



# CITY OF LEADVILLE

800 HARRISON AVE.  
LEADVILLE, CO 80461

## REGULAR COUNCIL MEETING AGENDA

Tuesday,  
November 1, 2022

6:00 P.M.

**Council Chambers & Zoom**

<https://leadville-co-gov.zoom.us/j/83526944548?pwd=aEdjdGtpNIEyZmt5YVQ1bDBQbnN4dz09>

**Meeting ID: 835 2694 4548**

**Passcode: 80461**

**Dial by your location**

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- |                  |  |
|------------------|--|
| <b>6:00 pm</b>   | <ol style="list-style-type: none"><li>1. <b>Call to order of Regular Meeting of City Council</b></li><li>2. Roll Call</li><li>3. <b>Executive Session: Legal advice on specific legal questions concerning matters related to the police department pursuant to C.R.S. § 24-6-402(4)(b)</b></li><li>4. Oath of Office for Leadville Police Officer Barnett</li><li>5. Approval of Agenda</li><li>6. Housekeeping Matters</li><li>7. Public comments about items not on the agenda<br/><i>Citizens wishing to speak to Council on issues, <u>not</u> on the agenda are requested to send a message in the chat section or raise their hand in the participants' 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 <u>on the agenda</u>, public input will be heard prior to a vote being taken on the matter.</i></li></ol> |
| <b>6:20 pm</b>   | <ol style="list-style-type: none"><li>8. <b>Consent Agenda:</b><ol style="list-style-type: none"><li>A. Approval of the October 18, 2022 minutes</li></ol></li></ol>   |
| <b>6:25 pm</b>   | <ol style="list-style-type: none"><li>9. <b>Presentations and Discussions</b><ol style="list-style-type: none"><li>A. Stage &amp; Rail Trail, signage cost sharing- Alan Robinson &amp; Mayor</li><li>B. City Administrator Report – Laurie Simonson</li><li>C. Title 16 - Subdivision Regulations Proposed Amendments:<br/>Townhouse, Condominium, and Building Footprint Lot Subdivision (Presentation)</li></ol></li></ol>  |
| <b>7:00 pm</b>   | <ol style="list-style-type: none"><li>10. <b>Actionable Items:</b><ol style="list-style-type: none"><li>A. Ordinance No. 10, Series of 2022: An Ordinance Establishing a Temporary Moratorium on Approval of Certificate of Appropriateness Applications for Demolitions in the National Historic Landmark District (First Reading)</li></ol></li></ol>  |
| <b>7:30 p.m.</b> | <ol style="list-style-type: none"><li>11. Public Meetings Planner</li><li>12. Mayor's Report</li><li>13. Council Reports</li></ol>   |
| <b>8:00 p.m.</b> | <ol style="list-style-type: none"><li>14. Adjournment</li></ol>  |

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



**REGULAR COUNCIL  
MEETING MINUTES**

**Tuesday,  
October 18, 2022**

**6:00 P.M.**

**Council Chambers & Zoom**

1. **Call to order** of regular council meeting at **6:01 pm**.
2. **Roll call:**

**Present:** 6 - Mayor Labbe, MPT Greene, CM Lauritzen, and CM Luna-Leal. CM Forgenski arrived at 6:02 pm. CM Grant appeared online.

**Absent:** 1- CM Hill

**Staff Members Present:** Deputy City Clerk Mayda Silver, Financial Director Dawna Schneider, Planning Director Chapin LaChance, Police Chief Hal Edwards, City Administrator Laurie Simonson, Animal Shelter Manager Caitlin Kuczko, and Street Department Manager Tony Medina. City Attorney Christiana McCormick appeared online. Administrative Assistant Lori Tye arrived at 7:01 pm. Street Department Manager Tony Medina departed at 6:49 pm, Animal Shelter Manager Caitlin Kuczko departed at 7:03 pm, and Police Chief Hal Edwards departed at 7:26 pm.

3. **Approval of the agenda:** City Administrator **moved** to amend the agenda to add an Executive Session.
4. **Executive Session:** At 6:04 pm, CM Greene **moved to go into executive session under Section 24-6-402( 4 )(b) of the Colorado Revised Statutes for legal advice on specific legal questions concerning matters related to the Police Department.**

CM Greene further moved to reconvene the October 18th regular meeting at the conclusion of the Executive Session in order to proceed with the remaining items on the agenda.

CM Grant seconded; Vote was 6-0-0-1.

**At 6:07 pm, the executive session has begun.**

**At 6:27 pm the executive session concluded.**

Participants in the executive session were Mayor Labbe, CM Tracey Lauritzen, MPT Dana Greene, CM Forgenski, CM Shannon Grant, City Administrator Laurie Simonson, Deputy City Clerk Mayda Silver, and City Attorney Christiana McCormick.

5. **Housekeeping Matters:**
  - A. CM Grant wanted to state her concern regarding the sandwich board signs which are obstructing the sidewalk. Mayor Labbe stated that the Street Department has permission to move the signs which are obstructing the sidewalk and are not adhering to the six-foot rule.
  - B. Mayor Labbe spoke regarding President Biden's dedication of Camp Hale as a National Monument. The mayor and City Administrator Laurie Simonson and others who represented the City of Leadville attended.

**6. Public comments for items not on the agenda:**

- A. Tim Bergmann, as a private citizen, spoke regarding the lack of handicapped parking spaces, especially in city-owned lots. Mayor Labbe stated that he will be speaking with the Street Department in the spring regarding the painting of parking spots and the allocation of handicapped parking spaces.

**7. Consent Agenda:**

CM Grant **moved** to accept the Consent Agenda which is the approval of the 10/04/2022 minutes; MPT Greene **seconded**. All present were in favor.

**8. Department Reports**

- a. Departments gave their monthly reports
- b. Bills- CM Luna-Leal **moved** to pay the bills; CM Forgens **seconded**. All present were in favor.

**9. Presentations & Requests:****A. Appointment of New Planning & Zoning Commissioner**

- a. Planning Director Chapin LaChance gave the staff update regarding the Planning and Zoning Commission's vacancy left by Mr. Rod Weston and their recommendation for Mr. Nadim Tannous to serve a six-year term on the Planning and Zoning Commission, with the term expiring 10/18/2028.
- b. Commissioner Tannous spoke to City Council and answered questions.
- c. There being no objections from City Council regarding the appointment, Mayor Labbe appointed Mr. Nadim Tannous to serve a six-year term on the Planning and Zoning Commission, with the term expiring 10/18/2028.

**B. City Administrator Report – Laurie Simonson** updated the City Council regarding the following:

- a. City Administrator Laurie Simonson wanted to thank Chief Edwards and the Leadville Police Department for participating and supporting the security at President Biden's dedication of Camp Hale as a National Monument.
- b. She also stated that she is currently checking references for the Human Resources candidate.
- c. The Tabor Opera House is having an open house on Saturday, October 22<sup>nd</sup>.
- d. CA Simonson has been meeting with each department regarding their thoughts on the FAMLI program. She stated that most employees are not completely familiar with the program. The feedback from employees is that they would participate in the FAMLI program if the city covered 100% of the premiums.
- e. There will be a staff meeting on 11/3/2022.

**10. Resolutions and Ordinances****A. Ordinance No. 10, Series of 2022: An Ordinance Amending Chapter 17.44 of the Leadville Municipal Code Concerning the Regulations Governing Reapplication for a Certificate of Appropriateness for Demolition in the City's National Historic Landmark Overlay District (First Reading)**

City Attorney Christiana McCormick and Planning Director Chapin LaChance spoke and answered questions regarding the Ordinance.

Discussion ensued regarding the Ordinance, conditions of demolition such as reusing salvageable materials, and an extension of the time allotted from 6 months to a year.

CM Lauritzen asked if a moratorium on non-emergency demolitions would be appropriate. Mayor Labbe asked City Attorney McCormick if a Resolution on a non-emergency moratorium regarding demolitions of historic buildings could be scheduled for the next regular city council meeting.

**Mayor Labbe** stated that Ordinance No. 10, Series of 2022: An Ordinance Amending Chapter 17.44 of the Leadville Municipal Code Concerning the Regulations Governing Reapplication for a Certificate of Appropriateness for Demolition in the City’s National Historic Landmark Overlay District (First Reading) **will be tabled** until a future Joint Work Session with the Historic Preservation Commission.

**11. Public Meetings Planner:**

- A. The Public Meetings Planner can now be accessed on the city’s homepage.
- B. Change the monthly LURA meeting to the 1<sup>st</sup> Thursday of every month at 6 pm.
- C. CM Forgensi may be absent for the 11/01/2022 Regular City Council Meeting
- D. Mayor’s Summit will be held on October 20<sup>th</sup> and 21<sup>st</sup> in Denver.
- E. Ski Cooper will be having the Open House on Saturday from 1-4 pm
- F. Pumpkin Patch on Saturday, Oct. 29 from 11 am-3 pm
- G. Trick or Treat Street October 30 from 1-3 pm

**12. Mayor’s Report:**

- A. Stories Worth Telling Film Festival was exceptional and had 283 people attend.

**13. Council Reports:**

- A. CM Luna-Leal will be leaving Full Circle

**Adjournment: 8:20 pm.**

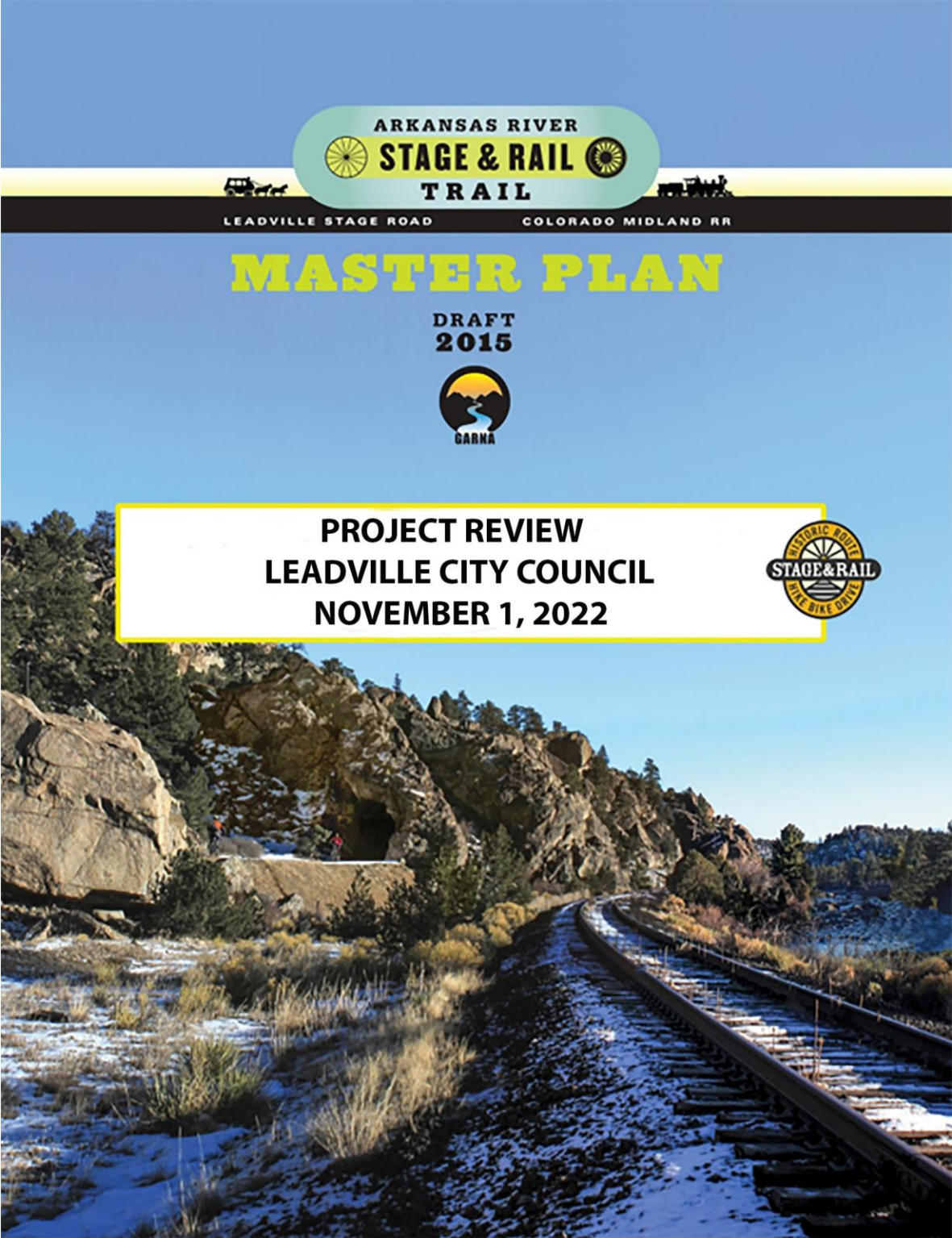
**APPROVED** this 1st day of November by a vote of  in favor  against,  abstaining, and  absent.

CITY OF LEADVILLE, COLORADO

ATTEST:

By

\_\_\_\_\_  
Deputy City Clerk



For the attention of the Leadville City Council  
In advance of the November 1, 2022 Council Meeting, Leadville CO  
By the Core Team, Stage and Rail project  
October 25, 2022

My name is Alan Robinson\* and I am scheduled to come before the Leadville City Council November 1, 2022. I will be presenting you with an update of the Stage and Rail project and bringing to your attention a proposed formal designation of an additional 14-mile trail section in Lake County from Hayden Reservoir to the Mineral Belt Trail in Leadville.

The “S&R” is an ambitious 72-mile regional driving, hiking, cycling historic route from Salida to Leadville celebrating the heritage of the Canyon City to Leadville stage road and the Colorado Midland Railroad. Many of the milestones set out in our 2015 draft Master Plan have been achieved, and our next phase is largely one of expanding public appreciation and use of the route and ensuring its maintenance and relevance to the heritage and recreational diversity of the Upper Arkansas Valley.

## **Thumbnail S&R Project History**

Following several years of exploration and research of the stage road and Midland Railroad 2005-2008, I and fellow early Core Team members developed a vision of a regional route that would provide both a physical experience for highway drivers, cyclists, hikers, photographers, and students and an educational experience focusing on the vital role of these two early transportation routes to the heritage of the Upper Arkansas Valley. Recognizing the need for a fiscal sponsor, we approached GARNA in about 2008 and gained their support as the project’s home base. GARNA’s non-profit status allowed us to successfully apply for a series of grants totaling more than \$300,000, largely from the Colorado Parks and Wildlife Trails Program and more recently from the Colorado the Beautiful state program. With this funding we produced a Feasibility Study in 2012, a draft Master Plan in 2015, and several major implementation projects.

S&R received a 2013 national planning award for the Feasibility Study from the respected *American Trails* group, and in 2016 we gained state recognition as one of *Colorado’s Top 16 Trails* in a highly competitive process organized by the Governor’s Office.

We are guided by a Partner Advisory Board of representatives from the two counties (Commissioners), three towns (Mayors or town staff), Arkansas Headwaters Recreation Area (Manager), BLM (Area Manager), USFS (Leadville District Ranger) assisted by citizens with expertise in the local recreation economy, history, wildlife, and adjacent property ownership.

Throughout the project’s trajectory, GARNA’s sponsorship has been prominently acknowledged, and was highlighted in the awards and recognition the project has received.

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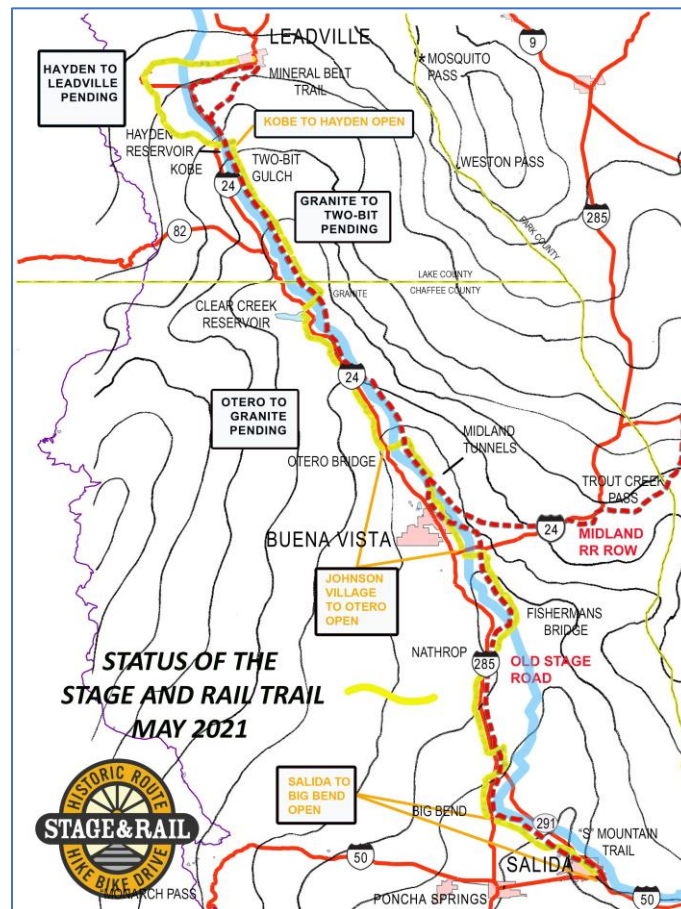
\*Former GARNA Board Chair, founding member of the GARNA *Friends of Fourmile* chapter, GARNA representative to LCOSI, former founding appointee to the *Chaffee County Heritage Advisory Board*, initiator and leader of the S&R project; GARNA’s first Lifetime Achievement Award recipient.

## Progress through 2022

The S&R project has achieved many of its proposed milestones. (Initially referred to as the Stage and Rail Trail, we recently modified the title to Stage & Rail Historic Route, and characterize it as an historic *route* rather than a literal “*trail*.”) Milestones are reviewed in the accompanying photo gallery including these highlights:

- A sophisticated interactive web presence
- Audio tours for two sections via a downloaded phone app
- Distinctive identifying/directional route signage on declared sections
- Formal route approval and opening in the Chaffee County, Salida and Buena Vista sectors
- Central Colorado Conservancy’s (CCC) Andrick Preserve completed in southern Lake County including route of the S&R; progress on preserve expansion
- S&R-funded bike lane from Buena Vista to Johnson Village on CR313
- Granite Rock interpretive trail and S&R overlook on US24 nearing completion
- S&R safe trail under US24 at Hayden Reservoir opened July 2022
- Additional 14-mile section Hayden Reservoir to Leadville anticipated open in 2022/2023
- 80% of proposed S&R likely to be signed and open by end of 2022/early 2023

## Map of S&R status 2022



This map summarizes the 22+ miles of the proposed S&R route now open and signed. Approximately 9 additional miles of Chaffee County roads were approved in August, 2022 and are in the process of being signed. Completion of a safe pedestrian/cycling trail under US24 at Hayden Reservoir provides the opportunity to approve an additional 14 miles from there to Leadville's Mineral Belt Trail. This section within Lake County is what brings me before you on November 1, 2022.

Although the S&R is cited as a 72-mile driving/hiking/biking route from Salida to Leadville, 18 miles are along US285, US24 and CO300. As per direction from Colorado Department of Transportation, the S&R does not propose formal establishment of the trail on any of those sections. Discounting CDOT sections, the total number of miles proposed for opening under the 2015 Master Plan is approximately 54. As of late 2022, about 31 miles of that distance are currently open, with another 14 potentially open by the end of 2022/early 2023 (Hayden Reservoir to Leadville) for a total of 45 miles. The balance of 7-9 proposed miles are from Kobe south through the Andrick Preserve to Granite. Status of the route through the Preserve awaits development of the Preserve's public use management plan. The most problematic proposed section of several more miles is south of Granite to Clear Creek, where the presence of an introduced Bighorn herd has led Colorado Parks and Wildlife to oppose formal designation of a trail.

## Awards and Recognition

In 2013, in national competition, the project's **Feasibility Study** received recognition by the US's most respected trails advisory institution, *American Trails*

### **"Planning/Design Award: Feasibility Study Salida to Leadville Trail Corridor**

**Planning/Design Award:** This award honors problem-solving through innovative methods on a trail project. This project includes successful aspects of public participation and/or public agency involvement and has been planned to enhance recreational trails opportunities within the project area."

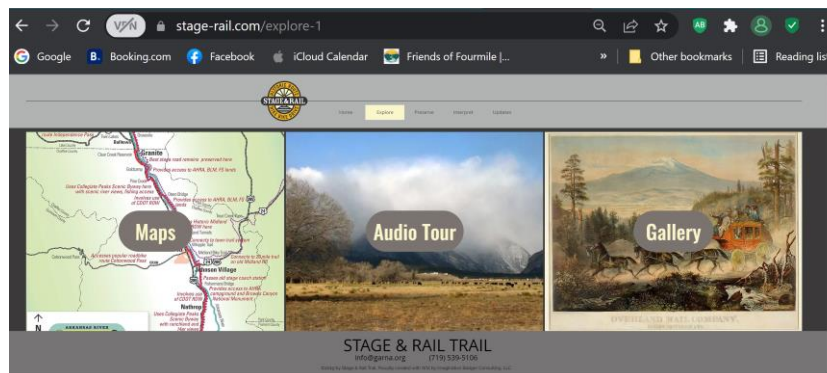
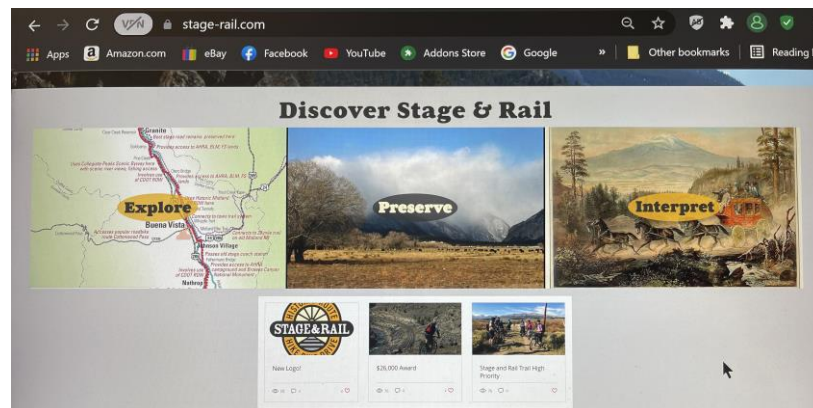


In 2016, in competition with scores of trail projects throughout Colorado, the S&R gained entry to the Governor's list of the top "16 Trails in 2016" to highlight their regional importance and encourage their completion.



## Social media presence

The S&R has a sophisticated interactive website at <https://www.stage-rail.com/>



and an active following on Facebook at <https://www.facebook.com/stageandrailtrail>



## Salida to Leadville STAGE and RAIL TRAIL

@stageandrailtrail · 5 3 reviews · Nonprofit organization

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## Photo gallery of progress

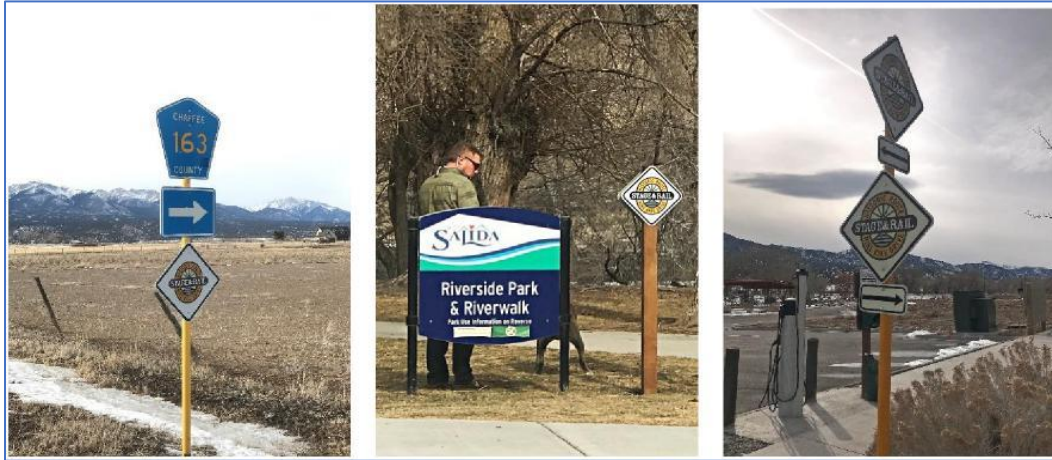
### High Lonesome Trail

The first section of the S&R to be opened was in conjunction with 2013 development of the High Lonesome loop trail south of the Hayden Reservoir AHRA Recreation Site in southern Lake County. About 2 ½ miles of this trail, along the east bank of the Arkansas River, follows the original route of the 1880's stage road.



## Salida and Buena Vista sections

Late 2020 saw a major milestone in formal S&R designation, when former CMC coordinator Julie Mach completed negotiations with the towns of Salida and Buena Vista and Chaffee County for official recognition of the S&RT in the Salida and Buena Vista sectors. About 22 miles...



Commissioner Keith Baker has been a long-time supporter of the project and serves on our Partner Advisory Board

## Shawn Andrick Memorial Community Preserve

In June 2021 the *Central Colorado Conservancy (CCC)* - a partner in S&R development – raised more than \$1 million and purchased 90 acres of undeveloped riverfront property along the Arkansas River in southern Lake County. These properties, added to an existing 10-acre CCC-owned parcel, now form the *Shawn Andrick Memorial Community Preserve*. This action has major implications for the S&R: the Preserve will allow public access along the river including (eventually) along the proposed S&R which traverses the Preserve for several miles.



The Shawn Andrick Community Preserve, now permanently protected, stretches southward from Two Bit Gulch for several miles along the Arkansas. The old stage road, which will eventually be open for public use as a part of the S&R, is at left.

In late October, 2022 the Conservancy is closing on acquisition of 110ac of undeveloped lands to be added to the Preserve, bringing its total to approximately 262ac. The Conservancy will continue to hold fee title to all these lands, and a conservation easement will be held by Colorado Open Lands with a public access easement held by Lake County.

## Chaffee County CR313 Bike Lane

Nearly two miles of bike lane from Buena Vista south to Johnson Village on CR313 was completed in November 2019. Facilitated by a *Colorado the Beautiful* grant of \$195,000 to Chaffee County on behalf of the S&R, it has been well received and has seen good use in 2020-2022, including by school students and “bicycle commuters” traveling to BV from Johnson Village.



## Granite Rock designated camping and interpretive trail on US24

At the AHRA/Bureau of Land Management (BLM) Granite Rock site south of Granite, on the west side of the Arkansas and adjacent to US24, major improvement in dispersed camping has been completed. The project, undertaken with funds obtained by S&R partner AHRA, includes an interpretive trail to the top of Granite Rock proposed in the 2015 S&R Master Plan. This provides relatively easy trail access to an overlook of the S&R which does not require being on the trail itself; it has the potential for expanding public knowledge and appreciation of the trail to a portion of the hundreds of thousands of annual users of US24 (here within the Collegiate Peaks Scenic and Historic Byway).



Panoramic view from the top of Granite Rock where the stage road, modern Union Pacific Railroad RR cut, old narrow-gauge Denver and Rio Grande (on the north bank) and Midland RR (south bank below the cliff) can be interpreted.

## Crossroads Trail at Hayden Reservoir

At Hayden Reservoir in Lake County, thanks to a two-year effort in planning and permitting by representatives of Lake County Open Space Initiative (LCOSI), a critical non-motorized trail section is now complete. The *Crossroads Trail* under the US24 bridge provides safe crossing under US24 so trails in the AHRA Hayden Reservoir site can connect to BLM, US Forest Service and county roads eventually leading all the way to Leadville. Here are time sequence images from fall 2021 through summer 2022.

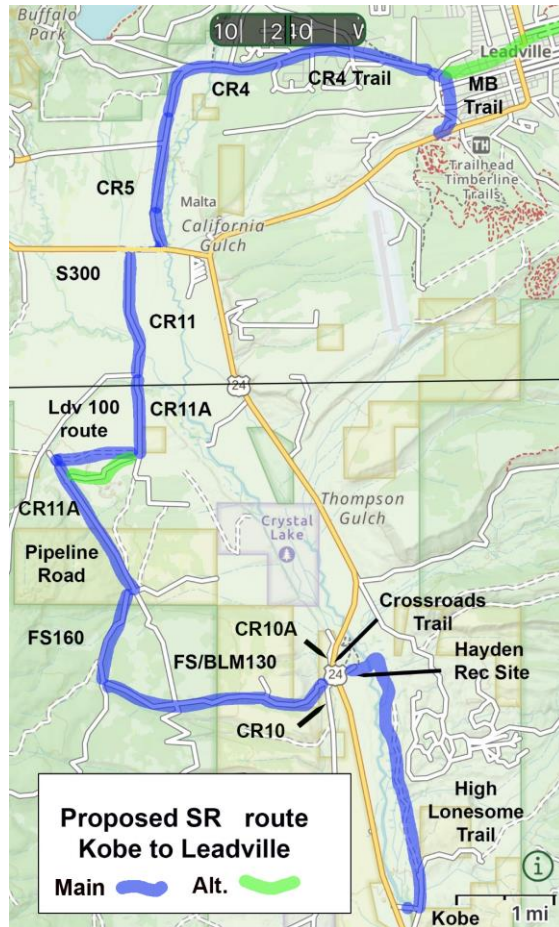






Finished in June 2022 by a *Volunteers for Outdoor Colorado* project, opened July 14<sup>th</sup>, the Crossroads Trail will facilitate formal recognition and signing of another 14 miles of the S&R to Leadville. It also will connect the S&R to another long regional trail under development – the Fremont Pass Recreational Pathway connecting Leadville to Copper Mountain in Summit County. The Fremont trail is another of **Colorado's Top 16 Trails**.

The proposed route from Kobe and the Hayden rec site is shown on the map below. The *Crossroads Trail* is the only piece on this route that had to be constructed. All other routes are on open system roads on BLM or Forest Service-managed lands or along Lake County roads open to cycling, pedestrian travel and motorized use. Lake County Roads 5 and 4 are themselves constructed on former ROWs of the Colorado Midland; the existing CR4 bike path would be utilized, as would the existing Mineral Belt Trail within city limits of Leadville.

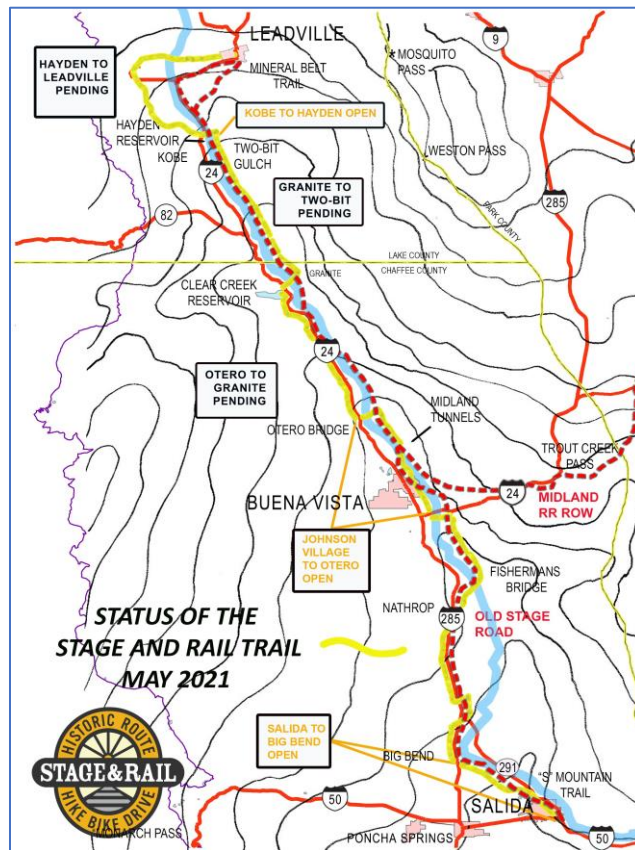


## Stage and Rail Progress through 2022 – Summary for Leadville City Council November 1, 2022

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**Proposed** budget for additional signage for the SR Historic Route in Lake County 9.7.2022

Ref No	Item	Quantity	Unit cost	Item cost	Comments
1	Logo sign 12" diamond	30	\$18	\$540	Smaller size on backcountry sections, MBT
2	Logo sign 18" diamond	13	\$28	\$364	Larger size same as those installed on CC CRs
3	Begin/End Section 6"x12"	6	\$14	\$84	Where SRT intersects CDOT roads
4	Arrows	21	\$14	\$294	For directions
5	Wood posts	14	\$10	\$140	
5	Metal poles yellow 11ft	6	\$76	\$456	Need if no existing county pole
6	Pole anchors	6	\$34	\$204	Stabilize poles in ground
7	Share the Road safety	6	\$45	\$270	On CR4, 5, special areas
8	Hardware (bolts etc.)	lumpsum	\$100	\$130	Incl bolts, anti-theft nuts
9	Contingencies	lumpsum	\$200	\$200	Unexpected expenses
10	GARNA admin fee	lumpsum	\$450	\$450	10% total for administering funds
11	LC Public Works consult	5 hr.	\$40	\$200	in-kind for consultation/labor
12	USFS/BLM labor install	15 hr.	\$40	\$600	In-kind contribution from agencies
13	Volunteer labor install	20 hr.	\$25	\$500	in-kind for installation
14	Volunteer labor graphics	2 hr.	\$80	\$160	in-kind review sign graphics
15	TOTAL budget	-	-	4592	Incl \$1460 in-kind
16	<b>Request from Partners</b>	-	-	<b>\$3132</b>	<b>Total less in-kind</b>



## AGENDA ITEM #9C

### CITY COUNCIL COMMUNICATION FORM

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**MEETING DATE:** November 1, 2022

**SUBJECT:** Title 16 Subdivision Regulations Amendments; Townhouse, Condominium, and Building Footprint Lot Subdivisions

**PRESENTED BY:** Chapin LaChance, AICP – Planning Director

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- ORDINANCE  
 RESOLUTION  
 MOTION  
 INFORMATION
- 

**I. REQUEST OR ISSUE:**

Staff requests that Council review the attached proposed amendments to Title 16 – Subdivision Regulations regarding Townhouse, Condominium, and Building Footprint Lot Subdivisions and provide feedback to staff. Staff intends to bring these amendments to the Council for first reading at the November 15 meeting.

**II. BACKGROUND INFORMATION:**

From Michael Yerman’s July 13 memorandum to the Planning and Zoning Commission:

*“The Southern Colorado Economic Development District (SCEDD) has been retained by Lake County and the City of Leadville through the end of the year to assist existing staff with the County’s and City’s ongoing affordable housing efforts including providing technical assistance on the DOLA HB21-1271 Planning Grant. SCEDD is a non-profit organization funded by the U.S. Department of Commerce Economic Development Administration and SCEDD member counties. SCEDD has been serving the southern Colorado region since 1967. SCEDD supports the economic development efforts of thirteen counties in southern Colorado – Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Lake, Las Animas, Otero, Pueblo, and Prowers and is partially funded by County dues which always our non-profit to provide discounted planning rates to our Counties and local governments in our district.*”

*Over the past few months, the City and County engaged in a site analysis of three potential new affordable housing sites. SE group has made several recommendations for code changes to assist with the construction of new affordable housing in the City.*

*One additional key consideration is an update to the City's subdivision standards to allow for the creation of Townhomes. The subdivision of duplex, triplex or even a fourplex through a 2-hour code compliant wall that runs from foundation through the ceiling, allows future home buyers access to traditional single-family home loans. This drastically lowers potential borrowing interest rates and allows access to traditional financing. Moreover, it is important to establish an expediated administrated approval process since a townhome plat will not be able to be completed until the CO of units. This is because as-builts are necessary for surveying and the creation of plats. This is also when a buyer will be working through loan approval and contracts. Hence, any approval delays could severely impact future affordable housing homebuyers."*

The Planning and Zoning Commission reviewed SCEDD's suggested amendments to the Subdivision Regulations at a Work Session on July 13, 2022 and October 26, 2022. At their October 26 meeting, the Commission recommended the City Council adopt the amendments, pending legal review by the City Attorney. Staff and the City Attorney have since reviewed and made revisions which are reflected in the attached proposed amendments.

**III. FISCAL IMPACTS:**

None.

**IV. LEGAL ISSUES:**

None.

**VI. STAFF RECOMMENDATION:**

None at this time.

**VII. COUNCIL OPTIONS:**

1. Provided feedback and direct staff to proceed with an ordinance for first reading.
2. Direct staff not to proceed with the suggested code amendments.
3. Table consideration of the amendments and provide direction to staff.

**VIII. PROPOSED MOTION:**

None.

**IX. ATTACHMENTS:**

1. SCEDD's 10/26/2022 Cover Memo to the Planning and Zoning Commission
2. Title 16, Chapter 22 (NEW) - Subdivision Processes and Application Requirements -  
Townhouse Subdivision, Condominium Subdivision, and Building Footprint Lot Subdivision
3. Title 16, Chapter 28 (REVISED) – Application Review Procedures





**DATE:** October 26, 2022

**TO:** City of Leadville Planning and Zoning

**FROM:** Michael Yerman, SCEDD Senior Planner

**SUBJECT:** Townhouse Subdivision or Condominium Plat Subdivision

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**Overview:**

On July 13, 2022, the Planning Commission reviewed potential code changes to allow townhouse development subdivisions. The Planning Commission also requested that condominiums subdivision language also be developed.

The proposed code Townhouse language would allow for an administrative review of the subdivision of duplex, triplex or even a fourplex through a 2-hour code compliant wall that runs from foundation through the ceiling, allows future home buyers access to traditional single-family home loans. This drastically lowers potential borrowing interest rates and allows access to traditional financing. Moreover, it is important to establish an expedited administrative approval process since a townhome plat will not be able to be completed until the CO of units. This is because as-builts are necessary for surveying and the creation of plats. This is also when a buyer will be working through loan approval and contracts. Hence, any approval delays could severely impact future affordable housing homebuyers.

Additional code language is also being added to allow condominiums that are stacked units to be subdivided provided they are constructed properly under the International Building Codes. The same expedited review and approvals would also apply to condo projects.

All projects would be required to have zoning authorization approvals prior to construction in the form of an approved building permit or even approvals such as conditional uses. This would ensure that the underlying zoning is met on the principle lot being subdivided prior to construction.

The proposed code amendment is attached to this staff report.

## Chapter 16.22 SUBDIVISION PROCESSES AND APPLICATION REQUIREMENTS— TOWNHOUSE SUBDIVISION, CONDOMINIUM SUBDIVISION, AND BUILDING FOOTPRINT LOT SUBDIVISION

### Sections:

#### 16.22.010 Purpose and applicability.

The purpose of this chapter is to establish an administrative subdivision process applicable to proposals subdivide buildings consisting of townhouses, condominiums, and building footprint lots. This chapter is intended to provide for the efficient processing of townhouse subdivision, building footprint lot subdivision, and condominium subdivision applications without the need to undertake a formal public hearing process provided that all requirements of this chapter are satisfied.

This chapter shall apply to all new townhouse subdivisions, condominium subdivisions, and building footprint lot subdivisions.

#### 16.22.010 Definitions.

**"Building footprint lot"** means a lot whose boundaries approximate the exterior walls of the lot's unit where the unit is located in a multi-unit structure and all owners of units in the multi-unit structure have an undivided interest in the common elements of the property. The boundaries of a building footprint lot include patios, porches, yards, or similar elements of the unit that are for the sole use of the unit occupants.

**"Building footprint lot subdivision"** means any division of a single-unit or multi-unit structure or structures into individually owned building footprint lots.

**"Condominium"** means separately owned air space units of a multi-unit structure or structures where all the unit owners have an undivided interest in the common elements of the property. Generally, the units share both vertical and horizontal walls with other units. This definition is intended to be construed consistently with the definitions and provisions of the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 et seq.

**"Condominium subdivision"** means any division of a single-unit or multi-unit structure or structures into separate fee simple estates consisting of condominiums for the purpose, whether immediate or future, of sale or building development.

**"Existing plat"** means a subdivision plat that has been approved by the City in accordance with this code and has been recorded in the real property records of Lake County.

**"Platted property"** means a property platted on an existing plat. This term shall include properties consisting of a single platted parcel or multiple platted parcels.

**"Townhouse"** means separately owned units in a multi-unit structure or structures where each unit owner has a fee simple interest in the land on which the unit is built, any yard and parking space appurtenant to such unit, and any easements for ingress and egress and for installation, replacement, repair, and maintenance of utilities appurtenant to the unit. Generally, the units share only vertical walls and do not share horizontal walls with other units.

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**“Townhouse subdivision”** means any division of a single-unit or multi-unit structure or structures into two or more fee simple estates consisting of townhouses for the purpose, whether immediate or future, of sale or building development.

**“Unit”** means a dwelling unit as that term is defined in chapter 17.08 of this code.

### **16.22.020 Authority to seek townhouse subdivision, condominium subdivision, or building footprint lot subdivision.**

An application for a townhouse subdivision or condominium subdivision may be initiated by the owner(s) of record, or the owner’s duly authorized agent, of a platted property on which there is a townhouse or condominium development.

### **16.22.030 Review procedures.**

The procedures applicable to the processing of an application of a townhouse subdivision and condominium subdivision are provided in chapter 16.28 of this title.

### **16.22.040 Contents of application.**

All townhouse subdivision and condominium subdivision applications shall meet the following submittal, materials, and information requirements:

- A. Application in the form approved by the city;
- B. Payment of all required application fees and any consultant review fee deposit;
- C. Documentation of ownership, liens and encumbrances;
- D. A legal description and plat of the platted property proposed for townhouse subdivision or condominium subdivision prepared by a licensed registered Colorado land surveyor;
- E. A list of the names and mailing addresses, as this information appears on record with the Lake County assessor's office, of all owners of property within the existing plat that is subject to the proposed townhouse subdivision or condominium subdivision, including all owners or beneficiaries of easements;
- F. After buildings have been constructed and final "as-built" surveys have been completed, the applicant shall submit the townhouse or condominium plat based on the as-built surveys.
  - 1. Each townhouse or condominium plat that includes lots with a lot size smaller the minimum lot size for the applicable zoning district shall include a plat note designating the type of structure permitted on such lot.
  - 2. Condominium plats shall show graphically and dimensionally the subdivision of buildings into volumetric spaces and the relationship of these spaces with the boundaries of the site and other appurtenances on the site. Condominium plats shall also comply with the requirements of C.R.S. §38-33.3-209, as may be amended.
  - 3. All townhouse and condominium plats shall be approved and signed by the planning official.
- G. Requirements Specific to Townhouse Subdivision Applications. In addition to the submittal requirements set forth in subsections A – F above, townhouse subdivisions shall provide the following additional documentation:

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1. Maintenance agreement. A common party wall maintenance agreement shall be created that runs with the land comprising the townhouse lots and it shall be recorded in the office of the Lake County Clerk and Recorder;
  2. All required parking spaces, snow storage, easements, and trash collection areas for each unit are identified on the plat.
- H. Requirements Specific to Condominium Subdivision Applications. In addition to the submittal requirements set forth in subsections A – F above, condominium subdivisions shall provide the following additional documentation:
1. All required parking spaces, snow storage, and joint trash collection areas;
  2. Floor plans, elevations, and site plan as required to show ownership of all separate units, common elements, and limited common elements labeled as such;
  3. Number, type, and floor area of units, common elements and limited elements, delineated in square feet and fractions thereof; proposed use for each unit; land area; floor area ratio; and
  4. Statement of the total number of units shown on the proposed plat;
  5. Documentation showing compliance with the standards and terms of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-201, *et seq.*, as may be amended.

#### **16.22.050 Number of copies of plat application materials.**

The applicant shall submit to the city an electronic copy and twelve (12) hard copies of all application materials. The planning official may request additional copies of documents larger than eight and one-half by eleven (8 ½ × 11) inches where necessary to provide sufficient documentation for referrals as needed.

#### **16.22.060 Standards for approval.**

Approval of any townhouse subdivision, condominium subdivision, or building footprint lot subdivision by the planning official shall require a finding that the applicant and the evidence presented to the planning official established all of the following:

- A. Development of the primary structure is in accordance with the underlying zone district standards for the platted property subject to subdivision under this chapter. The proposed subdivision may deviate from the underlying zone district standards for lots created within the existing plat provided the primary structure being subdivided meets the underlying zone district standards prior to submission of an application.
  - B. Construction of the property has passed required building and zoning inspections to ensure approved common wall construction is code complaint and all other life safety measures are complete as required by code.
  - C. Development of the property in accordance with the existing plat will advance the goals and objectives of this code or the Leadville comprehensive plan.
  - D. The subdivision would neither interfere with nor deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility services or other improvements.
  - E. The subdivision would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant.
  - F. The proposed subdivision substantially conforms to the goals and policies of the Leadville comprehensive plan to the extent that such goals and policies do not conflict with provisions or
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requirements of this code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the planning official to decide that such subdivision meets or fails to meet such goal or policy.

- G. If a subdivision includes a lot line adjustment or lot consolidation, the planning official may refer to approval and submittal requirements of chapters 16.24 and 16.26 as needed and may require an applicant to comply with certain requirements of such chapters as determined necessary by the planning official.
- H. Separate utilities for townhouses and building footprint lots. Utilities for a townhouse subdivision or building footprint lot subdivision shall be installed and available and each of the units shall be served by its own separate utility service lines and meters, which may include but are not limited to water, sewer, electricity and natural gas. Easements shall be provided on the recorded plat to ensure access for future maintenance and repair for each unit's utilities.

#### **16.22.070 Conditions for approval.**

The planning official may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety and welfare of the city and its residents.

#### **16.22.080 Effect of approval.**

- A. Within thirty (30) working days of approval by the planning official, the townhouse subdivision, condominium subdivision, or building footprint lot subdivision shall be filed and recorded in the office of the Lake County clerk and recorder at the applicant's expense.
- B. No approval or conditional approval of a subdivision shall be deemed effective or finally approved until the approved plat is recorded in the real property records of Lake County.

#### **16.22.090 No unlawful sale of units.**

No individual townhouse, condominium, or building footprint lot unit shall be sold into separate ownership until and unless a plat has been approved by the planning official based upon an "as-built" survey of the unit boundaries and such plat has been recorded in the real property records of Lake County. A plat note on the final plat for each townhouse, condominium, or building footprint lot development shall be included to this effect.

#### **16.22.100 Contemporaneous subdivision processes.**

- A. Lot Line Adjustment or Lot Consolidation. A townhouse subdivision, condominium subdivision, or building footprint lot subdivision may or may not include a corresponding and contemporaneous lot line adjustment or a lot consolidation. Corresponding lot line adjustments or lot consolidations will be incorporated into the subdivision approval processes set forth in this chapter without the need for a separate process.
- B. Major or Minor Subdivisions. For properties subject to a proposed subdivision under this chapter with multiple structures, the applicant will be required, depending on the number of structures on the property, to follow the either the major or minor subdivision provisions of this title. The major and minor subdivision processes set forth in chapters 16.08 and 16.12 of this code are separate from the administrative process set forth in this chapter but may be completed contemporaneously with the approval processes set forth in this chapter.

## Chapter 16.28 APPLICATION REVIEW PROCEDURES

Sections:

### 16.28.010 Applicability and purpose.

This chapter applies to each of the following subdivision processes described in this title and is entitled "Table of Subdivision Processes."

- A. Minor Subdivision;
- B. Major Subdivision;
- C. Townhouse, Condominium, and Building Footprint Lot Subdivision;**
- ~~D.~~ Lot Consolidation;
- ~~E.~~ Plat Amendment; and
- ~~F.~~ Plat Vacation.

(Ord. 04-1 (part))

### 16.28.020 Table of subdivision processes.

	Pre-App Meeting	Application Contents	Application Completeness Determination	Referral Agencies	Notice of Hearing	Planning Commission/ City Council:
					Public Hearings	Public Hearing
	Section 16.28.040		Section 16.28.050	Section 16.28.070	Section 16.28.080	
Minor Subdivision	R	Section 16.08.010	R	Local Agencies	R Publication	R
Major Subdivision: Sketch Plan <sup>2</sup>	R	Section 16.12.020	R	Local Agencies	R Publication Mailing Posting	R
Major Subdivision: Preliminary Plan	R	Section 16.12.020	R	All Agencies	R Publication Mailing Posting	R
Major Subdivision: Final Plat	O	Section 16.12.020	R	Local Agencies	R Publication	R
<b><u>Townhouse, Condominium, and Building Footprint Lot Subdivision</u></b>	<b><u>R</u></b>	<b><u>Section 16.22.040</u></b>	<b><u>R</u></b>	<b><u>As needed</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>

Lot Consolidation	R	Section 16.24.050	O	None	N/A	N/A
Plat Amendment	R	Section 16.16.040	R	Local Agencies	R Publication Mailing	R
Plat Vacation	R	Section 16.20.040	R	Local Agencies	R Publication Mailing	R
R = Required			O = Optional at Subdivider's Request			

2 Sketch Plan and Preliminary Plan processes may be combined pursuant to Section 16.12.020(B).

(Ord. 04-1 (part))

**16.28.030 Reserved.**

**16.28.040 Pre-application meeting.**

Where an application requires a pre-application meeting in accordance with Section 16.28.020, the following process shall apply:

- A. Prior to the formal submission of the application, the subdivider shall contact the planning official in writing to schedule and request an informal meeting. Following receipt of a request, the pre-application meeting shall be set for a date within ten (10) days of the date of the applicant's written request. The planning official shall advise the applicant of the date and time of the pre-application meeting.
- B. The applicant shall attend the meeting at the designated date and time. The applicant shall be prepared to discuss the proposed application and the proposed development with the planning official. The applicant shall be encouraged to present such plats, plans, diagrams, or other preliminary information sufficient to permit the conceptual review of the proposed application.
- C. The purpose of the pre-application meeting shall be to assist the subdivider in understanding the city's subdivision processes and to permit the planning official to determine the applicable process and regulations for the proposed application. Upon request of the subdivider, the planning official shall provide to the subdivider a written determination concerning the appropriate procedure for the processing of the applicant's proposed application.
- D. Where a pre-application meeting is required, no application shall be accepted or processed by the city unless and until the pre-application meeting is held.

(Ord. 04-1 (part))

**16.28.050 Completeness determination.**

Where an application requires a completeness determination in accordance with Section 16.28.020, the following process shall apply:

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- A. Within ten (10) days following receipt of an application, the planning official shall administratively review the application and determine whether the application complies with the applicable application content requirements of these regulations.
  - B. All plans, reports, maps and other information required for any plan or plat must be complete and legible. A failure of the application to meet the requirements of these subdivision regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The city shall not process or schedule the processing of any application which is found to be incomplete.
  - C. In the event that the planning official determines that the application complies with the applicable requirements, the planning official shall schedule the application for review in accordance with Section 16.28.20 of this chapter.
  - D. In the event the planning official determines that the application is incomplete, the planning official shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the planning official determines that the applicant has remedied the application's deficiencies.

(Ord. 04-1 (part))

#### **16.28.060 Variances.**

- A. An applicant may request a variance or waiver of any standard or requirement imposed by these subdivision regulations for an identifiable lot, block or property. The city council may grant a variance where the applicant establishes each of the following:
  - 1. Literal enforcement of the standard or requirement would place an unnecessary and unreasonable hardship upon the applicant;
  - 2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the neighborhood and surrounding area; and
  - 3. The proposed variance will not be adverse to the goals and policies of the Leadville comprehensive plan, to the extent that such goals and policies do not conflict with provisions or requirements of this code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the planning commission or city council to decide that the application meets or fails to meet such goal or policy.
- B. The city council may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety and welfare of the city and its residents.
- C. Variances shall be approved only by written resolution of the city council in a form approved by the city attorney. Within ten (10) working days of approval by the city council, the resolution shall be filed and recorded in the office of the county clerk and recorder at the applicant's expense.

(Ord. 04-1 (part))

#### **16.28.070 Agency referrals.**

Where an application requires agency referral in accordance with Section 16.28.020, the following process shall apply:



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- A. For purposes of any required agency referral to "local agencies" as required by Section 16.28.020, the phrase "local agencies" shall include:
1. Police;
  2. Fire department;
  3. School district;
  4. Appropriate electric service provider;
  5. Appropriate telephone service provider;
  6. Water and sanitation districts;
  7. Any affected irrigation or ditch company;
  8. Any other county, regional, state or federal agencies that may be deemed by the planning official as specially affected or interested; and
  9. For any subdivision action affecting five or more acres of land, notice will also be provided to the Colorado Land Use Commission as required by C.R.S. § 31-23-225.
- B. For purposes of any required agency referral to "all agencies" as required by Section 16.28.020, the phrase "all agencies" shall include:
1. All agencies identified as a "local agency" in subsection A of this section;
  2. Lake County land use department;
  3. Colorado State Department of Transportation; and
  4. Any other county, regional, state or federal agency that may be deemed by the planning official as specially affected or interested including but not limited to the Colorado State Engineer, Soil Conservation Service, Colorado Geological Service, Denver Regional Council of Governments, Colorado State Forest Service, and the Colorado Water Conservation Board.
- C. A copy of each application shall be referred by city staff to the appropriate agencies following a determination of application completeness by the planning official. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application.
- D. The lack of response from a referral agency to a request for referral comment shall be interpreted as "no comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a timely agency comment shall not preclude the planning commission or city council from later seeking agency comment on a specific issue raised during the review process or any hearing.
- E. Failure to forward a referral of an application to an agency as required by Section 16.28.020 shall not constitute a material deviation from the subdivision application review process and shall not void or invalidate any action taken by the planning commission or city council. The requirement of agency referral shall be considered as a preferred, but discretionary, action by the city.

(Ord. 04-1 (part))

### **16.28.080 Notice requirements.**

All public notices of hearings required by these subdivision regulations shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed

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appropriate by the city clerk to apprise the public of the general nature of the action proposed. Notice shall be made when required in accordance with the requirements of Section 16.28.020 and may include notice by publication, mailing, or posting, or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public.

- A. Notice by Publication. Where notice by publication is required for any public hearing by Section 16.28.020, notice of the hearing shall be published in the official city newspaper or in a newspaper of general circulation within the city of Leadville at least fifteen (15) days before the date of the hearing.
- B. Notice by Mailing.
  - 1. Where notice by mailing is required for any public hearing by Section 16.28.020, notice shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.
  - 2. Where notice by mailing is required for any public hearing, mailed notice shall be addressed to owners of adjacent property as their names appear in the real property records of the Lake County assessor. For purposes of determining addressees for mailed notice, the city may rely upon the ownership information provided by the applicant as part of the application.
- C. Notice by Posting.
  - 1. Where notice by posting is required for any public hearing by Section 16.28.020, notice shall be posted on the property that is subject to the hearing in a location that is reasonably determined by the applicant to provide the greatest degree of visibility to members of the public. In most instances, the posting shall be made along the primary traveled public right-of-way adjacent to the property. Posting shall be initially made at least fifteen (15) days before the date of the hearing.
  - 2. Failure of the posted notice to remain in place and visible during the entire posting period prior to the hearing shall not be deemed sufficient cause to require a postponement, reposting or invalidation of the hearing where the applicant demonstrates at the hearing that reasonable efforts were employed by the applicant to ensure that the posted notice remained visible. Reasonable efforts may include routine visits to the property to ensure that the posted sign is visible and in good repair. Applicants are encouraged to maintain a "posting log" or other written record of the dates, times, and condition of the posted notice.

(Ord. 04-1 (part))

### **16.28.090 Public hearings.**

Where an application requires a public hearing before the planning commission or the city council (the "reviewing body") in accordance with Section 16.28.020, the following process shall apply:

- A. The city clerk shall set the date and time of a public hearing to be held jointly by city council and planning commission. Notice of the public hearing shall be issued in accordance with Sections 16.28.020 and 16.28.080.
- B. At the public hearing, the reviewing body shall review the application for conformance with the subdivision regulations and the applicable review standards for the application.

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- C. Any public hearing or other action of the reviewing body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.
  - D. Following the conclusion of the public hearing, the planning commission shall decide that the application be recommended for approval, conditionally approved or denied. For any preliminary plan or final plat, the date upon which the plat shall be deemed submitted to the planning commission for purposes of C.R.S. § 31-23-215(1) shall be the date at which the public hearing is concluded.
  - E. Within ten (10) days of taking its action, the planning commission shall forward its recommendation to city council. City council shall approve, approve with conditions, deny the application or continue the matter to a date certain.
  - F. The applicant for any subdivision approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by these subdivision regulations. Any decision by the reviewing body to recommend approval, approve or conditionally approve a subdivision plan, plat or other application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

(Ord. 04-1 (part))

### **16.28.100 Recording of plat and supporting documentation.**

Where the final decision by the city council to approve or conditionally approve any subdivision application must be evidenced by the recordation of a plat or other documentation in accordance with these regulations, the following process shall apply:

- A. Following approval or conditional approval of the application by the city council, the applicant shall cause the fully executed plat or other documentation intended for recordation as part of the application approval to be delivered to the city clerk in a form acceptable for recordation by the Lake County clerk and recorder.
- B. The city clerk shall review the form of the plat or documentation for completeness of all required signatures and notarizations. Where the plat or other documentation is determined by the city clerk to be complete and in the proper form for recordation, the city clerk shall cause the plat or other documentation to be recorded in the office of the Lake County clerk and recorder.
- C. All costs of recordation shall be paid in advance by the applicant.

(Ord. 04-1 (part))



## AGENDA ITEM # 10.A

### CITY COUNCIL COMMUNICATION FORM

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**MEETING DATE:** November 1, 2022

**SUBJECT:** Ordinance No. 10, Series of 2022: An Ordinance Establishing a Temporary Moratorium on Approval of Certificate of Appropriateness Applications for Demolitions in the National Historic Landmark District

**PRESENTED BY:** Christiana McCormick, City Attorney

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- ORDINANCE  
 RESOLUTION  
 MOTION  
 INFORMATION
- 

**I. REQUEST OR ISSUE:**

Before City Council for consideration is Ordinance No. 10, Series of 2022 (“Ordinance”), which places a temporary moratorium on the acceptance and processing of applications for demolitions within the National Historic Landmark District (“NHL District”) of the City until the City adopts new and revised demolition and historic preservation regulations.

**II. BACKGROUND INFORMATION:**

At its October 18, 2022 meeting, City Council directed that an ordinance be brought forward establishing a moratorium on demolition of historic structures in the NHL District. The City is actively pursuing the implementation of new historic preservation regulations with a focus on revising regulations governing demolitions within the NHL District, and the purpose of the moratorium is to preserve the status quo while the new regulations are developed.

If City Council approves the Ordinance, it would establish a moratorium on applications for demolitions of historic structures within the NHL District currently governed by Chapter 17.44 of the Leadville Municipal Code. The moratorium would be effective until November 14, 2023. This time period would be approximately ten (10) months from the effective date of the Ordinance. Under the Ordinance, the City has the option of terminating the Ordinance sooner than November 14, 2023, if desired or needed.

Should City Council adopt this Ordinance, no new demolition applications for historic structures in the NHL District may be accepted or approved until the Ordinance is repealed or terminates.

**III. FISCAL IMPACTS:**

N/A

**V. LEGAL ISSUES:**

This Ordinance would adopt a lawful moratorium because it is for a reasonable duration (approximately 10 months total) and for a legitimate government purpose (provide the City time to consider and implement new historic preservation regulations, which the City is actively pursuing).

When a municipality adopts an ordinance creating a moratorium, such as one that temporarily stops the City from granting new licenses or permits, such action can raise eminent domain concerns under the Takings Clause of the United States Constitution. When determining whether a temporary moratorium is a “taking” that, under principles of justice and fairness, requires compensation, courts consider factors of each particular situation, such as the economic impact of the regulation, the extent to which the regulation has interfered with distinct investment-backed expectations, and the character of the governmental action.

However, moratoriums that are reasonable in duration and made in good faith for a legitimate government purpose (e.g., to complete a decision-making process regarding potential municipal code amendments) do not constitute a taking or require compensation to a property owner.

In Colorado, courts have upheld moratoriums for as long as ten (10) months, including in *Williams v. City of Central* when Central City enacted a moratorium on issuing licenses for new casinos while it studied the impact of allowing more casinos into the community. Depending on the reason for the moratorium, the reasonable time could be longer. In 2002, for example, the U.S. Supreme Court upheld a development moratorium in California that lasted thirty-two (32) months to allow for the completion of environmental assessments and reports on Lake Tahoe.

**VI. STAFF RECOMMENDATION:**

Staff recommends adopting Ordinance No. 10, Series of 2022 on first reading and scheduling second reading for a date certain.

**VII. COUNCIL OPTIONS:**

Council may take one of the following actions:

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

**VIII. PROPOSED MOTION:**

“I move to adopt Ordinance No. 10, Series of 2022, An Ordinance Establishing a Temporary Moratorium on Approval of Certificate of Appropriateness Applications for Demolitions in the National Historic Landmark District on first reading. I further move to schedule second reading of this Ordinance for City Council’s regular meeting on December 6, 2022.”

**IX. ATTACHMENTS:**

Ordinance No. 10, Series of 2022

**CITY OF LEADVILLE, COLORADO**  
**Ordinance No. 10**  
**Series of 2022**

**AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON APPROVAL  
OF CERTIFICATE OF APPROPRIATENESS APPLICATIONS FOR DEMOLITIONS IN  
THE NATIONAL HISTORIC LANDMARK DISTRICT**

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

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

**WHEREAS**, in 1961 Leadville’s National Historic Landmark Overlay District (“NHL District”) was listed on the National Register of Historic Places; and

**WHEREAS**, the City also recognizes the importance of establishing the appropriate balance between the goals and purposes of historic preservation and the rights of private property owners; and

**WHEREAS**, the City previously codified regulations for approval of applications for a certificate of appropriateness for demolitions of certain structures located the NHL District in chapter 17.44 of the Leadville Municipal Code; and

**WHEREAS**, the City Council, in conjunction with the Historic Preservation Commission, desires to review and revise its demolition application procedures for structures in the NHL District to ensure such procedures are fair, clear, consistent, permit timely processing of applications, encourage the voluntary preservation of historic structures, and that such procedures are in accordance with the goals and purposes of historic preservation for the City; and

**WHEREAS**, implementation of such regulations will take time to study, analyze, and establish, and the moratorium set forth in this Ordinance provides for the time needed to receive information, weigh all factors, and develop amendments to the Leadville Municipal Code; and

**WHEREAS**, the City Council finds that a temporary moratorium until and including **November 14, 2023** on the City’s acceptance and issuance of certificate of appropriateness applications for demolitions in the NHL District under Chapter 17.44 of the Leadville Municipal Code is necessary to provide the City a period of time to develop amended regulations and will best preserve the health, peace and safety of the City.

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

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

**Section 2. Moratorium.** No applications or requests for City approval of certificates of appropriateness for demolition under Chapter 17.44 of the Leadville Municipal Code, specifically sections 17.44.060 and 17.44.070, shall be accepted, reviewed, considered or approved until such time as this Ordinance is terminated or repealed, unless otherwise expressly provided by this Ordinance. The provisions of this Ordinance are temporary in nature and intended to be replaced or repealed by a subsequent legislative enactment. The temporary moratorium established by this Ordinance shall automatically terminate and this Ordinance shall automatically be repealed as of **11:59 P.M. on November 14, 2023**, unless terminated earlier by City Council or extended in its duration by the enactment of another ordinance. Nothing contained in this Ordinance shall be construed to limit or preclude the City Council from termination, repeal, amendment, or modification of this Ordinance prior to the date and time of expiration and repeal.

**Section 3. Preservation of Status Quo and Violation.** Any person or entity that has received a certificate of appropriateness for demolition from the City prior to the effective date of this Ordinance may continue to rely on such approvals throughout the duration of this Ordinance. Any person who violates this Ordinance may be subject to the general penalty provisions of the Leadville Municipal Code and enforcement action in Leadville Municipal Court.

**Section 4. Emergencies and Unsafe Buildings.** Nothing in this Ordinance 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 historic 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, or such other governing authority with jurisdiction, including, when deemed necessary, the demolition or partial demolition of a building or structure within the NHL District.

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

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

**Section 7. Effective Date.** This Ordinance shall be effective thirty (30) days following final publication.

**INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 1st day of November, 2022 by a vote of \_\_\_\_\_ in favor, \_\_\_\_\_ against, and \_\_\_\_\_ absent.**

CITY OF LEADVILLE, COLORADO:

\_\_\_\_\_  
ATTEST:

Greg Labbe, Mayor

\_\_\_\_\_  
Deputy City Clerk

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

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY, with any amendments, this \_\_\_\_ day of \_\_\_\_\_, 2022 by a vote of \_\_\_\_\_ in favor, \_\_\_\_\_ against, and \_\_\_\_\_ absent.**

CITY OF LEADVILLE, COLORADO:

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Greg Labbe, Mayor

\_\_\_\_\_  
Deputy City Clerk

PUBLISHED by title only, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.



# Nov 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1 11am - BOCC @ 505 6pm - Regular CC Mtg	2 5pm - Sanitation @	3 6pm - LURA Regular	4	5
6	7	8 4pm - HPC Meeting @	9 10am - Leadville 6pm - CC Budget Work 6pm - P&Z Meeting @	10 5:15pm - Parkville Water	11	12
13	14	15 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Joint P&Z WS and 7pm - Regular City	16	17	18	19
20	21	22 4pm - HPC - Regular Mtg	23 6pm - P&Z Meeting @	24	25	26
27	28	29 6pm - CC Budget Work	30	1 6pm - LURA Regular	2	3

# Dec 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	1	2	3
		6pm - CC Budget Work		6pm - LURA Regular		
4	5	6	7	8	9	10
		11am - BOCC @ 505 6pm - Regular CC Mtg	5pm - Sanitation @	5:15pm - Parkville Water		
11	12	13	14	15	16	17
		4pm - HPC Meeting @	10am - Leadville 6pm - P&Z Meeting @			
18	19	20	21	22	23	24
		8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @				
25	26	27	28	29	30	31
		4pm - HPC - Regular Mtg	6pm - P&Z Meeting @			

# Jan 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 11am - BOCC @ 505 6pm - Regular CC Mtg	4 5pm - Sanitation @	5 6pm - LURA Regular	6	7
8	9	10 4pm - HPC Meeting @	11 10am - Leadville 6pm - P&Z Meeting @	12 5:15pm - Parkville Water	13	14
15	16	17 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @	18	19	20	21
22	23	24 4pm - HPC - Regular Mtg	25 6pm - P&Z Meeting @	26	27	28
29	30	31	1	2	3	4