the neighborhood and occupying less than 500 square feet.	A	A	A	A	R	R
51b. Manufacture, fabrication or processing of all materials not otherwise listed and which will not cause noise, heat, dust, fumes, excessive traffic or parking or other adverse consequences that will impact the neighborhood and occupying more than 500 square feet.	P	C	C	C	A	C

52. Manufacture, fabrication or processing of all materials not otherwise listed and which will cause noise, heat, dust, fumes or other consequences that will impact the neighborhood	P	P	C	P	C	C
53. Self-storage and mini-warehouse facilities	P	C	C	P	R	C
54. Non commercial garages	C	C	C	C	C	C
55. Accessory dwelling units	R	R	R	P	C	R
56. Sexually oriented business	P	P	P	P	C	P
57. Harboring of chickens	A	A	A	P	A	A
58a. Short-term rental units (1 short-term rental unit on a single parcel)**	R	R	R	R	R	R
58b. Short-term rental units on parcels that are not owner-occupied (3 or more short-term rental units on a single parcel)**	C	C	C	C	C	C
58c. Short-term rental units on owner-occupied parcels (2 or more short-term rental units on a single parcel)**	C	C	C	C	C	C

\* See Chapter(s) 17.50 and 17.52 on administrative permits and conditional use provisions.

\*\* The number of short-term rental licenses available, regardless of whether the use is a use by right or conditional use pursuant to this section, is subject to the maximum number of licenses available under Chapter 5.12 of this code.

(Ord. 03-17 §§ 3 and 4; Ord. 03-15 §§ 2 and 8; Ord. 03-4 §§ 2, 3; Ord. 03-1 § 1; Ord. 99-8 § 1 (part); prior code § 17.13)

(Ord. No. 20009-3, § 3, 9-1-09; Ord. No. 2010-2, § 2, 5-18-10; Ord. No. 2010-5, § 2, 8-17-10; Ord. No. 2013-19, § 2, 1-7-14; Ord. No. 2014-4, § 1, 5-6-14; Ord. No. 2014-5, §§ 1, 2, 8-5-14; Ord. No. 2015-5, § 1, 6-2-15; Ord. No. 2016-6, § 1, 7-5-16; Ord. No. 2016-8, § 2, 11-1-16; Ord. No. 2020-6, § 3, 2-2-21)

**17.48.020 Uses not itemized.**

Upon petition by any individual or organization or on its own initiative, the city council may, by ordinance, following review and recommendation by the planning commission, add to the itemized list of uses in Table 1, Section 17.48.010, any additional uses which conform to the following criteria:

- A. That the use by right, conditional use or prohibited use conforms to the basic characteristics and purpose of the district to which it would be added;
- B. That if there are zoning districts to which the additional use would be equally or more appropriate, such use shall also be added to those districts.

(Ord. 99-8 § 1 (part); prior code § 17.13.010)

**17.48.030 Manufactured homes and mobile homes.**

- A. **Manufactured Homes.** A manufactured home, as defined in Section 17.08.020, is treated as a single-family dwelling. A manufactured home is a permitted use in any zoning district where a single-family dwelling is a permitted use. A manufactured home is a prohibited use in those zoning districts in which a single-family dwelling is prohibited, and the installation of a manufactured home requires a conditional use permit or certificate of appropriateness in those zoning districts where one is required for a single-family dwelling. In

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all respects, a manufactured home is to be treated as a single-family dwelling for the purposes of this section. C.R.S. 31-23-301(5) applies.

B. Mobile homes.

1. Independent mobile homes, as defined in Section 17.08.020, are allowed to be placed only in approved mobile home parks or in the industrial zoning district by a conditional use permit pursuant to Chapter 17.36.
2. Dependent mobile homes as defined in Section 17.08.020, shall be occupied only in approved travel trailer parks and city-designated time limited travel trailer parking areas. Dependent mobile homes shall not be parked for the purposes of storage or habitation (see the definition of habitation in Section 17.08.020) on any city street, alley, or roadway. All cooking apparatus, utilities, and heating systems in dependent mobile homes must be fueled by liquid propane or natural gas. Solid or other liquid fuels are specifically prohibited.

(Ord. 99-8 § 1 (part): prior code §§ 17.15.010, 17.15.020)

## Chapter 17.50 ADMINISTRATIVE PERMITS

### 17.50.010 Introduction.

The administrative permit enumerated in Chapter 17.48 may be allowed in an eligible zoning district upon review and recommendation by the planning commission chair and action by the planning official to issue an administrative permit. Issuance of an administrative permit shall be subject to such reasonable conditions and safeguards in order that the administrative permit comply' s with the general intent and specific provisions of this chapter and be in harmony with the character of the surrounding area. Specific decision-making criteria are contained below.

Administrative permits shall be permitted for a duration of time, up to indefinite, specified by the planning official or until the land use changes or is terminated, whichever occurs first. Each administrative permit approved by the planning official is subject to review as often as city council deems appropriate and reasonable. In addition, city council may, for proper cause, revoke a CUP.

(Ord. No. 2016-6, § 1, 7-5-16)

### 17.50.020 Submittal requirements.

Application for an administrative permit shall require submission of: (a) an application on a form provided by the city; (b) submission of a letter of intent; (c) submission of written answers to the criteria points; and (d) submission of site plan.

The appropriate filing fees (see Chapter 17.96) shall accompany the submission of the above materials.

(Ord. No. 2016-6, § 1, 7-5-16)

### 17.50.030 Procedures for review and action on administrative permit applications.

- A. Administrative permit applications, with all supporting documents and fees, shall be submitted to the planning official to review for compliance with the requirements of this title.

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- B. An application determined to be complete by the planning official will be forwarded to the commission chair for second review. If the commission chair finds the application incomplete, it will be returned to the planning official for appropriate action. If the commission chair finds the application complete and adequate, it will authorize the planning official to move forward with issuing an administrative permit.
  - C. The applicant shall provide the city with the names and addresses of all adjacent property owners, as shown in the records of the Lake County assessor's office, and shall provide the planning official with a certificate of mailing.
  - D. The applicant shall notify all adjacent property neighbors within a twenty (20) foot radius of the chicken administrative permit request by sending the City of Leadville Notice of Consent Form by certified mail.
  - E. A letter typed or printed on city stationary and signed by the planning official shall be considered to be a formal permit authorizing an administrative permit under this chapter.
  - F. An administrative permit will be revoked if the use has not been established within two years of the approval.

(Ord. No. 2016-6, § 1, 7-5-16)

**17.50.040 Criteria for action on an administrative permit application.**

All actions by the planning commission chair and planning official in reviewing and approving an administrative permit application shall be based in general upon the provisions of this chapter and specifically on the following criteria:

- A. That the proposed administrative permit use conforms to the requirements and provisions of this zoning regulation;
- B. That the proposed administrative permit use is consistent with and in compliance with the Leadville comprehensive plan, as amended;
- C. That the proposed administrative permit use is consistent with and in harmony with neighboring land uses and future intended land uses in the area;
- D. That the proposed administrative permit use will not result in overly intensive use of the land relative to the surrounding land;
- E. That the proposed administrative permit use will not result in excessive traffic congestion or hazards to vehicular or pedestrian traffic;
- F. That the proposed administrative permit use will not unnecessarily scar the land on which such use would be located and that the site be free from loose piles of soil or other materials and open, unprotected pits or holes;
- G. That the proposed administrative permit use will not be likely to prove detrimental to the public health, safety or welfare of city residents nor cause hardship for neighboring persons;
- H. That the proposed site of the administrative permit use is and will be free from natural and manmade hazards or such hazards as have been identified can and will be adequately mitigated;
- I. That all roadway systems and access roads will be open and readily accessible to police, fire and other emergency and public safety vehicles on a year-round basis.

(Ord. No. 2016-6, § 1, 7-5-16)

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**17.50.050 Review and revocation of an administrative permit.**

At such intervals as the planning official and the planning and zoning chair may have specified in its initial decision, or when there is an alleged violation of the provisions of an administrative permit, the planning official shall review the terms, conditions or other provisions of the issued administrative permit. Upon review of the permit provisions, the planning official may specify time periods in which any violations of the terms or conditions shall be corrected.

Review of alleged violations of the terms, conditions or other provisions of an administrative permit shall occur at time of notification and be completed within in thirty (30) business days.

The planning official shall forward all recommendations, the reasons for such recommendations, and specific time period(s) in which violations of the provisions of the permit, if any, must be corrected to planning and zoning chair and the permit holder within five days of the review. In the event the planning official recommends revocation of any administrative permit, or if the violations of the terms or conditions are not corrected within the time period(s) specified by the planning official, such recommendation, the reasons for it, or a notice of noncompliance shall be forwarded to the planning and zoning chair within five days of the review. Within thirty (30) days the planning official shall render a decision.

Following the review and recommendation to the permit holder the planning official shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the administrative permit holder. Failure of the administrative permit holder to comply within the stipulated time period(s) with any of the conditions under which the permit was issued, or to comply with the original application provisions, shall be adequate reason for revocation of any administrative permit.

(Ord. No. 2016-6, § 1, 7-5-16)

**17.50.060 Administrative permit fees.**

- A. Fee Structure. The fee structure for the processing of administrative filing and application fees is available in the planning and zoning office.

(Ord. No. 2016-6, § 1, 7-5-16)

**17.50.070 Appeals procedure.**

- A. Appeals to city council may be made by any person(s) aggrieved by an inability to obtain an administrative permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this title. Appeals shall be made within thirty (30) days of the order, requirement, decision or refusal alleged to have occurred or to be in error.
- B. The concurring vote of four members of the council shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency or otherwise to decide in favor of an applicant or an appellant appearing before the council.
- C. City council shall set a public hearing date on all appeals. A notice of public hearing shall be published in a legal publication in the city at least seven days prior to the hearing with notification of the hearing date and subject of the hearing.

A copy of the notice shall be deposited in the United States mail by the applicant, first class postage prepaid, postmarked at least fifteen (15) days prior to the scheduled hearing date, and to all listed owners of record of all property owners within in a two hundred (200) foot radius. This mailed notice shall also be sent to all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the office of the Lake County

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assessor. The notice shall include a short narrative describing the relief sought and an announcement of 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.

In addition, the applicant shall cause to have posted on the property in question, in a conspicuous location, a sign supplied by the city, stating the time, date, location and subject of the hearing. Such sign(s) shall be posted at least fourteen (14) days before the scheduled date of the hearing.

- D. All appeals shall be in writing and on such forms as shall be prescribed by city council. The appropriate filing fee shall accompany the application. Every appeal shall state what provision(s) of the zoning regulation is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant. The mayor shall call a meeting of the city council scheduled to take place within thirty (30) days of the submission of the appropriate materials, including proof of notification of a public hearing, and at the same time city council may transmit a copy of the appeal to the planning commission or other appropriate public bodies for review and comment.
- E. Appeal applications submitted to city council shall include a full and accurate legal description of the land involved.
- F. Upon reaching a decision in the manner described above, the city council shall notify the applicant(s) in writing within ten (10) working days after city council takes action on an appeal.

(Ord. No. 2016-6, § 1, 7-5-16)

## **Chapter 17.52 CONDITIONAL USE PERMITS**

### **Sections:**

#### **17.52.010 Introduction.**

The conditional uses enumerated in Chapter 17.48 may be allowed in an eligible zoning district upon review and recommendation by the planning commission and action by city council to issue a CUP. Issuance of a permit for a conditional use shall be subject to such reasonable conditions and safeguards as city council may impose in order that the conditional use comply with the general intent and specific provisions of this chapter and be in harmony with the character of the surrounding area. Specific decision-making criteria are contained below.

Conditional uses shall be permitted for a duration of time, up to indefinite, specified by city council or until the land use changes or is terminated, whichever occurs first. Each conditional use approved by city council is subject to review as often as city council deems appropriate and reasonable. In addition, city council may, for proper cause, revoke a CUP.

(Ord. 99-8 § 1 (part): prior code § 17.14.010)

#### **17.52.020 Submittal requirements.**

Application for a permit for a conditional use shall require submission of: (a) an application on a form provided by the city; (b) submission of a letter of intent; and (c) submission of a site plan.

The appropriate filing fees (see Section 17.96) shall accompany the submission of the above materials.

(Ord. 99-8 § 1 (part): prior code § 17.14.020)

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**17.52.030 Procedures for review and action on conditional use applications.**

- A. Conditional use applications, with all supporting documents and fees, shall be submitted to the planning official to review for compliance with the requirements of this title.
- B. An application determined to be complete by the planning official will be forwarded to the commission chair for second review. If the commission chair finds the application incomplete, it will be returned to the planning official for appropriate action. If the commission chair finds the application complete and adequate, it will be set up for a public hearing by the planning official. If the commission chair feels, for any reason, that the entire commission should review the application, the application will be brought before the planning commission in regular or special session. At this session the commission shall rule by majority vote if it is complete and adequate, in which case it shall be accepted for review or, if it is incomplete or inadequate, it shall be returned to the applicant, along with all applicant fees, for revision. The commission shall record in its minutes the reason why any materials returned are incomplete or inadequate.
- C. When the application materials are deemed acceptable for review, the applicant shall be notified and the materials shall be scheduled for review by the planning commission, jointly with city council, at a public hearing.
- D. Notice of such hearing shall be (1) published in a newspaper of general circulation in the city at least fifteen (15) days prior to the scheduled hearing date; (2) sent by the applicant via United States Mail, first class postage prepaid, postmarked at least fifteen (15) days prior to the scheduled hearing date, to all listed owners of record of all property within two hundred (200) feet from the property lines of the property in question, as shown in the records of the Lake County assessor's office. 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.
- E. The applicant shall provide the city with the names and addresses of all adjacent property owners, as shown in the records of the Lake County assessor's office, and shall provide the planning official with a certificate of mailing.
- F. The applicant shall cause to have posted on the property in question, in a conspicuous location, a sign supplied by the city stating the time, date, location and subject of the hearing. Such sign(s) shall be posted at least fifteen (15) days before the scheduled date of the hearing.
- G. Following the public hearing, the commission shall make recommendation on the application to city council, recommending approval, denial or conditional approval. The commission has the option of continuing the discussion to a time and date certain whenever they feel further discussion is necessary. Once the commission has determined its recommendation, it shall forward the recommendation and any records of the hearing to the council within ten (10) days.
- H. At the next regularly scheduled or special meeting of city council, the council shall consider the recommendation of the planning commission and shall act to approve, deny or conditionally approve the application. Discussion on the application can be continued to a time and date certain when necessary.
- I. The resolution of disputes regarding completeness and adequacy of submittal materials shall be as specified in Section 17.92.
- J. A letter typed or printed on city stationary and signed by the mayor shall be considered to be a formal permit authorizing a variance or conditional use under this chapter.
- K. An applicant who has been denied a CUP shall not be permitted to reapply for a CUP for the same type of use at the same property for one year from the date of denial by city council.

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- L. A CUP will be revoked if the use has not been established within two years of the CUP approval. CUP extensions may be granted by city council for good cause.

(Ord. 02-10 § 1; Ord. 99-8 § 1 (part); prior code § 17.14.030)

#### **17.52.040 Criteria for action on an application for conditional use.**

All actions by the planning commission in reviewing and making recommendation on an application for conditional use, and by city council in approving or disapproving such application, shall be based in general upon the provisions of this chapter and specifically on the following criteria:

- A. That the proposed conditional use conforms to the requirements and provisions of this zoning regulation;
- B. That the proposed conditional use is consistent with and in compliance with the Leadville comprehensive plan, as amended;
- C. That the proposed conditional use is consistent with and in harmony with neighboring land uses and future intended land uses in the area;
- D. That the proposed conditional use will not result in overly intensive use of the land relative to the surrounding land;
- E. That the proposed conditional use will not result in excessive traffic congestion or hazards to vehicular or pedestrian traffic;
- F. That the proposed conditional use will not unnecessarily scar the land on which such use would be located and that the site be free from loose piles of soil or other materials and open, unprotected pits or holes;
- G. That the proposed conditional use will not be likely to prove detrimental to the public health, safety or welfare of city residents nor cause hardship for neighboring persons;
- H. That the proposed site of the conditional use is and will be free from natural and manmade hazards or such hazards as have been identified can and will be adequately mitigated;
- I. That all roadway systems and access roads will be open and readily accessible to police, fire and other emergency and public safety vehicles on a year-round basis.

(Ord. 99-8 § 1 (part); prior code § 17.14.040)

#### **17.52.050 Review and revocation of a conditional use permit.**

At such intervals as city council may have specified in its decision, or when there is an alleged violation of the provisions of a CUP, the planning commission shall review the terms, conditions or other provisions of CUPs issued by city council. Upon review of the permit provisions, the planning commission may specify time periods in which any violations of the terms or conditions shall be corrected.

Review of alleged violations of the terms, conditions or other provisions of a CUP shall occur at regularly scheduled planning commission meetings unless the alleged violation of the provisions of the permit may be an imminent danger to public health, welfare and safety. If, in the judgment of any city planning, building, police, fire or street department official, an imminent danger exists, the planning commission shall convene a special meeting to discuss the permit provisions.

The planning commission shall forward all recommendations, the reasons for such recommendations, and specific time period(s) in which violations of the provisions of the permit, if any, must be corrected to city council



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and CUP holder within three days of the review. In the event the planning commission recommends revocation of any CUP, or if the violations of the terms or conditions are not corrected within the time period(s) specified by the planning commission, such recommendation, the reasons for it, or a notice of noncompliance shall be forwarded to the council within five days of the review. Within thirty (30) days the council shall hold a hearing.

Following the public hearing, city council shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the CUP holder. Failure of the CUP holder to comply within the stipulated time period(s) with any of the conditions under which the permit was issued, or to comply with the original application provisions, shall be adequate reason for revocation of any CUP.

(Ord. 99-8 § 1 (part): prior code § 17.14.050)

#### **17.52.060 Special fee provision for conditional use permits.**

Upon application by an applicant, the planning commission may, upon a majority vote recorded in its minutes, allow a reduction in the fee for a CUP to seventy-five dollars (\$75.00). Such fee reductions shall be granted by the planning commission in cases where the time and expense of the review process for a CUP does not justify charging the standard application fee for such permits listed elsewhere in this chapter. The planning commission may so adjust the CUP application fee both for individual and multiple CUP applications.

(Ord. 99-8 § 1 (part): prior code § 17.14.060)

### **Chapter 17.54 SITE PLANS**

#### **Sections:**

#### **17.54.010 Introduction.**

The purpose of the site plan review process is to ensure compliance with the city's development and design standards and the provisions of this code. It is designed to encourage quality development reflective of the goals, policies, and objectives of the City of Leadville Comprehensive Plan.

The character and environment of the city for future years will be greatly affected by the design of development. Planning, layout, and design of sites and subdivisions are of the utmost concern. Safe mobility for pedestrians and motor vehicles is important. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, protect significant views, and afford privacy for residents. Natural features should be preserved when practicable.

(Ord. No. 2019-3, § 1, 7-2-19)

#### **17.54.020 Applicability.**

When site plan review is required, structures and uses may be established and building or land use permits may be issued only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this chapter.

- A. The following applications and projects are subject to the site plan approval process:
1. All new uses and structures;
  2. Any modification of an existing structure or redevelopment;

3. Any request that would, in the opinion of the planning official, significantly alter the design of the site or building(s) proposed to be constructed or modified;
4. Any request to change or delete a condition of approval established by the planning and zoning commission; and
5. Any construction or modification of three or more dwellings on a single parcel or lot. Accessory dwelling units do apply as a separate unit on a single lot.

B. The following applications and projects are exempt from the site plan approval process set forth in this chapter:

1. Single-family detached dwellings and accessory structures thereto.
2. Two-family dwellings and accessory structures thereto.
3. Any proposed modification of an existing structure where less than twenty (20) percent of gross square footage of the existing structure is being modified, provided that the modification does not exceed one thousand (1,000) gross square feet.

C. Thresholds for Site Plan Review Type.

Site Plan Review Thresholds			
Type of Development	Administrative Site Plan	Minor Site Plan	Major Site Plan
Residential	15 or fewer dwelling units	16–40 dwelling units	More than 40 dwelling units
Non-Residential	Less than 10,000 square feet of gross floor area	10,000–25,000 square feet of gross floor area	More than 25,000 square feet of gross floor area.
Mixed-Use	15 or fewer dwelling units and less than 10,000 gross square feet of commercial	Between 16 and 40 dwelling units and between 10,000–25,000 gross square feet of commercial	More than 40 dwelling units and more than 25,000 gross square feet of commercial.

1. Administrative Site Plan. The planning official reviews administrative site plan applications and may approve, conditionally approve, or deny an application in accordance with this chapter. An administrative site plan application may be reviewed concurrently with a building permit application.
2. Minor Site Plan. The planning and zoning commission reviews minor site plan applications and may approve, conditionally approve, or deny an application following a public hearing in accordance with this chapter.
3. Major Site Plan. The planning and zoning commission reviews major site plan applications and may recommend approval, conditional approval, or denial of an application by the city council following a public hearing in accordance with this chapter. The city council may approve, conditionally approve or deny an application following a public hearing in accordance with this chapter.

(Ord. No. 2019-3, § 1, 7-2-19)

**17.54.030 Submittal requirements.**

Site plan applications shall be submitted to the planning official. The planning official is authorized to impose submittal requirements, as the planning official reasonably determines are necessary, in addition to any

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requirements listed in this section, to be determined on a case by case basis. Additional submittal requirements may include traffic, utility, environmental, or other studies deemed necessary to evaluate potential impacts to the city.

An applicant shall submit the following information when site plan review is required. The planning official may, in his or her reasonable discretion, waive any submittal requirements set forth below. Any waiver of application materials or requirements by the planning official shall be set forth in writing.

- A. Application and fees set forth in Chapter 17.96.
- B. Certified survey prepared and stamped by a Colorado licensed public land surveyor (PLS).
- C. Building elevations of all exterior facades identifying color and materials to be used.
- D. Site plan including the following:
  - 1. The site plan shall be prepared on plan sheets no greater than twenty-four (24) by thirty-six (36) inch format in size.
  - 2. Vicinity map showing the site location within the context of the City of Leadville.
  - 3. The boundary of the site described in bearings and distances and existing and proposed lot lines.
  - 4. Legal description of the site. When there is a discrepancy between a field survey and a recorded deed or plat, all areas with contiguity inconsistencies, gaps, and/or overlaps with adjoining properties based on known information of record and field inspection, such discrepancies shall be shown on the site plan.
  - 5. Scale (not less than one inch equals thirty (30) feet) and north arrow.
  - 6. Date of plan preparation and contact information for plan preparer.
  - 7. Location of one hundred (100) year floodplain, if applicable.
  - 8. Existing and proposed contours at two-foot intervals.
  - 9. Location of all existing and proposed:
    - a. Fences, walls or screen plantings and their type and height;
    - b. Exterior lighting, including location, height and type;
    - c. Signs, including type, height and size;
    - d. Landscaping and special buffers, including type and coverage;
    - e. Parking, loading, and handicap parking areas in accordance with Chapter 17.76 of the Leadville Municipal Code;
    - f. Easements and rights-of-way;
    - g. Drainage ways, pond areas, ditches, irrigation canals, wetlands, lakes, and streams, as applicable;
    - h. Buildings and structures to be developed or retained on the site, including possible use, height, size, floor area, and type of construction;
    - i. Structure setback dimensions from property lines;
    - j. Streets, both adjacent and within the site, including names, widths, location of centerlines, acceleration/deceleration lanes;
    - k. Curbs, gutters, ramps, sidewalks, and bike paths;

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- l. Snow storage areas, including dimensions;
  - m. Trash containers and method of screening, if any;
  - n. Areas to be used for outside work areas, storage or display and method of screening, if any; and
  - o. Fire hydrants.
10. Adjoining property lot lines, zoning designation of adjoining lots, buildings, access, and parking so that development compatibility can be determined.
11. Other information which shall be in written and tabular form, including:
- a. Statement of proposed and existing zoning and any zoning conditions;
  - b. Statement of proposed uses;
  - c. Site data (numeric and percentage) in tabular form, including:
    - i. Total area of property, gross and net;
    - ii. Building coverage;
    - iii. Landscape coverage;
    - iv. Total lot coverage by all structures, paving, and other impervious surfaces;
    - v. Required and proposed snow storage area;
    - vi. Required and proposed number of parking spaces;
    - vii. Gross floor area; and
    - viii. Number of residential units and density (if applicable).
12. Appropriate approval signature blocks.

(Ord. No. 2019-3, § 1, 7-2-19)

**17.54.040 Procedures for review and action on site plan applications.**

- A. Pre-Application Meeting. The planning official may require or the applicant may request a pre-application meeting with the planning official or the planning and zoning commission to discuss the application prior to formal or final submittal for administrative site plans and minor site plans. A pre-application meeting shall be required for all major site plans.
- B. Application Submittal. Site plan applications, with all supporting documents and fees, shall be submitted to the planning official to review for compliance with the requirements of the applicable provisions of this code.
- C. Completeness Determination. An application determined to be complete by the planning official will be forwarded to the commission chair for second review. If the commission chair finds the application incomplete, it will be returned to the planning official for appropriate action. If the commission chair finds the application complete and adequate, the application will be processed in accordance with the provisions set forth in this chapter.
- D. Referral Agency Review. The planning official will refer complete site plan applications and supporting materials to local agencies, as such term is described and defined in Section 16.28.070 of the code. The planning official may refer a site plan application to all agencies, as such term is described and defined in Section 16.28.070 of the code, if the planning official determines that such referral is appropriate based on the size and scope of the site plan under review. If the entire property that is the subject of a site plan

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application or a portion thereof falls within Leadville's National Historic Landmark District Overlay (NHL) District, the Historic Preservation Commission (HPC) shall review the application for compliance with the NHL design guidelines.

- E. Review and Action.
  - 1. Administrative Site Plan. The planning official shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in Section 17.54.050 of this chapter. Such decision shall be sent to the applicant in writing.
  - 2. Minor Site Plan. The planning official will prepare a report and present findings to the planning and zoning commission. The planning and zoning commission shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in Section 17.54.050 of this chapter.
  - 3. Major Site Plan. The planning official will prepare a report and present the findings to the planning and zoning commission. The planning and zoning commission shall make a recommendation to the city council to either approve, approve with conditions, or deny the application based on the criteria as outlined in Section 17.54.050 of this chapter. City council shall render a decision to either approve, approve with conditions, or deny the application based on the criteria as outlined in Section 17.54.050 of this chapter.
- F. Conditions of Approval. The planning and zoning commission may impose reasonable conditions upon any site plan approval which are necessary to ensure continued conformance with the Leadville Municipal Code, or which are necessary to protect the health, safety and welfare of the city and its residents.
- G. Notice. Notice requirements for public hearings before the planning and zoning commission or the city council to consider a site plan application shall be the same as the notice requirements for a conditional use permit set forth in Chapter 17.52 of this code.
- H. Post-approval.
  - 1. Building Permit and Construction. No building permit shall be issued for any structure or use that does not conform to an approved site plan. The construction, location, use, or operation of all land and structures within the site shall conform to all conditions and limitations set forth an approved site plan. No structure, use, or other element of approved site plan shall be eliminated, altered, installed or constructed in another manner unless an amended site plan is approved.
  - 2. Expiration. Approval of any site plan shall expire two years after the date of approval if a building permit has not been obtained or if the approved use has not been established. In the event that the approval of a site plan expires pursuant to this section, a new site plan application must be submitted for approval in the same manner as an original site plan application.
  - 3. Modifications to Site Plans. The holder of an approved site plan may request a modification to the approved site plan or the conditions of approval of an approved site plan by submitting an amended site plan application to the planning official. The amended application shall be filed and processed in accordance with the procedures for an initial site plan submittal.

(Ord. No. 2019-3, § 1, 7-2-19)

#### **17.54.050 Criteria for site plan approval.**

A site plan must meet the following criteria to be approved:

- A. The site plan is consistent with the City of Leadville Comprehensive Plan;

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- B. The site plan is consistent with any previously approved subdivision plat, planned unit development, or any other preceding plan or land use approval, as applicable;
  - C. The site plan complies with all applicable development and design standards set forth in this code;
  - D. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent practicable and approval of the site plan will not harm the public health, safety or welfare;
  - E. The development proposed in the plan and its general location is or will be compatible with the character of surrounding land uses and structures; and
  - F. The development can be adequately served by public services, including, but not limited to, roads, water, and wastewater.

(Ord. No. 2019-3, § 1, 7-2-19)

**17.54.060 Administrative appeal procedure.**

- A. Generally.
  - 1. The purpose of this section is to provide an opportunity for affected parties to seek review of a decision of the planning official or the planning and zoning commission in a timely and cost effective manner.
  - 2. Administrative appeals shall be heard and decided by the city council.
  - 3. A decision that is subject to the administrative appeal process set forth in this section includes any order, requirement, decision, or determination made by the planning and zoning commission or planning official.
- B. Standards to be Reviewed. The city council will decide appeals according to the same standards that the decision maker was to apply to the application.
- C. Scope of Review.
  - 1. No evidence shall be presented to the city council that was not considered by the planning official or planning and zoning commission, as applicable; and
  - 2. No issues shall be reviewed by the city council that were not described or obviously implied by the petition for appeal.
- D. Appeal Petition. An applicant may initiate an administrative appeal by filing a petition, along with the required fee, with the planning official on forms provided by the city. The petition shall include the following information:
  - 1. The name, address, and telephone number of the petitioner;
  - 2. A short statement indicating the nature of the application, the application number, the date of the decision by the planning official or planning and zoning commission;
  - 3. A copy of the written decision of the planning official or planning and zoning commission; and
  - 4. A short but specific statement regarding how the decision appealed violates the Leadville Municipal Code. The statement shall refer to the particular section numbers upon which the petitioner relies, and shall not make a general reference to noncompliance with this code (i.e., "the application did not comply with the Leadville Municipal Code," without more, is not a sufficient statement of the issues and will be rejected).

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- E. Timing of Appeal. Appeal petitions shall be filed within fourteen (14) days of the date of the decision being appealed. Failure to file within fourteen (14) days shall cut off the right of appeal.
- F. Hearing. The city council shall hold a hearing on the appeal according to the following procedures:
1. Order of Presentation. The appeal hearing shall be ordered as follows:
    - a. The petitioner shall present the appeal.
    - b. The city (respondent) shall present a response.
    - c. The petitioner may cross-examine the respondent.
    - d. The respondent may cross-examine the petitioner.
    - e. The petitioner may make a closing argument.
    - f. The respondent may make a closing argument.
  2. Questions of Participants. The city council may ask questions of a participant at any time.
- G. Decision.
1. Following a properly noticed public hearing, the city council may affirm, reverse, or amend any underlying decision.
  2. Decisions regarding appeals shall be reduced to writing by the city administrative services director or his or her designee, who shall include the material factual basis for the decision and shall be executed by the mayor. The mayor's signature gives effect to the decision but does not constitute the mayor's approval of the decision, which is not required.
- H. Standards. The city council will affirm the underlying decision unless it finds that:
1. The underlying decision was an abuse of discretion; or
  2. The underlying decision was not supported by the facts found in the record of the proceeding before the planning and zoning commission.
- I. Review of City Council's Decision. The city council's decision is a final decision reviewable pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

(Ord. No. 2019-3, § 1, 7-2-19)

## **Chapter 17.56 MOBILE HOME PARKS AND TRAVEL TRAILER PARKS AS CONDITIONAL USES**

### **Sections:**

#### **17.56.010 Introduction.**

This regulation describes the submittal requirements, design standards, operational stipulations, administrative procedures and review criteria required to make application for a conditional use permit (CUP) for the site selection, development or alteration of a mobile home park or travel trailer park in those zoning districts in which such uses are permitted under Chapter 17.48 as a conditional use.

(Ord. 99-8 § 1 (part): prior code § 17.16.010)

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**17.56.020 Purpose and intent.**

The specific purpose and intent of this chapter shall be to:

- A. Establish, maintain and enforce minimum standards governing the site selection, development, alteration, maintenance and operation of mobile home parks and travel trailer parks;
- B. Establish, maintain and enforce minimum standards governing the provision of utilities, physical facilities and other conditions needed to make mobile home parks and travel trailer parks safe, sanitary and fit for human habitation;
- C. Establish, maintain and enforce the minimum responsibilities of owners and operators of mobile home parks and travel trailer parks;
- D. Provide relief for all nonconforming mobile home and travel trailer parks.

(Ord. 99-8 § 1 (part): prior code § 17.16.020)

**17.56.030 Scope and applicability of this regulation.**

This regulation shall apply to applications for a conditional use permit to engage in the site selection, development or alteration of a mobile home park or travel trailer park within the incorporated boundaries of the city.

(Ord. 99-8 § 1 (part): prior code § 17.16.030)

**17.56.040 Permit required.**

No person shall engage in the construction, development or alteration of a mobile home park or travel trailer park until that person has been issued a conditional use permit by the city council in compliance with the provisions of this regulation and other applicable provisions contained within this title and within the Leadville Municipal Code.

(Ord. 99-8 § 1 (part): prior code § 17.16.040)

**17.56.050 Building permits and city building codes.**

The provisions of this regulation governing the issuance of building permits for or within mobile home parks and travel trailer parks shall be subject to the provisions of the Uniform Building Code and other applicable codes adopted by the city.

(Ord. 99-8 § 1 (part): prior code § 17.16.050)

**17.56.060 Relationship to other regulations and requirements.**

- A. Nothing in this regulation shall be construed as exempting an applicant for a permit for the development of a mobile home park or travel trailer park as a conditional use in an allowable zoning district from any other requirements of the city or from other state of Colorado or federal laws, regulations or requirements.
- B. This mobile home park and travel trailer park regulation is declared to be supplemental to the Colorado Department of Health Sanitary Standards and Regulations for mobile home parks. Compliance with this city



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regulation shall not exempt a mobile home or travel trailer park applicant, owner, or operator from Colorado Department of Health regulations.

(Ord. 99-8 § 1 (part): prior code § 17.16.060)

#### **17.56.070 Occupancy.**

No mobile home or travel trailer shall be occupied on any park space until all improvements have been completed as shown on approved submittal materials and as required by this regulation and until complete and proper inspections of such improvements have been undertaken by the building official and other responsible city officials.

(Ord. 99-8 § 1 (part): prior code § 17.16.070)

#### **17.56.080 Dependent mobile homes.**

Dependent mobile homes, as defined in this title, shall not be permitted in mobile home parks.

(Ord. 99-8 § 1 (part): prior code § 17.16.080)

#### **17.56.090 Warning and disclaimer.**

The provisions of this regulation do not in any way assure or guarantee that permits granted under these provisions will guarantee the health, safety or welfare of the residents or users of the permitted facilities.

(Ord. 99-8 § 1 (part): prior code § 17.16.090)

#### **17.56.100 Permits for mobile home parks and travel trailer parks as a conditional use.**

- A. The site selection, development or alteration of a mobile home park or travel trailer park as a conditional use in a designated zoning district shall be allowed upon review and recommendation by the planning commission, and city council issuing a CUP. Issuance of a CUP for a mobile home park or travel trailer park shall be subject to such safeguards as city council may see fit to impose in order that the conditional use comply with the general intent and special provisions of this title and be in harmony with the population and resources of the surrounding area.
- B. CUPs for the site selection, development or alteration of mobile home parks and travel trailer parks are issued for an indefinite time period but may be reviewed, revoked or limited by the city council for failure to comply with the provisions contained within this title. See also Section 17.52.050 governing the review and revocation of all CUPs issued for mobile home parks and travel trailer parks.

(Ord. 99-8 § 1 (part): prior code § 17.16.100)

#### **17.56.110 Design standards and specifications.**

The following design standards and specifications shall apply to all mobile home parks and travel trailer parks to be issued a CUP for site selection, development or alteration in the city following the adoption of this regulation, except as otherwise specifically provided for within this regulation or otherwise in this title.

- A. Site Selection Criteria. Existing zoning, building and construction, comprehensive plan, health and other resolutions, regulations and laws of the city, the state of Colorado and the United States shall be

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adhered to as part of the site selection process for a mobile home park or travel trailer park. Sites are required to be buffered from public view (see the definition of buffer in Section 17.08.020). Mobile home parks and travel trailer parks shall be situated on well-drained sites that will not cause adverse drainage or other environmental consequences on surrounding property. Existing streams and other natural amenities shall be preserved whenever possible. Mobile home parks and travel trailer parks shall not be sited in areas subject to flooding, fire, or other safety hazards nor shall they be located in proximity to chronic nuisances such as noise, smoke, fumes or odors. The proposed site shall be free from known natural hazards and subject to ready access.

B. Size and Density Provisions.

1. The gross density of a mobile home park shall not exceed eight mobile home units per acre.
2. The gross density of a travel trailer park shall not exceed twenty-five (25) camping units per acre.
3. A mobile home park shall contain a minimum of two acres and a travel trailer park shall contain a minimum of one acre.

C. Mobile home Tie-Down and Skirting Requirements. All mobile homes shall be tied down and skirted. Each mobile home space shall have a minimum of four tie-down stirrups and concrete pads located at stress points pursuant to the manufacturer's specifications or, in place of pads, the home shall be attached to a permanent foundation with the wheels and axles removed. Mobile homes attached to a pad or foundation shall be equipped with skirting of a rigid material, which shall be installed within thirty (30) days after the mobile home has been moved to its site and prior to occupancy.

D. Setback Requirements.

1. All mobile home parks and travel trailer parks shall maintain a setback from state or federally designated highways of not less than one hundred (100) feet. Setback measurements shall be made from the road right-of-way to the nearest designated mobile home or travel trailer space. In addition, such spaces shall be located no closer than the following distances from the following boundaries:
  - a. Fifteen (15) feet from any type or category of public right-of-way or interior street or alley other than a state or federally designated highway.
  - b. Ten (10) feet for mobile homes and five feet for travel trailers abutting any interior street or alley.
2. All mobile home units shall be sited so there remains a minimum of twenty (20) feet between mobile home units and ten (10) feet between travel trailer units. Mobile home units and travel trailer units parked end-to-end shall maintain an end-to-end clearance of no less than ten (10) feet. Enclosed additions to a mobile home unit and extensions to a travel trailer unit shall be considered a part of the respective unit in measuring minimum required distances.

The required area for each mobile homes or travel trailer shall not include any of the additional area required for access roads, service buildings, recreational areas and open space, offices and related facilities and uses.

3. Mobile homes and travel trailers shall not be parked in any manner that any part of the unit would obstruct any portion of a roadway or walkway.
4. Only available spaces conforming to the provisions of this regulation shall be occupied.

E. Mobile home and Travel Trailer Space Requirements. The following minimum requirements shall apply to mobile home and travel trailer spaces:

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1. The minimum size of a mobile home space shall be three thousand five hundred (3,500) square feet for units that are twenty-four (24) feet in width and thirty-six (36) feet in length, two thousand eight hundred (2,800) square feet for smaller units, and one thousand (1,000) square feet for travel trailer units and camping sites.
  2. Groups or clusters of mobile homes may be placed on a combined space if the size of the combined space is equal to or greater than the minimum area for an equal number of mobile homes on standard spaces and where the minimum setback requirements contained herein are honored on the perimeter line of the combined space. The application submittal requirements for such clustered sites may be expanded by the planning commission to include any or all of the submittal requirements contained within the planned unit development regulations (see Chapter 17.40).
- F. Access and Interior Roadways. All mobile home and travel trailer park spaces shall have adequate access to a public street or roadway. Access roads shall be provided to mobile home or travel trailer spaces. All roads shall be appropriately paved with curb, gutter and sidewalks and meet the road construction standards adopted by or in prevailing use by the city.

All mobile home park and travel trailer park entrances shall contain entranceways with a roadway width of at least thirty-six (36) feet, exclusive of snow storage areas and, except as permitted by variance from the board of adjustment, all mobile home parks and travel trailer parks with twelve (12) or more spaces shall provide at least two such entranceways, but no more than one entranceway per one hundred (100) feet of linear roadway frontage shall be allowed.

In addition, mobile home parks and travel trailer parks shall be designed and constructed so that all spaces for units and all accessory uses shall abut an interior roadway.

- G. Walkways, Paving and Lighting in Mobile home Parks. In mobile home parks, all park walkways shall be surfaced with asphalt or concrete. Walkway widths shall not be less than three feet and all mobile home park walkways shall be provided with appropriate illumination.
- H. Public Sites, Recreation and Open Space in Mobile home Parks. Mobile home parks shall dedicate areas of a character, extent and location suitable for public use for arterial streets, schools, parks, flood ways, historic sites, scenic areas and other necessary or convenient public uses according to the following provisions:
1. Ten (10) percent of the total gross area of the mobile home park shall be dedicated as a private park or public recreational area(s) for the use of the residents or users of the facility.
  2. Applicants shall submit a general warranty deed, file a plat of the site or submit other such proof of dedication satisfactory to city council to assure the dedication of all easements and public or private park lands prior to the issuance of a conditional use permit for such mobile home park.
  3. Land to be provided for public and/or private recreational use and/or open space shall not include any area dedicated as a roadway, mobile home or travel trailer park space, storage area nor any area required for setback as specified elsewhere in this title.
- I. Mobile home Park Parking Requirements.
1. A minimum of two off-street parking spaces shall be provided for each mobile home space, the minimum size of each such off-street parking space being eight feet by eighteen (18) feet.
  2. Upon application to the planning commission and at the commission's discretion, on-street parking in mobile home parks may be permitted in place of the required off-street parking by constructing wider roadways. In such cases, on-street parking shall be equal to the minimum area required for an equal number of off-street parking spaces, calculated at a minimum on-street parking space width of eight feet and length of twenty-four (24) feet.

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3. All mobile home park parking lots shall contain adequate space for snow storage.
- J. Mobile home Accessory Parking Areas. A parking area or areas surfaced with asphalt, concrete or a similar surface shall be provided for boats, trailers, camping units, horse trailers and similar items in an amount equal to one hundred (100) square feet per each mobile home space in mobile home parks.
- K. Service Buildings.
1. Every travel trailer park shall provide one or more service buildings equipped with flush toilets, lavatories, and showers meeting Colorado Department of Health standards and subject to Colorado Department of Health approval along with compliance with all applicable city codes. See subsection N of this section for detailed specifications.
  2. Service buildings shall be well-lighted, equipped with appropriate signs and shall be well-ventilated and properly sited and graded to prevent the ponding of water or the accumulation of snow or ice by entrances or exits. No service building shall be located closer than fifteen (15) feet from any mobile home, travel trailer or camping site. All service buildings shall contain heating systems capable of maintaining an inside temperature of seventy (70) degrees during the winter months and provide hot running water during periods of occupation.
  3. Business sales outlets are subject to all applicable city zoning regulations.
- L. Roadway Width and Surfacing Requirements. All two-way public roadways in mobile home and travel trailer parks shall be at least twenty-four (24) feet wide and all one-way roadways in travel trailer parks shall be at least sixteen (16) feet wide. All public and private roadways in mobile home parks and travel trailer parks shall be surfaced with asphalt or concrete, be well drained and not prone to the excess accumulation of snow.
- M. Mobile home Park Utilities. Every mobile home park shall provide, at a minimum, the following utility services and facilities:
1. A safe, adequate and reliable supply of potable water capable of furnishing a minimum of two hundred and fifty (250) gallons of water per day per mobile home space at a minimum pressure of twenty (20) pounds per square inch measured at the mobile home unit connection point. Where a public supply of water is available, as determined by a written statement from the appropriate water supply authority, connection shall be made to that supply and it shall be used exclusively. Independent water supplies shall be allowed only if a public water supply is not available and upon permission of the planning commission and only if such supply meets all applicable city and state of Colorado laws and regulations. The number of spaces to be occupied shall be limited to the quantity of water available to supply each such space with the minimum requirements.  
  
Each mobile home park water supply system shall be connected by pipes of adequate size and material to all service buildings and mobile home spaces and shall be constructed and maintained to protect against backflow or other source of contamination, against shifting of mobile home units and against frost, except that failure of a unit occupant to skirt that unit as required herein shall relieve a mobile home park operator of responsibility from frost damage;
  2. A safe, adequate and reliable sewage disposal system. Where a public supply of sewage disposal is available, as determined by a written statement from the appropriate sewage treatment authority, connection shall be made to that supply and it shall be used exclusively. Independent sewage disposal systems shall be allowed only if a public disposal system is not available and upon permission of the planning commission and only if such supply meets all applicable city and state of Colorado laws and regulations. The number of spaces to be occupied shall be limited to the quantity of sewage disposal available to supply each such space with the minimum requirements.

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All sewer lines shall be adequately vented and protected against damage from traffic, frost and other hazards. All sewage disposal facilities, including all appurtenances thereto, shall be constructed, maintained and operated so as not to create a nuisance or a health hazard. Each mobile home space shall be provided with at least a four-inch sewer connection. The sewer connection shall be securely closed when not linked to a mobile home and shall emit no odors. The mobile home drain shall be water-tight and self draining and constructed of material in compliance with local plumbing codes and applicable state of Colorado rules and regulations;

3. The storage, collection and disposal of solid waste in a mobile home park shall be managed so as not to create a health hazard, fire hazard, or nuisance, including objectionable odors. Refuse containers shall be conveniently located to each mobile home space or at convenient central locations and all containers shall be so constructed and managed as to resist water, rodents, insects and domestic animals and be protected from wind and snow. All refuse shall be collected and hauled from the park at least weekly, either by a public or private organization or by the park operator. Abandoned motor vehicles shall not be permitted in a mobile home park;
4. All electrical installations shall comply with applicable city and state laws, regulations and codes and shall be fully grounded and waterproofed. The mobile home park operator shall be responsible for providing 110/220 volt AC electrical service to a hookup at each mobile home space and all service buildings. All electric power lines to individual spaces in a mobile home park shall be buried;
5. All connection lines from outside fuel storage tanks to mobile home units and other sources shall be of approved metallic pipe or plastic tubing and shall be permanently installed and securely fastened in place and located at least ten (10) feet from any mobile home unit exit and not under any such unit. No soldered connections shall be permitted on any fuel lines and no fuel tanks or lines shall be placed near a source of flame or excess heat. All fuel lines carrying pressurized or liquefied gas shall be buried;
6. When a public water supply system is available to the mobile home park, fire hydrants shall be installed in a manner acceptable to city council and shall be maintained in good working order at all times. Portable fire extinguishers in an amount, type and location specified by the National Fire Protection Association standard ANSI/NFPA 10, Portable Fire Extinguishers, and acceptable to the local fire protection authority shall be provided in the mobile home park. The absence of fire hydrants shall be sufficient reason for the building official to require the installation of additional fire fighting equipment above and beyond what would otherwise be required.

N. Travel Trailer Park Utilities.

1. Each travel trailer park shall have available a safe, adequate and reliable supply of potable water capable of furnishing a minimum of one hundred (100) gallons of water per day per travel trailer space when a sewer hookup is connected and fifty (50) gallons per day with no sewer hookup, at a minimum pressure of twenty (20) pounds per square inch measured at the hookup connection point. Where a public supply of water is available, as determined by a written statement from the appropriate water supply authority, connection shall be made to that supply and it shall be used exclusively. Independent water supplies shall be allowed only if a public water supply is not available and upon permission of the planning commission and only if such supply meets all city and state of Colorado laws and regulations. The number of spaces to be occupied shall be limited to the quantity of water available to supply each such space with the minimum requirements.

All connection lines to spaces and to service buildings shall be constructed of such materials and be so placed to provide protection from backflow and other sources of contamination and from frost.

Water hoses and connections for filling travel trailer potable water reservoirs shall be provided in the park and shall be located not more than thirty (30) feet from any dump station and shall be clearly

marked as to their purpose and restricted only to their intended use. A water hose for flushing holding tanks shall also be provided, it shall be labeled as providing nonpotable water and it shall be equipped with an anti-siphon device to prevent inadvertent backflow.

2. Each travel trailer park shall have available a safe, adequate and reliable sewage disposal system. Where a public supply of sewage disposal is available, as determined by a written statement from the appropriate sewage treatment authority, connection shall be made to that supply and it shall be used exclusively. Independent sewage disposal systems shall be allowed only if a public disposal system is not available and upon permission of the planning commission and only if such supply meets all city and state of Colorado laws and regulations. The number of spaces to be occupied shall be limited to the quantity of sewage disposal available to supply each space with the minimum requirements.

All sewer lines shall be adequately vented and protected against damage from traffic, frost and other hazards. All sewage disposal facilities, including all appurtenances thereto, shall be constructed, maintained and operated so as not to create a nuisance or a health hazard. Each self-contained travel trailer space shall be provided with a four-inch sewer connection. The sewer connection shall be securely closed when not linked to a travel trailer and shall emit no odors. All sewer lines shall be constructed in accordance with plans approved by city council. The building official shall have the authority to limit the capacity of the park based on the availability of adequate sewage disposal facilities or capacity.

Each park shall provide at least one sewage dump station, which shall be placed on a paved pad sloped toward the sewer drain to provide rapid cleanup of any spillage and it shall be equipped with a clearly marked cleanup hose with at least twenty (20) pounds per square inch of pressure.

3. Each travel trailer park shall provide service facilities for dependent travel trailer units according to the following schedule contained in Table 2:

**TABLE 2**

No. of Dependent Units	1-15	16-30	31-45	46-60	61-80	81-90	91-100
Toilets:	1	2	2	3	3	3	
Men	1	2	2	3	4	4	
Women	1	2	2	3	4	4	
Urinals:	1	1	1	2	2	2	
Lavatories:							
Men	1	2	3	3	4	4	
Women	1	2	3	3	4	4	
Showers:							
Men	1	1	2	2	3	3	4
Women	1	1	2	2	3	3	4

\* Other fixtures: One service sink if a service building is provided.

Travel trailer parks accommodating independent units shall provide at least one toilet, one lavatory and one shower.

Travel trailer parks with more than one hundred (100) dependent trailer spaces shall also provide one additional toilet and lavatory for men and one additional toilet and lavatory for women per each additional thirty (30) trailer spaces, one additional shower for each gender per each additional forty (40) trailer spaces and one additional urinal per each additional sixty (60) trailer spaces.

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No dependent travel trailer spaces shall be located more than three hundred (300) feet from a service building.

4. The storage, collection and disposal of solid waste in a travel trailer park shall be managed so as to not create a health hazard, fire hazard or nuisance, including objectionable odors. Refuse containers shall be conveniently located to each travel trailer space or at convenient central locations. All containers shall be so constructed and managed as to resist water, rodents, insects and domestic animals and be protected from wind and snow. All refuse shall be collected and hauled from the park at least weekly, either by a public or private organization or by the park operator. Abandoned motor vehicles shall not be permitted in a travel trailer park.
5. All electrical installations shall comply with city and state laws, regulations and codes and shall be fully grounded and waterproofed. The travel trailer park operator shall be responsible for providing 110 volt AC electricity to a hookup at each travel trailer space and to all service buildings.
6. No propane or other compressed, liquefied fuel storage tanks for filling vehicle-mounted or detached pressurized tanks shall be installed in a travel trailer park until approval has been granted for such facilities by city council. All such installations shall be planned and constructed to minimize the danger of fire or explosion to the residents of a travel trailer park. No such storage tanks shall be located less than thirty (30) feet from a public right-of-way nor less than thirty (30) feet from an occupied travel trailer space and shall be properly fenced.
7. When a public water supply system is available to the travel trailer park, city council may, after recommendation by the planning commission, require the installation of fire hydrants. Such fire hydrants, if required, shall be installed in a manner acceptable to city council and shall be maintained in good working order at all times. Portable fire extinguishers in an amount, type and location specified by the National Fire Protection Association (NFPA) standard ANSI/NFPA 10, Portable Fire Extinguishers and acceptable to the local fire protection authority shall be provided in the travel trailer park; the absence of fire hydrants shall be sufficient reason for the building official to require the installation of additional firefighting equipment above and beyond what would otherwise be required.
8. Areas designated for tent camping shall include for each such space a fireplace or charcoal grill of sturdy construction, a picnic table and a well-drained, level tent site.

(Ord. 06-2 § 3; Ord. 99-8 § 1 (part): prior code § 17.16.110)

### **17.56.120 Submittal requirements.**

Application for a conditional use permit for a mobile home park or a travel trailer park shall require: (a) submission of an application on a form provided by the city; (b) submission of a letter of intent; and (c) submission of the special application materials specified within this regulation.

At the discretion of the planning commission, and upon written request of the applicant, any but not all of these submission requirements may be waived in cases where the applicant demonstrates that provision of the specific items would prove unnecessarily burdensome or inappropriate. In special cases, the planning commission may require the submission of additional technical information and plans not specified herein.

The materials submitted to the planning commission, in addition to a completed application and the required filing fees, shall include:

- A. A letter of intent including the following items:
  1. The current zoning of the property and adjoining property,

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2. Proof of ownership, deed, current title policy and, as appropriate, certification from the owner recognizing the owner's appointed representative,
  3. Description of the current land use(s) on the property, the characteristics of the land within the property boundaries, and the current land use on all adjoining property,
  4. A statement demonstrating that the proposed conditional use would be in compliance with the provisions of the Leadville comprehensive plan, as amended,
  5. A listing of additional local, state or federal permits required to bring about the proposed land use and notation of which permits have been applied for and which, if any, have been granted;
- B. A site plan at a scale of not less than one inch equaling fifty (50) feet or other scale acceptable to the planning commission. Such site plan shall include, at a minimum, the following information and other such additional items as the applicant shall wish to include:
1. The applicant's name, legal mailing address and telephone number and, if different, the same information for the proposed operator/manager(s),
  2. The name, legal mailing address and telephone number of the person(s) and/or organization(s) preparing the site plan,
  3. A north arrow, scale and scale bar (required on all maps submitted in conformance with this regulation),
  4. Township, range and section number(s),
  5. Typical plot plans for individual mobile home and/or travel trailer unit spaces at a scale of one inch equaling ten (10) feet,
  6. Typical street and walkway sections,
  7. The number, location and size of all mobile home and/or travel trailer park spaces and the gross density of such spaces,
  8. The location and width of roadways, sidewalks and pedestrian ways including details on all additions to the public roadway system and written approvals, as required, from the Colorado Department of Transportation and all other appropriate agencies for construction of the proposed roadway system including access roads and highway access,
  9. The location, size and surfacing material of motor vehicle parking lots, recreation and open space and all other dedicated and reserved land and all easements,
  10. The location of service buildings and all other proposed structures,
  11. Grading, drainage and snow management plans including:
    - a. A drainage plan showing existing and proposed installations and structures,
    - b. A grading plan, furnished at the discretion of the planning commission, when proposed grading would significantly modify the existing drainage,
    - c. An explanation of how snow removal will be carried out, showing designated snow storage areas,
  12. The maximum size mobile home or travel trailer to be allowed on each proposed space,
  13. The proposed sources of water, electrical and other services and sewage and rubbish disposal,
  14. The locations for all buildings, utilities and other improvements to be constructed or altered within the mobile home park or travel trailer park,



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15. The location and type of flora to be planted and areas to be seeded or sodded as part of the overall landscaping program,
  16. A notation on the site plan of all existing or potential natural or manmade hazards on or adjacent to the site and a narrative description of an acceptable plan for the mitigation of the impact of such identified hazards,
  17. Such additional information and data as may be reasonably specified by the planning commission.

(Ord. 99-8 § 1 (part): prior code § 17.16.120)

#### **17.56.130 Procedures for review and action on conditional use applications for mobile home and travel trailer parks.**

Applications for a conditional use permit for a mobile home park or a travel trailer park shall be reviewed and acted upon in the same manner as specified for other conditional use permits.

(Ord. 99-8 § 1 (part): prior code § 17.16.130)

#### **17.56.140 Criteria for action on conditional use applications for mobile home and travel trailer parks.**

All actions by the planning commission in reviewing and making recommendations on an application for conditional use for the site selection, development or alteration of a mobile home park or travel trailer park, and by city council in approving or disapproving such applications, shall be based in general upon the provisions of this title and specifically on the following criteria:

- A. The criteria contained in Section 17.52.040;
- B. All application materials having been properly prepared and submitted to the city in compliance with the provisions of this title, all filing fees having been submitted to the and documentation that the proposed mobile home park or travel trailer park development plan as shown in the submittal requirements will meet the design standards and specifications contained in Section 17.56.110.

(Ord. 99-8 § 1 (part): prior code § 17.16.140)

#### **17.56.150 Review and revocation of conditional use permits for mobile home and travel trailer parks.**

- A. The provisions for the review and revocation of CUPs for a mobile home park or a travel trailer park shall be as specified in Section 17.52.050.
- B. The planning official shall at least one time each year inspect such facilities, noting in written form any deficiencies, and report to city council within thirty (30) days of such inspection, recommending if a formal review of the conditional use permit shall be undertaken by the city. Copies of all written reports shall be provided to the owner or operator of the mobile home or travel trailer park.

The owner or operator of a mobile home park or travel trailer park shall have sixty (60) days from the date of receiving a written report on the deficiencies, after initial inspection, to correct all deficiencies before the planning commission shall initiate its review in accordance with the provisions of Section 17.52.050. The planning official

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shall reinspect the site at or before the end of this sixty (60) day period to determine which deficiencies have been adequately remedied.

Failure of an owner or operator of a mobile home park or a travel trailer park to provide adequate and reasonable inspection opportunity to the planning official or any other elected or appointed official of the city is declared to be a violation of this title and shall be deemed by city council sufficient reason to proceed immediately to a review and revocation hearing without any additional waiting period except as required for public notification of the hearing.

(Ord. 99-8 § 1 (part): prior code § 17.16.150)

#### **17.56.160 Inspection required.**

No certificate of occupancy shall be issued nor any mobile home or travel trailer space occupied on a temporary or any other basis until the building official has inspected the site to ensure the site was constructed as specified in the submitted plans and in accordance with all other provisions of this title and all applicable city codes.

(Ord. 99-8 § 1 (part): prior code § 17.16.160)

#### **17.56.170 Permit conditions—Occupant registration and residency.**

No CUP for a mobile home park or travel trailer park shall be issued by city council unless and until the following conditions are made a part of the permit and are agreed to by the applicant:

A. Registration of Occupants.

It shall be the duty of each permittee or operator of a mobile home park to maintain a register, in log book form, of all mobile home unit owners and occupants within the park. The register shall contain the following information:

1. The name and address of the owners or occupants of each mobile home unit;
2. The make, model, year of manufacture and license number of each mobile home unit and motor vehicle and the state of origin of each such unit and vehicle and the name(s) of any mobile home lien holders;
3. The date of arrival and the date of departure of each mobile home unit.

The mobile home park owner/operator shall keep the register available for inspection at all times by law enforcement personnel, public health officials and agents and employees of the city whose duties require use of the information contained therein. The register record shall be maintained and kept on file for the previous three years for mobile home parks.

B. Maximum Residency. No travel trailer unit shall be occupied for a period exceeding six months during any twelve (12) month period except for a park owner, operator or caretaker.

C. Management and Maintenance. The permittee or the operator of a mobile home park or travel trailer park shall operate such mobile home park or travel trailer park in compliance with this regulation and the other applicable provisions of this title and all additional rules, regulations and laws of the city and provide adequate supervision to maintain the mobile home park or travel trailer park together with its facilities and equipment in good repair and in clean and sanitary condition at all times.

(Ord. 99-8 § 1 (part): prior code § 17.16.170)

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### 17.56.180 Nonconforming mobile home parks and travel trailer parks.

Any existing mobile home park or travel trailer park or any portion thereof that becomes nonconforming at the time of the adoption of this title shall be governed by the following provisions:

- A. **Meaning and Intent.** A nonconforming mobile home park or travel trailer park shall be a mobile home park or travel trailer park that lawfully existed before the adoption of the ordinance codified in this chapter, or any regulations previously adopted by the city, but which is prohibited by the provisions contained within this chapter.

It is the intent of this title to allow for the continuation of such nonconforming uses, so long as they meet the provisions contained herein, but not to permit their enlargement, nor to allow their resumption should they be discontinued for a period of one year or substantially damaged by fire or other cause.

- B. **Abandonment of Use.** If active and continuous operations are not carried on at a nonconforming mobile home park or travel trailer park during a continuous period of one year, the mobile home park or travel trailer park shall be brought into compliance with the provisions of this or such mobile home park or travel trailer park shall be permanently discontinued.
- C. **Restoration.** Any nonconforming mobile home park or travel trailer park may be restored to such use unless such mobile home park or travel trailer park is damaged or destroyed by fire or other cause to the extent of more than fifty (50) percent of its replacement cost at the time of the destruction. In cases where the destruction was due to causes beyond the control of the owner and the destruction was less than total, the board of adjustment may allow restoration upon a finding of exceptional and undue hardship.

Such restoration must be substantially completed within two years from when it became nonconforming or from when the board of adjustment allowed such restoration in such cases where board of adjustment approval is necessary.

- D. **Enlargement.** No nonconforming mobile home park or travel trailer park shall be structurally altered or expanded in any way that would increase the degree or area of nonconformance. In matters pertaining to restoration, the provisions of the Dangerous Buildings 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.
- E. **Alteration.** Nonconforming buildings within a mobile home park or travel trailer park may be altered to make that building conform to established safety requirements. Maintenance repairs may be undertaken to keep the building in sound condition and alterations are permitted which would reduce the degree of nonconformance or change the use to one of conformance.

Any nonconforming independent mobile home that is removed from an existing mobile home park can only be replaced by a conforming independent mobile home or other conforming structure or use.

- F. **Structures Under Construction.** Any nonconforming structure within a mobile home park or travel trailer park for which a valid building permit has been issued before the use or structure became nonconforming may be completed and occupied in accordance with the provisions of the building permit that was previously issued, subject to the other provisions of this chapter.
- G. **Title Default.** If the title to any mobile home park or travel trailer park shall transfer by reason of tax delinquency and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the provisions of this title and all other city regulations and ordinances.

(Ord. 99-8 § 1 (part): prior code § 17.16.180)

## Chapter 17.60 ACCESSORY BUILDINGS AND USES

### Sections:

#### 17.60.010 Introduction.

Integrated and detached accessory buildings must meet the same setback requirements as principal buildings. The following accessory uses are permitted in the following zoning districts, provided that they are incidental to and on the same premises as a permitted or conditional use.

(Amended during 2002 codification: Ord. 99-8 § 1 (part): prior code § 17.20)

(Ord. No. 2016-8, § 3, 11-1-16)

#### 17.60.020 R-1, R-2, TR and TC zoning districts.

- A. Garages for the storage and owner maintenance of automobiles light trucks and recreational vehicles.
- B. Accessory buildings, structures or uses normally required in addition to or in conjunction with any use by right or approved conditional use in the district, including but not limited to accessory dwelling units in the R-1, R-2, TR, and TC zoning districts as a use by right but only with a conditional use permit in the C zoning district. Accessory dwelling units are prohibited in the RC zoning district.
- C. Detached accessory dwelling units shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations and shall not exceed twenty-five (25) feet in height.
- D. Accessory dwelling units shall be no larger than fifty-sixty (5060) percent of the size of the principal building and no smaller than one hundred (100) square feet.
- E. Design Standards. An ADU, either integrated or detached, shall be consistent in design and appearance with the primary structure. Specifically, the roof pitch, siding materials, color and window treatment of the ADU shall be complementary with the primary structure.
- F. Each accessory dwelling unit shall have a bathroom with a sink, toilet, and shower or bath at a minimum.
- G. Each accessory dwelling unit shall have a kitchen with an oven, stove (two-burner minimum), refrigerator and sink at a minimum.
- H. Each accessory dwelling unit shall have a maximum of two bedrooms.
- I. The owners of property upon which an accessory dwelling unit is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.
- J. Each accessory dwelling unit must pass the inspection of the building official, or any subsequent structural standards which may be adopted by the City of Leadville.
- K. Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.

(Ord. 99-8 § 1 (part): prior code § 17.20.010)

(Ord. No. 08-3, § 2; Ord. No. 2009-3, § 4, 9-1-09; Ord. No. 2016-8, § 3, 11-1-16; Ord. No. 2020-6, § 4, 2-2-21)

**Commented [MC1]:** This height allows for 2 stories with a pitched roof

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### 17.60.030 C zoning districts.

- A. Garages as allowed in other districts.
- B. Any accessory buildings, structures or uses required in addition to and in conjunction with any use by right or approved conditional use, including, but not limited to accessory dwelling units necessary to the maintenance or protection of a facility in the TC zoning district as a use by right but only with a conditional use permit in the C zoning district.
- C. Solar energy devices shall maintain the same setbacks as are required for principal buildings, shall not be located within the front yard, and, if freestanding, shall not exceed ten (10) feet in height.
- D. Detached accessory dwelling units shall be placed on an approved foundation in compliance with applicable adopted building codes and regulations and shall not exceed twenty-five (25) feet in height.
- E. Accessory dwelling units shall be no larger than ~~fifty-sixty (5960)~~ percent of the size of the principal building and no smaller than one hundred (100) square feet.
- F. Any exterior treatments of an accessory dwelling unit shall complement the principal building.
- G. Each accessory dwelling unit shall have a bathroom with a sink, toilet, and shower or bath at a minimum.
- H. Each accessory dwelling unit shall have a kitchen with an oven, stove (two-burner minimum), refrigerator and sink at a minimum.
- I. Each accessory dwelling unit shall have a maximum of two bedrooms.
- J. The owners of property upon which an accessory dwelling unit is located shall have an obligation to notify the applicable water and sanitation district of the existence and occupation of the accessory dwelling unit and shall comply at all times with the regulations of such water and sanitation district.
- K. Each accessory dwelling unit must pass the inspection of the building official, or any subsequent structural standards which may be adopted by the City of Leadville.
- L. Setbacks and heights of buildings that contain detached ADUs must adhere to applicable zoning regulations of the zoning district.

(Ord. 99-8 § 1 (part); prior code § 17.20.020)

(Ord. No. 08-3, § 3; Ord. No. 2009-3, § 5, 9-1-09; Ord. No. 2016-8, § 3, 11-1-16; Ord. No. 2020-6, § 4, 2-2-21)

### 17.60.040 Other accessory uses.

No additional accessory uses are permitted in any district except that household pets, private greenhouses, swimming pools and hot tubs, satellite dishes, fences, amateur radio and television towers, individual storage sheds and fallout shelters for personal uses are allowable accessory uses in all zoning districts so long as such accessory uses pose no threat to human health, safety and welfare to owners, users or adjacent residents and so long as they meet all applicable building, electrical and plumbing codes and have received all required permits.

Fences which are not over six feet in height, and living fences of any height so long as they are not a traffic obstruction shall be considered permitted accessory uses in all districts. Taller fences are permitted accessory use upon inspection by the building official, who shall issue a permit for such fences upon determination that they would not block light, sun, air, vision, or otherwise pose a health or safety hazard or a nuisance.

No fence, shrubs, trees, sign or any other obstruction shall be permitted in any setback area if it obstructs the sight of drivers at any intersection. Cut firewood stacked in rows shall not be defined as a fence for the

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purposes of this chapter and shall not be so regulated so long as it does not obstruct the sight of drivers at an intersection.

Any accessory building, the floor area of which is two hundred (200) square feet in size or less, shall not require a building permit.

Any accessory dwelling structure, integrated or detached, intended for habitation shall require a building permit.

(Ord. 05-7 § 1; Ord. 99-8 § 1 (part): prior code § 17.20.030)

(Ord. No. 2016-8, § 3, 11-1-16)

#### **17.60.070 Rentals in all zone districts.**

Accessory dwelling units in all zone districts where permitted may be used as long-term rental units of thirty (30) consecutive days or more and as short-term rental units of less than thirty (30) consecutive days. Such rentals shall be subject to the requirements of Chapter 17.48 and Chapter 5.12 of this code, as applicable.

(Ord. No. 2020-6, § 4, 2-2-21)

### **Chapter 17.64 TEMPORARY BUILDINGS AND USES**

#### **Sections:**

#### **17.64.010 Allowed when.**

Temporary use permits may be issued for the following uses in the following zoning districts and for the following periods of time. No person, party or organization shall engage in such temporary uses prior to the issuance of a temporary use permit. The following uses shall be allowed in the following districts, not to exceed the following periods of time:

**TABLE 4**

Use	Allowed Districts	Period
A. Seasonal outdoor sales subject to the requirements of sections 17.64.020 and 17.64.030	TR, TC, RC, and C	12 months
B. Construction office and yards. These temporary structures for office space and the storage of construction materials and equipment shall be used for the management of construction projects so long as they are not used for living quarters	All districts	12 months

C. Temporary sales offices. Temporary sales offices for the sale of residential, commercial, industrial or other units of space shall be located within the area of a recorded final plat	All districts	6 months
D. Carnivals, circus, bazaars, fairs, tent meetings and festivals	All districts	2 weeks
E. Recreational and sporting events	All districts	2 weeks

(Ord. 03-5 § 6)

(Ord. No. 08-5, § 1; Ord. No. 2016-4, § 1, 7-5-16)

**17.64.020 General requirements for a temporary use permit.**

- A. Application Requirements. All applications for a temporary use permit shall be accompanied by: (1) the appropriate filing fee (see section 17.96.020); (2) an application on the appropriate form issued by the city; (3) plot plan showing at an appropriate scale and in legible fashion the location of any proposed structure(s) and all existing structures, trees, walls and other appurtenances; (4) the setbacks from the property lines; (5) the owners of the property upon which the use is proposed and all adjacent parcels; (6) written consent to the issuance of a permit from the owner of the property upon which the use is proposed; (7) existing roadways on and adjacent to the property; (8) when and for how long the proposed temporary use would occur; (9) the zoning district(s) within which the property lies upon which the proposed temporary use will occur and within which all adjacent parcels lie; (10) the current land use(s) of the property in question and all adjacent parcels; (11) a full description of the use and operations of the activity; (12) a full description of the means by which the operations will be undertaken to minimize the negative environmental or health or safety impacts on the neighboring parcels, such as placement of trash receptacles and methods for ensuring public safety, safe public passage, and to decrease any effects such as fumes or smoke, if applicable; and (13) a full description of any special services requested of the city. The planning official may waive any application requirements determined to be unnecessary to a review of the application.
- B. Filing Deadlines.
  - 1. An application for a temporary use permit shall be submitted in writing to the planning official at least fifteen (15) working days prior to the first day of the event to be approved.
  - 2. A request for the renewal of a temporary use permit shall be submitted in writing to the planning official at least fifteen (15) working days prior to the expiration date of the existing permit.
- C. Submittal to Referral Agencies. Upon receipt, the city planning official may request review of the application from referral agencies such as, but not limited to, the state health department, utility providers, and/or the city police and/or fire departments. Referral agencies may; (1) recommend denial and state the reasons therefore; (2) recommend approval subject to satisfaction of conditions of approval which are reasonably related to public health, safety or welfare; or (3) indicate that such agency has no concerns related to the proposed use in the proposed location.
- D. Administrative Approval or Referral to City Council. All applications shall be reviewed by the planning official, who shall determine whether to approve administratively, approve with conditions administratively, deny the application administratively, or refer the matter to city council for determination. If referred to city

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council, the city council shall act on the application at the next available city council meeting. In the event that the planning official administratively denies an application or requires conditions upon which approval is granted, the applicant shall have the right to appeal such decision within five business days of the decision to the city council, which shall review the application de novo at the next available meeting of the city council. Following review, the city council may approve, approve with conditions, or deny the application.

- E. Approval Criteria. A temporary use permit may be issued to the applicant only upon a finding that all of the following criteria are met:
1. The owner of the property on which the use is proposed consents in writing to the issuance of the permit;
  2. The use is allowable in the zone district;
  3. The referring agencies have indicated no concerns or requested no conditions for approval, or the applicant has provided to the satisfaction of the planning official or city council, as the case may be, that all conditions for approval will be satisfied and the permit is issued subject to satisfaction of such conditions;
  4. The use will not substantially impair the appropriate use of or adversely affect adjoining property or the neighborhood;
  5. The use will not alter the essential character of the district in which the subject property is located;
  6. The use will not adversely affect public health, safety or welfare;
  7. The use will not result in an undue concentration of such temporary uses upon or near the subject property so as to adversely affect public health, safety or welfare, or alter the essential character of the district in which the subject property is located, or substantially impair the appropriate use of or adversely affect adjoining property or the neighborhood; and
  8. The use is in compliance with the objectives, policies and other provisions of this title or other city regulations, ordinances or policies.

(Ord. 01-14 § 2: Ord. 99-8 § 1 (part): prior code § 17.21.010)

(Ord. No. 08-5, § 2)

#### **17.64.030 Regulation of seasonal outdoor sales.**

- A. Definition. "Seasonal outdoor sales" means the short-term sale of agricultural products that are seasonal in nature, including produce, nursery stock, Christmas trees, pumpkins, firewood, lawn and garden products, farmers' markets, and other similar products, temporary outdoor seasonal cooking and food vending.
- B. Restrictions on Location. Areas designated for seasonal outdoor sales shall not be located within nor encroach upon:
1. Any minimum required setback yard;
  2. Any drainage easement;
  3. A fire lane;
  4. A maneuvering aisle;
  5. A parking space or spaces necessary to meet the minimum parking requirements of the other use(s) of the lot or parcel; or
  6. Any pedestrian walkway so as to obstruct pedestrian flow.



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- C. Seasonal Outdoor Sales Within Parking Areas. Seasonal outdoor sales may be located within parking areas, provided:
1. There is no interference with pedestrian or vehicular access or parking.
  2. The sale does not create a visibility obstruction to moving vehicles within a parking lot.
- D. Outdoor storage of merchandise, materials or equipment shall not be allowed unless otherwise expressly permitted under the terms of the temporary use permit approved by the planning official or city council.
- E. It shall be unlawful for any outdoor vendor to engage in such a business within the city without first obtaining a license in compliance with the provisions of this article.
- F. Each license shall be valid for only the specific location or locations described on the permit.
- G. In addition to the licensee's name, address and telephone number, the license shall contain the following:
1. Type of operation;
  2. The period of time for which the license was issued;
  3. The designated location or locations, including specified types of public rights-of-ways, as applicable;
  4. A brief description of any vehicle, cart, kiosk, table, chair, stand, box, container, or other structure or display device to be utilized by the licensee;
  5. Any special terms and conditions of issuance;
  6. A statement that the license is personal and is not transferable in any manner;
  7. A statement that the license is valid only when used at the location or locations designated on the license;
  8. A statement that the license is subject to the provisions of this article.
- H. Each licensee shall pick up and dispose of any paper, cardboard, wood, or plastic container, wrappers or any litter which is deposited within twenty-five (25) feet of the designated location or within twenty-five (25) feet if the point of any sale or transaction made by the licensee if the radius of the designation locations exceeds twenty-five (25) feet. The license shall carry a suitable container for the placement of such litter by customers or other persons.
- I. Temporary outdoor seasonal cooking and mobile food vendors shall:
1. Vend only food and non-alcoholic beverages.

(Ord. No. 08-5, § 3; Ord. No. 2016-4, § 1, 7-5-16)

## **Chapter 17.68 NONCONFORMING USES, LOTS AND BUILDINGS**

### **Sections:**

#### **17.68.010 General requirements.**

- A. Meaning and Intent. A nonconforming use or lot or building shall be any use or lot or building that lawfully existed before the adoption of the ordinance codified in this chapter, or zoning regulations previously adopted by the city, but which is prohibited by the provisions contained within this title.

It is the intent of this chapter to allow for the continuation of such nonconforming uses, lots and buildings, so long as they meet the provisions contained herein, but not to permit their enlargement, nor to allow their

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continuation should they be discontinued for a reasonable period of time or substantially damaged by fire or other cause.

- B. Abandonment of Use. If active and continuous operations are not carried on as a nonconforming use during a continuous period of two years, the building, other structure, associated equipment or land where such conforming use previously existed shall thereafter be used and occupied only for conforming uses, and if not so used, shall be removed. Where the nonconforming use or activity involves a nonconforming mobile home or a mobile home produced prior to 1974, the nonconforming use or activity may not be replaced at any time with any other nonconforming use or nonconforming mobile home.
- C. Restoration. Any nonconforming building or other structure may be restored to the nonconforming use of such structure unless such nonconforming structure is damaged or destroyed by fire or other cause to the extent of more than seventy-five (75) percent of its replacement cost at the time of the destruction. In cases where the destruction was due to causes beyond the control of the owner and the destruction was less than total, the board of adjustment may allow restoration to the nonconforming use upon a finding of exceptional and undue hardship.  
  
Such restoration must be substantially completed, however, within two years from when it became nonconforming or from when the board of adjustment allowed such restoration in such cases where board of adjustment approval is necessary.
- D. Enlargement of 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. 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.
- E. Alteration of Nonconforming Buildings. Nonconforming buildings may be altered to make them conform to established safety requirements. Maintenance repairs may be undertaken to keep them in sound condition and alterations are permitted which would reduce the degree of nonconformance or change the use to one of conformance.
- F. Structures Under Construction. Any nonconforming use or structure for which a valid building permit has been issued before the use or structure became nonconforming may be completed and occupied in accordance with the provisions of the building permit that was previously issued, subject to the other provisions of this chapter.
- G. Title Default. If the title to any nonconforming lot or parcel shall transfer by reason of tax delinquency, and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the provisions of this chapter and all other city regulations and ordinances.
- H. Conforming and Nonconforming Lots. Nonconforming lots of record at the time of adoption of this zoning regulation may be built upon or used; provided, that the setback, floor area and other requirements for the zoning district within which the lot is located are adhered to, or a variance from these requirements is granted by the board of adjustment.

(Ord. 99-8 § 1 (part): prior code § 17.22.010)

#### **17.68.020 Exemption of residential buildings from nonconforming use provisions.**

All single-family dwellings, two-family dwellings, and the lots or portions of the lots on which they are located, including those portions of larger or multi-use buildings devoted to such uses, are declared to be conforming uses, lots and buildings, and are exempt from the nonconforming use provisions of this chapter, so

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long as such dwellings were first constructed, erected or installed on the lot prior to adoption of the ordinance codified in this chapter. Such exemption shall be deemed to run with the land.

(Ord. 99-8 § 1 (part): prior code § 17.22.020)

#### **17.68.030 Exemption of other buildings from nonconforming provisions.**

All historic buildings and the lots or portions of lots on which they are located are considered to be conforming buildings and lots and are therefore exempt from the nonconforming provisions of this chapter and such exemption shall be deemed to run with the land. Historic buildings for the purpose of this section shall be declared to be all structures included in section 17.44.050, as amended by all subsequent new designations and revocations.

(Ord. 99-8 § 1 (part): prior code § 17.22.030)

### **Chapter 17.72 SUPPLEMENTARY REGULATIONS**

#### **Sections:**

#### **17.72.010 Height limitation exemption provisions.**

The maximum building height limitations contained in Chapters 17.16 through 17.44 may be waived by city council, following review and recommendation by the planning commission, in those cases where an applicant can demonstrate that: (a) such exemption would not deteriorate the scenic view or solar access presently available to other existing structures; (b) would not violate federal regulations regarding the avoidance of aeronautical hazards (see Section 17.72.060); and (c) by reason of code-sufficient fire suppression systems that conform with National Fire Protection Association or equivalent standards, private fire-fighting equipment or other means acceptable to city council, there exists the means to control fires and/or rescue persons in structures that exceed the height limitations otherwise required in Chapters 17.16 through 17.44.

Applicants for such building height exemptions shall submit application materials stating: (a) the location of the property proposed for exemption; (b) the proposed building height; (c) the proposed method(s) of fire suppression and rescue of occupants; and (d) the application shall state why and how these mitigation measures will prove sufficient to accomplish the purpose of fire suppression and/or rescue. In addition, by a majority vote of the planning commission, applicants may also be required to submit detailed line drawings drawn to scale and including elevations and other related application materials sufficient to enable the planning commission and city council to determine the effect of the building, as proposed, on the scenic view and solar accesses of other structures.

(Ord. 99-8 § 1 (part): prior code § 17.10.010)

#### **17.72.020 Processing procedures.**

Applications for a height limitation exemption shall be processed, including public hearing provisions and all other relevant aspects, in the same manner as an application for a conditional use permit (see Chapter 17.52).

(Ord. 99-8 § 1 (part): prior code § 17.10.020)

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### 17.72.030 Building height and setback measurement rules.

- A. In computing the maximum height requirement, the following architectural features shall not be considered: unroofed terraces and patios, cornices, sills, cupolas (and similar features) and temporary awnings and other shade devices.
- B. In computing the minimum setback requirement, the following architectural features shall not be considered: fire escapes, stairs or steps for emergency or secondary access to a permitted building, walls, rails or fences. Setback distances shall be measured from the edge of the eaves of the structure.
- C. Vertical additions on legal nonconforming structures will not exceed the grandfathered footprint.

(Ord. 99-8 § 1 (part); prior code § 17.10.030)

(Ord. No. 2015-9, § 1, 9-15-15)

### 17.72.040 Special conditions for industrial, mining and business.

Industrial, mining and business uses, whether established as conditional uses or uses by right, shall comply with the following provisions:

- A. Such uses shall not create any danger to the safety of persons in surrounding areas nor cause water, soil or air pollution in violation of state or federal statutory and regulatory provisions nor create offensive noise, vibration, smoke, dust, odors, glare or other commonly objectionable influences beyond the boundaries of the property in which such use is located. The industrial performance provisions of this section shall apply to these extractive uses and failure to comply with the provisions of this section shall be sufficient reason for the planning commission to recommend and for city council to deny or revoke any and all permits issued for such uses. Review procedures to consider the revocation of any permit or approval granted by the city and subject to revocation under the provisions of this section shall be as specified in Section 17.52.050.
- B. Permits shall be granted for such mineral extraction and processing uses only upon the submission and approval to city council of a rehabilitation plan, and the city expressly reserves the right to require, as necessary, the posting of a performance bond or other security instrument, for site restoration conducted in a manner acceptable to city council and in accordance with prevailing industry standards.
- C. All truck and other vehicular traffic to and from the site shall not create hazards or nuisances along any public roadways nor cause undue damage as determined by city council to such public roads.
- D. The industrial, business and mining standards shall be as follows:
  - 1. All uses shall operate so that the volume of sound continuously or recurrently generated shall not exceed acceptable limits at any point on any boundary line of the property on which the use is located.
  - 2. All uses shall operate so that continuous or recurrent ground vibration is not perceptible, without instrumented measure, at any point on any boundary line of the property on which the use is located. Intermittent vibration from the use of explosives for blasting, when conducted in accordance with all other prevailing laws and regulations, shall not, however, be construed as generating recurrent ground vibrations.
  - 3. All uses shall operate so that continuous or recurrent emissions of smoke do not exceed a density level of Number 2 on a Ringleman Chart.

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4. All uses shall operate so that they do not emit particulate matter exceeding two-tenths grains per cubic foot of flue gas at a stack temperature of five hundred (500) degrees Fahrenheit.
  5. All uses shall operate so that they do not emit an obnoxious level or dangerous degree of heat, glare, radiation or fumes beyond the boundary line of the property on which the use is located.
  6. In any case where the state of Colorado or the federal government has adopted more stringent standards than those listed above, the more stringent standard shall apply.

(Ord. 99-8 § 1 (part): prior code § 17.23.010)

#### **17.72.050 Special regulations for heliports and for over-height towers and other obstructions to the navigable airspace of the Lake County Airport.**

The heliport regulations and regulations governing protection of airport obstruction and approach airspace surfaces as set forth by the Federal Aviation Administration in the Federal Aviation Regulations, Part 77, as amended and any successor Federal Aviation Regulations, are adopted by the city by reference as minimum standards that city council may amend to incorporate differing or more stringent provisions to accommodate the needs of heliports and the Part 77 obstruction and approach airspace located above Leadville.

In addition, before any structure or natural object is permitted to be erected, altered, maintained or allowed to grow above the airspace surfaces established herein, a notice of construction or alteration shall be filed by the applicant with the Federal Aviation Administration for a determination of the impact on the navigable airspace. City council shall not approve any such development until after receiving and considering the Federal Aviation Administration determination on the matter.

(Ord. 99-8 § 1 (part): prior code § 17.23.020)

#### **17.72.060 Structural steel building restrictions.**

On Highway 24 and one block east or west between Elm and the city limits, city council must approve the placement of any structural steel building with a metal or reflective exterior prior to approval of a building permit. In accordance with the definition of the commercial zoning district, city council may require an appropriate facade on any structural steel building with a metal or reflective exterior visible from Highway 24.

(Ord. 99-8 § 1 (part): prior code § 17.23.040)

#### **17.72.070 Telecommunications facilities and dish antennas.**

- A. Purpose and Goals. The purpose of this section is to establish requirements for the siting of telecommunication facilities. The goals of this section are to:
  1. Encourage the use of wall mounted panel antennas;
  2. Encourage building roof mounted antennas only when wall mounted antennas will not provide adequate service;
  3. Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community;
  4. Encourage the joint use of new and existing sites;
  5. Encourage telecommunications providers of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

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6. Encourage telecommunications providers to configure facilities in a way that minimizes the adverse visual impact of the antennas and towers; and
  7. Enhance the ability of telecommunications providers to provide such services to the community quickly, effectively and efficiently.
- B. Applicability. The requirements of this section shall apply to all telecommunications facilities, whether proposed as conditional uses or uses subject to conditions, with the following exceptions:
1. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator.
  2. Any telecommunication facility for which a permit has been properly issued prior to December 1, 2003 shall not be required to meet the requirements of this section, other than the requirements of subsections D and H of this section.  
  
Changes and additions to pre-existing telecommunication facilities shall meet the applicable requirements of this section.
  3. Antennas used for reception of television and radio such as television dish antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirements of Chapter 17.60, "Accessory Uses," have been met and that the height is no more than the distance from the base to the property line.
- C. Submittal Requirements. All applications for telecommunications facilities shall include such plans, pictures, drawings and specifications as may be necessary for the city to determine that the application and the proposed facility are consistent with this section, this code and all applicable state and federal regulations. Applicants for facilities required to obtain a conditional use permit shall submit the following in addition to the application information required pursuant to Chapter 17.52. An application shall include, at a minimum, the following:
1. A completed application in a form approved by the planning official.
  2. Payment of an application fee in an amount established by resolution of the city council to cover the administrative costs of processing the application. In addition, any reasonable costs incurred by the city, including reasonable professional consulting and attorney costs to verify compliance with any requirements under this section, shall be paid by the applicant.
  3. A complete legal description of the property on which the telecommunication site is proposed, prepared by a licensed registered Colorado land surveyor.
  4. The names, addresses and telephone numbers of all owners of telecommunication facilities within a one-mile radius of the proposed new facility.
  5. A site plan containing a graphic representation of the property on which the proposed telecommunication facility is proposed to be located prepared at a scale not greater than one inch equals twenty (20) feet. The site plan shall include or illustrate:
    - a. A general vicinity map of the property;
    - b. Date of preparation, map scale, north arrow, and revision box;
    - c. A title that prominently identifies the name of the applicant and the phrase "Telecommunications Facility Site Plan";
    - d. Size, height, type, style, configuration, design and architectural elevation drawings of the proposed facility, antennas and support facilities;
    - e. A signature block that reads:

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CITY APPROVAL: The [City Council] or [Planning Official] approved this Site Plan for the illustrated telecommunication facility on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Attest:

\_\_\_\_\_

Mayor/Planning Official

\_\_\_\_\_

City Clerk

- f. Location and type of natural features of the subject property and for properties within one hundred (100) feet of the subject property including watercourses, lakes, topography, one hundred (100)-year floodway and floodplain, rock outcrops/surface geology, wildlife corridors and known wildlife foraging areas, scenic vistas, and significant trees and vegetation;
  - g. Location of all existing man-made structures, utilities, streets, driveways, ditches, fences or other physical improvements on the property or within one hundred (100) feet of the subject property.
  - h. Approximate location of recorded or apparent easements or rights-of-way on the property and within one hundred (100) feet of the property;
  - i. Location of primary access to any tower and/or antenna, equipment and support facilities; and
  - j. Any other data or information essential to the evaluation of the proposed facility as may be requested by the city.
6. Freestanding Telecommunications Facility. In addition to all other application information required by this code, the following information for a proposed freestanding telecommunications facility will be provided:
- a. A written evaluation and report of the visual impact of the proposed facility, including color photographic or computer generated simulations of the proposed site of the proposed telecommunication facility as it would appear viewed from the closest residential property and from at least three different locations which afford a public view of the facility. The planning commission or city council may request additional simulations to assess the visual impact of the proposed facility. Applicants are encouraged to provide photographic examples of similar facilities and samples of proposed architectural colors and materials to permit the city and interested parties to understand the visual impact of the proposed special use. The report or evaluation shall include a landscape, screening and fencing plan showing specific landscape materials and locations, fencing materials and colors, and other screening techniques together with illustrative drawings showing the visual effect of the proposed landscaping and screening from at least three different locations which afford a public view of the facility.
  - b. A copy of any lease or other agreement(s) authorizing the use of the property for the proposed telecommunication facility. Applicants may excise or delete from such lease or agreement(s) information considered proprietary or pertaining to rental or lease payment amounts.
  - c. Description of the size, type and visibility of any proposed illumination for the site, specifically including lighting attached to any tower.
  - d. Information sufficient to demonstrate that the telecommunications site is a necessary component of the applicant's overall communication network and is integrated into a coordinated communication service plan for the community and for the area. Conformance with this requirement may be established by evidence presented to the city which demonstrates that the proposed site is necessary in order to: (i) provide appropriate signal coverage and quality to

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the area; (ii) connect and relay services between existing facilities; (iii) connect and relay services between facilities that are reasonably likely to be constructed within one hundred eighty (180) days of the application; (iv) handle increased capacity due to customer demand; (v) overcome existing topography and/or structures in the surrounding area that preclude other preferred locations in the same area; or (vi) overcome engineering and technical constraints which require the site to be in the desired location in relation to other existing sites and potential site locations.

- e. Information sufficient to demonstrate that other reasonably potential telecommunications sites, including sites located outside of the city, were evaluated by the applicant and are incapable of serving the applicant's overall communication network needs due to physical or technical limitations. Financial or economic considerations alone shall not establish an inability to serve an overall communication network.
- f. Information sufficient to demonstrate that location of the proposed antenna and facility upon towers or structures at other existing telecommunication sites and facilities has been thoroughly explored and is rendered impossible due to one or more of the following: (i) absence of other existing telecommunication sites within the area; (ii) incompatibility of an engineering or technical nature between the applicant's proposed antenna and telecommunication service and existing telecommunication sites and facilities; (iii) lack of sufficient space on existing telecommunication sites to permit attachment of the applicant's proposed antenna or equipment; (iv) inability to obtain a lease for or permission to use existing telecommunication sites despite the exercise of due diligence to do so.

D. Design and Performance Standards.

1. Federal Requirements. All telecommunication facilities shall meet the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then applicants governed by this section shall bring such telecommunication facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the telecommunication facility at the applicant's expense.
2. Building Codes—Safety Standards. To ensure the structural integrity of telecommunication facilities, the applicant shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for telecommunication facilities that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a telecommunications facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice being provided to the applicant, the applicant shall have thirty (30) days from date of notice to bring such telecommunication facility into compliance with such standards. Upon good cause shown by the applicant, the city may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the applicant fails to bring such telecommunication facility into compliance within said time period, the city may require removal of such facility pursuant to subsection H of this section. Any reasonable costs incurred by the city shall be paid by the applicant.
3. Radio Frequency Standards. All applicants shall comply with federal standards for radio frequency emissions. At the request of the city upon complaint, but not more than annually, an applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the city finds that the facility does not meet federal standards, the city may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunications facility pursuant to subsection H of this



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section. Any reasonable costs incurred by the city, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

4. Signal Interference. All telecommunications facilities shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other telecommunications services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety telecommunications. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the city to monitor interference levels with public safety communications during this process. Additionally, the applicant shall notify the city at least ten (10) calendar days prior to the introduction of new service or changes in existing service, and shall allow the city to monitor interference levels with public safety communications during the testing process.
5. Aesthetics—Lighting. The guidelines set forth in this section shall apply to the location of all telecommunication facilities; provided, however, that the city may waive these requirements if it determines that the goals of this section are better served thereby.
  - a. Freestanding telecommunication facilities shall either maintain a galvanized steel finish or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. The design of a telecommunication facility and any accessory equipment shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the telecommunication facility to the surrounding natural setting and built environment.
  - c. If an antenna is installed on a structure other than a freestanding telecommunication facility, the antenna and accessory equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.
  - d. Freestanding telecommunication facilities shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the facility is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the city may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences.
  - e. No portion of any telecommunication facility may extend beyond the property line.
  - f. No trees larger than four inches in diameter measured at four and one-half feet high on the tree may be removed, unless authorized by the city. To obtain such authorization, the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of two to one.
  - g. Accessory telecommunications equipment such as vaults, equipment rooms and equipment enclosures shall be constructed out of non-reflective materials (visible exterior surfaces only).
  - h. No accessory telecommunications equipment shall exceed fifteen (15) feet in height.
  - i. Accessory telecommunications equipment shall be designed and constructed to look like a building, facility or structure typically found in the area and shall not exceed three hundred fifty (350) square feet in total coverage area.
  - j. Telecommunications facilities in areas of high visibility shall, where possible, be designed (e.g., placed underground, depressed or located behind earth berms) to minimize their profile.

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- k. A special design may, where possible, be required of any telecommunications facility where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).
  - 6. Co-Location. All freestanding telecommunication facilities shall be designed and constructed to permit the facility to accommodate the attachment of at least two telecommunication providers on the same freestanding facility. No telecommunication facility owner or operator shall unfairly exclude a telecommunication competitor from using the same facility or location.
  - 7. Setbacks and Separation. The following minimum setbacks and separation requirements shall apply to all freestanding telecommunications facilities; provided, however, that the city may reduce standard setbacks and separation requirements if the goals of this section would be better served thereby. A freestanding telecommunication facility shall meet the greater of the following minimum setbacks from all property lines:
    - a. The setback for a principal building within the applicable zoning;
    - b. Twenty-five (25) percent of the facility height, including antennas; or
    - c. Towers over sixty (60) feet in height shall not be located within one-quarter mile from any existing tower that is over sixty (60) feet in height, unless the applicant has shown to the satisfaction of the city that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
  - 8. Security Fencing. Freestanding telecommunication facilities shall be enclosed by security fencing six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the city may waive such requirements, if the goals of this section would be better served thereby. Chain link fencing shall not be permitted.
  - 9. Landscaping. The following requirements shall govern the landscaping surrounding freestanding telecommunication facilities; provided, however, that the city may waive such requirements if the goals of this section would be better served thereby.
    - a. Freestanding telecommunication facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property. The standard buffer shall consist of the front, side and rear landscaped setback on the perimeter of the site.
    - b. In locations where the visual impact of the telecommunication facility would be minimal, the landscaping requirement may be reduced or waived altogether.
    - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the perimeter may be sufficient to buffer.
  - E. Review Procedure General.
    - 1. R/C—Subject to Conditions. An application for a telecommunication facility designated as being subject to conditions shall be reviewed and may be approved by the planning official if it conforms to this section and other applicable provisions of this code. Alternatively, the planning official may refer the application to city council for approval, after a recommendation by planning commission, should the facility be found to have a significant visual impact, (e.g., proximity to historical sites or significant views of historic sites) or otherwise be incompatible with the structure or surrounding area, or not meet the intent of these provisions. Applications for roof mounted facilities shall demonstrate that a wall mounted facility is inadequate to provide service.

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2. C—Conditional Uses. An application for a telecommunication facility designated as a conditional use may be approved by the city council after a public hearing, subject to a recommendation by the planning commission. Applications for freestanding telecommunication facilities shall provide the information required pursuant to this section, and shall be reviewed for conformance with this section and other applicable provisions of this code. All applications for freestanding telecommunication facilities shall demonstrate that a wall or roof mounted facility is inadequate to provide service.
- F. Standards for Approval. Telecommunications facilities shall be evaluated for approval as provided below. Facilities required to obtain a conditional use permit shall be evaluated for approval pursuant to the criteria set forth in Chapter 17.52 in addition to the criteria specified below.
1. Wall Mounted. A building wall mounted telecommunication facility shall be evaluated for approval subject to the following criteria:
    - a. Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached;
    - b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two feet;
    - c. Modifications to the building penthouse, mechanical screening and other appurtenances may be approved by the planning official to allow panel antennas for telecommunication facilities;
    - d. Wall mounted telecommunication facilities shall not extend above the roof line unless mounted to a penthouse; and
    - e. The proposal is in conformance with the provisions of this section.
  2. Roof mounted. Such facilities shall be approved only where an applicant demonstrates a wall mounted facility is inadequate to provide service and evaluated for approval based upon the following criteria:
    - a. Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached;
    - b. Roof mounted telecommunication whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
    - c. Roof mounted telecommunication panel antennas shall extend no more than seven feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted;
    - d. Roof mounted telecommunication accessory equipment shall extend no more than seven feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof; and
    - e. The proposal is in conformance with the provisions of this section.
  3. Alternative Tower Structures. Such structures shall be architecturally compatible with the surrounding area. Alternative towers shall be evaluated for approval based upon the following criteria:
    - a. Height or size of the proposed alternative tower structure;
    - b. Proximity of the facility to residential structures and residential district boundaries;
    - c. Nature of uses on adjacent and nearby properties and the compatibility of the facility to these uses;
    - d. Compatibility with the surrounding topography;
    - e. Compatibility with the surrounding tree coverage and foliage;

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- f. Compatibility of the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g. Proposed ingress and egress, if any; and
  - h. The proposal is in conformance with the provisions of this section.
4. Dish Antennas. Dish antennas shall be evaluated for approval based upon the following criteria:
- a. Height of the proposed structure or size and number of dish antennas at the site;
  - b. Proximity of the facility to residential structures and residential district boundaries;
  - c. Nature of uses on adjacent and nearby properties;
  - d. Compatibility with the surrounding topography;
  - e. Compatibility with the surrounding tree coverage and foliage;
  - f. Design of the dish antenna site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g. Proposed ingress and egress, if any;
  - h. Availability of suitable existing sites and other structures; and
  - i. The proposal is in conformance with the provisions of this section.
- G. Standards of Approval—Freestanding Telecommunications Facilities.
1. Freestanding telecommunications facilities shall be evaluated for approval based on the following criteria, although the city may waive or reduce the burden on the applicant of one or more of these criteria if the city concludes that the goals of this section are better served thereby.
- a. Height or size of the proposed tower;
  - b. Proximity of the tower to residential structures and residential district boundaries;
  - c. Nature of uses on adjacent and nearby properties;
  - d. Compatibility with the surrounding topography;
  - e. Compatibility with the surrounding tree coverage and foliage;
  - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g. Proposed ingress and egress;
  - h. Availability of suitable existing freestanding telecommunication facilities and other structures. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that no existing freestanding telecommunication facility or structure can accommodate the applicant's needs; and
  - i. The proposal is in conformance with the provisions of this section.
- H. Removal of Abandoned Telecommunication Facilities.
1. If any telecommunication facility shall cease to be used for a continuous period of one hundred eighty (180) days, the city shall notify the owner, with a copy to the applicant, that the telecommunication site will be subject to a hearing and possible determination by the city council that such site has been abandoned. The owner and applicant shall be provided written notice of the hearing before the city council and the hearing shall be held not less than fourteen (14) days following the mailing of notice via

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hand delivery, regular U.S. Mail postage prepaid, or comparable delivery service to the last known addresses of the owner. The owner and applicant shall have an opportunity to show at the hearing, by a preponderance of the evidence, that the telecommunication facility has been in use or under repair during such period. If the owner or applicant fails to show that the facility has been in use or under repair during the period, the council shall issue a final determination of abandonment and shall order removal of the telecommunication facility by written demand sent via registered U.S. Mail, return receipt requested, to the owner and applicant. Upon issuance of the final determination of abandonment and delivery of the order for removal the owner shall, within sixty (60) days or such longer period determined by the council, cause the telecommunication facility to be dismantled and removed.

2. Telecommunication facilities declared abandoned by the city in accordance with this section and which remain in place following the deadline for removal stated in an order for removal shall constitute a public nuisance and shall be subject to abatement and any other remedy available to the city as provided by this code.
- I. Decision. Any decision to deny an application for a telecommunication facility shall be in writing and supported by substantial evidence in a written record.
- J. Appeal. In the event an applicant is aggrieved by a determination of the planning official, the applicant may appeal to the planning commission pursuant to Chapter 17.88 of this code.

(Ord. 03-17 § 5)

#### **17.72.080 Utilities undergrounded.**

All utility lines shall be installed underground. The cost of such undergrounding shall be borne by the utility provider, developer or property owner, as applicable, and shall be installed subject to the plans, specifications and approval of the electric, natural gas, telephone, and cable television utilities providing service to the subject property and to any other utility designated by the city.

(Ord. 04-7 § 1)

#### **17.72.090 Commercial greenhouses.**

- A. All commercial greenhouses two hundred (200) square feet or larger than will be required to comply with building codes required of the Lake County Building Department.
- B. All commercial greenhouse plans must be approved by the planning and zoning commission.
- C. Those seeking to build a commercial greenhouse must meet the following standards when applying for a conditional use permit:
  1. Commercial greenhouses must use frosted glass, polycarbonates or other similar building materials. Plastic sheeting and similar materials will not be accepted.
  2. Fertilizer, waste and other odorous materials must be properly stored in sealed rodent, pest and child proof containers. Odors must not permeate beyond the property line.
  3. At least two off-street parking spaces must be provided in the TR and TC zones.
  4. All lighting must be fully shielded, downcast and not project past the property lines. Hours of lighting will be considered and set during the CUP process.

(Ord. No. 2010-2, § 3, 5-18-10)

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(Supp. No. 19)

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## Chapter 17.76 OFF-STREET PARKING AND LOADING REQUIREMENTS

### Sections:

#### 17.76.010 General requirements for off-street parking.

- A. For every building hereafter erected or buildings structurally altered for retail, commercial, business or industrial purposes, off-street parking spaces shall be provided. Each space shall measure at least eight feet by eighteen (18) feet and shall be paved in all districts except R-1 and R-2, except that the planning commission shall allow, upon request of an applicant or by majority vote of its own initiative, a reasonable number of smaller parking spaces for compact cars, in a number up to thirty (30) percent of the total spaces, and the commission may, at its option, require an additional number of oversize parking spaces for handicapped-access vehicles. Compact car spaces, which must be so labeled on the lot, shall be at least eight feet by sixteen (16) feet in size and handicapped spaces, which must also be so labeled on the lot, shall be twelve (12) feet by eighteen (18) feet in size, except that such spaces may be nine feet wide when an additional four feet is provided at one side as an available, paved handicapped ramp.
- B. In RC, C and I zoning districts, areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking space requirements. Parking lot spaces shall be arranged in such a manner that vehicles will not back directly from an off-street parking space into a public right-of-way, in the case of alleyways, and no portion of a public right-of-way or easement shall be included as a portion of a parking lot except with the approval of the planning commission and the written permission of the owner(s) of record of the right-of-way or easement.
- C. Uses which are expanded or changed must appropriately adjust the number of parking spaces provided within ninety (90) days of the expansion or change of use.
- D. Each off-street parking lot containing more than fifty (50) parking spaces shall provide one or more landscaped areas, equal to five percent of the total parking lot area and dispersed within the parking area and which shall be a portion of the overall site landscaping requirement and shown on an appropriate landscaping plan.
- E. Residential off-street parking spaces shall be located on the same lot as the dwelling(s) they serve. All other required parking spaces located more than one thousand (1,000) feet from the building or structure they serve, measured in a straight line from the nearest corner of the building, must first be approved by the board of adjustment as a variance.
- F. Off-street parking in planned unit developments shall comply with the requirements of this section except when a separate development plan incorporating alternate off-street parking provisions is reviewed by the planning commission and approved by the city council.
- G. Parking requirements shall apply to all zoning districts, except as specified herein. When more than one use is conducted on a single lot or parcel, parking shall be required for all uses, even though one use is accessory to another and the number of spaces required shall be a sum of the spaces required for the cumulative uses.
- H. All parking lot aisles shall be at least twenty (20) feet in width and all open parking areas shall contain snow storage or removal provisions adequate to the planning commission as determined by a majority vote of the commission.

Snow storage areas are recommended to be sized to approximately ten (10) percent of the total parking lot area.

- I. Businesses that are a use by right in existing buildings in the TC zone and in the RC zone on 9th Street from Poplar Street to Harrison Avenue and Harrison Avenue from 2nd Street to 9th Street, including the side streets to the first alleys east and west of Harrison Avenue, shall not be required to provide off-street parking spaces.
- J. Any or all of the off-street parking requirements may be waived by the city council upon recommendation of the planning and zoning commission if deemed impractical or cost prohibitive to the applicant.

(Ord. 03-15 § 3; Ord. 99-8 § 1 (part); prior code § 17.19.010)

**17.76.020 Off-street parking space requirements.**

The following types of uses shall require the following number of off-street parking spaces, as a minimum requirement, for principal uses, accessory dwelling units (ADU's) are exempt from the off-street parking requirements:

**Table 3  
Off-Street Parking Requirements**

Uses	
A. Multiple-family dwellings, studio or one bedroom:	1/DU*
B. Multiple-family dwellings, more than one bedroom:	1/DU
C. Multiple-family for elderly, handicapped or disabled:	1.75/DU*
D. Lodgings:	
Motels, per unit:	1
Hotels, per unit:	1
Plus one employee parking space per each ten (10) units	
Bed and Breakfasts, per unit (including approved, on-street parking plus one additional space for employees (regardless of actual number of employees).	1
E. Retail and service facilities per four hundred (400) square feet of gross leasable area (GLA):	1
F. Shopping centers per one thousand (1,000) square feet of GLA:	1
G. General and professional offices per six hundred (600) square feet of GLA:	1
H. Restaurants and taverns per every four seats:	1
I. Auditoriums and public assembly facilities, per one hundred (100) square feet of floor area used for assembly or seating:	2
J. Business parks, per five hundred (500) square feet:	1
K. Industrial facilities per one thousand (1,000) square feet of floor area:	1.5
L. floor area for a wholesale establishment, warehouse, or rail or truck terminal:	7.5

\* DU = dwelling unit

In the computation of parking spaces needed according to Table 3, all fractional spaces shall be rounded to the next higher number.

Requirements for types of buildings and uses not specifically enumerated herein shall be determined by the city council upon review and recommendation from the planning commission, based upon the requirements of comparable uses listed above and prevailing elsewhere in the surrounding area.

(Ord. 99-8 § 1 (part); prior code § 17.19.020)

(Ord. No. 2016-8, § 4, 11-1-16)

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### **17.76.030 Off-street loading requirements.**

For the purpose of providing for off-the-street loading and unloading of goods, buildings or structures to be built or substantially altered which receive or distribute materials and merchandise by truck shall provide and maintain off street loading berths in sufficient number to accommodate the needs of the particular use.

The minimum number of loading berths required, if the gross floor area of the building is less than ten thousand (10,000) square feet shall be one berth; if greater than ten thousand (10,000) square feet, the number of berths provided shall be one for each additional fifteen thousand (15,000) square feet, or fraction thereof, of gross floor area over and above the first ten thousand (10,000) square feet.

A loading berth shall contain, at a minimum, a space twelve (12) feet wide, thirty-five (35) feet in length and maintain a vertical clearance of at least fourteen (14) feet. Where the vehicle is routinely used for loading or unloading exceeds these dimensions, the planning commission may increase the required size of loading berths correspondingly by majority vote.

These off-street parking and loading berth requirements may be modified in accordance with the variance procedures of the board of adjustment.

(Ord. 99-8 § 1 (part); prior code § 17.19.030)

## **Chapter 17.80 SIGNS**

### **Sections:**

#### **17.80.010 Title.**

The provisions of this chapter shall be known as the "Leadville Sign Code."

(Ord. 01-1 § 1 (part); prior code § 17.24.010)

#### **17.80.020 Intent.**

The intent of this chapter is:

- A. To provide minimum restrictions on signs while at the same time preserving the character of the zoning district in which the sign is located, based on the following design principles:
  1. Well-designed signs can serve to emphasize the historic nature of Leadville and can improve visual continuity, especially along Harrison Avenue. Size, character and placement of signs are vital to creation of a cohesive, easily understood community image. Signs should not restrict uniqueness nor impair residents and visitors abilities to clearly identify the location and nature of a business.
  2. Raised letters and borders add to the decoration of a sign and painted shadows also add dimension. Signs with rounded shapes and bevels are appealing, as are three-dimensional objects that characterize the business. Ornamental iron standards and fasteners likewise enhance the sign.
- B. To protect the investments of business owners by allowing the continued use of signs that were legally installed prior to the adoption of this code.

(Ord. 01-1 § 1 (part); prior code § 17.24.020)

(Ord. No. 2015-7, § 1, 8-4-15)



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### **17.80.030 Purpose.**

The purpose of this chapter is:

- A. To establish the maximum signage allowed in each zoning district.
- B. To establish liberal policies for obtaining variances from this code for signs that do not meet the standards of this code but do follow the intent of the code.

(Ord. 01-1 § 1 (part): prior code § 17.24.030)

### **17.80.040 Permit required.**

A sign permit application and fee is required and must be submitted to the planning and zoning office for all new signs or relocated signs if moved to a different zoning district. Approval of the sign by the planning and zoning office is required prior to the sign being erected or displayed. A fee schedule, sign application and user's guide are available from the planning and zoning office.

(Ord. 01-1 § 1 (part): prior code § 17.24.040)

(Ord. No. 2015-7, § 2, 8-4-15)

### **17.80.050 Appeal procedures regarding signs.**

- A. Requests to change the status of a legal nonconforming sign, or to have a sign designated as a historically significant sign shall be approved pursuant to a sign review hearing before the board of adjustment.
- B. Variances to the sign code and appeals of decisions of an administrative officer or agency shall follow the board of adjustment procedures set forth in Section 17.88.030.

(Ord. 01-1 § 1 (part): prior code § 17.24.050)

### **17.80.060 Legal nonconforming signs.**

Legal nonconforming signs are permitted subject to the following provisions:

- A. Legal nonconforming signs may be replaced if the sign is destroyed through no fault of the owner subject to the provisions of this Section 17.80.060.
- B. A sign may be designated as a historically significant sign and permitted as a legal nonconforming sign pursuant to such designation following a sign review hearing before the board of adjustment.
- C. Legal nonconforming signs may not be altered or changed so as to increase the area or degree of nonconformity of the sign.
- D. Any change in ownership or tenancy of a property which requires any change in a sign shall require that the sign for the property or business be brought into compliance with the provisions of this chapter.
- E. Temporary signs, including banners, shall not be considered legal nonconforming signs.

(Ord. 01-1 § 1 (part): prior code § 17.24.060)

(Ord. No. 2015-7, § 3, 8-4-15)

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### 17.80.070 Exempted signs.

The following signs are not subject to the provisions of this chapter:

- A. Official government and public utility signs and notices.
- B. Flags of nations, or organization of nations, state, county, city, any religious, civic or fraternal organization or educational institution except when used in connection with a commercial promotion or as an advertising device.
- C. Temporary decorations or displays that are customarily associated with any national, local or religious holiday or celebration.
- D. Signs displayed on motor vehicles or trailers that are being operated or stored in the normal course of business provided that the vehicles are parked or stored in areas appropriate to their use as vehicles.
- E. Fine art painted on outside walls that serves no commercial purpose.
- F. Window signs in the retail core and commercial districts.

(Ord. 01-1 § 1 (part): prior code § 17.24.070)

### 17.80.080 Prohibited signs.

The following signs are prohibited:

- A. Signs that are not securely affixed to any structure or not constructed to withstand substantial snow and wind loading;
- B. Signs with searchlights, revolving beacons, flashing lights, holographic signs or signs with any type of animation or intermittent lighting effects, except traditional barber poles, clocks, or thermometers;
- C. Signs designed to resemble public signs and traffic control devices;
- D. Signs attached to any tree or utility pole;
- E. Signs with surfaces that reflect light in a dangerous manner;
- F. Parked vehicles including, but not limited to, automobiles, trucks, buses, trailers, mobile homes, boats and the like shall not be used as a sign or sign structure.

(Ord. 01-1 § 1 (part): prior code § 17.24.080)

### 17.80.090 Specific regulations by zoning district.

The following table summarizes the types of signs and associated regulations allowed in each zoning district. See regulations for more specific information. Signs not listed are considered permitted. For purposes of this table, "R" means permitted signs, "P" means prohibited signs and "C" means permitted subject to some conditions.

Types of Signs	R-1	R-2	TR	RC	C	TC
Home Occupation	Up to 4 sq. ft. per occupation	Up to 4 sq. ft. per occupation	Up to 6 sq. ft. per occupation	Up to 8 sq. ft. per occupation	Up to 8 sq. ft. per occupation	Up to 6 sq. ft. per occupation
Internally or Directly	P	P	P	P	R	P

Illuminated Signs						
External Signage Area	Up to 25 sq. ft.	Up to 25 sq. ft.	Up to 25 sq. ft.	See specific type of sign below.	See specific type of sign below.	Up to 25 sq. ft.
Freestanding Sign	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 per business entrance of either freestanding or projecting	Total of 200 sq. ft. or less w/no >100 sq. ft. per side	1 of either freestanding or projecting of 12 sq. ft. or less per side
				Freestanding: 25 sq. ft. or less per side	1 sq. ft. or less for ea. 1 linear foot of street frontage per building/lot.	
					Top of sign no more than 20' above ground or surface of Hwy. 24	
Projecting Sign	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 of either freestanding or projecting of 12 sq. ft. or less per side	1 per business entrance of either freestanding or projecting	1 per business of 20 sq. ft. or less per side, per business entrance.	1 of either freestanding or projecting of 12 sq. ft. or less per side
				Projecting: 20 sq. ft. or less per side		
Murals	All must be approved by city council	All must be approved by city council	All must be approved by city council	All must be approved by city council	All must be approved by city council	All must be approved by city council
Banners	P	P	C: 1 banner per business or tenant, limited to 4 banners per year for each tenant/business. Total area 20 sq. ft. or less with a maximum of 5 ft. in length.	C: 1 banner per business or tenant, limited to 4 banners per year for each tenant/business. Total area 20 sq. ft. or less with a maximum of 5 ft. in length.	C: 1 banner per business or tenant, limited to 4 banners per year for each tenant/business. Total area 20 sq. ft. or less with a maximum of 5 ft. in length.	C: 1 banner per business or tenant, limited to 4 banners per year for each tenant/business. Total area 20 sq. ft. or less with a maximum of 5 ft. in length.
Window Signs	R	R	R	R	R	R
Wall Signs	R	R	R	R	R	R
Portable Signs	P	P	P	R: 1 per business on	R: 1 per business on	P

				business premises. Equal to or < 15 sq. ft. per side. Secured to withstand elements.	business premises. Equal to or < 15 sq. ft. per side. Secured to withstand elements.	
Off Premise Portable Signs on the public right-of-way	P	P	P	C: Equal to or < 15 sq. ft. per side. Secured to withstand elements. See Section 17.80.120 for conditions	C: Equal to or < 15 sq. ft. per side. Secured to withstand elements. See Section 17.80.120 for conditions	P

A. Residential Districts R1, R2.

1. Each home occupation may have up to a total of four square feet of signage for each occupation.
2. No internally or directly illuminated signs (to include neon).
3. Each business may have up to a total of twenty-five (25) square feet of external signage.
4. Each business may have one freestanding or projecting sign.
5. Freestanding and projecting signs shall be twelve (12) square feet or less per side.
6. Legal nonconforming uses will apply the sign standards for the retail core for any standard not addressed in this subsection.
7. Signage associated with uses requiring or having obtained a CUP must comply with the sign code requirements.
8. All murals must be approved by city council in accordance with the intents and purposes of the sign code.
9. Banners prohibited in these districts.
10. Businesses must remove their signs within thirty (30) days of going out of business.
11. For rent and for sale signs shall comply with the sign code requirements, except that no application, fee or permit shall be required.
12. Off Premise Signs.
  - a. Off premise signs are prohibited within sight of Highway 24.
  - b. The square footage of any off premise sign will be included when computing the total square footage of external signage.
13. Window signs are permitted provided that the square footage of any window sign shall be included when computing the total square footage of external signage.
14. Wall signs are permitted provided that the square footage of any wall sign shall be included when computing the total square footage of external signage.
15. Portable signs and off premise portable signs are prohibited.

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B. Transitional Retail/Residential.

1. Each home occupation may have up to a total of six square feet of signage for each occupation.
2. No internally or directly illuminated signs (to include neon).
3. Each business may have up to a total of twenty-five (25) square feet of external signage.
4. Each business may have one freestanding or projecting sign.
5. Freestanding and projecting signs shall be twelve (12) square feet or less per side.
6. Legal nonconforming businesses will apply the sign standards for the retail core for any standard not addressed in this subsection.
7. Signage associated with uses requiring or having obtained a CUP must comply with the sign code requirements.
8. All murals must be approved by city council in accordance with the intents and purposes of the sign code.
9. Banner and temporary identification sign permits may be issued by the planning and zoning official subject to the following requirements:
  - a. Banners must be constructed of durable material intended to withstand outdoor elements that will have four grommet holes, one at each corner, for secure mounting. Banners must be maintained in good repair free from tears and fading and properly secured to minimize flapping.
  - b. Banners may be displayed for no more than ten (10) consecutive days during a calendar year. Only one banner per business or tenant shall be permitted at any one time with no more than four banners for each tenant or business per calendar year. Banners are permitted only if such business possesses a current business license with the city.
  - c. Notwithstanding the requirements in subparagraph (B)(9)(b), banners advertising community events may be displayed no more than ten (10) consecutive days prior to the advertised event and must be removed within two days after the conclusion of the event.
  - d. A temporary sign permit for a temporary identification sign may be issued only when the planning and zoning official receives an application and permit fee for a permanent sign. Temporary identification signs may not be displayed more than thirty (30) consecutive days unless an extension is granted by the planning and zoning official. The planning and zoning official may grant an extension of up to an additional thirty (30) days upon evidence that the applicant has taken steps to install a permanent sign, such as evidence of payment for a permanent sign presented to the planning and zoning official.
10. Businesses must remove their signs within thirty (30) days of going out of business.
11. For rent and for sale signs shall comply with the sign code requirements, except that no application, fee or permit shall be required.
12. Off Premise Signs.
  - a. Off premise signs are prohibited within sight of Highway 24.
  - b. The square footage of any off premise sign will be included when computing the total square footage of external signage.
13. Window signs are permitted provided that the square footage of any window sign shall be included when computing the total square footage of external signage.

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14. Wall signs are permitted provided that the square footage of any wall sign shall be included when computing the total square footage of external signage.

15. Portable and off premise portable signs are permitted.

C. Retail Core.

1. Each home occupation may have up to a total of eight square feet of signage for each occupation.

2. No internally or directly illuminated freestanding, wall, portable, projecting, roof or awning signs are permitted.

3. Each business may have one freestanding or projecting sign per business entrance.

4. The area of freestanding signs shall be twenty-five (25) square feet or less per side.

5. The area of projecting signs shall be twenty (20) square feet or less per side.

6. Window signs are permitted.

7. Wall signs are permitted.

8. Signage associated with uses requiring or having obtained a CUP must comply with the sign code requirements.

9. All murals must be approved by city council in accordance with the intents and purposes of the sign code.

10. Businesses must remove their signs within thirty (30) days of going out of business.

11. For rent and for sale signs shall comply with the sign code requirements, except that no application, fee or permit shall be required.

12. Portable Signs.

a. Each business is limited to one portable sign.

b. Must be located on the business property or on the public right-of-way in accordance with Section 17.80.120.

c. Shall be equal to or less than fifteen (15) square feet per side.

d. Must be adequately secured to withstand adverse weather conditions.

13. Off Premise Signs.

a. Prohibited within sight of Highway 24, subject to Section 17.80.120.

14. Banner and temporary identification sign permits may be issued by the planning and zoning official subject to the following requirements:

a. Banners must be constructed of durable material intended to withstand outdoor elements that will have four grommet holes, one at each corner, for secure mounting. Banners must be maintained in good repair free from tears and fading and properly secured to minimize flapping.

b. Banners may be displayed for no more than ten (10) consecutive days during a calendar year. Only one banner per business or tenant shall be permitted at any one time with no more than four banners for each tenant or business per calendar year. Banners are permitted only if such business possesses a current business license with the city.

c. Notwithstanding the requirements in subparagraph (C)(14)(b), banners advertising community events may be displayed no more than ten (10) consecutive days prior to the advertised event and must be removed within two days after the conclusion of the event.

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- d. A temporary sign permit for a temporary identification sign may be issued only when the planning and zoning official receives an application and permit fee for a permanent sign. Temporary identification signs may not be displayed more than thirty (30) consecutive days unless an extension is granted by the planning and zoning official. The planning and zoning official may grant an extension of up to an additional thirty (30) days upon evidence that the applicant has taken steps to install a permanent sign, such as evidence of payment for a permanent sign presented to the planning and zoning official.

D. Commercial District.

- 1. Each home occupation may have up to a total of eight square feet of signage for each occupation.
- 2. Internally illuminated signs are permitted but must not create unreasonable illumination.
- 3. Wall signs are permitted.
- 4. Window signs are permitted.
- 5. Each business may have one projecting sign of twenty (20) square feet or less per side, per business entrance.
- 6. Each building or lot may have freestanding signs of one square foot or less for each one linear foot of street frontage.
  - a. Total freestanding signs shall be equal to or less than two hundred (200) total square feet, and no greater than one hundred (100) square feet per side.
  - b. The top of any freestanding sign will not extend more than twenty (20) feet above ground level, or the surface of Highway 24 at the closest point, whichever is higher.
- 7. Portable Signs.
  - a. Each business is limited to one portable sign.
  - b. Must be located on the business property or on the public right-of-way in accordance with Section 17.80.120.
  - c. Shall be equal to or less than fifteen (15) square feet per side.
  - d. Must be adequately secured to withstand adverse weather conditions.
- 8. Banner and temporary identification sign permits may be issued by the planning and zoning official subject to the following requirements:
  - a. Banners must be constructed of durable material intended to withstand outdoor elements that will have four grommet holes, one at each corner, for secure mounting. Banners must be maintained in good repair free from tears and fading and properly secured to minimize flapping.
  - b. Banners may be displayed for no more than ten (10) consecutive days during a calendar year. Only one banner per business or tenant shall be permitted at any one time with no more than four banners for each tenant or business per calendar year. Banners are permitted only if such business possesses a current business license with the city.
  - c. Notwithstanding the requirements in subparagraph (D)(8)(b), banners advertising community events may be displayed no more than ten (10) consecutive days prior to the advertised event and must be removed within two (2) days after the conclusion of the event.
  - d. A temporary sign permit for a temporary identification sign may be issued only when the planning and zoning official receives an application and permit fee for a permanent sign. Temporary identification signs may not be displayed more than thirty (30) consecutive days

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unless an extension is granted by the planning and zoning official. The planning and zoning official may grant an extension of up to an additional thirty (30) days upon evidence that the applicant has taken steps to install a permanent sign, such as evidence of payment for a permanent sign presented to the planning and zoning official.

9. All murals must be approved by city council in accordance with the intents and purposes of the sign code.
  10. Businesses must remove their signs within thirty (30) days of going out of business.
  11. For rent and for sale signs shall comply with the sign code requirements, except that no application, fee or permit shall be required.
  12. Off Premise Signs.
    - a. Prohibited within sight of Highway 24, subject to Section 17.80.120.
  13. Signage associated with uses requiring or having obtained a CUP must comply with the sign code requirements.
- E. Transitional Commercial.
1. Each home occupation may have up to a total of six square feet of signage for each occupation.
  2. No internally or directly illuminated signs (to include neon).
  3. Each building may have up to a total of twenty-five (25) square feet of external signage.
  4. Each building may have up to a total of sixteen (16) square feet of window signage.
  5. Each business may have one freestanding or projecting sign.
  6. Freestanding and projecting signs shall be twelve (12) square feet or less per side.
  7. Legal nonconforming businesses will apply the sign standards for the retail core for any standard not addressed in this subsection.
  8. Signage associated with uses requiring or having obtained a CUP must comply with the sign code requirements.
  9. Murals must be approved by city council in accordance with the intents and purposes of the sign code.
  10. Banner and temporary identification sign permits may be issued by the planning and zoning official subject to the following requirements:
    - a. Banners must be constructed of durable material intended to withstand outdoor elements that will have four grommet holes, one at each corner, for secure mounting. Banners must be maintained in good repair free from tears and fading and properly secured to minimize flapping.
    - b. Banners may be displayed for no more than ten (10) consecutive days during a calendar year. Only one banner per business or tenant shall be permitted at any one time with no more than four banners for each tenant or business per calendar year. Banners are permitted only if such business possesses a current business license with the city.
    - c. Notwithstanding the requirements in subparagraph (E)(10)(b), banners advertising community events may be displayed no more than ten (10) consecutive days prior to the advertised event and must be removed within two days after the conclusion of the event.
    - d. A temporary sign permit for a temporary identification sign may be issued only when the planning and zoning official receives an application and permit fee for a permanent sign. Temporary identification signs may not be displayed more than thirty (30) consecutive days



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unless an extension is granted by the planning and zoning official. The planning and zoning official may grant an extension of up to an additional thirty (30) days upon evidence that the applicant has taken steps to install a permanent sign, such as evidence of payment for a permanent sign presented to the planning and zoning official.

11. Businesses must remove their signs within thirty (30) days of going out of business.
12. For rent and for sale signs shall comply with the sign code requirements, except that no application, fee or permit shall be required.
13. Off Premise Signs. Off premise signs are prohibited within sight of Highway 24. The square footage of any off premise sign will be included when computing the total square footage of external signage.
14. Window signs are permitted provided that the square footage of any window sign shall be included when computing the total square footage of external signage.
15. Wall signs are permitted provided that the square footage of any wall sign shall be included when computing the total square footage of external signage.

(Ord. 07-4 § 1; Ord. 03-15 §§ 4, 5; Ord. 03-14 §§ 1, 2, 3; Ord. 02-7 §§ 1, 2; Ord. 01-13 § 1; Ord. 01-1 § 1 (part); prior code § 17.24.090)

(Ord. No. 2015-7, §§ 4—8, 8-4-15)

#### **17.80.100 Definitions.**

As used in this chapter:

"Business" means any sole proprietorship, partnership, corporation or company, to include non-profits, with the exception of churches and home occupations.

"Home occupation" means a business run out of a home where the primary purpose of the dwelling is a home. For a more specific definition, see Section 17.08.020.

"Sign" means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for the purpose of advertising or proposing a commercial transaction and which is visible from any public thoroughfare or right-of-way. A visible sign is one capable of being seen without visual aid by a person of normal visual acuity.

1. "Banner" means any temporary sign constructed of a durable material intended to withstand outdoor elements that will have the four grommet holes at each corner for secure mounting.
2. "Community event" means a planned gathering, to which the public at large is invited to attend, conducted on any portion of public property for which a temporary use permit has been issued.
3. "Legal nonconforming sign" means a sign lawfully erected and maintained prior to the adoption of the ordinance codified in this chapter, or which has been approved by the board of adjustment in accordance with Section 17.88.030 of this title and which does not conform to the restrictions of this chapter. Temporary signs including banners, and portable signs shall not be considered nor obtain legal nonconforming sign status.
4. "Directory sign" means a sign that serves as a common or collective identification for two or more businesses on the same lot or within the same building.
5. "Freestanding sign" means a sign that is supported by one or more columns, uprights or braces extending from the ground or an object on the ground and where no part of the sign is attached to any structure or building.

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6. "Historically significant sign" means a nonconforming sign that has been designated as having historical significance by the board of adjustment in accordance with Chapter 17.88.
  7. "Mural" means a sign painted directly on an outside wall existing as of August 15, 2015, or installed on panels, or any other medium, which is affixed to an outside wall according to the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings located at: <http://www.nps.gov/tps/standards/four-treatments/treatment-guidelines.pdf>.
  8. "Portable sign" means an exterior, moveable, freestanding and unattached sign that uses letters, pictures or other graphics to advertise a business.
  9. "Projecting sign" means a sign attached to a building or structure and extending in whole or in part eight inches or more beyond the surface of the building to which the sign is attached. A projecting sign must be eight feet above any sidewalk and ten (10) feet above a private roadway and may include roof signs.
  10. "Roof sign" means a sign painted or placed on a roof which projects up to ten (10) feet of the roof line or fascia of the building in which it is mounted. A roof sign that is attached to the roof line is to be considered a projecting sign and is subject to all limitations of projecting signs.
  11. "Temporary identification sign" means a sign that is used to identify a commercial establishment for a limited period of time prior to installation of a permanent sign.
  12. "Temporary sign" means a sign intended for a definite and limited period of display usually constructed of cloth, canvas, wood, light fabric, cardboard, plastic or other like materials, with or without frames, and any type of sign not permanently attached to the ground, wall or building.
  13. "Wall sign" means a sign displayed on or against a wall, where the face of the sign is parallel to the wall and extends less than eight inches from the wall.
  14. "Window sign" means a sign that is painted on or located inside the window and intended to be seen from the exterior of the building. A window sign does not include merchandise.
  15. "Off premise sign" means a sign advertising a business or sale conducted on property other than where the sign is located.
  16. "Internally illuminated" means a sign lighted by a light source that is within the sign and where the light travels through parts of the sign to the viewer.
  17. "Directly illuminated" means a sign lighted by means of an unshielded light source that is effectively visible as part of the sign and where the light travels directly from the source to the viewer. This does not include illumination from the exterior of the sign by means of tubes of neon or other electrically charged inert gases.
  18. "Indirect illumination" means a sign that is lighted from a shielded light source that illuminates the sign and where the light travels from the light source to the sign and is reflected to the viewer.
  19. "Sign review hearing" means a hearing before the board of adjustment to determine: (1) the status of a legal nonconforming sign or (2) whether a sign shall be designated as historically significant sign, all in accordance with Chapter 17.88.

(Ord. 01-1 § 1 (part): prior code § 17.24.100)

(Ord. No. 2015-7, § 9, 8-4-15)

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### **17.80.110 Violations—Penalties.**

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, use or maintain any sign or sign structure in this city, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this chapter.

(Ord. 01-1 § 1 (part): prior code § 17.24.110)

### **17.80.120 Off-premise portable signs in the public right-of-way.**

The city may issue revocable licenses to allow portable signs to be placed upon the public right-of-way in commercial and retail core zones within the city, provided such signs meet the following requirements and a sign permit application is submitted to and approved by the planning official. For purposes of this section, public right-of-way means beyond and including the curbs, contiguous shoulders, and appurtenances.

- A. Signs advertising two or more businesses must not be larger than three feet in width and five feet in height and for a single business must not be larger than two and a half feet in width and four feet in height.
- B. Portable signs may be placed in the public right-of-way in front of a business (other than the sign owner's business) subject to a statement on the sign permit application form by the owners and any tenants of the property adjacent to the public right-of-way where the sign is to be placed that there are no objections to the sign. Whenever there is a change in ownership of any business owner or tenant of property adjacent to the public right-of-way on which a portable sign is located, the new owner or tenant of such business may notify the planning official of its objection to the portable sign and shall request the city's revocation of such portable sign permit in accordance with subsection (J) of this section.
- C. Each business shall be limited to one portable sign placed in the public right-of-way; provided, however, no business located on Harrison Avenue between 9th Street and West Elm Street or on 9th Street from Harrison Avenue to Poplar Street shall be allowed a portable sign in the public right-of-way.
- D. The sign must be kept in good repair at all times and the immediate area around the sign must be kept clean.
- E. The sign must be removed when the business or activity being advertised by the sign is closed for more than seven consecutive days.
- F. No sign shall be placed within the traveled portion of the right-of-way to include that portion of the right-of-way traditionally used for parking.
- G. If placed on a sidewalk, the sign must be located on the curb side of the sidewalk but shall not extend over the curb; nor shall such sign obstruct the natural flow of pedestrian travel on the sidewalk or shall it be placed in such a manner or location where it impedes motor vehicle operator visibility of pedestrians and other vehicles along the existing sight angles at intersections.
- H. Liability insurance covering damages arising from or associated with the placement of such signs shall be maintained by the sign owner. Such insurance shall be provided with limits of liability not less than those set forth in the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended. Proof of such insurance shall be submitted with the sign permit application and annually with the submission of a business license fee.
- I. An application for a permit for such sign is made and approved in accordance with Section 17.80.040 and the fee required in Section 17.80.070 is paid.

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- J. The city's approval of the sign permit application under this section is subject to revocation by the city for any reason with fifteen (15) days prior written notice to the permit holder, unless the city determines an emergency exists which necessitates immediate removal of such sign without prior written notice.
  - K. Any portable, non-conforming sign existing on the effective date of this section shall be allowed to continue at its current location until such time as the business is permanently closed or sold unless earlier revoked by the city in accordance with the provisions of this section; however, such sign shall conform to all other provisions of this section, exclusive of the requirement to obtain a permit.
  - L. This section, or any part thereof, shall not apply if the city receives written notification from applicable state or federal authorities or otherwise concludes that compliance with this section will cause denial of federal or state money or would otherwise be inconsistent with federal or state law.

(Ord. 02-7 § 3)

## Chapter 17.88 BOARD OF ADJUSTMENT

### Sections:

#### 17.88.010 Creation and organization.

- A. A board of adjustment is created, the purpose of the board being to provide for special exceptions to certain of the provisions of this zoning title in conformance with its general purpose and intent and the purpose and intent of this chapter. The term "board of adjustment" and the word "board" when used in this chapter shall mean the board of adjustment established herein.
- B. The mayor shall appoint the members of the board of adjustment from among the members of city council. Each of the five members of the board shall be residents of the city. Until otherwise provided, the members of the board shall serve without compensation, except for reimbursement of actual expenses, and each member shall serve for a four-year appointment so long as the member also remains a member of city council.
- C. Vacancies shall be filled for an unexpired term in the same manner as in the case of original appointments. The mayor may appoint members of city council or other residents of Leadville as associate members to the board of adjustment and, in the event that any regular member is temporarily unable to act owing to absence from the city, illness, interest in a case or other cause, that person's place may be taken during such temporary disability by an associate member designated for that purpose.
- D. The board of adjustment shall elect from its members a chair, whose term of office shall be one year, and other such officers as the board sees fit to create. The board shall adopt such rules and regulations governing its proceedings as it considers necessary or advisable and the board shall meet as often as necessary to hear and act upon applications and other appropriate matters within its duties and powers.
- E. All meetings of the board of adjustment shall be open to the public and the board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be promptly filed in the office of the board and shall be a public record. Any person(s) wishing to have a transcript of the proceedings of the board may have a court recorder present at their own expense.

(Ord. 99-8 § 1 (part): prior code § 17.26.010)

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### **17.88.020 Powers and duties of the board.**

The board of adjustment shall have the following powers and duties, which shall be exercised in accordance with the laws of the state of Colorado and the provisions of this title and in harmony with the public interest and the most appropriate use of the land:

- A. To hear and decide appeals when it is alleged by the appellant(s) that there is or has been an error in any order, requirement, decision, denial or refusal made by an administrative officer or agency based on or made in the enforcement of the zoning regulations contained within this title;
- B. To interpret the zoning district boundaries and pass upon disputed questions of lot lines and similar questions that may arise periodically in the administration of these zoning regulations;
- C. Where there are practical difficulties or unnecessary hardships in the manner of carrying out the strict application of any of these zoning regulations, the board has the power to authorize a variance from such strict and literal application so that the spirit of these zoning regulations is observed, public safety and welfare secured and substantial justice done. The board, however, shall not have the power to grant variances from the uses prohibited or permitted conditionally for the zoning district involved, except as allowed for under Section 17.44.080;
- D. To review and decide upon such other matters relating to this title as may be specifically referred to the board by or provisions of this title or by the planning commission or the planning official;
- E. In reaching a decision on any appeal to the board requesting a variance, the board shall, among other considerations, take into account: (1) how substantial the variance is in relation to the requirement; (2) whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created; (3) whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance; and (4) whether, in consideration of all of the above factors, the purpose, intent, policies and other provisions of both this title and the Leadville Comprehensive Plan, as amended, will be served.
- F. Meetings of the board of adjustment shall be held at the call of the chair and at other such times as the board in its rules of procedure may specify. The chair, or in their absence the acting chair, may administer oaths and compel the attendance of witnesses by application to the municipal court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings.

(Ord. 03-10 §§ 1, 2; Ord. 99-8 § 1 (part): prior code § 17.26.020)

### **17.88.030 Appeals procedure.**

- A. Appeals to the board of adjustment may be made by any person(s) aggrieved by an inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this title. Appeals to the board shall be made within thirty (30) days of the order, requirement, decision or refusal alleged to have occurred or to be in error.
- B. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency or otherwise to decide in favor of an applicant or an appellant appearing before the board.
- C. The board shall set a public hearing date on all appeals. A notice of public hearing shall be published in a legal publication in the city at least seven days prior to the hearing with notification of the hearing date and subject of the hearing.

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A copy of the notice shall be deposited in the United States mail by the applicant, first class postage prepaid, postmarked at least fifteen (15) days prior to the scheduled hearing date, to all listed owners of record of all adjacent property. This mailed notice shall also be sent to all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the office of the Lake County assessor. The notice shall include a short narrative describing the relief sought and an announcement of 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.

In addition, the applicant shall cause to have posted on the property in question, in a conspicuous location, a sign supplied by the city, stating the time, date, location and subject of the hearing. Such sign(s) shall be posted at least fourteen (14) days before the scheduled date of the hearing.

- D. All appeals to the board of adjustment shall be in writing and on such forms as shall be prescribed by the board. The appropriate filing fee shall accompany the application. Every appeal shall state what provision(s) of the zoning regulation is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant. The chair of the board shall call a meeting of the board scheduled to take place within thirty (30) days of the submission of the appropriate materials, including proof of notification of a public hearing, and at the same time the board may transmit a copy of the appeal to the planning commission or other appropriate public bodies for review and comment.
- E. Appeal applications submitted to the board of adjustment shall include a full and accurate legal description of the land involved.
- F. Upon reaching a decision in the manner described above, the board of adjustment shall notify the applicant(s) in writing within ten (10) working days after the board takes action on an appeal or other formal matter placed before it.
- G. Where not otherwise specified herein, in state statute or in other city regulations or ordinances, the board shall function administratively and procedurally in the same manner as city council.
- H. In any appeal to the board requesting a variance from the setback requirements of this title, the applicant shall provide to the board, along with the application form, a survey prepared by a licensed Colorado surveyor depicting the property line(s) involved in the variance request, unless such property lines are apparent on the ground from monumented boundary corners established by a licensed Colorado surveyor.

(Ord. 02-10 § 2; Ord. 99-8 § 1 (part): prior code § 17.26.030)

## **Chapter 17.89.00 SEXUALLY ORIENTED BUSINESSES**

### **Sections:**

#### **17.89.010 Purpose and intent.**

The city council desires to minimize and control the potential adverse effects of sexually oriented businesses and thereby protect the health, safety, and welfare of the citizens of the City of Leadville. This section regulates the location of sexually oriented businesses which include, but are not limited to, adult arcades, adult bookstores, adult novelty stores, adult video stores, adult motels, adult cabarets, motion picture theaters, nude modeling studios or sexual encounter centers, collectively known as sexually oriented businesses. Sexually oriented businesses shall conform to the requirements of this chapter and the other applicable requirements of this Code. The intent of this chapter is to set reasonable and uniform regulations to prevent the deleterious location and siting of sexually oriented businesses. These regulations impose restrictions no greater than necessary to further

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the city's interest in preventing negative secondary effects attributable to sexually oriented businesses. This chapter is to be construed as a regulation of time, place, and manner of the location of these businesses, consistent with the United States and Colorado Constitutions. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent, nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment. It is also not the intent of this chapter to condone or legitimize the distribution of obscene material or material not protected by the First Amendment.

(Ord. No. 2010-5, § 3, 8-17-10)

#### **17.89.020 Applicability.**

The content of this section applies to the opening of any type of sexually oriented business or any similar business, including, but not limited to, the following:

- A. The opening or commencement of any sexually oriented business as a new business.
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
- C. The relocation of any sexually oriented business to another location in the city.

(Ord. No. 2010-5, § 3, 8-17-10)

#### **17.89.030 Applicant and application requirements.**

Applicants for a conditional use permit to construct and/or operate a sexually oriented business must meet the following requirements:

- A. Any individual applicant or partner or corporate officer or director or manager of a limited liability company must be twenty-one (21) years of age and shall provide written proof of such fact.
- B. Any false statement of information put forth by the applicant will be grounds for denial of a conditional use permit for a sexually oriented business for a period of one year.
- C. If the applicant or any holder of ten percent (10%) or more of any class or stock, or a director, officer, partner or principal of the applicant has had a sexually oriented business license or permit revoked or suspended anywhere in the State of Colorado or has operated a sexually oriented business that was determined to be a public nuisance under state law or this Code, within one year prior to the application, a conditional use permit for a sexually oriented business shall not be approved.
- D. A corporate applicant, or other similar legal entity applicant, must be in good standing or authorized to do business in the state in which it is organized and must submit proof of same.
- E. All taxes lawfully imposed against the applicant in relation to a sexually oriented business must be paid prior to approval of any new application for a sexually oriented business.
- F. The applicant must provide written proof of and be free of any conviction or nolo contendere plea to any crime involving pandering, prostitution, obscenity or any other crime of a sexual nature, committed in any other jurisdiction, within the five years prior to the date of such application, which would reasonably bring into question the applicant's ability to own and/or operate a sexually oriented business.

(Ord. No. 2010-5, § 3, 8-17-10)

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**17.89.040 Completeness of application and verification of applicant information.**

- A. The following requirements and procedures shall apply to conditional use permit applications for a sexually oriented business notwithstanding any contrary provisions set forth in chapter 17.52. In the event of a discrepancy between this chapter and chapter 17.52, this chapter shall control.
- B. Not more than ten (10) days following submission of a conditional use permit application, the planning official shall review the application for completeness and conformance with the application requirements of section 17.89.030 and this chapter. The planning official shall not accept for filing any application that is not complete in every detail. If an omission or error is discovered by the city, the application shall be rejected by the city and returned to the applicant together with a written explanation of the omission or error without further action by the city. Any application rejected by the city due to an omission or error may be resubmitted to the city when the omission or error has been remedied. For the purposes of this chapter, the date the city planning official determines that an application is complete and in conformance with the application requirements of section 17.89.030 in every detail shall be the date the application is deemed filed with the city.
- C. The Leadville Police Department shall be responsible for fingerprints and photographs and for investigation of the background of each individual applicant, the partners of a partnership or the officers, directors, holders of ten percent (10%) or more of the stock of a corporation and all managers of the proposed adult business. The investigation conducted by the Leadville Police Department shall be completed within ten (10) days following submission of a complete conditional use permit application and shall verify the accuracy of all information provided by all applicants, as required to be disclosed by section 17.89.030. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the State Department of Public Safety for each person who will be investigated. At the conclusion of its investigation, the Leadville Police Department shall indicate whether the required information has been verified via a written, signed and dated communication to the planning official.

(Ord. No. 2010-5, § 3, 8-17-10)

**17.89.050 Approval or denial.**

- A. An application deemed complete by the planning official shall be scheduled for a combined hearing before planning commission and city council. The planning official shall notify the applicant of the date, time, and place of the hearing before the planning commission and city council. Such notification may be made by the city by telephone provided that a written notice shall also be mailed or delivered to the applicant at the applicant's address shown in the application. In addition, the planning official shall comply with the applicable notice requirements of chapter 17.52. An applicant may be represented at the hearing by an attorney or other representative. An applicant may request and shall be granted a continuation or postponement of the hearing date. Any continuance requested by the city shall require a showing of just cause or the consent of the applicant.
- B. At the public hearing before planning commission and city council, the planning commission and city council shall hear and consider such evidence and testimony presented by the city, the applicant, or any other witnesses presented by the city or the applicant which are relevant to section 17.89.030 and only the following specific criteria of approval for a conditional use permit: section 17.52.040A., B., E., F., G., H. and I. The hearing shall be conducted in conformity with quasi-judicial proceedings and shall permit the relevant testimony of witnesses, cross-examination, and presentation of relevant documents and other evidence. The hearing shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall pay the reasonable cost of preparing the record.



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- C. Not more than ten (10) days following the conclusion of the hearing, the planning commission shall submit its written recommendation to city council. If no written recommendation is issued within such ten-day period, the planning commission shall be presumed to make a positive recommendation. Not more than thirty (30) days following receipt of the planning commission's recommendation, the city council shall render a decision to approve, approve with conditions, or deny the application, and shall send a written order by certified mail, return receipt requested, to the applicant at the address as shown on the application. The order shall include findings of fact and a final decision concerning the approval or denial of the application.
  - D. The order of the city council or hearing officer made pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4). For purposes of any appeal, the decision of the city council or hearing officer shall be final upon the earlier of the date of the applicant's receipt of the order or four days following the date of mailing.
  - E. To facilitate prompt judicial review of any appeal from the city council or hearing officer to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4), the city shall agree to an expedited briefing schedule in which each of the deadlines otherwise required for filing of the opening brief, answer brief and reply brief are shortened by at least ten (10) days. The City shall proffer to the applicant a joint motion to the court requesting prompt judicial attention to, and acceleration of, the appeal in accordance with Colorado Rules of Civil Procedure 106(a)(4)(VIII).

(Ord. No. 2010-5, § 3, 8-17-10)

#### **17.89.060 Revocation.**

- A. A conditional use permit for a sexually oriented business may be revoked in accordance with section 17.52.050 if any conditions imposed with approval of the permit are violated. In addition, the revocation process may be initiated upon a finding of any of the following factors:
  - 1. That three repeated disturbances in a six-month period of public peace have occurred within the establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the establishment involving patrons, employees of the applicant or the applicant him/herself.
  - 2. That the applicant or any employees thereof have illegally offered for sale or illegally allowed to be consumed or possessed upon the premises or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the premises, narcotics, dangerous drugs, fermented malt beverages or any malt, vinous or spirituous liquors.
  - 3. That the applicant or manager or his or her designee is not upon the premises at all times that the sexually oriented entertainment is being provided.
  - 4. That the applicant, manager or any employee has allowed patrons to engage in public displays of indecency or has allowed patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution within the establishment or upon any parking areas, sidewalks, accessways or grounds immediately adjacent to the establishment, when the applicant, manager or employee knew or should have known such displays or acts were taking place.
  - 5. That the applicant is delinquent in payment to the city, county or state any taxes or fees past due.
  - 6. That the applicant, manager or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur within the premises.
  - 7. That on two or more occasions within a twelve-month period, a person or persons committed a crime involving pandering, prostitution, obscenity or any other crime that is connected with operating a sexually oriented business, in any jurisdiction, in which a conviction or plea of nolo contendere has

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been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed.

- B. Where the city seeks to revoke a conditional use permit, a conditional use permit holder shall be entitled to notice and a quasi-judicial hearing before the city council in accordance with section 17.52.050, and the right to appeal conducted in the same manner as a hearing for suspension as provided by section 6.5.302.

(Ord. No. 2010-5, § 3, 8-17-10)

**17.89.070 Transferability.**

- A. Permits issued under this section shall not be transferable except as provided herein. Any change in the partners of the partnership or in officers, directors or holders of ten percent (10%) or more of the stock of a corporate licensee holding a conditional use permit for a sexually oriented business shall result in termination of the permit unless the applicant files a written notice of change to the planning official within thirty (30) calendar days of any such change. The written notice shall include the names of all new partners, officers, directors and all holders of ten percent (10%) or more of the corporate stock who were not previously holders of such amount of stock.
- B. When a permit has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new permit. All rights and privileges granted under the original permit shall continue in full force and effect to such survivors for the balance of the permit.
- C. Each permit issued under this section is separate and distinct and no person shall exercise any of the privileges granted under any permit other than that which he or she holds. A separate permit shall be issued for each specific business or business entity and geographical location.

(Ord. No. 2010-5, § 3, 8-17-10)

**17.89.080 Zoning districts where allowed.**

- A. It is unlawful to operate or cause to be operated a sexually oriented business in any location except as provided in conformance with this chapter and any other applicable provisions of the Leadville Municipal Code, as may be amended.
- B. Sexually oriented businesses shall only be allowed with the approval of a conditional use permit on properties in the Commercial (C) zoning district as long as the conditions of this chapter are met.

(Ord. No. 2010-5, § 3, 8-17-10)

**17.89.090 Compatibility with adjacent land uses.**

- A. A sexually oriented business shall not be operated, established, substantially enlarged, or have its ownership or control transferred, if it is within five hundred (500) feet of a:
  - 1. Church;
  - 2. Public or private school, day-care home, day-care center, or day-care school;
  - 3. Public park; or
  - 4. Another sexually oriented business.

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- B. For the purpose of these review standards, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the parcel upon which the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of the church or school, day-care home, day-care center, or school; park, or to the other parcel containing another sexually oriented business.
  - C. No more than one sexually oriented business may be operated, established, or maintained in the same building, structure or portion thereof, or the floor area increased of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
  - D. Advertisements, displays or other promotional materials displaying, depicting, or describing specified anatomical areas or sexual activities shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks, or walkways from other areas outside the establishment; and all building openings, entries and windows for sexually oriented businesses shall be located, covered or screened in such a manner as to prevent the interior of such premises from being viewed from outside the establishment.

(Ord. No. 2010-5, § 3, 8-17-10)

#### **17.89.100 Age restrictions.**

A licensee, owner, manager or any employee of a sexually oriented business shall not allow or permit anyone under the age of eighteen (18) years to be in or upon a sexually oriented business, except for establishments which offer on-premises viewing of films or videos or have live entertainment, in which case the age restriction shall be twenty-one (21) years.

(Ord. No. 2010-5, § 3, 8-17-10)

#### **17.89.110 Standards of conduct.**

All employees or performers of a sexually oriented business that offers or conducts live adult entertainment shall adhere to the following standards of conduct:

- A. No employee or performer shall mingle with patrons or serve food or drinks while exposing specified anatomical areas.
- B. No employee or performer shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- C. No employee or performer shall perform any obscene acts, which simulate specified sexual activities.
- D. No live adult entertainment performance shall be visible anywhere outside of the sexually oriented business.
- E. All performances shall take place upon a stage, which shall be fixed and immovable. No audience seating shall be permitted within one foot of any edge of the stage. No patron shall be permitted upon the stage or within one foot of any edge of the stage.
- F. Any employee of a sexually oriented business may receive tips from patrons, except that such tips shall be offered by patrons and received by employees by hand to hand only and in no other manner. The one-foot separation requirement of subsection E. above shall not apply to this hand-to-hand tip provision.

(Ord. No. 2010-5, § 3, 8-17-10)

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### **17.89.120 Right of entry.**

The application for a sexually oriented business' conditional use permit shall constitute consent of the applicant and his or her agents or employees to permit the Leadville Police Department or any other authorized agent of the city to conduct routine inspections of any permitted sexually oriented business during the hours the establishment is conducting business.

(Ord. No. 2010-5, § 3, 8-17-10)

### **17.89.130 Lighting requirements.**

- A. All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking area and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
- B. The premises of all sexually oriented businesses, except sexually oriented motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where patrons are permitted access to provide an illumination of not less than two foot-candles of light as measured at the floor level.
- C. Sexually oriented motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where patrons are permitted access to provide an illumination of no less than one foot-candle of light as measured at the floor level.

(Ord. No. 2010-5, § 3, 8-17-10)

## **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

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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)

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### **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:

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- 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.
  - 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;

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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.
- 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)

## **Chapter 17.96 APPLICATIONS AND FEES**

### **Sections:**

#### **17.96.010 Submittal copy requirements.**

- A. This section establishes requirements for the number and type of submittal copies that shall be prepared and submitted to the city for processing applications for proposed land use changes and related actions.



- B. General Provisions. The number of submittal copies required herein for making and processing applications to the city for proposed land use changes and related actions is in addition to the requirement for completing application forms and transmitting application fees to the city. Designated city staff may notify applicants that the processing of individual applications shall require more or less than the number of submittal copies specified in this title and the staff person shall, at the request of an applicant, provide such notification in writing.
- C. General Submittal Copy Requirements. In addition to any other requirements for submittal materials contained elsewhere in this title, all submittal materials transmitted to the city shall be neatly and clearly drawn, legible, clear, free of errors and inaccuracies and, when specified, capable of clean reproduction on conventional copying equipment. Failure to satisfy any of these conditions shall be sufficient reason for the planning commission or city council to reject submittal materials from an applicant and return the materials for appropriate modification or amendment.
- D. Submittal Copies Required. The following number of submittal copies shall be required except as otherwise provided for, as a precondition for the acceptance and processing of applications for proposed land use changes and other related actions.

**Table 6**

Item	Copies
1. Zoning text amendment	12 copies
2. Zoning map amendment	12 copies
3. Conditional use permit and Title 17.18 applications	12 copies
4. Variance application	12 copies
5. Sign permit application	1 copy
6. Additional copies for referral review	As specified

(Ord. 99-8 § 1 (part): prior code §§ 17.28.010—17.28.040)

**17.96.020 Filing and application.**

- A. This section establishes fees, adopted periodically by city council resolution, to be paid to the city for the anticipated and projected cost of processing applications for proposed land use changes provided for in this title. The purpose of this section is to insure that the costs to the city of processing and reviewing applications for land development approval is fairly borne by the applicants for such approval.
- B. Conditions of Fee Payment. No applications for land use changes requiring a fee as established herein will be accepted by any employee, agent, board or commission of the city for processing without payment of the required application fees. All fees are payable to the order of the city of Leadville in the form of cash, check or money order. Fee payments that do not clear due to insufficient funds shall cause all processing and review of an application to be halted immediately and such processing and review shall not continue until proper payment has been made to the city.

All fees paid, except for sign permit fees, are nonrefundable except that refunds shall be made to applicants who provide written notification to the city of a withdrawal of an application prior to its initial consideration by the planning commission, or if no planning commission review is required, its initial hearing before city council.

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- C. **Fee Requirement and Exemptions.** The fees included in this section shall be paid by all applicants requesting or proposing land use changes requiring payment of an application fee as listed herein with the following exceptions:
1. All city departments, agencies, boards and commissions are exempt from paying fees otherwise required herein.
  2. Upon written request of a public agency or a not-for-profit applicant to city council requesting an adjustment or an exemption from any of the fees contained herein, and a statement of the reasons why such fee change or waiver should be granted, city council shall consider the matter at a regularly scheduled meeting and grant such requests in cases where the characteristics of the application would cause the established application fees to represent an unreasonable burden upon the applicant.
- D. **Amendments to Fee Structure.** City council may modify, eliminate or add to the established fees by adopting new fees by resolution.
- E. **Application Fees.** An application fee for land use changes provided for in this title shall be paid by the applicant to cover administrative costs associated with processing applications, including but not limited to, costs to review applications for completeness, set public hearings, coordinate with consultants, and other administrative tasks.
- F. **Consultant Review Fee.** In addition to payment of an application fee, as required in subsection E of this section, applicants shall pay fees for review by planning, engineering, legal, scientific and other expert personnel retained by the city in the amount of such charges incurred by the city. When, in the judgment of the city, such independent expert review and analysis is required, those fees shall be added to the application fees contained herein and charged to the applicant. Payment of such consultant review fees by the applicant to the city shall be a precondition for granting all permits or approvals requested by the applicant. Upon receipt of an invoice from the city for consultant review or application fees, the applicant shall make full payment to the city within ten (10) days of the date of such invoice. If payment has not been received within this period, the city may suspend or terminate review of an application.
- In addition, applications for proposed land use changes requiring legally mandated state of Colorado agency reviews by agencies charging fees for such review services shall be assessed supplement fees in the amount of such charges incurred by the city. Such supplemental fees shall be paid by the applicant directly to the billing agency as a precondition for granting all required permits and approvals.
- Applicants for conditional use permits included within Section 17.52.060 may petition the planning commission for a reduction in the application or consultant review fee for such permits (to an amount to be determined) when the fee would represent a burden or hardship to the applicant or when, in the case of a minor action, the fee is not justified by the amount of review time required to reach a decision.
- G. **Fee Structure.** The fee structure for the processing of applications for proposed land use changes is available in the planning and zoning office.

(Ord. 03-12 §§ 1, 2 and 3; Ord. 99-8 § 1 (part); prior code §§ 17.29.010—17.29.070)

### **17.96.030 General application form.**

- A. The general application form is the standard form used to make application to the city for nearly all proposed land use changes and related actions requiring notification of or approval by the city. Required copies of this application form, with all required fees, shall be submitted for all proposed actions included in this and related titles of this code.
- B. **Administration.** This general application form is provided for the convenience and information of users of this title and is declared not to be adopted as a portion of this title and may be changed by administrative

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action by the planning commission or employees of Leadville with the approval of city council without need for a public hearing.

(Ord. 99-8 § 1 (part): prior code § 17.32.010)

## **Chapter 17.100 ENFORCEMENT AND PENALTIES**

### **Sections:**

#### **17.100.010 Violations.**

It is unlawful for any person, firm or corporation to erect, construct, reconstruct or structurally alter any building or structure within the city, or to use any building, structure or land within the city, or to cause or permit the same to be done, contrary to or in violation of this title.

(Ord. 99-8 § 1 (part): prior code § 17.30.010)

#### **17.100.020 Penalties and remedies.**

- A. Any person who violates any provision of this title shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than the fine set forth in Section 1.20.010(A), by imprisonment not to exceed one year, or by both such fine and imprisonment. Each separate act in violation of the provisions of this title, or each and every day or portion thereof during which any separate act in violation of this title is committed, continued, or permitted, shall be deemed a separate offense. The minimum fine of two hundred fifty dollars (\$250.00) shall be mandatory and shall not be suspended in whole or part.
- B. The city attorney may immediately, upon a violation being called to his or her attention, institute injunctive, abatement, or other appropriate action to prevent, enjoin, abate or remove such violation.
- C. The imposition of any penalty hereunder shall not preclude the city or an affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this title, including injunctive relief.
- D. Any remedies provided for in this title shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(Ord. 03-2 § 7 (part): Ord. 99-8 § 1 (part): prior code § 17.30.020)

(Ord. No. 2014-2, § 8, 3-18-14)

#### **17.100.030 Complaints and inspection.**

- A. Any person(s) aggrieved by a violation or alleged violation of any provision of this title may file a written complaint with the planning commission, which shall promptly investigate such complaint and take the appropriate administrative and/or legal action, as prescribed in this title and as allowed by the laws of the state, to have the violation, if it is found to exist, removed and/or penalized.
- B. Whenever necessary to make an inspection to enforce any provisions of this title, or whenever city council, the planning commission, planning official or other designated enforcement official has reasonable cause to believe that a building, structure or parcel of land is being erected, constructed, reconstructed, altered or used in violation of the provisions of this title, the planning official or other designated enforcement official may enter such building, structure or land at all reasonable times to inspect the same or to perform any duty

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imposed upon them by this title; provided, that if such building, structure or land is occupied, they shall first present proper credentials and request entry from the owner or resident. If such entry is refused, the planning official or other designated enforcement official shall have recourse to every remedy provided by law to secure entry to include obtaining a proper search warrant if required by law.

- C. No owner, occupant or any other person having charge, care or control of any building, structure or land shall fail or neglect, after proper demand is made as herein provided to properly permit entry by city council, the planning commission, planning official or other designated enforcement official for the purpose of inspection and examination pursuant to this title. Any person convicted of violating this subsection shall be punished as provided in Chapter 1.20.

(Ord. 99-8 § 1 (part): prior code § 17.30.030)

#### **17.100.040 Authority to withhold permits.**

City council and the planning official may enforce this title by withholding building permits and certificates of occupancy (see Section 17.04.090).

(Ord. 99-8 § 1 (part): prior code § 17.30.040)

#### **17.100.050 Notice of violations.**

- A. Whenever the planning official has knowledge of any violation of this title, the planning official shall give written notice to the violator to correct such violation within ten (10) days after the date of such notice. Should the violator fail to correct the violation within such ten (10) day period, the planning official may request the issuance of a summons and complaint to the violator in accordance with the applicable rules of procedure.

(Ord. 99-8 § 1 (part): prior code § 17.30.050)

#### **17.100.060 Nonliability of the city and its employees and contractors.**

- A. This title shall not be construed so as to hold the city responsible for any damages to persons or property resulting from any inspection herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided in this title or resulting from the institution of court action also herein set forth or the forbearance of the city to so proceed.
- B. Any city official, employee, consultant or contractor to the charged with the enforcement of this title, acting in good faith, without malice and in compliance with the provisions of this title, shall not thereby render themselves personally liable for any damages which may accrue to persons or property resulting from any such act or omission. Any suit or proceeding instituted against such officials or employees of the city which arises from any such act or omission occurring in the course and scope of such officials' or employees' duties as set forth in this title shall be defended by the city attorney until final determination of the proceedings.
- C. See also Section 17.04.080 which applies to all portions of this title.

(Ord. 99-8 § 1 (part): prior code § 17.30.060)