



# CITY OF LEADVILLE

800 HARRISON AVE.  
LEADVILLE, CO 80461

## CITY COUNCIL WORK SESSION MEETING

### AGENDA

Tuesday  
January 24, 2023

6:00 P.M.

**Council Chambers & Zoom**

<https://leadville-co-gov.zoom.us/j/83526944548?pwd=aEdjdGtpNlEyZmt5YVQ1bDBQbnN4dz09>

Meeting ID: 835 2694 4548

Passcode: 80461

Dial by your location

+1 719 359 4580 US

- 6:00 pm**
1. **Call to order of Regular Meeting of City Council**
  2. Roll Call
  3. Approval of Agenda
  4. Housekeeping Matters
  5. Public comments about items not on the agenda  
Citizens wishing to speak to Council on issues not on the agenda are requested to send a message in the chat section or raise their hand in the participant's section of Zoom or in person. Staff will call on the public in order. Comments are limited to three (3) minutes (not including council questions). Action, if required, will be assigned to city staff. For matters on the agenda, public input will be heard prior to a vote being taken on the matter.
- 6:15 pm**
6. **National Historic Landmark District Code Amendments Work Session**
- 8:15 pm**
7. Adjournment

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



# MEMO

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**TO:** Mayor Labbe and City Council

**FROM:** Chapin LaChance, AICP - Planning Director

**MEETING DATE:** January 24, 2023

**SUBJECT:** Work Session regarding amendments to Title 17 – National Historic Landmark District Overlay

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Staff appreciates the opportunity to discuss the attached proposed code amendments with the City Council at the Work Session. Staff would like to preface the discussion with some background information regarding historic preservation in Leadville. A summary of the proposed code amendments is also provided below.

## Historic Preservation in Leadville

### Comprehensive Plan

The [2015 Leadville Comprehensive Plan](#) is the statutorily required advisory document that guides municipal code amendments and other planning related decisions. This is the City’s “Constitution” that lays out the value system for the City of Leadville. The Comprehensive Plan makes numerous references that speak to the importance of historic preservation in Leadville, which are shown in the attached Appendix. The Comp. Plan references the historic downtown as one of the community’s greatest assets, and identifies historic preservation as a goal to support one of the five economic growth strategies for the City.

### National Historic Landmark District

Leadville’s historic district was designated a National Historic Landmark District by the National Park Service of the U.S. Department of the Interior in 1961. The program was created to recognize the nation’s most significant historic places. Leadville is listed as a National Historic Landmark because of its outstanding national significance. It is one of only 26 National Historic Landmarks in Colorado, along with sites such as Bent’s Old Fort, Red Rocks, and the US Air Force Academy, and one of only six cities in the State to hold National Historic Landmark status. The Leadville Historic Landmark District designation was based upon its encompassing of “*a scattered group of distinctive and important historic buildings supported by anonymous dwellings and business establishments that harmonize well with the central architectural themes associate with late 19<sup>th</sup>-century mining towns of the West. The anonymous architecture – frame, brand and stone – is varied in style but conveys in its details the Victorian flavor of the historic period.*”

The City's 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;
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.

#### Certified Local Government

The City of Leadville has been a Certified Local Government (CLG) through the State Office of Historic Preservation and the National Park Service since 2013. The City is one of 67 CLGs in the state. This certification represents that the City is certified to participate in the National Preservation Program while maintaining standards consistent with the National Historic Preservation Act and Secretary of Interior Standards for Archaeology and Historic Preservation. Benefits of this certification include eligibility to receive grant money, as well as various support from the State. Requirements of this certification include regular reporting to the State, public meeting procedures, and audits every four years.

#### Historic Preservation Commission

This Commission is appointed by the Mayor with consent of the Council. The full description of the HPC's powers and duties are explain in [Chapter 2.48](#) of the Code. Like the Planning and Zoning Commission, the **HPC is an advisory body to City Council**. For applications related to certain alterations, demolitions, relocations, or new construction, the HPC makes recommendations to the City Council for either approval, approval with conditions, or denial of these applications.

#### Harrison District Design Guidelines and Residential Infill Guidelines

The [Harrison District Design Guidelines](#) were adopted in 2014. These guidelines apply to all properties within the Retail Core. The [Residential Infill Guidelines](#) apply to any new construction within the NHL District. The City does not have any currently adopted Guidelines or Standards for modifications or additions to existing historic structures or for any kind of commercial development within remainder of the the NHL District.

### **Proposed Amendments**

At the HPC's request, staff asked the City Attorney to prepare the attached draft amendments to Chapter 17.44 National Historic Landmark District Overlay District. These amendments would accomplish the following:

- 1) Ensure that new construction, additions, exterior alterations within the NHL District are reviewed for substantial compliance with appropriate design guidelines,
- 2) Address the 6-month loophole for demolition of historic buildings, and
- 3) Allow staff site visits to properties with a pending Certification of Appropriateness application.

Expanding the Applicability of the NHL District Regulations

Currently, the NHL District regulations are limited to new construction or exterior alterations of structures within the Retail Core (RC) zoning district, exterior alterations to the 59 historic structures listed in the Leadville historic building inventory, and demolition of historic structures in the NHL district of the City.

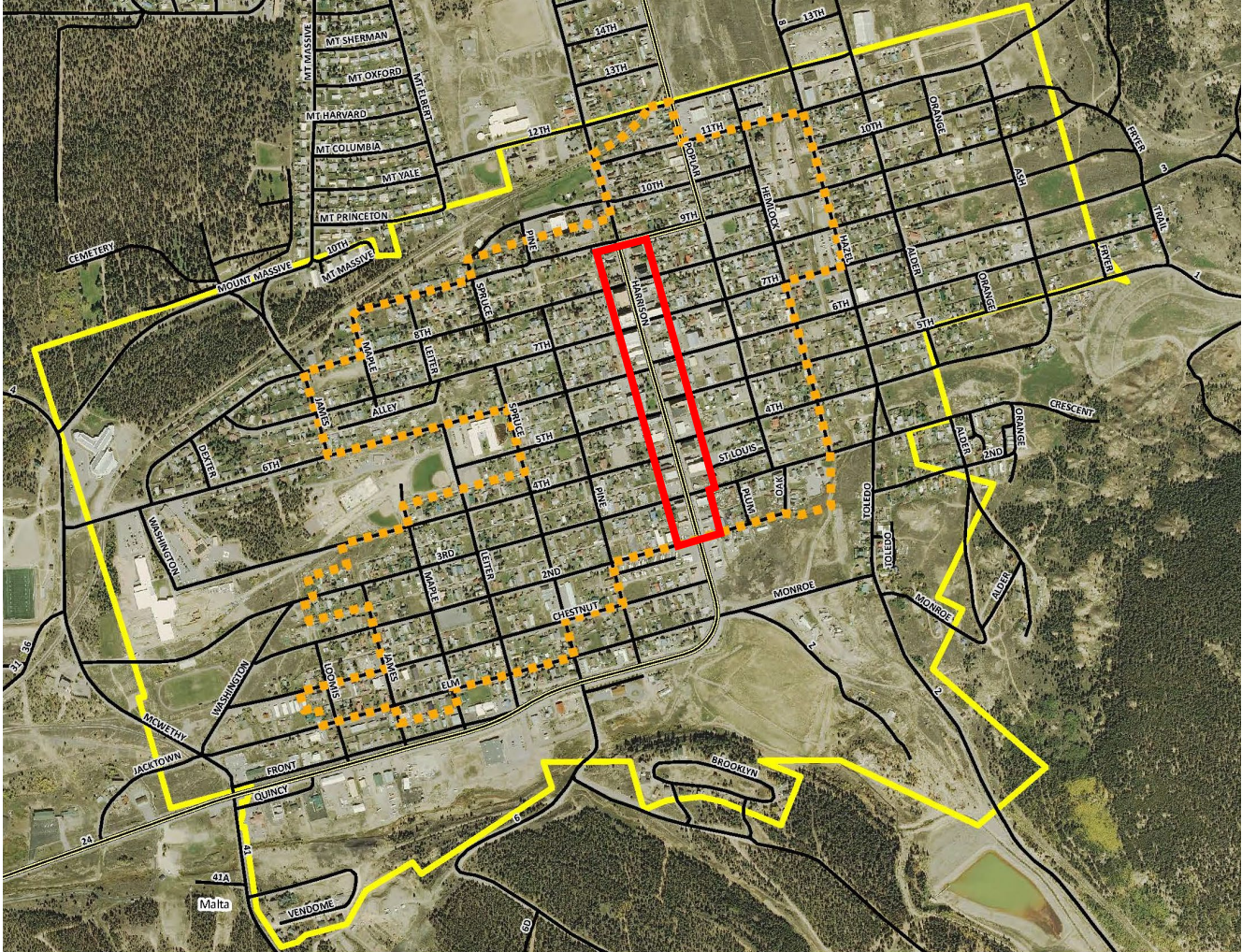


Image 1 (above): Yellow = City boundary, Orange = NHL District Boundary, Red = Retail Core (RC) Zone

Below are statistics for COA applications subject to the current applicability over the past three years. Considering the unique federal designation of the City’s historic district, and the development pressures facing the City in recent years due to the current real estate market, staff is concerned regarding the number of exterior alterations and additions to historic structures that could occur without being subject to any historic guidelines or HPC review.

Year	Total COA applications	Demolitions
2020 (No HPC)	4	2
2021	22	4
2022	10	2

- Case study: 218 E. 9<sup>th</sup> St. addition: In 2021, the City of Leadville received a COA application for an addition to a historic structure at 218 E. 9<sup>th</sup> St. (see rendering below). Because the property is located outside of the retail core, and the addition was not on a vacant lot and therefore not subject to the Residential Infill Guidelines, the application was approved as insubstantial without requiring approval by the HPC or compliance with any historic guidelines. This addition was significantly out of character with the historic structure and the NHL District, and risks the structure’s contributing status to the NHL District.



Image 2 (above): 3D rendering or proposed addition to historic structure at 218 E. 9<sup>th</sup> St.

- Case study: Breckenridge, CO National Register Historic District. In Breckenridge in 2018, the State Office of Historic Preservation removed 21 (18%) of their 118 original historic structures from contributing statuses in the National Register Historic District, due to non-compatible additions and alterations to those historic structures. This created a risk to Breckenridge’s National Register Historic District designation, necessitating moratoriums on development, numerous public hearings, open houses and public meetings, and revisions to the historic design standards to prevent further loss of contributing status.

Staff finds it is appropriate for projects which are outside of the RC Zone to be subject to the NHL regulations, other than solely demolition. It is imperative to anticipate future development, and subject future development to appropriate guidelines which ensure such development is approved without compromising the integrity of historic properties and the NHL District. Initial criteria for review can be the already adopted [Secretary of Interior Standards](#), until such time that these additional areas and cultural resources of the NHL District can be professionally surveyed and appropriate unique guidelines established.

#### 6-Month Demolition Loophole

Section 17.44.070 currently allows for an automatic approval for demolition of a historic building six (6) months after denial of the original application. Allowing demolition of historic buildings without sufficient justification could have a disastrous long term effect on the City’s NHL District, in addition to the loss of the individual cultural resources themselves. If certain structures or too many structures are demolished, the City could lose the National Historic Landmark District designation.

Title 16 Subdivision Regulations and Title 17 Zoning Regulations combined contain a total of 10 various approval processes. Except for the NHL District regulations, none of these processes include an automatic approval process after an initial denial. Staff is unaware of any local mountain communities in Colorado who have a similar automatic approval process in their respective subdivision, zoning, land use, or development codes. Staff recommends the Council amend the code so that any additional application for demolition of a historic structure that is submitted after an initial denial will be subject to the code in effect at the time of the re-application. If

the Council has concerns with the content of the municipal code after denying an application for demolition, it is within the Council's purview to direct staff and the City Attorney to prepare an ordinance to amend the code to the Council's satisfaction. Once the ordinance is effective, the previously denied applicant may apply for approval of the demolition under the newly effective code.

#### Site Visits

The proposed amendments would allow the Planning Official and the Advisory Committee Members to conduct a site visit (if deemed necessary and with the property owner's consent) to the property owner in order to inspect the site and structure and take photographs to include in the staff report to the HPC. An example of when this might occur is when an applicant proposes to make modifications to a primary historic façade and staff needs to report to the Commission as to whether historic door or window openings are being modified.

## **Appendix: Key references to historic preservation in 2015 Comprehensive Plan**

ECONOMIC GROWTH STRATEGY, *Downtown Support and Revitalization*, Page 8:

*“Leadville’s **historic downtown is one of the community’s greatest assets**. The historical significance provides a backdrop that creates pride for its residents, respects the rich historical context of the city’s physical form and is a draw for visitors. The Comprehensive Plan builds on and incorporates the 2014 Downtown Assessment by Downtown Colorado Inc. The Downtown Assessment provides a foundation for improving and capitalizing on the charm and unique character of the historic town core, developing strategies that harness and enhance existing assets, and encouraging appropriate and sensitive redevelopment and infill... The Leadville Historic Preservation Commission also serves a critical role in ensuring that future development relates to and respects the historic context of downtown.”*

ECONOMIC GROWTH ELEMENT GOALS AND STRATEGIES, *HISTORIC DOWNTOWN*, Page 24:

*“Introduction: The Historic Downtown Core of Leadville is one of the city’s greatest assets. The city possesses some of the **most representative and best-preserved architectural examples of mining heritage in the state**. These buildings and the compact development pattern tell a story of where Leadville and its people came from, and the **preservation of this precious resource is an important economic development goal**. Capitalizing on these resources by improving and maintaining assets within the historic core will pay dividends in the form of increased heritage tourism and momentum for a long-term strategy for enhancing the downtown.”*

**GOAL 2.3 –PROVIDE SUPPORT AND RESOURCES TO ENSURE THE PRESERVATION AND MAINTENANCE OF HISTORIC STRUCTURES AND LANDMARKS IN THE DOWNTOWN CORE.**

*Strategy A – Work with the Historic Preservation Commission to develop a long-term strategy and funding sources (local, state and federal) to provide for financial assistance for property owners to pursue historic preservation efforts.*

**GOAL 2.4 – WORK WITH THE HISTORIC PRESERVATION COMMISSION TO ENSURE THAT THE REDEVELOPMENT AND INFILL IN THE HISTORIC DISTRICT ARE CONSISTENT AND DO NOT COMPROMISE THE INTEGRITY OF EXISTING HISTORIC VALUES.**

*Strategy A – Condense elements from the Historic Development Guidelines that pertain to redevelopment into concise standards listing specific parameters about scale, height, materials, colors, uses, architectural style, parking and other physical planning guidance to guide consistent and sensitive redevelopment in the Historic District.*

*TOURISM MARKETING AND VISITOR SERVICES, GOAL 2.10 – CAPITALIZE ON THE HERITAGE ASSETS TO ATTRACT VISITORS AND ENRICH THE VISITOR EXPERIENCE*, Page 29. **Strategy A – Support historic preservation efforts to sustain heritage assets.**

*CITY FUTURE LAND USE PLAN DESIGNATIONS, DOWNTOWN*, Page 53: *Downtown is the historic center of commerce, celebrations, competitions and civic life. The most important priority for the future of downtown is to maintain and enhance the characteristics that have proven successful in the past. The intent is to stay true to the character of the historic downtown and yet encourage future development and redevelopment that will strengthen and expand the core of the community. A primary component of this will be to preserve and build support and resources to **ensure the preservation and maintenance of historic structures and landmarks in the downtown core** and to respect and relate to this historic character.*

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## 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.

### 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;
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~~ a 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

Commented [CM1]: Repetitive (see 17.44.010).



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.

#### 17.44.030 Applicability.

A. These regulations shall apply to:

1. All new construction within the ~~retail-core~~NHL district;
2. Any exterior alterations to any structure, existing at the date of adoption of the ordinance codified in this chapter within the ~~retail-core~~NHL 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.
4. Demolition of any historic structure in the NHL district of the city.

B. These regulations shall not apply to:

1. Any interior alteration, renovation, repair, reconstruction or rehabilitation of a historic structure, landmark, or for any other building or structure within the NHL district; or
2. Ordinary exterior maintenance and/or repair to any structure or building within the NHL district if such work involves and is carried out using materials and elements identical in appearance to the materials and elements being repaired or worked on, and such maintenance and/or repair does not substantially alter the appearance, composition or texture of the exterior appearance, feature or surface of the building or structure. Any additions to buildings or structures not listed in the Leadville Historic Building Inventory.

C. Nothing in this chapter shall prohibit the issuance of orders or correction notices, or the implementation of emergency enforcement actions, authorized by law for the purpose of correcting or abating conditions relative to any landmark, contributing or other building, structure or site determined to be dangerous to life, health or property in accordance with building and/or life and safety codes duly adopted by the city, and/or such other governing authority with jurisdiction, including, when deemed necessary, the demolition or partial demolition of a building or structure. However, when the need for emergency action is not present, all work or activity normally subject to the provisions and procedures contained in this chapter shall be undertaken and performed in compliance therewith.

**Commented [CM2]:** These new provisions replace subsections 17.44.040.B and C below.

#### 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~~ ~~planning official~~ 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 ~~an~~ insubstantial modification, ~~the planning official shall issue a COA administratively at no charge and without further review by HPC or city council, 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~~ ~~city~~, 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.~~
  - 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 and planning official.~~

~~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.~~

**Commented [CM3]:** Change if definitions moved to above section.

**Commented [CM4]:** I recommend moving these definitions to the above section that contains the other definitions for this chapter.

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~~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.~~

~~B.~~ 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.

#### **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.

- 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.

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- 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.

#### 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~~ may be approved administratively by the planning official where the proposed structural or cosmetic change is ~~approved administratively~~ determined to be as an insubstantial ~~project or activity~~ modification 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.
  2. The city shall issue an ~~automatic a~~ COA administratively and 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. Site Plan. A site plan or plans no smaller than eleven by seventeen inches drawn to a scale and with a 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. Additional Drawings. Other such architectural renderings, elevation plans and related information the historic preservation commission may deem necessary to reach an informed decision.
4. Photographs. Photographs reasonably and accurately depicting the current status of the building, structure, site, or the relevant portion thereof that is the subject of the application. Applicants shall include photographs depicting all sides of a structure, particularly the front and any side affected by the proposed project. Applicants shall also include detailed photographs of the building features affected by the proposed project.
5. Bids. If proposing to replace existing historic materials or features with replicas rather than repairing or restoring the features, firm bids must be provided for both restoration and replication.
6. Materials. All materials and finishes and the manufacturer's product literature and material samples for the materials and finishes shall be provided. Product literature is required for replacement windows.

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.

a. 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 make an initial determination of determine whether the proposed project is substantial or insubstantial in accordance with Section 17.44.040.

b. 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 an initial determination as to whether the project or activity is insubstantial or substantial, which initial determination is subject to the final determination of the planning official following submission of a complete application.

2. Submittal of Complete Application ~~for Substantial Projects.~~

a. The city shall not process any application until an Applicants ~~must~~ submit a complete application for a COA, including any required materials, as confirmed through the pre-application meeting with the HPC advisory committee, and payment of application fees as may be established by the city council.

b. Complete applications must include seven copies of all materials for substantial projects that were initially determined to be substantial during the pre-application meeting.

c. The city planning official or designee 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.

d. Following receipt of a complete application, the planning official shall make a final determination of whether the application is for a substantial or insubstantial modification pursuant to section 17.44.040.

**Commented [CM5]:** Revise and move the definition of "HPC Advisory committee" to definitions section above.

- e. The planning official shall administratively issue a COA for any insubstantial modification within seven (7) days of the date the application is deemed complete.
- f. If, following review of the application, the planning official determines a site visit would provide information necessary for the HPC to review and make an informed recommendation on the application to city council, the planning official or designee may, with consent of the applicant or property owner if applicant is not the property owner, conduct a site visit prior to forwarding the application to the HPC. With consent of the applicant or property owner, the HPC advisory members may attend the site visit. Any observations, information, photographs, and recommendations from the site visit shall be included in the planning official's written report to the HPC.
- a-g. Once the application is deemed complete, ~~the~~ the planning official will forward the application for any substantial modification to the HPC for review. The planning official or designee shall also provide a written report to the HPC which summarizes the application's compliance with the review standards contained in subsection D of this section and other applicable provisions of this chapter and the code. The technical and professional recommendations of other agencies, departments, and consultants shall be solicited in drafting the report as needed.

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 and report from the planning official, 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 recommendation on the applicable guidelines. The HPC may continue the consideration of an application if necessary 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 for a historic structure, national historic landmark, or contributing building or structure, 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;
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.

E. In deciding whether to issue a COA for a non-historic, nonlandmark, or noncontributing building, structure or site within the NHL district, the HPC and city council shall consider the following minimum criteria:

1. Enhance District. Whether and/or to what extent the proposed work will enhance and advance the purposes and intent underlying the establishment of the NHL district.
2. Overall Character. New structures and additions to, or the exterior repair or alteration of, existing non-historic, nonlandmark, or noncontributing structures shall be compatible with the historic architectural character, scale, shapes, sizes, heights, façades and materials predominant in the district to the maximum extent feasible.
3. Specific Compatibility. New structures and additions to, or the exterior repair or alteration of, existing non-historic, nonlandmark, or noncontributing structures shall harmonize with neighboring historic, landmark and/or contributing structures or sites with regard to height, scale, shape, size, façade, materials, setback, landscaping and exterior architectural features to the maximum extent feasible.

**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) and 17.44.060(B);

**Commented [CM6]:** This section was added because the applicability section was amended to allow review of COAs for the exterior alteration of any structure in the NHL district and these review criteria are better-suited to noncontributing/non-historic structures. It may not be necessary to have both 2 and 3 here.

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 preserve the structure, such as efforts to sell the structure to a new owner who would save the structure from demolition.
4. Any report or other official document issued by a fire department official or the building official declaring the structure proposed for demolition to be unsafe.
5. For historic, landmark, or contributing structures that have not been declared unsafe by the fire marshal or building official, the applicant must submit a report prepared by an architect, appraiser, engineer, or other qualified person experienced in the rehabilitation, renovation, and/or restoration of historic structures addressing:
  - a. The structural soundness of the building or structure and its suitability for rehabilitation, renovation, restoration, or relocation;
  - b. The economic and structural/engineering feasibility of the rehabilitation, renovation or restoration of the structure at its current location; and
  - a-c. The economic and structural/engineering feasibility of relocating the structure.

C. Application Review Process.

1. Pre-Application Meeting. Applicants for a COA for demolition shall meet with the ~~historic preservation commission~~ planning official or designee in an informal pre-application ~~study session meeting~~ to discuss the proposed demolition and the possible alternatives to demolition.
2. Submission of Complete Application.
  - a. The city shall not process any application until an applicant submits a complete application for a COA, including any required materials, as confirmed through the pre-application meeting with the planning official and payment of application fees as may be established by the city council.
  - b. Complete applications must include seven copies of all materials.
  - c. The city planning official will review the application for completeness and will contact the applicant within seven (7) business days of receipt if there are omissions or questions concerning the application.
  - d. If, following review of the application, the planning official determines a site visit would provide information necessary for the HPC to review and make an informed recommendation on the application to city council, the planning official or designee may, with consent of the applicant or property owner if applicant is not the property owner, conduct a site visit prior to forwarding the application to the HPC. With consent of the applicant or property owner, the HPC advisory members may attend the site visit. Any observations, information, photographs, and recommendations from the site visit shall be included in the planning official's written report to the HPC.
  - e. Following receipt of a complete application, the planning official will forward the application to the HPC for consideration at a public hearing. The planning official or designee shall also provide a written report to the HPC which summarizes the application's compliance with the review standards contained in subsection F of this section and other applicable provisions of this chapter. The technical and professional recommendations of other agencies, departments, and consultants shall be solicited in drafting the report as needed.

**Commented [CM7]:** The purpose of this change is to make procedures more standardized. This language is primarily from the COA procedures for non-demolition COAs above.

**Commented [CM8]:** HPC has hearings on demolition COAs, so it is not proper procedure for quasi-judicial proceedings to have the HPC engage in ex parte communications about an application at a pre-application meeting. I recommend having staff do the preapplication meeting.



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D. HPC Hearing. Applications for a COA shall be considered by the HPC at a public hearing that is noticed in accordance with the hearing notice requirements for processed in the same manner as applications for a conditional use permit (see Chapter 17.52). HPC recommendations to city council on COA applications following the public hearing shall be in writing and shall state the reasons for HPC's recommendation. The HPC will base its decision on the applicable guidelines, including the application approval criteria set forth in this section. The HPC may continue the hearing on an application to a time and date certain if necessary to obtain additional information from the applicant.

E. City Council Hearing. HPC's recommendation will be forwarded to city council for a final determination at a public hearing that is noticed in accordance with the hearing notice requirements for a conditional use permit set forth in chapter 17.52. 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 or other permits necessary to complete the proposed work may be issued only after approval of a COA.

FE. No demolition of a historic structure within the NHL district may occur except as provided in this subsection FE. 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.
5. In the case of archeological sites, whether archeological 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 with or without reasonable conditions; 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. Reapplications shall be subject to the procedures and approval criteria in effect at the time of the reapplication.

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~~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.~~

#### **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.

#### **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.

#### **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.

#### **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.

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- 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.